

May 2001

Viewpoint

Viewpoint is an article from the Santa Clara Valley Baptist Association's monthly newsletter written by director of missions, Mike Stewart.

Beware of Real Estate Pastors! As the value of church property skyrockets in the Silicon Valley, so does the risk of losing it to spiritual predators. The Asset Protection Clause will give all churches that adopt it security in knowing that their property and assets are safe from unwanted seizure.

Is this really necessary, you ask? Yes! The Association was recently involved in trying to keep one of our churches from being sold by its pastor without the congregation's knowledge. The "pastor" sold it for \$2.3 million and closed a church that had been built for and supported by Southern Baptists for 40 years. The "pastor" had worked for them for a whole year. That's pretty good wages, wouldn't you say? The Association did manage to keep the pastor from reaping a great deal of the money through legal action, but we couldn't stop the sale of the church. In the end the members were able to direct about \$500,00 to mission causes they supported, but it was still a sad ending.

Could this happen to your church? The answer is yes, it can happen to any church. The best way to protect your church property is to adopt the Asset Protection Clause. Our lawyers have drafted this clause for all of our churches to use. The primary issue for most persons attempting to gain control of church property is the degree of difficulty with which it is possible. If you read the clause you will notice that when the active membership of the church becomes 30 active members or less, the protection clause automatically exists for their assets. This is important because one of the "legal" ways to gain control of church property is to run everyone off. This clause will make that strategy null and void.

I hope that all of our churches will add this clause to their bylaws and protect what God has given them for His Kingdom purpose.

In His Service,

Mike Stewart, DOM

Asset Protection Bylaw:

1. This Church and all of its assets are to be used solely for the furtherance of the gospel as determined by the will of its members. In the event that any of the following shall occur, then all assets of the Church shall be subject to immediate transfer to the Sacramento Association of Southern Baptist Churches (hereinafter “the Association”), as trustee for the church members. In any such event, the provisions of this Bylaw shall authorize the Association to act as trustee of the assets without any further action of the Corporation or its members, provided that the Association agrees to act as trustee. The following actions shall authorize the Association to act as trustee of the Church assets for the protection of its members:
 - (a) A duly called and proper vote of the church membership to dissolve and wind up the affairs of the corporation or otherwise cease to function as a Southern Baptist Church.
 - (b) Any unilateral action of the officers or directors of the Church, without a vote of the membership, to close the Church, wind up its affairs and dissolve the corporation or otherwise cease to function as a Southern Baptist Church, whether pursuant to these Bylaws or otherwise.
 - (c) In the event that the active membership of the Church becomes less than thirty (30) members. At such time as the active membership thereafter grows to exceed thirty (30) members, then the Association shall cease to act as trustee until such time as there are once again less than thirty (30) members.
2. The Association shall have sole discretion, following a review of the relevant facts and circumstances, to accept or decline to act as trustee of the assets of the Church. Specifically, any transfers or transactions involving land and/or building transfers or sales must be reviewed and approved by the Executive Board of the Association.
3. In the event that the Association becomes a trustee as set forth above, the Association’s powers as trustee shall extend only to the congregational property and assets of the Church, including real estate. The members shall continue to retain all rights in connection with the daily operation of the Church, with the exception that they shall have no power to dispose of or transfer any of the Church assets. As trustee, the Association shall exercise “legal oversight” with respect to any transfer or disposition of assets.
4. This paragraph may not be amended or removed from these Bylaws without the notice and consent of the members, and shall require a 75% supermajority vote. No such vote of the membership shall be valid unless preceded by written notice to the Executive Board of the Association and the Association shall be invited to speak at any meeting where such a vote is considered, prior to any vote to amend or remove this paragraph.