



Presbyterian Church of Australia

in the State of New South Wales

SALE OF PROPERTY

Sale of Congregational property must be formally approved by the Congregation, Presbytery and the Trustees.

The Code Part III Regulations and Rules of the Presbyterian Church of Australia in the State of New South Wales Section B (2) provides in part:-

“B2.07 Church Solicitor The Law Agent shall act as solicitor for the Church generally. For preparing and examining all deeds and documents (other than providing written opinions and other than cases which involve only the obtaining of the opinion of the Procurator), for investigating titles and for conducting, prosecuting and defending all petitions, actions and suits, and for undertaking prosecuting defending all petitions, actions and suits, and for undertaking the legal work of the Church generally for any congregation, committee, organisation or institution thereof, the Law Agent shall be entitled to charge the usual professional fees.”

The Law Agent will act for the Property Trust and will in terms of B2.07 of The Code be entitled to receive from the Committee of Management professional fees for the legal work on the basis of any solicitor so acting.

In order to avoid confusion it would be helpful if ONLY THE SECRETARY (or if unable to act, another person nominated by the Committee of Management to do so) conduct correspondence and any conversation of an URGENT NATURE with the Lay Agent.

If an up-to-date Certificate of Survey is not available it will be necessary for the Law Agent to obtain such a Certificate at the cost of the Committee of Management prior to a contract being issued to the purchaser. This will take time to obtain and due allowance must be made for any delay.

It will be necessary for the Committee of Management to ensure that the land intended for sale is, in fact, the land covered by the relevant Certificate of Title and by the proper legal description of the subject land which should be provided to the Law Agent and to the General Manager.

The purchaser should be advised of the name and address of the Law Agent:-

Mr S.H. Fraser, B.A., LL.M.
C/-Colin Biggers & Paisley,
Level 42
2 Park Street
SYDNEY NSW 2000

And also be advised, for the information of the purchaser's solicitor, that the name and address of the vendor is the Property Trust as follows:-

THE PRESBYTERIAN CHURCH (NEW SOUTH WALES) PROPERTY TRUST
a Body Corporate, 168-180 Chalmers Street, Surry Hills.

The Contract for Sale and other documents MUST NOT BE SIGNED LOCALLY as there is no authority to do so. All documents must be certified as correct by the Law Agent prior to execution by or on behalf of the Property Trust.

In cases where Old System Titles or subdivisions, consolidations, etc. are involved due allowance must be made for those transactions to follow their normal course as additional time will be involved.

If there be any further information required by the Committee of Management please do not hesitate to contact the General Manager or the Trusts and Property Manager in Church Offices. Under normal circumstances, however, the transaction should proceed without further action on the part of Church Offices.

In addition we shall be pleased if you would advise the Insurance Department when properties have been sold so that insurance cover can be cancelled.

There is a helpful form which is designed to capture the critical information the Law Agent needs to ensure the transaction proceeds effectively. This form must be completed and forwarded to the Law Agent. It can be obtained from the General office.

THE FOLLOWING DOCUMENT SHOULD BE COMPLETED AND SENT TO THE LAW AGENT AS SOON AS POSSIBLE.

Jeffrey Falls
General Manager

July, 2018

Sale of property

Instructions to Law Agent

Agreed sale price - \$ (if known)

The following instruction form should be completed by the Secretary and forwarded without delay to the Law Agent:

Mr Simon Fraser BA, LL.M
c/- Colin Biggers and Paisley
Level 42, 2 Park Street
SYDNEY NSW 2000

email: simon.fraser@cbp.com.au
Telephone: (02) 8281 4555
Mobile: 0407 107 375
Fax: (02) 8281 4567
DX 280 SYDNEY

Please note that until Property Trust approval has been given the sale cannot proceed.

1. Name of Congregation

2. Full description and address of property being sold
(Identification survey or drawing should be enclosed if possible).

3. Name, address, phone number and email address of the person with whom the Law Agent corresponds. To avoid confusion no other person should communicate with the Law Agent.

4. Please furnish text of Trustees approval.

5. Is the property to be sold by auction?

6. Name and address of purchaser (if known).

7. Name and address of solicitor acting for purchaser.

8. Name and address of estate agent.

9. Amount of deposit

To whom paid?

10. Are any items of furniture and furnishings included in the sale? If so, what?

11. Are there any special conditions affecting the sale? If so, what?
12. Is there any other matter affecting the sale such as fencing disputes, resumptions etc? If so, what?
13. Please furnish particulars of rates and any other outgoings.
14. Is there a current survey report of the property in existence? If not, either the Committee shall obtain a survey or a survey will be ordered by the Law Agent at the cost of the Committee. (The cost may be recoverable from the purchaser under the contract).
15. When is completion desired? The usual period is 6 weeks. (Kindly allow time for all legal requirements to follow their normal course. Where Old System Titles, consolidations or sub divisions are involved due allowance must be made for the additional time required).
16. Are legal costs to be deducted from the proceeds of sale? If not a tax invoice will be rendered to the Committee after completion.
17. Insurance - After settlement of the sale is effected the Committee should contact the Insurance Department of the Church to arrange for the cancellation of any insurance cover.
18. GST: Is the Pastoral Charge registered for GST purposes?
If the Pastoral Charge is registered, is GST payable in respect of the sale? (Generally GST is not payable on the sale of an existing residential property but other property, such as a Church, hall or vacant land, is not GST exempt). If GST is payable is it intended to pass on the GST to the Purchaser? Or is the Margin Scheme to apply? You may need to obtain advice from your Treasurer/Accountant/Auditor on these issues.

Date

Hon. Secretary
Committee of Management