

Ovt 006

On Amending G-4.0206a. Regarding the Sale or Encumbrance of Property Given to a Local Congregation as a Gift—From the Presbytery of Lake Michigan.

The Presbytery of Lake Michigan overtures the 221st General Assembly (2014) to amend G-4.0206 Selling, Encumbering, or Leasing Church Property be amended as follows:

a. Selling, Encumbering or Leasing Church Property

A congregation shall not sell, mortgage, or otherwise encumber any of its real property *that has been used for ministry or mission* and it shall not acquire real property subject to an encumbrance ~~or condition~~ without written permission of the presbytery transmitted through the Session of the congregation. *Property given to a local congregation as a gift for the purpose of funding ministry and mission activities, and has never been used for such activities, does not require the approval of the congregation or the presbytery.*

Rationale

There are times when congregations receive gifts of real property for the purpose of funding the ministry and mission of a congregation. This is especially true during capital campaigns, when an individual may deed over to a congregation real property that will be sold and the monies used in the capital project.

Under current Book of Order requirements, such a transaction requires the approval of both the congregation and the presbytery, a cumbersome process that should be streamlined. The Session should have the final say in accepting the gift and selling the property.

Such transactions are really no different than the gifting of appreciated securities (such as stocks and bonds). For tax reasons, an individual can make such a gift, deeding over the security to the congregation. The congregation sells the security and receives the full benefit of the proceeds, while the individual receives a full deduction for the gift and avoids paying capital gains tax (which allows them to make a larger gift to the ministry).

Making this change to the Book of Order may encourage individuals to give property to a congregation for the purpose of funding ministries.

This change in the Book of Order will make it easier to give to churches. Individuals may decide to give a percentage of property about to be sold, allowing them to make a larger gift than if they waited until after they sold the property and paid the required taxes. Such gift could be significant in the life of a congregation and its ministry.

This change to the Book of Order will also bring many churches into compliance as congregations have often sold such properties without approval of presbytery. However, title companies can and do demand to see the minutes for the congregational meeting and presbytery's minutes for such a sale. Approval of this overture will no longer require such actions.