

CHURCH PROPERTY MATTERS IN CONGREGATIONS

**PROCEDURES REGARDING AMALGAMATIONS
CLOSURE, AND PROPERTY TRANSACTIONS
OF CONGREGATIONS
IN THE UNITED CHURCH OF CANADA**

(Based on The Manual of The United Church of Canada, 2013 Edition)

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THIS HANDBOOK IS FOR INFORMATION ONLY. SHOULD ANY DISCREPANCIES BE FOUND BETWEEN THIS INFORMATION AND THE MANUAL OR TRUST OF MODEL DEEDS, THE MANUAL AND OR TRUST OF MODEL DEEDS WILL TAKE PRECEDENCE.

THE 2013 EDITION OF THE MANUAL AND THE 2012 EDITION OF THE HANDBOOK FOR CONGREGATIONAL TRUSTEES ARE AVAILABLE AT WWW.UNITED-CHURCH.CA

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THEOLOGICAL GROUNDING

Whether it be the wilderness, the Temple in Jerusalem or the local church where we were raised, there is an inescapable connection to ‘place’ for many people of faith. Generation after generation of faithful have identified sacred space. In some instances, where need required, smaller structures were replaced with larger. In some instances these larger structures may no longer meet the needs of the faith community as they seek to share the Gospel today.

While acknowledging and celebrating the faithful response of those who founded and maintained so many buildings across this land, the same call to faithful mission echoes today. We are to review the use of our resources in order to maintain a faithful presence under changing circumstances.

Whenever a community of faith is moved to look at how it is called to mission, a variety of emotions are stirred. Change, whether a result of shrinking numbers or an influx of new people, releases a chain of emotion. Change never occurs in solitude: it affects the community as a whole.

Whether a congregation is called to consider amalgamating with another congregation, or closing its beloved building, the wider United Church is affected. One part of the body is connected to the whole. A congregation is connected to the Presbytery, the Conference and the General Council. Proper order and clear procedures assist us in ensuring all parts of the body are cared for in matters where property is the issue.

PURPOSE

The purpose of this document is to provide information for Presbytery Property Committees, Presbytery Oversight Committees, Presbytery Secretaries and persons in Pastoral Charges, about the steps to be taken when dealing with property matters when congregations are amalgamating or ceasing to exist. What follows is based on The Manual (2013), in particular sections G2 and D2.11

PRINCIPLES

A sub-title for this document might be “What’s Presbytery got to do with it?”, since this is the question that is sometimes asked in relation to the Church’s policies on property and closure. In response to this question, there are two key principles that underlie the United Church’s policies and procedures in this general area.

1. All congregational property, both real and personal*, is **held in trust** by congregations, through a Board of Trustees, on behalf of The United Church of Canada. The Presbytery (and in the cases of closed congregations, the Conference) is charged with ensuring that congregations do not dispose of property without proper authorization. Even items such as pews, pulpits and hymn books, whether purchased or donated, become the property of The United Church of Canada, once they have been acquired. They are to be held for the use of the present congregation and when no longer needed, for the use of the whole Church.
 - * **“Personal Property”** means all property other than Real Property. Personal Property includes, without limitation, money, investments, furniture, and equipment. *The Manual G2.1.1*
 - “Real Property”** means land, buildings, and anything else affixed to or growing on land or buildings, and rights relating to these. *The Manual G2.1.1*
2. The United Church of Canada is a **conciliar** not a **congregationalist church**, which is to say that in our system the local Congregation does not exist in isolation. It is related to other congregations of the United Church through the courts of Presbytery, Conference and General Council, and operates with both the support and the oversight of these wider courts. When this system works as it is meant to do, congregations are helped to protect their own welfare and also challenged to remember that they are part of a community of churches.

Who owns church property?

This is a simple question, to which there is not a simple answer. It is often said that church property is owned by the Congregation, or that church property is owned by the United Church. Neither claim is correct. The complication arises from a mistaken understanding of ownership as a unitary concept.

We typically understand ownership of a thing to embrace the right to do what we want with that thing, including selling it, when we want, and, if we do sell it, the right to do what we want with the proceeds. But ownership is more helpfully understood as a bundle of rights, some of the component “sticks” of which may be held by different parties. Congregational property is held by Trustees; they have the title. The Trustees hold the property for the use and benefit of the Congregation as part of the United Church. The Trustees must follow the lawful directions of the Official Board or Church Board or Church Council. The Trustees cannot deal with certain property without first obtaining the consent of the Presbytery. Where there ceases to be an organized Congregation, the Conference determines how the property is to be used. There is a right of appeal from a Decision, to the next Court of the United Church. So it quickly becomes evident that a number of different parties have an actual or potential interest in congregational property.

(From The Congregational Boards of Trustees Handbook 2012, The United Church of Canada)

BEGINNING THE PROCESS

LOOKING AHEAD

A meeting of the Congregation or Pastoral Charge should be called to adopt a proposal indicating its decision for the future. Such a decision should come only after there has been careful consideration given to viability of the on-going ministry within the area. This decision is rarely easy. The Alberta and Northwest Conference Office is available to offer assistance in developing ways for a Congregation to 'discern' or decide its future.

If the decision is to disband, the Presbytery should be notified of this resolution at once. It is wise to involve the Presbytery in the earliest instance when there are concerns about the future of the congregation or pastoral charge.

In cases of the Congregation moving to amalgamation or disbanding, the Presbytery is the authorizing body.

In cases where a congregation has never taken a formal decision to disband (i.e. it may have decided not to hold regular services, the number of members may have declined to a level making it impossible to function), the Presbytery may determine that the congregation has ceased to exist; and the Conference shall determine the dispersal of the assets.

PROPERTY TRANSACTIONS

(See The Manual, 2013 Edition, SectionG2)

In approaching a change in the structure of a Congregation or Pastoral Charge, there are three distinct options outlined in material produced by The United Church of Canada. These options are: amalgamation, disbanding or ceasing to exist.

PROPERTY CONSIDERATIONS IN ALL SITUATIONS

Regardless if it is amalgamation, disbanding or being declared having ceased to exist the following practices are to be considered and followed as appropriate:

- a) Remembering the requirement that Presbytery approve actions related to church property (Manual 267), the congregation should have the names of current Trustees and give them any instructions on what is to be done with the disposition of the building and other real or personal property. The trustees should locate the duplicate title, record its location, and be sure there is a clear title to the property. (It may be that when the land was deeded to the Congregation, that some restrictions were placed on the disposal of the property. The Congregation and Presbytery should be assured the property may be sold or otherwise transferred.) It should be determined that any sale value is firm before counting

on the proceeds from the sale as part of the financial resources for another project.

b) The congregation needs to make the decision. This is often a difficult step, but it is a necessary and critical one to take. It is not appropriate to delay a decision until some later time. **Decisions about property, real and personal, require the authorization of Presbytery.** The Presbytery should be kept informed at all stages leading to the formal closing of a congregation, and formally requested to act once the congregation has made its decision and instructed the Trustees to act. There are several options to be considered by the congregation or pastoral charge:

1. The congregation can decide to do nothing. Almost always interest will wane over the years; and the building finally falls apart in ruins. It is an option some congregations choose; it is a sad way to see a building end and there is a question of legal liability should someone be injured. **Please note that Trustees are liable to see that insurance is maintained as long as a building remains standing.** In some cases of congregational inaction or dispute, the Presbytery may decide to name Trustees and to act in relation to disposal of properties.
2. The building and the land may be sold. (Sometimes a museum is glad to get the building; sometimes there is a person who will take it down and reuse the lumber; some parcels of land have significant value. Now and then a church building is remodelled to serve as a family home). Prior to a time of sale, congregations may wish to think which uses for the building they can and cannot support.
 - i. The building can be taken down. In such cases, the congregation may wish to provide the erection of a marker (as many former rural schools have done). This will acknowledge a building that was home to people in their years of worship and witness.
 - ii. If a building is to be demolished or sold, the congregation should make a complete inventory of contents and develop a list of suggestions for their disposal, for submission to Presbytery. Some contents may be donated to neighbouring congregations, some will not be worth retaining, some may be sold to other churches. There is not usually a large market for the contents of a church building. Some local families like to purchase church pews, or light fixtures, for example. In any case, a proposal should be made by the people of the congregation about the disposal, and the process of the disposal, of the building contents.
 - iii. The building can simply be preserved. Unless there are long-term funds provided for building maintenance, the risk in this option is that it becomes (i) above. A building unheated will deteriorate. Sometimes a “historic site” designation may be given through the government. To choose this option may severely limit future options. **Prior** to seeking such a designation the **permission** of Presbytery must be sought and attained.
 - iv. Should the congregation propose, and the Presbytery agree, that the building be

rented for any purpose, the Trustees should seek legal counsel concerning issues of liability and determine the means and cost to cover same by adequate insurance.

HERITAGE SITE DESIGNATION CONCERNS

PREAMBLE:

History is always important to any group conscious of its roots, including the Church. Part of the understanding of the past includes its preservation and in particular those buildings of significant historic character. Therefore, maintenance of such historic buildings should be very important to this preservation.

Alongside this respect for the heritage of the Church, the ongoing mission and ministry must be central to any consideration of designation.

While some financial assistance *may* be available from a federal, provincial or municipal body to assist this preservation, any such assistance will usually require some designation. This designation normally brings limitations regarding the physical structure and may include adhering to a maintenance standard established by the designating body.

It is important to consider again the question of ‘who owns church property’ and to remember that local property is connected to the larger whole. Therefore what may appear to be beneficial in the short-term may have longer term implications for the broader church. For instance, if a church building is designated but the congregation is no longer viable, the designation may well restrict how the property may be handled. It is wise to remember that the building must carry adequate liability insurance as long as it is held in trust in the name of The United Church of Canada. While the local congregation may cease to exist, The United Church of Canada will remain liable for the property. In addition, in some instances, the body making the designation may require improvements which the local congregation cannot meet.

Each provincial or territorial jurisdiction within the Alberta and Northwest Conference has an act of the legislature regarding heritage designation. This document cannot address the differences, but the Presbytery involved may wish to consult the relevant acts as they are listed on the Internet.

Alberta: <http://www.cd.gov.ab.ca/preserving/heritage/pands/designation/index.asp>

British Columbia: http://www.tsa.gov.bc.ca/heritage_branch/heritage_conservation/intro.htm

Northwest Territories: <http://pwnhc.learnnet.nt.ca/programs/nwtcpp.html>

Yukon: <http://yukonhistoricplaces.ca/>

Saskatchewan: <http://www.cyr.gov.sk.ca/heritage.html>

Local municipal regulations and the Canadian government act are also available on the Internet. **(Before any action is taken, the Presbytery should consult a lawyer with an expertise in this area and an understanding of the Trust of Model Deeds of The United Church of Canada.)**

SUGGESTED CONGREGATIONAL ACTION, POLICY AND DIRECTION

1. The Trust of Model Deeds and Manual state: “no land, church, hall, residence or other building shall be sold, leased, mortgaged or otherwise encumbered without the prior consent in writing of the Secretary of Presbytery.” Any heritage designation could be seen as an ‘encumbrance’ and therefore requires consultation with and the permission of the Presbytery.
2. Congregations considering an application for a heritage designation need to submit a notice of intent to the Presbytery at the beginning of such consideration. The importance of the Presbytery participation is to assist the congregation in ensuring that there is an awareness of the conditions and implication of the process and to ensure the legal security of the property on behalf of The United Church of Canada.
3. Should a congregation have knowledge of a person or group or society having an intent to apply for designation of a church building, the congregation is obligated to advise, without delay, the Presbytery of such intent so that the Presbytery may take such steps as seem appropriate in the situation.
4. Such notice of intent to the Presbytery from the Board of Trustees of the congregation should include the following information:
 - a) Brief account of the historical significance of the building and adjacent property (properties if applicable), in respect to the history of the community and Presbytery
 - b) Indication of the future of the congregation and its mission, e.g. in the community or area, defining strengths and outlining possible change of use and/or ownership of building
 - c) Brief outline of construction of the interior and exterior of the building, age, architectural features (photos if available) which indicate distinctive features of historical value.
 - d) Adjacent properties - present and future relation with adjacent property holders
 - e) Funding in relation to the request for designation and financial assistance. Will funding be sought now, or in the future?
 - f) Source of funding- congregation should advise on the policy of the congregation regarding the source of funding and ethical issues implicit in those sources (i.e. provincial lotteries)
 - g) Trustees must provide proof of adequate liability insurance. Such liability coverage must be maintained as long as ownership of the property is in the name of The United Church of Canada.
5. Presbytery Action: The notice of intent and the supporting information will be reviewed by the appropriate Presbytery Committee in conjunction with congregational authorities and a recommendation made re: application for designation and /or funding will be made to the Presbytery.

Presbytery in considering such requests should examine the long-range mission strategies for the area, and alternate development strategies for the property. Since designation has the potential to restrict future options, **utmost caution should be exercised by all Courts of the church.**

CONGREGATIONS AMALGAMATING
The Manual, 2013 Edition, Sections B.3.7.3,B.3.4.7, G.1.3(a),C.3.1.2(c)

- a) When a proposal to amalgamate two (2) or more Congregations is made, each Congregation shall meet separately to make a Decision on the proposal.
- b) Where two (2) or more Pastoral Charges or Congregations are to be amalgamated by the Presbytery:
 - i. after consulting with the Pastoral Charges or Congregations, and before any amalgamation takes place, the Presbytery must declare surplus the part or parts of the property of the amalgamating Pastoral Charges or Congregations determined by the Presbytery no longer to be needed; and
 - ii. such surplus property shall be applied, either before or after the completion of the amalgamation, for such purpose for the benefit of the United Church as the Conference may determine.
- c) Where two (2) or more Pastoral Charges or Congregations have been amalgamated:
 - i. all of the Property, both Real and Personal, including any surplus property not yet disposed of, held by the Trustees of each of the Pastoral Charges or Congregations for their respective Pastoral Charges or Congregations shall, from and after the amalgamation, be deemed always to have been property held by the Trustees of the amalgamated Pastoral Charge or Congregation for the amalgamated Pastoral Charge or Congregation, without any conveyance being required from the Trustees of the amalgamating Pastoral Charge or Congregation; and
 - ii. any gift, devise, or bequest made before or after the amalgamation or intended to be made to a Pastoral Charge or Congregation or the Trustees of a Pastoral Charge or Congregation, which has been the subject of an amalgamation, shall be paid to, transferred to, and vested in the Trustees of the amalgamated Pastoral Charge or Congregation and shall be held for the amalgamated Pastoral Charge or Congregation.
- d) Congregations do not cease to exist by reason of being parties to an amalgamation, but rather continue as the amalgamated Congregation.”

What does the Board of Trustees have to do when the Congregation amalgamates?

*Amalgamation often reflects to some extent the need for reallocation of resources away from traditional congregational ministry in a particular area. That consultation therefore provides an opportunity for the parties to the amalgamation to further the work of the wider church, by proposing for example that proceeds from the sale of congregational property, beyond that found to be “needed” or “surplus,” be directed towards the Mission and Service Fund or towards Presbytery or Conference priorities. After consulting with the Pastoral Charges or Congregations, and before any amalgamation takes place, the Presbytery must declare surplus the part or parts of the property of the amalgamating Pastoral Charges or Congregations determined by the Presbytery no longer to be needed. In respect of that surplus property, the Board of Trustees must follow the directions of the Conference, which may be issued before or after the completion of the amalgamation. **The Congregational Board of Trustees Handbook, 2012***

MEMBERSHIP ROLLS IN THE CASE OF AMALGAMATION

Membership in the case of congregations amalgamating remains in the congregation with which it resided prior to the amalgamation.

RECORDS IN THE CASE OF AMALGAMATION

Congregational or Pastoral Charge records of a historic, or heritage, nature need to be cared for. These records need to be forwarded to the Conference Archives. Current membership rolls and financial records remain with the congregation.

In cases of amalgamation with a neighbouring congregation or pastoral charge, it may be necessary to transfer some of these records to the other congregation or pastoral charge; if this should occur a written statement is to be sent to the Presbytery and to Conference Archives giving details of this action.

CONGREGATIONS DISBANDING

The Manual, 2013 Edition, Sections G1.5 and D2.11

- a) In order for a Congregation to initiate the process to disband, the Congregation shall pass a resolution indicating its desire to disband and shall seek the approval of the Presbytery of the resolution to disband.
- b) Provided that the Presbytery agrees with the resolution, the Congregation shall then make provisions for the transfer of its members to other Congregations as may be desired by the members, shall submit to the Presbytery a proposal regarding the disposition of its Property, both Real and Personal, following where applicable the procedures outlined in section 267.
- c) The Congregation shall place with the Presbytery the records of the Congregation in order that these may be forwarded to the Conference archives.

What is the difference between a Congregation disbanding and a Congregation “ceasing to exist”?

Disbanding is a decision made by the Congregation. “Having ceased to exist,” on the other hand, is a state of affairs determined by the Presbytery; this is a subjective determination, which the Presbytery may make even while the Congregation may not have made a decision to disband, and may indeed wish to carry on.

The Congregational Board of Trustees Handbook, The United Church of Canada 2012

What does the Board of Trustees have to do when the Congregation decides to disband?

Disbanding is a decision made by the Congregation. Until the effective date of the disbanding, the Board of Trustees still takes directions from the Official Board or Church Board or Church Council. The Congregation shall submit to the Presbytery a proposal regarding the disposition of its property, both real and personal. The circumstances when a Congregation decides to disband provide a unique opportunity for that Congregation to further the work of the wider church, even after it has disbanded, by proposing for example that proceeds from the sale of congregational property be directed towards the Mission and Service Fund or towards Presbytery or Conference priorities. If property remains undisposed of by the effective date of the disbanding, and no arrangements have been made, then it becomes the Conference that directs the Board of Trustees in respect of the use or disposition of the remaining property.

The Congregational Board of Trustees Handbook, The United Church of Canada, 2012

STEPS TO BE TAKEN IN DISBANDING A CONGREGATION

1. The congregation, at a meeting specifically called for this purpose, passes a resolution indicating its desire to disband and the date when closure would take effect.
2. A letter notifying Presbytery of the passage of this resolution and asking Presbytery to disband the congregation is sent to the Secretary of Presbytery.
3. Presbytery or its Executive deals with the request and notifies the congregation of its decision.
4. If Presbytery approves the request, the congregation:
 - a) makes provision for the transfer of its members to other congregations as may be desired by the members;
 - b) places with the Presbytery the records of the congregation that these may be forwarded to the Conference Archives;
 - c) submits to Presbytery, after consultation between the congregation and Presbytery has taken place, a proposal for the disposition of its property, both real and personal (including cash assets).

STEPS TO BE TAKEN IN THE DISPERSAL OF PROPERTY WHEN A CONGREGATION DISBANDS

1. The decision is forwarded, in writing, by the Secretary of the Congregation or Pastoral Charge, to the Board of Trustees.
2. The Board of Trustees, at a duly called meeting, passes a resolution to purchase, sell, lease, etc. the property in question. The resolution needs to include the legal description of the real property or an adequate description of personal property, the price or costs, the terms, and, where costs are involved, the proposed source of funds.
3. It is the policy of Alberta and Northwest Conference (Section 5.10 of the *Handbook of Policies and Procedures*) that “after a Congregation has ceased to exist as an organized body, or has disbanded, or where there has been an amalgamation and the Presbtery or Conference have declared the property and/or assets to be surplus, two percent (2%) of the net proceeds, to a maximum of five thousand dollars (\$5,000), is to be allotted to the Conference Heritage Resources Committee Archives Trust Fund, for the preservation and maintenance of archival records.” Please make cheques payable to “**Alberta and Northwest Conference**”.
4. A certified copy of this resolution, plus the appropriate certificate requesting consent of Presbytery are sent to the Secretary of Presbytery (Form available from Alberta and Northwest Conference Office, and the Secretary of Presbytery).

* “**Real property**” refers to lands and buildings; “**Personal Property**” refers to all other property, including the contents of buildings.
When property is being **sold or leased**, no proposal should be made about the use to

which the proceeds will be put until Presbytery has named a representative (from the Presbytery Property Committee or other body) with whom there can be consultation on this matter.

5. If the Presbytery (or Executive) gives its consent to the proposed action, it passes a resolution to that effect and notifies the pastoral charge of its decision, together with the appropriate certificate, signed by the Presbytery Secretary (“Resolution Giving Consent of Presbytery”).
6. The resolution and certificate of consent are then attached to the deed, mortgage or lease upon registration in the appropriate title registry.
7. Where the existing Trustees are not the Trustees in whose name the title of the property is registered, it is necessary that a “certificate of the minister in charge as to Trustees”, in addition to the consent of Presbytery, be prepared, executed and attached to the deed, mortgage or lease of real property for registration (Form available from Alberta and Northwest Conference Office or Secretary of Presbytery).

MEMBERSHIP WHEN A CONGREGATION DISBANDS OR IS DECLARED HAVING CEASED TO EXIST

1. Membership may be addressed in a the following ways:
 -  Members may be transferred to other congregations as they wish. The disbanding congregation should make every effort to ascertain the wishes of its members, including those who are non-resident. If they request, members may be sent a Certificate of Membership which they may then present (within a reasonable period of time) to another congregation of their choice. Should no choice be indicated by the member, the Session or its equivalent may make the decision and forward the member's name to the congregation the Session determines. Every effort should be made by the Seesion to communicate this change to the member.
 -  Members may make a decision to transfer *en masse* to another congregation.
2. All such transfers are to be carefully recorded in the disbanding congregation’s Historic Roll.
3. The Historic Roll and all records are to be forwarded to the Presbytery for placement with the Conference Archives

CONGREGATIONS CEASING TO EXIST **The Manual, 2013 Edition, Section G.1.5 and D.11**

- a) A Congregation may cease to exist in one of two ways:
 - i. by the Presbytery approving a resolution passed by the Congregation to disband; or
 - ii. by the Presbytery making a decision to disband the Congregation
- b) A Congregation does not cease to exist by reason of no longer functioning as an organized body, but rather only after the action of the Presbytery.
- c) Congregations do not cease to exist by reason of being parties to an amalgamation, but rather continue as the amalgamated Congregation.

- d) Where a Congregation has ceased to exist, either by the Presbytery approving a resolution passed by the Congregation to disband or by the Presbytery making a Decision to disband the Congregation, all of its Property, Real and Personal, shall be applied for such purpose for the benefit of the United Church as the Conference may determine after having consulted with the Presbytery.
- e) Where a Congregation has ceased to exist, the Presbytery shall take possession of the records of the Congregation and arrange through its Archives Committee to forward them to the Conference archives.

Where a congregation has ceased to exist, approval of Conference Executive is needed, as well as the approval of Presbytery, for the proposed disposition of assets. Once the pastoral charge and Presbytery have agreed on a proposal, the Secretary of Presbytery writes to the Executive Secretary of Conference seeking Conference Executive approval.

The Conference is charged with the responsibility of seeing that consideration is given to the needs of the United Church as a whole when such assets are being dispersed. This information should be shared with congregations by Presbytery Property Committees or Oversight Committees as soon as the process of closure and disposal of property has begun.

In situations when congregations have been declared as having ceased to exist, presbytery may need to appoint at least three trustees in order to carry out sales or transfers of property

What does the Board of Trustees have to do when the Congregation has “ceased to exist”?

“Having ceased to exist” is a state of affairs determined by the Presbytery. Our polity provides that, where the Presbytery has made a Decision that a Congregation has ceased to exist as an organized body, all of its property, real and personal, shall be applied for such purpose for the benefit of the United Church as the Conference may determine after having consulted with the Presbytery. So in the event that the Presbytery has made a Decision that the Congregation has ceased to exist as an organized body, the Board of Trustees must follow the directions of the Conference.

The Congregational Board of Trustees Handbook The United Church of Canada 2012

MEMBERSHIP WHEN A CONGREGATION IS DECLARED HAVING CEASED TO EXIST

1. Membership may be addressed in the following ways:

-  Members may be transferred to other congregations as they wish. The disbanding congregation should make every effort to ascertain the wishes of its members, including those who are non-resident. If they request, members may be sent a Certificate of Membership which they may then present (within a reasonable period of time) to another congregation of their choice. Should no choice be indicated by the member, the Session or its equivalent may make the decision and forward the member's name to the congregation the Session determines. Every effort should be made by the Session to communicate this change to the member.
-  Members may make a decision to transfer *en masse* to another congregation.

2. All such transfers are to be carefully recorded in the disbanding congregation's Historic Roll.
3. The Historic Roll and all records are to be forwarded to the Presbytery for placement with the Conference Archives

RECORDS OF A CONGREGATION WHICH DECIDES TO DISBAND OR IS DECLARED HAVING CEASED TO EXIST

- a) The official records of the congregation (Baptism, Historic Roll, and/or any other membership rolls, wedding records, burial records, minutes of Session, Stewards, Congregation, Official Board, etc.) are the property of The United Church of Canada. They are to be sorted, submitted to Presbytery and sent to the Conference Archives for safe keeping. It is not legal for such records to be held by an individual nor is it appropriate to have them deposited in another archives.
- b) The financial records are to be sent to the Presbytery for safe keeping and disposal according to proper accounting guidelines. The Canadian Customs and Revenue Agency should be consulted with regard to their requirements for retention of records and for the filing of the final charitable status return and the revocation of charitable status number. Financial records are not normally kept at the Conference Archives.

CELEBRATION

- a) A photo album of the building and congregational activities might be prepared and placed in the Conference Archives.
- b) A service of worship to honour the years of life, work and worship of the congregation should normally be held. This is an appropriate way to mark the closing of a congregation. Former members and friends, as well as former ministers, can be invited to this service. A well planned service helps to mark the closing with thanksgiving and joy for service given, as well as to acknowledge the real pain of having to close. A video tape recording of such a service might be made and stored in the Conference Archives.

CEMETERIES

The ongoing care of cemeteries in locations where congregations have ceased to exist presents a special case for Pastoral Charges and Presbyteries. Sometimes a neighbouring congregation will assume responsibility for the maintenance of the cemetery, or the community or municipality may be prepared to do so. In other situations it may be necessary to establish a cemetery committee, duly authorized to receive funds and to provide the required care. Because circumstances vary from place to place, it would be best, if advice is needed, to confer with the Executive Secretary of Conference when arrangements for cemetery care are being made.

PROPERTY FORMS TO BE USED BY BOARDS OF TRUSTEES AND PRESBYTERY

The Trust of Model Deeds sets forth the proper form of documentation which is to be used by Boards of Trustees in requesting the permission of the Presbytery and the proper forms for the Presbytery to use in granting its consent.

The use of these forms is universally accepted in any province in Canada. Some local changes may need to be included based upon the advice of local legal counsel.

The forms recommended by The Manual of The United Church of Canada are as follows:

FOR BOARDS OF TRUSTEES:

1. **Certificate of Trustees Asking Consent of Presbytery.**

This form assumes the Trustees have been elected by the process outlined in the Manual, Section

2. **Certificate as to Current Trustees.**

When the names of the Trustees on the title to the property are not the current Trustees, the form, Certificate as to Current Trustees is to be filled in by the Ministry Personnel duly appointed or called to the Pastoral relationship.

Please note: consultation with a lawyer or the land registry office in the local jurisdiction is crucial at this point.

FOR PRESBYTERY:

1. **Resolution of Presbytery Giving Consent**

Once the Presbytery Property Committee has reviewed the request from the Board of Trustees and has assured itself that the Certificate of Trustees Asking Consent is fully and properly filled out and, if necessary, the Certificate as to the Current Trustees is appended, the Property Committee takes their recommendation to the Presbytery.

2. **Certificate of Secretary of Presbytery to Resolution Giving Consent**

Upon the approval of the Presbytery, the Secretary of Presbytery fills out this Certificate and ensures it is returned promptly to the Board of Trustees who made the initial request. In some instances, the Secretary may be requested to forward the Certificate directly to a lawyer or the land registry, but the norm should be to return the Certificate to the Board of Trustees.

IN THE MATTER OF *[legal description of real property]*;

AND IN THE MATTER OF *[type of transaction]* from *[party]* to *[party]*.

**CERTIFICATE OF TRUSTEES
ASKING CONSENT OF PRESBYTERY**

The United Church of Canada Act, [statute reference]
The Manual (2013 Edition), Section G2

We, the undersigned, do hereby certify that the following is a just and true copy of a resolution duly passed by the Trustees of *[full name of Congregation]*, a Congregation of The United Church of Canada and part of the *[full name of Pastoral Charge]* Pastoral Charge, at a meeting of the Trustees duly held for that purpose at *[place of meeting]*, on the *[day]* day of *[month]*, *[year]*.

“Moved by *[full name of mover]*, seconded by *[full name of seconder]*, that the Trustees of *[full name of Congregation]*, a Congregation of The United Church of Canada and part of the *[full name of Pastoral Charge]* Pastoral Charge, having received the direction of the *[Official Board or equivalent]* of the said Pastoral Charge to do so, request the consent of *[name of Presbytery]* Presbytery:

1. to the *[type of transaction]* of certain real property, the legal description of which is *[legal description of real property]*, and the municipal address of which is *[municipal address of real property]*, pursuant to an agreement between the Trustees of *[full name of Congregation]*, a Congregation of The United Church of Canada, as *[capacity]*, and *[other party]*, as *[capacity]*, dated the *[day]* day of *[month]*, *[year]*, and subject to Presbytery approval, the terms of which are as follows:

[for a listing, the terms would include: the agent, any exceptions, the commission rate, the asking price, the proposed possession date]

[for a sale, the terms would include: the purchaser, the sale price, the deposit, the balance due, the terms of any mortgage back, conditions, warranties, the scheduled closing date]

[for a purchase, the terms would include: the vendor, the purchase price, the deposit, the balance due, conditions, warranties, the scheduled closing date, the source of funds]

[for a mortgage, the terms would include: the principal, the interest rate, the term, payments, prepayment privileges]

[for a lease, the terms would include: premises and exclusive use premises, fixtures and chattels, rental, commencement date, term, responsibility for taxes, insurance, repairs, rights to assign or sublet dispute resolution and arbitration, early termination, renewals, options]

2. [in the case of transactions generating proceeds to the following disposition of the proceeds arising from the transaction: *[disposition of proceeds]*” and in pursuance of the said resolution, we hereby apply to *[name of Presbytery]* Presbytery for its consent to the *[type of transaction]*].

Dated this *[day]* day of *[month]*, *[year]*.

[full name of presiding Trustee], Presiding Trustee

[full name of Secretary], Secretary

**CERTIFICATES WHERE EXISTING TRUSTEES ARE NOT THE TRUSTEES IN
WHOSE NAMES THE TITLE TO THE PROPERTY STANDS IN THE LAND
REGISTRY OFFICE OR LAND TITLES OFFICE**

Certificate of minister in charge, as to Trustee.

N.B. In the event of the absence or want of appointment or inability to act of any minister, this certificate may be given by the Presiding Officer or the Secretary of the Presbytery.

In the matter of a mortgage (sale or lease, as the case may be) by the Trustees of the _____ congregation of The United Church of Canada at _____ in the province of _____ to _____ of _____

(Give a short description of the property)

I, _____, of the _____ of _____, in the Province of _____, a minister of religion, do hereby certify, pursuant to Section 20 of Chapter 59 of Statutes 1924

1. That I am the minister in charge of the congregation of The United Church of Canada at _____ in the Province of _____, which congregation prior to June 10th, 1925, was known as the _____ congregation of _____.
2. That the following is a full and complete list of the Trustees of the said congregation with their respective residences and occupations, viz:
(Here set out list of Trustees, giving names in full, residences and occupations.)
3. That the said Trustees are the parties who, or a majority of whom, are named in the said mortgage (deed, lease as the case may be) and did execute the same _____
4. That the said Trustees were the Trustees of the said congregation and there were no other Trustees of the said congregation, on the _____ day of _____ A.D. 20__ at the date of said instrument.

Signed in the presence of

Witness

Signature

[Suggested format: This format may be adapted to suit the local circumstances and, where the document is to be registered at a Land Registry Office, to satisfy the requirements of the Land Registrar.]

IN THE MATTER OF *[legal description of real property]*;

AND IN THE MATTER OF *[type of transaction]* from *[party]* to *[party]*.

RESOLUTION OF PRESBYTERY GIVING CONSENT

The United Church of Canada Act, [statute reference]
The Manual (2013 edition), section G2

Moved by *[full name of mover]*, seconded by *[full name of seconder]*, that *[name of Presbytery]* Presbytery give its consent:

1. to the *[type of transaction]* of certain real property, the legal description of which is *[legal description of real property]*, and the municipal address of which is *[municipal address of real property]*, pursuant to an agreement between the Trustees of *[full name of Congregation]*, a Congregation of The United Church of Canada, as *[capacity]*, and *[other party]*, as *[capacity]*, dated the *[day]* day of *[month]*, *[year]*, and subject to Presbytery approval, the terms of which are as follows:

[for a listing, the terms would include: the agent, any exceptions, the commission rate, the asking price, the proposed possession date]

[for a sale, the terms would include: the purchaser, the sale price, the deposit, the balance due, the terms of any mortgage back, conditions, warranties, the scheduled closing date]

[for a purchase, the terms would include: the vendor, the purchase price, the deposit, the balance due, conditions, warranties, the scheduled closing date, the source of funds]

[for a mortgage, the terms would include: the principal, the interest rate, the term, payments, prepayment privileges]

[for a lease, the terms would include: premises and exclusive use premises, fixtures and chattels, rental, commencement date, term, responsibility for taxes, insurance, repairs, rights to assign or sublet dispute resolution and arbitration, early termination, renewals, options]

2. [in the case of transactions generating proceeds to the following disposition of the proceeds arising from the transaction: *[disposition of proceeds]*”

[Suggested format: This format may be adapted to suit the local circumstances and, where the document is to be registered at a Land Registry Office, to satisfy the requirements of the Land Registrar.]

IN THE MATTER OF *[legal description of real property]*;

AND IN THE MATTER OF *[type of transaction]* from *[party]* to *[party]*.

**CERTIFICATE OF SECRETARY OF PRESBYTERY
TO RESOLUTION GIVING CONSENT**

The United Church of Canada Act, [statute reference]
The Manual (2013 Edition), Section G2

I, [Full name of *Secretary of Presbytery*], of *[place of residence]*, do hereby certify and declare as follows:

1. That I am the Secretary of *[name of Presbytery]*, in the *[name of Conference]* Conference of The United Church of Canada;
2. That the following is a just and true copy of a resolution duly passed by the said Presbytery at a meeting of the said Presbytery held at *[place of meeting]*, on the *[day]* day of *[month]*, *[year]*;

“Moved by *[full name of mover]*, seconded by *[full name of seconder]*, that *[name of Presbytery]* Presbytery give its consent:

1. to the *[type of transaction]* of certain real property, the legal description of which is *[legal description of real property]*, and the municipal address of which is *[municipal address of real property]*, pursuant to an agreement between the Trustees of *[full name of Congregation]*, a Congregation of The United Church of Canada, as *[capacity]*, and *[other party]*, as *[capacity]*, dated the *[day]* day of *[month]*, *[year]*, and subject to Presbytery approval, the terms of which are as follows:

[for a listing, the terms would include: the agent, any exceptions, the commission rate, the asking price, the proposed possession date]

[for a sale, the terms would include: the purchaser, the sale price, the deposit, the balance due, the terms of any mortgage back, conditions, warranties, the scheduled closing date]

[for a purchase, the terms would include: the vendor, the purchase price, the deposit, the balance due, conditions, warranties, the scheduled closing date, the source of funds]

[for a mortgage, the terms would include: the principal, the interest rate, the term, payments, prepayment privileges]

[for a lease, the terms would include: premises and exclusive use premises, fixtures and

chattels, rental, commencement date, term, responsibility for taxes, insurance, repairs, rights to assign or sublet dispute resolution and arbitration, early termination, renewals, options]

2. [in the case of transactions generating proceeds to the following disposition of the proceeds arising from the transaction: *[disposition of proceeds]*”
3. *[if true]* The real property referred to in the above resolution is within the bounds of *[name of Presbytery]* Presbytery;
3. The said real property is held by the Trustees of *[full name of Congregation]*, a Congregation of The United Church of Canada and part of the *[full name of Pastoral Charge]* Pastoral Charge, in trust for *[full name of Congregation]* as a part of The United Church of Canada;
4. The said Congregation and Pastoral Charge are subject to the oversight of *[name of Presbytery]* Presbytery.

Dated this *[day]* day of *[month]*, *[year]*.

[full name of Secretary], Secretary