

APPENDIX F

POLICIES AND PROCEDURES RELATING TO THE PROPERTY OF A PARTICULAR CHURCH

The Constitution of the Presbyterian Church (U.S.A.) Part II - The *Book of Order* establishes the general principal that: "All property held by or for a particular church is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.). [G-8.0201]" The *Book of Order* also requires a particular church to seek approval of the Presbytery when buying, selling, encumbering or leasing Church property.

The purpose of this Appendix is to create guidelines for the Presbytery of Philadelphia (the "Presbytery") to assist a particular church of the Presbytery ("Church") in following the mandates of the Book of Order and to establish policies relating to various types of transactions involving a Church's real property.

A. Transactions Requiring the Approval of the Presbytery The following transactions require the approval of the Presbytery before consummation:

1. The purchase or other acquisition of real property.
2. The lease of real property by a Church for its own use.
3. The acceptance of a gift of real property.
4. The sale of real property.
5. The placing of a mortgage or deed of trust on Church's real property.
6. The encumbering of a Church's real property in any way that would tend to limit its use, including, but not limited to, granting easements, building restrictions, restrictive covenants (including open space covenants, clean and green agreements, and historical designations) or other obstructions or burdens on the property.
7. The borrowing of money where the lender would acquire any interest in any property of the Church to secure the loan whether by security interest, pledge, other lien or encumbrance.

B. Consultation with and Approval by Presbytery Whenever a Church intends to enter into or engage in any transaction described in paragraph A above ("transaction"), it shall follow the process outlined hereafter.

1. **Approval by Session and Church Trustees** All proposed transactions should first be approved by the session and, if the Church has a separate board of trustees, the trustees of the Church. The session is acting pursuant to the requirements of the *Book of Order*; and, the trustees, acting as directors of the Church corporation, are acting pursuant to the requirements of the Pennsylvania Nonprofit Corporation Law.
2. **Consultation with the Financial Management Committee ("FMC")** Following approval of the Church's session and Trustees and before presentation to the Church's congregation, the Clerk of Session should notify the FMC of the proposed transaction by contacting the staff person responsible for finance. Members of the FMC are available to consult with officers of the Church about any aspect of the proposed transaction. The FMC may request that the Church provide to the FMC specific information concerning the proposed transaction, appraisals of the real property and certain financial information about the

Church as part of this process.

3. **Approval by the Congregation** The proposed transaction shall be presented for approval at a duly called meeting of the congregation of the Church. The congregation must approve the specific terms of the proposed transaction. If all terms of the proposed transaction are not agreed upon at the time of the congregational meeting, the congregation may delegate to the corporate officers of the Church the responsibility to negotiate and conclude acceptable terms for the proposed transaction within whatever limits the congregation may see fit to impose.
4. **Approval by the FMC and the Presbytery** Following approval of the proposed transaction by the congregation, the clerk of session should notify the FMC (through the staff person responsible for finance) of the action of the congregation and request approval of the proposed transaction by the FMC and submission of the proposed transaction to the Presbytery for approval. This request should be made in writing and must include all of the material terms of the proposed transaction as finally concluded by the Church's officers.
5. **Forms** The FMC may from time to time create forms for the use by the Churches to facilitate this consultation and approval process. These forms will be available from the staff person responsible for finance.

C. **Additional Requirements and Concerns for Certain Transactions**

1. **Major renovation or proposed new building** Presbytery approval is not required where the Church has the funds in hand to complete the proposed project. The session should consider whether the proposed project will substantially reduce the Church's ability to participate in mission causes. If completion of the proposed project includes any of the transactions enumerated in paragraph A, or includes the need for a major fund raising or capital campaign, the Church shall engage in the process described in paragraph B.
2. **Sale of a Manse** The process for the sale of a manse is governed by paragraph A above. In addition, when a congregation requests permission to sell a manse, it should be understood that (a) the congregation continues to bear responsibility for adequately housing ordained full-time pastors called by that congregation and (b) all proceeds from the sale of a manse shall be retained as a specific "Manse Fund" subject to the following provisions:
 - a. The Manse Fund shall be maintained as a separate trust or escrow fund. No part of the Manse Fund shall be disbursed for any purpose, except as set forth below, without the prior approval of the Presbytery.
 - b. Income from the Manse Fund may be used to provide a housing allowance for the pastor of the Church and, if the housing allowance is fully provided for, for such other purposes as the session may designate. In this connection, the session should consider the advisability of reinvesting a portion of the income of the Manse Fund to adjust for the effect of inflation on the value of the Manse Fund in relation to the potential cost of purchasing a manse, if needed in the future.
 - c. The principal of the Manse Fund may be used without further approval by the Presbytery or any of its committees for the following purposes:
 - (1) for the purchase of a manse;
 - (2) to make a loan to a pastor of the Church, secured by a first mortgage to enable the pastor to purchase a principal residence or to enable prepayment of a first mortgage on the principal residence of the pastor;
 - (3) to make a loan to a pastor of the Church, secured by a second mortgage on

the pastor's current principal residence or new intended principal residence, to enable the pastor to make a required down payment on the purchase of his or her new intended principal residence.

- (4) Any mortgage securing a loan from the Manse Fund must contain a provision requiring repayment in full upon sale of the residence or within 180 days after dissolution of the pastoral relation between the Church and the borrower.
- d. When a manse fund has been created as the result of the sale of a manse that had been provided for the use of an associate pastor, and when the Church has, with the concurrence of the Presbytery, formally abolished all associate pastor positions on its staff, the Church may apply to the Presbytery through the FMC for release of such manse fund for capital improvements or additions to the Church property, or for reduction of the principal indebtedness of the Church, subject to all of the following conditions:
- (1) a manse is provided for the pastor or a manse fund is maintained to provide a housing allowance for the pastor;
 - (2) the Church has not had on its staff, for a period of three years preceding the request, any associate pastor;
 - (3) the session of the Church certifies, and the Committee on Ministry concurs, that it is unlikely that the Church will call an associate pastor in the foreseeable future; and
 - (4) the session agrees that, if released, the manse fund will be used only for capital improvements or additions to the Church property, or reduction of the principal indebtedness of the Church.
 - (5) Notwithstanding any of the above, the session of a Church may combine the Manse Fund resulting from the sale of the manse of an associate pastor with other Manse Funds held by the Church without further approval by the Presbytery or any of its committees.
- e. When a Manse Fund has been created as the result of the sale of a manse provided for the use of the pastor, the Church may apply to the Presbytery through the FMC for approval to use all or a portion of such Manse Fund for capital improvements or additions to the Church property, subject to the following conditions:
- (1) a manse is provided for the pastor, or the Church has demonstrated its provision of a housing allowance for the pastor through annual budgets without reliance on income from the Manse Fund for a minimum period of the preceding five years;
 - (2) the session agrees that if released, the Manse Fund or the released portion shall be used only for the approved capital improvements or additions to the Church property;
 - (3) the FMC shall include in its report to the Presbytery a recommendation as to whether the released funds shall be repaid to the Manse Fund.
- 3. Receiving a Gift of Real Property** Before a gift or bequest of real property is accepted by a Church, the following procedures should be followed:
- a. a title report should be obtained from a reputable title insurance company, in order to determine whether the property is subject to mortgages or other liens, such as

- liens for unpaid real estate taxes, or subject to easements, encumbrances and other restrictions;
- b. a Phase I Environmental Site Assessment of the property should be obtained, unless a reasonable alternate means of obtaining information about the environmental history of the property is available to and relied on by the session and (where applicable) trustees in determining whether to accept the gift, and it is reasonable to conclude, based on the Site Assessment or such other information, that there are no material environmental violations or hazards at the site;
- c. an inspection by a qualified building inspector of any building involved in the gift should be obtained showing any material structural or other defects in the building;
- d. a recent survey of the property or a reasonable alternate means of determining that there are no encroachments on the property or other matters that would be disclosed by a survey; and
- e. if the session and trustees of the Church determine, based on such reports, that it is in the best interests of the Church to accept the proposed gift, the procedures under paragraph B above shall be followed.

In no event should the Church permit title to the property to be recorded in its name until the foregoing procedures have been complied with and all necessary approvals obtained. The Church should also consider that any real estate that is not used for worship or other exempt purposes, such as Christian Education, will be subject to real estate property taxes.

4. **Historic Designation or Registration** Many Churches in the Presbytery are historic landmarks or are located in areas that could be designated or registered as historic districts. Such a designation or registration may restrict a Church's future use or development of its real property. Before a Church applies for or accepts a designation as a historic landmark or registers as a historic place or site, it should engage in the process described in paragraph B. Where a Church becomes aware of or receives notice from a municipality or any governmental agency that the Church or its real property are to be designated or registered as a historic district or site or included in a historic zoning or building district, the Clerk of Session should notify the FMC through the staff person responsible for finance of the pending municipal or agency action or ordinance.

D. **Lease of Church Facilities by an Outside Organization**

1. **Approval by Session** Any use of Church real estate, including any manse, or facilities by any outside organization shall be approved by the session of the Church.
2. **Definition of Outside Individuals and Organizations**
 - a. **Outside Individual** A person (who is not a pastor who occupies a manse as part of her or his terms of call) who resides in a Church manse or who uses any Church real estate or facilities.
 - b. **Outside Organization** An organization which is not sponsored by a particular Church as part of that Church's program; it is not intended to refer to groups which occupy facilities of the Church under the sponsorship of the Church, such as Girl Scouts, Boy Scouts, Alcoholics Anonymous, or similar groups.
3. **Factors To Be Considered in Approval** The session of the Church should consider the following factors in approving the use of Church real estate and facilities:

- a. the outside organization is a nonprofit organization or, if it is conducted for profit, it provides a service which is not otherwise readily available in the community;
- b. such use is in the best interest of the congregation and will not interfere with other programs of the Church;
- c. such use will provide a benefit to members of the Church or to the immediate community in which the Church is located;
- d. such use is consistent with the general aims of the Church;
- e. the program of the outside organization does not discriminate against potential participants on grounds of race, sex, or, except where a religious qualification is reasonable under the circumstances, on religious grounds; and
- f. the lease of a manse as a residence will be done in compliance with the Pennsylvania Human Relations Act and comparable federal acts which prohibit discrimination in the leasing of housing by reason of race, color, familial status, age, religious creed, ancestry, sex, national origin, or handicap or disability of any prospective occupant or user.

4. Requirement of Written Lease. Any use by an outside organization or outside individual of facilities or manse of a Church on a regular basis for a period of six months or more, or for any continuous period (not including weekends or holidays) of more than two weeks, shall require a written agreement, lease, license, management agreement or the like (hereinafter "lease") which shall cover, at a minimum, the following items:

- a. the amount of rent or fee to be paid and the dates on which rent is due;
- b. the areas which the lessee is entitled to use and the times at which such use may be made;
- c. whether the lessee's use of such areas is exclusive or shared with others, including the particular Church;
- d. the term of the lease, which should be no longer than one year unless there is a compelling reason for a longer term;
- e. renewal of the lease after the original term, if any, which should be expressly subject to approval by the Presbytery;
- f. the lessee's responsibility for repair and maintenance, security, and injury to its participants, employees and invitees;
- g. the lessee's responsibility, if any, for the payment of utility service to the real estate or facility;
- h. the lessee's responsibility to obtain and provide evidence of all necessary zoning and other occupancy approvals (including any necessary building permits if alterations are to be made) by local governmental authorities;
- i. the lessee's responsibility to pay any taxes levied on the premises as a result of the lessee's occupancy thereof;
- j. the lessee's responsibility to obtain insurance in the amounts required by the Presbytery (set out in subparagraph 6 below);
- k. any other limitations on the lessee's use of the facility or property (for example, use of signs, decorations and the like);
- l. the date of termination of any occupancy or use by the lessee; and
- m. leases in excess of one year should include provisions to increase the rent on an annual basis, either by a specific amount or the use of an annual percentage increase

or cost of living formula; such leases should also include a provision permitting the Presbytery to terminate the lease upon sixty (60) days' written notice in the event that the Church is dissolved or becomes extinct under the terms of Chapter VIII of the *Book of Order*.

5. **Form Leases** Form leases for use by the Churches of the Presbytery of Philadelphia are available from the staff person responsible for finance, without charge. There are separate forms available for residential leases of manses and leases to outside individuals or organizations for any use of Church facilities.
 6. **Insurance** Before its first use of any Church facilities or manse, an outside organization or individual shall obtain and provide satisfactory evidence of a single limit general liability insurance policy in the amount of at least \$1,000,000 for Church facilities (\$300,000 for manses) for bodily injury or death and \$50,000 for property damage, naming the Church and the Presbytery of Philadelphia as additional insureds and providing at least thirty (30) days' notice of cancellation to each additional insured.
 7. **Approval by the Presbytery** Any lease of Church real estate or facilities by an outside organization or individual shall be subject to the prior approval of the Presbytery of Philadelphia. In the ordinary course, such approval is given by the FMC. If a lease is for a term of more than one year or contains provisions considered by the FMC to be unusual, making Presbytery approval advisable, the proposed lease will be submitted to the Presbytery for its action. Any proposed lease subject to the foregoing sentence should be submitted to the FMC for preliminary approval through the staff person responsible for finance.
 8. **Renewal of Leases** Whenever a lease of Church facilities to an outside organization is renewed or the tenant seeks to exercise an option to renew, the renewal term must be approved by the Presbytery as provided in subparagraph 7 above. Leases that are renewed on a month-to-month basis must be approved annually on the yearly anniversary of the Lease. Forms for renewal of leases are available from the staff person responsible for finance.
 9. **Assignment or Subletting by Tenant** Leases of Church manses or facilities may not be assigned by a tenant and all or any part of the leased premises may not be sublet by a tenant without the prior approval of the Session of the Church and by the Presbytery as provided in subparagraphs 1 and 7 above.
- E. **Lease of Church Facilities or Property for the Purpose of Worship** Any lease, license or permission given by a Church for the use of its sanctuary or other property to any religious or ecclesiastical organization for the purpose of worship shall be governed by the provisions of paragraph D above and is subject to the prior approval of the Presbytery after review by the FMC which shall consult with the Committee on Ministry.
- F. **Insuring Church Property and Activities** All Churches shall obtain fire and casualty insurance and public liability insurance in such amounts and coverages that may be recommended by the Presbytery from time to time, and in accordance with the responsibility of the session under the *Book of Order*.