

Real Estate Memorandum

The following memorandum describes the procedure to be followed in making application to the Standing Committee for consent to the execution of a deed, mortgage or lease of real estate.

New Jersey Statutes

Title 16:1-6 of the Revised Statutes of the State of New Jersey provides, briefly, that before a sale or mortgage of Church property is valid, the transaction must be authorized and approved by a majority of the members of the Congregation present at a meeting called and held at the usual place of worship. At least ten days notice of the time, place and object of such meeting shall be given by advertisement signed by the President (usually, the Rector or Vicar), or a majority of the Trustees (usually the Vestry), and set up in open view at or near the place of the meeting.

Title 16:12-4 of the Revised Statutes of the State of New Jersey provides, briefly, that:

“No sale, conveyance or mortgage of any real estate, other than burial plots, and lease for a term longer than one year, shall be valid without the previous written consent of the Bishop and a majority of the Standing Committee.”

Application to Bishop and Standing Committee

Therefore, should you be contemplating such a transaction, the Bishop and Standing Committee should be notified at the earliest reasonable time. Your Rector or Vicar or the Clerk of the Vestry should write to the Standing Committee, Diocese of New Jersey, 808 West State Street, Trenton, NJ 08618. You should enclose a copy of the resolution adopted by the Rector, Wardens and Vestry of your Church.

Sale of Church Property

In the event that the sale of Church property is contemplated (Note that the term “sale” includes any transaction in which Church property is disposed of, regardless of the type of transaction – it may, for example, be sold, given away, be part of an exchange), the additional following information should be included:

1. A copy of the proposed contract or agreement;
2. The intended use of the money or other property received;
3. A statement by an independent, reputable Real Estate Agent, or some other qualified person, of the fair market value of the land and building with current comparative sale prices;
4. A copy of the Deed
5. A statement that the property that is being transferred is consecrated or not consecrated. If the property is consecrated, arrangements must be made to deconsecrate the property.

Mortgage

In the event that a mortgage of your property is contemplated, the following additional information should be included:

1. A copy of proposed mortgage agreement;

2. If a new building is contemplated, the plans and specifications thereof;
3. A commitment of the loan from the lending institution;
4. A statement of the total cost of the project and the manner in which the mortgage will be satisfied, including evidence that the satisfaction of the obligation is within the means of the congregation.

Lease

In the event that a lease for more than one year is contemplated (Note that the term “lease” includes any agreement that places an encumbrance or restriction on the property or its use), the additional following information should be included:

1. A copy of the lease;
2. A statement of the purpose of the lease, and the advantages thereof to the Church.

The Standing Committee advises that “tax consequences” as a non-profit can be incurred when a church allows a “for-profit” organization to rent/lease space on their property. Legal advice should be obtained.

Historic Status/Grants

Some churches of our diocese have asked to be placed on the New Jersey Historic Trust or the National Trust for Historic Preservation or other trust registers and/or to seek grants from these agencies. This often imposes conditions in a deed of easement from the parish to the Trust. This easement is a conveyance affecting the property for a significant period of time, and could contain conditions unduly onerous to a parish. Approval of the Bishop and Standing Committee is required.

Use of Attorney

If you have an attorney who is a member of your congregation, or is otherwise available to advise you regarding the transaction that you are contemplating, we suggest that you consult with him or her before proceeding, and furnish him or her with a copy of this memorandum.

If you require any additional information or assistance, please contact Mr. John W. Burgess, representative for property matters for the Standing Committee at 856 935-1798.

THE STANDING COMMITTEE OF THE DIOCESE OF NEW JERSEY

Revised: October 1, 2003