



The
Episcopal Diocese
of New York

Property Management Basics Wardens' Responsibilities and Best Practices

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1. VESTRY RESPONSIBILITY FOR REAL PROPERTY

Whatever their mission or size, all organizations should have policies and procedures established so that (1) members of their boards understand their fiduciary responsibilities, (2) assets are managed properly and (3) the charitable purposes are carried out. A failure to meet these obligations is a breach of fiduciary duty and can result in financial and other liability for the board of directors.

RIGHT FROM THE START: RESPONSIBILITIES of DIRECTORS of NOT-FOR-PROFIT CORPORATIONS- Office of the New York State Attorney General- 2015 - [Bureau \(charitiesnys.com\)](http://charitiesnys.com)



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1. VESTRY RESPONSIBILITY FOR REAL PROPERTY

Functioning Vestry – Legal Duties

The vestry is responsible for managing the organization and must make decisions crucial to the life and direction of the organization. In carrying out those responsibilities, the vestry must fulfill fiduciary duties to the organization, specifically:

Duty of
Care

Duty of
Loyalty

Duty of
Obedience



1. VESTRY RESPONSIBILITY FOR REAL PROPERTY

Duty of Care

The duty of care requires a director to be familiar with the organization's finances and activities and to participate regularly in its governance. In carrying out this duty, directors must act in "good faith" using the "**degree of diligence, care and skill**" which prudent people would use in similar positions and under similar circumstances. In exercising the duty of care, a responsible board of directors should, among other things, do the following:

- 1 Attending vestry and committee meetings and actively participating
- 2 Reviewing minutes, reports, financial statements and reports by employees
- 3 Ensuring effective reporting and internal controls
- 4 **Manage assets as would a reasonably prudent person**



Duty of Loyalty

The Vestry is charged with the duty to act in the interest of the parish. This duty of loyalty requires that any conflict of interest, real or possible, be disclosed in advance of joining a board and when they arise.

Specifically:

1

Defining the circumstances that constitute a conflict of interest

2

Setting forth procedures for disclosing a conflict of interest

3

1. VESTRY RESPONSIBILITY FOR REAL PROPERTY

Duty of Obedience

A board has a duty of obedience to ensure that the organization complies with applicable laws and regulations, its mission and its internal governance documents and policies, including:

Dedicating the organization's resources to its mission

Ensuring the organization does not engage in unauthorized activities

Complying with all appropriate laws, filings, registrations and report

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1. VESTRY RESPONSIBILITY FOR REAL PROPERTY

Obligation to Budget & Manage Assets

1. For parishes, frequently your greatest asset (and sometimes your greatest liability) is your physical structure
2. Managing your assets, including but not limited to your real property, to support your mission is the responsibility of the vestry
3. Your property is a wasting (deteriorating) asset, that must be managed in order to be maintained to support your mission



1. Vestry responsibility for real property

Obligation to Budget & Manage Assets

1. Property can be used:
 - a) Directly for mission (e.g. worship/soup kitchen/AA)
 - b) To generate income to support mission
 - c) To generate income to preserve and maintain the property in order to:
 - i. Directly serve mission
 - ii. Generate income to support mission

2. In order to employ your real property to further your mission you must:
 - a) Know, track and report on what needs to be done to manage/maintain your property
 - b) Know, track and report on what the costs and timeline are for managing/maintaining your property
 - c) Obtain resources to maintain the property

3. **YOUR BUDGET AND STRATEGIC PLAN SHOULD INCLUDE YOUR LONG-TERM PROPERTY MAINTENANCE COSTS AND INCOME**





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Introduction To Property Maintenance & Capital Repair Scheduling

Introduction

- Maintenance of your property safeguards the operations, the health and safety of the building, and the mission work of the church
- Embrace your role as stewards of your properties by creating maintenance plans
- A comprehensive maintenance and repair schedule can help the Parish with managing their property
- Goal for today: provide an outline of how to create an individualized maintenance plan



2. PROPERTY MAINTENANCE & CAPITAL REPAIR SCHEDULING

Step 1: Investigatory Phase

- Identify buildings on your campus
- Categorize building components
 - Structural components
 - Roof and Weatherproofing
 - Exterior facades
 - Masonry openings: Windows and Doors
 - HVAC
 - Electrical
 - Fire Safety and Security Systems
 - Sewage, water pipes, drainage,
 - Interior finishes
- Date your building components
 - When were they installed?
 - When were they last repaired?



2. PROPERTY MAINTENANCE & CAPITAL REPAIR SCHEDULING

Step 1: Investigatory Phase (contd)

- Document and assess the condition of your buildings (either with in-house help or with an expert in the field)
 - Engineering/Architectural Report
 - Property Management Professionals
 - Contractors/Vendors
- Review all existing service contracts
- Please see checklist in the resource section for preventive maintenance schedule



Condition Assessment Building X	Location	Original Construction Date	Last date repaired and/or replaced	Industry standard life Span	Life Expectancy/Expiration Date	Material	Comments
<i>Framing and Structural</i>							
Roof							
Ridge Beam	All	1783	C-1954	60+	2015	Wood	Fair Condition -cause: improper construction, see report engineer
Rafters	All	1916	C-1954	60+	2015	Wood	Fair/Poor Condition -cause: improper construction. Some wood is brittle, because of former rotting issues/leakages? Could be
Beams	All	1783	C-1954	60+	2015	Wood	Fair Condition -cause: improper construction. Some wood is brittle, because of former rotting issues/leakages? Could be cause for
Support systems and exterior walls							
Wood Frame Construction	All	1783/1916	F-1916	100+	2016	Wood	Probable issues could be rotten members that are attached to the exterior wall in west
Brick Masonry and Mortar Joints	E	1783	F-2004	25	2029	Brick, Mortar	Decent condition no major cracks in mortar
Stone Masonry and Mortar Joints	S	1783	F-1996(e)	30	2026	Fieldstone, Portland Cement	Repointed over the past years. Future projects will involve only repointing. Cracks
Stuccoed Exterior Walls	N	1783/1916	F-2004(e)	15	2019	Brick, Mortar Plaster	Some moisture signs behind the paint. Flaking of the paint
Foundation (porches included)		1783/1916	FR-1916/1996	100+ (35)	2096(2031)	Fieldstone, Portland Cement Mortar	The rubble stone wall under the porch is a 1915 reconstruction on the original
Back Porch Frame	W	1916	FR-1996	25	2021	Wood	Fair Condition. Steps are in poor condition. Paint is falling off and signs of wood rot.
Front Porch Frame	E	1873	FR-1996	25	2021	Wood	Fair Condition. Steps are in poor condition. Paint is falling off and signs of wood rot.
<i>Safety and Security</i>							
Interiors							
Fire Detection System	All	2005		10 to 15	2023	Miscellaneous	No service contract in place
Smoke Detection	All	2005	R-2007	<10	2017	Miscellaneous	No service contract in place
Fire Extinguishers	All	2002-2005	2003	12	2012-2015	Miscellaneous	No yearly inspections
Security Alarms	None	None	None	None	None	None	None

2. PROPERTY MAINTENANCE & CAPITAL REPAIR SCHEDULING

Step 2: Identify the life expectancy of the building components

- What is “life expectancy”?
- Factors affecting life expectancy building components
 - The type of material
 - The original construction date
 - The current condition of the material
 - Its future wear and tear
 - Its exposure to the elements
- Monitoring Conditions is crucial!

A few examples:

New asphalt shingled roof = 25-30 years

New mortar joints = 25 years

Boilers = 10-15 years (depending on type)



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2. PROPERTY MAINTENANCE & CAPITAL REPAIR SCHEDULING

Step 3: Planning Phase and Prioritization



- Use the “life expectancy” to create your planning schedule
- Include your preventive building maintenance into planning
- For Example:
 - Boiler Inspections
 - Oil Tank Inspections
 - Smoke Detector inspections
 - Don’t forget the gutter cleaning!



2. PROPERTY MAINTENANCE & CAPITAL REPAIR SCHEDULING

Step 3: Planning Phase and Prioritization (contd)

- Determining schedule depends on church priorities:
 - Financial means of the church
 - Use of the spaces, high traffic or not.
 - Income-producing spaces
 - Reduction of carbon footprint
 - Future change in use of spaces
- Create and continuously update your maintenance timeline
- Time is of the Essence

THANK YOU FOR ALL YOU DO TO KEEP OUR BUILDINGS BEAUTIFUL!



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2. PROPERTY MAINTENANCE & CAPITAL REPAIR SCHEDULING

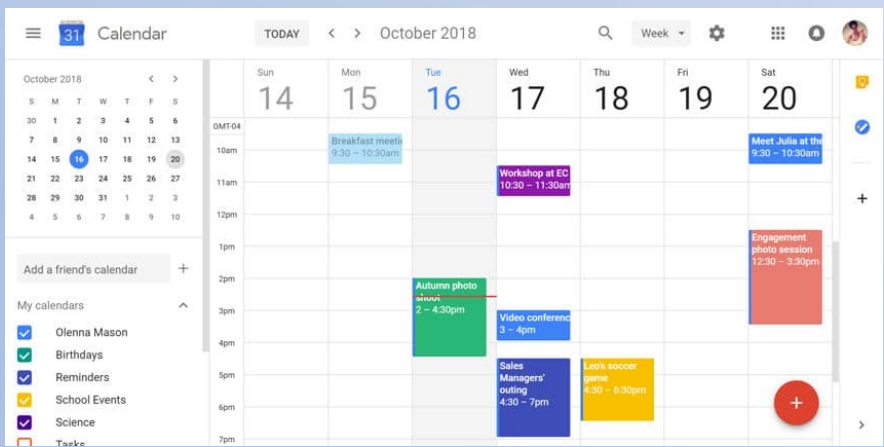
Sources

- Diocesan Financial Sources
 - [Property Support Committee Grants and Loans \(4 x a year deadline 3rd week of February, May, August, November\)](#)
 - Grant covers a maximum of 1/3 of the total costs up to the discretion of the Property Support Committee.
 - The same policy applies to a Property Support Loan request
 - Property Support Staff Grants (all year round, please [contact](#) Director of Diocesan Property Support)
 - Consultant Grant (up to \$5,000)
 - Emergency Repair Grant (up to \$5,000)
 - Energy Audit Grant (up to \$1,500)
 - Materials Grant (up to \$4,000)
 - [Fund for Repair & Restoration \(1x a year June 1 deadline\)](#)
 - One time Grant of a maximum of \$10,000 up to the discretion of the Fund for Repair & Restoration Committee
- Other Sources
 - [Landmarks Conservancy Sacred Sites Grant Program \(National/State Register\)](#)
 - [Bedell Fund \(Westchester County\)](#)
 - [National Fund for Sacred Places](#)
 - [Preserving Black Churches Grant Program](#)
 - [New York State Environmental Protection Fund Grant Program](#)
- Articles
 - [Preventive Church Maintenance Checklist](#)
 - [Church Repair and Maintenance Publication](#)
 - [What is Church Maintenance?](#)
 - [Church Facility Management Tips](#)
 - [Church Foundation by Nathaniel Smith / Simpson Gumpertz & Heger](#)



3. PROGRAMING YOUR REAL PROPERTY FOR MISSION AND INCOME

Maximizing Space – “Hyper-Use”



What:

- Hyper-Use is the process of using your property to its maximum potential, such that space is (almost) never unprogrammed/unused. (It may require some changes to your space.)

How:

- Evaluate your spaces in 4 dimensions
 - a) 3-D physical space (each room)
 - b) Time -- have a 24 hour-a-day (or 12) 7 day-a-week calendar for each space
 - a) Use a spreadsheet or shared calendar (Outlook/Google, etc.)
- Find partners
 - a) Work with local stake-holders
 - a) Elected officials
 - b) Local institutions (major nonprofits)
 - c) “Power-brokers”
 - d) Other faith-based organizations
 - e) Arts organizations
 - b) Place ads
 - c) Use brokers (for leases)

• The Secret is:

BE VERY PUBLIC ABOUT IT!



3. PROGRAMING YOUR REAL PROPERTY FOR MISSION AND INCOME

Maximizing Space – “Hyper-Use” Resources

[Capital Campaign Management for Congregations
\(sacredplaces.org\)](http://sacredplaces.org)

[NYC Dance in Sacred Places - Partners for Sacred Places](#)

[Community Engagement Services - Partners for Sacred Places](#)

[Shared Space / Adaptive Reuse of Sacred Places for Revenue Generation](#)

[Space Uses for Houses of Faith \(bricksandmortals.org\)](http://bricksandmortals.org)

[Venuely](#)



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3. PROGRAMING YOUR REAL PROPERTY FOR MISSION AND INCOME

Maximizing Space - Space Sharing

Connecting Those Who Have It ~ With Those Who Need It



3. PROGRAMING YOUR REAL PROPERTY FOR MISSION AND INCOME

Licensing vs. Leasing

License

An agreement that **permits acts** on the land of another that would not be permitted and creates no estate.

- Owner can revoke “at will” (usually)
- Owner retains absolute control over the premises
- Owner supplies all of the essential services for the licensee’s use
- Generally short-term or periodic
- Permits a **use** of the premises

Lease

A conveyance of **exclusive possession of specific property** which vests an estate in the grantee

- Not revocable unilaterally.
- Consideration in the form of rent payments
- Typically long-term
- Grants an **interest** in the premises



German School Brooklyn

3. PROGRAMING YOUR REAL PROPERTY FOR MISSION AND INCOME

The Agreement

Key Elements

- Grant
- Use
- Term
- Rent/Charges
- Utilities
- Subleasing
- Conditions
- Rights and Remedies
- Taxes

Getting there – will take some negotiation

The Lease or License Agreement is the **FINAL** document that will govern the relationship between the two parties

It should be comprehensive, clear and cover everything agreed to by both parties



3. PROGRAMING YOUR REAL PROPERTY FOR MISSION AND INCOME

Real Property Taxes

Key Elements

- Grant
- Use
- Term
- Rent/Charges
- Utilities
- Subleasing
- Conditions
- Rights and Remedies
- Taxes

420 - a Real Property Tax Exemption

Owned by a corporation or association organized or conducted exclusively for religious, charitable, etc. purposes

Used exclusively for carrying out thereupon one or more of such purposes either by the owning corporation or another such corporation as hereinafter provided shall be exempt from taxation as provided in this section.

Leases and Licenses must meet the above criteria and payment must not exceed maintenance, carrying costs and depreciation



3. PROGRAMING YOUR REAL PROPERTY FOR MISSION AND INCOME

Resources

- Term Sheet Hand-Out
- Use an Attorney/Resources
 - Goldstein Hall PLLC - [Goldstein Hall – Attorneys at Law](#)
 - Probono Partnership - [Community Development Initiatives – New York State Council of Churches \(nyscoc.org\)](#)
 - Lawyer’s Alliance - [Lawyers Alliance for New York: Connecting lawyers, nonprofits, and communities](#)
 - Local Bar Associations
 - Local Attorneys may do minimal pro bono (make sure they do nonprofit real property)

