

TORONTO CONFERENCE

ADVISORY COMMITTEE ON CORPORATIONS

SUMMARIES OF APPENDIX IV CORPORATIONS

Updated: July 2004

TABLE OF CONTENTS

NAME	PAGE NO.
Copy of Appendix IV of 2001 <i>Manual</i>	3
List of Corporations Categorized According to Supervising Court	4
Mandate of Advisory Committee on Corporations	6
Procedures to form a corporation	8
Procedures to dissolve a corporation	10
Administrative procedures	11

APPENDIX IV

APPLICATIONS FOR INCORPORATION

1. No person shall, without the written consent of the Supervising Court (the Court within the bounds of which the activity of the corporation will take place) and the administrative approval of the appropriate Court offices, organize for the purpose of establishing any corporation or organization:
 - (a) that will or can carry on any activities related to those of the United Church; or
 - (2) that uses the name of The United Church of Canada in full or in part; or
 - (3) that holds itself out as being in connection with or in any way related to the United Church; or
 - (4) that incurs liability for indebtedness; or
 - (5) that engages in activities that might incur public liability in any way in connection with the United Church or any part thereof.

No incorporation without proper consent will be recognized by the United Church.

2. Applications for incorporation shall be submitted to the Supervising Court, and shall include:
 - (a) an application for incorporation on the forms acceptable to the appropriate provincial or federal authorities;
 - (b) a draft of the proposed by-laws;
 - (c) evidence satisfactory to the General, Council that the appropriate Conferences and Presbyteries are aware of the application and do not object thereto;
 - (d) a request for the consent of the Supervising Court; and
 - (e) the administrative approval of all higher Courts.
3. The consent to incorporation may be given by the Supervising Court, its Executive, or its Sub-Executive.
4. The application for incorporation shall provide that:
 - (a) the purposes of incorporation are in accord with those of The United Church of Canada;
 - (b) a majority of the directors shall be members of The United Church of Canada, and
 - (c) in the event that the corporation ceases to function or its corporate existence is terminated, all of its property shall become vested in The United Church of Canada.
5. The by-laws shall provide that:
 - (a) if not already provided for in the application for incorporation, the membership of the corporation shall be persons appointed by the Supervising Court, but in no case shall a majority of the members of the corporation be members of such Court;
 - (b) a report, an audited statement, and a list of directors shall be submitted annually to the Supervising Court and to the officers of any higher Court, for information;
 - (c) the directors shall be approved by the Supervising Court and shall be listed in the record of proceedings of the Supervising Court;
 - (d) insurance shall be kept in force covering fire, comprehensive liability, and such other insurable items in such amounts as the Supervising Court may require;
 - (e) no appeal or solicitation for funds shall be undertaken without the prior written consent of the appropriate Court;
 - (f) at no time shall the total indebtedness of the corporation, except for indebtedness on the security of Real or Personal Property, exceed the amount fixed for that corporation, normally one hundred thousand dollars (\$ 100,000.), unless otherwise approved by the Supervising Court;
 - (g) any sale, transfer, leasing for a term of or exceeding five (5) years (including all rights of renewal), mortgaging, or acquisition of any Real Property or Personal Property shall not occur without the prior written consent of the Supervising Court and the next higher Court. Any lease for a term of less than five (5) years (including all rights of renewal) may be made without such consent;
 - (h) no fee shall be paid to any director of the corporation as such, but a director may be paid for other services rendered to the corporation and reimbursed for expenses properly incurred on behalf of the corporation; and
 - (i) the provisions of each of the paragraphs (a) to (i) herein may be changed or modified only with the prior written consent of the Supervising Court and the administrative approval of all higher Courts.

Corporations Categorized According to Supervising Court

Supervising courts are

- a) Toronto Conference
- b) Muskoka Presbytery
- c) Simcoe Presbytery
- d) Toronto Don Valley Presbytery
- e) Toronto Scarborough Presbytery
- f) Toronto South Presbytery
- g) Toronto West Presbytery
- h) York Presbytery

a) Toronto Conference is the supervising court of the following:

- i) Fred Victor Centre
- ii) Toronto West Presbytery Corporation
- iii) Toronto United Church Council
- iv) Tri-Presbytery Corporation
- v) Lake Scugog Camp
- vi) Sparrow Lake Camp

b) Muskoka Presbytery is the supervising court of the following:

- i) Hillcrest Lodge, Orillia

c) Simcoe Presbytery is the supervising court of the following:

- i) Simcoe Presbytery Non-Profit Housing Corporation
- ii) Camp Simpresca
- iii) St. John's United Church Alliston Foundation

d) Toronto Don Valley Presbytery is the supervising court of the following:

- i) Thorncliffe Chapel Housing Corporation
- ii) The Massey Centre for Women
- iii) Interchurch Community Development Corporation
- iv) Brookbanks Non-Profit Homes Inc.
- v) Ina Grafton Gage Home & Harris Manor
- vi) NUC-TUCT Non-Profit Homes Inc.

e) Toronto Scarborough Presbytery is the supervising court of the following:

- i) Wilmar Heights United Church Non-Profit Homes Inc.
- ii) Church of the Master Homes

f) Toronto South Presbytery is the supervising court of the following:

- i) St. Matthew's Bracondale House
- ii) Riverdale United Church Non-Profit Homes Inc.
- iii) Hope Seniors Centre Danforth
- iv) Bathurst Street United Church Corporation
- v) 761 Queen Street United Church Corporation (inactive)
- vi) MUC Non-Profit Housing Corporation (inactive)
- vii) Fairlawn Neighbourhood Centre

g) Toronto West Presbytery is the supervising court of the following:

- i) Humbervale Christian Outreach Foundation Inc.
- ii) Parkdale United Church Foundation Inc.
- iii) Kingsway-Lambton Home for Seniors
- iv) Central King's Senior Residence
- v) Beverly Hills Cooperative Homes Ltd. (inactive)

h) York Presbytery is the supervising court of the following:

- i) United Non-Profit Homes of York
- ii) United Church Developments
- iii) St. Matthew's (Richmond Hill) Non-Profit Homes
- iv) Camp Ahshunyong (operating as Camp Big Canoe)
- v) Beginning Again, Richmond Hill

ADVISORY COMMITTEE ON CORPORATIONS
Mandate

Authorization

In accordance with *The Manual* of The United Church of Canada, Presbyteries (Sec. 336) and Conferences (Sec. 429) have responsibility for overseeing the operation of United Church corporations which function within their bounds. The corporations advisory committee, established by action of the Executive of Toronto Conference in February, 1997, acts on behalf of the Conference to carry out this task and, as a result of agreements with all Presbyteries in the Conference, offers advice to Presbyteries on corporation matters.

Membership of the Committee

There will be three (3) members of the committee. Members require some or all of the following skills:

- knowledge of incorporation matters, of by-laws and of the United Church *Manual* requirements;
- the ability to understand balance sheets and audited statements, and have the skill to identify potential problems; and
- experience and knowledge in the insurance industry.

Primary Functions of the committee

1. Regarding corporations supervised by Conference

The advisory committee on corporations shall:

- a) receive and consider requests for incorporation from any body, the operations of which will extend beyond the bounds of one Presbytery and the objectives of which are in accord with the United Church as per Sec. 429.
- b) ensure consistency with Appendix IV, advise the applying body of necessary changes and, in due course, make recommendation(s) to the executive secretary or the Executive of Toronto Conference. Such recommendation(s) will be made only after administrative approval has been received from the General Council office.
- c) review the reports, audited statements and lists of directors submitted annually by corporations in compliance with Appendix IV; and advise the executive secretary that the documents have been reviewed, are satisfactory, and that copies should be forwarded to the General Council office.
- d) recommend any necessary revision of by-laws of these corporations in order to maintain their effectiveness within the policies and procedures of The United Church of Canada.
- e) receive and consider requests for approval of applications for supplementary letters patent, and/or amendments to existing by-laws, ensuring that the proposed changes are consistent with Appendix IV, and advising the executive secretary regarding the seeking of administrative approval for such requests from the General Council office and regarding the granting of administrative approval on behalf of Toronto Conference.
- f) maintain a continuing liaison with United Church corporations for which Toronto Conference is the supervising court.

2. Regarding corporations supervised by Presbyteries

The advisory committee on corporations shall:

- a) receive and consider recommendations from Presbyteries regarding applications for incorporation from any bodies which will operate solely within the bounds of a single Presbytery and for which the Presbytery will be the supervising court.

- b) advise the executive secretary regarding the seeking of administrative approval for such applications from the General Council office, provided they comply with Appendix IV, and regarding the granting of administrative approval on behalf of Toronto Conference.
- c) review the reports, audited statements and lists of directors submitted annually by corporations in compliance with Appendix IV. The advisory committee will solicit these documents, review and forward them to the Presbyteries with advice for specific Presbytery action.
- d) recommend any necessary revision of by-laws of these corporations in order to maintain their effectiveness within the policies and procedures of The United Church of Canada.
- e) receive and consider requests for approval of applications for supplementary letters patent, and/or amendments to existing by-laws, ensure that the proposed changes are consistent with Appendix IV, and advise the executive secretary regarding the seeking of administrative approval for such requests from the General Council office and regarding the granting of administrative approval on behalf of Toronto Conference.

3. General

The advisory committee on corporations shall:

- a) report to the Conference or its Executive as required; the committee chair or representative shall be a corresponding member of the Executive.
- b) provide advice with respect to corporation property.
- c) ensure that the Supervising Court and the next higher Court provide prior written consent for any sale, transfer, leasing for a term of or exceeding five (5) years (including all rights of renewal), mortgaging, or acquisition of any real property or personal property.
- d) provide guidelines and advice regarding dissolution of corporations.

The executive secretary shall be the staff person to this committee.

Approved by Toronto Conference Executive May 16, 1997
Revised by Toronto Conference Executive October 13, 1999

Procedures to form a corporation within Toronto Conference of The United Church of Canada

If a congregation, Presbytery, Conference or other group wishes to form a corporation within Toronto Conference of The United Church of Canada, the following steps need to be taken:

1. become familiar with the provisions of Appendix IV of *The Manual* of The United Church of Canada and other sections pertinent to corporations, namely sections 184(j), 336, 429 and 505(j);

if the corporation will be in one Presbytery then the Supervising Court is the Presbytery;
if the corporation will be in two or more Presbyteries then the Supervising Court is the Conference;
if the corporation will be in two or more Conferences then the Supervising Court is General Council;
2. contact the advisory committee on corporations at Toronto Conference office for assistance. This may prevent a lot of wasted time;
3. Determine some basic requirements:
 - ◆ corporate name – must search to determine if not a duplicate of another
 - ◆ incorporating jurisdiction – federal or provincial.
 - ◆ objects (must be in accord with those of The United Church of Canada)
 - ◆ head office address
 - ◆ applicants/first directors including legal name and residence address
 - ◆ members
 - ◆ officers – chair, president (required - must be a director), vice-president, secretary (required), treasurer, other
 - ◆ other provisions of general by-law:
 - ◆ directors' meetings – notice of meeting (given in number of days); quorum; will the chair have a casting vote; other
 - ◆ members' meetings – notice of meeting (given in number of days); quorum; will the chair have a casting vote; other
 - ◆ execution of instruments
 - ◆ bank – signing officers
 - ◆ auditors
 - ◆ financial year end
4. seek the prior permission of the Supervising Court before going to the work and expense of applying for provincial incorporation; see Appendix IV, section 2(c);
5. fill out the application to the appropriate provincial or federal office;
6. ensure that the application for incorporation includes all of the provisions of Appendix IV, section 4 either in the application form or the first by-law. It must contain the following:
 - a) the purposes must be in accord with those of The United Church of Canada;
 - b) the majority of board members must be members of The United Church of Canada; and
 - c) the "dissolution" clause stating all property shall become vested in The United Church of Canada;
7. ensure that the by-laws include all of the provisions of Appendix IV, section 5;
8. forward the application for incorporation and the by-laws to the Supervising Court;
9. the Supervising Court will forward the application and by-laws to all higher church Courts for administrative approval;
10. once administrative approval has been received from all higher church Courts, the Supervising Court may approve the application and by-laws and will advise the applying body;

11. then forward the application for incorporation to the appropriate provincial or federal office and copy the Supervising Court and the Conference executive secretary;
12. the date the provincial or federal office approves the Letters Patent is the date of incorporation. The Letters Patent are returned to the Board which needs to approve the by-laws. A meeting of the members is called to ratify the by-laws;
13. Once ratified, the Board sends three copies of the Incorporating documents to the Conference office for distribution to the Supervising Court (if not itself) and General Council for their records.
14. Yearly reporting to Supervising Court

See Appendix IV, section 5

Yearly reporting to the Supervising Court is required in order to provide an annual report, audited financial statement, a list of directors and a copy of the insurance policy:

- ◆ the advisory committee on corporations reviews these documents. Insurance coverage must be in such amounts as the Supervising Court may require [section 5(d)]
- ◆ the directors must be approved by the Supervising Court [(section 5(c)]

Resources

The Manual (1998), The United Church of Canada
Corporations Act, RSO 1990, Chapter C.38 (Ontario)
Corporations Information Act, RSO 1990, Chapter C.39 (Ontario)
Not-For-Profit Incorporator's Handbook (Ontario)
Canada Corporations Act II (Federal)
Bankruptcy and Insolvency Act (Federal)
Industry Canada Incorporation Kit (Federal)
Winding-up and Restucturing Act (Federal)

web sites:

<http://www.attorneygeneral.jus.gov.on.ca:80/html/NFPINC/index.htm>
<http://strategis.ic.gc.ca/SSG/cs01001e.html>

Procedures to wind up and subsequently dissolve a corporation within the Toronto Conference of The United Church of Canada

Occasionally a corporation will wind up and dissolve. The following procedures should be followed as per provincial legislation.

winding up and dissolution

1. the board of directors would pass a motion recommending to a meeting of the members of the corporation that the corporation should wind up operations and requesting from the Supervising Court and all higher church Courts pre-approval for winding up and dissolution should the members pass such a motion.
2. at a legally/properly constituted meeting of the members of the corporation, the members would meet to seek permission to wind up and dissolve and would request permission from the Supervising Court and all higher church Courts;
3. at a legally/properly constituted meeting of the members of the corporation, the members would meet to vote on the recommendation and if approved would appoint one or more persons as liquidator (*Corporations Act., RSO 1990, Chapter C.38 (Ontario)* [referred to as (Ontario - Section 230);
4. the Supervising Court and all higher church Courts would need to give their approval of the action to wind up;
5. notice of the resolution to wind up must be published in the *Ontario Gazette* within 14 days after the resolution has been passed (Ontario - Section 231); (Note there is a fine for not complying with this subsection and every director and officer is liable.)
6. the corporation shall cease business (Ontario – Section 236);
7. disposition of the real property would be completed in accordance with the *Manual (2001)* App. IV;
8. the assets of the corporation would be distributed according to the terms of the by-laws, specifically Appendix IV, section 4(c);
9. Once the affairs have been wound up a meeting of the members of the corporation must be held (Ontario - Section 266) and within 10 days a notice must be filed with the Minister stating that the meeting was held and the date thereof;
10. the Supervising Court must be advised in advance of the meeting and must receive a copy of the notice to ensure that the proper procedure has been followed, since, upon the expiration of three months the corporation is dissolved and “Ontario - section 322” states that if any property is not disposed of then the property is forfeited to the Crown;
11. Not filing a return or not going into operation within two years of incorporation does not automatically dissolve the corporation. Two sections (Ontario) – 315(1) and 317(9) address these instances and there must be notice, an order of the Lieutenant Governor to cancel the letters patent and declare the corporation dissolved. Please note *Corporations Information Act (Ontario)*.

Category:	Corporations
Subject:	Administrative Procedures
Procedure:	Meeting annual requirements of Corporations reporting to Toronto Conference and having Board of Directors approved by Supervising Court in compliance with Appendix IV of <i>The Manual (2001)</i>.
Date of action:	February 2002
Updated:	August 2003

Anecdotal background:

Appendix IV, Section 5 requires that “a report, an audited statement, and a list of directors” be submitted to the Supervising Court and to the officers of any higher Court, for information. Also, it is required that a majority of the directors be members of The United Church of Canada.

Furthermore, there is a requirement that “insurance be kept in force.”

The Presbyteries have agreed that Toronto Conference will oversee the corporations including ensuring that the Presbyteries approve the Board of Directors.

Responsibility

It will be the responsibility of the secretary to the Conference executive secretary to ensure that this procedure is followed.

Procedure

The following is the procedure:

1. Approximately within one month following the annual meeting of a corporation, a letter will be sent to the corporation requesting three copies of the annual report (or minutes from the annual meeting), the most recent set of audited financial statements, a list of directors with an indication of who is a member of The United Church of Canada, and a copy of the certificate of insurance for director/property/general coverage. In addition, a copy of Appendix IV and a checklist requesting the following information will also be included:
 - Copy of most recent corporate filing with federal / provincial authorities
 - Copy of most recent building appraisal. If an appraisal has not been undertaken within the last four years, then please provide estimated value of building
 - Has a Capital Reserve Study been undertaken recently? If so, when? When was the Study last updated?
 - If your corporation is involved with housing, an indication of what kind of housing is provided and the number of units in your building.
 - A brief description of your corporation (i.e. brochure, promotional material), including new work and future projects

A copy of this request from the Toronto Conference office will be sent to the chair of the advisory committee on corporations.

2. The corporation will send the materials outlined in # 1 to the Toronto Conference office at 65 Mayall Avenue, Downsview, M3L 1E7.
3. A copy of the annual report and list of directors as well as any additional information (from the checklist) that the corporation submitted, will be sent to the member of the advisory committee responsible for reviewing these. A covering letter will accompany these submissions to the committee and kept on file as a record as to when they were sent to the committee.

4. A copy of the financial report will be sent to the member of the advisory committee responsible for finances for review.
5. A copy of the insurance policy will be sent to the member of the advisory committee responsible for insurance for review.
6. Once the documents have been reviewed by all three members, the comments are collected and a letter is written to corporation advising them of changes / suggestions or if no changes or suggestions have been made, on a job well done. Copy this letter to the Presbytery secretary.
7. A copy of the documentation, including the list of the directors, will then be forwarded to the Presbytery secretary, provided that any changes suggested by the committee to the corporation are of a minimal nature. It may be advisable that, if the changes suggested are of a more significant nature, to hold off on sending this out to the Presbytery until the matter has been attended to. Then, in a cover letter, advise the supervising court to make a motion of approval of the board of directors of the corporation.
8. This motion will then be forwarded to the Toronto Conference office and kept on file.

*NOTE: Toronto Conference has agreed to copy the Presbyteries on all correspondence to the corporations.

August 2003