

The Standing Committee
Diocese of Central New York

Date: April 15, 2009
Updated: February 25, 2020

Guidelines and Procedures for Intention to Place on the Market, Mortgage, Easement, or Sale of Church Owned Real Property

The Episcopal Church and the State of New York require the Bishop and the Standing Committee of the diocese to review and consent to all transactions involving sale, mortgage, lease (a lease that is more than five years in length), or the grant of an easement of parish and diocesan real property. This requirement is provided to insure that financial commitments and property uses undertaken are both sound from the standpoint of parish and diocesan resources and in the long term interests of the Episcopal Church in Central New York.

These requirements apply to all parishes of the diocese and to the diocesan structure itself.

It is a fact that legal counsel will be required at some stage of the proceedings; it is therefore recommended that an attorney be retained promptly after a decision is made to place property on the market, sell, mortgage, or lease property, so that he or she may review any proposed brokerage agreement and purchase offer and assist in the preparation of resolutions, contract documents, etc.

The Standing Committee of the Diocese of Central New York also requires that all parishes submit a completed application for: [Consent to Place Church Owned Real Property on the Market](#).

Questions regarding these guidelines and procedures may be directed to:

The Rev. Brooks Cato, President of the Standing Committee
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Requirements of the Church and the State of New York

Approval of a proposal to place on the market, sell, mortgage, lease for a term exceeding five years, or grant of an easement or otherwise encumber church real property must be provided by the following parties:

OWNER: In the case of an incorporated parish, an appropriate resolution must be adopted by the Vestry at a meeting at which the Rector is present.

In the case of unincorporated parishes, title to the property of which is held by the diocese, the Trustees of the Diocese (Diocesan Board) exercise this responsibility by adoption of the appropriate resolution.

Diocese: The Bishop and Standing Committee: formal application is made by the parish or the Trustees of the Diocese (Diocesan Board) using the Application Form provided for this procedure.

Court: In response to a formal petition prepared and submitted in the manner required by the statute, an order approving the proposed sale, mortgage, lease for a term exceeding five years must be obtained from either of two judicial sources:

(a) A Justice of the Supreme Court for the Judicial District which includes the county in which the parish is located or,

(b) A Judge of the County Court in which the parish is located.

Obtaining the consent of Court is the responsibility of the parish. Entry of the Court order is a condition precedent to consummating the sale or mortgage of real property owned by a religious corporation, and the Court will require compliance with the forgoing provisions as to the consent of the Bishop and Standing Committee, in the form and manner satisfactory to it, in deciding whether to approve the application. Normally no difficulty is encountered in obtaining Court approval. No Court consent is required for a lease for a term less-than five years.

Although purchase money mortgages are expressly excepted from the proscriptions of Section 12 of the Religious Corporation Laws, no such exception is found in the Canons. Accordingly, it is the position of the Standing Committee that, although consent of the court is not mandated, the consent of the Bishop and of the Standing Committee is nonetheless required for purchase money mortgages and for the disposition of property acquired on foreclosure.

Easements:

Where it is desirable for a parish or the diocese to permit an easement to church real property, Canon I.7.3 of the 2006 Canons of the General Convention requires the consent of the Bishop and the Standing Committee, noting that property shall not be “encumbered or alienated” without consent. An easement, however temporary, is deemed to be an encumbrance of the property.

A Request for Consent for an Easement is included in this policy.

Guidelines and Procedures

When submitting a request for consent please download and complete the applicable form below. If you would like a copy of the form mailed to you, please contact the Diocesan Office at 315/474-6596.

The application and all supporting paperwork must be mailed and received in the Bishop’s Office two weeks prior to a regularly scheduled Standing Committee meeting.

- Form I Application for Intention to Place Church Owned Real Property on the Market
- Form II Application for Consent to sell Church Owned Real Property
- Form III Application for Consent to Mortgage Owned Church Real Property
- Form IV Application for Consent to Lease Church Owned Real Property
- Form V Application for Consent to Grant an Easement/Encumbrance on Church Owned Real Property

General Guidelines:

Application is made to the Bishop and Standing Committee by completing the appropriate forms and by providing such information detailed in the application forms. The application and the accompanying information are mailed to the attention of the Standing Committee at the Diocese Office at 1020 7th North St., Liverpool, NY 13088. A copy should be retained by the Applicant.

Upon reception of the material, the Standing Committee will review the application and forward a copy to the Chancellor or Vice-Chancellor of the Diocese, contact the parish for any additional information desired and then bring the request for Consent to a regularly scheduled meeting of the Standing Committee. The President of the Committee may, at his or her discretion, ask the Standing Committee if it would be willing to consider the request and vote via email.

A copy of the request will be provided to the Bishop for his review and approval.

Upon approval of the Standing Committee, the original application and the Standing Committee consent will be returned to the parish for use with the petition to the court for judicial approval.

In preparing the application, please provide detailed answers to the questions of the particular form, including a statement containing the reasons for proposing to sell or lease the property, the planned use of the proceeds of the sale, and in the case of a mortgage, the intended use of the funds to be borrowed and the provisions for the retiring of the mortgage.

Barring unusual circumstances, the Standing Committee will be hesitant to approve the sale of property owned by a parish which has been used for clergy housing unless we are assured that adequate provision has been made for clerical housing.

There should be attached to the application an appraisal in writing prepared and submitted by a competent individual appraising the fair and reasonable market value of the property involved. If you are applying to Place Church Owned Property on the Market then a Brokers Opinion would be acceptable, realizing that before a final Consent to Sell is considered an Appraisal must be submitted. It is desired to have this independent opinion as to value provided by a real estate broker or appraiser of recognized practice and experience or a bank official (other than the bank proposing to grant the mortgage loan) as a means of assisting both the Vestry of the parish involved and the Standing Committee in making a sound judgment as to the particular proposal being considered. In the usual situation a simple letter form of statement is appropriate and this requirement is not designed to impose on any parish the expense of a formal, comprehensive appraisal prepared in the form and to the extent required for commercial loans or eminent domain proceedings.

If a sale is involved, there should be attached to the application a copy of the contract for sale or the purchase offer submitted by the buyer. (Acceptance of purchase offers by the Vestry should provide – “Seller’s obligation hereunder is contingent on approval of the Diocesan Standing Committee, the Bishop and Supreme Court or County Court.”)

Where the proposed purchase price is substantially different from the appraisal, it is important to provide the committee with an explanation. Restrictions and limitations listed in the purchase offer or proposed contract should also be detailed in the application together with an explanation of their effect on the transaction.

In some cases the exact location of the property under consideration is of considerable significance in evaluating the transaction. A copy of the survey map and a description of the nearby structures are helpful additions to the application.

There should be attached to the application a certified copy of the resolution adopted by the Diocesan Board or the Vestry approving the proposed sale or mortgage.