

Administering Church Goods

The *Code of Canon Law* distinguishes four major types of acts when dealing with temporal goods: acquisition, possession, administration and alienation. Administration is an act that recurs on an almost daily basis. It comprises the preservation and improvement of property, the natural or artificial production of fruits or income from such property, and the useful application of such fruits or income to the proper persons or purposes.

Canonically, the administrator of church goods is the person who has direct power of governance over the juridic person to whom the goods belong, even though some other person (such as a treasurer or finance officer) may be charged with the day-to-day handling of business matters. It follows that, in a diocese, it is the diocesan bishop who is the canonical administrator. In a religious institute, it is the competent superior.

In church-sponsored health care and educational institutions, the chief executive officer is often mandated to carry out these various functions, perhaps in conjunction with the chief financial officer. In some instances, though, the reserved powers come into play and canonical administrators must intervene.

The code speaks of three different types of acts of administration: ordinary administration, major importance, and extraordinary administration. Nowhere, however, does it clearly define what are such acts.

Using standard guides, it could be established that the following acts are considered to be acts of ordinary administration:

- The collection and banking of money acquired in approved ways
- The collection of debts from creditors (unless court action is required)
- The collection of annual income from stocks, shares or bonds
- Buying and selling what is required for the daily maintenance of the juridical person
- The reparation of ordinary damage done to

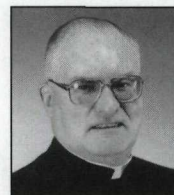
real estate (e.g., ordinary wear and tear) or to stable property (within certain limits)

- The administration of the money and goods of the juridical person
- The acceptance of donations (to which no conditions are attached)
- The payment of salaries of personnel
- Certain short-term leases

Acts of major importance are determined on the basis of the financial situation of the juridical person. Thus, what is of major importance for one entity might be considered routine or ordinary for another because it is in a stronger financial position. Although the code prescribes that each diocese is to determine which acts would fall into this category, it does not have a similar provision for religious institutes and their sponsored works. Nevertheless, Canon 638.1 leaves the door open because it simply states that the institute's own law is to define the acts which exceed the purpose and the manner of ordinary administration.

Even within the same health system, not every institution would be given the same threshold for spending, especially if one or more of the subsidiaries are experiencing serious financial difficulties. The system directors would, by analogy, determine that certain acts are of major importance for one institution, while not for another one. This, then, would call for special approval processes.

Acts of extraordinary administration are determined by a conference of bishops in its areas of respective jurisdiction. In addition, each religious



BY FR. FRANK MORRISEY, OMI, Ph.D., J.C.D.

Fr. Morrisey is professor, canon law, Saint Paul University, Ottawa, Canada.

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institute is asked (Canon 638.1) to determine what is required for the validity of an act of extraordinary administration within the community. For example, the United States Conference of Catholic Bishops recently agreed upon a list of acts that would be considered to be “extraordinary.” This list has been sent to the Holy See for formal recognition, and will then be made public. Among the items being considered: filing for Chapter 11 protection in bankruptcy cases, resolving individual or aggregate claims in certain instances, and the issuing of bonds. Religious in the United States, while taking this list into account, can also determine that certain other acts would fall into this category. Among these acts, we could mention:

- To accept or renounce an inheritance, legacy, donation or foundation to which certain conditions are attached (for instance, accepting that a hospital wing will, in perpetuity, be named after a certain donor)
- To purchase immovable goods (such as lands and buildings — for instance, a new medical office building)
- To borrow large sums of money as a (temporary) loan — for instance, until the government payments are received in schools, hospitals, etc.
- To build, raze or rebuild in a new form a building or to make extraordinary repairs upon such buildings (such as adding a new wing to an existing hospital)
- To establish a cemetery
- To enter into a lawsuit as one of the parties involved

The ordinary’s intervention has as its purpose to help determine whether a given case should be settled out of court, rather than going through the legal formalities of a trial, especially if an adverse precedent were to be established from the case.

In the instance of establishing a cemetery, it has traditionally been considered to be an act of extraordinary administration because, for all practical purposes, the land is condemned, and it is important to make certain that it is (or will be) put to the best possible use for the church-sponsored entity.

As for lawsuits, Canon 1288 now mentions that administrators are not to begin legal proceedings in the name of a public juridical person, nor are they to contest them in a secular court, without first obtaining the written permission of their proper ordinary. For institutes of brothers and of sisters, the proper ordinary is the local ordinary. At times, there is no choice, if an institute has been sued; it must respond to the suit or face the consequences. But the ordinary’s intervention has as its purpose to help determine whether a given case should be settled out of court, rather than going through the legal formalities of a trial, especially if an adverse precedent were to be established from the case.

The code provides that different procedures are to be followed in each case. For instance, acts of ordinary administration may be carried out by the administrator acting alone, without the need of special authorizations. For acts of major importance, prior consultation with specified groups is required, and for acts of extraordinary administration, the prior consent of certain groups or bodies is mandatory. The determination of which groups or persons should be engaged will depend on the administrator of the goods in question. If, for instance, they belong to a diocese, two groups of persons are involved: the diocesan finance committee and the college of consultors. For religious institutes and their sponsored health care or educational works, it is usually the provincial or general council of the community (depending on the amount of money involved).

However, Canon 1280 also requires that there be a finance committee in religious institutes, and, therefore, a number of institutes determine in their proper law that the intervention of this committee is required before the act can be authorized. The exact form of involvement of this committee varies from institute to institute.

Among the possible duties of a finance committee, we could mention the following:

- Help prepare and monitor the application of the annual budget
- Assist with an evaluation of property and housing needs
- Assist in preparing and updating inventories
- Advise regarding employment and other contracts to be entered into
- Advise regarding social justice and environmental protection issues
- Advise regarding repairs and improvements that are either necessary or beneficial
- Establish an investment policy and monitor the investments of the group
- Examine salary scales and pension plans for lay employees, and examine insurance coverage and make appropriate recommendations
- Assist with building projects, and the eventual sales of property
- Assist in interpreting taxation laws, and seeing to their implementation

Before administrators assume their duties, Canon 1283 calls for them to take an oath of office, promising that they will truly perform their office. Also, each administrator is to draft and sign a detailed inventory of the goods belonging to the juridic person.

There are also a number of detailed provisions mentioned in the canons concerning proper administration of church goods. We will examine them in more detail in a subsequent column. ■



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A Shared Statement of Identity For the Catholic Health Ministry

We are the people of Catholic health care, a ministry of the church continuing Jesus' mission of love and healing today. As provider, employer, advocate, citizen—bringing together people of diverse faiths and backgrounds—our ministry is an enduring sign of health care rooted in our belief that every person is a treasure, every life a sacred gift, every human being a unity of body, mind, and spirit.

We work to bring alive the Gospel vision of justice and peace. We answer God's call to foster healing, act with compassion, and promote wellness for all persons and communities, with special attention to our neighbors who are poor, underserved, and most vulnerable. By our service, we strive to transform hurt into hope. 🕊

As the church's ministry of health care, we commit to:

- Promote and Defend Human Dignity
- Attend to the Whole Person
- Care for Poor and Vulnerable Persons
- Promote the Common Good
- Act on Behalf of Justice
- Steward Resources
- Act in Communion with the Church

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