

Local Church Property Sale, Transfer, Lease and Mortgage Checklist

2000 Book of Discipline Requirements¹

September 2000

The following checklist has been developed to assist the local church in following the *Disciplinary* provisions when selling, transferring, leasing and mortgaging real property. The first section deals with unincorporated churches and the second section deals with incorporated churches. It is essential that you know the “corporate” status of your church so you can follow the proper procedures.

The sale or transfer of property by the local church is a process that involves consultation, legal advice, cooperation between church committees, and prayer. The Board of Trustees usually oversees the contractual negotiations and details. The Board of Trustees **always** need to work with a local attorney (and a real estate broker, title company, lender, etc.) to value the property, list the property, draft of the sale contract, choose a lender, draft a lease, or obtain closing paperwork such as a survey, deed, title report, provide representation at closing, etc. For purposes of *Disciplinary* consideration, this checklist assumes that the preparatory work and follow through actions and documentation have been completed in order to bring a full and complete proposal to the charge conference and sale proceeds to the church.

CONTACTS

NAME OF CHURCH: _____

ADDRESS: _____

PASTOR'S NAME: _____

PHONE, FAX, E-MAIL: _____

BOARD OF TRUSTEE CHAIR NAME: _____

PHONE, FAX, E-MAIL: _____

ATTORNEY REPRESENTING SELLER CHURCH: _____

PHONE, FAX, E-MAIL: _____

ATTORNEY REPRESENTING BUYER: _____

PHONE, FAX, E-MAIL: _____

¹ This is not a substitute for reading *The Book of Discipline*. The checklist was prepared prior to the final publication of the 2000 *Book of Discipline*, so the paragraph numbering and wording may change.

Section One

SALE, TRANSFER, LEASE AND MORTGAGE OF PROPERTY BY AN UNINCORPORATED CHURCH (¶2539)

1. _____ The charge conference must approve sales, transfer, lease of 30 days or more and mortgage of real property. The district superintendent, in consultation with the church, schedules the time of the meeting of the charge conference (¶245.4).
2. _____ The notice of the proposed sale, transfer, lease or mortgage of property and the date and time of the charge conference must be given at least ten days prior to the charge conference date from the pulpit or in a weekly bulletin. (¶2539.1) Local legal counsel should be consulted to see if state laws require more than ten days notice
3. _____ At the charge conference the resolution is presented and requires a majority vote of the members present and voting at a special meeting called to approve the transaction (¶2539.2). If the charge consists of two or more local churches, the local church conference provisions in ¶2526 should be followed.
4. _____ Written consent of the pastor and district superintendent is required. Such consent should be affixed to the final deed or other document. (¶2539.3)
5. _____ Prior to that consent being given, the pastor, district superintendent, and district board of church location and building need to ensure that the following provisions of ¶2539.3 are met:
 - Full investigation must be made and an appropriate plan of action must be developed for future missional needs of the community.
 - All sale documents and transferred paperwork must conform with the *Discipline*.
 - Congregations that will no longer continue as a United Methodist church may not sell facilities to another United Methodist church. (They may transfer the facilities.)
6. _____ The certification by the district superintendent that he or she has complied with the requirements of ¶2539.3 is conclusive evidence of the same.
7. _____ The charge conference resolution must direct that any contract, deed, bill of sale, mortgage or other written documents must be executed by and on behalf of the local church by two of the officers of the board of trustees. (¶2539.4)
8. _____ When real property is sold in conformity with provisions of the *Discipline*, such proper actions and conformity are sufficient to transfer titles and constitute a release and discharge of the real property sold and conveyed from the trust laws or clauses. (¶2541)
9. _____ The church must be mindful of the prohibition in ¶2542 on the use of proceeds of sale or mortgage for current budget (or expense) by the local church. (This provision restricts use for items such as the electric bill, staff salaries etc.) A very limited exception has been added to the *2000 Discipline* providing the bishop and the

cabinet, upon request of the local church, may allow use of the assets from the mortgage or sale of church property to provide for redevelopment efforts, including program and staff, for a financially struggling local church.

Section Two

SALE, TRANSFER, LEASE AND MORTGAGE OF PROPERTY BY AN INCORPORATED CHURCH (¶2540)

1. _____ The charge conference as members of the corporate body must approve sales, transfer, lease of 30 days or more and mortgage of real property. The district superintendent, in consultation with the church, schedules the time of the meeting of the charge conference (¶248.4).

2. _____ The notice of the proposed sale, transfer, lease or mortgage of property and the date and time of the charge conference must be given at least ten days prior to the conference date from the pulpit or in a weekly bulletin. If the “corporate board” being the board of directors is different from the charge conference, the charge conference must be given notice and must vote. (¶2540.1) Local legal counsel should be consulted to see if state laws require more than ten days notice.

3. _____ At the charge conference the resolution is presented and requires a majority vote of the members present and voting at a special meeting called to approve the transaction (¶2540.2).

4. _____ Written consent of the pastor and district superintendent is required. Such consent should be affixed to the final deed or other document. (¶2540.3)

5. _____ Prior to that consent being given, the pastor, district superintendent, and district board of church location and building need to ensure that the following provisions of ¶2540.3 are met:
 - Full investigation must be made and an appropriate plan of action must be developed for future missional needs of the community.
 - All sale documents and transferred paperwork must conform with the *Discipline*.
 - Congregations that will no longer continue as a United Methodist church may not sell facilities to another United Methodist church. (They may transfer the facilities.)
 - In the case of a relocation, the property must be first offered to another United Methodist entity

6. _____ The certification by the district superintendent that he or she has complied with the requirements of ¶2540.3 is conclusive evidence of the same.

7. _____ The authorizing resolutions must direct that any contract, deed, bill of sale, mortgage or other written documents must be executed by and on behalf of the corporate board of directors by two of the corporate officers (¶2540.4, ¶2540.6)

8. _____ The board of directors shall take actions necessary to adopt corporate resolutions in compliance with state and local law. (§2540.5)

9. _____ When real property is sold in conformity with provisions of the *Discipline*, such proper actions and conformity are sufficient to transfer titles and constitute a release and discharge of the real property sold and conveyed from the trust laws or clauses. (§2541)

10. _____ The church must be mindful of the prohibition in §2542 on the use of proceeds of sale or mortgage for current budget (or expense) by the local church. (This provision restricts use for items such as the electric bill, staff salaries etc.) A very limited exception has been added to the *2000 Discipline* providing the bishop and the cabinet, upon request of the local church, may allow use of the assets from the mortgage or sale of church property to provide for redevelopment efforts, including program and staff, for a financially struggling local church.

Additional Resources

- ✓ Memo on Leasing Property (available from GCFA)
- ✓ Insurance Checklist for Leased Property (available from GCFA Legal Department)
- ✓ Guidelines for Leading Your Congregation, Managing Your Church's Assets, Trustees 2001-2004 Cokesbury 2000
- ✓ District Board Manual, A Planning Guide for the District Board of Church Location and Building, Editors, Douglas Hoffman and Roger Patterson, Evangelism and Church Growth Unit, General Board of Global Ministries