

UTR 7.260 – THE URSULA HOFF BEQUEST

Recitals-

A. The late Dr Ursula Hoff AO, OBE, LL.D., PhD (Hamburg), DLit (Monash), DLitt, formerly of 678 Canning Street, North Carlton, Victoria, retired gallery director ('donor'), who died on 10 January 2005, by her will dated 8 June 2001 ('Will') provided-

- '4. I GIVE DEVISE AND BEQUEATH all of my real property and the residue of my personal property of whatsoever nature and wheresoever situate unto my Trustee UPON TRUST...
- (a) to pay to the UNIVERSITY OF MELBOURNE the sum of \$600,000-00 (hereinafter called "the capital sum" which expression shall include any accretions thereto) [and I DECLARE that the receipt of the Vice-Chancellor or Registrar for the time being is a sufficient discharge to my Trustee] for the purpose of creating the URSULA HOFF BEQUEST in The Ian Potter Museum of Art at the University of Melbourne to establish an Internship for the study and promotion of prints held in the print collection of the University of Melbourne and the National Gallery of Victoria. It is my wish that:
- (1) a Bequest Committee be established consisting of the Director of The Ian Potter Museum of Art at the University of Melbourne, my Trustee or his nominee and the Senior Curator of Prints of the National Gallery of Victoria.
 - (2) the Bequest Committee be responsible for awarding an annual Internship to a post graduate student who has completed a Master of Fine Arts degree at a recognised Australian university. The Bequest Committee will advertise the Internship annually by whatever means it considers appropriate. If in any year in the opinion of the Bequest Committee there is no suitable candidate the Internship will not be awarded but in the following year, funds permitting, two Internships may be granted in the discretion of the Bequest Committee.
 - (3) the annual Internship be funded by interest or other income generated by the investment of the capital sum. In order to preserve the value of the capital sum there shall be added to the capital sum annually on 30 June an amount equal to the increase in the Consumer Price Index for Melbourne on the capital sum for the year ending on the immediately preceding 31 March. The balance of the income for the year ending on 30 June in each year shall be used to fund the Internship in the following calendar year but the Bequest Committee shall not award an Internship if the amount to be awarded is greater than the balance of the income. In all other respects the conditions of Internship (including the duration of each and the amount to be paid) shall be in the sole discretion of the Bequest Committee.
 - (4) the Bequest Committee will support the presentation of the Intern's research in an appropriate forum.
 - (5) applicants for an Internship must display a commitment to research into prints, to the history of print collecting and to the scholarly activities of museums and universities.
 - (6) where members of the Bequest Committee are not in unanimous agreement the decision of the majority shall prevail.
 - (7) decisions of the Bequest Committee not be called into question by any person and shall not be appellable.

If at any time and for whatever reason it becomes impractical or impossible for the University to continue to apply the fund for the purposes directed by me in this Will, then the University Council may apply the income of the fund and, where necessary, the capital sum, for such other purpose or purposes as the University Council determines are most closely in accordance with my directions ...'

- B. The donor was formerly a staff member in the department of Fine Arts.
- C. In November 2007 the University received \$600,000.00 in satisfaction of the bequest from the estate of the donor.
- D. In an email dated 9 April 2008 the director ('director') of The Ian Potter Museum of Art ('Potter Museum'), after consulting Graham Hartley Ryles, the trustee of the estate of the donor ('trustee') advised that, inter alia, to adhere to the eligibility requirements expressed by the donor in clause 4 (a)(2) of the Will as a wish –
 - (1) would significantly restrict the pool of eligible applicants; and
 - (2) applicants with a master of Arts and a demonstrable commitment to the study and promotion of prints should be eligible.

He further advised by email dated 5 June 2008 that-

- (1) 'Fine Arts' once referred to the academic study of the history of art, but now generally refers to the narrower activity of the making of art;
 - (2) he knows of no Australian university offering studies in the history of art using the title 'Fine Arts'; and
 - (3) Most museums would view a master of Fine Arts intern as an artist-in-residence rather than a scholarly researcher.
- E. Pursuant to section 41(2) of the *University of Melbourne Act 2009*, if it considers it expedient to do so, Council adds a portion of the income of the pooled trust funds to the capital of the pooled funds, and accordingly it is not necessary to make the addition to capital requested by the donor in clause 4(a)(3) of the Will in order to preserve the capital value of the bequest. Similarly, the calculation of income for all University trust funds is made at 31 December each year, and accordingly the income from this bequest will be calculated on that date in lieu of the 30 June date requested by the donor.
 - F. The University accepted the bequest upon the trusts specified by the donor, and the bequest therefore became the capital subject to those trusts ('capital sum').
 - G. This University trust record is the means by which the University records -
 - (1) the trusts specified by the donor upon which the University as trustee holds trust property, including the capital sum; and
 - (2) the administrative arrangements for the implementation and ongoing performance of those trusts, as determined by the University from time to time.

It is provided as follows-

1. The capital sum, all income arising from the capital sum, and any accumulations and additions thereto, together form a fund called 'The Ursula Hoff Bequest' ('fund') and the fund must be paid into one or more investment common funds and remain there until Council directs otherwise.
2. Subject to section 5(2), the net annual income of the fund is to be used to provide an annual internship to be called 'The Ursula Hoff Internship' ('internship') for the study and promotion of prints held in the print collections of the University and the National Gallery of Victoria.
3. For the reasons set out in recital D, until the further determination of the University, the internship is to be awarded to a postgraduate student who has completed a master of Fine Arts degree, a master of Arts degree or a doctor of Philosophy, in art, art history, arts management or art curatorship, at a recognised Australian university.
4. In accordance with the express wish of the donor, until the further determination of the University, each applicant for the internship must display a commitment to research into prints, to the history of print collecting and to the scholarly activities of museums and universities.
5. In accordance with the express wish of the donor, until the further determination of the University-
 - (1) the internship is to be awarded by a bequest committee ('committee') comprising –
 - (a) the director of the Potter Museum;
 - (b) the trustee or his nominee; and
 - (c) the senior curator of prints of the National Gallery of Victoria; and
 - (d) where members of the committee are not in unanimous agreement the decision of the majority is to prevail. Decisions of the committee may not be called into question by any person and are not appellable.
 - (2) the committee –
 - (a) must advertise the internship annually by whatever means it considers appropriate;
 - (b) may in any year decline to award the internship if there is no suitable candidate, and in the following year funds permitting, may award two internships;
 - (c) is to support the presentation of the research of the intern in an appropriate forum; and
 - (d) in all other respects may, in its sole discretion, decide the conditions of the internship, including the duration and amount to be paid.
6. If at any time and for whatever reason it becomes impractical or impossible for the University to continue to apply the fund for the purposes directed in the Will, then Council may apply the income of the fund and, where necessary the capital, for such other purpose or purposes as Council determines are most closely in accordance with the directions of the donor.