

# **RIGHTS AND OBLIGATIONS OF THE DIOCESAN BISHOP, PASTORS AND ADMINISTRATORS REGARDING CONTRACTS, ALIENATION AND PIOUS WILLS**

## **1. Contracts and alienation:**

The pertinent canon referring to the manner in which the Church enters into contracts is contained in canon 1290:

Whatever general and specific regulations on contracts and payments are determined in civil law for a given territory are to be observed in canon law with the same effects in a matter which is subject to the governing power of the Church, unless the civil regulations are contrary to divine law or canon law makes some other provision, with due regard for the prescription of can. 1547.

The pertinent civil law is the legal institute of the "corporation sole" according to which the Diocese of Spokane is incorporated in the State of Washington. In accord with this provision of civil law, "all the parishes and institutions of the Diocese are entities of the Catholic Bishop of Spokane, a corporation sole." (see 5.02.07, Norms for parish finance councils and parish administration). Thus, legal title to all goods and real estate of the Diocese, parishes and Diocesan institutions is vested in the Bishop as corporation sole. Consequently, his consent is required for the acquisition or alienation of Diocesan property or of the property of parishes and institutions subject to him. Pastors and administrators may not validly transact such business on their own authority. However, pastors and administrators are competent to exercise ordinary administration:

As incumbent Catholic Bishop of Spokane, the Ordinary grants to each pastor (and administrators of Diocesan institutions) authority to carry out the ordinary financial management of the entity including signing checking accounts, yearly professional contracts, service agreements and the other ordinary instruments of parish business. The Bishop alone retains the authority to sign capital construction contracts and property contracts. (cf. 5.02.07)

## **2. Pious Wills:**

The Diocese, individual parishes and Diocesan institutions are sometimes designated as the beneficiaries of wills or other bequests. The acceptance and disposition of these "pious wills" are governed by canon law and civil law (cf. C. 1299.2). The following points are of special concern:

C. 1300: The legitimately accepted wills of the faithful who give or leave their resources to pious causes, whether through an act which becomes effective during life or at death, are to be fulfilled with the greatest diligence even as regards the manner of the administration and distribution of the goods, with due regard for the prescription of can. 1301.3.

C. 1301: #1. The ordinary is the executor of all pious wills whether they are made during life or on the occasion of death. #2. In virtue of this right the ordinary can and must exercise vigilance, even through visitation, so that pious wills are fulfilled; other executors must render him an account concerning the performance of their duty. #3. Stipulations added to last wills and contrary to this right of the ordinary are to be considered non-existent.

It is not the canonical obligation of the Ordinary to personally execute pious wills, but to exercise vigilance that the will of the donor is fulfilled. However, there are circumstances in which the intervention of the Ordinary may be required. Canon 1267 stipulates that offerings made by the faithful:

...may not be refused without a just cause and, in matters of greater importance, without the permission of the ordinary if it is a question of a public juridic person; with due regard for the prescription of Canon 1295, the permission of the same ordinary is required to accept those gifts to which are attached a condition or a moral obligation.

In other words, sometimes a gift may and even ought to be refused. For instance, the good name of the Church would be injured by association with the donor; the goods were from an illicit enterprise; the donor seeks to exercise undue influence over the Church; or the gift imposes obligations upon the Church which are contrary to its mission or cannot be carried out.

In the normal course of events, a will designating a parish or institution as beneficiary is kept on file at the Catholic Pastoral Center so that the Ordinary is aware of the bequest. Disbursement of the bequest is facilitated by the Vicar General. However, pastors and administrators are to be mindful of Diocesan policy concerning income in excess of normal operating expenses. With there being no question about the parish's ownership of this revenue, the following norm is to be maintained:

All excess funds in the parishes and institutions of the Diocese must be deposited with the Catholic Bishop of Spokane. These funds include all ordinary savings, large gifts and monies from estates, building fund proceeds in anticipation of capital improvement, etc. (5.03.01, Deposit and Loan Policy)

Thus, according to the circumstances of the parish, and upon consulting with his Finance Council, a pastor may apply a bequest to a particular financial need or deposit it in the parish's account with the D & L Fund or in a designated fund such as a building fund. Otherwise, the bequest is to be placed in the parish's endowment in the Catholic Foundation. In the case of a gift designated for a particular purpose, the final disposition of the gift is, of course, governed by the will of the donor. (cf. CC. 1267.3; 1300)