

COURT OF COMMON PLEAS OF PHILADELPHIA
ORPHANS' COURT DIVISION

Chinatown Building and Education Foundation,
A Nonprofit Corporation
O.C. No. 278 NP of 2017
Control No. 180338

Chinatown Building And Education Foundation, Non P



20170027811078

OPINION SUR DECREE

I. Introduction

The Court convened hearings on December 12, 2018, and February 13, 2019, to determine the beneficiary of *cy pres* funds stemming from the sale of property located at 125 N. 10th Street, Philadelphia, Pennsylvania (the “Property”), sole asset of the defunct charity Chinatown Building and Education Foundation (“CBEF”). The Court finds Philadelphia Chinatown Development Corporation (“PCDC”) and the Philadelphia Chinese Opera Society (“PCOS”) are the appropriate beneficiaries of the *cy pres* funds as those charities fulfill as nearly as possible Tien Teh Chang’s charitable intent behind the creation of CBEF.

II. Background

CBEF was created by an Indenture of Trust dated October 18, 1966, by Tien Teh Chang.

In pertinent part, Section Four of the Trust states:

One of the trust’s main objectives and purposes is to acquire and hold title to a building or buildings preferably in the Chinatown section of Philadelphia, Pennsylvania, to be used as a Chinese Building and Education Foundation and also the further purpose of conducting programs which are essentially East Asian oriented to foster better understanding of the American way of life among people of diverse, foreign backgrounds and to assist them in becoming loyal citizens of the United States. The programs last referred to are to be in the nature of a kind normally conducted and sponsored by the YMCA.

Indenture of Trust at 2–3. To that end, CBEF acquired the Property and erected the Chinese Cultural and Community Center (“Community Center”) which operated from 1971 to 2007.

After 2007, the Property sat vacant and fell into disrepair. But for nearly forty years, the

Community Center offered “language classes, cooking classes, job training classes, free hot lunches for seniors, . . . a Dragon Club for youth, . . . family counseling, [and] assistance in legal, immigration, employment, translation, financial, personal and social related problems.” PCDC Cy Pres Proposal Ex. 12, at 21. In addition to this bevy of social services, the Community Center served as a cultural hub, too. For example, the Community Center boasted a sizable collection of Chinese musical instruments and a Chinese music ensemble. *Id.* at 67, 81–86; *see also id.* at 76 (photograph of Mr. Chang teaching the “erhu” or Chinese violin).

On April 5, 2016, Scioli Turco, Inc. was appointed conservator of the Property pursuant to the Abandoned and Blighted Property Conservatorship Act. Scioli Turco then proceeded to remedy the blight and stabilize the Property. Scioli Turco’s tenure as conservator ended on January 30, 2017. Subsequently, Scioli Turco was appointed trustee ad litem, and then trustee, of CBEF and ultimately filed a petition to sell the Property. The Court granted the petition in a decree dated August 14, 2017. The sale of the Property netted \$1,280,000.00.

On July 2, 2018, Scioli Turco filed an Amended Account in which it recommended four potential beneficiaries of the funds from the sale of the Property: PCDC; PCOS; Welcoming Center for New Pennsylvanians (“WCNP”); and Southeastern Asian Mutual Assistance Associations Coalition (“SEAMAAC”). Scioli Turco proposed distributing the funds equally among the four charities. The charities each submitted detailed proposals outlining their respective charity’s history, programs, and plans for the *cy pres* funds. While there is some overlap between the four entities, each has a distinct and laudable mission.

Prior to the hearing on December 12, 2018, PCDC filed a brief arguing it alone was entitled to the funds. As PCDC stated:

The other charities proposed to receive the *cy pres* funds are worthy organizations but not based in Chinatown and do not offer the same programs and services that

PCDC does and CBEF did. Indeed, the Welcoming Center acknowledges that it is not a Chinatown-based charitable organization and has very little connection to Chinatown. SEAMAAC is a South Philadelphia-based charitable organization that has no specific connection to Chinatown. The Philadelphia Chinese Opera Society offers only limited artistic programs, and not the broad services offered by CBEF.

PCDC Brief, at 9.

At the December 12 hearing, PCDC went first and presented the testimony of two witnesses: John W. Chin, the Executive Director of PCDC; and Ignatius Wang, an architect and former PCDC board member.

On direct examination, Mr. Chin stated PCDC's purpose is "to preserve, promote Chinatown as an ethnic viable residential and business community with the intent to provide affordable housing and support the small business community of Chinatown." N.T. 12/12/18, at 48. In that spirit, PCDC concentrates its efforts on the Chinatown community offering an array of services—translation, health screenings, language classes (both English and Chinese), health screenings, technical assistance to small business, SAT prep, amateur athletics, and more. *Id.* at 18–24. In short, PCDC deals with everything from "huge cultural events" to the "nitty-gritty." *Id.* at 28.

Furthermore, Mr. Chin stated PCDC has built 320 units of affordable housing in Chinatown and several commercial storefronts. *Id.* at 26. PCDC's most impressive project, however, is the construction of the Eastern Tower Community Center ("ETCC") located at 10th and Vine Streets. *Id.* at 33. The ETCC is slated to open in August 2019 and is meant to redress the lack of public spaces in Chinatown. *Id.* at 33, 34; *see also* PCDC Cy Pres Proposal, at 5–7 (stating the ETCC will serve as, among other things, "a safe indoor center for youth and seniors to exercise and congregate"). Not only will the ETCC serve as a hub for PCDC-provided

services but also as a space for all nonprofits to gather that “contribut[e] to the betterment of Chinatown and the residents of Chinatown.” N.T. 12/12/18, at 34–37, 50.

On cross-examination, Mr. Chin conceded a substantial number of Chinese live outside the Chinatown area; nonetheless, only two percent of PCDC’s constituents are non-Chinese. *Id.* at 92–93. Further, Mr. Chin testified his understanding of the term “East Asian” encompassed Chinese as well as Japanese and Korean peoples. *Id.* at 50, 92. However, Mr. Chin also noted the difficulty in assessing someone’s racial/ethnic identity. When asked whether CBEF had provided job training to Vietnamese refugees, Mr. Chin said, “That’s I guess a complicated answer. You could be of Vietnamese origin and be Vietnamese. Or you could be of Vietnamese origin and be ethnic Chinese.” *Id.* at 58; *see also* PCDC Cy Pres Proposal Ex. 12, at 35 (photograph of Vietnamese refugees receiving job training at the Community Center).

On redirect, Mr. Chin made a distinction between East Asian and Southeast Asian: “Southeast Asian refers to a region in Asia, typically Vietnam, Cambodia, Laos and the Hmong people.” N.T. 12/12/18, at 98. *But see id.* at 124 (Rosenberg) (“I can’t say academically that the phrase, you know, the terminology of Asian and Southeast Asian exactly how its evolved, but I think that sort of pragmatically it’s become broader and more inclusive a term over the decades. . . . [I]t’s much more diffuse.”); *see also* PCDC Ex. 23 (defining “Southeast Asia” as “the countries and land area of Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand, and Vietnam”).

Next, the Court heard testimony from Mr. Wang. Mr. Wang testified he knew Mr. Chang personally, was enlisted by him to design a space where the community could gather, eat, read, play mahjong, and shield young people from the influence of gangs. *Id.* at 108–09. Despite the fact these plans never progressed beyond concept drawings due to the difficulty of acquiring land

in Chinatown, ambitions are not dissuaded by obstacles. Mr. Wang stated that in all his discussions with Mr. Chang that Mr. Chang never considered building outside of the neighborhood. N.T. 12/12/18, at 110–11.

By way of historical background, Mr. Wang testified Chinatown was, and in many ways still is, the gateway for Chinese immigrants coming to Philadelphia. “Chinatown is sort of the receptionist area for the new immigrants from Taiwan, from Hong Kong.” *Id.* at 112. Mr. Wang described the phenomenon of Chinese immigrants flocking to Chinatown as follows: “Normally I think, you know, even nowadays new immigrants from China they come into America, they [sic] first thing they do is go to somebody they know.” *Id.* at 116–17.

At the conclusion of Mr. Wang’s testimony, PCDC rested, and WCNP proceeded with its presentation. Like PCDC, WCNP also called two witnesses: Eric Rosenfeld, the Director of Strategic Initiatives for WCNP; and Abigail Su, a participant in various WCNP classes and workshops. While Ms. Su is living proof of WCNP’s charity, Mr. Rosenberg proved the more illuminating witness regarding WCNP’s mission and services.

On direct examination, Mr. Rosenfeld stated WCNP’s mission is “to promote inclusive economic growth through immigrant integration.” *Id.* at 121; *see also id.* at 131 (“I think the Welcoming Center’s approach is to help—not necessarily to break down barriers, but to help people overcome barriers and uplift, if they want to. And one of those approaches is to connect issues and serve needs sort of on a flat, horizontal level and not in isolated areas of either geography or nationality.”).

According to Mr. Rosenfeld, WCNP does not focus on any particular neighborhood but rather Philadelphia and its environs more generally. *Id.* at 122. While currently located at 16th Street and JFK Boulevard, Mr. Rosenberg stated WCNP planned to occupy new offices located

in Chinatown at 13th and Race Streets. N.T. 12/12/18, at 122. This new multipurpose setting would be quite spacious at approximately nine thousand square feet, large enough to host cultural programming in addition to WCNP's usual direct services. *Id.* at 123.

Mr. Rosenberg then detailed WCNP's efforts both to engage with and champion the issues effecting the residents of Chinatown before discussing WCNP's programs more generally. *Id.* at 126–28. WCNP's International Professionals Program assists foreign skilled professionals find comparable employment in the United States while the Immigrant Leadership Institute holds classes and workshops geared toward “educating participants about . . . what it means to participate in [their] community and to integrate beyond the sort of definition or labels that [one] might first identify with.” *Id.* at 132–34.

On cross-examination, Mr. Rosenberg admitted WCNP serves all immigrants not just East Asian or Chinese immigrants and WCNP's programs are not essentially East Asian oriented. *Id.* at 140.

On direct examination, Ms. Su echoed Mr. Chin's concession regarding the exodus of Chinese from Chinatown as well as the decision of newcomers to settle in other Philadelphia neighborhoods such as West Philadelphia or the suburbs. “You can see lots of, you know, the Chinese face in University City. Yes, lots.” *Id.* at 156. Ms. Su also stated, “We have lots of friends who live in the suburb, like Lower Merion. . . . I join the group maybe more than 200 people Lower Merion and Media and like Germantown, yes.” *Id.* at 157.

Its presentation over, WCNP rested, and SEAMAAC proceeded with its presentation by calling only one witness: Andrew Toy, the Director of Community Development for SEAMAAC. Mr. Toy stated SEAMAAC's mission is “to serve and to support immigrants, refugees and marginalized communities. That's politically, economically and socially

marginalized communities in the Philadelphia region.” N.T. 12/12/18, at 163. Mr. Toy mentioned some of the programs offered by SEAMAAC including, among other things, assistance with finding employment, navigating the healthcare system, ESL classes, and elder and youth outreach. *Id.* at 163–64, 165–69. While SEAMAAC’s roots are in serving the Asian community, Mr. Toy stated on cross-examination that only fifty-five to sixty percent of the people served by SEAMAAC are Asian. *Id.* at 188.

At the close of the December 12 hearing, several of the parties had yet to cross-examine Mr. Toy, and PCOS had not presented its case. The Court proposed continuing the proceedings to the next day but, due to scheduling conflicts, the Court ultimately continued the proceedings to February 13, 2019.

The day after the December 12 hearing, WCNP, PCOS, and SEAMAAC jointly filed a brief in opposition to PCDC’s brief, arguing PCDC was an appropriate beneficiary of some, but not all, the *cy pres* funds. *See* Joint Brief, at 2 (“While PCDC is indubitably an appropriate beneficiary of *cy pres* funds as it supports social service programs ancillary to its urban planning and business development mission, its argument that it is the sole appropriate beneficiary lacks merit.”).

The second hearing went forward as scheduled on February 13, 2019, and Mr. Toy’s cross-examination continued where it left off. There was much discussion again over the meaning of the term “East Asian.” N.T. 02/13/19, at 7–10, 25–28. There was also significant questioning related to what percentage of the beneficiaries of SEAMAAC’s programs are Asian. *Id.* at 15–18. Mr. Toy was unable to give a precise answer, stating: “I have no idea. We’re not normally taking that close kind of numbers in statistics. I mean, Asian is the one thing that we sort of kind of look at.” *Id.* at 16. Furthermore, Mr. Toy admitted SEAMAAC was “mainly”

operated out of South Philadelphia, not Chinatown. N.T. 02/13/19, at 10; *see also id.* at 23 (stating the majority of SEAMAAC’s programs focus on South Philadelphia with a special focus on the Mifflin Square Park area).

After a brief redirect, SEAMAAC concluded its presentation. PCOS then commenced its presentation by calling Juan Xu, Managing Director of PCOS. Ms. Xu testified PCOS is a Chinatown-based charity. *Id.* at 47. Its mission is “to promote and preserve cultural diversity and the Chinese culture and traditions, particularly through the form of Chinese opera.” *Id.* at 46. PCOS accomplishes this mission through “educational activities and performance engagements.” *Id.* at 46.

Ms. Xu noted Chinese opera utilizes an array of artistic disciplines including “singing, dancing, instruments, martial arts, face painting, [and] a couple others.” *Id.* at 39. To that end, PCOS regularly hosts Chinese artists in addition to training their own performers. *Id.* at 44, 52, 55, 58, 60. PCOS furthers its mission by touring regularly. PCOS has orchestrated performances for corporate clients such as Vanguard and Johnson & Johnson as well as performances at the University of Pennsylvania and Temple University, to name a few. *Id.* at 58, 59, 62, 65; *see also* PCOS Ex. 8, at unnumbered 8–9 (partial chronology of major performances). *But see* N.T. 02/13/19, at 90 (Xu) (testifying only sixty percent of PCOS’s performances occur in Philadelphia). In the words of Ms. Xu, “For organization[s] like us to maintain, to sustain and develop, we have to tour. We have to get out and be recognized by a larger audience.” *Id.* at 49. As for education, PCOS holds weekly classes “on all aspects of Chinese opera.” *Id.* at 71. The classes are open to all ages and are held in Chinatown and Northeast Philadelphia—depending on the availability of space. *Id.* at 71, 73.

Following a short cross-examination of Ms. Xu, PCOS rested. Each party then delivered closing arguments thus concluding the second hearing.

III. Discussion

The Court has carefully considered the record in this matter and the arguments advanced by the parties. This Opinion is the product of those deliberations.

Whenever a charitable nonprofit ceases operations, its assets must be given to another charity with a similar charitable purpose pursuant to the *cy pres* doctrine. 15 Pa. C.S. § 5547(b). Here, CBEF was a charitable nonprofit and has ceased operations. Therefore, CBEF's assets must go to another charitable nonprofit by way of *cy pres*.

The phrase *cy pres* is French for "as close as possible." BLACK'S LAW DICTIONARY 387 (6th ed. 1990). But the authoritative expression of *cy pres* as an equitable doctrine is Section 399 of the Restatement (Second) of Trusts.

If property is given in trust to be applied to a particular charitable purpose, and it is or becomes impossible or impracticable or illegal to carry out the particular purpose, and if the settlor manifested a more general intention to devote the property to charitable purposes, the trust will not fail but the court will direct the application of the property to some charitable purpose which falls within the general charitable intention of the settlor.

RESTATEMENT (SECOND) OF TRUSTS § 399 (AM. LAW INST. 1959). The Pennsylvania General Assembly codified this language—in slightly modified form—as Section 7740.3 of the Probate, Estates, and Fiduciaries Code. Section 7740.3 specifically states "if a charitable purpose becomes unlawful, impracticable or wasteful . . . the court shall apply *cy pres* to fulfill as nearly as possible the settlor's charitable intention, whether it be general or specific." 20 Pa. C.S. § 7740.3(a)(3).

Considering CBEF shuttered in 2007, it is impossible for CBEF to fulfill its charitable purpose. CBEF no longer provides either charitable services or a physical space in which

Chinatown residents may gather. While CBEF exists now in name only, CBEF nonetheless holds a sizable pool of funds from the sale of its sole asset—i.e., the Property. Thus, these funds must be distributed to an existent charity whose charitable purpose fulfills as nearly as possible Mr. Chang’s charitable intentions.

Application of *cy pres* is more art than science as the analysis can acquire a round-peg-square-hole feel. As much as a text, for example, may seem to speak whenever it is read, the reader is sometimes greeted with silence whenever he questions that same text. This one-way type of communication often frustrates the would-be interpreter and is no less true in the *cy pres* context.

Cy pres requires the court to approximate “the express direction of the [settlor] as nearly as possible by transferring the funds to an institution that the [settlor] would have wished to receive the funds had the [settlor] been aware of the situation that occurred following his demise.” *In re Trust of Shoemaker*, 115 A.3d 347, 355 (Pa. Super. Ct. 2015); *see also In re Trust of Hirt*, 832 A.2d 438, 448 (Pa. Super. Ct. 2003) (stating “the polestar in every trust is the settlor’s intent and that intent must prevail”). As a result, the selection of an appropriate beneficiary of *cy pres* funds is a decision vested in the sound discretion of the trial court. *In re Trust of Farrow*, 602 A.2d 1346, 1347–48 (Pa. Super. Ct. 1992).

In other words, the issue before the Court is: On which charity would Mr. Chang have bestowed the benefit of his altruism had he known CBEF failed in its charitable purpose? More specifically, which of the four charities have a physical presence in Chinatown and uses that space to conduct programs with an essentially “East Asian” focus meant to further better understanding among people of diverse backgrounds and promote good citizenship? Short of

holding a séance to ask Mr. Chang himself, the answer to that question is dictated by Mr. Chang’s intent in creating CBEF.

In order to glean a settlor’s charitable intentions, the court must “examine [the] purposes and objects of that charity, the locality that charity intended to serve, and the nature of the population that was the intended object of the charitable gift.” *Commonwealth by Kane v. New Founds., Inc.*, 182 A.3d 1059, 1073 n.8 (Pa. Cmwlth. Ct. 2018). Once discerned, the settlor’s intent must prevail so long as that intent is not contrary to law. *Shoemaker*, 115 A.3d at 355. Nothing requires the trial court to divvy the funds between all four charities. On the other hand, nothing requires the trial court to award the funds to a single charity. In fact, the only “stricture” is the chosen charity (or charities) “must be within the general donative scheme outlined by the [settlor].” *In re Estate of Elkins*, 32 A.3d 768, 778 (Pa. Super. Ct. 2011). *But see* 20 Pa. C.S. § 7740.3(a)(3) (permitting the court to find either a general or specific charitable intention).

The purposes and objects of CBEF are inextricably entwined with the locality and population CBEF was intended to serve. While the Indenture of Trust does not explain or describe Mr. Chang’s charitable intent, the Court, based on the Trust language and bolstered by the testimony of Mr. Wang and others as well as the many exhibits admitted into the record, makes the reasonable inference that Mr. Chang intended to provide for the well-being of the Chinatown community.

For starters, the name is a dead giveaway. Mr. Chang styled his charity the *Chinatown* Building and Education Foundation. Not Germantown, Fishtown, Nicetown, or any other Philadelphia neighborhood. This is significant, especially when the Indenture of Trust states a clear preference for establishing and maintaining a presence in Chinatown through the acquisition of property there. Mr. Chang made good on this preference when he acquired the

Property, future site of the Community Center. The fact the Community Center then operated continuously in Chinatown for nearly forty years is proof Mr. Chang not only preferred Chinatown geographically but had an abiding affinity for the people of Chinatown. Were it otherwise, Mr. Chang would never have settled in Chinatown in the first place or would have pulled up stakes at the first opportunity. The fact is Mr. Chang never considered relocating or expanding the scope of CBEF's programs outside the neighborhood. Mr. Chang's myriad efforts on behalf of Chinatown even earned him the unofficial title of "Mayor of Chinatown." *See* N.T. 12/12/18, at 96 (Chin). One does not earn such a moniker unless he has dedicated a lifetime to strengthening the eponymous community.

If a man's actions are the best interpreters of his thoughts, then Mr. Chang's devotion to Chinatown makes clear the intended object of his charitable gift was Chinatown and its residents. To give the *cy pres* funds to an organization not located in Chinatown and with a more city-wide focus would not approximate Mr. Chang's charitable intentions as nearly as possible.

The Court understands much has changed since CBEF's inception in 1966. Notably, immigrant communities in general, and the Asian community in particular, are not necessarily cloistered in racial and ethnic enclaves like Chinatown anymore. Asian people live all over Philadelphia and its neighboring counties. For example, the Mifflin Square Park area in South Philadelphia is the proverbial melting pot where newer immigrant populations from Vietnam, Cambodia, Laos, Korea, the Philippines, and Burma mix with older immigrant stock from Italy, Mexico, and Poland. *See* SEAMAAC Ex. 2, at unnumbered 1.

Cy pres, however, is less about shifting demographics than it is about approximating the settlor's intent. If Chinatown were razed to the ground and its residents scattered to the winds, the outcome would be different as the Court would be forced to consider directing the funds to

charities focused on the Asian community in other parts of Philadelphia. As it stands, Chinatown remains a vibrant and bustling neighborhood with many pressing needs—economic, educational, social, and cultural—affecting peoples of Asian, or “East Asian,” extraction however defined. These specific issues facing this specific community in this specific location is the reason Mr. Chang established CBEF where he did with its particular mission. If the Court failed to give Mr. Chang’s concerns in this arena their due then the Court would do violence to his charitable intentions.

Now, all four proposed beneficiaries of the *cy pres* funds have ties in some way, shape, or form to Chinatown and its residents, but some ties are greater than others. Moreover, all four charities arguably “foster better understanding of the American way of life among people of diverse, foreign backgrounds” as well as promote good citizenship; however, their methods vary. For example, PCOS emphasizes the arts as a way of promoting unity and intercultural understanding whereas SEAMAAC heads an anti-truancy initiative and WCNP helps foreign professionals integrate into American life by securing employment worthy of their talents. The means differ, but the ends are similar.

The question of means, however, is not trivial. Part of CBEF’s mission was to offer programs that were “essentially East Asian oriented” and modeled on the YMCA. Not all of the charities offer programs that fit this description. For example, PCOS operates out of Chinatown and offers programs that are exclusively East Asian oriented, but PCOS also tours throughout the tristate area and does not fit the mold of the YMCA (in the sense the YMCA does not exclusively concentrate on Chinese opera and other performative arts). Alternatively, SEAMAAC chiefly serves Asian beneficiaries while also facilitating better understanding among

diverse peoples, encourages good citizenship, and conducts programs comparable to the YMCA, but SEAMAAC is not a Chinatown-centric organization.

CBEF was a unique charity, providing a range of services spanning everyday needs like lunches for seniors as well as high art. CBEF's approach was never either-or. Rather, CBEF always struck a balance between confronting the daily realities of Chinatown and the preservation and dissemination of Chinese culture. Thus, the Court finds the only way to approximate as near as possible Mr. Chang's charitable intentions is to award the *cy pres* funds to two charities: PCDC and PCOS. Taken together, PCDC and PCOS map the same the charitable territory as CBEF, continuing its charitable mission as envisioned by Mr. Chang.

The purposes and objects of both PCDC and PCOS along with the locality and populations they serve come as near as possible to CBEF. First, both have a physical presence in Chinatown. CBEF was based in Chinatown, and the beneficiaries of the *cy pres* funds should be as well. While both PCDC and PCOS satisfy this requirement, PCDC, with the opening of the ETCC, will have a space that surpasses the old Community Center, a space capable of accommodating all of the activities and programs once offered by CBEF and then some. While WCNP will also have a physical presence in Chinatown, one that will rival the ETCC, its focus roves far beyond the boundaries of Chinatown. And SEAMAAC does not even have a physical presence in Chinatown. It is based in, and concentrates on, South Philadelphia.

This leads to a second point: PCDC and PCOS have their sights set firmly on Chinatown and, more importantly, its residents. As discussed earlier, Mr. Chang, through the creation and operation of CBEF, exhibited a deep and lasting commitment to the welfare of Chinatown's residents. This is not to say Mr. Chang cared nothing for the rest of Philadelphia, but the issues of locality and population are paramount and Mr. Chang's charitable concerns were much

narrower than helping all Philadelphians the way WCNP and SEAMAAC do. PCDC and PCOS manifest CBEF's narrower charitable mission. In this way, both charities offer programs that are "essentially East Asian oriented": PCDC in the sense its programs almost exclusively serve Chinese beneficiaries in Chinatown, and PCOS in that it focuses exclusively on Chinese opera and its satellite art forms. Each promotes camaraderie among Chinatown's residents while simultaneously improving their lives in more tangible ways. Moreover, both charities promote a greater sense of belonging with the community-at-large, allowing the beneficiaries to maintain their heritage while also integrating into the mainstream of American life. This sense of fellowship, the exchange of ideas and customs and traditions, is one of the cornerstones of good citizenship in the United States of America, and PCDC and PCOS facilitate this in their own ways.

PCDC contends it is the sole deserving beneficiary of the *cy pres* funds, claiming PCOS "offers only limited artistic programs, and not the broad services offered by CBEF." While PCDC is correct insofar as PCOS is largely concerned with the arts, PCDC would have the Court gloss over CBEF's role in preserving and promoting traditional Chinese culture in the form of music, dance, and other media. *See* PCDC Cy Pres Proposal Ex. 12, at 45–61 (discussing the Community Center's performance troupe the "Golden Dragon Club"); *id.* at 67–98 (presenting an overview of the Community Center's cultural programs, including music, art exhibitions, calligraphy, games, opera, martial arts, and film festivals); *id.* at 99–124 (detailing the Community Center's venerable history of cultural exchange such as inviting Chinese artists to Philadelphia and spearheading the effort to make Philadelphia and the Chinese city of Tianjin "friendship cities"). In light of CBEF's history of championing Chinese art and culture, work

PCOS continues to this day, the Court cannot agree with PCDC that it alone should receive all the *cy pres* funds.

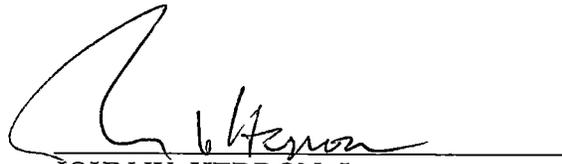
As for how the *cy pres* funds should be divided between PCDC and PCOS, the Court finds that the lion's share of the funds should go to PCDC. Clearly, the types of services PCDC provides the Chinatown community exceeds those offered by PCOS. PCDC's broad range of services is modeled after the YMCA which in turn was the blueprint for CBEF; PCOS's range of services is much narrower by comparison. The gulf between the two charities is most obvious when one examines their respective budgets. PCDC has an annual operating budget of approximately \$900,000.00 whereas PCOS has an annual operating budget of approximately \$78,000.00. N.T. 12/12/18, at 48 (Chin); N.T. 02/13/19, at 77 (Xu). Furthermore, PCOS tours throughout the tristate region and thus its focus, unlike PCDC, is not exclusively on Chinatown. Lastly, the Court acknowledges there are limits to what cultural messages can be conveyed through opera, and while the arts are a vital component of any community, art alone does not address Chinatown's other needs such as housing, education, healthcare, and employment.

Therefore, the Court, mindful of these differences between PCDC and PCOS, divides the funds as follows: \$1,230,000.00 to PCDC, and \$50,000.00 to PCOS. In awarding funds to PCOS, the Court urges PCOS to use these funds to maintain, expand, or create programs based in Chinatown for the benefit of Chinatown's residents. The Court also awards PCDC and PCOS a percentage of any accumulated interest equal to the charity's share of the *cy pres* funds—i.e., 96 percent to PCDC and 4 percent to PCOS. By awarding the *cy pres* funds in this way, the Court believes it properly accounts for the differences between the two *cy pres* beneficiaries while also recognizing that they, when taken together, continue the social and cultural legacy of CBEF.

IV. Conclusion

For the foregoing reasons, the Court awards the *cy pres* funds to PCDC and PCOS to be divided in the manner detailed above. The Court finds this approach best approximates as near as possible Mr. Chang's charitable intentions behind the creation of CBEF.

BY THE COURT:



JOHN W. HERRON, J.

Dated this 16th day of April 2019

Richard L. Vanderslice, Esquire
for the Scioli Turco, Inc.

Edward J. Sholinsky, Esquire
Ralph G. Wellington, Esquire
Stephanie Yeung, Esquire
Judy F. Berkman, Esquire
for Philadelphia Chinatown Development Corporation

Joseph Khan, Esquire
for SEAMAAC

Dafan Zhang, Esquire
for Welcoming Center for New Pennsylvanians

Bruce Bellingham, Esquire
for Philadelphia Chinese Opera Society

Pamela S. Fingerhut, Esquire
for Attorney General as *parens patriae*