

GUIDELINES FOR ACQUISITION OF PROPERTIES (REAL ESTATE – LAND AND BUILDINGS), BUILDING CONTRACTS, TENANCIES AND LEASES BY PARISHES/MISSIONARY DISTRICTS/OUTREACH CENTRES IN THE DIOCESE OF WEST MALAYSIA.

1. **INTRODUCTION**

- 1.1 It is a great joy to witness the growth of mission and social outreach work in our local churches throughout our Diocese. These developments truly represent God's visible presence in our midst.
- 1.2 Such growth inevitably leads to the acquisition of properties (real estate - land & buildings), extension/renovation of existing buildings, construction of new buildings, tenancies/leases and the like.
- 1.3 Within the context of acquisition of properties (real estate – land & buildings) by our local churches, it is a legal requirement that all properties are acquired in the name of “**Synod of the Diocese of West Malaysia**” in accordance with the Synod of the Diocese of West Malaysia (Incorporation) Act 1971. The Diocesan Land & Properties Committee has been entrusted with the responsibility of managing the acquisition of all landed properties in our Diocese and to make the appropriate recommendations to the Standing Committee of our Diocese to make the final decision on such acquisitions. This process is essential to ensure full compliance with all the legal requirements in the best interest of our Diocese.
- 1.4 The procedure set out herein below shall serve as a useful guideline to all our Local Parishes, Missionary Districts and Outreach Centres in our Diocese to help manage the acquisition process of properties and all matters relating to development of land and/or all issues relating to land.

2. **ACQUISITION OF PROPERTIES (REAL ESTATE – LAND & BUILDINGS)**

- 2.1 Any purchase of properties be it residential and/or commercial properties or otherwise by any of our Parishes, Missionary Districts or Outreach Centres shall comply with the procedure hereinafter outlined.

A) **STAGE 1 (Local Parish/Missionary District/Outreach Centre)**

- (a) The local Parish/Missionary District/Outreach Centre may identify the intended property for acquisition as may be deemed essential.
- (b) The local Parish/ Missionary District/Outreach Centre shall duly resolve at the AGM or EGM (as the case may be) to acquire the property concerned, the mode of financing and other relevant details.
- (c) The Archdeacon of the Archdeaconry concerned shall be consulted on the intended acquisition.
- (d) Before a decision is made by the local Parish/Missionary District/Outreach Centre, the following documents/information shall be within the possession of the local parish/missionary district/outreach centre :-
- (i) A photocopy of the title deed;
- (ii) A private search on the title deed to the property;

- (iii) Details of ownership;
 - (iv) Whether freehold, leasehold etc;
 - (v) Whether any restriction-in-interest (i.e. need the written consent of the State Authority for transfer/charge etc);
 - (vi) Whether property is encumbered i.e. charged to a financial institution, a private caveat lodged etc;
 - (vii) If property is charged, then details of the Chargee Bank and the estimated outstanding loan to be obtained;
 - (viii) Whether property is subject to a Tenancy Agreement or whether property is vacant or someone is in occupation of the Property as Monthly Tenant or tenant-holding-over etc;
 - (ix) Proposed purchase price;
 - (x) Financial position of the local parish i.e. mode of purchase, cash purchase or propose to complete purchase by way of loan from a commercial bank;
 - (xi) Objective /purpose of purchasing property; and
 - (xii) A photocopy of current year quit rent, assessment receipts and Indah Water Konsortium bill, etc..
- (d) In the event the intended property to be purchased does not have a title deed or a strata title deed (in the case of apartments, condominiums etc), then the following documents have to be obtained:-
- (i) A copy of the master title;
 - (ii) A copy of the previous Sale and Purchase Agreement/Deed of Assignment to establish the current beneficial owners;
 - (iii) If the property is assigned to a Financial Institution, then a copy of the Deed of Assignment between the present owners and the Financiers (if any) and the estimated outstanding loan with the Financiers;
 - (iv) A copy of the layout plan of the property (if any);
 - (v) A copy of the current year quit rent receipt, assessment receipt, current Indah Water Konsortium receipt, other utilities receipts, monthly service charges paid etc;
 - (vi) Is there a need for the written consent of the Developer and if so who will be responsible for the administrative costs that may be levied by the Developer;
 - (vii) Is there need for written consent for transfer from the State Authority; and
 - (viii) Will there be a direct transfer of the property in favour of Synod upon the issuance of the strata title? Can the Developer give such an undertaking?

- (e) Earnest Deposit
- (i) Real Estate Agents would ordinarily insist that two percentum (2%) of the Purchase Price be paid to them as Earnest Deposit (as stakeholders).
 - (ii) They would prepare pre-contractual documents and expect the intended purchasers to pay the Earnest Deposit and execute the documents.
 - (iii) Such pre-contractual documents must be forwarded to the Diocesan Office for the perusal of the Diocesan Land & Properties Committee Chairman, Diocesan Registrar and the Diocesan Secretary, prior to further action. This is to ensure that the interest of Synod is duly protected.
 - (iv) In extremely urgent circumstances where Earnest Deposit has to be paid in order to secure a choice property, the interim approval of the Chairman of the Diocesan Land & Properties Committee and the Bishop / the Diocesan Secretary must be obtained. But this is only in exceptional situations. Nevertheless an interim approval can only be granted if there are some details of the property intended to be acquired and justification for such purchase.
 - (v) The Earnest Deposit is paid to show commitment by the intended purchaser. The Earnest Deposit will normally be forfeited if the Sale and Purchase Agreement is not executed within the time period stipulated in pre-contractual documents.
 - (f) Upon being fully satisfied and convinced and upon obtaining the endorsement of the Archdeacon concerned, the local Parish shall ideally convene an EGM to pass a resolution on the acquisition of the property concerned.

B) STAGE 2 (The Diocesan Land And Properties Committee)

- (a) The decision to purchase the property concerned shall be conveyed to the Diocesan Office. Comprehensive details of the property, the justification for the intended purchase, copy of the resolution of the local AGM or EGM (as the case may be) to acquire the intended property, the mode of financing, the endorsement of the Archdeacon concerned and such other relevant details relating thereto shall be conveyed for the consideration and approval of the Diocesan Land & Properties Committee.
- (b) The local church priest or the duly authorized representatives of the Parish/Missionary District/Outreach Centre may be invited to attend the Diocesan Land & Properties Committee meeting to present the case and clarify queries that may arise from the members of the Diocesan Land & Properties Committee.
- (c) The Diocesan Land & Properties Committee shall make the appropriate recommendation and representation to the Diocesan Standing Committee.

C) STAGE 3 (The Diocesan Standing Committee)

- (a) The Diocesan Standing Committee shall consider the recommendation accordingly and shall make the appropriate decision.

D) **STAGE 4 (Diocesan Decision Conveyed Officially to Local Parish/Missionary District/Outreach Centre)**

- (a) The Diocesan Secretary shall officially convey the decision of the Diocesan Standing Committee to the local church.

E) **STAGE 5 (Legal Process)**

- (a) If the local Church is desirous of appointing its own local lawyers to facilitate the conveyancing process, there should be no problems if the Solicitors are connected to our local Church or are friends of the Parish/Missionary District / Outreach Centre / Diocese.
- (b) It is important that the solicitors are involved from the beginning so that they can help in the conduct of the private search and/or help advise on pre-contractual documents etc..
- (c) All legal documents i.e. the Sale and Purchase Agreement etc must be vetted by our Diocesan Lawyers (Diocesan Registrar / Diocesan Chancellor) to ensure that the interest of the Synod of the Diocese of West Malaysia is duly protected and to ensure that the Synod of Diocese of West Malaysia (Incorporation) Act 1971 is duly complied with.
- (d) The Solicitors, with the assistance of the local church, shall deal with the Diocesan Secretary to ensure that all the legal documents are duly executed by the legally authorized representatives of Synod.
- (e) Copies of duly executed and stamped Agreements, original title deed (in case of cash purchase) and all related documents must be deposited with the Diocesan Office for safe-keeping.
- (f) The local church shall keep comprehensive details/copies of documents of the newly acquired properties.

3. **BUILDING CONTRACTS/RENOVATION WORKS**

3.1 Churches intending to erect a new building or propose to renovate their existing premises are advised to comply with the following procedure:-

- (a) The Parish/Missionary District/Outreach Centre shall resolve at the AGM or EGM (as the case may be) authorizing the erection of a new building and/or the proposed renovation works, the proposed contract price, mode of financing, proposed contractor and related details.
- (b) The local Parish/Missionary District/Outreach Centre must have a comprehensive discussion with the Archdeacon/ Archdeaconry Properties Committee;
- (c) Copies of the proposed building plans/renovation plans together with the details of justification and mode of financing and the recommendation from the Archdeacon shall be forwarded to the Diocesan Land & Properties Committee for consideration.
- (d) The Diocesan Land & Properties Committee shall make the appropriate recommendation to the Diocesan Standing Committee.
- (e) The Diocesan Secretary shall duly convey the decision of the Diocesan Standing Committee to the local church.

- (f) Building plans must be finalized with the assistance of duly appointed consultants (architects, engineers etc). All the specifications must be clearly defined in the Building Contract.
- (g) Reliable and experienced Contractor must be identified from the beginning.
- (h) Construction work shall be monitored by independent consultant(s), (with oversight supervision by the local church), until the issuance of Certificate of Completion and Compliance.

4. **TENANCIES/LEASES**

- 4.1 The Parochial Church Council / Missionary District Council/ Outreach Centre Management Committee may resolve to rent a premise to be used as a church, vicarage, etc.. The resolution shall clearly set out the proposed rental, the tenancy period, the description of the property and such other relevant details.
- 4.2 The local Church must appoint its own local lawyers to facilitate the Agreement preparation process. The Church may appoint Solicitors who are connected to our local church or are friends of the Parish/Missionary District / Outreach Centre / Diocese.
- 4.3 All **draft** Tenancy Agreements/Lease Agreements must be forwarded to the Diocesan Secretary to ensure that such documents are duly vetted by the Diocesan Lawyers (Diocesan Registrar / Diocesan Chancellor) before the execution of the same.
- 4.4 The recommendations of the Diocesan Lawyers will be communicated to the local church, which will ensure that all recommendations are complied with in the final Agreement, by the church appointed solicitors, before the execution of the same.

5. **CONCLUSION**

- 5.1 The Diocesan Land & Properties Committee and the Diocesan Standing Committee meet on a regular basis, and will do all within its power to consider all submissions for approval expeditiously. Please ensure that comprehensive details are submitted to the Diocesan Office.
- 5.2 We pray for God's continuous presence in our midst so that our mission work and social outreach ministry will continue to flourish and experience phenomenal growth.

Thank you and God Bless.

Diocesan Office
Synod of the Diocese of West Malaysia.
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