

Charity Naming Rights: Some New Examples

09.20.16 | Linda J. Rosenthal, JD



We're intrigued about naming rights.

In [*Naming Rights: It's a Philanthropic Jungle Out There*](#) (March 2, 2015), we recounted the angst over funding major renovations to Lincoln Center's venerable Avery Fisher Hall. It was decades after an early refurbishing had been underwritten by Avery Fisher, whose "[dedication to music](#) infused all areas of his life." Eventually, after coming to terms with the original donor's heirs, the renaming rights were relinquished.

It's a red-hot topic for the charitable community and big-donor glitterati eager to see their names in lights in perpetuity or at least until the building needs some upgrades. In the Avery Fisher Hall case, Hollywood mogul David Geffen [snapped up the honor](#) for a mere \$100 million, give or take a million or so.

Of course, there are the sordid tales of plaques and honors bestowed on rich and famous donors who are now infamous. Bill Cosby, for instance, comes to mind; his [name is being yanked](#) from his alma mater, Temple University, among other institutions around the nation that had honored him and his largesse.

There's a continual stream of new naming-rights cases; here we discuss two recent ones with interesting back-stories.

Vanderbilt University

In 1933, the George Peabody College of Teachers in Nashville needed a new dormitory. The school gratefully accepted a \$50,000 donation from the Tennessee Chapter of the Daughters of the Confederacy, and [named the building](#) "Confederate Memorial Hall."

Many years later, Peabody became a part of Vanderbilt University. In 1979, the smaller institution officially became the “Peabody College of Education and Human Development at Vanderbilt University.” There was no controversy surrounded that name change. But the residence hall’s name – many decades after the original gift – became a lightning rod for controversy and unease.

Eventually, in 2002, Vanderbilt University changed the name of the residence hall to “Memorial Hall” – omitting the word “Confederate.” The glitch: Vanderbilt took this action unilaterally. It neither obtained approval for the name change from the Daughters of the Confederacy nor returned the donation amount.

The Daughters of the Confederacy sued Vanderbilt. In 2005, an appeals court in Tennessee ruled that Vanderbilt must either keep the original name or refund the gift. In inflation-adjusted dollars, that meant a court-ordered refund of some \$1.2 million.

In making this decision, the court rejected Vanderbilt’s argument that “academic freedom gave it the right to change the name.” There was an agreement in 1933 between Peabody and the donor, the court ruled, that must be honored: “We fail to see how the adoption of a rule allowing universities to avoid their contractual and other voluntarily assumed legal obligations whenever, in the university’s opinion, those obligations have begun to impede their academic mission would advance principles of academic freedom.”

The court continued: “To the contrary, allowing Vanderbilt and other academic institutions to jettison their contractual and other legal obligations so casually would seriously impair their ability to raise money in the future by entering into gift agreements such as the ones at issue here.”

It took time to raise the money from anonymous donors, but just last month in August 2016, Vanderbilt paid the \$1.2 million in order to continue to use the changed building name.

Vanderbilt’s motive was laudable, but it “...learned the hard way, that nonprofit organizations cannot unilaterally void the terms of a gift agreement without returning the donation....It provides an important lesson ... about the requirement, ethical and legal, to honor donor intent.”

University of Michigan

Alumnus Mark Bernstein is the chair of the University of Michigan’s board of regents. He and his wife, Rachel Bendit – also a Michigan grad – made a \$3-million gift toward construction on campus of a new, \$10-million, multicultural building.

They never conditioned their donation in any way on naming rights or otherwise asked that the structure be named after them. Nevertheless, following the institution’s “standard procedures,” the University announced that this gift would result in the name of a former honoree, William Monroe Trotter, being removed from the existing campus multicultural center.

This move created blowback from “students, faculty, and staff.” Trotter had been involved in the formation of the NAACP and was a longtime civil rights activist. In addition, the old multicultural center was the only building on campus that was named for an African-American.

As a result, in July 2016, Bernstein and Bendit asked that their gift be withdrawn. “When we realized that [the gift] was not necessary for the building to be built, and hearing from people on campus about their concerns, we decided to restart the process.” Their written statement continued: “We have never sought to put our name on anything at the university. The bulk of our philanthropy we have done privately. We wanted to make this gift as a public statement of our commitment to this important issue. We appreciate this is an enormously complicated issue and situation. We wanted to show that we, as white Jewish leaders, are very supportive of the work being done.”

The couple will “look for other ways to support multiculturalism on campus.” The building project will proceed, and Trotter’s name “will continue to be prominent for both the new building and the multicultural program at the university.”

Conclusion

Of course, there is little that will beat a back-story we related in our [earlier naming-rights post](#).

Major cultural centers in New York fetch the highest amounts in return for these naming perks. To spread around the honors – and grab more dollars – these venerable institutions offer even the tiniest possible pieces of the valuable real estate.

“In 2007, wealthy New York businessman Jerome L. Stern offered the New Museum of Contemporary Art a major gift reported to be in the six figures.” As a thank you, the institution suggested naming rights to a space in the building. Mr. Stern, then 83, injected some humor, saying he “wanted to see his name ‘in a place I’m going to spend a lot of time.’” Voila! The Jerome and Ellen Stern Restrooms were dedicated.

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