Regional Council Executive and Communities of Faith Commission: Property Policy

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This policy outlines the responsibilities of the Regional Council Executive and the Communities of Faith Commission with respect to property matters involving a community of faith.

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Why this policy is important

This policy outlines the areas of responsibility of the Regional Executive and the Communities of Faith Commission with respect to property matters involving a community of faith.

A community of faith should consult with the Communities of Faith Commission when considering major property matters, including renovations, buying, selling or leasing property, loans or mortgages, and closing or disbanding.

All congregational property is held by the congregation's trustees. This includes land, buildings, funds and investments, and any other kind of property. The trustees hold the congregational property for the congregation as part of the United Church. They must comply with the United Church's requirements for trustees and congregational property. (The Manual G.2.2.1)

The Communities of Faith Commission is committed to:

- having a broad geographic presence for the United Church in Shining Waters Regional Council;
- making decisions that support healthy and viable communities of faith;
- embracing new possibilities for what a community of faith might look like;
- working toward right relations with, and justice for, Indigenous peoples;
- becoming an Intercultural church, which involves an explicit commitment to minority ethnic cultural communities, 2S-LGBTQ+ communities and economically disadvantaged communities;
- ensuring a more equitable sharing of resources.

In upholding these commitments, the region will allow greater flexibility in the use of funds from the sale, development or leasing of property, subject to the approval of the Communities of Faith Commission. The commission understands this to be an investment in healthy communities of faith.

At the same time, the commission is committed to maintaining buildings that are strategically important and finding opportunities to support long-term financial sustainability. Resources embedded in buildings are critical to our future as a region and as a church and we have a fiduciary responsibility to manage this.

The Communities of Faith Commission may consult with the United Property Resource Corporation and/or Toronto United Church Council before approving any request to buy, sell, develop or lease property or a request to apply for a mortgage or loan.

As a region, we are committed to honouring the Calls to Church from the Caretakers of the Indigenous Circle. The Calls to the Church were approved by the General Council in 2018 and include the following statement, by which our policies are informed:

> "The United Church is asset rich. Rich in land and properties. These lands were stolen by false promises in treaty negotiations. We meant to invite settlers to our lands and that we would share it. It would feed us both. But we are cut off from the land. Justice in land matters must be about reparations and not only apologies. Reconciliation is not just heads and hearts that feel bad but hands and feet that do tangible good. Selling church properties is a matter of Indigenous land justice or injustice."

In considering all decisions related to property, we seek to hold in tension all of these commitments and strive to decolonize our understanding of property ownership.

Authority

The Regional Council has the responsibility for all property matters.

The Communities of Faith Commission is established in accordance with the direction provided in November 18-20, 2017 General Council Executive New Covenant Policy.

The Communities of Faith Commission will be elected by the Regional Council or the Executive to make decisions on behalf of the region or its Executive. (The Manual C.3.3.1)

The decisions of the commission are non-debatable. The commission's decision is as effective as a decision of the governing body or executive that appointed it. (The Manual C.3.3.2)

The commission will report its decisions to the Regional Council Executive and the Regional Council. (The Manual C.3.3.3)

Responsibilities

The Manual outlines the responsibilities of the Regional Council with respect to property matters (The Manual C.2.6 and G.2).

In Shining Waters, the Communities of Faith Commission is responsible for co-operating with the community of faith in buying, selling, leasing, and renovating community of faith property, and developing a plan to distribute any proceeds within denominational policies and guidelines. (The Manual C.2.6.a)
The Communities of Faith Commission will support communities of faith in property matters, including amalgamations and when a community of faith closes or disbands.

The Communities of Faith Commission will make recommendations to the Regional Council Executive with respect to plans of disposition of property and assets when a community of faith closes or ceases to exist. (The Manual C.2.6.b)) and if there is surplus property following an amalgamation. (The Manual G.1.4.5 a))

The following document includes all property polices for the region, including those approved by the Regional Council Executive and those of the Communities of Faith Commission. Both the Executive and the commission are responsible for reviewing and updating their own policies.

Major Renovations (Regional Council Executive: Property Policy)

Shining Waters Region recognizes any project, all inclusive, over $100,000 or as determined by the Communities of Faith Commission as a major renovation requiring approval from the Communities of Faith Commission. (the Manual G.2.1.3)

A congregation may proceed with renovations between $50,000 and $100,000 per project, all inclusive, with the approval of the Staff Lead for Regional and Congregation Support. The Communities of Faith Commission will develop criteria to be used in the approval.

A congregation may proceed with renovations under $50,000 without approval of by the Communities of Faith Commission.

Major Assets (Regional Council Executive: Property Policy)

Congregational property includes a) land; b) buildings; c) any other land rights; d) money; e) investments; f) furniture; and g) equipment. (The Manual G.2.1.1)

Amalgamations (Regional Council Executive: Property Policy)

During the discussions about the amalgamations, the Communities of Faith Commission will consult with the congregations on the property needs of the new amalgamated congregation. A congregation may ask its governing body to represent it in this consultation. (The Manual 6.1.4.5). The Communities of Faith Commission will approve the plan.

Surplus Property of Amalgamating Congregations

The Communities of Faith Commission may determine that some of the congregations' property will not be needed for the new amalgamated congregation. Any property that will not be needed is called "surplus property." (The Manual G.1.4.5 a))

The Communities of Faith Commission must make a recommendation to the Regional Council Executive since the decision may have budgetary implications for the Region.

The Regional Council is responsible for all surplus property after the amalgamation and decides how to use the surplus property for the benefit of the United Church.

Closure or Disbanding (Regional Council Executive: Property Policy)

The Regional Executive is responsible for making decisions on the property of communities of faith remaining after the communities of faith disband or cease to exist.

Before disbanding, the congregation, working with the Communities of Faith Commission, may make a proposal to the Regional Council Executive for dealing with the congregation's assets, d) money; e) investments; f) furniture; and g) equipment. (The Manual G.2.1.1) which must be used for the mission of the congregation or the wider United Church. The Regional Council makes a decision on the proposal. Both must follow the requirements for dealing with congregational property. (The Manual G.1.5.4 Property)

The executive will receive recommendations from the Communities of Faith Commission before making a decision. The Executive will consider the recommendations of the Communities of Faith Commission in their decisions within denominational guidelines and Shining Waters policy and any budgetary implications for the Region. It is up to the Regional Council Executive to decide how to use that property for the benefit of the United Church. (The Manual G.1.5.7)

Distribution of Proceeds from Sale of a Property by a Community of Faith that has Closed or Disbanded.

(Regional Council Executive Policy: Distribution of Proceeds from Sale of a Property)

The Regional Council occasionally receives assets from the sale of church property.

Transfer of Church Property to the Region

When a community of faith closes or disbands, the community of faith, in consultation with the Region, will prepare a plan of disposition.

When the community of faith closes or disbands, the property is transferred to the region.

Options

Property may be held by the Region solely for strategic purposes.

If the property is to be sold, Shining Waters Region has an agreement with Toronto United Church Council. See Property Management policy.

Distribution of Funds

The funds from the sale of church property will be disbursed in the following manner:

1. holding and disposal costs to include 3% of the sale price for archival purposes;
2. distribution of up to 10% of the funds as proposed in a plan of disposition by the community of faith and approved by the Community of Faith Commission, for the mission of the congregation or the wider United Church.

The remaining funds will be distributed in the following order:

1. 10% to a fund related to the Calls to the Church to support Indigenous Ministries both locally and in the wider church with a provisional cap of $1,000,000.
2. Topping up the Region Fund to $6,000,000 to be used to support Region priorities.
3. Topping up of Presbyteries of Toronto Conference Corp (PTCC) funds to a maximum of $9,000,000.
4. Topping up of the New Ministries and Leadership Development Fund to a maximum of $3,000,000.
5. Any remaining funds will be distributed in the following manner:
   75% to Mission and Service of the United Church of Canada.
   25% to the Toronto United Church Council's Sustainable Energy Loan Fund.

Sale of Property by a Community of Faith that Continues to Exist

(Communities of Faith Commission Policy)

Selling Church Property Other than a Manse

When a community of faith that is not closing or amalgamating wishes to sell property (other than a manse), approval from the Communities of Faith Commission is required at each of these stages *(The Manual C.2.6.a)*:

a. Approval to sell the property;
b. Approval of the realtor chosen;
c. Approval of the listing agreement; with proof of legal review
d. Approval of the Offer for Purchase and Sale; with proof of legal review
e. Approval of the plan for disbursement of funds generated from the sale.

The commission may consult with the United Property Resource Corporation and/or Toronto United Church Council before approving the sale of property.

A community of faith that wishes to sell its church building must demonstrate the potential for its ongoing long-term viability. It must also provide a mission plan for the use of available funds and the investment of remaining capital. The mission plan must demonstrate how the community of faith will continue to provide a United Church presence in their location and/or context. Please contact regional staff to obtain guidelines/best practices for viability and a mission plan.

The community of faith will be expected to include an update on this mission plan in their annual self-assessment.

Use of Funds from the Sale of Property other than a Manse

The funds generated from the sale of a church property are held in trust and require the approval of the region, through the Communities of Faith Commission, for any expenditure of those funds (including both the capital and any earned interest).

When the sale of property will generate $100,000 or less, $5,000 will go into a regional fund related to the Calls to the Church to support Indigenous Ministries both locally and in the wider church. The community of faith will be able to keep and use all remaining proceeds from the sale. Proof of potential for ongoing viability and a mission plan are still required.

For all other property sales, 10% of the proceeds, after costs, will go into a regional fund related to the Calls to the Church to support Indigenous Ministries both locally and in the wider church with a provisional cap of $1,000,000.

When the sale of property will generate $100,000 - $300,000, the community of faith will be able to use up to $100,000 of the capital. The remainder will be invested and the community of faith will be able to use the annual interest from the investment. Proof of potential for ongoing viability and a mission plan are still required.

When the sale of property will generate $300,000 - $1,000,000, the community of faith will be able to use up to $100,000 of the capital. 5% of the remaining capital will be given to the region. The remainder of the capital will be invested and the community of faith will be able to use the annual interest from the investment. Proof of potential for ongoing viability and a mission plan are still required.

When the sale of property will generate more than $1,000,000, the community of faith will be able to use up to $200,000 of the capital. 10% of the remaining capital will be given to the region. The remainder of the capital will be invested and the community of faith will be able to use the annual interest from the investment. Proof of potential for ongoing viability and a mission plan are still required.

When a community of faith wishes to sell their current property and purchase another property, all proceeds from the sale may be used for the purchase of another property. Such purchase must be approved by the Communities of Faith Commission and will be held by the trustees of the community of faith as part of the United Church. They must comply with the United Church's requirements for trustees and property. Proof of potential for ongoing viability and a mission plan are still required.

Use of Restricted Funds

Where funds from the sale of property were restricted prior to January 2020 by the region or by one of the former presbyteries of Toronto Conference, approval is required from Communities of Faith Commission for any new expenditure of those funds (including both the capital and any earned interest) that was not already approved by either the region or a former presbytery.

A community of faith that wishes access restricted funds must demonstrate the potential for its ongoing long-term viability. It must also provide a mission plan for the use of available funds and the investment of remaining capital. The mission plan must demonstrate how the community of faith will continue to provide a United Church presence in their location and/or context. Please contact regional staff to obtain guidelines/best practices for viability and a mission plan.

The community of faith will be expected to include an update on this mission plan in their annual self-assessment.

Requests to use restricted funds held from the sale of a church property will follow the general plan for use of those funds as outlined above.

The Staff Lead will be able to approve a one-time use of income from restricted funds to a maximum of $25,000 for capital renovation projects within the community of faith's property or projects that support the community of faith's approved mission plan. Requests to use more than $25,000 of restricted funds will come to the commission for approval.

Sale of A Manse (Communities of Faith Commission Policy)

When a community of faith that is not closing or amalgamating wishes to sell its manse, they may work with any real estate agent who is arms-length from the congregation. Regional approval, through the Communities of Faith Commission, is required for the listing price of the property. Provided the sale price is at or above the listing price, and the community of faith works with a real estate agent and lawyer, regional approval is not required for the Agreement of Purchase and Sale. *(The Manual C.2.6.a)*.

Regional approval is required for the use of funds from the sale of a manse within the criteria listed below. The first priority for use of funds is ensuring the ongoing remuneration of the ministry personnel serving the pastoral charge, including but not limited to the cost of living amount which replaces the former housing allowance.

The commission may consult with the United Property Resource Corporation and/or Toronto United Church Council before approving the sale of a manse.

A community of faith that wishes to sell its manse must demonstrate the potential for its ongoing long-term viability. It must also provide a mission plan that demonstrates how the community of faith will continue to provide a United Church presence in their location and/or context. Please contact regional staff to obtain guidelines/best practices for viability and a mission plan.

The community of faith will be expected to include an update on this mission plan in their annual self-assessment.

Use of Manse Funds (Regional Council Executive: Property Policy)

1. Manse Capital Funds and Use of Income

The capital of manse funds shall be invested by the Board of Trustees and the income may be used by communities of faith to fund ministerial compensation. The Staff Lead will be able to approve a one-time use of income from manse funds to a maximum of $25,000 provided all other criteria within this policy are met. Requests over $25,000 will come to the commission for consideration. If a community of faith returns with a second request for use of income, this will come to the commission for consideration.

2. Other Permitted Uses of Manse Capital Funds & Region Mandated $150,000 Manse Reserve Fund

The Region will allow greater flexibility with respect to usage of manse capital, subject to the approval of the Communities of Faith Commission, some or all of the manse capital funds held by the Trustees that are in excess of the mandated $150,000 manse reserve fund, may be used for the following purposes:
i. To fund the purchase of ministerial housing,
ii. For a mortgage for ministerial housing,
iii. Bridge financing to facilitate the sale of church property, if needed during an amalgamation,
iv. Capital renovation projects within the community of faith's property, and
v. Other major capital projects that may be needed by a community of faith within the community of faith's property.

Caution: If any capital funds are expended for the purposes as noted in Items i) to v) above, the income from that capital will no longer be available to offset ministerial compensation and the income must then be derived from other sources.

3. Minimum Manse Fund Reserve, $150,000

The minimum value of the unencumbered manse fund reserve to be held by the Board of Trustees shall not be less than $150,000. Where manse fund capital values are currently less than $150,000, this change in policy will have no effect.

4. Uses of the Mandated $150,000 Manse Fund Reserve

The manse reserve fund shall be retained by the Board of Trustees for potential use, with prior Region approval, for ministerial compensation where a community of faith is not able to fulfill its financial obligations to a minister or for other uses related to the closing/ disbandment of a community of faith, as approved by the Region.

Use of Funds Received by the Region from the Sale of Congregational Property or Surplus Property in an Amalgamation

(Approved by the Regional Council Executive)

Funds received by the region from the sale of property by an existing community of faith, and funds declared surplus property in an amalgamation will be available for grants, either directly or as a top-up to funds in the regional fund with the Presbyteries of Toronto Conference Corporation (PTCC). The Grants and Mission Support Committee will consider applications for funding.

Priorities for use of funds:

- Ensuring a United Church presence across the region.
- Equitable sharing of resources to provide benefit to Communities of Faith that otherwise do not have access to property resources and areas where property values do not provide the financial basis to provide benefit in a significant way.
- honouring our commitment to becoming an Intercultural church, which involves an explicit commitment to minority ethnic cultural communities, LGBTQ2S+ communities and economically disadvantaged communities.

Principles

In distributing these funds, the region will:

- Use an equity lens
- Implement change with intentionality and accountability
- Support equitable sharing of resources across the region
- Strategically support congregations and prioritize ethnically diverse congregations
- Honour the regional mission to encourage and connect communities of faith by:
    - living in right relations with Indigenous peoples, and responding positively and meaningfully to the Truth and Reconciliation Commission Calls to Action and the Caretakers of Our Indigenous Circle Calls to the Church;

    - becoming an anti-racist church (declaration of the Commissioners of the 43rd General Council, October 24, 2020);
    - welcoming people of all ages, abilities, races, sexual orientations and gender identities, and any other forms of marginalization into, and removing barriers to, the life, work and leadership of the Region and our communities of faith.
    - joining our collective hearts, voices, and resources to witness to the gospel and vision of Jesus for a compassionate and just society, both in Canada and around the world;
    - local, regional, national and global initiatives and partnerships (community, ecumenical and interfaith) for ministry, mission and justice work;
    - ministry with children, youth and young adults;
    - honouring and living into intercultural mission and ministry; and
    - living in covenant with Mother Earth and All My Relations in the Earth community.
- We seek a balance between protecting funds and supporting the region's mission. Assets shall be protected adequately to ensure future generations will also have significant financial resources with which to work, but also provide sufficient financial benefit in the short or medium term.
- We require accountability from any funded ministry for grants received

Property Development (Communities of Faith Commission Policy)

When considering requests to approve the development of property, the commission will look at the unique local context of a community of faith and how the development of the property will support the ministry of the congregation and might support the wider United Church.

The Communities of Faith Commission may consult with the United Property Resource Corporation and/or Toronto United Church Council before approving any request to develop property.

For this policy, development will include building, renovating, extending or improving property or converting property from one use type to another (over $50,000 in value).

A community of faith that wishes to develop their property must demonstrate the potential for its ongoing long-term viability. It must also provide a mission plan that demonstrates how the community of faith will continue to provide a United Church presence in their location and/or context. Please contact regional staff to obtain guidelines/best practices for viability and a mission plan.

The community of faith will be expected to include an update on this mission plan in their annual self-assessment.

In some circumstances, the commission may approve a plan for the development of property even though the community of faith has not demonstrated the potential for ongoing long-term viability. In these situations, the commission will consider the benefit to the wider United Church in developing the property.

When a congregation partners with the United Property Resource Corporation in developing a property, the roles and responsibilities of the lay leadership of the community of faith and the corporation must be clearly articulated and appropriate to the circumstances. The same is true when a congregation partners with an outside developer. In addition, when working with an outside developer, the congregation and its governing body must demonstrate the capacity to manage the development and the financial requirements of the development.

Any plan to borrow money or encumber properties for development or other purposes must first be approved in principle by the commission before agreements are made.

When a community of faith wishes to develop property, approval from the Communities of Faith Commission is required at each of these stages:

- seeking proposals for development from a third party, either directly or through a managed process. If a proposal is requested from UPRC the Region is to be consulted regularly;
- approval of a letter of intent or equivalent document outlining the terms of proposed development (including non-binding agreements);
- approval of any binding agreement including (but not limited to) business plan and definitive contribution agreement, joint venture agreement or development or construction agreement;
- approval of the plan for use of funds generated by the redeveloped property either lump sum or annual payments.

The commission may consult with the United Property Resource Corporation as to other approvals that might be needed, particularly when an outside developer is involved.

Considerations for approval of property development

- Is UPRC involved? If not, who are the developers? What is their mission and their experience with the United Church?
- What is the cost of the development and how will it be funded?
- Is the project financially sustainable without the need for ongoing subsidies?
- Has the potential impact on charitable status been considered?
- What is the mission plan and financial viability of community of faith?
- Does the community of faith have strong lay leadership?
- Is there community support for the project? Who are the partners involved in the project? What will be the impact on the broader community?
- Is the project environmentally sustainable?
- Has there been consultation with Indigenous communities?

- Does the project foster diversity, equity, inclusion and accessibility?
- How will community space be financially sustainable and supportive of the ministry of the community of faith? Is it a market equivalent transaction?

In some contexts, the commission may have a conversation with the community of faith to explore ways that the development could benefit the wider United Church. Options could include:

- An additional assessment on income generated after a set number of years or over a set amount to support other ministry within the region (including community ministries, missions, outreach programs, camping ministries, programs for children and youth, rural ministries, etc)
- Use of space within the redeveloped property for other ministries within the region.

Leases (Communities of Faith Commission Policy)

Leasing of church space to outside groups requires approval from the Communities of Faith Commission as does the distribution of funds from these leases.

The commission may consult with the United Property Resource Corporation and/or Toronto United Church Council before approving a lease agreement.

One-time, occasional or semi-regular rentals of church space do not require approval. Operating leases for equipment such as copiers or computers do not require regional approval.

Leases for exclusive use of space within the building require regional approval as do all leases that will generate more than $50,000 in annual income for the community of faith, regardless of whether they involve exclusive use of a space.

A community of faith that wishes to enter into a lease for exclusive use of space within the building and/or a lease that will generate more than $50,000 in annual income must demonstrate the potential for its ongoing long-term viability. It must also provide a mission plan that demonstrates how the community of faith will continue to provide a United Church presence in their location and/or context. Please contact regional staff to obtain guidelines/best practices for viability and a mission plan.

The community of faith will be expected to include an update on this mission plan in their annual self-assessment.

Along with the motion from the Trustees to execute the lease agreement, please provide proof of legal review. Other terms to be communicated to the region would include premises and exclusive use premises, fixtures and chattels, rental, commencement date, term, responsibility for taxes, insurance, repairs, rights to assign or sublet, dispute resolution and arbitration, early termination, renewals, and options.

Land-Leases (Communities of Faith Commission Policy)

Land-lease agreements require the approval of the Communities of Faith Commission.
The commission may consult with the United Property Resource Corporation and/or Toronto United Church Council before approving a land-lease agreement.

A community of faith that wishes to enter into a land-lease agreement must demonstrate the potential for its ongoing long-term viability. It must also provide a mission plan that demonstrates how the community of faith will continue to provide a United Church presence in their location and/or context. Please contact regional staff to obtain guidelines/best practices for viability and a mission plan.

The community of faith will be expected to include an update on this mission plan in their annual self-assessment.

A community of faith must provide proof that any land-lease agreement has been reviewed by a lawyer.
The funds general from a land-lease agreement also require the approval of the region, for any expenditure of those funds (including both the capital and any earned interest).

When a land-lease agreement is for less than 21 years, the community of faith is encouraged to consider contributing a portion of the annual income to the Right Relations and Indigenous Ministries Fund and to the region to support other ministries.

When a land-lease agreement is for more than 21 years, the following requirements will be applied to the funds generated in the same manner as for a sale of property by a community of faith.

When the land-lease agreements will generate $100,000 or less annually, $5,000 will go to the Right Relations and Indigenous Ministries Fund to support Indigenous ministries both locally and in the wider church. The community of faith will be able to keep and use all remaining proceeds from the land-lease.

For all other land-lease agreements, 10% of the annual proceeds will go to the Right Relations and Indigenous Ministries Fund to support Indigenous Ministries both locally and in the wider church with a provisional cap of $1,000,000.

When a land-lease agreement will generate between $100,000 and $150,000 annually, 5% of the funds remaining will be given to the region. The remainder of the funds will be available for use by the community of faith within a regionally approved plan.

When a land-lease agreement will generate more than $150,000 annually, 10% of the funds remaining will be given to the region. The remainder of the funds will be available for use by the community of faith within a regionally approved plan.
Funds received by the region from land-lease agreements will be available for grants using the same principles and priorities as for funds received from the sale of property by a community of faith that continues to exist.

Mortgages and Loans (Communities of Faith Commission Policy)

Applications for mortgages and other loans require the approval of the Communities of Faith Commission.

The commission may consult with the United Property Resources Corporation and/or Toronto United Church Council before approving a mortgage or loan agreement.

A community of faith that wishes to enter into a mortgage or loan agreement must demonstrate the potential for its ongoing long-term viability. It must also provide a mission plan that demonstrates how the community of faith will continue to provide a United Church presence in their location and/or context. Please contact regional staff to obtain guidelines/best practices for viability and a mission plan.

The community of faith will be expected to include an update on this mission plan in their annual self-assessment.

In some circumstances, the commission may approve a mortgage or loan agreement to finance the repair or renovation of a building even though the community of faith has not demonstrated the potential for ongoing long-term viability. In these situations, the commission will consider the benefit to the wider United Church in maintaining the building.

The terms to be communicated to the commission would include the principal, the interest rate, the term, payments and prepayment privileges. The commission will want to know the intended use of the funds, how this use supports the ministry and mission of the congregation and the capacity of the congregation to repay the amount being borrowed.