

## CHAPTER VI

# PROPERTY HOLDINGS AND FINANCIAL RESOURCES <sup>1</sup>

### I. In the Congregation

All references to property in this manual shall include real and personal property unless otherwise specified. Personal property shall include such items as the contents and equipment of buildings; official records of organizations, such as minutes, membership, statistical and financial records, and publications; and materials collected on behalf of the congregation or district documenting its program and activities. Records created by people elected, appointed, or employed to act on behalf of the organization are the property of the organization, not of the individual.

Many congregations own property to aid in teaching and disseminating the gospel of Jesus Christ according to the beliefs, practices, and doctrines of the Church of the Brethren as set forth and promulgated from time to time by Annual Conference. For the sake of uniformity and continuity in the ownership of Church of the Brethren property, all property held by or for the use of a congregation, whether legal title is lodged in a corporation, a trustee or trustees, an unincorporated association or any other capacity, and whether the property is used in programs of the congregation or retained for the production of income, is held, in trust, nevertheless, for the use and benefit of the Church of the Brethren.

#### A. TRUST RELATIONSHIP

All property owned by a congregation, whether incorporated or unincorporated, shall be held, in trust, for the use and benefit and in conformity with practices and beliefs of the Church of the Brethren. All documents shall conform to the legal requirements of the various states, territories, or other possessions of the United States or foreign countries.

#### B. GIFTS, BEQUESTS, ETC.

When a congregation receives real or personal property by gift or bequest, it shall be the duty of the congregation to take title to same and hold the property, in trust, as in the case of property purchased by the congregation.

#### C. RESTRICTIVE COVENANTS

Restrictive covenants should be contained in all deeds of conveyances, as follows:

1. That if the property ever ceases to be used in accordance with the provisions set forth in this chapter, or in cases where the congregation has been closed or the property abandoned, the district conference may, upon recommendation of the district board, assert title to the property and have the same vested in the district board, in trust, for the district.
2. That before a legal title to the property can be conveyed, consent of the district board must first be secured, and the deed of conveyance must have affixed thereto the signatures and acknowledgments of its executive officers.

#### **D. TRANSFER OF CONGREGATIONAL PROPERTY**

##### **1. Voluntary Transfer**

When it is deemed wise or advantageous to a congregation to sell or otherwise dispose of real property, the documents of conveyance shall be executed by the appropriate persons authorized under its form of organization, in their trust capacity, under the direction of the congregation's board, with the consent of the district board. Where the title to church property is held by legal trustees, they shall promptly execute all appropriate documents of conveyance when directed by the congregation. Legal trustees holding title to congregational property shall serve at the will of the congregation.

##### **2. Closed or Abandoned Church Property**

When assuming responsibility for and control of property of a congregation that has been closed or abandoned, the district board shall give aid and counsel to the congregation. If a congregation is closed or its property has been abandoned by the removal of membership to other places, by death or for any reason, or otherwise ceases to exist or function as a congregation of the Church of the Brethren, any property that it may have shall be within the control of the district board of the district in which the church is located. The property shall be held for the designated purposes or disposed of in such manner as the district board, in its sole discretion, may direct.

##### **3. Disorganizing or Withdrawing Congregation**

If a congregation is disorganized by the district pursuant to the powers granted in chapter IV (I.C.16.d.) of this manual, or if it attempts by either majority or unanimous vote to withdraw from the Church of the Brethren district in which it is located or otherwise ceases to exist or function as a congregation of the Church of the Brethren, any property that it may have

shall be within the control of the district board and may be held for the designated purposes or sold or disposed of in such a manner as the district board, in its sole discretion, may direct. When assuming responsibility for the control of disorganizing or withdrawing congregations, the district board shall give aid and counsel to the congregation.

#### **4. Dividing Congregation**

The relationship of a congregation to a district of the Church of the Brethren can be severed only by action of district conference. If there is a division within the membership of a particular congregation, the district board, through the appropriate district commission or committee, shall make every effort to effect a reconciliation within the congregation or divide into separate congregations within the Church of the Brethren.

#### **5. Congregational Loan Obligations to Other Brethren Entities<sup>2</sup>**

In the event a local congregation obtains a real estate loan, or a guarantee or a co-signature on same, from another Brethren entity (e.g., Church of the Brethren, Inc., district, a partner congregation), the following procedures are recommended:

- a. The parties should execute all documents appropriate in the jurisdiction for establishing a loan and for providing proper security for it in favor of the creditor/guarantor/co-signer. Assistance of legal or appropriate financial counsel is strongly urged.
- b. Schedules and procedures for regular payment should be documented.
- c. Key representatives of each side should meet prior to closing the arrangement, carefully review the reciprocal rights and obligations, and examine the scenarios for how deterioration in payment performance will be handled.
- d. In the event payment performance does lag, the parties should meet promptly to explore alternative or remedial measures. In the event of clear default, the parties may wish to utilize the dispute resolution procedure set forth below in “Unresolved Disputes,” although neither party shall be deemed to have an absolute right to demand such.
- e. While the parties are encouraged to resolve any default in as reconciling a manner as possible, nothing in this paragraph shall be construed as

abridging the right of the creditor/guarantor/co-signer to exercise its full rights under controlling civil law of the jurisdiction as it may, in its sole discretion, find necessary.

## **6. District's Rights to Congregational Property**

The rights described in this polity for the district board to take control or to approve the voluntary transfer of congregational property shall be exercised solely for the purpose of assuring that the property or its proceeds are not diverted from use for the Church of the Brethren and shall not imply a right on the part of the district board to otherwise affect or control the use of the property by a congregation of the Church of the Brethren.

## **7. Unresolved Disputes**

Annual Conference Standing Committee or officers shall appoint a dispute resolution committee. This committee shall be composed of (a) a Mission and Ministry Board member; (b) a Church of the Brethren, Inc. staff member; (c) a district executive/minister; (d) and (e) two additional people not holding any of the above capacities to be chosen by the Church of the Brethren, Inc. These individuals should preferably have skills and understanding in the bringing about of reconciliation through negotiating and mediating the differences. If any matters in this section are not satisfactorily resolved between the district board and the congregation, they may be referred to the dispute resolution committee.

The committee shall function under the following guidelines:

- a. Upon written request from a district conference, district board, or any member of a congregation involved in a question related to the ownership of property, the committee shall assume responsibility to gather information and render a decision in the property dispute.
- b. Upon receiving a request to act, the committee shall, within ninety days, hold a hearing at a neutral site in the district where the dispute is located. All parties in interest shall be given notice of the hearing and shall be permitted to appear and give testimony.
- c. The committee shall establish a procedural guideline for conducting the hearing and make these guidelines available to all parties.
- d. If the hearing is not completed at the initial meeting, it shall be continued for a period not in excess of sixty days. Upon completion of the hearing,

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the committee shall render a decision within sixty days. Notice of the decision shall be given to all parties.

- e. The decision of the committee shall be binding on all parties.

**E. RETURN OF PROPERTY TO CONGREGATIONS**

In cases where the aforementioned restrictive covenant providing for the divestiture of title to property owned by a congregation results in the title being vested in the district board, in trust, it is understood that this action is taken only as a means of preserving property for the purposes of the Church of the Brethren. This property has been purchased and developed by consecrated effort, and in many cases at great sacrifice, by individuals who have been loyal to the principles of the Church of the Brethren. If the district board determines that circumstances warrant, the district board may return the property to the congregation. If the district board determines that circumstances do not warrant the return of the property to the congregation, the district board shall use or dispose of the property in the best interests of the Church of the Brethren.

**F. CONGREGATIONAL DOCUMENTS**

The articles of incorporation, charter, constitution, bylaws, deeds to real property, and other governing papers of the congregation, or copies of them, shall be kept at the district office.

When there is a question as to the sufficiency of legal title or other records, the congregation shall request aid from the district board to secure the assistance of competent legal counsel to remedy the discrepancies. The documents of congregations shall conform to the restrictive covenants set forth in I.C. of this chapter.

**II. In the District**

The title to all district property should be held by the district board, in trust, for the teaching and dissemination of the gospel of Jesus Christ, according to the beliefs, practices, and doctrines of the Church of the Brethren, as set forth and promulgated from time to time by Annual Conference.

**A. GIFTS, BEQUESTS, ETC.**

When the district receives property by gift or bequest, it shall be the duty of the

district board to take title to the same and hold the property, in trust, as in case of property purchased by the district.

**B. DISTRICT PROPERTY**

When it is deemed wise or advantageous to the district to buy, sell, or otherwise dispose of real property, the conveyance shall be executed by the district board, in its trust capacity, with the approval of district conference.

**C. CLOSED OR ABANDONED CONGREGATIONAL PROPERTY**

When a church has been closed or the church property abandoned for any reason, the district, through the district board, shall intervene in the matter and take title to the property. The district shall hold the property, in trust, for the benefit of the Church of the Brethren. The property shall be used or disposed of pursuant to the guidelines in I.D. of this chapter.

**D. RESTRICTIVE COVENANTS**

Restrictive covenants shall be contained in all deeds of conveyance as follows:

1. That if any property of the district ever ceases to be used in accordance with the provisions set forth in I.D.3. of this chapter or abandoned, the said property shall vest in and revert to the Church of the Brethren Inc.
2. That before a legal title to the property can be conveyed, consent of the district conference must first be secured and the deed of conveyance must have affixed thereto the signatures and acknowledgments of the moderator and the clerk of district conference, in addition to the duly authorized signatures and acknowledgments of the members of the district board.

**E. DISTRICT AND CONGREGATIONAL DOCUMENTS**

The district shall maintain a records file including the district's articles of incorporation, charter, constitution, bylaws, deeds to real property, and other governing papers. The district shall also maintain a records file for congregational records and titles. When there is a question as to the sufficiency of legal title or other records and legal counsel is needed to clarify the records, the district board shall secure the assistance of competent legal counsel to remedy the discrepancy.

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**NOTES**

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1. 1987 Minutes (1985–1989), “Revisions of Brethren Polity,” 492-495. Based on 1947 Minutes (1945–1954), “Brotherhood Organization,” 75-79.
  2. 1997 Minutes (1995–2000), “Property and Stewardship Issues,” 589-590.