



## The Diocese of Southern Ohio

Episcopalians in Connection

### ***Guidelines: Encumbrances and Alienation***

The purpose of this document is to provide congregations with guidance about the canonical requirements concerning the alienation or encumbrance of real property owned by the congregation (church buildings, rectories, other buildings, and land). These requirements apply to actions of vestries, mission councils, trustees, clergy, or other bodies within the Church.

Canon I.7.3 of the Episcopal Church requires that the consent of the Standing Committee and Bishop be obtained *before* a congregation may take action that encumbers or alienates any real property owned or held by the congregation.

There are some obvious ways in which the real property of a congregation could be “encumbered.” An example is if a congregation purchases real estate and takes out a mortgage. This is an obvious and immediate encumbrance of the real property. An obvious form of “alienation” is the sale of real estate.

There are other ways in which church property can become encumbered or alienated. For example, if:

- A congregation leases space to a third party.
- A congregation signs an agreement to allow a third party to purchase its real estate in the future.
- A congregation grants a third party a right of first refusal.
- An easement is provided to a third party in relation to real estate.

These are all encumbrances or forms of alienation.

There are other, less obvious ways in which a congregation could encumber or alienate church real estate. One example is if a congregation commits to significant financial obligations that cannot be covered by the congregation’s annual budget or financial reserves. In such a case, the failure to meet the committed financial obligations could result in a court judgment against the congregation if it fails to pay, and that would create a lien on church assets, including its real estate.

All of these cases, and others that could reasonably result in an encumbrance or alienation of church real estate, must receive prior consent from the Standing Committee and the Bishop before a congregation can commit to such actions.

For more information and additional examples, please refer to Episcopal Church Canon I.7.3 and Canon II.6.3.



## The Diocese of Southern Ohio

Episcopalians in Connection

In case a congregation is uncertain about whether prior consent is required, it should seek the advice of either the President of the Standing Committee or the Canon to the Ordinary, prior to taking any action.

### **Suggestions:**

- Before signing any legal document, contract or lease, the wardens and senior clergy should review the document to determine whether the outcome might reasonably result in an encumbrance or alienation of church real estate.
- Before contracting for or making significant property changes to Church real estate, including changes to the land, structures on the land, or disposing of architectural elements, the wardens and senior clergy should ask the Standing Committee to review the proposed changes.

Please contact the President of the Standing Committee or the Canon to the Ordinary if you have any questions (email, phone, US Postal Service) to see if they advise that the Standing Committee review property changes.

- Provide a brief summary of the plans and/or a copy of any unsigned legal documents.
- Include contact information for the person from your parish taking the lead on the project.
- Also share any timetable or deadlines.

The Standing Committee meets once per month (except for a longer break in the summer). Please take this timing into consideration as you develop your plans.

After the Standing Committee and Bishop have given their consent to Vestry decisions or plans that will or could potentially encumber or alienate church property, congregations can confidently proceed with their plans.

The Standing Committee is eager to advise and support congregations in their mission and ministry, and looks forward to helping Vestries and Clergy in making sound decisions about their stewardship of the Church's assets and real estate.

Diocese of Southern Ohio  
Standing Committee  
March 2, 2015