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619.291.5947
info@edsd.org
www.edsd.org
2083 Sunset Cliffs Blvd.
San Diego CA 92106

Diocesan Approval FAQs for Congregational Property Transactions

(Original Draft 4/7/18; Revised 1/6/22)

What transactions need to be sent to Standing Committee?

- Any request to sell, lease, mortgage, or otherwise encumber any real property. (Lease agreements include becoming a lessee or lessor.)
- Any request to acquire additional real property, except by gift or bequest, with any encumbrance.
- For missions, any request to use the proceeds from the sale of real property.
- Any contract or obligation whose value (in the opinion of the chancellor or CFO/treasurer) exceeds 20% of the prior year's Net Disposable Income on Line B of the Parochial Report and may create a potential liability for the diocese.

Do share use leases need to be approved by the diocese?

Shared use leases (where a congregation rents a part of its space for a few hours a week) can be approved by the bishop in most cases. The bishop may refer shared use leases to standing committee when:

- The tenant is a religious organization whose beliefs are in conflict with the Episcopal Church
- The time of use is on Sunday mornings
- The standard rental agreement cannot be used
- The standard risk procedures (see Appendix A) cannot be applied
- The annual rental income is less than 20% of prior year's Net Disposable Income on Line B of the Parochial Report
- See Appendix A for more information

What transactions need to be approved by Executive Council?

- The Executive Council/Board of Directors is also required to approve these and other significant financial transactions for Mission congregations (and all diocesan property) in their capacity as the Board of Directors for those congregations.
- Standing Committee has authority over every diocesan congregation and may condition its approval for any agreement (sale, lease, etc) on the congregation's willingness to abide by the Standing Committee's advice on how the funds shall be used or allocated.

How does it work when I have a property transaction?

Process

The process outlined here is a general guideline provided to assist congregations. The Standing Committee reserves the right in its sole discretion to modify and amend this process for any individual agreement as it sees fit.

Canons for Property

The Canons of The Episcopal Diocese of San Diego require approval from the Bishop and Standing Committee for a mission or parish to sell, lease, convey, exchange, transfer or otherwise dispose of, or encumber property. (EDSD Canons, Title II, Canon 2.12 and 3.09)

Time is often of the essence in such agreements, and it can be tempting to wish that we had a congregational polity to avoid delays. The diocesan approval process is not intended to cause undue delays but rather to exercise our polity as Episcopalians, extending congregational decision-making processes to our diocesan/episcopal structures to strengthen our relationships beyond our congregations and ensure the integrity of the wider church. If followed closely with planning, it should not cause undue burden or delay.

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1. A congregation notifies the CFO/Treasurer of the Diocese as soon as a qualifying transaction (above) seems likely. While sometimes it is not possible, ideally this notification is encouraged about three months prior to the intended closure of the agreement. Note: for the sale of property, property may not be listed for sale until Standing Committee (and Executive Council, if applicable) have approved the sale.
2. The CFO/Treasurer will enter the Notice of Intent into the diocesan tracking system and conduct a preliminary analysis of the transaction. She or he will then notify the bishop, canon to the ordinary, and chair of the standing committee, to determine if the transaction can be "fast-tracked." The CFO/Treasurer will shepherd the agreement through the process and serves as a resource/point of contact for the congregation.
3. The bishop may schedule a telephone or zoom call with the rector/vicar/PIC to discuss the scope of the project.
4. **FAST TRACK AGREEMENTS**. While the criteria for "fast-tracking" an agreement are not fixed, the Standing Committee Chair and Bishop in consultation with the Treasurer and other parties as they see fit may evaluate the potential liability exposure to the diocese, the total size in dollars of the agreement, and whether the diocese has executed similar agreements in the past. The "Fast-Track" process will include:
    a. Chancellor review
    b. Scheduling at the next Executive Council meeting (if applicable) for a vote on the agreement; and/or
    c. Scheduling at the next Standing Committee meeting for a vote on the agreement.

    Fast-track agreements do not require in-person presentations; however, to be presented on the Agenda, the Treasurer must receive the following documents at least seven days prior to the meeting:
    1. Completed agreement ready for execution (for chancellor review)
    2. Previous year's financials
    3. Current year's financials
    4. Any other relevant details of the project

5. **ALL OTHER AGREEMENTS**. All agreements that are not "fast-tracked" will either be assigned to committees for review, or assigned for further review. Some likely assignments are:
    a. Property Committee – to review property issues such as repairs and maintenance, property valuation and marketability, and other real property questions
    b. Finance Committee – to review financial valuation, use of funds, congregational financial health, and terms of agreement
    c. Chancellor Review – all agreements are subject to legal review, but the Standing Committee may assign particular agreements and congregations to the chancellor to work on specific legal issues of concern
    d. Financial Consultant – assign a member of the staff or Finance Committee to assist a congregation in re-structuring an agreement when it may not yet meet optimal conditions

    Once the applicable committees have reviewed the agreement to their satisfaction, the agreement will be forwarded to the Executive Council (for Mission Congregations) and Standing Committee for review and approval.

    You are encouraged to be present at committee meetings, Executive Council, and Standing Committee to present your agreement and be present for questions, if invited. The CFO/Treasurer will help coordinate the time and place of these meetings.

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For agreements that are not fast-tracked, the following documents must be forwarded to the CFO/Treasurer no later than seven days before the Executive Council and Standing Committee presentation:

i. Completed agreement ready for execution (for chancellor review)
ii. Previous year's financials
iii. Current year's financials
iv. If applicable: Capital campaign details, including any bridge loan needs
v. Budget projections for project
vi. If applicable, construction estimates (or contracts) and loan terms
vii. Any other details that are pertinent
viii. Executive Summary of current vision/mission/campaign/building project of how this investment will enable ministry and be sustainable in the long run (no more than one page)

References:

Title II, Canon 2.12
Title II, Canon 3.09
Addendum to Guidelines Defining When Standing Committee Consent Is Needed 1.17.2017

Footnote to paragraph "For Parishes"

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APPENDIX A

Shared Use Agreements

Shared Use agreements are a helpful way to steward our buildings and increase income. Congregations in the diocese may enter into Shared Use agreements with the permission of the bishop. The bishop will likely refer the lease to the Standing Committee (and, if applicable, the Executive Council) if:

- The tenant is a religious organization whose beliefs are in conflict with the Episcopal Church.
- The time of use is on Sunday mornings. Diocesan congregations are expected to hold principal worship services on Sunday mornings. Should a congregation develop a plan to lease space on Sunday mornings that allows for the continuity of principal worship services, the Standing Committee must review and approve that plan.
- The standard rental agreement cannot be used. The standard agreement includes important language to help define the relationship of the parties and has already been reviewed by the diocesan chancellor.
- The standard risk procedures (see below) cannot be applied.
- The annual rental income is less than 20% of prior year's Net Disposable Income on Line B of the Parochial Report.

If any of the above elements are present, the Shared Use Agreement is subject to the review and approval of the Standing Committee (and possibly Executive Council).

Risk mitigation for Shared Use Agreements

- The Lessee is required to be insured with coverage as provided by the rental agreement. The Lessee must provide a Certificate of Additional Insured prior to taking occupancy.
- The Lessee is required to conform to Safe Church policies as required by the Episcopal Church, and the rental agreement. A leader from the Lessee organization must either take Safeguarding God's People or provide evidence of a comparable abuse prevention training.

Suggestions prior to implementing a shared use agreement:

- Relationships. Shared use agreements require conversation as the Lessee takes occupancy and your congregation learns to live with a new partner in the space. How will you manage the transition? Who are your points of contact in each organization? How will you make time to address challenges as overlapping priorities make themselves known?
- Make sure to discuss storage needs. Will your lessee need a place to keep things in between program times? How will that affect the lease?
- Access and security. Will the Lessee have their own keys? Security codes? Who will be responsible for access to the building and how will the Lessee remain accountable for that access?
- Facility setup, cleaning, and maintenance. Will the rooms be set up prior to use for the Lessee? Will the Lessee move any furniture during use? Will it be reset after use? What level of cleaning is expected after use? What increased costs will you have from increased facility usage- in cleaning and maintenance? Will this be shared?
- Utilities. How will you treat utility costs? Is the lessee sharing any costs? Will thermostats be regulated? Does the Lessee have access to your WiFi, and if so does it have capacity for their needs?
- Alcohol. Make the Lessee aware of your alcohol policy.