

Church Property

Is it possible for a church to function in the modern world without being a property owner? Yes, but it may circumscribe it very severely, especially in the kind of corporate society in which we live today. John Wesley took a pragmatic approach: a meeting place was needed for one of his societies and he said “Let’s buy it” but he also knew it was important to establish legal means that would ensure that the property would be used for the intended purpose, and not be misused or dissipated. His system is the basis of our Church’s property-holding system today.

Trust Clause

We become between the Roman Catholic Church (bishop of diocese holds the title) and strictly congregational-type churches, such as Baptist (local church holds title). UM local church holds the title but it is held *in trust* for the whole UMC and is subject to the rules of the *Discipline*. The trust clause is included in every deed of property secured by a local church. The trust clause gives assurance to the person donating money for land or building of a local UM church that his/her money will always be used for that or a similar church purpose. Every superintendent should put a copy of the property provisions of the *Discipline* into the hands of every title insurance company in the district and be sure they have an understanding of our procedures.

If a local church acts like a UM church by using its name and customs and accepting clergy appointed by a bishop or employed by a superintendent, its property is held subject to the *Discipline* regardless of the absence of the trust clause in the deed. The trust clause reserves no right or interest to the grantor, but solely the grantee: the seller of property to the church has no right to claim the property back because the church may quit using it for church purposes—the clause protects the church, not the seller.

Compliance with Local Law

As a general rule, where local laws concerning property conflict with provision of the *Discipline*, the local laws prevail. However, there are limits to that rule:

... *provided*, however, that this requirement shall not be construed to give the consent of the UMC to deprivation of its property without due process of law or to the regulation of its affairs by state statute where such regulation violates the constitutional guarantee of freedom of religion and separation of church and state or violates the right of the Church to maintain connectional structure; and *provided* further, that the services of worship of every local church of the UMC shall be open to all persons without regard to race, color, or national origin. (§ 2506 *Discipline*)

Some states have tried to pass laws with the intention of contravening the property provisions of connectional churches such as ours usually at the urging of a number of church members who were against the social views of the national leadership of the UMC and wanted to pull out of the denomination and take the property with them. Courts have reasserted that such legislative attempts are unconstitutional, being a deprivation of due process and a violation of our views of the separation of church and state. The courts will

not intervene in the internal affairs of churches to remedy things that a member thinks unfair.

Property of General Conference, Annual Conferences, and Districts

Property held at the General Conference level is vested in the General Council on Finance and Administration holds the property. In each annual conference, the board of trustees (12 persons: 1/3 laymen, 1/3 laywomen, 1/3 clergy) administers funds and property received from gifts, donations, and bequests. Board of trustees hold properties that have been declared abandoned by the conference.

Abandonment procedure ordinarily used when local church members have moved away, services have ceased, the organization is no longer current, a pastor is no longer appointed. If local trustees remain, they are under obligation to dispose of the property according to the instructions of the annual conference. If there are no local trustees or they fail to follow instructions, then the annual conference trustees are empowered to dispose of the property according to the annual conference direction.

Procedure may also be used with a dissident congregation. Suppose the congregation withdraws from its membership in the denomination and the members proceed to organize their own community church and yet keep right on using the church building as if it were their own. One thing the annual conference may do is to declare the church discontinued or abandoned, thus giving the trustees of the annual conference the legal authority to execute a deed to the property. They may sell it to the dissident congregation and the money will go into the fund for a future UM church elsewhere.

Annual conference trustees also have authority to purchase a home for the bishop in cooperation with other annual conferences in the episcopal area (jurisdiction). There may be a district board of trustees to hold title to a district parsonage or the annual conference trustees might hold the title to such parsonages. District board of church location and building is more important district body: it approves all proposed new church sites and parsonage sites, and the purchasing, building, or remodeling of church structures.

Local Church Property and Building Procedures

Title to local church property rests with local church in trust for the annual conference and local board of trustees is responsible for it. The board of trustees consists of three to nine persons, at least 2/3 of whom must be members of the UMC. Trustees serve 3-year terms. They are amenable to the charge conference. When directed by the charge conference, the trustees may incorporate the church under the *Discipline*, or deal in property and building, accept or reject gifts, bequests, and devises, and all other necessary property matters. If a trustee withdraws from membership in the UMC, his/her membership automatically terminates. If trustee refuses to sign a legal document as directed by the charge conference, the trustee's office may be declared vacant by the conference by majority vote.

Trustees cannot deprive any official organization of the church of its right to legitimate use of the property; nor prevent/interfere with the pastor using the property for religious services or other proper meetings or purposes recognized by the law, usages, and customs

of the UMC; nor are they to permit the use of the building for religious or other purposes without the consent of the pastor or, in his/her absence, the district superintendent.

Local church must give 10 days' notice of a session of the charge conference to purchase real estate. A majority of the charge conference must approve and written consent of the pastor and district superintendent is required prior to the transaction. Same procedure if local church wishes to sell or mortgage real estate. A building committee may be elected if the church wants to build/remodel a building or the trustees may handle the project. Carefully designed procedure for building is given in the *Discipline* to ensure that the building comm. is bringing the whole church along with them as they progress in the plans and that the plans are well-conceived and properly financed.

Church Institutions

Schools, colleges, hospitals, and homes sponsored by the Church but not run directly by the Church. Trustees must be at least 21 years of age and 3/5 shall be members of the UMC unless the annual conference reduces the requirement to simple majority for a particular institution by 3/4 vote of the conference. The trustees are nominated, elected, or confirmed by a governing body of the Church or delegated body. Besides those requirements, the institutions are separate corporate bodies directing their own affairs.