

Handbook:
CHURCH PROPERTY MATTERS IN CONGREGATIONS
PROCEDURES
FOR
PROPERTY TRANSACTIONS, RENOVATIONS, BUILDING AND AMALGAMATIONS
UNITED CHURCH OF CANADA CONGREGATIONS

Prepared by: **Fraser Presbytery**

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Prepared by The Rev. Judy Stark
Edited by The Rev. Bill Booth

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HANDBOOK OVERVIEW

Purpose

This handbook has been prepared for Fraser Presbytery as a guide for congregations, clergy and presbytery leadership. It is designed to help you go through the process of making a dramatic change to a pastoral charge. This change could consist of the sale, renovation, amalgamations or closing of congregations, involving church property.

Adhering to the *2010 Vision and Mission* (see Appendix) of Fraser Presbytery, the guide will be subject to changes in policy and direction of the Presbytery, over time.

Expectation

This guide expects that the congregation has gathered information for the purpose of studying and discerning appropriate possibilities (see sample questions in Appendix.) Such study may have been initiated by the action of a congregational meeting, the board/council, or a church committee. The assumption is that the committee or task group is now ready to report to the congregation for direction.

Required

Early in the process, it is mandatory to be in touch with the appropriate committee of Presbytery. This is because there are numerous possibilities for confusion which could bring costly and frustrating delays. Presbytery will offer helpful information and provide important time lines for approvals.

In general, remembering the requirement that Presbytery must approve proposed actions related to church property [*The Manual* 265 – 271] The next step is that the Congregation and its board or council needs to give its Trustees instructions on all matters relating to the disposition of the building and property.

Layout

This handbook contains four significant segments:

- **Basic Understanding** – important definitions and time saving tips;
- **Getting Started** – gives an idea of the essential steps, elaborated upon in the Appendix
- **Certificates and Forms** – formal documents to allow you to proceed
- **Appendix** – descriptions of transactions and their implications

May God's blessings endow you with the wisdom, patience and flexibility to see you through this important work in the life of the church.

BASIC UNDERSTANDING

1.0 It all relates to how the United Church of Canada (UCCAN) governs Itself

The Church Body

According to the Apostle Paul, each part of the body is connected to the whole. For us, this means that a UCCAN Congregation (or pastoral charge) is connected to the Presbytery, the

Conference AND the General Council. These ‘parts of the body’ are called ‘Courts’ of the church, and each has its own important role in the UCCAN denomination.

*It is essential that the congregation realizes that it operates with both the **support** and the **oversight** of these wider courts.*

Clear procedures assist us in ensuring all parts of the body are cared for, including matters where property is the issue. When that system works as it is meant to do, congregations are helped in protecting their own welfare, and yet are challenged to remember that they are part of a community of United Churches.

Courts

The first court is the Congregation, and through its church council or board it has the right to make a proposal to Presbytery regarding its future. Presbytery is the court of the church body which has the authority to deal with all matters relating to Pastoral Charges, Congregations and Missions. These include plans for Renovating, Selling, Amalgamating, Disbanding or Ceasing to Exist. In responding to congregational proposals, Presbytery is obliged to listen, but has the final authority. If a surplus of funds results from a UCCAN transaction, then – in consultation with Presbytery – the monies revert to the Conference for its use on behalf of General Council.

Why is this?

It’s because all congregational property, both ‘real’ and ‘personal’– see definitions in Part 2.0, is held ***in trust*** by congregations. This occurs through the congregational Board of Trustees acting on behalf of The United Church of Canada, which holds the ultimate title to the property.

The Presbytery is therefore charged with ensuring that congregations do not dispose of property without proper authorization, including the approval of related financial plans. For example, there is a concern that a Congregation/Pastoral Charge avoid situations where the debt for carrying out renovations stands in the way of the Congregation/Pastoral Charge being able to meet ongoing operational, ministry and mission cost obligations.

Restrictions

As well, sometimes, funds realized from the sale of property have been designated for capital purposes, and therefore Congregations will need to check in advance with Presbytery to determine what policies may need to be followed.

Even items such as pews, pulpits and hymn books, whether purchased or donated, become the property of The United Church of Canada, once 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. The *Trusts of Model Deed* (The Manual 2010 Appendix II) is helpful in understanding the role of the Trustees and the involvement of Presbytery in property matters.

2.0 Important Definitions

Amalgamation – the Congregation, with the approval of Presbytery, makes a decision that the Congregation will join with at least one other Congregation to form a “new” Congregation or Pastoral Charge. Be aware that with amalgamations, congregations do not ‘die,’ they blend together to form one Congregation. Essentially, they take everything with them, including their ministers.

However it is important to consult with Pastoral Relations to confirm and clarify the status of the accountable ministers. If you hadn't already done so Pastoral Relations may require a JNAC or equivalent process to take place. Keep in mind if as a result of the amalgamation a change of the pastoral relationship with any of the ministers may be considered then a minimum of 3 months notice and Presbytery's approval is required.

Note as well the Manual at one point indicates the “congregations” continue to exist after amalgamation. This is partly a clarification since a “congregation ceasing to exist” is a very defined process in the Manual with certain official consequences. The amalgamated congregations continue to exist only as the new amalgamated congregation.

Board of Trustees – Trustees of the congregation hold, in trust for the **entire United Church of Canada**, all property (land, buildings and investments), for the purposes of that Congregation. Trustees are required to share information regarding church property matters with the Congregation on an ongoing basis. In anticipation of major changes, the Trustees must forward its Minutes (along with other correct documentation – see Part 8.0) to Presbytery before anything may begin.

Personal Property – consists of all property other than Real Property (see definition of Real Property below.) Personal Property includes, without limitation: money, investments, bank accounts, furniture, vehicles, equipment, technology and software.

Real Property - consists of land, buildings, and anything else *affixed to* or *growing on* land or buildings, and all rights relating to these.

Renovations - is the expansion or redevelopment of church property which changes the existing exterior of the building, requires structural change or requires the borrowing of funds. This includes both erecting a structure or demolishing it.

Surplus – a quantity or entity larger than needed for ordinary purposes. For example, if a sale of church property leads to an excess of monies needed for continuing ministry in the Presbytery, then Conference is entitled to the surplus, on behalf of the UCCAN denomination. The Presbytery determines what is surplus property, which is then given to the Conference to use at its sole discretion.

3.0 Assumptions

- Before actions may take place, Presbytery assumes there is a functioning Board of Trustees. Members of the Board of Trustees are legally responsible for actions taken involving church property, and if things go seriously awry, the Trustees may be *charged* with breach of trust;
- In embarking upon this major change, Presbytery assumes the Congregation has prepared a strategic business plan, including all financial costs, implications and contingency plans. This plan must be presented to Presbytery for approval before the project can begin, thus Presbytery must be informed in advance;

- The strategic business plan must document the life and work of the Congregation, including a feasibility study describing the needs of the Congregation and the needs of the building users. The study must include the mission and vision of the Congregation and how it complements or adheres to the mission and vision of Presbytery. All related and projected costs, drawings, contingencies, insurance, issues around local bylaws, zoning and other regulations, and specific plans for fundraising (as necessary) are to be part of the report. It must have been approved by the church council/board and by the trustees, and presented to and approved by the Congregation, prior to final Presbytery approval.
 - It is important for congregants to understand, clearly, the meaning of the term ‘Temporal Matters.’ This must be done IN ADVANCE when deciding who can and cannot vote on crucial church issues. Temporal Matters are those changing and material (secular) affairs that pertain to the life, work, and finances of the Congregation.
 - Make sure that the Presbytery Church Development Team knows who are your key people leading your process.

4.0 Time saving Tips

- Retain a lawyer, and provide a copy of this handbook, a copy of the United Church of Canada Act, and a copy of the current UCCAN Manual (which can be purchased via www.ucrdstore.ca or downloaded from www.united-church.ca)
- Enlist the participation of a UCCAN church leader who has experienced the process you’re embarking upon. Ask them to come and speak with the Trustees and the Congregation;
- For helpful guidance on Amalgamations, contact congregations that have gone through recent amalgamations in our presbytery: Crossroads 2009, Webster's Whonnock 2010, United Churches of Langley (2012 January)
- Just as this guide recommends the participation of those who have experienced the kind of changes your congregation is embarking upon, be aware that after your project concludes, you will be asked for the same help from Congregations;
- Avoid hiring new staff based upon hopeful financial projections;
- **Renovation:**
 - The first step which must come very early in the process, is to become very familiar with the current zoning issues. Typically churches are zoned as ‘institutional.’ As part of this, it is important to understand what impact the renovation will have on the building ‘footprint’ and the value of the land. Applying for rezoning for multi-family housing, for example, while time-consuming, will see your land assessed as considerably more valuable;
 - Make connections with local politicians, e.g. invite them to your meetings well in advance, so that they will be supportive when the civic staff scrutinizes your application, its drawings and plans;
 - Ensure all renovations or construction plans meet current building codes;
 - If financing is required, make sure all applications for church approval/support are presented to the Presbytery as early as possible;
 - Ensure there is adequate insurance and liability coverage;

- Find and confirm that the title to the property is in good order per the Trustee Deed Model. (see UCC Manual)
- Contact other congregations that have gone through major renovations to seek their advise on some of the pit falls they encountered.
- Assume significant delays could occur owing to bylaws, regulations, contractor and financial issues and **ensure there are backup plans** in place;
- This is worth repeating: Your city of municipality may create significant barriers. Get them on board early.
- For *significant* renovations or new construction, hire a project manager/general contractor to:
 - Ensure there are no cost overruns;
 - Monitor quality and comprehensiveness of work;
 - Supervise work progress and enforce penalties as appropriate;
 - Ensure project costs include ALL financial outlay, especially contingency items.

5.0 QUICK COMMENTS AND CHECKLISTS

Comment

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 335;)

5.1 Church Renovation (UCCAN Manual Sections 267, 271, 335 and 391)

1. Meet with presbytery to discuss the possibility of renovating;
2. Launch a congregational study, analysis and upon completion, conduct a series of comprehensive and inclusive discussions;
3. Call a meeting of the Congregation, church board or council to approve a motion for acceptance of plans for renovation;
4. Once approved in the meeting, by way of a motion, instruct the Board of Trustees to carry out the wishes of the Congregation;
5. The Board of Trustees, having been given at least seven days' notice, are to meet to pass a resolution setting out the decision to carry out the renovations. This resolution must include the following points of information:
 - the legal description of the subject property
 - the plans for renovation and costs of same
 - the terms of payment and arrangements for financing and fund raising, if necessary
 - the request for Presbytery approval of the planned renovation and its financing;
6. Send a certified copy of the resolution(s) to the Secretary of the Presbytery. The resolution must be accompanied by a Certificate of Trustees (*see 8.0 - Forms and Certificates*) asking consent of Presbytery, and must be signed by the Chair and Secretary of the Board of Trustees.
7. This request to Presbytery should be supported with a strategic plan that includes a clearly stated mission and vision and a financial plan.
8. Ensure that the pastoral Charge complies with regulations of the concerned Municipality, the Provincial Building Code, Public Health Act, equivalent Provincial departments or

ministries for the environment, highways, as well as all other regulators and all legislation that may be applicable;

9. The project must be insured for all potential liabilities from the first moment of construction, including acquisition of the site, if appropriate;
10. See Appendix V, "Risks: Renovations and Construction."

5.2 Congregational Amalgamation (UCCAN Manual Sections 267,271,335, Appendix II)

Comment:

Before you seriously entertain the idea of amalgamation, ensure the congregations ask themselves the question: would we be in discussions for amalgamation if there was no financial benefit expected? If the answer is no, then prepare to seriously discern who you are as a congregation and how you envision carrying out God's mission. (See Appendix VI - Questions to Consider When Discerning Change)

1. Once it is clear that amalgamation is the faithful direction for your Congregation to head toward, now begin the process of frequent contact with the Presbytery, stating that the church council or board has discerned that amalgamation needs to be considered;
2. Then obtain an up-to-date UCCAN manual (order copies through UCRD, www.ucrdstore.ca and/or download from the General Council website, www.united-church.ca. Also consult with the Presbyterian Church Development Team and request documents from recent amalgamations to act as a guide.
3. Hold workshops and discussion series addressing the profound issue of losing congregational identity, and the implications of change;
4. Invite surrounding United Churches to silently observe the process;
5. Ensure all parties are aware of, and exercise the wisdom to remember that you will lose congregants, ie $1 + 1 = 1.5$, especially with regard to offerings, which often experience a loss of 40%;
6. Keep in mind that sometimes a few congregants return only after all changes have been completed;
7. Call a congregational meeting to consider a proposal from the church board or council to explore possibilities;
8. For each Congregation, appoint members to a small team which will facilitate, in concert with Presbytery, the discussions and communications between/among the Congregations;
9. Commission an assessment of the current property that will be surplus should an amalgamation take place;
10. Once there is a proposal to amalgamate, each of the Congregations involved need to meet **separately** to make a decision on the proposal. The proposal should include the suggestion either about which building will become the home of the new congregation, or about the request to use the funds from the sale of a building(s) to construct a new church or any other option that has emerged;
11. Presbytery is required to meet with each congregation to confirm the intention of the congregants. This meeting can take place after the meetings held to consider amalgamating.
12. If the decisions from each Congregation state the amalgamation is to proceed, the congregations then instruct the Trustees to hold meetings to act upon the decisions to amalgamate;

13. After informing Presbytery, the Trustees then locate the deed(s), record their locations and ensure there is clear title to each property;
14. Trustees then prepare and obtain certification of pertinent documents for Presbytery (see Part 8.0 Certificates and Forms;)
15. Then, acting upon documented plans from the Congregations, Presbytery declares what property will be surplus should the amalgamation proceed;
16. Presbytery notifies Conference re property surplus;
17. Conference determines the best use of surplus aspects of the building(s) and property for the benefit of the United Church of Canada;
18. Conference decides as to whether the surplus building(s) and property are to be sold and how the proceeds from the sale will be dispersed;
19. Under the aegis of the Trustees, the Congregation ensures that the changed details of the charitable number are attended to and that the Canada Revenue Agency is notified;
20. Amalgamating Congregations take a complete inventory of all contents (every building);
21. Collectively, they decide what will become of contents of the "new" Congregation and what needs to be disposed of;
22. They will send a copy of the list to Conference Archives;
23. Prepare a photo record of the building(s) and congregational activities for the record in the Conference Archives;
24. Clearly and carefully label all photographs for identifying people, places, dates;
25. Organize a service of worship to honour the years of life, work and worship of the Congregation(s);
26. Organize another service of worship to mark the beginning of the new, amalgamated Congregation.

5.3 Property Transactions (UCCAN Manual Sections 267, 271, 335, Appendix II)

Comments

Discuss and record in a report what the Congregation intends to do after the sale: relocate, amalgamate, disband or cease to exist. It is important to note that all funds realized from this change must be used for United Church of Canada ministry purposes, including your own, which you must clearly specify. In other words no other charities or entities may be recipients of the funds.

The Trustees must declare any surplus funds that will exist after the sale and define what UCCAN ministries they recommend being offered some of the proceeds. Then the Congregation and Presbytery will present a recommendation for the use of these surplus funds to the Conference for approval. Then follow the steps below for listing the property with an agent.

5.3.1 Listing the Property:

1. Meet with Presbytery to discuss the possibility of selling;
2. Launch a congregational study, analysis and upon completion, conduct a series of comprehensive and inclusive discussions;
3. presenting your strategic plans and goods for the minister of the Pastoral Charge with regards to the proceeds from the sale.
4. Call a meeting of the Congregation and church board or council to approve a motion for acceptance of the plan to sell;

5. Once approved, in a motion instruct the Board of Trustees to carry out the wishes of the Congregation;
6. The Board of Trustees, having been given at least seven days' notice, will meet to pass a resolution(s) setting out the decision to list the real property. This resolution must include the following points of information:
 - the legal description of the subject property
 - value, zoning, listing details, desired dates
 - the asking price for the property and any costs related to the sale
 - the terms of payment for the property, and the intended use of proceeds as per approve plans.
7. Including the above information, formally request Presbytery to approve listing the property by sending a certified copy of the resolution(s) to the Secretary of the Presbytery. The resolution must be accompanied by a Certificate of Trustees (*see part 8.0 - Forms and Certificates*) asking consent of Presbytery, and must be signed by the Chair and Secretary of the Board of Trustees.

5.3.2 Selling the Property

1. Assuming the above actions for listing the property have taken place, then;
2. Inform Presbytery of the sale;
3. Call a meeting of the Congregation and church board or council to approve a motion for acceptance of the plan to sell, and once approved, in a motion instruct the Board of Trustees to carry out the wishes of the Congregation;
4. Ensuring seven days' notice, call a meeting of the Board of Trustees to pass a resolution setting out the decision to sell the real property, and then ensure the following takes place:
 - a. Obtain the legal description of the subject property;
 - b. Prepare the request for Presbytery approval for such use of proceeds;
 - c. Immediately send a certified copy of the resolution to the Secretary of Presbytery. The resolution must be accompanied by a Certificate of Trustees asking consent of Presbytery, and be signed by the Chair and the Secretary of Trustees. (See Part 6.0)
5. Provide Presbytery and/or its Church Property Committee (or equivalent) with all relevant information and documents;
6. After receiving consent of Presbytery or its Executive, proceed with the sale of the property.
8. You will need to retain a lawyer complete the sale process as soon as you list with a real-estate agent
9. **important** Presbytery requires an appropriate plan for the use of the proceeds from the sale of property as per the Trustees Deeds Model – paragraph 6 “Every application by the Trustees for the consent of presbytery as aforesaid should be in writing and shall state **the purpose for which the monies** arising from such intended sale, mortgage, hypothecation, lease, or exchange **will be applied.**”

5.3.3 Mortgages of property

1. Inform Presbytery of the intention to place a mortgage on the property;
2. Call a meeting of the Congregation or church Council/Board and church board or council to approve a motion for obtaining a mortgage, and once approved, in a motion instruct the Board of Trustees to carry out the wishes of the Congregation;
3. Ensuring seven days' notice, call a meeting of the Board of Trustees to pass a resolution setting out the decision to sell the real property, and then ensure the following takes place:
 - a. Obtain the legal description of the subject property;
 - b. Prepare the request for Presbytery approval for such use of funds;
 - c. Immediately send a certified copy of the resolution to the Secretary of Presbytery. The resolution must be accompanied by a Certificate of Trustees asking consent of Presbytery, and be signed by the Chair and the Secretary of Trustees. (See Part 6.0)
4. Provide Presbytery through the Church Development and Oversight Team (or the equivalent) with all relevant information and documents;
5. After receiving consent of Presbytery or its Executive, you may proceed to complete the mortgage transaction with your financial institution.
6. You will need to retain a lawyer complete to registered the mortgage.
7. **important** Presbytery requires an appropriate plan for the use of the proceeds of the mortgage as per the Trustees Deeds Model – paragraph 6 “Every application by the Trustees for the consent of presbytery as aforesaid should be in writing and shall state the purpose for which the monies arising from such intended sale, mortgage, hypothecation, lease, or exchange will be applied.” In case of a mortgage usually the funds are used for building or renovation which should have been presented to Presbytery for approval and advice.

6.0 Forms and Certificates to be Used by Boards of Trustees and Presbytery

The ‘Trust of Model Deeds’ (see UCCAN Manual Appendix II) sets forth the proper form of documentation which is to be used by Boards of Trustees in requesting the permission of Presbytery and for Presbytery to use in granting its consent. Samples of these forms are below.

The use of these forms is part of the process of dealing with church property. The forms certify that the Official Board, Church Board or Church Council of the Pastoral Charge have properly met and passed the motions for the specific transaction, and then directed the Trustees of the Pastoral Charge to seek the formal approval of Presbytery.

6.1 Explanation of Church Court Forms for Submission for Changes in Property and/or Congregational Status

1. FOR BOARDS OF TRUSTEES:

Certificate of Trustees Asking Consent of Presbytery

This form assumes the Trustees have been elected by the process outlined in the UCCAN Manual, Section 271

Certificate as to Current Trustees.

Section 272 outlines steps to be followed 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 and/or the land registry office in the local jurisdiction is VITAL at this point.*

2. FOR PRESBYTERY:

Resolution of Presbytery Giving Consent

Once the Presbytery Property Committee, or equivalent, has reviewed a request from a 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 Presbytery.

Certificate of Secretary of Presbytery for Resolution Giving Consent

Upon the approval of the Presbytery, the Secretary of Presbytery fills out the Certificate and ensures it is sent 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 send the Certificate to the Board of Trustees.

By following this format, Trustees will meet the requirements of section 271 of the UCCAN Manual). 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.

CERTIFICATE OF TRUSTEES TRANSACTION OF REAL PROPERTY

IN THE MATTER OF [legal description of real property, and municipal address 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* (2010 Edition), Section 271

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:

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:

[when the transaction involves a listing for sale, the terms would include: name of the agent, broker or agency, any exceptions, the commission rate, asking price, proposed possession date]

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

[for a purchase, the terms would include: name of the vendor, realtor, purchase price, deposit amount, balance due, interest rate, terms of any mortgage, conditions, warranties, the scheduled closing date, the source of funds, consequences of default]

[for a mortgage, the terms would include: name of lender, the principal, interest rate, term, payments and schedule, prepayment privileges]

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

[in the case of transactions generating 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
[full name of Presbytery]

CERTIFICATE OF TRUSTEES

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:

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 _____.

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.)

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.

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.]

PRESBYTERY CONSENT RESOLUTION

FOR LISTING, SALE, PURCHASE, MORTGAGE, LEASE OR TRANSACTION GENERATING PROCEEDS

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* (2010 edition), section 271

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

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, asking price, proposed possession date]

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

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

[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 of 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, consequences of default]

[in the case of transactions generating 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.]

CERTIFICATE

OF PRESBYTERY CONSENT

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 (2010 Edition), Section 271

I, [Full name of *Secretary of Presbytery*], of [place of residence], do hereby certify and declare as follows:
That I am the Secretary of [name of *Presbytery*], in the [name of *Conference*]Conference of The United Church of Canada;

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:

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 or role in the transaction], 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, commission rate, asking price, proposed possession date]

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

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

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

[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, consequences of default]

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

[if true] The real property referred to in the above resolution is within the bounds of [name of *Presbytery*] Presbytery;

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;

The said Congregation and Pastoral Charge are subject to the oversight of [name of *Presbytery*] Presbytery.

Dated this [day, in words] day of [month], [year].

[full name of *Secretary*], Secretary
[full name of *Presbytery*]

APPENDIX

Fraser Presbytery: 2010

VISION AND VALUES

- Fraser Presbytery envisions a dynamic United Church of Canada presence and witness in the Fraser Valley, that is alive as followers of Jesus Christ, has thriving congregations, is vital to the community, and is sustainable for the future.
- Fraser Presbytery values the richness of the diversity and honours the capacity of congregations to faithfully make decisions regarding their future.

MISSION

- Fraser Presbytery's Mission is to mobilize, resource and support the United Church of Canada ministry within Fraser Presbytery.

STRATEGIC DIRECTIONS

- Fraser Presbytery commits to the following Strategic Directions:
 - Develop intercultural and multi-generational ministries
 - Facilitate collaboration amongst congregations in regions for "vision for mission"
 - Resource for change and administration management: including staff, volunteers and financial resources

FUTURE WORK

- Facilitate collaboration amongst congregations in regions for "Vision for Mission"

IN-DEPTH COMMENTARY: CHURCH PROPERTY ACTIONS AND PROCEDURES

i. Legislation and Manual References

Remember that all property in The United Church of Canada is governed by *The United Church of Canada Acts* at both the Federal and Provincial levels and not by acts such as *The Religious Properties Act*, which exist in some provinces governing properties owned by other denominations, therefore, please make sure your legal counsel is following *The United Church of Canada Act* and not some other legislation.

- a. In *The United Church of Canada Manual 2010*, Appendix I and Appendix II should be consulted, in addition to Sections 267, 271, 335 and 391 for procedures to be followed in the renovations of church property;
- b. United Church of Canada Trustees are required to meet and act on the congregation's decisions [*The Manual*, Sections 259, 271] and;
 - i. *The Trusts of Model Deed* segment, found as Appendix II of *The Manual*, is helpful in understanding the role of the Trustees and the involvement of Presbytery in property matters.
- c. The procedures to be followed in the **sale of property** are found in *The Manual* sections 267, 271, 335 and 391 [2010 Edition]. The basic rules of **procedure** are found in *The Manual*, 2010, Section 269. This section should be read with care;
- d. Other relevant sections are: 10 (Membership); 12 (Admission to Membership); 13 (Certificate of Transfer); 265 – 272 (Congregational Property); 334 (Amalgamate, Disband, Cease to Exist); 335 (Presbytery - Dealing with Real Property.)

ii. Questions to Consider When Discerning Change

The congregation's answers to the following questions are critical:

- What is our congregation's mission?
- How does this change help us fulfill our mission?
- Who are the stakeholders in this project? What groups/individuals need to be included in the planning?
- What is being proposed?
- How is it to be done?
- By whom will it be done?
- When will it be done?
- What are the effects of the change?
- How will the oversight be handled? Should it be solely the responsibility of the Trustees? Or, should the Board/Council name a 'Local Team' of congregants and have it report regularly to the Trustees? (Clear parameters need to be set for tasks and financial decision-making, budgets, sources of funding, overruns, contingency plans.)
- How does the proposed change help the congregation fulfill the Vision and mission of the Fraser Presbytery? – in-particular – Will the change help the congregation be

“alive as followers of Jesus Christ, *be a* thriving congregation(s), *be* vital to the community, and *be* sustainable for the future?”

iii. Risks in Renovations and Construction

A key factor is risks. Construction, especially renovation, is fraught with risks; and, while we are urged to take risk as part of our faith, Presbytery’s oversight role is to assist the Pastoral Charge to anticipate and plan for risk factors, including the following four:

1. Faith Community Risk

Congregational traditions and the feelings of congregation people need to be recognized and dealt with in the process of change. To varying degrees everyone in the congregation as well as the wider community need to be considered. For the Trustees, for instance, to approve renovation without wider input could cause great discord. At least one (and perhaps several) open planning sessions could be helpful in addressing the needs and desires, as well as the support, of various groups (e.g. mid-week groups, Youth/Children, UCW, catering committees, staff). A congregational meeting or at least a board or council resolution with supporting resolutions from stakeholders participating in these sessions would make the consulting process more transparent, as well as build enthusiasm.

2. Financial Risk

Funds spent on “bricks and mortar” may well divert, for a time, funds used for programming, staffing or worship. Fundraising for projects can reduce donations available for regular operation or the Mission & Service Fund. Worrying about tight finances and large loans can draw energy from volunteers serving on boards and committees. Throughout the planning and later stages of the renovation project, regular updates to the congregation, including budget updates, are vital.

3. Completion Risk

The state of the economy puts demands on many of us, including contractors. The contractor chosen for the church’s renovation project must be reliable (references from previous clients are strongly recommended and a definite schedule of work and payment is essential).

4. Accident Risk

Construction sites are fraught with accident risks. Kitchens, which have electricity, natural gas and water, have even higher risks. In addition to engaging a reliable contractor(s), the trustees should ensure the contractor is registered with Worker’s Compensation and carries adequate liability insurance. The Trustees **should also check with the insurer as to what the policy covers during renovation so as to not be caught between two insurers.**

5. Leadership Burnout.

There is a significant burn out risk to key volunteers and staff after a large project such as a renovation, amalgamation or redevelopment. Often a minister will move on soon after a project. Your M&P committee should make plans for monitoring and caring for key

staff members during the process and immediately after. A sabbatical may be appropriate for instance. Further allowing key leaders in the congregation time to recover after a very stressful time would be well worth it.

iv Requirements for Record-keeping Upon Amalgamation

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

For two or more congregations that amalgamate, the Canada Revenue Agency Business Number of at least one of the congregations must continue in force to prevent valuable data being lost; for instance, it is vital that current employment data from a congregation being closed be transferred to a continuing CRA business number.

In the case of a congregation closing or amalgamating with another congregation, a final Statistical and Information Report should be filed. The form is available through the Statistical & Information Coordinator at the national office of the United Church.