

Christine Vincent, Vinalhaven resident and subject matter expert, joined the Community Meeting of the Star of Hope Foundation on January 23, 2020. She shared information about private foundations established by visual artists, known as Artist-Endowed Foundations, describing how they typically operate; the constraints they encounter; and the strict rules and regulations they must follow, particularly in comparison to public charities, the type of nonprofit that is most familiar to the general public. The Star of Hope Foundation is an Artist-Endowed Foundation and the Foundation's Board thanks Christine for sharing her knowledge and expertise on this highly relevant topic. Christine is Project Director of The Aspen Institute Artist-Endowed Foundations Initiative/AEFI. The following are her remarks:

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Thanks to the Star of Hope Foundation Board for inviting me to speak tonight.

- Tonight, I'm going to recap some key points I made at the November meeting about artist-endowed foundations so that we're all on the same page, then talk a bit about how AEFs engage in planning—in this case, what will be on the board's mind as it considers the valuable results of this terrific survey.
- First, about me: I direct the Aspen Institute Artist-Endowed Foundations Initiative/AEFI, whose mission is to increase the charitable impact of the AEF field in its art stewardship and cultural philanthropy work, which we do by educating about effective practices.
- Second, about the AEF field as a whole:
 - As of 2015, there were more than 400 identified AEFs in the US, with the AEF field as a whole reporting \$7.7 billion in assets.
 - AEFs range widely in scale, from \$10M in assets (Surf Point Foundation (Beverly Hallam)) to \$580M (Robert Rauschenberg Foundation), and engage in a variety of activities, which I'll discuss in a minute

➤ **What is an Artist-Endowed Foundation?**

An AEF is a tax-exempt charitable private foundation created by an artist or the artist's heirs in order to own the artist's assets for use in educational and philanthropic activities providing a public benefit. I mentioned "Private Foundation" as this is a term in the tax code that has significant meaning:

- There are two types of charitable entities categorized as tax-exempt under section 501(c)3 of the Internal Revenue Code, (1) "private foundation" and (2) "public charity," the latter being the tax status of most nonprofit organizations.
- Both are tax-exempt charitable entities serving a public benefit, but private foundations are closely held – being supported by a single person/family/company -- while public charities are supported by contributions from members of the general public. The word "foundation" in a name is not determinative (community foundations are public charities).
- This distinction in source of support makes a difference because private foundations are regulated more strictly than public charities, since they have a history of abuse by their Insiders arising from their closely held nature.
- Private foundations must meet rules not applied to public charities. Among these: meeting an annual payout requirement, public reporting of compensation and identification of donors and their gifts, and paying an excise tax on net investment income.

- But, the most important rule for private foundations is the prohibition on self-dealing, which is an act that benefits an insider's private interests. This rule applies to "disqualified persons" i.e., "insiders" – board members and major donors, and any of these people's relatives (sons/daughters, grandchildren, antecedents and spouses of all of these). The IRS applies strict penalties on self-dealing and in severe cases, the foundation can lose its tax-exempt status.

➤ **How is an AEF regulated and governed?**

- AEFs are regulated as charitable entities by the State Attorney General in the state where they were formed and also by the IRS with respect to noncompliance with Private Foundation Rules
- An AEF's board has the responsibility to see that it doesn't hear from the AG or the IRS. Like all charitable tax-exempt entities, an AEF's board has fiduciary duties – the duty of loyalty (which means to put the foundation's interests first) -- and the duty of care (which means to protect the foundation and its assets)

➤ **There are two themes to a typical Artist-Endowed Foundation's mission:**

- First - *To Increase the Public's Access to and Knowledge About the Work of the Artist*
- Second - *To Implement the Artist's Charitable and Philanthropic Vision*

Artist-Endowed Foundations do a variety of things aligned with these themes

- Re: the first theme: To Increase Access to and Knowledge About Their Artist's Work
 - They Undertake Art Stewardship Activities
 - Art collection for loans to museums locally, nationally, and internationally
 - Study center with artist's archive
 - Website featuring digitized images of archival holdings and art collection
 - Art placement program for museums
 - Scholarship projects on artist's work, life, role in the art of their times
 - Visiting scholar program
- Re: the second theme: To Implement Their Artist's Charitable and Philanthropic Vision
 - They Undertake Direct Charitable Activities
 - Residencies for artists
 - Art education classes – K-12, College, Graduate, or General Public
 - Internship programs
 - Educational collaborations with schools, colleges, and universities
 - And they Undertake Philanthropic Grantmaking
 - Grants, awards, fellowships

Lastly – A Typical Artist-Endowed Foundation's Business Model is Fairly Basic

- AEFs look to three primary sources of revenue: Art Sales + IP Licensing + Investment Income
- Most AEFs don't fund raise, because it is difficult due to their private foundation tax status

➤ **Artist-Endowed Foundation Planning**

When and how do boards of AEFs plan?

- Artist's lifetime, during estate settlement, throughout AEF's life cycle
- Estate settlement = typically two years but can be longer if there are delays and litigation

What do boards of AEFs plan?

- All planning is integrated = programs, governance, institutional capacity = inter-related

A board weighs a number of factors as it develops AEF's programs: Here are a few examples:

1. Fulfillment of the AEF's charitable purposes
 - Primary consideration and abiding focus is the charitable purpose and mission
 - "Charitable purpose" is broad thematic statement; "mission" is current tactics
 - Example: Charitable purpose = "Support Individual Artists" achieved via mission of direct grants to individual artists, artist residency program, grants to museums to fund art acquisition grants
2. Nature of assets – Art? IP? Real estate? Investments? – as aligned to charitable purposes
 - How do assets serve the charitable purpose?
 - Are there unaligned assets?
3. Available resources – financial capacity/limits
 - A fundamental consideration – sufficient resources for a solid business plan?
 - Key expenses: collection care & use, facility care & use, staffing
4. Constraints – inherent in the assets or present in the environment
 - Facility issues
 - Neighborhood/environmental constraints
 - Collection considerations – scale, condition, required environmental controls
5. Potential mission-aligned synergies and congruent opportunities in the environment
 - Possibilities to collaborate in fulfilling the AEF's charitable purposes
6. Opportunity to make a unique contribution, aligned with mission
 - There are always more opportunities than resources, even for big AEFs
 - Avoid mission creep:
 - What can this AEF do that no other entity can do?
 - What could be accomplished better by another entity?

➤ **How do AEFs Overcome Constraints?**

- There are always constraints – there are never no constraints
- Three approaches to constraints:
 1. Practical accommodation
 - Handicap regulations require an elevator for public access to upper floors, but cost or facility structure eliminates that option?
 - Keep public functions to the first floor
 - Neighborhood doesn't want high volume traffic or delicate works don't permit that?
 - Limit public access to pre-reserved, small groups
 2. Switch strategies, but stay aligned with the charitable purposes, for example:
 - Few AEFs (3 come to mind) function as museums because of the expense involved in opening a space to walk-in traffic (facility/access, liability, staffing, etc.)
 - Indeed, most AEFs accomplish exhibition goals by circulating their collection, lending to museums or mounting touring exhibitions

- If a museum is not possible, due to facilities issues and budget constraints:
 - Do a study center (holds the artists archive and a small study collection)
 - Without general public access (Albers and Bourgeois Foundations)
 - With event-only, pre-reserved public access (Frankenthaler Foundations, Dedalus Foundation (Robert Motherwell))
 - No capacity for onsite exhibition of the full collection or large-scale works?
 - Create a small “showcase gallery” for focused exhibitions of smaller works
- 3. Fundamental institutional adjustments
 - Most common issue: Inadequate endowment to fulfill ideal version of mission?
 - Change tax status to “public charity” and start fundraising
 - Seek merger with a larger institution that has greater capacity

*As my Missouri grandmother always used to say: There’s more than one way to skin a cat.
 But ultimately, planning for an AEF is like a Rubik’s cube – it all has to fit together.
 For the Star of Hope, we will do well to remember that its artist’s renown outstrips its assets.*

Finally, again I’d like to say that I know of only one other AEF that conducted a community feedback process to help inform its planning effort. My hat is off to the Star of Hope Board for its progressive practice and I’m sure it will be a model for the field.

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