

CHAPTER 2

LOCAL CHURCH PROPERTY

A. Developing Church Property

4650. Developing District and Provisional District. Developing churches within the bounds of a developing district or provisional district shall be under the jurisdiction of the General Department of Evangelism and Church Growth as set forth in 4800 and 4810-4820.

4660. District. The regulations concerning property for a developing church within the bounds of an established district are:

(1) The district board of administration shall be vested with power and authority to purchase, manage, sell, encumber, transfer and dispose of any and all property of a developing church, whether real, personal or mixed (510:4; 1233:13-14), and shall direct the pastor and the local advisory council concerning the same in keeping with *The Discipline* (1233:1, 30).

(2) The pastor and local advisory council of a developing church shall be responsible to supervise, control and maintain the property under their care as directed by the district superintendent and the district board of administration (510:3-4; 1233:1, 30).

(3) All property of a developing church shall be held by the district in trust for the use and benefit of the members and ministers of The Wesleyan Church as required in 323:8 and shall contain the trust clause as given in 4610 (cf. 4140; 4590-4630; 4830).

(4) Whenever a developing church has been organized as an established church (518-520), the district board of trustees may transfer the property to the local board of trustees as set forth in 4680, provided that the property is free of debt.

4670. Reclassification. Whenever an established church is reclassified as a developing church as set forth in 518:5; 1180:24; and 1233:29, the office of the members of the local board of administration and the local board of trustees shall thereupon cease (859:5) and the district board of administration shall be responsible for the property as set forth in 4660:1-4 (cf. 510:4). Whenever the property of such a church has been held by the local trustees, it shall be conveyed or transferred to the district to be held as set forth in 4830 (cf. 859:5).

B. Church Property

1. Ownership

4680. Local property within an established district may be held by the local church or by the district, as decided upon by the district conference (cf. 1180:21-22). In those districts where the local churches are to hold their own property, all grants, conveyances, devises, gifts, transfers and assignments now owned or hereafter acquired of any property, real, personal or mixed, to or for any unincorporated local church or any organization, board or similar body connected thereto, shall be held by and/or conveyed to its duly elected board of trustees, and to their successors in office and their assigns, as the board of trustees of such local church, in trust for the benefit and use of the members and ministers of The Wesleyan Church, subject to its *Discipline*, regulations and appointments as from time to time legislated and declared and shall contain the appropriate trust clause as set forth in 4610 (cf. 4590; 4620). An omission of the name of any or all of the trustees shall not render any instrument invalid. (The regulations for an incorporated local church are set forth in 4000-4070.) In those districts where the district is to hold local property (cf. 323:8), such local property shall be held as set forth in 4140 or 4830.

2. Trust Clause and Release Therefrom

4690. All written instruments of conveyance by which property is held or hereafter acquired by any local church, whether incorporated or unincorporated, shall contain the trust clause in 4610, and release therefrom shall be as follows:

(1) Whenever the real property of a local church acquired by a conveyance containing the trust clause as set forth in 4610 is sold in conformity with the provisions of *The Discipline* (4700-4720), the written approval of the district board of administration (4700:3) shall constitute a release and discharge of the real property so sold and conveyed from the trust clause (cf. 4620).

(2) Whenever the real property of a local church, acquired by a conveyance containing the trust clause in 4610, is mortgaged or encumbered as provided for in *The Discipline* (4700-4720), the written approval of the district board of administration for such mortgage or encumbrance (4700:3) shall constitute a formal recognition of the priority of such mortgage lien and the subordination of the trust clause thereto (cf. 4630).

B. Acquisition, Sale, Mortgage and Transfer of Property

4700. An unincorporated local church within an established district may acquire, purchase, sell, mortgage, transfer or otherwise dispose of real property in accord with the following authorization and conditions:

(1) A resolution authorizing such action shall be recommended by the local board of administration (782:31), and passed by the local church conference (655:13) by a majority of those present and voting, at any regular or special session duly called for such purpose, provided that notice of the intended action shall be given to the local church members by announcement from the pulpit in two regular services, the first of which shall be not less than one week before the date of the session of the local church conference at which the proposal shall be considered, and that notice shall also be given at least one week in advance in the church bulletin, when such is available, and that such other notice shall be given as may be required by local laws (cf. 633:1).

(2) The proposal shall be studied by the district building committee whenever it involves the purchase of property, the construction or remodeling of buildings or other work as set forth in 1345, and the written recommendation of the district building committee shall be forwarded to the district board of administration and the local church.

(3) The district board of administration, after receiving the recommendation of the district building committee, shall approve the proposal of the local church in writing and such approval shall be affixed to the written instrument involved (1233:32).

(4) The resolution authorizing such action shall direct that any contract, deed, bill of sale, mortgage or other necessary written instrument be executed by and on behalf of the local church by the proper officers of the local board of trustees, who thereupon shall be duly authorized to carry out the directions of the local church conference and the local board of administration in keeping with the requirements of *The Discipline* (cf. 850-859; 4500-4630; 4720); and any written instrument so executed shall be binding and effective as the action of the local church.

(5) The chair of the local board of trustees, or other designated trustee, shall submit all written instruments of conveyance and title for the acquisition of property to the district superintendent for approval as to their conformity with *The Discipline* as stated in 1310:11 and shall see that permanent legal and property records are properly stored as set forth in 4760.

(6) When real property is donated to a Wesleyan church for ministries or in

a capital or fund raising campaign, and the donor's intent is that the property be sold and the proceeds invested accordingly, the local board of administration shall have full power to authorize the reception and disposal of the property, subject to the express written approval of each transaction by the district superintendent.

4720. The proceeds from the sale of any real property of a local church whether incorporated or unincorporated, other than as provided for in 4700:6, shall be used for the purchase or improvement of property for that local church, unless otherwise authorized by the district board of administration (1233:32). In the event of a situation where two or more local churches have merged, proceeds from the sale of such property shall be used by the merged church unless otherwise authorized by the district board of administration. Whenever a local church does not wish to invest the money received as stated herewith, the money shall be forwarded to the district treasurer, and provided that all debts against such property being sold shall first be paid, it shall be used as ordered by the district conference or the district board of administration for the construction of churches or parsonages within the bounds of the district, for district property, or for purchase of property or construction of buildings involved in the planting of new churches. Such moneys may be used for other expenses involved in the planting of new churches only with the approval of the area General Superintendent.

4. Abandoned Church Property

4730. When the property of a local church is no longer used, a local church may be declared by the district board of administration as discontinued or abandoned (1233:29) and the title shall thereupon vest in the district corporation (4100), or in the district board of trustees in the case of an unincorporated district (4855). The district board of administration shall have the authority to order the sale of said property and to appropriate the proceeds for the purchase of property for a local church, for the construction of churches or parsonages within the bounds of the district, for district property, or for the purchase of property or construction of buildings involved in the planting of new churches. Such moneys may be used for other expense involved in the planting of new churches only with the approval of the area General Superintendent. The actions of the district board of administration shall be reported to the next session of the district conference. Any bequests, devises, gift annuities or other benefits to a local church that accrue or become available after said church has been discontinued shall become the property of the district corporation (4100), or, in the case of an unincorporated district, shall become the property of the district board of trustees (4855).

C. Circuit Property

4740. The organization and government for a circuit within an established district are set forth in 525-535. The regulations concerning the acquisition, purchase, sale, encumbrance, transfer or other disposition of circuit property within an established district shall be the same as for local church property within the district as set forth in 4680 and 4700:1-5. The proceeds from the sale of circuit property shall also be disposed of in the same manner as the proceeds from the sale of local church property as set forth in 4720-4730. The circuit board of trustees shall carry such duties concerning circuit property as are required of a local church board of trustees (cf. 850-859) and shall be subject to the general regulations as set forth in 4500-4630.

4750. Whenever the discontinuance of a circuit shall be ordered by the district conference, or whenever a local church is separated from a circuit and established as a separate pastoral charge (1180:25), the district conference shall also order the sale or disposition of circuit property, for which a recommendation shall be received from the district board of administration (cf. 1233:9c). Each local church shall be entitled to receive its just share of the property in which it has invested funds; and the amount of such value and just share shall be determined by the district board of administration or a special committee appointed for that purpose.

D. Property Records

4760. All deeds, titles and other legal or property records of each developing church, church or circuit within the bounds of the district shall be placed in the custody of the district superintendent (1310:11) who shall be responsible for their preservation and permanent filing as directed by the district board of administration (1233:15). The district superintendent may authorize a local church to retain such records when deemed necessary, in which case a certified or true copy shall be kept in the district files which are in the district superintendent's custody.

E. Rights to Property

4770. The district board of administration, in the name of the district corporation (4100; cf. 4855), shall have the right to intervene or to institute any legal or equitable actions as may be deemed necessary against a local church or circuit within the bounds of the district to preserve the rights and

interests of the district and The Wesleyan Church, in all matters relating to property and the rights to property within the bounds of the district, as set forth in the Judiciary (5305-5320), and as otherwise provided for in *The Discipline*. The General Board, in the name of The Wesleyan Church Corporation, shall also have the right to intervene and protect the rights and interests of The Wesleyan Church as set forth in 4250-4260.

4780. No local church may vote to withdraw as a body from The Wesleyan Church, or in any way sever its relation thereto, and no local church conference and/or local board of administration and/or local board of trustees can divert property from The Wesleyan Church (859:4; 4550). If any local church violates or in any way attempts to circumvent these provisions, then all right, title and interest in and to all real property of such local church shall thereupon immediately vest in the district corporation (4100) or in the district board of trustees in the case of an unincorporated district (4855); and all such property shall be vacated immediately by the offending party or parties. The district conference or, in the interim, the district board of administration shall have authority to deny the use of any such property to the offending party or parties and to order the immediate eviction of any such party or parties who do not comply therewith.