

Property Sales
in Newfoundland and Labrador Conference
The United Church of Canada



The United Church of Canada came into being by an Act of Parliament in 1925 called The United Church of Canada Act.

In the Newfoundland and Labrador Conference, we became part of The United Church of Canada before we were part of Canada; therefore we are governed by the Newfoundland Act.

This Act has been changed only twice:

- In 1961 – the change was made to give the Presbytery (now District) the power to approve the sale of property, which before that time was the responsibility of the Conference. Conference Executive would have to meet to approve any sales or purchases to be made.
- In the 1980's in which the Act was changed from the Newfoundland Act to the Newfoundland and Labrador Act.

In most cases in the Newfoundland and Labrador Conference, title to congregational property is held/registered in the name of the Newfoundland and Labrador Conference. In the case of the property being held in the name of the Newfoundland and Labrador Conference, the Executive Secretary must always be one of the signing officers in the sales transaction along with the Chair of Trustees of the congregation/Pastoral Charge.

In some cases in this Conference, the property is held/registered in the name of the trustees of the congregation/Pastoral Charge. In those situations, it is not legally required by the province that the Conference sign in the sales transaction, **but it is a requirement of the Conference/Districts.**

So there are two sets of requirements to be followed: the provincial laws and the requirements of the Conference/Districts.

Therefore in all transactions of sales, the Chair of Trustees of the congregation/Pastoral Charge and the Conference Executive Secretary are to sign.

The practice then is as follows:

The District Finance and Administration through the District Executive (once property sales are approved) reminds the Pastoral Charge (seller) that all matters relating to property must be signed off by the trustees and the Conference Executive Secretary.

The Conference Executive, in 2012, also made the motion that once the District approves the sale of the property and the sale documents are signed by the trustees and forwarded to the Conference Office, the Executive Secretary can automatically sign the Bill of Sale, unless it is a complicated matter. If it is a complicated matter, the District will let the Executive Secretary know that it wishes to have the matter sent to the Conference Executive for another assessment of the situation and further decision making.

All proceeds for property sales to be used for United Church mission

It is important that the Conference and Districts ensure that the Pastoral Charge's property is going to be put to proper use, i.e. for the mission of the United Church. All congregational property must be used for that purpose.

If the property is being given away for a dollar to an outside group, that likely violates the trust purpose for the property (unless the property truly is worth nothing, or is being given to another charity that the Pastoral Charge considers being part of its ministry to support).

It is also a breach of the Income Tax Act regulations for a charity's property to be used for anything other than charitable purposes. If the property is being given away to any group that isn't a registered charity, that's an illegal transaction. We had a situation in another Conference where a congregation did exactly that. They gave the property to a local seniors group. Since the seniors group didn't have a charitable registration number, Canada Revenue Agency held the Pastoral Charge personally liable for the value of the property. (In that case, the General Council Office stepped in to shoulder the financial burden but it should never have happened in the first place).

If the Pastoral Charge no longer needs the property, it should be sold at fair market value so that the proceeds from the property may be used for some other United Church purpose.

Since we have had these kinds of situations in our Conference, there's an extra reason for the District to be very cautious in approving transactions and to require the Conference Executive Secretary to sign off as part of the process.

Therefore the East and West Districts ask that the Conference Executive Secretary be the final signature on all sales in the Newfoundland and Labrador Conference. This ensures that there is one practice for all sales in this Conference.

Furthermore, a motion was passed at Conference Executive in November, 2012 and endorsed by East and West Districts at their 2013 District meetings, to have a percentage of the sale of properties distributed to Newfoundland and Labrador Conference, as per the Manual. All property sales now require that 11% (eleven) are forwarded to Conference Office to be disbursed at 10% (ten) to a Ministry Initiatives Fund and 1% (one) to Conference Archives to help preserve our history.

Process to be followed for property sales

1. Board makes a decision to sell property, calls a congregational meeting to make the motion to sell the property.
2. The Board then corresponds to the Finance and Administration Committee of the District, with supporting documents, i.e. details of the property being sold, the motions approving the sale, the details of the proposal in respect of the disposition of the proceeds after providing for all costs and payments of indebtedness of the trustees, as well as a fair market assessment of the property value.
3. The District Finance and Administration Committee looks at all the information provided and make a recommendation to the District or its Executive.
4. The District makes a motion on the sale of property and if the decision is to permit the sale, the trustees can put the sales transaction in place.
5. The trustees make sure all legal documents are drawn up. The first signature is that of the Chair of the Board of Trustees and the second signature is that of the Conference Executive Secretary.
6. It is then the responsibility of the Purchaser to make sure the property is registered in their name. It is also wise to have the Trustees ask for confirmation that the property has been registered and is no longer the responsibility of the United Church.
7. Once the transaction is complete, the Trustees are to ensure that the money is invested or used as approved by the District; including forwarding 11% (eleven) of the proceeds to the Newfoundland and Labrador Conference for disbursement (10% to Ministry Initiatives Fund and 1% to Archives). Any other use of the money must first be approved by motion through the District upon the request of the Congregation.