

MEMORANDUM

To: The Detroit Annual Conference of the United Methodist Church, Inc.
("Conference") - Real Estate File

From: Renard J. Kolasa, Esq.
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Re: Checklist - Potential Gift of Real Estate to a Local Church

Date: February 5, 2004

The following items are suggested as a general guideline when considering a potential gifts of real estate to a local Church ("Church"). These materials are not exhaustive and should be supplemented by the General Council on Finance and Administration Real Estate Policies and Procedures, found at www.gcfa.org, as well as the provisions of the Book of Discipline of the United Methodist Church - 2000.

A. Procedural Steps.

1. Receive and acknowledge inquires, but make no initial commitment to accept a proposed gift.
2. Acknowledge interest in writing, but include a statement providing that the gift cannot be completed or any deed accepted until the Church completes its feasibility, environmental and legal surveys.
3. Notify involved Church personnel (pastor, Trustees, Administrative Council).
4. Determine general suitability, including marketability or usefulness.
5. Meet with the donor.
6. Obtain a title search, environmental assessment, and appraisal.
7. Have an Acceptance of Gift Agreement prepared, to be signed for the Church and by the donor to detail the understanding of the transaction.
8. Review and comply with Disciplinary provisions regard approvals (Change Conference, DS, pastor, etc.) and the deed trust clause, as needed to accept and possibly resell real estate.
9. Have all documents reviewed by counsel.

10. Report the gift and/or sale to the Church.
11. Accept and record the deed.
12. Acknowledge the gift in an appropriate manner.

The following specific items should be reviewed with the potential donor:

1. How is ownership structured (individual, joint, trust, land contract)?
2. What are the donor's wishes, needs and intent, including restrictions on transfer or development, retention of a life estate, etc.?
3. What specific restrictions on development are desired by the donor? Is this currently, during the donor's lifetime, or indefinitely?
4. Will the donor consider retaining a life estate in a residence, allowing immediate development or sale of the remainder?
5. Is a reverter required (these are generally unacceptable)?
6. Is the gift to be a bargain sale, with the Church making a cash payment to the donor?
7. Does the donor care if the property is sold? Advise donors that if gifted property is sold within two (2) years after acquisition, the Conference must file a notice with the IRS disclosing the proceeds (Form 8282).
8. If the property is to be sold, does the donor care how the proceeds are to be used by the Church (e.g. music, evangelism); are funds to be held in an endowment?
9. Is there a current appraisal of the property? If so, obtain a copy. If not, note that an appraisal will be required to support the donor's income tax deduction. Who will pay for this? The appraisal must be a "qualified appraisal" meeting strict IRS requirements that many appraisers are unaware of. Form 8283 is required.
10. Will the donor gift additional cash to the Church for property fix up?
11. What are the current zoning, potential zoning and other development restrictions?
12. Is the property subject to any other current restrictions, such as a farm lease for planting and harvesting crops? Obtain a copy.

13. Are the taxes paid to date?
14. Does the donor own and intend to gift mineral rights?
15. What is the condition of any improvements on the property?
16. Obtain copies of the deeds, prior title searches, surveys, leases, any environmental reports, any water test results, etc.
17. What is the proposed time line?
18. Obtain a signed authorization for access to the property for inspections. (Attached).

SAMPLE
ACKNOWLEDGMENT OF A PROPOSED GIFT

Re: Proposed Gift of Land in _____, County

Dear Mr./Ms. _____:

This letter will acknowledge your interest in potentially making a gift of the above real estate to _____ Church ("Church"). We are grateful for your kind expression of interest. We would like to meet and discuss this at your earliest convenience.

Several important matters need to be considered when any potential gift of real estate to the Church is involved. These include:

1. The donor's wishes and any desired restrictions,
2. A suitability analysis,
3. An environmental review,
4. A title search, and
5. An appraisal.

Acceptance of a gift of real estate is always contingent upon a satisfactory check of the above items and preparing the necessary paperwork. After we meet, we can begin to pursue those items, as appropriate. The acceptance of any gift or the related deeds would be conditioned upon a determination that there are no environmental or other problems with the property.

As a donor, you will want to have any paperwork reviewed by your own attorney. You should also have your tax consultant advise you in regard to the tax effect of your gift.

Please feel free to call me with any questions. I would like to meet on _____.

Very truly yours,

[signature]

Title

_____ Church

We hereby grant to _____ Church, its leaders and any contractors they may engage relative to their consideration of the property, the right to enter the property we are considering gifting to the Church at the following address: _____

_____, subject to the following conditions:

1. Any person entering the property is asked to call in advance so we know who is on the property and the purpose of their visit.
2. They agree to avoid doing damage to the property in so far as possible, and to obtain permission before cutting, digging, or otherwise conducting tests on the property that will leave any permanent change in the property.
3. This permission will expire on _____, or when this right is withdrawn by us in writing to the pastor of the Church at its local mailing address, whichever shall come first.
4. Visitors to the property under this agreement release us from any liability regarding accidents that may happen to them on the property.

Owner

Owner

Address

Telephone number

Date