

CONGREGATION PROPERTY OWNERSHIP CHECKLIST

It is of utmost importance that congregations keep their legal status up-to-date. At the start of each service year, the congregation holding title to the Kingdom Hall should arrange a review of the ownership and property documents using the *Annual Property Documents Work Sheet* (S-111).

In addition, the Regional Building Committee's Maintenance Inspections Department will review the ownership and property documents, perhaps in conjunction with the biennial inspection of the Kingdom Hall. Their review assures that everything possible is done to comply with Caesar's laws. (Rom. 13:1) Not having property documents in proper order with current contact address information on file with the authorities could adversely affect the legal and tax-exempt status of congregations.

Whether a corporation or trusteeship, the titleholding instrument is a legal entity that acts on behalf of the congregation. As such, the corporation members or trustees do not have a say in congregation matters or in the disposition of congregation property beyond their roles as congregation members.

The following checklist is supplied to assist the Regional Building Committee in providing necessary support to the congregations in matters dealing with their legal entities and property ownership. This checklist supplements the information contained in the document *Information Regarding Ownership of Kingdom Halls* (TO-36).

PROPERTY TITLE (TO-36, pars. 4-5)

Before any contracts are entered into or any new property is purchased or accepted as a donation:

- Assist the congregation to retain a local attorney.
- Assist the congregation to retain a title insurance company to search real estate records and to provide a Commitment for Title Insurance, which should later be converted to an Owner's Policy of Title Insurance.

(If title insurance is not available, obtain a preliminary written opinion of title from an attorney.)

- Confirm "fee simple" (clear) title (i.e., no covenants, nonutility easements, encroachments, liens, mortgages, restrictions, and so forth).
- Resolve any problems involving title to the property before closing.

PROPERTY PURCHASE (TO-36, pars. 7-8, 37-44)

- Obtain Owner's Policy of Title Insurance.
(This follows from Commitment for Title Insurance and insures title and legal ownership. Obtain coverage equal to the purchase price of the land plus the market value of the existing or new building constructed or renovated. It protects against loss and provides monetary protection for the cost of land and improvements.)

- If title insurance is not available, obtain a formal written opinion of title (or equivalent) from an attorney.

(If a titleholding congregation failed to obtain title insurance or an attorney's title opinion at the time of purchase, it is impractical to do so after the fact. If requesting a loan from the Kingdom Hall Fund, a lien search less than one year old will suffice.)

- Obtain Title Survey.
(If using a licensed surveyor, inform the title insurance agent that title survey should be written into the policy.)

NOTE: Title insurance is not transferable. The sale of the property or transfer of title will cancel the current policy. The new owner would need to obtain his own policy.

- Assist the elders to open a separate bank account for construction expenses using the titleholding congregation's Employer Identification Number (EIN).—See also *Regional Building Committee Accounting Manual* (S-100).

- ❑ Assist the elders to obtain Property Tax Exemption using the titleholding congregation's information.
(Contact the county assessor's office, since annual filings may be required.)
- ❑ Assist the elders to obtain Sales Tax Exemption using the titleholding congregation's information.

OWNERSHIP BY CORPORATION (TO-36, pars. 9-23)

- ❑ Obtain an Employer Identification Number (EIN).
- ❑ Assist the congregation to retain an attorney to form a nonprofit or religious corporation to hold title to Kingdom Hall property.
(The corporation's name should be the same as the congregation's name.)
- ❑ Provide sample Articles of Incorporation to the congregation's attorney.
(Obtain samples from the branch office. The Articles of Incorporation must be filed either with the Secretary of State or the County Clerk's Office.)
- ❑ Provide sample Bylaws to the congregation's attorney.
(Obtain samples from the branch office. The Bylaws are not filed with the Secretary of State, the County Clerk, or other government offices.)
- ❑ Verify the need for annual reports.
(If required, these reports are filed with the local government office. Requirements vary from state to state. However, failure to comply may cause a cancellation of the corporation.)
- ❑ Confirm that annual meetings are being held and that the Board of Directors is electing corporation officers.
(This should be done per the corporation's Bylaws to satisfy legal requirements. Officers usually are the brothers on the Congregation Service Committee but otherwise should be elders or ministerial servants who are not likely to move away.)

OWNERSHIP BY TRUSTEES (TO-36, pars. 24-31)

- ❑ Assist the congregation to retain an attorney to form a trustee arrangement.
- ❑ Verify that the congregation has appointed trustees.
(Three brothers must be appointed by congregation resolution. They should be elders or ministerial servants who are not likely to move away.)
- ❑ Verify that the deed has been made to the named and appointed trustees followed by the phrase "as trustees for the [full name of the congregation]."
- ❑ Provide a sample Certificate of Appointment of Trustees/Substitute Trustee and a Declaration of Trust for Trustees/Substitute Trustee to the congregation's attorney.
(Obtain samples from the branch office. Ask the attorney if it is legally required that trustee documents be recorded in the land records.)