



The Presbytery of Western North Carolina

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***IF YOU ARE CONTEMPLATING ANY PROPERTY ISSUE,
CALL THE PRESBYTERY OFFICE FIRST.***

TO: The Moderators of All Sessions and Clerks of Session
FROM: Bert Sigmon, Stated Clerk
DATE: March 28, 2014
SUBJECT: Property in the Presbyterian Church (USA)

It has been my pleasure, over the last four years, to meet with the Clerks of Session in several meetings held throughout our Presbytery. As we reviewed Session minutes, we also dealt with several questions about various sections of the *Book of Order* (Part II of the PCUSA Constitution).

One question that regularly came up concerned property in our denomination. What follows is what I replied to those Clerks, which I thought might be of interest to a wider audience.

The essential point is this: A congregation owns its property, but that property is held in trust for the denomination.

Attached is a copy of Chapter Four, “The Church and Civil Authority” from the current *Book of Order* of the PCUSA [Exhibit A]. The key provision states that “**All property held by or for a particular church [i.e. congregation] . . . is held in trust nevertheless for the use and benefit of the Presbyterian Church (USA)**” (G-4.0203)

Your congregation holds its property in trust for the PCUSA. The above provision clearly means that no congregation can remove its property from the PCUSA without the consent of its Presbytery.

At the end of Chapter Four, of the PCUSA *Book of Order*, is a section entitled, “Exceptions” (G-4.0208). If your congregation was a member of the Presbyterian Church in the United States (PCUS) - - popularly known as the “Southern Presbyterian Church” - - before the 1983 reunion, and if your congregation duly voted before 1991 to take advantage of this Exceptions paragraph, then your congregation is governed by the provisions in Chapter 6, “Church Property” from the 1983 PCUS *Book of Church Order* [Exhibit B], when they differ from the provisions in Chapter Four of the PCUSA *Book of Order* [Exhibit A].

The main difference is this: Compare Section 5 of Chapter VIII in the PCUSA book (G-4.0206 & G-4.-207) [Exhibit A] with Section 6-8 of Chapter 6 in the PCUS book [Exhibit B]. Those congregations which could, and did, vote for the exception in G-4.0208 do not have to obtain Presbytery’s approval to buy, sell, lease or mortgage their property.

There is also one clear similarity in both documents, Section 6-3 of the PCUS book states: “**All property held by or for a particular church [i.e. congregation] . . . is held in trust nevertheless for the use and benefit of the Presbyterian Church in the United States**” (and the PCUSA is the legal successor of the PCUS). So, there is no difference here between the two property chapters.

Presbytery has compiled a list of all its eligible congregations that voted before 1991 to take advantage of the Exceptions paragraph, a copy of which is attached.

CHAPTER FOUR

THE CHURCH AND CIVIL AUTHORITY

G-4.01 INCORPORATION AND TRUSTEES

G-4.0101 Incorporation and Power

Where permitted by civil law, each congregation shall cause a corporation to be formed and maintained. If incorporation is not permitted, individual trustees shall be elected by the congregation. Any such individual trustees shall be elected from the congregation's members in the same manner as those elected to the ordered ministries of deacon and ruling elder. Terms of service shall be governed by the provisions of G-2.0404.

The corporation so formed, or the individual trustees, shall have the following powers: to receive, hold, encumber, manage, and transfer property, real or personal, for the congregation, provided that in buying, selling, and mortgaging real property, the trustees shall act only after the approval of the congregation, granted in a duly constituted meeting; to accept and execute deeds of title to such property; to hold and defend title to such property; to manage any permanent special funds for the furtherance of the purposes of the congregation, all subject to the authority of the session and under the provisions of the Constitution of the Presbyterian Church (U.S.A.). The powers and duties of the trustees shall not infringe upon the powers and duties of the session or the board of deacons.

Where permitted by civil law, each presbytery, synod, and the General Assembly shall cause a corporation to be formed and maintained and shall determine a method to constitute the board of trustees by its own rule. The corporation so formed, or individual trustees, shall have the following powers: to receive, hold, encumber, manage, and transfer property, real or personal, for and at the direction of the council.

G-4.0102 Members of the Corporation

Only persons eligible for membership in the congregation or council shall be eligible to be members of the corporation and to be elected as trustees. The ruling elders on the session of a congregation, who are eligible under the civil law, shall be the trustees of the corporation, unless the corporation shall determine another method for electing its trustees. Presbyteries, synods, and the General Assembly shall provide by rule for the election of trustees from among persons eligible for membership in the council.

G-4.02 CHURCH PROPERTY

G-4.0201 Property as a Tool for Mission

The property of the Presbyterian Church (U.S.A.), of its councils and entities, and of its congregations, is a tool for the accomplishment of the mission of Jesus Christ in

G-4.0202 Decisions Concerning Property

The provisions of this Constitution prescribing the manner in which decisions are made, reviewed, and corrected within this church are applicable to all matters pertaining to property.

G-4.0203 Church Property Held in Trust

All property held by or for a congregation, a presbytery, a synod, the General Assembly, or the Presbyterian Church (U.S.A.), whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, and whether the property is used in programs of a congregation or of a higher council or retained for the production of income, is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.).

G-4.0204 Property Used Contrary to the Constitution

Whenever property of, or held for, a congregation of the Presbyterian Church (U.S.A.) ceases to be used by that congregation as a congregation of the Presbyterian Church (U.S.A.) in accordance with this Constitution, such property shall be held, used, applied, transferred, or sold as provided by the presbytery.

G-4.0205 Property of a Dissolved or Extinct Congregation

Whenever a congregation is formally dissolved by the presbytery, or has become extinct by reason of the dispersal of its members, the abandonment of its work, or other cause, such property as it may have shall be held, used, and applied for such uses, purposes, and trusts as the presbytery may direct, limit, and appoint, or such property may be sold or disposed of as the presbytery may direct, in conformity with the Constitution of the Presbyterian Church (U.S.A.).

G-4.0206 Selling, Encumbering, or Leasing Church Property

a. Selling or Encumbering Congregational Property

A congregation shall not sell, mortgage, or otherwise encumber any of its real property and it shall not acquire real property

subject to an encumbrance or condition without the written permission of the presbytery transmitted through the session of the congregation.

b. Leasing Congregational Property

A congregation shall not lease its real property used for purposes of worship, or lease for more than five years any of its other real property, without the written permission of the presbytery transmitted through the session of the congregation.

G-4.0207 Property of Congregation in Schism

The relationship to the Presbyterian Church (U.S.A.) of a congregation can be severed only by constitutional action on the part of the presbytery (G-3.0303b). If there is a schism within the membership of a congregation and the presbytery is unable to effect a reconciliation or a division into separate congregations within the Presbyterian Church (U.S.A.), the presbytery shall determine if one of the factions is entitled to the property because it is identified by the presbytery as the true church within the Presbyterian Church (U.S.A.). This determination does not depend upon which faction received the majority vote within the congregation at the time of the schism.

G-4.0208 Exceptions

The provisions of this chapter shall apply to all congregations of the Presbyterian Church (U.S.A.) except that any congregation which was not subject to a similar provision of the constitution of the church of which it was a part, prior to the reunion of the Presbyterian Church in the United States and The United Presbyterian Church in the United States of America to form the Presbyterian Church (U.S.A.), has been excused from that provision of this chapter if the congregation, within a period of eight years following the establishment of the Presbyterian Church (U.S.A.), voted to be exempt from such provision in a regularly called meeting and thereafter notified the presbytery of which it was a constituent congregation of such vote. The congregation voting to be so exempt shall hold title to its property and exercise its privileges of incorporation and property ownership under the provisions of the Constitution to which it was subject immediately prior to the establishment of the Presbyterian Church (U.S.A.). This paragraph may not be amended (G-6.05).

BOOK OF CHURCH ORDER
1982-83*Church Property*

- §6-1. If a particular church is not incorporated, it may, at a regularly constituted congregational meeting, elect certain of its confirmed members as trustees, to hold title to property in trust for the benefit of the particular church and of the Presbyterian Church in the United States. The trustees have power and authority to buy, sell or mortgage property for the church, to accept and execute deeds and to manage any permanent special funds entrusted to them for church purposes. In buying, selling or mortgaging real property, the trustees shall act under the instructions of the congregation adopted in a regularly constituted meeting. Their powers and duties cannot infringe upon the powers or duties of the Session or the Board of Deacons. The trustees do not hold title to personal property or have responsibility for it except to the extent expressly given to them.
- §6-2. If a particular church is incorporated, the provisions of its charter and bylaws must be in accord with the Constitution of the Presbyterian Church in the United States. All of its confirmed members on the active roll are members of the corporation. The officers of the corporation, by whatever name they are given, shall be elected from the confirmed members of the corporation in a regularly constituted congregational meeting. The officers of the corporation may be given any or all of the following responsibilities: holding title to church property for the benefit of the corporation and the Presbyterian Church in the United States; acquiring and conveying title to the property; buying, selling and mortgaging the property of the church; and managing any permanent special funds entrusted to them for church purposes. In buying, selling and mortgaging real property, the officers shall act under the authority of the corporation granted in a duly constituted meeting of the corporation. Powers and duties of the officers cannot infringe upon the powers and duties of the Session or the Board of Deacons, who maintain control and disbursement of all funds collected for the support and expense of the church and for the benevolent purposes of the church.
- §6-3. All property held by or for a particular church, whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, and whether the property is used in programs of the particular church or retained for the production of income, is held in trust nevertheless for the use and benefit of the Presbyterian Church in the United States.
- §6-4. If a particular church is dissolved by the Presbytery, attempts by either majority or unanimous vote to withdraw from the Presbyterian Church in the United States or otherwise ceases to exist or function as a member of the Presbyterian Church in the United States, any property that it may have shall be within the control of the Presbytery and may be held for designated purposes or sold or disposed of in such manner as the Presbytery, in its discretion, may direct.

- §6-5. The relationship to the Presbyterian Church in the United States of a particular church can be severed only by constitutional action on the part of the Presbytery (4-2). If there is a schism within the membership of a particular church and the Presbytery is unable to effect a reconciliation or a division into separate churches within the Presbyterian Church in the United States (see 16-7), the Presbytery shall determine if one of the factions is entitled to the property because it is identified by the Presbytery as the true church within the Presbyterian Church in the United States. This determination does not depend upon which faction received the majority vote within the particular church at the time of the schism.
- §6-6. Nothing in this chapter shall be construed to render a particular church, church court, or its property liable for the debt or obligations of any other church court.
- §6-7. Nothing in this chapter shall be construed to limit the power of Presbytery to receive and dismiss churches with their property, provided such requests are made in proper order.
- §6-8. Nothing in this chapter shall be construed to require a particular church to seek or obtain the consent or approval of any church court above the level of the particular church in order to buy, sell or mortgage the property of that particular church in the conduct of its affairs as a church of the PCUS.
- §6-9. The provisions of 14-5 and 14-6, and of other sections in this Constitution setting forth the manner in which decisions are made, reviewed and corrected within the Presbyterian Church in the United States, are applicable to all matters relating to property.
- §6-10. This Chapter is declaratory of principles to which the Presbyterian Church in the United States and its antecedent church bodies have adhered from the inception of the presbyterian form of church government.

11/05/91

C:CHPROPEX.REQ

PRESBYTERY OF WESTERN NORTH CAROLINA
 CHURCH PROPERTY EXEMPTION REQUESTS
 UNDER BOOK OF ORDER PROVISION G-8.0701

	<u>Presbytery Minutes</u>	<u>Congregational Meeting Date</u>
Arbor Dale.....	.04/24/90 pp. 6	03/18/90
Asheville First.....	.01/19/91 pp. 7	11/11/90
Banner Elk.....	.02/12/88 pp. 73	11/15/87
Beech.....	.07/21/90 pp. 5	04/29/90
Belmont First.....	.06/17/88 pp. 36	03/25/88
Bessemer City First.....	.04/10/84 pp. 156	01/29/84
Black Mountain.....	.01/24/84 pp. 47	09/18/83
Bostic.....	.10/11/88 pp. 58	07/24/88
Brevard-Davidson River.....	.04/13/85 pp. 55	03/10/85
Brittain.....	.06/20/86 pp. 154	06/08/86
Brittains Cove.....	.07/12/86 pp. 43	06/29/86
Bryson City.....	.04/09/88 pp. 62	02/28/88
Canton.....	.07/10/84 pp. 52	06/10/84
Clinchfield.....	.04/24/90 pp. 6	11/04/84
Columbus.....	.04/24/90 pp. 6	07/24/83
Conley Memorial.....	.07/21/90 pp. 5	12/09/84
Crossnore.....	.04/10/84 pp. 156	Not reported
Cullowhee.....	.01/19/91 pp. 7	04/08/90
Dallas.....	.01/19/91 pp. 7	10/14/90
Dulatown Memorial.....	.07/21/90 pp. 5	04/08/90
Duncan's Creek.....	.02/12/88 pp. 73	01/17/88
Ellenboro.....	.07/21/90 pp. 5	06/17/90
Etowah.....	.10/09/84 pp. 65	09/23/84
Fairview Lenoir.....	.04/24/90 pp. 6	03/25/90
Forest City First.....	.07/21/90 pp. 5	04/29/90
Franklin First.....	.07/21/90 pp. 5	04/10/90
Gastonia First.....	.01/19/91 pp. 7	10/28/90
Grassy Creek.....	.02/13/87 pp. 46	02/01/87
Green Mountain.....	.01/19/91 pp. 7	01/13/91
Hayesville.....	.04/13/85 pp. 55	02/18/84
Hendersonville First.....	.01/28/86 pp. 45	11/13/85
Hepzibah.....	.01/20/84 pp. 53	11/06/83
Hickory First.....	.04/24/90 pp. 6	03/17/85
Highlands First.....	.07/10/84 pp. 51	06/24/84
John Knox.....	.10/1-2/90 pp. 5	09/23/90
Kings Mountain First.....	.10/09/84 pp. 386	06/10/84
Lenoir First.....	.04/24/90 pp. 6	06/10/84
Lincolnton First.....	.07/21/90 pp. 5	04/29/90
Long Creek.....	.04/24/90 pp. 6	03/18/90
Lowell.....	.07/21/90 pp. 5	05/20/90
Marion First.....	.10/09/84 pp. 386	06/24/84
Marshall.....	.07/21/90 pp. 5	05/20/90
McDowell.....	.10/09/84 pp. 386	09/09/84
Mills River.....	.07/21/90 pp. 5	05/06/90
Montreat.....	.07/21/90 pp. 5	05/06/90
Morganton First.....	.04/24/90 pp. 6	03/20/90
Morrison.....	.04/24/90 pp. 6	09/21/87
Mount Holly.....	.10/09/84 pp. 386	06/24/84
Murphy.....	.01/20/90 pp. 4	11/19/89
New Hope Gastonia.....	.04/24/90 pp. 6	09/25/88
Newton, First.....	.04/23/91 pp. 7	04/14/91
Northminster.....	.07/21/90 pp. 5	05/20/90
Oak Forest.....	.10/1-2/90 pp. 5	06/24/90

	<u>Presbytery Minutes</u>	<u>Meeting Date</u>
Oakwood.....	10/14/86 pp. 248	06/22/86
Old Fort.....	02/12/88 pp. 73	10/25/87
Olney.....	07/21/90 pp. 5	05/13/90
Paint Gap.....	04/23/91 pp. 7	01/20/91
Quaker Meadows.....	10/1-2/90 pp. 5	06/03/90
Reems Creek.....	04/24/90 pp. 6	03/25/90
Riceville.....	04/13/86 pp. 56	11/04/84
Robinson Memorial.....	07/21/90 pp. 6	07/08/90
Saluda.....	04/24/90 pp. 6	04/01/90
Sherril's Ford.....	07/21/90 pp. 6	04/29/90
Siloam.....	01/20/84 pp. 53	12/04/83
Spindale.....	07/21/90 pp. 6	06/17/90
Swannanoa First.....	07/13/85 pp. 38	05/05/85
Sweetwater.....	04/24/90 pp. 6	10/28/84
Sylva First.....	04/09/88 pp. 63	05/06/84
Union.....	06/19/87 pp. 279	03/29/87
United.....	10/14/86 pp. 248	11/03/85
Unity.....	10/1-2/90 pp. 5	06/24/90
Vians Valley.....	04/23/91 pp. 7	01/20/91
Waldensian Valdese.....	04/24/90 pp. 6	03/25/90
Walnut Grove.....	02/14/86 pp. 50	11/12/85
Waynesville First.....	04/24/90 pp. 6	10/05/86
West Asheville.....	04/24/90 pp. 6	04/01/90
West Avenue.....	06/15/84 pp. 264	04/29/84

Spruce Pine First..... 1/26/85 pp. 54

09/02/84