

HANDBOOK ON CHURCH PROPERTY MATTERS



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Preamble

“We are called to be the Church.” As such, we need to exercise faithful stewardship, including stewardship over any property entrusted to us. Over the course of the lifetime of a congregation, the Church is responsible for all decisions related to property – acquiring, renovating, selling or otherwise disposing of it. Though any and all of these processes might appear ordinary in the secular business world and would not have a spiritual dimension, ultimately when we carry out these tasks faithfully, we enable the mission and ministry of the Church to be fulfilled.

This booklet has been prepared to provide information on church property matters to the many volunteers (lay and ministry personnel) within The United Church of Canada in Saskatchewan Conference who are called to carry out these often-difficult and time-consuming tasks.

Fortunately, “we are not alone;” and, within The United Church of Canada, the local governing body (or “Council” or “Official Board” or “Session and Stewards”) has the resources of its Presbytery, the Conference and, through “*The Manual*” and other forms of assistance, the General Council. The United Church of Canada is a **conciliar** (as opposed to a **congregational**) church, which is to say that in our system the local congregation does not exist in isolation of governance. The local church Board (a *governing body* within the United Church) is related to other governing bodies of the United Church through the three other councils (also called *courts*) of Presbytery, Conference and General Council, and operates with both their support and oversight. When this system works as intended, congregations are helped to protect their own welfare and also challenged to remember that they are part of a nation-wide community of churches.

In matters of property decisions, in fact, it is because we are a *conciliar church* that it is the Presbytery, with few exceptions, that needs to give final approval for:

- acquiring church property
- erecting a new building
- leasing of the church building
- renovating church property
- amalgamating one or more congregations
- closing a congregation
- selling church property
- disbanding a congregation
- the ceasing to exist of a congregation

In all of these matters, it is very important for the Congregation to be in touch with the Presbytery (initially through its Secretary) at the earliest stage.

This 'Handbook' is not a legal document; and, in all instances, *The Manual* of The United Church of Canada and the opinions of the Canada Revenue Agency take precedence. These pages are intended: to direct you to the relevant sections of *The Manual*; to assist you in following the required steps; and, to anticipate some of the challenges that accompany the path of change within the Church.

In our work as part of a local Congregation or Pastoral Charge, the Presbytery or the Conference, may the Church be led and strengthened in faith.

The United Church of Canada
Saskatchewan Conference
Fall, 2015

Definitions

Board of Trustees:

A body of members of the congregation or pastoral charge, elected by the congregation or pastoral charge, which holds in trust, for the purposes of that congregation, as part of the entire United Church of Canada, all property (land, buildings and investments).

Conciliar Structure:

The United Church has a conciliar structure, which means that each governing body is made up of representatives from the next smaller governing body.

Therefore,

- Presbytery is made up of ministry personnel and representatives from congregations/pastoral charges. Conference is made up of representatives from presbyteries
- General Council is made up of commissioners, who are representatives of the Conferences

Each governing body of the church thus has representatives from the pastoral charges, the most basic, local mission unit and governing body of the United Church.

Another feature of our conciliar structure has to do with the importance of spiritual discernment. Since we believe that the Holy Spirit speaks in many ways, including through our discussions and meetings, each governing body and its members must be open to hearing what the Spirit might be saying during the course of a meeting. So, we do not expect representatives to be bound by the wishes or opinions of those they represent. They are wise to consider such opinions and wisdom when voting, but are always free to vote according to their prayerful reflection and conscience. In this way, a presbytery cannot bind its Conference representatives to vote a certain way on any given matter.

Congregational:

A system of church government used by some denominations (indeed, it was used by one of our founding denominations) in which every congregation governs itself and joins others as occasions arise.

Congregational Property & Other Major Assets:

All moveable property such as furniture, books and vehicles; and, intangible property like bonds, stocks and bank accounts. Congregational Property also includes buildings and anything else affixed to or growing on land or buildings, and rights relating to these.

It is important to include as part of the congregational property the congregational property of all groups within a congregation, including the UCW.

Other Major Assets of a congregation, if any, are to be determined by the Presbytery and may include some or all of the congregational property (*The Manual*, s. G.2.1.2). Presbytery is responsible for informing the pastoral charges in the presbytery about the meaning of 'other major assets' in that presbytery.

District:

Instead of the term 'Presbytery', 'District' is used to identify the two equivalent governing bodies in the Conference of Newfoundland and Labrador. It is not used within Saskatchewan Conference.

Historic Roll:

The congregation's official record of membership. Typically logged in a book for the purpose, the 'roll of membership' includes the date on which a person became a member (and by what means, such as profession of faith, transfer from another congregation), and the date and reason for removal of the membership (such as death, transfer to another congregation). The Historic Roll is maintained in alphabetical order and in chronological order, often with an alphabetical index.

Major Expenditure [formerly referred to as 'Major Personal Property]:

Saskatchewan Conference has defined a major expenditure for a congregation or pastoral charge as one that costs over 15% of the church's operational budget and requires borrowing of funds from any source.

Major Renovation:

The expansion or redevelopment of property which

- changes the existing exterior of the building
- costs over 15% of the church operating budget; or,
- requires borrowing of funds from any source.

Members & Adherents:

- **Members:** persons who have **formally** attached themselves to The United Church of Canada and a local congregation through confirmation, profession of faith or transfer of membership from another congregation.
- **Adherents:** persons who are attached to a Congregation and who contribute regularly to its life and work while not being formally members thereof.

It is important to be aware of this distinction when considering who may vote at a meeting of the congregation. For further information about this issue refer to *The Manual* s. B.3.7.

(NOTE: Prior to 2013, motions brought before a local congregational meeting were deemed to be related to one of two categories: 'spiritual matters' and 'temporal matters'. 'Members' had permission to vote on either type; whereas, 'Adherents' could vote only on 'temporal' matters. Since 2013, those terms related to voting have been discontinued; however, votes restricted to members only have been defined and appear in the referenced The Manual, s. B.3.7.

Personal Property [see Congregational Property]

Polity:

A specific form of church government as outlined in the Basis of Union in *The Manual*.

Real Property [see Congregational Property]:

Renovation:

Putting something new and different where there was something before. It is neither new construction nor maintenance. Structural change is considered renovation.

Temporal/Spiritual Matters [See Members and Adherents]

Charitable Status and Giving Gifts

Once an organization HAS charitable status, it is a relatively straightforward process to maintain it, but it can be a very lengthy and complicated process to get it reinstated!

It is assumed that all United Church entities do their best to comply with accounting, receipting and other technical requirements. Beyond that, all that is needed to maintain status is to file the Annual Charitable Information Return (T3010-1) with the Canada Revenue Agency Service each year on a timely basis. It is due 6 months after the organization's fiscal year end. (i.e., June 30 for those with a calendar fiscal year).

In virtually 100% of United Church cases, revocation of charitable status is due to non-filing. If charitable status is revoked, all subsequent charitable receipts are technically invalid and could be disputed when members submit proof of charitable gifts on their tax returns.

It is important to remember at the outset that the rules that apply to the congregation as an organization that has charitable tax status also apply to all of the groups within the congregation, including the UCW, to all of the assets that they hold, and to the disposition of all of their assets.

While the Annual Return task is typically the duty of the Treasurer, everyone should take an interest. The Board should be advised that the return has been filed. Board members might even want to look up their charity on the Canada Revenue Agency (CRA) website (www.cra-arc.gc.ca) using the search function.

Regaining charitable status takes several months and lots of paperwork. Don't risk it!

This is even more important if a congregation is involved in a closure or amalgamation. There are different rules that apply to disposition of assets if charitable status is lost. As long as there is charitable status, gifts may be made to any "**qualified donee**".

Under the Income Tax Act, "qualified donees" are organizations that are permitted to issue official donation receipts for gifts that individuals and corporations make to them. They are as follows: a registered charity; a registered Canadian amateur athletic association; a housing corporation resident in Canada constituted exclusively to provide low-cost housing for the aged; a Canadian municipality; the United Nations and its agencies; a university that is outside Canada that is prescribed to be a university the student body of which ordinarily includes students from Canada; a charitable organization outside Canada to which Her Majesty in right of Canada has made a gift during the fiscal

period or in the 12 months immediately preceding the period and Her Majesty in right of Canada or a province.

If any assets remain for disposition AFTER charitable status revocation has been initiated by the CRA, money can only be disbursed to "eligible donees". This is a much narrower category. Recipients must have charitable status and meet other criteria. The link to the Canada Revenue Agency (CRA) policy on the dissolution of a charity (i.e. giving up the charitable number and status) is: <http://www.cra-arc.gc.ca/tx/chrts/plcy/csp/csp-d15-eng.html>

The best thing to do is to control totally the congregation's ability to make decisions. In a closure situation since 2000, a congregation didn't maintain charitable status right to the end. As a result the CRA disallowed gifts to the local community that would otherwise have been fine. The CRA is entitled to not only disallow the gifts, but also to get the money back from the recipients!

Keep the CRA out of it by maintaining your status.

Considerations for Renting Church Property or Allowing for Its Use

Members of charities, and particularly of churches, are often very loyal and committed to that charity and its work. Without the time and financial contributions of such members, the charity would not exist. The fact that members have made financial and other contributions does not create any legal rights of ownership in or entitlement to the charity's property. Charities exist for the public benefit and are owned by the public at large. This means for example, that if the charity decided to close its doors, it could not divide and distribute the assets to its members, as if it were a for-profit business. The assets have to be distributed to another charity so the public can continue to benefit. An understanding of this principle is important, not only when a Church closes, but also when it comes to members' use of facilities for their own personal purposes (i.e. not for any activity of the charity).

Charities that make their facilities available to the community for events such as weddings and anniversaries should charge identical rental fees to everyone, regardless of membership or gifts made. If members and donors receive preferential treatment, such as a lesser charge or no charge at all, the charity would be providing an advantage to them because they are members or donors of the charity. Not only could the charity's registered status be jeopardized, but also the implication is that every member and donor would be in receipt of an advantage (i.e. the right to the free use of the facilities), which would reduce the eligible amount of the donor's respective charitable tax receipts.

This is not just a theoretical issue. In 2008, the Canada Revenue Agency suspended the tax receipting privilege of a Montreal synagogue (Adath Israel) and fined it nearly \$500,000. The issue there was that the synagogue had issued tax receipts improperly in relation to cemetery plots, because it offered a significant price reduction to synagogue members, provided they paid their annual membership fees. [The fees had been treated as donations and tax receipts issued for them, but the benefit in reduced cost of the cemetery plots wasn't taken into account.]

1. Renting Church Property to Others Who Will Be Tenants of the Church

Why lease (or rent) church property?

A congregation leases part of its building to others to:

- support non-profit organizations such as Scouts or Alcoholics Anonymous (AA), or to provide meeting space for Community Organizations
- be a part of the wider community
- welcome people so they are familiar with the location and might look to the congregation for spiritual support
- generate revenue to assist with operations. (Congregations can offset the operation costs of their church buildings but should be careful about making a 'profit'. Canada Revenue and municipal tax authorities set limits on such income by tax-exempt entities and may question such exemptions.)

These same issues apply to situations in which a tenant gets control and quiet possession of the space (a lease) and in situations in which someone gets use of the space only as a rental or for a donation.

COMMUNICATION is important. Nothing injures a relationship like some misunderstandings that could have been avoided by a clear agreement. One should seek legal advice in drafting a lease whether the church is renting from others or is the landlord. The key role of a lawyer is to anticipate problems based on experience and allow for terms to deal with them

Consider having a dispute mechanism in place to deal with any issues that may arise.

There should be a written lease agreement. As this is a building being shared, the lease agreement must describe the respective expectations and responsibilities of the church and of the tenant group.

There are a number of issues to consider:

1. Risk and Liability
 - a. for example, who is responsible if a child breaks an arm playing dodge ball?
 - i. we should ensure that any tenant has adequate insurance which includes liability to others
 - ii. we should ensure that the congregation's insurance covers rentals

- b. what is 'damage that a tenant should pay for', as opposed to 'normal wear and tear'?
- c. is a damage deposit required?
2. Time conflicts
 - a. AA is very strict on its schedule since they publish meetings in their brochure allowing members to find a meeting (when traveling & stressed, for instance). Such 12 Step Groups cannot cancel or even move despite a church supper or youth rally.
 - b. Space in the church must still be available for church functions. The congregation needs the building beyond Sunday morning.
 - c. Will use of the church by diverse tenant groups, in adjoining spaces, be compatible?
 - d. May the tenant groups be in the building at other times than regular meetings? (For example, to restock supplies for coffee, etc. if an AA group?)
3. Does the use by a tenant group coincide with our mission and values?
For example, concern may arise in the following situations:
 - a. Where a group operates a bingo
 - b. Where alcohol is being consumed
 - c. Where a gymnasium is being used for martial arts
4. Restricted areas. For example:
 - a. The office areas in the church building are usually off limits
 - b. The furnace room is not a place for young children
5. Clean up
 - a. Who is responsible?
 - b. If we say "Leave it how you found it", how do we specify how it was before?
 - c. What are the consequences if the tenant does not do as required?
6. Is there a clear fee structure?
 - a. There is nothing wrong with AA having different rate than a Mary Kay sales meeting, but we cannot give members a better rate or other benefit since that will jeopardize the church's charitable status (see p. 11 CONSIDERATIONS FOR RENTING CHURCH PROPERTY...)
7. Security
 - a. The church needs to avoid distributing too many keys and to avoid volunteers going out of their way to distribute and drop off keys

2. Renting Church Property from Others Who Will Be a Landlord of the Church

While many prefer a church building to call their own – and the building can be a tangible symbol of the Church's presence in a community, "The Church is not a building, the Church is not a steeple ...the Church is the people" (Avery & Marsh, 1972). Whether it is a new congregation just starting out or a congregation later in its life-cycle, there are times when renting space from someone else is better stewardship than the congregation owning its own building.

The decision to find other space may be driven by a number of factors:

- **ACCESS** – a set of stairs into a sanctuary, which in turn puts the lower hall partially above ground, is a common feature of United Church buildings, but can keep many attendees out.
- **CONDITION** – when repair costs become a major portion of the budget – and there is no end in sight – alternatives need to be explored.
- **ECONOMICS** – every dollar spent operating and maintaining a building is one less dollar available for the mission, programming and outreach of the church.
- **OPTICS** – while a building is a tangible presence, it can imply a "members only" practice, while worship in a community hall, for instance, may make attendance less daunting for newcomers.

In renting a different space, one must remember that church activities do not occur only on Sunday mornings. Make sure space is available for:

- **OTHER CEREMONIES** – such as weddings and funerals which are usually far larger than Sunday service attendance; and, in the case of funerals, have a shorter planning time. Many rural or small congregations hold funerals in halls due to inadequate space.
- **PASTORAL CARE NEEDS** – especially private discussions with the bereaved and others in crisis
- **ADMINISTRATION** – such as church board and congregational meetings.
- **FUNDRAISING EVENTS** – suppers, bazaars
- **FELLOWSHIP GATHERINGS** – pot-luck suppers, bridal showers
- **SIGNAGE** for the congregation

- STORAGE NEEDS throughout the week, including space for the baptismal font, communion table, lectern, hymn books and audio-visual equipment.

COMMUNICATION is important. Nothing damages a relationship like misunderstandings that could have been avoided by a clear agreement. Seek legal advice in drafting a lease. The key role of a lawyer is to anticipate problems based on experience and allow for terms to deal with them. It is also important to include a dispute resolution process prior to a need for one.

NOTE: While the presbytery and conference are available to consult, fees for legal counsel are the responsibility of the congregation/pastoral charge.

ALLOCATION OF RISK: it is important to allocate risk. While the owner (the 'lessor') insures the building and the congregation (the 'lessee') insures its contents, on which party does the responsibility lie if, say, the congregation was to cause a fire? Similarly, if someone is injured, which party of the lease is liable for injuries or other damages? The congregation must ensure that its insurance is revised to deal with a lease; and, it is wise for the congregation to confirm that the owner's liability insurance is adequate as well.

CONSIDERATIONS FOR TENANT AND LANDLORD:

- APPOINT contact people and keep contact information current re: possible unavailability due to vacation or illness
- DETERMINE who is eligible to get keys
- CONFIRM the rental rate, when rent is due and the timing/process for both reviewing the rate and terminating the rental agreement.
- KNOWING how either party may terminate the rental agreement at the time into which the agreement is entered results in fewer surprises or disputes when it comes time to end it.

SEEKING PERMISSION OF THE PRESBYTERY TO LEASE PROPERTY

Since presbytery must approve such a lease agreement, the trustees must follow the practice outline in Appendix A of this Handbook. To assist in preparing the request, the details enumerated in the final paragraph of Part 1 should be helpful.

for a lease, the terms would include premises and exclusive use premises, fixtures and chattels, rental, commencement date, term, responsibility for taxes, insurance, early termination, renewals, options

STEPS TO BE FOLLOWED FOR RENOVATION OF CHURCH PROPERTY

INTRODUCTION

The role of the oversight of Pastoral Charges within its bounds is a prime responsibility of a Presbytery within The United Church of Canada. In matters of the renovation of church property, this oversight is typically exercised as that of counsel and 'looking at the bigger picture'. The congregation focuses on its members and adherents, while the Presbytery must focus on the wider church. Sometimes members of a congregation become so enthusiastic about a project that they risk missing some details, so part of Presbytery's role is to step back take a deep breath and "proof-read" a plan.

CONSIDERATIONS

The congregation's answers to the following questions are critical when considering a renovation:

What is our congregation's mission?

How does this project 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? Whether one describes by diagrams or text is up to the Pastoral Charge, but it should be aimed at people who are not familiar with the location.

How is it to be done? (Use of an architect? Contractor? Volunteers for finishing work?)

How will the oversight of the project be handled? Should it be solely the responsibility of the Trustees? Or, should the Board/Council name a 'Local Project Team' of congregation people and have it report regularly to the Trustees? Whatever mechanism is chosen to exercise oversight of the project, clear parameters need to be provided as to tasks and financial decision-making (e.g. how big a plan modification needs Board/Council authorization? (Expenses larger than \$1,000? Change of light switch colour?).

When is the renovation work to be done? Astute answers to this question anticipate, for instance, if the kitchen could be out of commission during fall supper season and is cordoned off during Vacation Church school.

What are the financial costs? Here a budget (not exact figures but to the nearest \$500.00) would be appropriate. This budget would include both costs and sources of funding.

From where will funding come? (Include value of volunteer labour, if appropriate.) Will there need to be loans? From congregation members? From a financial institution? From The United Church of Canada? The timing of payments for completion has a bearing on fund-raising and cash flow.

A helpful resource and valuable check-list for the critical steps involving the Presbytery is found in *The Manual*, s.. G.2.3.

It is also important to deal with risks. Construction and especially renovation is fraught with risks; and, while Christians are called 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:

- **Community Risk.**

Local 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 and the wider United Church of Canada is a stakeholder in the project.

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 an Official Board resolution with resolutions of support from stakeholders from these sessions would make the consulting process more transparent, as well as build enthusiasm.

- **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.

- **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.

- **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), one should ensure the contractor is registered with Worker's Compensation and carries adequate liability insurance. One should also check with the congregation's own insurer as to what this policy covers during renovation so as to not be caught between two insurers.

MANUAL REFERENCES

The procedures to be followed in the renovations of church property are found in *The Manual*, s. G.2. Presbytery involvement and approval is required for *major renovations* [see *Definitions section of this Handbook*].

The Manual requires the Presbytery to make a decision as to what constitutes *major renovations* (section G.2.1.3).

It is the belief of the Conference Finance and Administration Committee that in all instances of structural change and all instances where borrowing of funds is involved, the prior consent of the Presbytery is required.

The Saskatchewan Conference Finance and Administration Committee encourages pastoral charges to be in touch with the relevant committee of their presbytery (initially through the Secretary of Presbytery) at the earliest stages whenever there is a view to renovations, additions, etc.

For Saskatchewan Conference, major renovations, normally, are the expansion or redevelopment of property which

- changes the existing exterior of the building; or,
- costs over 15% of the church operating budget; or,
- requires borrowing of funds from any source.

This Handbook on Church Property Matters assumes that some study and information-gathering regarding the need for possible renovation has been done. Such study may have been initiated by the action of an earlier congregational meeting, or by the Board or a committee. The assumption is that the committee or task group is now ready to report to the congregation for direction.

Presbytery might have helpful information to share and will be able to provide you with some timelines for approvals. In some cases, the General Council of the United Church may also be able to assist in the financing of low cost loans. Your Presbytery Mission Support Committee Representative is available for help when applying for a Capital Assistance Loan or Church Development Loan.

If the congregation has an overall income less than \$300,000, it may be eligible for a Capital Assistance Loan. Loan requests can range from a minimum of \$5,000 up to 75% of the total capital project to a maximum of \$150,000. Capital Grants are more restrictive and targeted to smaller mission units. The maximum income level for grant eligibility is \$150,000.

The United Church also provides grants for Church/Manse Modernization and Improvement, the maximum amount of which is \$5,000 matching grant per application for a six-year period. Grants are reserved for modest income congregations with annual incomes of up to \$150,000 and unrestricted funds of less than \$37,500.

For policies and applications for Capital Assistance Loans and Grants please go online to: <http://www.united-church.ca/local/loans/capital/caploans>.

The Saskatchewan Conference offers Green Initiative Grants for renovations that reduce the negative impact on the environment. For more information see: <http://www.infuziontech.com/united/wp-content/uploads/2014/03/GreenInitiativeFund.pdf>

NOTE: See *The Manual* section G.3.3.4 for the requirement that there be at least 3 and no more than 15 current TRUSTEES in order to act.

STEPS

- a) A meeting of the congregation, Church Board or Council must be called to approve the plans for renovation, and to instruct the Board of Trustees to carry out the wishes of the congregation.
- b) See also *The Manual*, s B.5.1 to B.5.6
Pursuant to s. B.3.7, voting on renovation plans, other than for major renovations, is not restricted to members. See also s. G.2.1.3 and s. G.2.3.1 (e) of *The Manual*.

- c) The Board of Trustees must then be called to meet, having been given at least seven days' notice. At this meeting a resolution(s) must be passed 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 the costs of same
 - the terms of payment and arrangements for financing
 - the request for Presbytery approval of the planned financing and renovation.
- d) A certified copy of the resolution(s) must be sent to the Secretary of the Presbytery. The resolution(s) must be accompanied by a *Certificate of Trustees Asking Consent of Presbytery*, and must be signed by the Chairperson and Secretary of the Board of Trustees. The template for this Certificate of Trustees Asking Consent of Presbytery is found on pages 53-4 of *The Congregational Board of Trustees Handbook 2013* [see *Bibliography*. See also *Appendix A of this Handbook for a template that may be used for transmitting the renovation request to the Presbytery*. NOTE: assistance is available to converting *Appendix A* to a WORD document to ease preparation.
- e) The Trustees must provide Presbytery with all relevant information and documents.
- f) After receiving the consent of Presbytery or its Executive, the Trustees (or designated committee) may then proceed with the renovation to the church property.

TRUSTS

By the terms of church union in 1925, and *The Manual*, the Trustees hold congregational property in trust for the congregation as part of the United Church. (Section G.2.2.1) For this reason, it is necessary to have approval of Presbytery in all matters relating to property, including the remodeling or major renovating of buildings and property. **This includes the approval of a financial plan.** There is a concern that a congregation/pastoral charge not get itself into a situation where the debt for carrying out the renovations stands in the way of the congregation/pastoral charge being able to meet ongoing operational, ministry and mission costs.

Denominational Title

If the title refers to the Methodist or Presbyterian denomination, that may be United Church property, since The United Church of Canada came from a union of the Methodists, Presbyterians and Congregational churches. Saskatchewan Land Titles (ISC) will accept it as being part of The United Church of Canada unless The Presbyterian Church in Canada has dealt with it since 1925.

STEPS PRECEDING THE POSSIBLE AMALGAMATION OF ONE OR MORE CONGREGATIONS/PASTORAL CHARGES

INTRODUCTION

Change isn't easy and an amalgamation of one congregation with one or more other congregations can be both a time of challenge and a time of opportunity within the Church. There can be a sense of giving up what was known over against the taking on of something quite new. Even when congregations accept that changing demographics, resources and mission needs within the congregation or community require it, the experience can be difficult and take time for attitudes to move from "Good Friday" to those of "Easter morning".

As many who have lived through the process and possibilities of amalgamation have learned, it requires that the parties considering this change come to a spirit of truly caring about each other. Amalgamation will produce gain and loss for all participants. People need to be prepared to grieve with each other over the losses and celebrate the gains.

A 'pastoral charge' is made up of one or more congregations constituted into a pastoral unit [*Definitions*]. Most United Church people tend to consider their 'home church' as their congregation, whether it is a one-point pastoral charge or a multi-point pastoral charge. Rather than use the cumbersome term 'congregation/pastoral charge', this section of the Handbook employs only 'congregation' (unless noted otherwise.)

In the language of *The Manual* of The United Church of Canada, 'amalgamation' involves the joining of two (or more) 'congregations' into a new entity [*The Manual*, section G.1.4].

Congregational Governing Body

The Governing Body of a Congregation is its Council/Board/Official Board. While members of the congregation must be called to vote on a motion to amalgamate, the congregation itself is not the "governing body". [See 'Preamble' in this Handbook; also, 'Court' in *The Manual* section A.1.]

ASSUMPTIONS UNDERLYING THE FOLLOWING 'STEPS'

1. For the purpose of this section of the Handbook, the assumption is that one congregation, with presbytery involvement, enters into conversation with one other congregation with a view to merging into one new entity; therefore, it could involve two or more congregations in a multi-point Pastoral Charge or two single-point pastoral charges. Where there is a difference in process, this will be noted. Amalgamation could also involve congregations that straddle existing presbytery boundaries (in which case both presbyteries need to be involved in the process).

2. It is also assumed that the initial discussion about possible amalgamation originates at the local level (Church Board or Council or Official Board). Even so, it is the expectation in every visitation by a Presbytery Oversight Team to a pastoral charge that future visioning (what those gathered anticipate over the coming 5-10 years regarding their possible stability/growth/decline), will be an important part of the discussion and be part of the subsequent report. Similarly, the process of and input gleaned through the Joint Needs Assessment might raise the possibility or desire for amalgamation.
3. Since this is a Handbook on Church Property Matters, it is assumed that participants in possible amalgamation talks avail themselves of other current resources concerning the human relations/ministry of change that are a big part of such processes. Communication in these matters should be with the Pastoral Relations committee of Presbytery and Conference Personnel Minister (*See Bibliography/Resources section*).

Of particular help with POSSIBLE AMALGAMATION projects is the 5-page **Sample Amalgamation Checklist** found in the **Congregational Board of Trustees Handbook 2013** (pages 4-8). Adapt for local use, as necessary. (See Bibliography section). Using the checklist in parallel with “**Tasks of the Implementation Committee**” in this Handbook may better assist those involved in delegating tasks and tracking progress.

CONSIDERATIONS FOR THE PRESBYTERY AND EACH CONGREGATION

Presbytery needs to be involved – not only because of its oversight role but also because of its experience in similar situations and its access to various resources.

Amalgamation will require significant energy and time – much longer than most people realize (12-18 months for the amalgamation is not unusual and another year to set the direction for the new entity). Amalgamation is not just pooling financial resources in order to pay for shared costs. There are lasting positive benefits for all in taking the necessary time and energy versus hurrying to meet any artificial or self-imposed deadline.

Ministry Personnel considerations:

There are different considerations depending on the configuration of ministry personnel in each Congregation in the amalgamation.

If there are existing ministry personnel, they should not be expected to be the resource regarding property or procedures for amalgamation or other such visioning discussions. If necessary, presbytery should exercise its oversight role over ministry personnel and congregations and remind them of this.

Other staff members:

If an amalgamation results in staff (including volunteers, such as treasurers) becoming redundant, this must be addressed with sensitivity as well. For guidance regarding paid staff, including those with United Church Pension and Benefits coverage, see the current issue of the “Financial Handbook for Congregations” (*Bibliography/Resources*).

MANUAL REFERENCES

The Manual, sections G.1.3 (*Changes during the Ministry Unit’s Lifetime*) and G.1.4 (*Amalgamation of Congregations*).

Some other relevant sections are: B.1.1 (Congregation); B.3 (Membership and Other Participation in a Congregation); A.5 (Records).

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 (including Saskatchewan) governing properties owned by other denominations.

Please make sure your legal counsel is following *The United Church of Canada Act* and not some other legislation – notably *The Religious Societies Land Act* of Saskatchewan.

INITIAL STEPS

1. Contact the Presbytery to request assistance. If in doubt regarding whom to call, begin with the Presbytery Secretary (name and contact information is listed in the Presbytery Executive section of the Saskatchewan Conference Directory or call the Conference Office. See also contact information in the Bibliography section of this Handbook).
2. Presbytery appoints one (or more) of its members (other than a representative of the requesting Congregation) to liaise with and be part of ongoing discussions.
3. Each Congregation should do a modified Joint Needs Assessment Report (modified in the sense that the other Congregation is already familiar with its neighbouring communities). If there is a recent JNAC Report (as is often the case since vacancy encourages creative solutions) it may be used. In either scenario, the following questions need to be addressed:
 - What are the core values/needs that we would find hard to compromise?
 - Where can we compromise?

- Since an amalgamation could result in ‘spreading a ministry person’s resources thinner’, what do we not need done?
 - What can the lay people do?
 - What can others be asked to do?
4. Throughout the process of the modified Joint Needs Assessment, there should be several opportunities planned to create a congregational understanding around the need for change and allow the congregation to discuss various options. This provides the congregation with a greater sense of ownership of the direction and future decision; i.e. which of the following options could be the right direction for the Congregation?
 - Closure
 - Amalgamation
 - Sharing facilities
 - Ecumenical shared ministry
 - Creating a multi-point charge
 - Relocating
 5. Once the modified Needs Assessments are done, the Presbytery Pastoral Relations Committee reviews them and provides comments/feedback. The Needs Assessments of the two Congregations may then be exchanged. [NOTE: if two presbyteries are involved, both Pastoral Relations Committees take part as well.]

NOTE: A motion “to investigate amalgamation” rather than “to amalgamate” is appropriate in the early stages. This allows adherents at either congregation to be active in the discussion for a longer period of time. Amalgamation, when the time comes, being a ‘spiritual matter’ [see *Definitions*] is a “members only” vote.

THE IMPLEMENTATION COMMITTEE (IC)

When there is enough information to determine that amalgamation is the chosen journey:

- At the instruction of the church board, contact is made with the board of the congregation with which possible amalgamation talks might begin. [If asked, the Presbytery representative could make that initial contact.]
- Each congregation names representatives to an Implementation Committee (IC) to explore possibilities. The same strategy about naming a broad representative sample of the congregation should apply as when representatives to a Joint Search Committee are selected. Presbytery representation is also required.
- Keeping both congregations regularly updated on the IC’s tasks and progress is vital to the congregations’ sense of involvement and their pastoral care.
- The tasks of the IC are two-fold: prayerful discussion and visioning towards the birth of a new entity out of the two congregations; and, the

practical steps required by United Church polity, Canadian law and institutions with which congregations deal. [See *Bibliography/Resources.*]

- At some point in the IC's life, however – and well in advance of formal proposals to the two or more congregations at duly-called congregational meetings – some tasks should be delegated to one or two IC members, who will need to work with church staff and non-IC volunteers and report progress to the IC. (See Practical Matters, below.)

PRACTICAL MATTERS AND WHO TO CONTACT

- Utility companies – make sure the name/title they have as an authorized contact person is current and appropriate so that the necessary changes can be made when needed.
- Bank/Credit Union – discuss what is involved in closing and opening accounts. Is there a need for additional names to be added for cheque-signing authority, due to illness or vacation scheduling?
- Canada Revenue Agency – Charities Directorate. Should all but one of the existing Canada Business Numbers be terminated? If so, when and how?
- GST re: partial rebate, when and what process.
- Charity Return Form needs to be submitted within six months of ceasing worship services. Check with Charities Directorate as to specific requirements as some cases may be different than others.
- ADP – the United Church Payroll Service provider - a new company code may need to be established and this can take time to process.
- Workers' Compensation Board of Saskatchewan: ask if there are regulations re: accounts, remittances, etc. that could come into play when an amalgamation takes place. What needs to be in place? How long should that take?
- Government of Saskatchewan re PST: The same kinds of questions need to be posed here as the other organizations so there are no surprises later
- Statistical and Information Officer of The United Church of Canada re: Mission & Service number(s); and, final statistical report to be completed for each congregation entering the amalgamation
- Record of Employment (ROE) either through ADP (for employees being paid via ADP) or forms obtained from Service Canada online or at a Service Centre office for other staff. Are there paid staff members whose employment will be terminated, for whom the ROE must be issued? Each congregation's Ministry & Personnel Committee needs to take an active part in this, especially in the sensitive matters involved.

Once Presbytery has granted permission for an amalgamation to take place, all these organizations require formal confirmation of the change of name (effective with the date of amalgamation). The Secretary of

Presbytery is the one who provides this – not officials at the national office of The United Church of Canada in Toronto.

MAKING BUILDING DECISIONS

The Implementation Committee will need to recommend building decisions.

- Be careful! This is where many amalgamation efforts break down – don't be in a hurry!
- Options include
 - Moving into one building and selling the other, but which one?
 - Renovating the building chosen to be the new entity's church
 - Building a new structure
 - Buying another building and selling both existing buildings

Have independent professional evaluations of both buildings conducted to assist in making this important decision.

Elsewhere in this Handbook are steps to be followed in Renovation of Church Property and in the Sale of Church Property.

The resource of legal counsel is necessary throughout the building decisions phase.

The proposal brought to each congregation for its endorsement will require specific recommendations for the disposal of property and Presbytery's determination of any 'surplus' property. See *The Manual*, s. G.1.4.4,

As in all property transactions, presbytery approval will be required for the proposed action (e.g. sale of building) and for the proposed use of the proceeds. See *The Manual*, s. G.2.3.

FINAL CONSIDERATIONS

Develop a realistic timeline for implementing the amalgamation. This will involve consultation with: Presbytery (meeting schedules so that reports, motions, etc. can be presented with enough time to consider them); other congregations of a similar size and locale that have been through their own recent amalgamation; your legal counsel; and, all the groups in section " PRACTICAL MATTERS" above.

Two major tasks that need to be built into the timeline will likely commence in the time leading up to the formal amalgamation but conclude afterwards; namely, a schedule for the development of a Structure and Governance Document that will guide the new amalgamated entity. Which of the several models of governance works best for the mission of the new

congregation? Again, Presbytery needs to approve the new structure. See *The Manual*, s. B.7.2.

While details of property, records and membership are being finalized, it is possible, once Presbytery has approved the amalgamation, for the 'new entity' **to function as if all requirements are complete.** This can include: combined worship services; the new governing body functioning instead of previous separate boards; finances channeled through one account by the newly appointed treasurer; tax receipts, payroll and other remittances issued through existing accounts. If sufficient time is allowed for the legal/technical minutia to be completed, this practical process allows the new entity to move ahead and get details addressed properly at the same time.

REMEMBER: once an amalgamation is final, the previous congregations and their accounts cease to exist. Tax receipts cannot be issued from an organization that no longer exists. A January 1 or July 1 effective date for formal amalgamation (NOT a mid-month date) is useful.

Within the timeline for implementing the amalgamation are the following tasks:

- Consider the name for the new entity.
- Discuss together the terms of agreement – this may take several meetings before it is firmed up and ready to take to the congregational meeting for decision. Both Congregations need to come to agreement around the terms of amalgamation.
- Both Congregations at separate congregational meetings duly called for this purpose must pass identical motions. Each meeting must have Presbytery representation.
- The Presbytery needs to approve the request that results from each Congregational meeting.

Once Presbytery has approved the amalgamation, practical steps regarding membership, sale of property are identical to those when a congregation closes. These are referenced elsewhere in this Handbook under STEPS PRECEDING THE CLOSING OF A CHURCH and STEPS to be FOLLOWING in the SALE OF PROPERTY. They include:

- Congregations instruct the Trustees to meet and act on the decision to amalgamate.
- Trustees contact the Information Services Corporation (ISC), which was formerly the Saskatchewan Land Titles Office, to verify that there is a clear title to the property. A *Certificate of Title* is not required by the ISC.
- Presbytery declares what property will be surplus should the amalgamation go ahead and Presbytery notifies the Conference regarding property surplus.

- Conference determines the best use of the surplus building(s) and property for the benefit the United Church.
- Conference makes a decision as to whether the surplus building(s) and property are to be sold and how the proceeds from the sale will be dispersed.
- Prior to the effective date of the amalgamation, members of each congregation need to decide where their membership will reside (to the new entity? to another United Church congregation? kept by the individual member who wishes to decide later?).
- The official records of the amalgamating congregations (Baptism, Historic Roll, and/or any other Membership Rolls, Wedding Records, Burial Records, Minutes of Session, Stewards, Congregation, Official Board, etc.) become a part of the official records of the "new" congregation.
- Sort records and send those records no longer in current use to the Conference Archives; and, send a written summary to Presbytery and to the Conference Archives giving details of this action. The Saskatchewan Conference Archivist is available to consult in this process (See *Bibliography*).
- Arrange for the safekeeping of financial records.
- Consult Canada Revenue Agency with regard to its requirements for retention of records and for the filing of the final charitable status return.
- Ensure that the changed details of the charitable number are attended to.
- Amalgamating congregations make a complete inventory of all contents.
- Decide what will become of contents of the "new" congregation and what needs to be disposed of, how and when.
- Consider inclusion or incorporation of artefacts and memorabilia into the new congregation.
- Send a copy of this list to the conference archives.
- Prepare a photo record of the building(s) and congregational activities for the record in the conference archives
- Ensure that all photographs are clearly and carefully labelled to identify people, places, dates.
- Organize a service of worship to honour the years of life, work and worship of the congregation(s).
- Organize a service of worship to mark the beginning of the new congregation.

STEPS PRECEDING THE CLOSING OF A CHURCH

INTRODUCTION

All congregational property is held in trust for the congregation, through its Board of Trustees, as part of The United Church of Canada. The Presbytery (and, in the cases of closed congregations, the Conference) is charged with ensuring that congregations do not dispose of property without proper authorization. Even items such as pews, pulpits, hymnbooks and refrigerators, whether purchased or donated, become the property of the congregation, once they have been acquired. They are to be held for the use of the present (and future) mission of the congregation and, when no longer needed, for the use of the whole Church (*The Manual*, s. G 1.5.4.)

While each closure is unique, one of two scenarios plays out in most closures:

1. A functioning but struggling congregation feels it can no longer continue. This is the scenario envisioned in *The Manual*.
2. The Congregation has ceased to be a community; worship services have ceased for some time; many of the members have died or have moved away, etc.

CONSIDERATIONS FOR THE PRESBYTERY AND THE CONGREGATION

The closure of a church and disbanding a congregation can be likened to the death of a community. There are similar issues of grief including denial, anger, etc., so pastoral care for those making the change is vital. In most cases, the local ministry personnel should be responsible for this care, while others from Presbytery are able to assist in the responsibility for the closure process. Thus, the various feelings of members of a congregation during a closure do not fall on the local ministry personnel and that person can continue to offer pastoral care.

For rural communities, church closure is a concrete symbol of rural depopulation. If one family moves away or a farmer retires, that is noticed but it passes; but, when the school, the elevator, the store or church close, that is more noticeable and painful. Since it is locally controlled (unlike schools or hospitals) and not commercially based, the church, especially the United Church, is often the last part of a community's infrastructure to go. Thus, the fact of church closing often releases pent-up grief in the community.

In larger centres or cities, church closure is often just as difficult as in rural areas. Often the people who have supported the congregation, perhaps over a generation or more, feel strong ties with that worshiping community and what it has meant to the community it has served over the years. Grief over changing demographics and other cultural changes might get misdirected towards newer members and adherents, other volunteers and/or ministry personnel who 'aren't doing enough' to give the church stability and keep it going. Pastoral care is just as important in these situations.

Closure ranks with such things as calling ministry personnel or amalgamation, as a matter of some consequence. It is important, therefore, to have the involvement of Presbytery at an early stage.

Ideally, presbytery representatives selected should be sensitive to grief issues, while also having the process skills to see that the task is completed in good order. It is not essential that either of these people be ministry personnel and it may well be helpful to have at least one layperson on the team. The Presbytery should encourage congregations to make a motion to “cease worship” on a particular date but a motion to disband the congregation should be made to the presbytery after all the property issues have been dealt with and the assets disbursed.

If one point of a multi-point charge is considering closing, a representative from each point of the pastoral charge is needed since the charge will likely be affected by:

1. membership transfers
2. on-going pastoral care
3. the geographical area still being part of the ongoing pastoral charge’s ministry
4. reduced funding into the common pool
5. being offered property items including baptismal fonts, hymn boards, pews, pianos, kitchen furnishings, etc. which the continuing congregation(s) may or may not need.

In dealing with property, it is helpful early on to remind the congregation that the original donors gave funds for the United Church’s mission and ministry, so decisions about the disposal of such gifts need to be made with care. This consideration applies to the decisions to be made about the congregational property of all of the groups within the congregation, including the UCW. In addition, the wider church has supported each congregation by ministry personnel training, resource production and sometimes Mission Support funding, so the continuing mission of the United Church will be impacted by the decisions regarding the property.

Finally, it can be helpful to recall the mission to which the Church is called: Worship, Pastoral Care, Outreach, Christian Education, Social Justice, and more. If preserving a building that was formerly a church is important, then that needs to be ensured by some other entity now that it has closed.

It has been said that we make a place holy by what we do in it. When the time comes to mark the closing of a church building, the final worship service becomes a celebration of the Life that has been the church community and the Spirit that now leads the people on to further mission in other places.

Presbytery needs to ensure that if a church is sold or transferred to another group or entity it must cease to be associated with the United Church. A church building might continue to look like a church, but obvious markers, such as crosses and church signs, should be removed.

Presbytery representatives also need to alert the congregation that new owners might use the building for secular purposes of which not all approve. While the congregation/presbytery is able to choose the initial purchaser, it cannot control later purchasers or later uses. [See 5. c below for alternatives to consider at the time of sale.]

If a church building is to be removed or torn down, the church also needs to ensure that those doing the work are competent and insured, since, if either someone working on the demolition or some passerby was hurt, there could be legal liability to the church. The work must be completed and the site cleaned up, so the congregation/presbytery might require a deposit or bond by a contractor or the purchaser of the building to ensure this is done, if the church building is to be removed.

MANUAL REFERENCES

The rules of procedure are found in *The Manual*, s. G.1.5. the section should be read with care. Some other relevant sections are: B.1.1 (Congregation), B.3 (Membership and Other Participation in a Congregation), A.5 (Records).

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.

Please make sure your legal counsel is following *The United Church of Canada Act* and not some other legislation.

STEPS

- a) A meeting of the congregation must be called to adopt a resolution indicating its decision for the future. Such a decision should come only after there has been careful consideration given to viability, the ministry of the United Church in the area, possible shared ministry with another denomination, and other alternatives. As the pastoral relationship is affected by such a possible decision, a presbytery representative from outside the pastoral charge is required to attend and should be named by the presbytery.
- b) If the decision is to request the presbytery to disband the congregation, the secretary of the governing body should write to the presbytery, c/o the presbytery secretary, and provide the following

information: that a duly-called meeting of the Congregation was held, the purpose of the meeting, the date of the meeting, and the wording of the motion that was passed.

- c) In case of the congregation moving to amalgamation, the presbytery is also the authorizing body.
- d) When a congregation has ceased to exist, it is the responsibility of the Conference in consultation with the Presbytery to determine the disposition of assets. (*The Manual*, s. G.1.5.7).
[For further details see point c) under "Property" in this section.]

PRACTICAL MATTERS AND WHO TO CONTACT

Please refer to *Practical Matters and Who to Contact* under **STEPS PRECEDING the POSSIBLE AMALGAMATION of one or more CONGREGATIONS/PASTORAL CHARGES** p. 21.

MEMBERSHIP

The congregation needs to attend to its membership roll/Historic Roll [see *Definitions*]. The disbanding congregation should make every effort to ascertain the wishes of its members including those who are non-resident. Great care should be taken to be pastoral. This is particularly true in the case of persons for whom it is difficult or impossible to make a decision about membership, for example, persons in care homes. In such instances, the disbanding congregation should include other family members in decisions about future pastoral care.

Certificates of Membership are available from **UCRD** [see *Bibliography*] though an actual certificate is not required. A letter from the governing body and/or the Minister may be prepared with the relevant data instead of using the form.

- g) Members may be transferred to other congregations of their choice.
- h) Members may make a decision to transfer *en masse* to another congregation.
- i) If the member requests, he/she may be sent a Certificate of Membership, to present (within a reasonable period of time), to another congregation. If more than twelve (12) months have elapsed since the issue of the certificate, it may not be deemed current. [*The Manual*, s.B.3.6.2(d)].
- j) All those on the roll of membership who did not respond to your invitation to be transferred or who can no longer be located should be removed from the roll by an action of session (or its equivalent) and noted in the historic roll.

NOTE: The geographic area encompassing the congregation that is closing remains part of the ministry of the pastoral charge unless or

until the presbytery makes changes to the pastoral boundaries; so, pastoral care for that area is still part of the ministry of the continuing pastoral charge.

- k) All transfers or any other actions on membership should be carefully recorded in the *Historic Roll*, which, after the date of closing, should be deposited in the Conference Archives (*The Manual*, s. G. 1.5.6). [Note section 4, item (d) below regarding amalgamations.]

RECORDS

- a) The official records of the congregation (Registers of Baptism, Marriage and Burials; Historic Roll and/or any other Membership Rolls; Minutes of Session, Stewards, Congregation, Council, Official Board, Trustees, UCW and any other organization of the congregation) are the property of The United Church of Canada. Such records must be sorted and a list of them made and sent to the Conference Archivist at the Conference office. That person is able to advise on how to send these. It is not appropriate for such records to be held by an individual, nor is it appropriate to have them deposited in another archives. The presbytery should be informed that the transfer of documents has been completed with a list of relevant documents attached.
- b) Once all disbursements are complete, arrangements need to be made for the safekeeping of the financial records. Canada Revenue Agency (CRA) should be consulted with regard to its requirements for retention of records (normally no longer than seven (7) years) and for the filing of the final charitable status return and the revocation of charitable status number. Financial records are not normally kept at the Conference Archives. The Presbytery should be informed where these records will be retained.
- c) Payroll records, for congregations that have been part of the Pastoral Charge Payroll Service, are stored electronically by the payroll service provider, ADP, for seven years.
- d) 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 must be sent to the Presbytery and to Conference Archives giving details of this action.
- e) 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.
- f) 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 Office at the national office of the United Church. [See *Bibliography*.]

PROPERTY

Property owned by a congregation is made up of two parts: “**Congregational Property**” and “**Other Major Assets**” (*The Manual*, s. G. 2.1.1) and G.2.1.2. Congregational Property includes land, buildings, any other land rights, money, investments, furniture and equipment. Other Major Assets are to be determined by each Presbytery as to what ‘congregational property’, if any, has been deemed by Presbytery to be ‘other major assets.’

As previously stated, congregational property always includes the financial and other assets of all of the groups within the congregation, including the UCW.

- g) Since Presbytery must approve proposed actions related to church property (*The Manual*, s.G.2.3.2 (g)), the governing body needs to give its trustees instructions on all matters relating to disposition of the building and property. The trustees should be sure there is a clear title to the property (the original Certificate of Title is no longer required). It may be that when the congregation received a *Certificate of Title* to the land, some restrictions were placed on future disposal of the property. The congregation and presbytery should be assured that the property may be sold or otherwise transferred; and, that any sale value is firm before counting on the proceeds from sale as part of the financial resources for another project.
- h) The governing body needs to instruct the trustees to meet and act on the congregation’s decisions [*The Manual*, s. G/. 2.3.2.(c)]
- i) A decision about the future of the building and any other property is required. This is a necessary and critical step; it is difficult to make. It is not appropriate to delay a decision.

OPTIONS TO CONSIDER:

- **The building may be preserved.**

If the congregation is disbanding, and if the option to retain the building is chosen, arrangements need to be made for some other body to take ownership of the property and building. This may be another congregation, a local community group, the municipality, etc. If the property is not transferred out of the name of The United Church of Canada, it is The United Church of Canada that is responsible for any liability claim that might arise, and may be responsible for taxes should they be assessed. Unless there are long-term funds provided for building maintenance, the risk in this option is that ongoing responsibilities are forgotten and the building becomes a ruin. A building unheated will deteriorate.

It is a fallacy that having property designated as an historic site assists with the maintenance and upkeep of the property. Seldom are funds available for maintenance and upkeep. This designation restricts any future transactions. Pursuing this course of action is discouraged.

If there is a real desire to retain the building, it is usually best to seek a community group willing to accept transfer of title and willing to provide maintenance. Prior to seeking such a designation or transfer, the permission of presbytery must be sought and obtained.

- **The building and the land may be sold.**

[See section of this Handbook on Steps to be Followed in the Sale of Property for further information regarding this process.] Sometimes a museum is glad to get the building for transfer to its site; sometimes a person will take it down and reuse the lumber; some parcels of land have significant value. Now and then a church building is remodeled to serve as a family home or artisan's studio.

Prior to a time of sale, the congregation should consider which uses for the building the members can and cannot support.

The Manual, s. G. 2.2.4 notes some exceptions to policy with regard to sale of property. These exceptions are rare.

- **The building may be taken down.**

In such cases, the congregation may wish to provide for the erection of a marker (as many former rural schools have done). This will acknowledge a building that was home to a people in their years of worship and witness. Again, it is important to make sure that the *Certificate of Title* to the property is clear and allows for this. If the congregation is disbanding, it is necessary to transfer title to the property to another appropriate body or

individual. When the congregation disbands, so does the authority of the existing trustees.

- **The congregation may decide to do nothing.**

This is not a recommended option. Almost always, community/individual interest will wane over the years and the building finally falls apart in ruins. It is an option some congregations choose, but it is a sad way to see a building end. In cases of congregational inaction or dispute, the presbytery should name trustees to act around disposal of properties. *The Manual*, s. C.3.1.3 (b) and s. G.3 and the Trust of Model Deed.

Care should be taken that appropriate liability insurance is in place on any vacant property. When a congregation has ceased to exist there are no longer financial resources to provide for long term insurance. Persons injured on such property might have a claim against the registered owners.

If a building is to be demolished or sold, the congregation should make a complete inventory of contents and decide on their disposal. Some contents may go to neighbouring congregations, some will not be worth retaining, and some may be sold or auctioned or given to other churches. There is not usually a large market for the contents of a church building. Sometimes local families like to purchase church pews, or light fixtures, for example. NOTE: Contents with no financial value might be given to individuals or families; however, there are tax implications for any congregational property "of value".

In any case, a proposal for the disposal of the building contents should be developed by the people of the congregation. This will include the process to be used. The approval of presbytery must be obtained. The proceeds from the disposal of building contents will then be combined with the proceeds of the building sale and the remaining financial assets to become part of the final disposition of the assets of the congregation.

The Manual, s. G.1.5.4 requires that proceeds from the sale of congregational property must be used for the mission of the congregation or the wider United Church. The congregation should consult with either the presbytery or the conference to determine how this requirement applies to a particular set of circumstances.

CELEBRATION FROM DEATH TO LIFE

- **The disposition letter to Presbytery**

Among the final acts of a congregation that is about to be disbanded is the drafting of the proposal of disposition of the remaining assets. It's helpful to consider this task as akin to drafting one's will. The local church community may be experiencing a death, of sorts, but in providing for the life of the wider Church to go on – through bequeathing financial and material resources – the heritage born of years of service is able to continue.

Even for churches that have very few financial resources available at the end, the congregation that is able to use what it has to see the building sold or moved off-site and the remaining site leveled is exercising stewardship by freeing the Presbytery from having to take on this task. Here are some questions to consider in drafting the letter to Presbytery:

In the course of its life, what areas of the mission of The United Church of Canada did this congregation support?

How could we honour the legacy given to us by the generations before? (Church camps, Regina or Saskatoon Hospital Chaplaincy, River Bend Integrated Community Ministries, Regina Anti-Poverty Ministry, St. Andrew's College and ministries of the All Native Circle Conference are but a few ministries).

In Saskatchewan Conference, every congregation has benefited from the Mission & Service Fund, as it has funded in great part the training of ministers who've served them over the years. For this reason, Saskatchewan Conference requires that, when proceeds exceed \$5,000 (five thousand dollars) in the matter of church closing, a minimum of 10% be designated for The Mission & Service Fund.

If many of the congregation's members are soon to be served through the remaining congregation(s) of the pastoral charge or by one of the neighbouring pastoral charges, a choice to donate money or other assets to that church is appreciated.

As there will always be some smaller amounts of money that emerge when a congregation closes (e.g. churches financial accounts at credit unions have often built up 'member dividends' unknown until the time of closing the account), it is wise that a

phrase such as “all remaining funds, after the bequests listed above, to be given to _____.”

[See Charitable Status and Giving Gifts earlier in this Handbook concerning ‘qualified donees’.]

- **Tangible souvenirs**

A photo album of the building and congregational activities might be prepared and later placed in the Conference Archives. Make sure that all photographs are clearly and carefully labeled to identify people, places, dates, etc. Otherwise they are of little use for future historians. Please be aware that black and white photographs also have a much longer life than colour ones. Further information about conserving documents/photos is available through the Conference Archivist. *See Bibliography/Resources.]*

- **Service of Worship**

Normally, a service of praise is held in which the years of the congregation’s worship and witness are honoured. This is an appropriate way to mark the closing of a congregation. Former members and friends, as well as former ministers, might be invited to this service. A well-planned service helps to mark the closing with thanksgiving and joy for service given, as well as to acknowledge the real pain of having to close.

Just as the Presbytery was involved in the service of worship that constituted the congregation years ago, the Presbytery is responsible for helping to plan and conduct this service. Several worship resources for this kind of service are available through the Presbytery.

Photos from the day’s events (which typically include a time of refreshments or a pot-luck meal) are special mementos of the event; and, a digital, DVD or other recording of such a service might be made for interested individuals and a copy stored in the Conference Archives.

If the Historic Roll of Membership, Marriage, Baptism & Burial Register and other historic items are to be used in the service (e.g. in having a representative of the congregation pass them to a Presbytery representative for transfer to Archives after the service of celebration), the Presbytery needs to ensure these items are transferred to the Conference Archives.

STEPS TO BE FOLLOWED IN THE SALE ON PROPERTY

MANUAL REFERENCES

The procedures to be followed in the sale of property are found in *The Manual*, s. G.2.3.2. The *Trusts of Model Deed*, Section 6. available in electronic form on the United Church website (www.united-church.ca) may be helpful in understanding the role of the Trustees and the involvement of Presbytery in property matters.

BACKGROUND

The Congregational Board of Trustees Handbook (2004) indicates at page 45 that Title should be held by named individuals, being all of the Trustees of the congregation. In Saskatchewan, where the land registration system does not currently permit describing owners as Trustees, the transfer of property from one owner to the next would be in favour of all of the Trustees of the congregation.

Historically, however, there was little consistency in the land titles system in Saskatchewan as to how congregational property owned by The United Church of Canada was registered. There are certain instances in which Title is owned as recommended above; however, the following are further examples of the different ways that United Church ownership has been reflected on Titles: United Church of Canada

The United Church of Canada

The Congregation of the United Church of Canada

The Congregation of the United Church of Canada at Pleasantville

The Pleasantville Congregation of the United Church of Canada

Pleasantville Congregation of the United Church of Canada

The Trustees of the Pleasant Congregation of The United Church of Canada

The Trustees of the United Church of Canada

It is also possible that ownership may be reflected in some other way which is a derivative from the above examples.

In any case, the Transfer Authorization which is required by the Information Services Corporation (ISC) must be identical in its description of the owner to what appears on the original Title to the property.

If the property is in the name of Trustees as recommended in the Congregational Board of Trustees Handbook, then the property can be transferred to the current Trustees by a Transfer Authorization executed by each of a majority of the Trustees.

However, the best legal advice is that a congregation need not incur the expense of updating the Title to the property each time any of the Trustees changes. If the property is in the names of Trustees it can be transferred to a purchaser without transferring Title to the property to the current Trustees first. That is because a majority of the existing Trustees have the authority to sign the Transfer Authorization as required to transfer the property to the purchaser.

The same procedure applies where the Title to the property makes any reference to the congregation or the Trustees.

This process in each case also requires:

- a Certificate of the Secretary or Clerk of the Presbytery indicating that the required Consent of the Presbytery is given, and,
- a Certificate of the Minister in charge of the congregation certifying that the persons who signed the Transfer Authorization are the Trustees for the congregation. In the absence of the minister, such Certificate may be signed by the Secretary or Clerk of the Presbytery. However, the Consent by Presbytery (or Conference) will still be required. [See Appendix B below.]

Only two transfer situations require signatures by General Council Office staff; namely, if the property is in the name of *United Church of Canada* or *The United Church of Canada*, then the Transfer Authorization requires two (2) signing authorities on behalf of The United Church of Canada and the document must be sent to the offices of the United Church in Toronto where the corporate seal of the United Church will also be affixed. [See *Bibliography for address.*] The United Church in Toronto will require a copy of the Presbytery approval/consent at the same time.

Contact the Saskatchewan Conference Office or seek advice from legal counsel in regards to particular situations.

STEPS

- a) A meeting of the congregation or Board or Council must be called to instruct the Board of Trustees regarding its wishes in the sale of the property in question (*The Manual*, s.G.2.3.2 (c)).
- b) When a decision has been made to proceed, the Board of Trustees must be called to meet, having been given at least seven days' notice, at which meeting a resolution(s) must be passed setting out the decision to list the property for sale. The resolution(s) must include the following points of information:
 - the legal description of congregational property
 - the asking price for the property and any costs related to the sale
 - the terms of payment
 - the intended use of the proceeds
- In a situation of the congregation having ceased to exist or when an amalgamation has created surplus property, *The Manual*, s. D. 2.11 comes into play.
- c) A certified copy of the resolution and a copy of the Title must be sent to the Secretary of Presbytery. The resolution must be accompanied by a Certificate of Trustees asking consent of Presbytery, and must be signed by the Chairperson and Secretary of Trustees. [See Appendix A.]
- d) The Trustees must provide Presbytery with all relevant information and documents requested.
- e) The wording of Presbytery motions/proposals which are considered in relation to the approval of the sale of congregational property must be identical in all respects to the Title to the property.
- f) After receiving the consent of Presbytery or its Executive, the Trustees may proceed with the sale of the property

TRUSTS

By the terms of church union in 1925, *all congregational property* is held in trust for The United Church of Canada. For this reason, it is necessary to have the approval of the Presbytery in all matters relating to property, including the sale of property.

The polity of the United Church states in cases of congregations ceasing to exist, the disposal of any assets should be to existing or future ministries of The United Church of Canada. Congregations and presbyteries are encouraged to designate a portion of these funds to the Mission and Service Fund; and, in Saskatchewan Conference, if assets exceed \$5,000 (five thousand dollars), a minimum of 10% needs to be designated for the Mission and Service Fund. You will need to check with

your Presbytery to determine any additional recommendations it might have.

[See Charitable Status and Giving Gifts earlier in this Handbook concerning 'qualified donees'.]

MINERAL RIGHTS

When the title to the property includes mineral rights, a decision must be made to sell or transfer them. If not included in the sale, they must be transferred to an appropriate continuing body of The United Church of Canada, such as a pastoral charge, presbytery, or conference. Saskatchewan Conference recommends strongly that the mineral rights be sold with the property.

A congregation that has disbanded or has ceased to exist cannot retain mineral rights.

Appendix A

Certificate of Trustees Asking Consent of Presbytery

*This document is provided as a template to be used by the trustees of a congregation at the time of certain congregational property transactions; specifically, those asking consent of the presbytery for the property's **listing, sale, purchase, mortgage** or **lease**.*

By following this format, trustees will meet the requirements of section G.2.3 of The Manual of The United Church of Canada. This form may be adapted to suit local circumstances and, where the document is to be registered with INFORMATION SERVICES CORPORATION (ISC) of the province of Saskatchewan (formerly Saskatchewan Land Titles), to satisfy the requirements of ISC.

It is also recommended that pre-approval from ISC be obtained.

To obtain a WORD version of this document to assist in adapting the Certificate of Trustees, contact the Saskatchewan Conference Office (addresses on the last page of this Handbook.

IN THE MATTER OF [legal description of the property]; and,

IN THE MATTER OF THE [type of transaction] from [party] to [party].

Certificate of Trustees Asking Consent of Presbytery

The United Church of Canada Act, 1925

The Manual , section G 2.3.

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 as it appears on the title]*, a congregation of The United Church of Canada and part of the *[full name of the pastoral charge]* Pastoral Charge, at a meeting of the Board of Trustees duly held for that purpose at *[place of meeting]*, on the *[day]* of *[month]*, *[year]*.

“Moved by *[full name of mover]*, seconded by *[full name of seconder]*, that the trustees of *[full name of pastoral charge]* Pastoral Charge, having received the direction of the *[governing body]* of the said pastoral charge to do so, request the consent of *[name of presbytery]* Presbytery:

(1) To the *[type of transaction]* of certain congregational property, the legal description of which is *[legal description of congregational property]* and the municipal address of which is *[municipal address of congregational property]*, pursuant to an agreement between the Board of Trustees of *[full name of congregation as it appears on the title]*, a congregation of The United Church of Canada, as *[capacity]*, and *[other party]*, as *[capacity]*, dated the *[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, the asking price, the proposed possession date]*

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

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

*[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 premises, fixtures and chattels, rental, commencement date, term, responsibility for taxes, insurance, early termination, renewals, options]*

(2) *[in the case of transactions generating proceeds]* to the following disposition of the proceeds arising from the transaction *[disposition of proceeds]*”

And in pursuance of the said resolution, we hereby apply to *[name of presbytery]* Presbytery for the consent to the *[type of transaction]*.

Dated this *[day]* of *[month]*, *[year]*.

[full name of presiding trustee], Presiding Trustee

[full name of secretary], Secretary

Appendix B

CERTIFICATE WHERE THE EXISTING TRUSTEES ARE NOT THE TRUSTEES IN WHOSE NAMES THE TITLE TO THE PROPERTY STANDS IN INFORMATION SERVICES CORPORATION, SASKATCHEWAN

CERTIFICATE OF SUPERVISOR/MINISTER

In the matter of a sale by the trustees of _____ congregation of the United Church of Canada at _____, Saskatchewan; of:

[legal description of property] Block # _____ Plan _____, Saskatchewan
 known civically as _____ -
 for the sum of _____ (\$ _____)
 dollars to:
 _____ [and _____] of _____, Saskatchewan

I, _____ of _____, Saskatchewan, a minister within the United Church of Canada, do hereby certify, pursuant to section 20(2) of the United Church Act 1924 Saskatchewan, as follows:

1. That I am the minister of religion responsible for the _____ pastoral charge/congregation of the United Church of Canada at _____, Saskatchewan.
2. That the following is a complete list of the trustees of _____ congregation of the United Church of Canada at _____, Saskatchewan: *[add additional lines as needed]*

Full Name	Completed Address	Province, Postal Code

3. That the said trustees are the parties named in the transfer herein and did execute same.
4. That the said trustees were/are trustees of the said _____ Congregation and there were no other trustees of the said congregation on the ____ day of _____, the date of the transfer herein.

Signed in the presence of

Authorized Witness

Minister

Bibliography & Other Resources

The Manual 2013

This, the 36th edition of *The Manual*, contains 254 pages. It differs from previous editions, as it has entirely new section numbers and is written in plain language.

A pdf (Adobe Acrobat) version of *The Manual* is available for use at any time through The United Church of Canada's website:

www.united-church.ca.

The Manual may also be downloaded to your computer [*memory requirement: 1.3 MB*]; alternatively, the full document may be printed through your (or a commercial) printer [*no copyright restrictions*].

The Manual may also be purchased through United Church Resource Distribution (UCRD) [*see contact information below*].

Congregational Board of Trustees Handbook/Manual 2013

This handbook (the 2013 version being the most recent) is available online, in pdf format, at no charge: <http://www.united-church.ca/files/handbooks/congregational-board-trustees.pdf>

The booklet is 72 pages long, the first two of which offer a concordance to bridge the *Trustees Handbook* to *The Manual 2013*. Pages 4-8 contain an extensive checklist for the steps in amalgamation.

Financial Handbook for Congregations (2010)

An invaluable resource (222 pages) for all aspects of the financial operations of the local church. Go to www.united-church.ca and type the title in the search window.

Two additional resources are available for purchase from UCRD:

Greening the Church: Reducing Your Church Building's Ecological Footprint

[http://www.ucrdstore.ca/catalogsearch/result/?q=Greening 5](http://www.ucrdstore.ca/catalogsearch/result/?q=Greening+5)

Godspace: Guidelines for Architecture in The United Church of Canada, Second Edition, 2008

<http://www.ucrdstore.ca/catalogsearch/result/?q=Godspace>

United Church Resource Distribution (UCRD)

Website	www.ucrdstore.ca
E-mail	ucrd@united-church.ca
Toll-free Phone	1-800-288-7365
Canada Post Address	3250 Bloor St. West, Suite 300 TORONTO, ON M8X 2Y4

Useful Addresses (with links to Property)

The United Church of Canada: www.united-church.ca

Saskatchewan Conference: www.sk.united-church.ca

Canada Revenue Agency – Charities Directorate: www.cra-arc.gc.ca/charities
Client Services (General Enquiries) phone: 1-800-267-2384

Information Services Corporation (formerly Saskatchewan Land Titles):
www.isc.ca or phone 1-866-275-4721

Other Email Addresses

Saskatchewan Conference	ucskco@skconf.ca
Executive Secretary	Bill Doyle bdoyle@skconf.ca
Conference Archivist	Madeleine McLuhan-Myers mmcluhan-myers@skconf.ca
Conference Personnel Minister	Elizabeth (“Liz”) Mackenzie emackenzie@skconf.ca

THIS HANDBOOK may be accessed on the Saskatchewan Conference website by using the SEARCH window (top right of home page) and typing either: [Church Property Matters](#) or [Property Handbook](#) ; or, using the same home page, through the following links: [RESOURCES](#), [POLICIES/GUIDELINES](#), [Church Property Matters \(Property Handbook\)](#).