

## **SECTION 6 – PROPERTIES**

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### **Procedures of the Territory of the People Anglican Church (TOTP), Fraser Basin Property Society (FBPS), Parishes, and Bishop Regarding the Sale of Church Property and Use of Funds**

The sale of property and use of funds from the sale of property are overseen by the Administration Committee and Bishop, guided by the Memorandum of Understanding signed between TOTP, FBPS, and the Parish.

They have been defined in TOTP Policy 6.7 - Requests for Change of Title (Sale) of Property. This procedure is meant to be an interpretation of our understanding on how this document directs us.

**TOTP Policy 6.7 – Requests for Change of Title (Sale) of Property** is based on the Memorandum of Understanding signed by FBPS, TOTP and the parish. Approved by Coordinating Council 23 November 2013

#### **6.7 Requests for Change of Title (Sale) of Property**

##### **6.7.1 Sale of Property**

**Any TOTP Parish planning to change title on parish property must make application to the Administration Committee in writing.**

TOTP and the Parish will be guided by the Memorandum of Understanding between the Territory of the People Anglican Church (TOTP) and Fraser Basin Property Society (FBPS) and the Parish. (Policy 1.5, items 1-3, 7-9)

1. FBPS holds legal title to Parish properties as a Bare Trustee; FBPS does not manage any process leading to the sale, mortgaging, renovation or other action resulting in a change to the title of properties held by FBPS in trust; AND all equity and beneficial interest in properties held by FBPS in trust is owned by the Parish for which legal title is held.
2. As a Bare Trustee holding legal title to real property FBPS will execute a legal instrument resulting in change to the legal title of a property only after receiving a written request from the Parish.

3. Before acting on the written request from a Parish, FBPS will require that the written request include confirmation in writing from the Bishop that the procedure followed by the Parish leading to the written request involving a change in title to real property conforms with any procedural requirements agreed to from time to time between the Parishes, TOTP, and the Bishop.
4. The Bishop, TOTP and the Parishes agree that any decision resulting in a change to the legal title of properties held by FBPS shall require a Vestry meeting of the Parish and that any written instructions to FBPS consequential to any such decision taken at a Vestry meeting shall comply with all meeting notice, quorum, voting and other procedural requirements developed and agreed to amongst the Bishop, TOTP and the Parishes.
5. TOTP will notify FBPS in writing of any procedures a Parish must undertake before requesting a change to the legal title of a property held by FBPS for that Parish; PROVIDED ALWAYS that such notice does not impose on FBPS any requirement to act in any manner other than as set out in paragraph 3 herein.
6. If a Parish ceases to exist without giving written instruction to FBPS on the Parish's legal title, FBPS shall be entitled to rely on the written authorization of the Bishop as to designation of beneficial ownership of the legal title or any process leading to the sale, mortgaging, renovation or other action resulting in a change to the said legal title. In the event FBPS holds legal title in trust for a Parish that ceases to exist, without giving FBPS written notification of that fact, FBPS shall rely on the written advice of the Bishop as to which Parish then will be designated to own all beneficial interest(s) in that real property, for which FBPS holds the legal title in trust.

#### **6.7.2 Use of Funds from Sale of Property**

TOTP and the Parish will be guided by the Memorandum of Understanding between the Territory of the People Anglican Church and Fraser Basin Property Society and the Parish. (Policy 1.5, items 4)

1. Any written request from a Parish to FBPS that will result in FBPS receiving funds as the result of a change to the legal title held by FBPS, shall include written direction as to the disposition of such funds;  
AND  
if no written direction is given and funds are received by FBPS following a change to the legal title held by FBPS those funds will be held in an interest bearing trust account by the FBPS solicitor until such time as written direction from the Parish is received by FBPS.

### **6.7.3 PROCEDURES:**

1. Parishes must be in conversation with the Bishop and the Administration Committee for assistance in difficult times in the life of the parish. The Bishop has pastoral oversight on the process and needs to ensure care for the whole community. This can be accomplished through visits by the Bishop, reports to the Bishop, or copies of Parish Council minutes.
2. Decisions based on the mission of the parishes to help determine the future undertakings and direction of the parish.
  - The main task of a church is to do the mission of God in the community; it is important we always work from that premise in making decisions.
3. Evidence of congregation involvement in decision making.
  - Decisions regarding moving forward with aspects of the process where directed by motions of the Parish Council.
4. Written request from the Parish to the Administration Committee must be made by the Parish Council for the Change of Title (Sale) of Property. [see Policy 6.7.1 (3)]
  - a. The written request must include the process undertaken by the parish to come to the decision to sell the church property. The request must outline the financial situation, membership situation, actions taken, and other related information.
    - Motions of Parish Council meetings related to the process leading up to the sale needs to be included with the written request, as well as evidence of congregation involvement in the decision making process.
  - b. Future plans for the life and mission of the congregation must be clearly stated in the request for sale of a property. (e.g. moving to an ecumenical shared ministry, merging with another congregation, seeking a new building). Should the plan not be finalized then the process must be outlined as to how this will be decided.
  - c. Included in the written request, must be a clear directive of who will hold the funds from the sale of the church property, and in what way those funds will be held.  
(e.g. *The proceeds of the sale will be held by TOTP in an interest bearing trust account for the purpose of....*)
  - d. A clear directive to the Administration Committee on how the parish wishes the Administration Committee to disburse the funds in the future.

- Example 1: *The proceeds of the sale will be held by TOTP in an interest bearing trust account for the purpose of continuing the ministry to Anglicans in the area of the (church name) and ensuring that the congregation can maintain its community, and worshipping life together into the future.....*
- Example 2: *The proceeds of the sale will be held by TOTP in an interest bearing trust account for the purpose of providing education opportunities for Anglicans living in the Central Interior of BC.*
- Example 3: *The proceeds of the sale will be held by TOTP Ministry Fund (or Capital Fund) and will be follow the conditions of the fund.*

*The use of the funds in the future will be disbursed by the Administration Committee in this way:*

- Example 1: *75% of the annual interest income to go to the parish (Or the continuation of the parish) to be used for the operating budget with requests for capital expenses to be disbursed from the capital of the fund.*
  - Example 2: *funds to be used for the purpose of maintaining the capital needs of the parish.*
- e. A duly called Vestry or Special Vestry meeting of the congregation is required and must comply with all meeting notices as set out in Policy 6.7.1 (4).and the notice of meeting package must be included in the request to Administration Committee. This package should clearly state what the motion(s) will be, background to the motion being presented, and who and how voting will take place. Whenever possible it is recommended that the Bishop, or Bishop's designate and a member of the FBPS be in attendance at this vestry (or special vestry) meeting.

**See Form 5.11 Sample Notice for Special Vestry Meeting – Sale of Church Property**

- f. Evidence must be provided as to how the sale of the church property is to be conducted as set out in Policy 6.7.1 (5). As well, evidence must be provided regarding:
- i) approval of the real estate agent by the Parish Council or Vestry Meeting,
  - ii) the appraised value of the property,
  - iii) who will make the decision to accept an offer and,
  - iv) where and to whom the offer should be directed.

It has been standard practice in the church to request up to three quotes before expenditures over \$500.00 are made.)

*Note: This request may be submitted in two reports to Administration Committee:*

*Report One: information sharing, outlining the process up to the request for sale.*

*Report Two: might be submitted requesting approval to list and sell the property.*

*If the Parish process includes these two steps, Administration Committee will still require all the same information as listed above.*

5. What happens next?
  - a. Once approval has been given by the Administration Committee, the Bishop will send a letter with all documents to the FBPS for their use in determining the sale of the property, and for authorization to sign the sale agreement with the realtor. See Policy 6.7.1 (8)
  - b. Once a sale is made, the FBPS legal advisor will handle the sale and disburse the funds to TOTP as directed.
  - c. TOTP will hold the funds in a trust account and will provide annual reports to the parish regarding the funds.
  
6. Future use of Trust Funds. (6.7.2)
  - a) All requests for funds are managed by the Administration Committee at their regularly scheduled meetings. Requests must be directed to the Chair or the Bishop.
  - b) Requests for funds require a motion from the Parish Council, the motion must include:
    - i) the proposed use of the funds
    - ii) a quote supporting any capital project funds
    - iii) full financial information on the project  
*(e.g. is the Parish seeking other grants? How much has the local congregation raised for the project? etc).*
  - c) Other requirements may be necessary from time to time based on the specific project.

*Note: It is important to begin the process early to ensure all parties have adequate time to call meetings, review documents, and for decision making.*