

WASHINGTON PRESBYTERY, A CORPORATION

REAL ESTATE POLICY

(Last reviewed/adopted 3-14-2000)

Note: This policy is understood to include appropriate language from The Presbyterian Church (USA) Real Estate Policy, The Book of Order (Chapter Four) and Washington Presbytery.

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Introduction

The Presbyterian Church (U.S.A.) is one ecclesiastical body with its General Assembly, synods, presbyteries, and sessions as parts thereof. Its mission is one which includes but is not limited to:

- the communication of the Gospel to all people
- the establishment and nurture of communities of faith
- mutuality in witness and ministry with other Christian churches
- cooperation, to the extent possible, with secular organizations having common goals with the mission of the Church of Jesus Christ
- the self-fulfillment of all people in the nation and the world.

This Real Estate Policy affirms that, with regard to real property the basic responsibility of the Presbytery is one of stewardship. An attitude of stewardship is prompted by thankfulness to God for physical resources which help to make mission possible, and yields a commitment to manage these resources in ways that permit their most effective, appropriate use for mission.

Article I - All Real Estate Held In Trust

“All property held by or for a congregation, a presbytery, a synod, the General Assembly, or the Presbyterian Church (U.S.A.), whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, and whether the property is used in programs of a congregation or of a higher council or retained for the production of income, is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.).”

(BOOK OF ORDER, PRESBYTERIAN CHURCH (U.S.A.) G-4.0203)

Title - Washington Presbytery of the Synod of the Trinity of Presbyterian Church (U.S.A.) is incorporated under the provisions of the Non-Profit corporation Law of the Commonwealth of Pennsylvania under the title, “Washington Presbytery of Pennsylvania.” *(G-4.01)*

Article II - Types of Real Estate

All real estate held by the Washington Presbytery, however titled, is a resource of the one Church to be utilized for the enabling, facilitating, and enhancing of the mission of the Church through all its parts. Synods, presbyteries and sessions, may own and manage properties outside this policy.

A. Purposes and Exclusions

1. This Real Estate Policy intends the maximum use of resources for active mission.
2. This Real Estate Policy applies only to property acquired, held, and deployed by the Washington Presbytery in accordance with the Constitution of the Presbyterian Church (U.S.A.). Requirements governing real property held by particular churches, synods, or presbyteries are stated in G-4.02 of the “Book of Order.” In this regard sections are intended to apply to property owned by churches.

B. Property Used Contrary to Constitution

“Whenever property of, or held for, a congregation of the Presbyterian Church (U.S.A.) ceases to be used by that congregation as a congregation of the Presbyterian Church (U.S.A.) in accordance with this Constitution, such property shall be held, used, applied, transferred, or sold as provided by the presbytery.” *(BOOK OF ORDER, PRESBYTERIAN CHURCH (U.S.A.) G-4.0204)*

C. Domestic Property

Domestic properties may be described as:

1. Session-related: currently utilized for programs directed by sessions;
2. Presbytery-related: currently utilized for programs directed by presbyteries;
3. Other:
 - a. undeveloped lands not currently utilized for programs;
 - b. donations and bequests of real property not needed or not adapted for current mission use;
 - c. cemeteries;
 - d. properties whose previous use has changed as a result of a change in mission rationale;
 - e. property held by the Presbytery for income pending appropriate disposition (such as oil, gas, or mineral rights).

D. Responsibility for Domestic Property

1. The Presbytery as title holder has corporate responsibility for insuring that all matters pertaining to property taxes, insurance, maintenance, and improvements are administered according to appropriate policy and procedures.
2. When title is exchanged or transferred in accordance with this approved Real Estate Policy, the Presbytery assumes no further obligation for the responsibility of ownership as of the date of exchange or transfer.

3. The Presbytery Trustees have the responsibility to make recommendations to Presbytery concerning architectural and financial plans for the erection of, or addition to church and Presbytery buildings. Any substantial changes to previously approved architectural or financial plans must be resubmitted for additional approval.

Article III - Acquisition, Leasing, or Disposition

A. Selling, Encumbering, or Leasing Church Property

“A congregation shall not sell, mortgage, or otherwise encumber any of its real property and it shall not acquire real property subject to an encumbrance or condition without the written permission of the presbytery transmitted through the session of the congregation.”

(BOOK OF ORDER, PRESBYTERIAN CHURCH (U.S.A.) G-4.0206a)

The following procedure must be followed for the sale, purchase, mortgage, or other encumbrance of any real estate by a church, the lease by a church of any real estate used for purposes of worship; or the lease for more than five years of any real estate owned by a church:

1. As required by both Pennsylvania law (16 Pa. C.S.A. Section 5546) and by the Book of Order (Sections G-1.0504c and G-4.0101) both the trustees and the corporation at duly constituted meetings must approve the transaction, including approval of all the details and terms of the transaction. Often, this presents the logistical problem of entering into an agreement prior to securing such approval. In such case, the agreement can only be entered into with the express provision that it is subject to and contingent upon securing all approvals required by law and the Book of Order from the trustees of the church, the congregation of the church and Washington Presbytery.
2. The transaction must be reviewed and approved by the Board of Trustees of the Presbytery.
3. The transaction must be reviewed and approved by Washington Presbytery at a duly constituted meeting.

B. Acquisition, Leasing, or Disposition

1. Acquisition/Capital Improvements:

Requests for property acquisition or capital improvements to church property must be through the session to the Board of Trustees of Washington Presbytery.

2. Site Acquisition General Provisions

- a. The location of the site shall meet presbytery/synod mission program strategy requirements based on appropriate demographic studies of the community to be served. Up to \$1,000 of the cost of such study may be included in the cost of the site.
- b. Location of the site shall respond to energy conservation needs in regard to transportation to and from the site, and to orientation of future building construction.
- c. The stewardship of land and financial resources recommends sites of not more than ten (10) usable acres.
- d. A professional real estate appraisal is required to determine the fair market value of the site. The appraisal fee may be included as part of the total site purchase cost.
- e. The following tests shall be obtained with satisfactory results prior to the closing of the purchase contract:
 1. Soil test for compaction to determine the load bearing capacity of the soil structure;
 2. Soil test for percolation to determine the ability of the soil structure to absorb water. This test is waived in the event the site is connected to a city sewage system;
 3. A disclosure statement from the seller, duly notarized, and under penalties of

- perjury, that includes a description of the property and the uses of the site by the seller and all known prior uses, ascertaining that the seller knows of no past, present, or future environmental conditions that contaminate the real estate.
- f. If the seller's disclosure statement indicates a potential environmental liability, an environmental audit to provide a general assessment of the site, identifying actual or potential environmental risks is recommended. If the risks are discovered, and the presbytery or church continues to pursue the purchase of the property, environmental testing will be required which will confirm or refute the presence of contamination or environmental hazard with an estimate of clean-up costs.
 - g. If hazards exist, and the presbytery or church continues to pursue the purchase, an action plan for clean up must be submitted by the seller, at the seller's expense, prior to the site purchase. A contract should not be signed until such issue is clarified. If the seller refuses to pay for the clean up, the Washington Presbytery recommends that the contract for purchase be declared null and void.
 - h. Sites may be purchased by a presbytery five years in advance of site development. If site development does not occur within the specified period, the development plans are subject to further review by the Board of Trustees, Washington Presbytery.
 - i. The use of the future church facility and the type of construction shall comply with all applicable building codes and zone regulations.
 - j. Disclosure report(s) must be obtained from appropriate governmental regulatory agent(ies) or others, and evaluated before a purchase is begun for such hazards as mine subsidence, abandoned oil, gas or water wells, underground storage tanks, etc.
3. To facilitate the accomplishment of authorized mission program through the use of property, the Presbytery may through the Board of Trustees:
- a. acquire, lease or otherwise secure the use of real property for mission program
 - b. exchange property for property of at least equal market value (See Appendix A);
 - c. exchange property for property of less than equal market value when such exchange serves the mission program of the Church and is justified by the Presbytery on the basis of established priorities;
 - d. sell or lease, at no less than market value, property not needed for mission program use as determined by the Presbytery,
 - e. sell or lease, at less than market value, property not needed for mission program use when such sale or lease produces resources which enhance the mission of the Presbytery and is justified by its established priorities.
 - f. propose to Washington Presbytery the sale or lease of properties not in active mission program use for which exchange or transfer is neither required nor feasible;
 - g. hold, pending appropriate disposition, property not in active use.
4. Leasing of Non-Owned Property For Presbytery Use
- "A congregation shall not lease its real property used for purposes of worship, or lease for more than five years any of its other real property, without the written permission of the presbytery transmitted through the session of the congregation."
- (BOOK OF ORDER, PRESBYTERIAN CHURCH (U.S.A) G-4.0206b)*
- a. permission to rent or lease office or other space shall require prior approval of the Presbytery through its Board of Trustees upon recommendation of the requesting entity.
 - b. all rental agreements and leases must be negotiated with the full involvement of and concurrence by the Trustees of Washington Presbytery.
 - c. the session will be solely responsible for any rent or lease charges incurred.

5. Negotiator(s):

When any deployment of property involving monetary considerations is to be negotiated, the Presbytery Trustees shall select the negotiator(s) in consultation with the session.

6. Non-Monetary Uses: Other mission program property usage's not involving monetary considerations shall be negotiated by the session.

7. Exchange:

Any exchange of property for property of equal value or less than equal value (as determined by current market appraisal) shall require the concurrence of the Presbytery acting upon the recommendation of the Presbytery Trustees.

8. Sale At Or Above Market Values:

- a. property classified as "Not Required For Mission Program Use" shall be sold for a sum at least equal to the market value
- b. should such sale be untimely or otherwise delayed, the property may be leased at market value for a period not to exceed three (3) years, at which time the salability shall be reviewed;

9. Sale At Less Than Market Value:

Property classified as "Not Required For Mission Program Use" may be sold or leased at less than market value if its proposed or projected use will enhance the mission program of the Church as determined by the Washington Trustees and must receive concurrence from Washington Presbytery Council.

10. Property shall not be sold at less than market value to private entities unless approved by Washington Presbytery.

11. In no case shall property be sold at any price to current employees or to former employees terminated or retired within three (3) years.

12. Oil and gas leases, lease or sale of mineral rights, and similar transactions shall be processed seeking competent advice on a volunteer basis when available or, if necessary, a professional management service.

C. Day-To-Day Management

The congregations of the Presbyterian Church (U.S.A.) are responsible for their day-to-day management in a manner which is consistent with good stewardship. The Presbytery may periodically monitor these activities.

D. Environmental Concerns

Every acquisition of property, whether by gift or purchase, shall be preceded by the following specified actions pertaining to environmental responsibility. Presbytery Board of Trustees or its designee(s) will:

1. Visually inspect all structures on the property as well as the land itself and adjacent properties and compile a preliminary report which covers such environmental concerns as trash accumulation, ground surface seepage's, bubbling or other water accumulation, oily ground surfaces, exposed or known asbestos insulation, and known underground storage tanks.
2. Report any information obtained as to whether hazardous conditions existed in the past, and whether the property had or has commercial/industrial zoning.
3. Obtain a disclosure letter signed by the owner or potential donor that includes a description of past and current uses of the property.
4. Evaluate potential costs of environmental cleanup and determine whether the property should be accepted. If a decision is made to accept the property, inform the owner in writing that the costs of environmental study, testing, and required cleanup will be reimbursed to the Presbytery from sale proceeds, if and when the property is sold.

5. If necessary, arrange for an independent consultant to perform Phase I Environmental Audit Testing and any further testing.

6. Submit the results of these procedures to the Presbytery or its assignee(s) for review before any action is taken regarding acceptance or purchase.

7. Arrange and report any further tests, cleanup, or other actions deemed necessary by the Presbytery or its assignee(s).

E. Property of Church Dissolved or Extinct

“Whenever a congregation is formally dissolved by the presbytery, or has become extinct by reason of the dispersal of its members, the abandonment of its work, or other cause, such property as it may have shall be held, used, and applied for such uses, purposes, and trusts as the presbytery may direct, limit, and appoint, or such property may be sold or disposed of as the presbytery may direct, in conformity with the Constitution of the Presbyterian Church (U.S.A.).”

(BOOK OF ORDER, PRESBYTERIAN CHURCH (U.S.A.) G-4.0205)

Article IV - Transfer Conditions

Transfer of Presbytery real estate shall be effected as follows:

A. Domestic Property

1. Property in Mission Use

a. upon Session request and with the concurrence of the Presbytery property currently in use for mission program and intended for continued mission program use directed by a session shall be transferred to a governing body corporate entity within the bounds of said Presbytery without monetary consideration. Domestic non-institutional properties normally shall be transferred to presbytery and sessions without lien, unless otherwise determined by Washington Presbytery.

b. institutional property titled in the name of Washington Presbytery and currently in use may be transferred with the approval of Washington Presbytery to a corporate entity of the institution using said property.

2. Transfer of Title

a. transfer of title may be effected by conditional deed, including revisionary clauses, as appropriate.

b. all transfers of property belonging to the Washington Presbytery and transferred to a church shall include a trust provision which binds the use of that property to those purposes provided for in the Constitution of the Church.

3. Properties outside the application of this Real Estate Policy yet titled in the name of Presbyterian Church (U.S.A.) or corporations for which it has power to act, may be transferred to less inclusive bodies (presbytery, session) by authority of a Presbytery officer subject to the following:

a. the transfer is in accordance with all Book of Order Provisions.

b. the transfer is from one Presbyterian Church (U.S.A.) entity to another Presbyterian Church (U.S.A.) entity.

c. the transfer is approved by the appropriate session and Presbytery. Written evidence of these approvals is provided.

d. all such transfers shall be reported to the next Presbytery meeting.

e. institutional property transferred to institutions or governing bodies shall, if appropriate, contain a revisionary clause.

4. Other properties declared as not needed for mission use by Washington Presbytery may be sold by the Presbytery.

5. Insurance coverage, custodial care, maintenance and operating expenses shall be assumed by the recipients.

6. Additional Conditions

- a. the receiving body shall agree to accept the property in “as is” condition and, with the title, any specific obligations in connection with such property which the Presbyterian Church (U.S.A.) or its predecessors may have assumed or which presently may exist;
- b. insurance coverage, taxes, maintenance costs, or like expenses will normally be provided by the receiving body unless otherwise negotiated and agreed.
- c. undeveloped land parcels or property received by the Presbytery from bequests or donations may be sold or transferred as described above if the Presbyterian Church (U.S.A.) also determines a specific program use consistent with any donor restrictions and this determination is certified by Washington Presbytery Legal Counsel.

B. Legal Review

All leases and property transfers shall be reviewed with legal counsel.

Article V - Disposition of Proceeds

Disposition of Presbytery real estate sale proceeds shall be as follows:

Sale proceeds, after all transactional expenses are paid, shall be considered unrestricted expendable resources, subject to any residual limitations including donor designations, legal requirements, and consideration to use the proceeds therefrom, on a case by case basis for:

- Endowment
- Capital needs of the Presbytery
- Church development/redevelopment
- Future Trustee obligations to fund a short fall of sale proceeds in relationship to transactional expenses
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Article VI - Review of Policy

Review of this Property Policy shall be upon the following basis:

A. The Trustees shall review annually the adequacy of this Real Estate Policy and report to Washington Presbytery.

B. Revisions, adjustments, or amendments to the Policy shall be presented to the Presbytery by the Trustees for action.

C. Property of Church in Schism

“The relationship to the Presbyterian Church (U.S.A.) of a congregation can be severed only by constitutional action on the part of the presbytery (G-3.0303b). If there is a schism within the membership of a congregation and the presbytery is unable to effect a reconciliation or a division into separate congregations within the Presbyterian Church (U.S.A.), the presbytery shall determine if one of the factions is entitled to the property because it is identified by the presbytery as the true church within the Presbyterian Church (U.S.A.). This determination does not depend upon which faction received the majority vote within the congregation at the time of the schism.”

(BOOK OF ORDER, PRESBYTERIAN CHURCH (U.S.A.) G-4.0207)

D. Events or situations not covered by this Policy shall be reviewed by the Presbytery with necessary actions handled accordingly:

1. If a one-time action is required, it shall be taken by the Presbytery upon recommendation of Trustees.
2. If a policy change is required, it shall be proposed as provided in Article VII. B.

APPENDIX A

Definitions:

For the purpose of this Real Estate Policy the following definitions are used:

“Analysis of Mission Impact”:

A detailed document describing the purposes, goals, objectives, and history of a specific mission program or project, taking into account the interests of all participating Presbyterian Church (U.S.A.) entities and partner churches or church-related bodies. Such a statement is required to describe anticipated effects, including financial implications, upon all parties involved if the program or project is continued or discontinued. The document should be produced with the involvement of all parties participating in or expected to be affected by a proposed course of action.

“Real Property”:

Land and buildings owned or leased; tracts to which the Presbyterian Church (U.S.A.) has acquired oil, gas, mineral or other surface or underground rights.

“Market Value”:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under condition whereby:

- a. Buyer and seller are typically motivated;
- b. Both parties are well informed or well advised and each acting in what is considered his or her own best interest;
- c. A reasonable time is allowed for exposure in the open market;
- d. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- e. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

“Value in Use”:

The most probable price, estimated in terms of money, which a (specific or special purpose) property should bring if exposed for sale in the open market, allowing a reasonable time to find a purchaser who buys with a need for the special purpose uses to which it is adapted and for which it is capable of being used.