

Summaries of pertinent PC(U.S.A.) Permanent Judicial Commission decisions relating to church dismissals with property included with the Presbytery of Santa Barbara (PSB) website materials made available to PSB commissioners:

The Annotated Book of Order, G-4.0203, provides the following summaries with respect to the two recent, seminal GA PJC decisions about church dismissals with property:

PJC (2014, 221-08, NYC Pby v McGee et al):

- (1) The Constitution reserves as a direct act of the presbytery the authority to dismiss a church.
- (2) A self-implementing dismissal rooted in a congregational decision is a violation of that exclusive right and responsibility of the pby to dismiss a congregation.
- (3) A predetermined, formulaic mechanism for dismissal of a congregation runs counter to constitutional provisions for mutual dialogue and particular discernment.
- (4) The Trust Clause creates an express trust in favor of the PC(USA) as a whole. Pby, acting as trustee, must exercise due diligence that its determination is both reasonable and evident in the record. Pby is entitled to deference in decisions under Trust Clause, but is limited by fiduciary obligations owed to the whole church.
- (5) Fiduciary nature of the Trust Clause requires individual determination of the facts and circumstances related to dismissal of any church. Timed, individual, unique determination of the circumstances applicable to any church requesting dismissal is required.
- (6) Fiduciary duty must be carried out during the course of discernment of church's request for dismissal. Concern about conflict and litigation cannot justify abandonment of constitutional mandates.
- (7) Pby is obligated to determine if one of the factions is entitled to the property because it is the 'true church within the Presbyterian Church (USA),' majority notwithstanding. Any negotiation and decision about the disposition of property must consider interest of the true church.
- (8) Upon dismissal of a congregation the minutes and registers of the session become the property and responsibility of the presbytery.

PJC (2013, 221-03, Tom v San Francisco Pby):

- (1) A presbytery's authority to determine property rights must be guided by the pby acting as a fiduciary for the benefit of the PCUSA.
- (2) The fiduciary duty requires that pby exercise due diligence as regarding the value of the property of a congregation seeking dismissal.
- (3) Due diligence will include not only the spiritual needs of the congregation but an examination of the financial position and the value of the property of the congregation. Payments for per capita or mission obligations are not satisfactory substitutes for valuations of the property held in trust.

Three recent Synod of Southern California and Hawaii Permanent Judicial Commission (Synod PJC) opinions and rulings about church dismissals with property are also pertinent and have been provided:

Spitzer v. Presbytery of Riverside (Idyllwild) – 2017-R-2 – 12/29/2017

Locke et al. v. Presbytery of San Diego (Trinity of Spring Valley) – 2016-R-3 – 12/2/2016

Regele et al. v. Presbytery of Los Ranchos (La Habra Hills) – 2016-R-2 – 12/2/2017

All three of these Synod PJC documents provide extensive details of the requirements set forth in *The Constitution of the Presbyterian Church (U.S.A.)*, along with the GA PJC decisions of Tom and McGee, and as to our Synod PJC's interpretation of those authorities as they relate to a presbytery's Gracious Dismissal Policy and decisions made under such a Gracious Dismissal Policy.