

NOTES
re
ACQUISITION AND SALE OF MANSES
VESTED IN THE CHURCH OF SCOTLAND GENERAL TRUSTEES

GENERAL

1. If the Financial Board of a Congregation is contemplating replacing a Manse vested in the General Trustees, either by purchasing another property or by acquiring a site and erecting a building thereon, contact should be made with the Secretary of the General Trustees at the earliest possible stage. The Secretary will inform the Solicitor of the General Trustees, as it falls to the latter to deal with the acquisition of Manses or sites and with the marketing and sale of existing Manses. The General Trustees have given to the Solicitor certain delegated powers to facilitate speedy action in connection with the acquisition of houses or sites but these powers are operable only once the Trustees have decided that the existing Manse may be sold. It is therefore essential that if the Financial Board is giving even preliminary consideration to a change of Manse, it should ascertain whether approval will be given by the General Trustees to the replacement of the existing property. If contact is made only when a particular property is in view for which an offer may have to be made in a competitive situation without these preliminaries having been dealt with, it may well prove impossible for the Solicitor to act with the speed which is frequently necessary in such circumstances.
2. When the question of the possible replacement of an existing Manse is raised, the title will be investigated to ascertain whether it contains any restrictive condition which might prevent its being marketed - the elimination of such conditions may absorb a period of months in negotiations and may, indeed, require litigation. The Secretary will also prepare the necessary Application to the General Trustees for a formal Determination for authority to sell the existing Manse. The General Trustees may require the obtaining of a professional Report on the property, a procedure which will require to be followed in any event if it is desired to proceed with a sale.

ACQUISITIONS

3. The General Trustees have delegated to the Solicitor authority on their behalf to conclude missives for the acquisition of Manses and to apply towards the price any relevant available funds of the Trustees where:
 - (a) In the event of there being an existing Manse for the Parish, the Trustees have already approved of its disposal. (Observation: See comments under GENERAL and under SALES.)
 - (b) The Financial Board of the Congregation desires to purchase the property. (Observation: Where the Financial Board consists of a substantial number of persons, it may be appropriate for the Board to appoint a small committee of, say, three to five persons and to delegate to that committee power to act in an acquisition within certain defined limits as to price, type of property etc.)
 - (c) The Presbytery approves. (Observation: Early contact should also be made with the Presbytery Clerk to alert him to the situation and to make arrangements, if necessary, for a delegated authority by Presbytery to a number of its members to decide in this matter.)
 - (d) The subjects are situated in or near the parochial area.
 - (e) The subjects have at least 7 apartments exclusive of kitchen and bathroom.
 - (f)/

- (f) A Report and Valuation from a firm of Chartered Surveyors or, in remote areas, a firm of Architects or tradesmen acceptable to the Financial Board has been obtained on the instructions of the Solicitor and the price to be paid is, at most, not greatly in excess of the valuation.
- (g) The title is to be taken in the name of the General Trustees.

The General Trustees may, on occasion, vary the foregoing terms but only where the Trustees, having reviewed the situation, are satisfied that the circumstances justify it.

4. The General Trustees have delegated in similar fashion to their Solicitor authority on their behalf to conclude missives for the purchase of Manse sites. When a new Manse is being built it is highly desirable that the builder is registered with the National House Builders Council. If no such registration exists specific enquiries should be made into the builder's reputation and reliability. A contract should be placed only if both are exemplary as in such circumstances the Church may have no effective recourse if defects are discovered at a later stage.
5. Although the General Trustees may in any particular case be making available relevant funds, it is pointed out that the responsibility for arrangements for financing the transaction - both temporary and permanent - rests with the Financial Board.
6. Where an acquisition and sale are taking place, the acquisition of the new Manse will generally occur before the sale of the old. Accordingly, bridging finance will usually be necessary. Congregations may be able to arrange this through their own Bank but reference is made to the Central Fabric Fund which is administered by the General Trustees and has limited funds available from which assistance may be given in regard to bridging finance on more favourable terms than Bank overdraft rates.
7. Outlays incurred during the course of the various procedures are normally met, in the first instance, from a Temporary Account opened in the Trustees' books for the transaction. Debit balances on such accounts are charged with interest at a rate marginally less than Deposit Fund Rates. The outlays (plus any interest) are recouped from the sale proceeds but if the transaction does not proceed or if the funds are insufficient and there are no other appropriate funds held by the General Trustees for the Congregation the Congregation is required to clear the debit balance in the Trustees' books.

SALES

8. If a Manse vested in the General Trustees is to be sold, it is a necessary preliminary that a formal Determination be obtained from the General Trustees authorising the sale. The procedures for obtaining a Determination are set out in Assembly legislation and, so far as Manses are concerned, the necessary Application proceeds from the Financial Board of the Congregation with the concurrence of the Kirk Session and with the sanction of Presbytery. The reasons for the application must be stated. The Secretary of the General Trustees will prepare this Application for signature by local parties.
9. The sale of Manse properties is carried through by the Solicitor and the normal practice is for her to obtain a Report on and Valuation of the subjects, prepare Particulars of Sale and thereafter advertise the subjects acting at all times in consultation with the Financial Board. She will consult the Financial Board on which firm to employ for the obtaining of the Report and Valuation. Although the approval of Presbytery is required in principle to the sale, it is not normally involved in the actual details of the sale transaction. There is consultation with the Financial Board before any offer is accepted on behalf of the General Trustees and again it can facilitate speedy action if the Financial Board delegates power to a small committee to make a recommendation.