

## Real Estate 101 for Religious Organizations

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Religious organizations are faced with significant challenges brought about by changes in society that have led to declines in church attendance and in the populations of religious congregations. In light of declining and aging populations, the needs of religious communities are changing, and so too is the ability or desire of the communities to continue to manage certain assets. Real estate assets in particular can represent a burden to the religious community owning them, especially when the ownership and operation costs exceed the income generated by the assets, or when those assets are no longer needed for the community's charitable or religious mission. However, real estate can also represent an opportunity for the religious community to stabilize or even enhance its financial situation and, if appropriate, reorient its mission for the future. We looked into the obstacles facing religious communities and developed a step-by-step process for communities to take control of their future by maximizing the value of their real estate assets to ensure the continuity of the community and its mission.

Putting real estate assets to work for the religious community owner requires planning. The long-range plans of the community must be determined, and present a framework for all other decision-making regarding the assets. The initial issues the community should address include determining whether the real estate is still necessary or useful to the community's mission. What are the needs of the community? What does the religious community want its legacy to be?

Once those questions are answered, the community needs to identify the right buyer, tenant or development partner to help it determine how the real estate assets can be used in service of those needs and goals. Trusted advisors and knowledgeable brokers can provide assistance and present alternatives for the disposition, redevelopment or reuse of existing assets. Those alternatives must take into account the process by which the religious community, and likely the church, make decisions and, in particular, the nature and extent of limitations on the community's authority with respect to its assets. Both canon law and civil law issues may be implicated. For example, in recent years some religious communities have turned their real estate assets into money-making ventures by listing them for rent on Airbnb, prompting Pope Francis to issue a statement in 2018 explicitly discouraging this practice. A dispute between a church and its religious community over the disposition of the community's assets is unusual and certainly not a desired outcome, so identifying where such friction may arise is critical to the planning process.

Assuming the proposed project, whether it be a sale, lease, development or redevelopment, is approved, the community's advisors can help structure the project in a way that is most beneficial to the religious community. The project's risks and rewards can be identified and the community can determine whether it wishes to exert any control over the use of the assets even after sale to a third party. While there are ways for a community to ensure that the real

estate assets continue to honor its mission into the future, there are trade-offs. Each can be examined and assessed by the community, with guidance from its advisors.

Tax implications can be especially problematic. While the general rule is that income from the sale or rental of real estate is not subject to unrelated business income tax (UBIT), the facts of a specific situation may prove otherwise. State and local transfer tax assessments should also be evaluated, as well as potential implications that a sale may have for the asset's tax-exempt status. All these issues can be identified, vetted and factored into the community's decision-making regarding a particular asset.

To assist religious communities that are considering whether real estate may provide a source of funding and a way to advance the community's mission and goals even beyond the lifetime of its members, we have prepared a checklist (<https://www.stradley.com/-/media/files/publications/2019/08/real-estate-decisionmaking-checklist.pdf?la=en&hash=24A8A68494DE1C9FFF6C91DA6A523F2E>) identifying the questions to be asked and issues to be addressed.



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