

Congregational Support Commission:

Congregational Property Transactions

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**HFRC**  
HORSESHOE FALLS  
REGIONAL COUNCIL

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## Understanding What it Means to Hold Property in Trust

According to the Trustees Handbook: Congregational property is held by Trustees; they have the title. The term “congregational Property” means any kind of property that a congregation might own. It includes:

- a) land;
- b) buildings;
- c) any other land rights;
- d) money;
- e) investments;
- f) furniture; and
- g) equipment. (Manual 2019 G.2.2.2)

The Trustees hold the property for the use and benefit of the congregation as part of the United Church. **The Trustees must follow the lawful directions of the Official Board or Church Board or Church Council. The Trustees cannot deal with certain property without first obtaining the consent of the Regional Council.** Where an organized congregation ceases to exist, the Regional Council determines how the property is to be used. This method for holding property was legally instituted as part of the formation of the United Church of Canada and was established through Federal legislation.

Spiritually, holding property in trust reminds us that we are bound together by the Holy Spirit and connected with the “great cloud of witnesses” (Heb. 12:1) who came before us, and those who will follow us. We do not possess the resources of the church as individuals or congregations. Instead we are stewards of these gifts that have been given and dedicated to the ministry we share as members of the United Church of Canada. Often this represents a legacy that has been passed forward through the generations and into our care. Trustees are literally entrusted with the care and good management of the congregation’s assets and property.

Consequently, decisions about the use of Church property are made in consultation with the wider church, and in keeping with the Model Trust Deed, The United Church Manual and Regional Council policies to ensure that gifts given for the ministry of the United Church continue to be used for this purpose.

### Definitions:

There are two groups of property. “Real property” includes the land, building, and anything attached to the land or building. “Personal Property” includes any object not attached (pews, chairs, tables, computers, etc.) Some Personal Property is considered a Major Asset based on the [property policy](#) of each regional council.

## Horseshoe Falls Regional Council Property Policy

The regional council understands itself in partnership with the local congregation and with the wider United Church of Canada in the fulfillment of its responsibilities concerning the real and personal property of congregations. The regional council will communicate its policy clearly and be available for consultation and discussion with congregations when they are making decisions in co-operation with the regional council.

### Major Assets (Personal Property)

A community of Faith must consult with the Regional Council Congregational Support Commission and receive consent to acquire, sell, mortgage, exchange, lease, or otherwise deal with a Major Asset of the community of faith.

A major asset is defined as any item or group of items with an accrued or evaluated value that is equal to, or greater than, either 50% of the net revenue of the community of faith (as calculated for assessment purposes for the previous calendar year) OR \$150,000, whichever is lower.

For example:

- 1) The previous year, Congregation A had a net income for assessment purposes of \$200,000.

$$50\% \text{ of } 200,000 = 100,000$$

In this situation, any asset with a value greater than \$100,000 is considered a Major Asset for this community of faith.

- 2) The previous year, Congregation B has a net income for assessment purposes of \$500,000

$$50\% \text{ of } 500,000 = 250,000$$

In this situation, any asset with a value greater than \$200,000 is considered a Major Asset for this community of faith. Decisions regarding a major asset require consultation with the Horseshoe Falls Congregational Support Commission.

## Major Renovations

A community of faith must consult with the Regional Council Congregational Support Commission and receive consent to erect, enlarge, demolish, rebuild, or effect “major renovations” to any building held or to be held for any community of faith

Horseshoe Falls Regional Council defines “major renovations” as any repair, work, addition, upgrade or capital improvement or like project to the real property of a congregation or pastoral charge estimated or expected to cost the lower of 50% of net revenue used for assessment purposes for the prior calendar year or \$200,000.00 or more, with all costs in, including without limitation applicable taxes, design, permits, project management and commissions.

- 1) The previous year, Congregation A had a net income for assessment purposes of \$200,000.

$$50\% \text{ of } 200,000 = 100,000$$

In this situation any renovations to property with an expected cost (including applicable taxes, design costs, permits, project management fee and commissions) of \$100,000 or more is considered a Major Renovation.

- 2) The previous year, Congregation B has a net income for assessment purposes of \$500,000

$$50\% \text{ of } 500,000 = 250,000$$

In this situation any renovations to property with an expected cost (including applicable taxes, design costs, permits, project management fee and commissions) of \$200,000 or more is considered a Major Renovation. Decisions regarding a major renovation require consultation with the Horseshoe Falls Congregational Support Commission.

## Sale of Real Property

When a community of faith has received consent to sell property, Horseshoe Falls Regional Council will normally request that the net proceeds from the sale of real property be held as a restricted fund. The community of faith will have access to the interest available from the investment without requiring regional council approval. At any time the community of faith can submit a proposal to the Congregational Support Commission to use a portion of the principle for a specific ministry initiative.

## Amalgamation

When a community of faith is amalgamating with another congregation, the net proceeds of any property that is sold, and all assets will not be declared surplus and will become the property of the newly amalgamated community of faith. The provision that the proceeds from the sale of property be held as a restricted fund will apply. The new community of faith will have access to the interest available from the investment without requiring regional council approval. At any time the community of faith can submit a proposal to the Congregational Support Commission to use a portion of the principle for a specific ministry initiative.

## Disbanding

When a community of faith has decided to disband, the total funds, including proceeds from the sale of property and chattels will be disbursed in the following manner:

First:

- Reimbursement of holding/maintenance/disposal costs
- Covering unpaid past assessments and current year assessment
- Repaying any congregational indebtedness

Then:

- 33% for the congregation to direct to United Church of Canada ministries such as neighbouring congregations, United Church outreach ministries, United Church camps, United Church extension councils, The United Church of Canada Foundation or any of the following:
  - 15% designated for Indigenous ministries
  - 12.5% designated for Mission and Service (current year)
  - 12.5% designated for Mission and Service Endowment Fund
  - 2% designated for Archives
  - 25% designated for regional council

It should also be noted that: “A congregation may give an amount equal to the percentage of its previous year’s revenue that was donated to a non-United Church registered charity to that charity.”

For example: If, in the previous year, the congregation gave X dollars to the local hospice, and this was equal to 1% of that year’s revenue, then they may direct 1% of the closing funds to the same hospice. This 1% is to be taken from the 33% being directed by the congregation.

## Sale of Congregational Property – Basic Steps

(Based on the Manual Section G.2. and Board of Trustees Handbook)

1. The governing body decides to sell a piece of property (manse, church, other)
2. The governing body consults with the Regional Council (Congregational Support Commission) on how the congregation will use any proceeds from the sale, after costs for the transaction have been covered.
3. The governing body passes a motion directing the Board of Trustees to sell the property.

## Listing the Property

1. The Board of Trustees obtains 3 “letters of opinion” from three different real estate companies stating their opinion of the market value of the property.
2. The Board of Trustees decides which realtor they wish to hire.
3. The Board of Trustees holds a special meeting (7 days notice, hand-delivered or mailed to each Trustee specifying the time, place, and purpose of the meeting) and pass a motion requesting regional council consent to listing the property for sale.

The template for the motion is found in the Property Resolution Trustees. If the plan is to list the property for sale the following details are required:

- a. listing agent;
- b. commission rate;
- c. asking price;
- d. proposed possession date.
- e. Any additional conditions
- f. Include the statement that the listing agreement and sale is conditional upon the approval of \_\_\_\_\_ regional council.

**NOTE:** To ensure the Congregational Support Commission will be able to respond to a request to accept a purchase offer within the legal time frame. Please include in the listing and sale terms that this approval may take up to 10 business days.

4. The resolution should be entered in full in the minutes of the Board of Trustees.
5. The property resolution is filled in and forwarded by email to the Congregational Support Minister for Horseshoe Falls Regional Council along with:
  - a copy of the listing agreement
  - a copy of the three letters of opinion
6. A proposal for the use of the funds must be submitted with the request to offer the property for sale. In general, any proceeds from a sale are automatically to be held by the trustees in a restricted fund with the principal preserved and only the interest available to the community of faith. However, the community of faith can propose to use a portion of the proceeds for a specific ministry initiative or capital project. Additional proposals can be made in the future should the need arise.
7. The regional council makes a decision whether to approve
  - a. The transaction, and
  - b. The use of any proceeds received by the congregation or pastoral charge in the transaction.

#### Guidelines for Setting a Price:

The Board of Trustees holds the property in trust for the use of the congregation. As such they are bound to seek Fair Market Value for an asset as part of this obligation. That is why it is important to get 3 or more current market value appraisals to accompany the listing request. That said, if the congregation wants to make an argument for a slightly reduced price to support another charity, a proposal can be made to the Congregational Support Commission. The purpose of the regional council's participation is to ensure that United Church of Canada resources are managed to the benefit of the United Church of Canada and its ministries.

## Sale Agreement

1. When an offer is received that the Trustees believes is the best for the Community of Faith, the Trustees seek approval to accept the offer first from the governing body of the congregation (unless they have delegated this decision to the Board of Trustees).

2. The Board of Trustees calls a meeting and pass a motion requesting regional council consent of the sale agreement.

The template for the motion is found in the Property Resolution Trustees. The following details are required:

- a. Name of purchaser
- b. Sale Price
- c. proposed possession date.
- d. Any additional conditions

3. The resolution should be entered in full in the minutes of the Board of Trustees.

4. The property resolution is filled in and forwarded to the Congregational Support Minister for the Regional Council along with a copy of the sale agreement. Please note if there are any differences in the proposed use of the funds from the original request to list the property.

5. The regional council makes a decision whether to approve

- i. The transaction, and
- ii. Any change to the use of any proceeds received by the congregation or pastoral charge in the transaction.

6. Once the offer has been reviewed and approved by the Congregational Support Commission, the Trustees will receive a copy of the motion and a signed certificate verifying that the sale has been approved. If the sale is not completed for any reason, please notify the Congregational Support Commission. Any subsequent offers will need to follow the same process.

## Other Property Transactions:

In addition to selling congregational property, a community of faith may also engage in other types of transactions such as:

- purchases;
- mortgages;
- any other borrowing that is secured by congregational property
- leases;
- major renovations; (see definition under Regional Property Policy)
- demolition; and
- construction of a new building.

These types of transactions also require consultation with the regional council Congregational Support commission. The community of faith may have established additional steps which need to be followed.



## Basic Steps:

1. The governing body decides to enter into a congregational property transaction.
2. The governing body consults with the Horseshoe Falls Congregational Support Commission regarding their plans. The governing body must ensure that the transaction costs and any trustee debt are paid out of the proceeds.
3. The governing body directs the trustees to seek consent from the Congregational Support commission and then proceed with the transaction.
4. A (special) meeting of the Board of Trustees shall be called, giving each Trustee at least seven days' notice in writing, specifying the time, place, and purpose of the meeting and pass a resolution setting out the decision to acquire, mortgage, lease, exchange, construct, enlarge, effect major renovations, demolish, or rebuild. The template for the motion is found in Appendix A; Property Resolution Trustees.

The motion includes:

- i. the legal description of the real property (land), or an adequate description of the major asset;
  - ii. the price or costs;
  - iii. the terms;
  - iv. the proposed use or distribution of proceeds; or
  - v. the proposed source of funds; and
  - vi. the request for consent from the Horseshoe Falls Regional Council
5. The resolution should be entered in full in the minutes of the Board of Trustees.
  6. The property resolution is forwarded to the Congregational Support Commission of Horseshoe Falls Regional Council.
  7. If the request is to construct a new church building or manse, other communities of faith may be affected. The regional council must consult with them and consider their opinions before making a decision on the transaction.
  8. The regional council makes a decision whether to approve
    - i. The transaction, and
    - ii. The use of any proceeds received by the congregation or pastoral charge in the transaction.
  9. Once the offer has been reviewed and approved by the Congregational Support Commission, the Trustees will receive a copy of the motion.

## Resources:

[The United Church Manual 2019](#)

[Trustees Handbook](#)

[Property Resolution - Trustees](#)

[HF Property Policy](#)