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Donated Land Is Battlefield

Johns Hopkins's Big Development Plan Wasn't Intent of Land Gift, Says Family

By [ELIOT BROWN](#)

In 1988, a farmer and schoolteacher named Elizabeth Banks agreed to donate a rolling 138-acre plot of land in Montgomery County, Md., to Johns Hopkins University in an attempt to shield the property from large-scale development by turning it into a low-slung research campus.

More than two decades later, Johns Hopkins's plans for development on the land have gone from modest to giant, a change that has ignited a high-stakes fight with the donor's family over the limitations of a gift that had strings attached.



Donna Baron

Belward Farm in Montgomery County, Md., the site where Johns Hopkins plans a large research park.

Johns Hopkins's plans today call for a 4.7 million-square-foot research park on the site, up from the 1.8 million square feet of development planned when Ms. Banks, who died in 2005, turned over the land. The school believes the larger scale is needed to attract science-focused businesses to create a large cluster of researchers, a model used by other universities.

But the move incensed Ms. Banks's family, which believes it is the very type of development Ms. Banks sought to prevent with her gift and is a departure from the "Jeffersonian"-style campus initially envisioned at the property, known as Belward Farm.

The family sued in late 2011, alleging Johns Hopkins was violating the terms of the agreement with Ms. Banks. A Montgomery County circuit court judge dismissed that case in October, ruling Johns Hopkins was acting within the terms of the deed. Earlier this month, the family retained a corporate law firm, Sidley Austin LLP, to argue an appeal that is expected to be heard this spring.

"We're not asking for anything of them except to live up to the initial agreement," says Tim Newell, Ms. Banks's 54-year-old nephew who is acting as family spokesman on behalf of his siblings and cousins. That

agreement, he said, makes clear the vast majority of the land was to be a campus, not a commercial development.

Johns Hopkins says the deed clearly says the property can be used for research purposes and doesn't specify items such as density or how much can be leased commercially.

"The uses that we plan for the property are those that were expressly agreed to in the agreement and that we have intended from the beginning," says a Johns Hopkins spokesman.

The case spotlights the tricky world of donor intent, an area that is prone to fights over the initial objectives of a donor, sometimes decades later, between benefactors and their heirs and the institutions they believe have strayed away from the purpose.

Some institutions have given some money back after coming under pressure. In 2008, for example, Princeton University agreed to pay about \$100 million in a settlement of a dispute over the use of a gift worth \$700 million to \$900 million that had been targeted at preparing students for government service. Heirs had complained that Princeton wasn't using the money for its intended purpose, a charge the school disputed.

A frequent problem is that gifts are often worded ambiguously. "A lot depends on how clearly and indisputably the donor specified his or her intentions," says Leslie Lenkowsky, a professor at Indiana University's Center on Philanthropy.

The Belward Farm land in Maryland is near other tracts of former farmland that attracted housing development thanks to its proximity to Washington. Ms. Banks and her family, however, resisted offers from numerous developers that wanted to build housing on the land, which was appraised for more than \$50 million in the 1980s.

Ms. Banks didn't attend Johns Hopkins, but she believed the school would preserve as much open space as possible, Mr. Newell says. "She did not want to see it overdeveloped," says John Dearden, a former Johns Hopkins official who negotiated the deal with Ms. Banks. He says he believes she wouldn't have approved of the current plan.

In its revised plan, which Johns Hopkins made public in 2008, the university is trying to use its name and reputation as a research school to build up a cluster of different researchers in a dense environment.

"You don't get your eureka moments sitting in the lab, as much as you do talking to a colleague over coffee," says Alan Fish, Johns Hopkins's vice president for real estate.

The school hasn't specified how much of the space would be used by Johns Hopkins or leased to others. It also hasn't scheduled a groundbreaking yet.

Still, for Mr. Newell, the changing winds in the scientific research shouldn't give Johns Hopkins the ability to veer away from his aunt's wishes. "We could have sold it back then and been well off people," Mr. Newell says of the late 1980s.

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