

TO: Sessions Seeking Permission to sell, purchase, encumber or lease real property

FROM: Pieter A. Visscher, Stated Clerk

RE: Requirements and Considerations

STEPS REQUIRED:

1. The Session decides it would be a good idea to buy, sell, or mortgage, and it calls a meeting of the congregation for its approval.
2. If the congregation approves, the trustees (which may be the Session in many cases) is charged with carrying out the wishes of the congregation. [G-7.0402]
3. Presbytery must approve in writing the sale, mortgage, or other encumbrance of its real property or acquisition of real property subject to an encumbrance or condition. The presbytery must approve the lease of property used for worship, or the lease of any other property leased for a period of more than five years. [G-8.0501- 8.0502].

According to Standing Rules Chapter XIII, “A request for such permission to encumber, sell, or lease real property must be filed by the church on approved forms in duplicate with the Stated Clerk at least 30 days before the meeting of the Presbytery at which action is to be taken. The Stated Clerk shall refer the request to the Committee on Ministry which shall refer the request, along with a recommendation as to propriety, to the Board of Trustees, which in turn will recommend action by the Presbytery.”

The Stated Clerk will make certain a copy of the application is on file at the presbytery office. Blank copies of the form will be on file in the presbytery office.

A complete description of the property to be bought or sold needs to be included in the formal request. This can be a certified photocopy of the description in the deed, or other legal documentation which can be made a part of the presbytery’s permanent record.

Unless there is good reason not to pay to have an appraisal completed (e.g. the value of the

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property is judged to be low due to size, location, etc. such that paying for a professional appraisal would cut substantially into the proceeds), a property appraisal should be performed in order to ascertain a value at which to list the property. Likewise, an appraisal should be completed before property is purchased by a congregation, if one has not been secured by the seller. The result of the appraisal shall be communicated in writing to the Stated Clerk, and to the Board of Trustees of the Presbytery as soon as possible.

In the case of a purchase of property involving an encumbrance, the Committee on Ministry and the Board of Trustees will desire to see the following before any recommendation can be made to the presbytery (these items are included on the form to be submitted):

- Name of appraiser(s)
- Amount of appraisal(s)
- Legal description of the property (copy of deed or survey)
- Attorney handling the matter
 - Timeframe or other restrictions
- Church's indebtedness
- Financial statement for last two years
- Repayment plan

4. The Supreme Court of New York State must approve the sale. The Session (or alternatively, by mutual agreement, the Buyer or Seller) will need a lawyer to obtain this permission.

CONSIDERATIONS

Congregation (Session and/or Trustees): It is the congregation's job to list the property for sale, obtain the

best possible fair price, and carry forth the business of the sale in a manner advantageous to the church also respectful of our heritage and our Lord.

Presbytery (Committee on Ministry and Board of Trustees): The Presbytery is responsible for the mission of the church throughout its geographical area. The Presbytery's concerns are primarily to protect the congregation and to preserve the overall mission strategy of the presbytery. How would the sale of the property affect the future ministry of the congregation? Of other "partnering" congregations? Of the ministry potential of that area?

Supreme The Court is concerned to prove that the parties selling a church property have

the legitimate

Court authority to do so, and that the proceeds will flow properly to the church organization and not to the benefit of any private individuals.

revised 2/10