



**Office of the New York State
Attorney General Letitia James**

Guidance for congregants whose houses of worship are or may be offered for lease or sale



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Questions to ask before your congregation agrees to sell or lease its house of worship

Introduction

In recent years, many congregations in New York have sold their houses of worship. The decision to sell is one of the most important decisions a congregation can make, and it should be made carefully.

Your congregation may be considering selling, leasing, or otherwise transferring its house of worship or other real property for different reasons, such as:

- » The size of your congregation is changing, and the members want to move to smaller or larger premises.
- » Your organization's programming is changing, and your congregation wants a space that is more suitable.
- » Your congregation wishes to sell some of its real estate holdings, such as vacant lots, to fund its other activities.

You, as a member of the congregation, should ask for information about any proposed sale or other transfer of property. In most denominations, congregants have voting rights that give them an important role in deciding whether to sell their property and how to structure the transaction.

We at the Attorney General's Charities Bureau have prepared this guidance to assist you and your fellow congregants who want to know more about their role in the sale of their property, and the procedures required by New York's Not-for-Profit Corporation and Religious Corporations laws. **This guidance applies also when your religious corporation leases its property for more than five years, or mortgages or otherwise exchanges or disposes of its assets.** We use the term "sale" throughout this document to apply to all such transactions.

Guidance for attorneys representing religious organizations that are selling their property, "Religious corporations: Sales and other disposition of assets," is at https://ag.ny.gov/sites/default/files/regulatory-documents/religious_corporations_disposition_assets.pdf.

We also provide useful questions you can ask about these transactions.

This guidance is not a substitute for legal advice from an attorney. If you require legal advice, consult a private attorney.

Does your organization require Attorney General approval to sell?

Most religious organizations must have the approval of the Attorney General, or the supreme court of their region, to transfer their property. However, the following denominations go directly to the New York supreme court (the Attorney General's office is not involved in sales of their property):

Protestant Episcopal Church

Roman Catholic Church

Ruthenian Catholic Church of the Greek Rite

African Methodist Episcopal Zion Church

**Presbyterian Church of the General
Assembly of the Presbyterian Church USA**

United Methodist Church

**Reformed Church of the General Synods of
the Reformed Church in America**

Questions to ask if your property is being sold

Does your congregation have the right to sell its house of worship?

Find out if your congregation has title to the property by looking at the deed.

If your congregation is part of a larger denomination, find out if you must have their consent to sell your property.

Do you owe property tax?

If the property is not the place where you conduct worship services, you may owe property tax on the property. Check with your property tax office to ensure the taxes have been paid.

Why are you selling the property?

As we mentioned earlier, your organization may want to sell property for different reasons. Understand why your organization wants to sell and what it will do with the money it receives from the sale. There are rules about its use, and the Attorney General and the court will want to be sure the money will be used to further the mission of the organization and will benefit the congregation.

Have members of the congregation been provided with information about the plans to sell? Was there a meeting of the congregation to discuss the possibility of a sale?

You should receive information about the decision-making process and whether your organization considered alternatives to sale. Ask for information about the details of the sale, such as:

- » a fact sheet that includes the proposed price
- » the appraised value of the property
- » a plan of how and when the purchaser will make payments
- » a timeline for completing the transaction
- » an explanation of how the congregation will be protected if the deal falls through
- » information about where the congregation will worship after the sale

Find out whether you and your fellow congregants have an opportunity to ask questions about the sale. Make sure you receive answers to your questions.

Who authorized the plan to sell?

Sales of property of most religious corporations must be approved by the board of directors or trustees, or other governing body.

Be aware that your congregation may have to approve the sale. If any of your congregation's members are entitled to vote, the board or other governing body must recommend that voting members approve the decision to sell. The members must have the opportunity to vote on whether the property should be sold.

Make sure you and your fellow congregants have been told whether they are entitled to vote.

To find out if you and your fellow congregants have a right to vote, start by reviewing the organization's bylaws. Even if the bylaws do not include the congregation's right to vote, be aware that the NY Religious Corporation Law gives many congregations this right. Contact the Charities Bureau to find out if your congregation can vote.

Is there a contract of sale?

You and your fellow congregants should be told the terms of the contract. ‘

What are the obligations of the purchaser? Are there provisions protecting the congregation if the sale does not take place? What promises are made to the congregation?

Find out who drafted the contract. Ask whether your congregation’s attorney had the opportunity to review and amend the contract. Ask if the contract includes protections from liability if the sale does not go through.

Has the organization provided the congregation with information about its finances?

Under New York law, your congregation is entitled to receive your religious corporation’s annual financial report. If you haven’t received the annual report, request it. If the governing body of your organization will not provide you with the financial report, inform the Charities Bureau.

How did your organization arrive at the sale price?

Ask if the property was appraised, and whether the appraisal was done by an independent appraiser. Make sure that the appraiser is hired by and working for the congregation. Ask to see a copy of the appraisal.

Find out whether your organization will receive something other than money, such as another building or an interest in a building that is yet to be built, in exchange for its house of worship.

Is there a development deal?

Sometimes a religious organization sells its property to developers who offer to build new worship space along with commercial or residential space, all contained in a new building. These transactions are particularly complicated. Make sure that you are fully aware of, and understand, the benefits and risks.

Did the purchaser promise funds in the future?

Sometimes, purchasers who plan to develop the property promise payment only after new premises are built.

Who is buying the property?

If your organization is entering into a development deal with a developer, be sure the organization has done adequate due diligence on the developer. Some important questions:

- » What other projects has the developer completed?
- » Can you talk with a former or current client of this developer?
- » In its previous projects, did the developer come in on time and within budget?

Does your congregation have a lawyer?

It is important to have good legal representation to protect your interests. Be sure the lawyer is working on the behalf of the congregation, not someone else. Some questions to ask:

- » Who hired the lawyer?
- » What is the lawyer's experience in real estate transactions?
- » Who is paying the lawyer? The lawyer should be independent of the purchaser. Sometimes the purchaser hires or pays the lawyer, creating a conflict of interests. This is not a good idea.
- » Whose interests is the lawyer protecting? Make sure the lawyer is working for and promoting the interests of your congregation.

Does the purchaser have the funds to pay your asking price?

You want to be sure that your organization will be compensated.

Have arrangements been made for a place of worship once your property is sold?

If you are moving to new premises, find out if the new premises will be ready when the sale takes place. If there are no plans to buy another place to conduct worship services, ask whether you will have funding to rent space for worship services. Note that, if your organization does not yet have another place to conduct worship services, the proceeds from your transaction may be placed in escrow until a new worship space is secured.

Have more questions?

Contact us at Questions.Transactions@ag.ny.gov.

Principal and regional offices of New York State Attorney General and covered counties



Albany

Charities Bureau
The Capitol
Albany NY 12224-0341
518-776-2160

Counties: Albany, Columbia, Fulton, Greene, Hamilton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Warren and Washington

*Sullivan and Ulster for trusts and estates matters only

Binghamton Regional Office

44 Hawley Street, 17th Floor
Binghamton NY 13901-4433
607-721-8771

Counties: Broome, Chemung, Chenango, Delaware, Otsego, Schuyler, Tioga, and Tompkins

Buffalo Regional Office

Main Place Tower, Suite 300A
350 Main Street
Buffalo NY 14202
716-853-8400

Counties: Allegheny, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, and Wyoming

Nassau Regional Office

200 Old Country Road, Suite 240
Mineola NY 11501-4241
516-248-3302

County: Nassau

*Not for trusts and estates matters. Trusts and estates matters are handled by NYC.

New York City

Charities Bureau, Transactions Section
28 Liberty Street, 19th Floor
New York NY 10005
212-416-8401

Counties: Bronx, Kings, New York, Queens, and Richmond

*NYC also handles Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester – trusts and estates matters

Plattsburgh Regional Office

43 Durkee Street, Suite 700
Plattsburgh NY 12901-2818
518-562-3288

Counties: Clinton, Essex, and Franklin

Poughkeepsie Regional Office

One Civic Center Plaza, Suite 401

Poughkeepsie NY 12601-3157

845-485-3900

Counties: Dutchess, Orange, Sullivan, and Ulster

*Dutchess and Orange County trusts and estates matters are handled by NYC;

Sullivan and Ulster County trusts and estates matters are handled by Albany

Rochester Regional Office

144 Exchange Boulevard, Suite 200

Rochester NY 14614-2176

716-546-7430

Counties: Livingston, Monroe, Ontario, Seneca, Steuben, Wayne, and Yates

Suffolk Regional Office

300 Motor Parkway, Suite 230

Hauppauge NY 11788-5127

631-231-2424

County: Suffolk

*Trusts and estates matters are handled by NYC

Syracuse Regional Office

300 South State Street, Suite 300

Syracuse NY 13204

315-448-4800

Counties: Cayuga, Cortland, Madison, Onondaga, and Oswego

Utica Regional Office

207 Genesee Street, Room 508

Utica NY 13501-2812

315-793-2225

Counties: Herkimer and Oneida

Watertown Regional Office

Dulles State Office Building

317 Washington Street

Watertown NY 13601-3744

315-785-2444

Counties: Jefferson, Lewis, and St. Lawrence

Westchester Regional Office

44 South Broadway

White Plains NY 10601

914-422-8755

Counties: Putnam, Rockland, and Westchester

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Charities Bureau Guidance

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