

CHURCH PROPERTY MATTERS IN CONGREGATIONS: A HANDBOOK

This handbook outlines the steps to be taken in matters related to the administration of church property:

- Sale of Church Property;
- Renovation of Church Buildings
- Acquisition of Church Property;
- New Building Projects
- Property Insurance and Emergency Response;
- Heritage Designation of Church Property; and
- Guidelines for Incorporation.

This is not a legal document, and is not the only source of information. In all instances, The Manual of The United Church of Canada takes precedence. This Handbook is intended to direct you to the relevant sections of The Manual, and to present in checklist fashion the steps to be followed. At the time of printing, the 2013 Edition of The Manual was current. As future editions of The Manual are published, they will take precedence.

In every instance, it is crucial for a Congregation to consult with the appropriate committee of the Presbytery at the earliest stages when considering a property transaction.

Key questions which ought to be explored in any of these projects include:

- How will this have an impact on the Congregation, and/or the Pastoral Charge?
- How does this relate to/impact the Congregation's ministry, mission, and stewardship?

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Alberta and Northwest Conference
The United Church of Canada
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STEPS TO BE FOLLOWED IN THE RENOVATION OF CHURCH PROPERTY

1. MANUAL REFERENCES

The procedures to be followed in the renovation of church property are found in The Manual of The United Church of Canada, Section G2 (2013 Edition). Presbytery involvement and approval is required for *major renovations*. There is no clear definition of what constitutes a *major* renovation. The Manual provides for the Presbytery to make a decision as to what constitutes major renovations (Section G2.1.3). It is the belief of the Planning and Administration Committee of Alberta and Northwest Conference that, in all instances of structural change, and all instances where the borrowing of funds is involved, the prior consent of the Presbytery is required. The Planning and Administration Committee encourages Pastoral Charges to be in touch with the relevant Presbytery committee at the earliest stages whenever there is a view to renovations, additions, or restoration of church buildings.

2. STEPS

- a) The Congregation shall be called to meet to make a Decision on the plans for renovation, addition or restoration, and to instruct the Board of Trustees to carry out the wishes of the Congregation.
- b) The Board of Trustees shall then be called to meet, having been given at least seven days notice. At this meeting, a resolution or resolutions shall be adopted, setting out the Decision to carry out the renovation, addition or restoration. This resolution must include the following points of information:
 1. The legal description of the subject property
 2. The plans for renovation and the costs of same
 3. The terms of payment and arrangements for financing
 4. The request for Presbytery approval of the planned renovation and financing.
- c) A certified copy of the resolution(s) shall be sent to the Secretary of the Presbytery. The resolution(s) must be accompanied by a *Certificate of Trustees Asking Consent of Presbytery*, and must be signed by the Chairperson and Secretary of the Board of Trustees. This form is available in the Trustees Handbook published by The United Church of Canada.
- d) The Trustees shall provide the Presbytery and/or its Property Committee (or equivalent) with all relevant information and documents.
- e) After receiving the consent of Presbytery or its Executive, the Trustees (or designated committee) may then proceed with the renovation to the church property.

3. TRUSTS

It is important to remember that, by the terms of church union, all church property is held in trust for The United Church of Canada. For this reason, it is necessary to have approval of Presbytery in all matters relating to property, including the remodeling or renovating of buildings and property. This includes the approval of a financial plan. There is a concern that a Congregation/Pastoral Charge not exceed its financial and stewardship capacity to carry out the renovation project and maintain the operating budget for its mission and ministry. Renovations and additions should be in keeping with the mission strategy of the Congregation.

STEPS TO BE FOLLOWED IN THE SALE OF PROPERTY

1. MANUAL REFERENCES

The procedures to be followed in the sale of property are found in Sections G2 and 4D2.1.1 of The Manual of The United Church of Canada (2013 Edition). The *Model Trust Deed* is helpful in understanding the role of the Trustees and the involvement of the Presbytery in property matters. The *Model Trust Deed* can be found at www.united-church.ca/handbooks

2. STEPS

- a) A meeting of the Congregation shall be called to instruct the Board of Trustees regarding its wishes in the sale of the property in question.
- b) Prior to sale, a minimum of two appraisals of the property value shall be received. The process of sale must be transparent, open and competitive and may be undertaken through a call for proposals or through a realty listing.
- c) When the Congregation has made a decision to proceed, the Board of Trustees shall be called to meet, having been given at least seven days notice, at which meeting a resolution(s) shall be passed setting out the decision to list the property for sale. The resolution(s) must include the following points of information:
 1. The legal description of the subject property
 2. The asking price for the property and any costs related to the sale
 3. The terms of payment and the intended use of the proceeds
 4. The request for Presbytery approval for such use of proceeds *
- d) A certified copy of the resolution(s) shall be sent immediately to the Secretary of Presbytery. The resolution(s) shall be accompanied by a Certificate of Trustees asking Consent of Presbytery, and shall be signed by the Chairperson and Secretary of the Board of Trustees. This form is available in the Trustees Handbook published by The United Church of Canada.
- e) The Trustees shall provide Presbytery and/or its Church Property Committee (or equivalent) with all relevant information and documents requested.
- f) After receiving the consent of Presbytery or its Executive, the Trustees may proceed with the sale of the property.

TRUSTS

It is important to remember that, by the terms of church union, *all church property* is held in trust for The United Church of Canada. For this reason, it is necessary to have the approval of the Presbytery in all matters relating to property, including the sale of property. In many instances, funds realized from the sale of property are designated for capital purposes. You will need to check with your Presbytery to determine what policies may be in effect.

STEPS TO BE FOLLOWED IN A NEW BUILDING PROJECT

1. MANUAL REFERENCES

The procedures to be followed when a Congregation/Pastoral Charge is proceeding toward erecting a new building are found in Sections 267, 271, 335, and 391 of The Manual of The United Church of Canada (2010 Edition). The *Model Trust Deed* is helpful in understanding the role of the Trustees and the involvement of Presbytery in building matters and can be found at www.united-church.ca/handbooks [This Handbook assumes that some study and information gathering has been done. This may have been initiated by the action of a previous Congregational Meeting, or by the Board or a committee. The assumption is that the committee or task group will continue to report to the Congregation as the study phase continues. The congregation will thus have the opportunity to provide direction along the way rather than simply voting to accept, modify, or reject a concept in the final stages. It is important to consult with the appropriate committee of Presbytery early in the process. The Presbytery may have helpful information to share and will be able to provide you with some timelines for approvals. In some cases, other courts of the church may be able to assist in the financing through provision of low cost loans. A very helpful print resource, *Godspace*, and a video, *Places of Worship*, have been produced by The United Church of Canada. The Architectural Resource Group of The United Church of Canada may be able to provide some helpful assistance. It is our suggestion that these resources be used from the beginning stages of your discussion.]

2. STEPS

- a) It will probably be necessary to have a series of Congregational Meetings as noted above. Once the time has come for a final decision, a meeting of the Congregation shall be called to obtain approval and to instruct the Board of Trustees to carry out the wishes of the Congregation.
- b) The Board of Trustees shall be called to meet, having been given at least seven days notice. At this meeting, the Trustees should pass a resolution(s) setting out their decision to construct a building. These resolution(s) should include:
 - The legal description of the property on which construction will take place
 - The full plans for the construction
 - Evidence that the relevant permits have been or will be procured
 - That construction is designed to at least meet all building and access codes
 - Estimated costs of construction and furnishing
 - A detailed financial plan
 - A request for Presbytery approval for the building project and the financial arrangements
- c) After having received the consent of Presbytery or its Executive, the Trustees (or designated committee) may then proceed with the construction project. It is important to have a process in place for monitoring the construction and for obtaining approvals for changes required in process.

3. TRUSTS

It is important to remember that, by the terms of church union, *all church property* is held in trust for The United Church of Canada. For this reason, it is necessary to have approval of Presbytery in all matters relating to property, including the purchase of land and the construction of buildings. This includes the approval of a financial plan. There is a concern that a Congregation/Pastoral Charge not exceed its financial and stewardship capacity to carry out the renovation project and maintain the operating budget for its mission and ministry.

STEPS TO BE FOLLOWED IN THE ACQUISITION OF PROPERTY

1. MANUAL REFERENCES

The procedures to be followed in the acquisition of property are found in Sections G2 The Manual of The United Church of Canada (2013 Edition). The *Model Trust Deed* is helpful in understanding the role of the Trustees and the involvement of Presbytery in property matters and can be found at www.united-church/handbooks *[This Handbook assumes that some study and information gathering has been done. This may have been initiated by the action of a previous Congregational Meeting, or by the Board or a committee. The assumption is that the committee or task group is now ready to report to the Congregation for direction. It is important to consult with the appropriate committee of Presbytery early in the process. They may have helpful information to share and will be able to provide you with some timelines for approvals. In some cases, other courts of the church may be able to assist in the financing through provision of low cost loans.]*

2. STEPS

- a) A meeting of the Congregation shall be called to instruct the Board of Trustees regarding its wishes in the purchase or acquisition by other means of the property in question.
- b) When the Congregation has made a decision to proceed, the Board of Trustees shall be called to meet, having been given at least seven days notice, at which meeting a resolution(s) must include the following points of information:
 - The legal description of the subject property
 - The purchase price and any related costs
 - The terms of payment and the arrangements for financing
 - The request for Presbytery approval of the purchase and of any borrowing/financial arrangements
- c) A certified copy of this/these resolution(s) shall be sent immediately to the Secretary of Presbytery. The resolution(s) shall be accompanied by a Certificate of Trustees Asking Consent of Presbytery, and shall be signed by the Chairperson and Secretary of the Trustees. This form is available in the Trustees Handbook published by The United Church of Canada.
- d) The Trustees shall provide Presbytery and/or its Church Property Committee (or equivalent) with all relevant information and documents requested.
- e) After receiving the consent of Presbytery or its Executive, the Trustees may proceed with the acquisition of the property.

3. TRUSTS

It is important to remember that, by the terms of church union, *all church property* is held in trust for The United Church of Canada. For this reason, it is necessary to obtain the approval of the Presbytery in all matters relating to property, including the purchase of additional property. This also involves approval of financing. There is a concern that a Congregation/Pastoral Charge not exceed its financial and stewardship capacity to carry out the renovation project and maintain the operating budget for its mission and ministry.

DOES YOUR CONGREGATION HAVE AN EMERGENCY PLAN?

The time is 11:40 a.m., on a crisp, autumn Sunday. You and the members of your Congregation are in the midst of your regular weekly worship service. The choir has just completed an expectedly fine rendition of a popular anthem, and you and those with you are settling yourselves for the sermon portion of the service.

Suddenly, a muffled thump is heard. Three people seated in various areas of the sanctuary quietly rise and leave as unobtrusively as possible considering the circumstances. The minister, standing at the pulpit, states quietly that an extra hymn will be sung while the cause of the disturbance is investigated. The minister's demeanour is calm, but s/he is acutely aware of recent problems with the furnace, and inwardly, expects the worst.

During the singing of the second verse of the hymn, one of those who had earlier left to investigate returns and goes directly to the minister. They speak briefly, following which the minister signals the organist to stop playing. The singing stops.

The minister first indicates that it is essential for all to remain calm. The minister then informs the congregation that the old furnace has exploded, causing a small fire in the furnace room. All must now leave the building beginning with the children, the elderly and those requiring assistance. Within minutes, the sirens of the fire department can be heard, and in short order, the situation is under control.

If this were your Congregation, how would you respond to the following questions?

1. Does your Congregation have a fire contingency plan in place, and are your members familiar with it?
 2. Are all exits clearly marked, and are they free from anything that would block evacuation?
 3. Has your Congregation had a fire evacuation drill during the past year?
 4. Do you periodically conduct a fire safety inspection of your structure, or have one done by qualified personnel?
 5. Do you know what should be included in a fire safety inspection?
 6. Do your members know where the fire alarms are located in the building?
 7. Do a sufficient number of your members know where the main electrical breakers are located in the event of an electrical fire?
 8. Are the majority of your members familiar with the locations of all fire extinguishers in the building?
 9. Are any of your members properly trained in the use of fire extinguishers?
 10. Have your fire extinguishers been serviced within the past six months?
 11. Can you honestly state that your Congregation is prepared for this type of situation?
- ✓ It is advisable for *all* Congregations to have an emergency evacuation plan in place, and to check it regularly and revise it as needed. You may wish to consult with your local fire department for some assistance in the formulation of a plan.
 - ✓ It is wise to have a fire drill at least once a year.
 - ✓ Make sure that all exits are clearly marked and that passageways are kept free of obstructions.

- ✓ Appropriate fire extinguishers should be in place, clearly accessible, and up to date.
- ✓ Take care to store flammable materials such as paper, choir gowns, etc. safely, and conduct regular cleaning of closets and other storage areas.
- ✓ Take extreme care when candles are being used, and have a protocol in place for extinguishing them after use.
- ✓ All hazardous products and equipment such as lawn mowers, snow blowers, etc. should be properly handled and stored.

STEPS TO BE TAKEN WITH AN INSURANCE CLAIM AFTER A FIRE

The first steps in dealing with insurance after a fire must be taken before the fire occurs.

1. Have a competent appraisal of the building(s) and contents done, and ensure that enough insurance is carried to cover potential losses. See below for more detailed information.
2. Compile a list of the contents of the building(s), room by room. Review and update the list on an annual basis.
3. Take detailed photographs of all parts of the church and its contents, particularly works of art, special details, etc.
4. Store copies of all of the above in a location separate from the church building.
5. Ensure all data on church computers is regularly backed up and stored in a separate location.

AFTER THE FIRE

1. Contact your insurance agent immediately and have an adjuster assigned. You will be working very closely with this adjuster for a long time.
2. The local authorities (fire/police/building inspectors) will want you to secure the site immediately after the fire department is finished, to ensure that no one is injured on the site. Depending on the severity of the fire, this may be as simple as boarding up broken windows and doors, or erecting temporary fencing around the site. If at all possible, you should consult with the adjuster at this point as reasonable costs should be covered by insurance.
3. In consultation with the adjuster, you must immediately take steps to protect the building and contents from further damage from water, exposure to the elements, or vandals.
4. If the damage is extensive, or the claim is likely to be large, you should begin documenting all conversations with the insurance company, the adjuster, and any trades people or contractors. The church will have to appoint a Point Person to interface with all of these people. The Point Person should be backed up by a Support Committee of 3-5 people who will be readily available to make decisions on behalf of the Congregation. The first week or two after the fire will be extremely busy with many decisions to be made regarding the building and its contents. Most insurance adjusters and trades people will want to deal consistently with one person, not a committee, or an ever-changing person. The Point Person and the Support Committee should be empowered to act, within specified terms, on behalf of the Trustees, by a formal motion of the Congregation. They should have a clear understanding of what decisions they can make on their own and when they need to have approval from the Trustees, or the Board.
5. Document all decisions and actions in an organized manner. Be meticulous about collecting and filing all receipts for expenditures related to the fire. Have the Congregation's Treasurer open an account just to deal with fire-related costs. Good documentation of all costs will make the adjuster's and your job easier.
6. A separate committee should be appointed to deal with the issue of finding space for worship and other church-related functions that were carried out in the church building. Again, be careful to document all costs, as they should be covered by the insurance claim.

7. Frequent and extensive communication with the Congregation is very important. If the loss is significant, there will be a grieving process that must be recognized and dealt with. The Conference Trauma Support Team may be of assistance. Contact the Executive Secretary or Personnel Minister.
8. The site of the fire must be cleaned up, its contents removed, documented, and assessed as to whether they can be restored, or must be replaced. In areas that have been completely destroyed, the list of contents must be prepared. This is where you will be very thankful that you did this work before the fire.
9. New items must be purchased to allow the church to function. Prior approval by the adjuster will facilitate settlement of the claim.
10. If rebuilding is required, Presbytery must be consulted to ensure that all of its requirements are met.
11. If a major rebuilding is required, it is important to ensure that the whole Congregation has input into the major decisions. There is a real temptation to rebuild quickly so that you can regain the use of your facility, but time taken to reflect on the current and future needs of the church is in order. The fire may give opportunity for rebuilding to more effectively meet ministry and mission needs.
12. If the loss is major, you should expect interim payments from the insurance company to cover your expenses.
13. Read and understand all forms before they are signed. It is often wise to consult a lawyer to understand the documents before signing them.
14. If estimates of rebuilding costs are required, you have the right to get estimates from a firm or firms of your choosing, not just the one recommended by the adjuster.
15. When settling your claim, ensure that you fully understand all of the coverage you have, including all riders on the policy. Ensure that you are paid out of the correct rider, as they usually increase your coverage. Riders could include such things as:
 - Loss of business which can cover costs to ensure that you income continues, i.e., rental of worship or meeting space
 - Restoration of documents
 - Restoration of data, i.e., computer files
 - Engineering fees
16. Individuals may wish to donate articles to the church to replace lost articles. If possible, have them give the money to the church, and have the church purchase the articles, or secure a receipt from the donor, as it can form part of the claim.

INSURANCE COVERAGE AND APPRAISALS

Being underinsured can result in legal action that can last a lengthy time. More foresight would prevent many problems. For example, a church which had an appraisal done six months prior to a serious fire was still underinsured. This resulted in legal action that lasted over four years.

When obtaining insurance, consider the following:

- ✓ The replacement cost of the building(s)

- ✓ The replacement cost of the contents. There are more contents than you normally think, but your annual update of the contents list will help you.
- ✓ The cost of stabilizing and cleaning up after the fire. This can be a very large amount, i.e., over \$100,000.00

Look carefully at what riders are available for your policy, and how they can be used. For example, the Loss of Business rider can be used to pay extra costs of providing a worship space in order to ensure income (offerings) is maintained.

Appraisals need to be done competently. Ensure that the appraisal document will state that the appraisal will be used for the purpose of determining insurance coverage. Before you contract for an appraisal, be sure to ask to see any warranties, disclaimers or limits of liability that will be part of the document you will receive. If they say (in legal terms) that this appraisal isn't worth the paper it is written on, go to another appraiser.

When you receive the appraisal, read it carefully. There can be conflicting information, i.e., whether or not the organ was included in the appraisal. Have a builder or other competent person review the appraisal.

One last point: ensure that the Minutes of your Finance and Property Committee (or equivalent) are accurate and detailed. A one-line summary in the Minutes indicating that the insurance has been reviewed is not helpful to a lawyer. A full statement, including dollar figures and comments about coverage, is more helpful.

STEPS TO BE FOLLOWED WHEN CONSIDERING HERITAGE DESIGNATION FOR CHURCH PROPERTIES

1. INTRODUCTION

The intent of the following guidelines and information is to advise a Congregation of the general information and policies regarding heritage designation and funding prior to a Congregation making direct application to a heritage authority.

2. 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.

Financial assistance from federal, provincial, territorial, or municipal bodies may be available to assist in this preservation. Such assistance would require designation, and imply that due care and maintenance will be forthcoming to maintain the state of preservation.

In The United Church of Canada, real property is usually held by The United Church of Canada, through the local Trustees, under the terms of the *Model Trust Deed*, which can be found at www.united-church.ca/handbooks For this reason, if a Congregation wishes to “mortgage, hypothecate, or exchange” (*Model Trust Deed*, Section 6) property, it must have the consent of Presbytery. When a Congregation that officially has ceased to exist is involved, the Presbytery will likely be the acting body, and will need to obtain the consent of the Conference. This is to protect the interest that The United Church of Canada has in that property.

Since historic designation places an encumbrance on the title, it requires the consent of the Presbytery under the *Model Trust Deed*, if initiated by a Congregation. Since, if the Congregation is unable to carry out the maintenance, or ceases to exist, the burden of maintaining such property in good repair may fall on The United Church of Canada, it is desirable to seek the consent of the Conference as well.

Because, in many communities, The United Church of Canada and its building(s) played a significant role in the development of the community, many United Church properties are suitable candidates for Heritage Designation.

Each provincial and territorial jurisdiction with 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://www.pwnhc.learnnet.nt.ca/programs/nwtcpp/html>

Yukon:

<http://yukonhistoricplaces.ca/>

Saskatchewan:

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

3. SUGGESTED CONGREGATIONAL ACTION, POLICY AND DIRECTION

1. The Trust of Model Deed (Appendix II of The Manual of The United Church of Canada, 2010 Edition) states, in effect, that no land, church, hall, residence or other building shall be sold, leased, mortgaged or otherwise encumbered without the prior consent in writing of the Presbytery. We believe the foregoing should also be applicable to an application for designation as a Historic/Heritage Site.
2. Congregations considering an application for Heritage Designation must submit a notice of intent to the Presbytery at the beginning of such consideration. The importance of the Presbytery's participation is to assist the Congregation to ensure that there is an awareness of the conditions and implications 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, group, society or municipality having an intent to apply for designation of a church building, then the Congregation is obligated to advise the Presbytery, without delay, 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, as filed by the Congregation, should include the following information:
 - a. Brief account of the historical significance of the building(s) and adjacent property(ies), in respect to the history of the community and of the Presbytery
 - b. Indication of the future of the Congregation and its mission, i.e., in the community or area, defining strengths with possible change of use and/or ownership of the building
 - c. Brief outline of construction to the interior/exterior of the building, age, architectural features (with photographs 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. The Congregation should advise on the policy it has established regarding the sources of funding and ethical issues implicit in those sources (i.e. lottery funding)
 - 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 re application for designation and/or funding will be made to the Presbytery.

GUIDELINES FOR INCORPORATION

Some basic steps for any groups seeking to incorporate within The United Church of Canada:

1. Be sure incorporation is necessary. Reasons for incorporation include legal protection, securing government funding, and holding title to property. For example, there are advantages for organizations such as church camps to seek incorporation. Generally, it is not appropriate for Congregations to incorporate. Congregations should not be incorporated except in situations such as participation in a church campus.
2. Consult The Manual of The United Church of Canada, Section B8 and the Handbook for Incorporated Ministries which is available at www.united-church.ca/handbooks
3. Consult the appropriate Provincial/Territorial authority to determine its requirements. Normally this will be done through the lawyer working on the incorporation. This lawyer must be advised early in the process to understand Section B8 of The Manual. This means not simply following the provincial/territorial forms, but adhering to the policies established by The United Church of Canada in tandem with appropriate provincial/territorial legislation.
4. When there is a draft of the incorporating document, consult with the Secretary of the Supervising court (which is the Conference) to enable that court to check the document in its “draft” form, and to learn of the court’s meeting schedule which will determine the approval process.
5. If the draft document is in reasonably final form, the Executive Secretary will send copies to any courts exercising Administrative Approval or Consent so that the process can be as speedy as possible.
6. In your region, it will be the Executive Secretary of the Conference who will be the contact persons for those courts unless otherwise indicated.