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# Real Property Options and Process

Episcopal Diocese of New York  
Wardens' Conference  
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# The Process





# The Process

1. Need Assessment and Planning
2. Feasibility Assessment and RFP
3. Partner Selection, Contracting and Approvals
4. Closing and Development
5. Operation and Maintenance



# 1. Need Assessment and Planning

- What are
  - The needs of your congregation now
  - The needs of your congregation in the future
  - The needs of your neighborhood
  - The needs of your physical plant (buildings)
  - The needs for a rectory or housing stipend
  - Parking space
  - Program space
  - Local institutions that might be partners





# 1. Need Assessment and Planning

Will you use the development to:

- Pay for deferred maintenance
- Endowment
- Annual income
- Worship space
- Programmatic space
  - Current Programs
  - Congregational needs
- Housing for Staff





## 2. Feasibility Assessment and RFP

- Understand what you own
  - Lot size
  - FAR
  - Zoning
  - Air Rights
- Get a professional appraisal
- Community support/opposition
- Field multiple offers – test the market
- May need a survey and some initial due diligence
- Your team will be critical in helping you understand what you own and how to get what you want





## 2. Feasibility Assessment and RFP

### The Reality

- Increased property values in the City have created a valuable resource for many (not all)
- There are limits to the value
- There are risks involved in development
- There are property tax issues



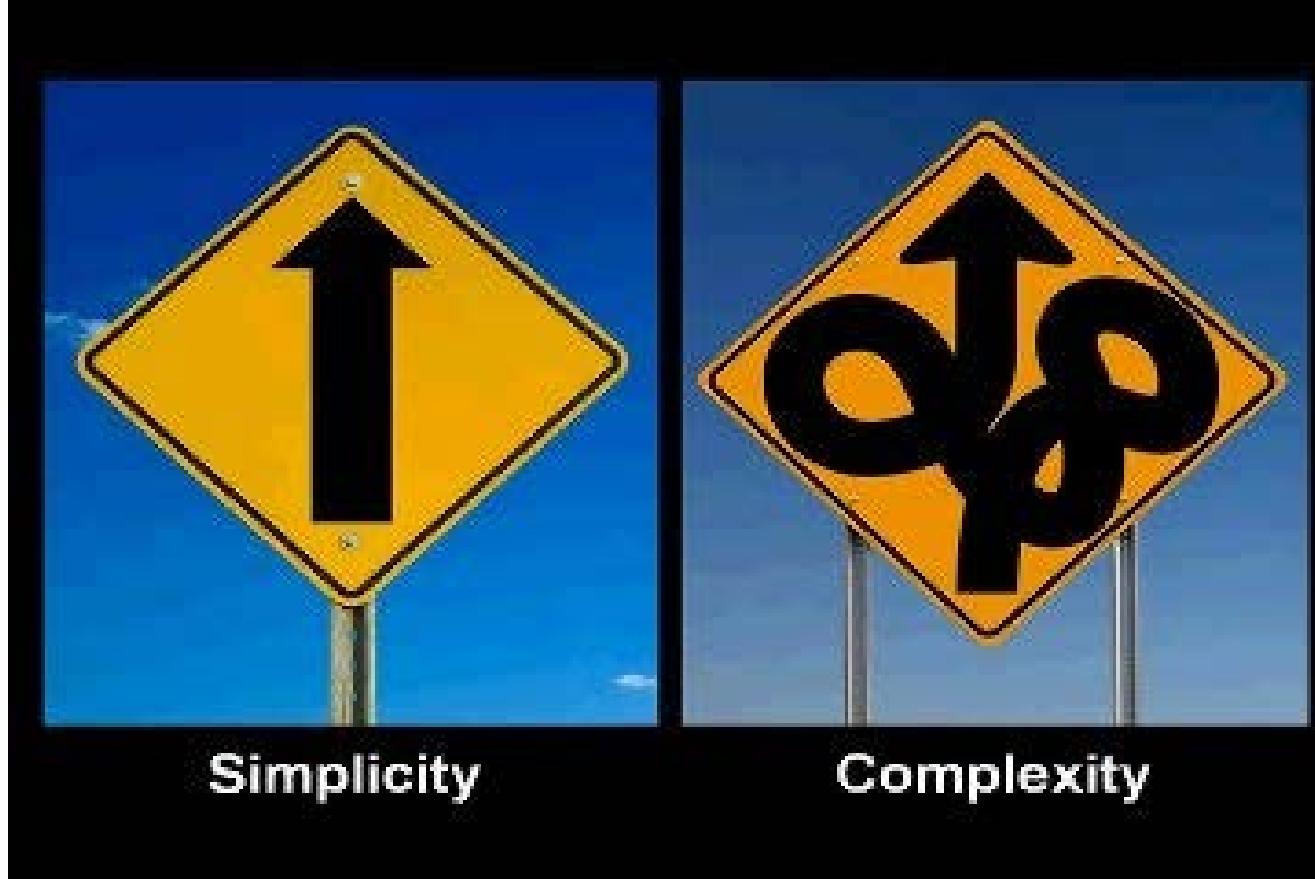
## 2. Feasibility Assessment and RFP

### OPTIONS

- Lease
  - Short-term lease v. Long-term lease
  - Renovated or unrenovated
  - Some to moderate risk
- Sell
  - All for \$\$
  - For some \$\$ and developer builds you space
  - No to moderate risk
- Joint Venture Development
  - Many options
  - Most risk
  - At least 18 months from construction closing
  - Can take many years – Affordable is even longer



### 3. Partner Selection, Contracting and Approvals





### 3. Partner Selection, Contracting and Approvals

Selecting a Partner:

- Selecting a partner and finalizing deal terms will depend on the complexity of the deal
- For sales partner selection is relatively easy and contracting is relatively low risk
- For leases and joint-ventures partner selection can be more complicated and more risky
- Your team will be critical in helping you identify appropriate partners and address risks



### 3. Partner Selection, Contracting and Approvals

Section 511 of NY NPCL (NY RCL Section 12) requires for ANY sale, mortgage or lease for 5 years or greater:

- Once Bishop and Standing Committee approval is received you must submit a petition to the Supreme Court of the State of New York
- Demonstrate consideration is fair, reasonable and in the best interest of the Parish
  - If the organization has debts how they will be repaid
  - Must have an appraisal
  - Must have evidence of value of consideration if the consideration is not cash
  - Must demonstrate the certainty that the consideration will be received by the Parish



## 4. Contracting and Development

When are you done?

- For a sale once the transaction closes you are done
- For some leases you or the tenant may have to undertake renovation or improvements
- For joint-ventures at least 18 months of construction, development risk and risk of nonpayment





## 5. Operation and Maintenance

For joint-ventures and leases once you are done, you are still not done:

- Property must be maintained
- Rents must be collected
- Requirements must be satisfied





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**Jason Labate** practices in the areas of faith-based development, not-for-profit law, affordable housing and community development, banking and finance, and general real estate law. Jason represents a wide range of for-profit, not-for-profit and public organizations in various corporate, tax-exemption and real estate matters. Jason graduated cum laude from Brooklyn Law School with a focus on economic empowerment and community development and was a Sparer Public Interest Fellow. He participated in Brooklyn Law School's Community Development Clinic, where he advised local groups on not-for-profit corporate formation, corporate governance, and tax issues. Jason has an MPA from NYU's Wagner School of Public Service and a BA from the University of Chicago with Honors in Public Policy.



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