



the episcopal diocese of western massachusetts

37 Chestnut Street Springfield, MA 01103 P: 413.737.4786 In MA: 800.332.8513 F: 413.746.9873

SUMMER 2016

To: Rectors, Officers and Vestries
From: Property Subcommittee of the Standing Committee
Subject: Actions Affecting Real Property and Indebtedness

1. The purpose of this memorandum is to describe the process used by the Standing Committee to approve all parish actions regarding the alienation or encumbrance of real property or incurring any debt. The words “alienation” and “encumbrance” refer to the transfer of any part of the ownership interest of real estate, and include, among other things, a sale, gift, mortgage, easement, right of way, lien (either by court judgment or by law, such as a mechanic’s lien or municipal lien for unpaid water or sewer charges or other assessments), or a lease of any kind. The Diocese has adopted a policy that any lease of parish property which exceeds three years, including all options to extend, constitutes an alienation and encumbrance which requires approval of the Standing Committee [and the Bishop].
2. The National and Diocesan Canons require Standing Committee concurrence for the actions described above. See below: National Canons I.7.3 (parish property), I.7.4 (trust provisions), and II.6.2 (consecrated chapels and churches); and Diocesan Constitution Article XIII.7 (mortgage and debt), and Diocesan Canon 21 (parish debt).
3. Any parish desiring to alienate or encumber real property will submit a request for Standing Committee approval. The information on the form should reflect the investigation and evaluation undertaken by the parish and provide sufficient information for the Standing Committee to make an informed decision. This form is available from the Canon for Mission Resources, Steve Abdow, or by visiting the Standing Committee link on the Diocesan Web site at <https://www.diocesewma.org/parish-clergy-resources/standing-committee-documents/>. An additional sheet may be attached to describe the proposed action. All pertinent documents should accompany the request.
4. The request is then forwarded to the Standing Committee c/o the Canon for Mission Resources at the Diocesan Office. He will copy the request and forward it to the Property Subcommittee of the Standing Committee. The subcommittee consists of three members of the Standing Committee, the Chancellor, the Canon for Mission Resources, and, if needed, one of the Canons to the Ordinary. The guiding principles of the subcommittee are: Does the request support the mission of the parish? Has the parish exercised due diligence?
5. If, for any reason, concurrence is not given, the reason for non-concurrence will be indicated and the parish notified so it may take the corrective action required for concurrence.

6. When concurrence is reached within the subcommittee, (see section 4 above) the proposed action will come before the Standing Committee for approval. A Warden or member of the Parish requesting action should be prepared to be present at the Standing Committee meeting when the property action is being considered. Presence for the presentation may be waived by the Standing Committee.
7. The action taken by the Standing Committee will be reflected in its minutes and the Parish will be notified in writing.
8. If a request is granted, the Standing Committee may request a quarterly report on the progress of the proposed action.

Important: Parishes can expect that this process will require thirty (30) to sixty (60) days since the Standing Committee does not meet every month. It is important to submit requests in a complete and timely manner so that approval of property actions may be accomplished by the desired date.

Any questions about this memorandum or the process may be referred to the Canon for Mission Resources, at the Diocesan Office.

National Canon I.7

Sec. 3. No Vestry, Trustee, or other Body, authorized by Civil or Canon law to hold, manage, or administer real property for any Parish, Mission, Congregation, or Institution, shall encumber or alienate the same or any part thereof without the written consent of the Bishop and Standing Committee of the Diocese of which the Parish, Mission, Congregation, or Institution is a part, except under such regulations as may be prescribed by Canon of the Diocese.

Sec. 4. All real and personal property held by or for the benefit of any Parish, Mission or Congregation is held in trust for this Church and the Diocese thereof in which such Parish, Mission or Congregation is located. The existence of this trust, however, shall in no way limit the power and authority of the Parish, Mission or Congregation otherwise existing over such property so long as the particular Parish, Mission or Congregation remains a part of, and subject to, this Church and its Constitution and Canons.

National Canon II.6

Sec. 2. It shall not be lawful for any Vestry, Trustees, or other body authorized by laws of any State or Territory to hold property for any Diocese, Parish or Congregation, to encumber or alienate any dedicated and consecrated Church or Chapel, or any Church or Chapel which has been used solely for Divine Service, belonging to the Parish or Congregation which they represent, without the previous consent of the Bishop, acting with the advice and consent of the Standing Committee of the Diocese.

Diocesan Constitution, Article XIII.7 Any Parish which shall mortgage its real estate, or incur indebtedness for additional real estate, without first securing the approval of the Bishop and Standing Committee, shall forfeit its rights to representation in the Convention, until such time as it shall be reinstated by the Convention.

See also **Diocesan Canon 21**, regarding church debt.

Of Church Debt and Encumbrance of Parish Real Property (2004)

- Section 1 No indebtedness shall be incurred by a Parish without the approval of both the Bishop and the Standing Committee.
- Section 2 Whenever approval is required, it shall be granted only when provision has been made for the payment of all indebtedness by a plan of amortization or other method of payment submitted to and approved by the same authority.
- Section 3 A Parish shall not encumber or alienate its real estate or any part thereof without the prior written consent of the Bishop and Standing Committee except under such rules as the Bishop and Standing Committee may adopt.