



# Diocese of Newark

Come to My House, We Have Plenty of Room

October 15, 2011

“ Where no counsel is, the people fall! But in the multitude of counselors there is safety.”



Proverbs 15:22

“The Lord God took the man and put him in the Garden of Eden to work and take care of it”.



Genesis 2:15

“There was needy people among them; From time to time; those who owned lands or houses sold them, and brought the money from the sales and put it at the apostles feet and it was distributed to anyone as he had need”.



Acts 4:34-35

# Come to My House!

- Your Building is a Tool for Ministry



- Your Building is a Community Asset

# Come to My House!

- Your Sacred Place – Making Spirits Soar:
  - Sacred places are landmarks.
  - Our churches often showcase the best art and architecture in the community.
  - They are not dedicated solely to prayer and worship. They are also locations for ministry and outreach where people address the spiritual and physical needs of their neighbors.

# Come to My House!

- Congregations that pursue the goal of being good neighbors find that their buildings are their chief assets in ministry.
  - Most congregations permit some use of their building(s) for non-congregational functions or meetings.
  - Since this use presents both opportunities and challenges it must be carefully considered and well-defined guidelines and policies should be established.

# Come to My House!

- Resources on Sharing Space:
  - Congregations that want to expand their ministry to the community usually share space with other groups.
  - Sharing space can be as simple as:
    - Allowing a support group to use a classroom once a week, or as complex as:
      - Letting another congregation move in with you.



# Come to My House!

- Resources on Sharing Space – cont'd:
  - Many congregations see sharing the building as part of their religious mandate, providing a home for other worthy organizations or individuals who have a vision for helping the community.
  - Other congregations see sharing the building as an income stream that allows them to:
    - Expand their programs and mission
    - Balance their budgets.

# Come to My House!

- Resources on Sharing Space – cont'd:
  - Sharing space can also entail sharing expenses.
  - Partners can help a congregation pay the utilities or a mortgage.
  - Whether or not you hope to make a profit, you should carefully calculate the cost of sharing your building before you decide how much, if anything, to charge.
    - Charging for the use of your building may have implications for your tax-exempt status.

# Come to My House!

- Things to Consider:
  - What groups or individuals are permitted to share your space?
    - For what type of function?
  - Who agrees to the use of the space?
  - Is there an established fee schedule?
    - Who makes sure that standards are met?
  - Who is responsible for clean-up or is there a fee for clean-up included in the agreement?

# Come to My House!

- Things to Consider – cont'd:
  - What determines which groups are permitted to use the buildings free of charge?
    - Are groups such as AA or Boy or Girl Scouts permitted to use the space free of charge?
  - Do you have a written agreement for the use of space whether for a single event or on a regular basis?
    - See Appendix D in the Property Management Guide
  - What effect, if any, will rentals have on your tax-exempt status?

# Come to My House!

- Things to Consider – Cont'd:
  - What effect will rentals have on your liability insurance?
    - See Section 9 in the Property Management Guide
  - If the building(s) are used for pre-school groups there may be specific licensing, back-ground checks, fire and safety requirements.
    - Have these been investigated?
    - Do your buildings meet these standards?
      - See Appendix D – Sample Leases in the Property Management Guide
    - Do you have established policies for use of alcohol or designated smoking areas?

# Come to My House!

- Ten Most Common Mistakes:

1. We are people first: not brick and mortar
2. Not enforcing Policies
3. Not having Policies
4. Not responding immediately to potential dangerous situations or immediately after the event
5. Not providing adequate or any insurance coverage
6. Not scheduling yearly maintenance inspections
7. Deciding you can be a lawyer
8. Battle of the forms
9. Not requesting Standing Committee authorization to mortgage, lease or sell property
10. Undervaluing the asset

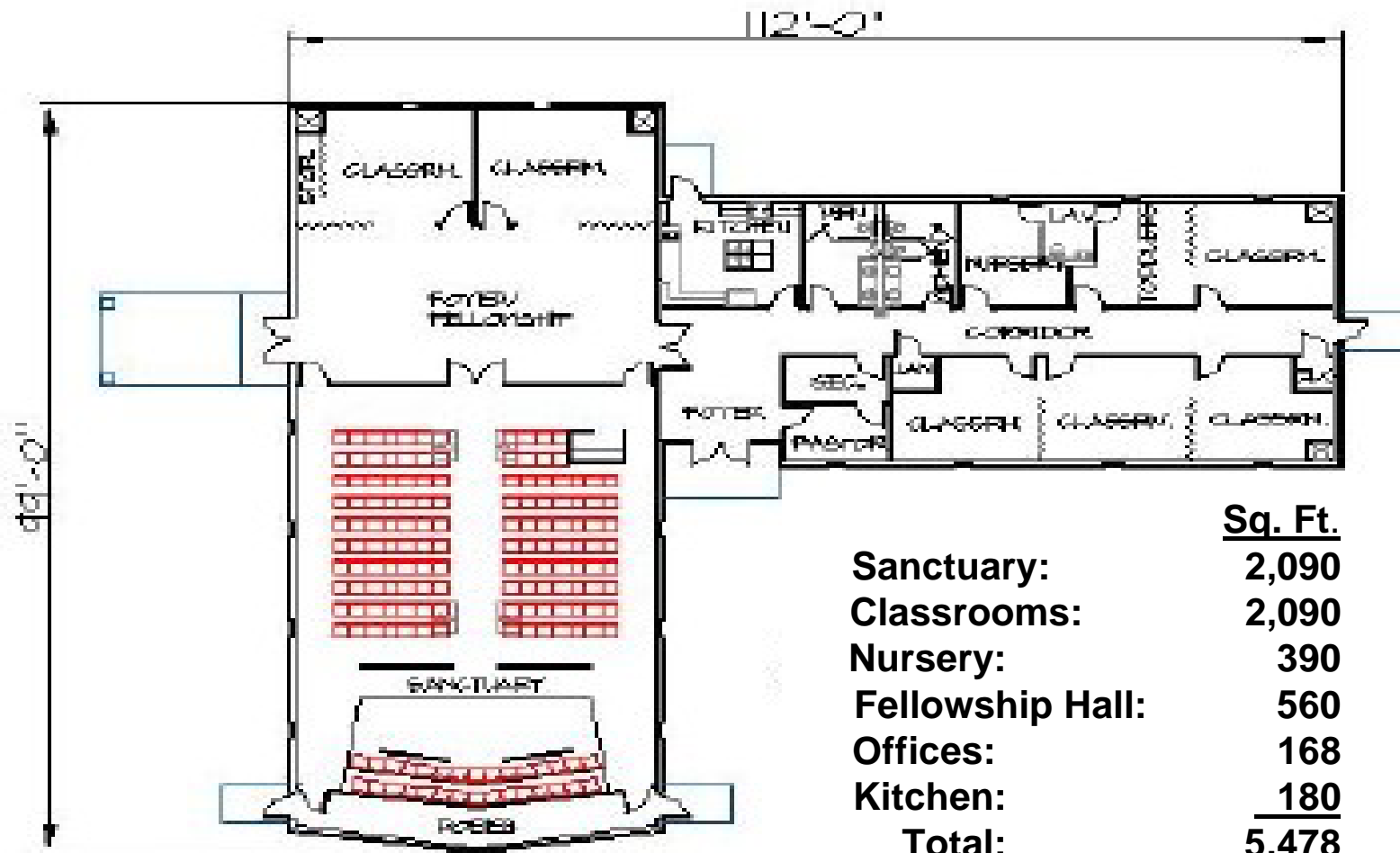
# Come to My House!

- Ten Best Practices for Property:
  1. P.U.S.H. – Pray Until Something Happens
  2. Contact the Standing Committee
  3. Get Training
  4. Establish and Enforce Policies
  5. Seek Legal Advice
  6. Contact your Insurance Company
  7. Check the Property Management Guide
  8. Utilize group e-mails – “Newark List”
  9. Go to the Diocesan Web-site
  10. Do some research - Speak to other churches

Back-up!



# Back-up! - Floor Plan



# Back-up! – Sample Calculation for % Cost

Area	Square Feet	Hours/Week	Square Foot Hours/Week
Sanctuary	2090	8	16,720
<b>Class Rooms:</b>			
Church Use	2090	3	6,270
Day Care Use	2090	60	125,400
<b>Nursery:</b>			
Church Use	390	4	1,560
Day Care Use	390	60	23,400
<b>Fellowship Hall:</b>			
Church Use	560	5	2,800
Day Care Use	560	15	8,400
Offices	168	40	6,720
<b>Kitchen:</b>			
Church Use	180	12	2,160
Day Care Use	180	20	3,600

# Back-up! – Sample Calculation for % Cost

	<u>Square Foot Hours</u>
<b>Weekly Church Use:</b>	<b>36,230</b>
<b>Weekly Day Care Use:</b>	<b>150,800</b>
<b>Total:</b>	<b>197,030</b>

## **% Allocation of Costs**

<b>Church Use</b>	<b>18%</b>
<b>Day Care Use</b>	<b>82%</b>

# Back-up!

## Donations for Services

(Effective, January 1, 2011)

<b>Parish Hall:</b>	<b>\$450.00</b>
<b>Kitchen:</b>	<b>\$150.00</b>
<b>Ladies Parlor:</b>	<b>\$150.00</b>
<b>Class Rooms:</b>	<b>\$100.00</b>
<b>Choir Room:</b>	<b>\$250.00</b>
<b>Library:</b>	<b>\$125.00</b>
<b>Sexton:</b>	
<b>Set-up or Clean-up</b>	<b>\$125.00</b>

# Back-up!

## STATE LAW: (Local Property Taxes) – N.J. S.A. 54:-3.6

“The following shall be exempt from taxation under this chapter: ...all buildings actually used in the work of associations and corporations organized exclusively for religious purposes, including religious worship, or charitable purposes, provided that if any portion of a building is used from that purpose is leased to a profit-making organization or is otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion shall be exempt from taxation, and provided further that if any portion of a building is used for a different exempt use by an exempt entity, that portion shall also be exempt from taxation...” (See *handout*).

- You do not lose your exempt status on an entire piece of you rent out a portion of your church property to an entity that is not exempt;
- If you rent out your property to another exempt organization you pay no taxes.

However, there is always a chance that the entity you rent to may fall into a grey area. They may tell you they are exempt but the law is different for religious organizations, schools, volunteer fire departments, state agencies. So do not necessarily trust they are exempt. Always include a provision in your leases that **IF YOU ARE CHARGED TAXES FOR THEIR USE, THEY PAY.**

# Back-up!

## **SPECIAL RECTORY CONCERN:**

The standard for maintaining tax exempt status for a parsonage or rectory is different from the above. There is case law and precise tests for this. But you should know that:

- If you rent out the rectory during a period of vacancy to non-clergy you will be taxed;
- If you rent out the rectory to someone who is clergy but is not conducting worship at your church, you could be taxed.
- If you rent out the rectory to someone who is clergy and is performing church functions, e.g. Youth minister, but is not conducting services...you could be taxed.
- Municipalities are looking for ways to raise revenues...so they are enforcing these very strictly.
- Burden is on the taxpayer to show exemption which will be strictly construed against them.

# Back-up!

## **FEDERAL TAXES** - *See page 12 of IRS Tax Guide*

“Churches and religious organizations, like other tax-exempt organizations may engage in income producing activities unrelated to their tax-exempt purposes. However, the net income from such activities will be subject to the UBIT if the following three conditions are met:

- The activity constitutes a trade or business
- The trade or business is regularly carried on,
- The trade or business is not substantially related to the organization’s exempt purpose. (The fact that the organization uses the income to further its charitable or religious purposes does not make the activity substantially related to its exempt purposes)”

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# Back-up!

## **FEDERAL TAXES** - *See page 12 of IRS Tax Guide*

Example 1:

- You decide to franchise a Starbucks or McDonalds and open it in your church hall.

Example 2:

- You decide to hold a church fair and call in an organization to set up rides, games, etc.

Example 3:

- You decide to open your own for profit book store/gift shop selling religious articles?

Example 4:

- You decide to rent to Starbucks, McDonald's, or Caterer who wants to rent the church kitchen?

Example 5:

- You decide to open a thrift shop to sell clothes and other used items.

# Back-up!

## Exceptions to UBIT

Even if an activity meets the above three criteria, the income may not be subject to tax if it meets one of the following exceptions:

- A. substantially all of the work in operating the trade or business is performed by volunteers,
  - B. the activity is conducted by the organization primarily for the convenience of its members, or
  - C. the trade or business involves the selling of merchandise all of which was donated.
- IN GENERAL, RENTS FROM REAL PROPERTY, ROYALTIES, CAPITAL GAINS, AND INTEREST AND DIVIDENDS ARE NOT SUBJECT TO UBIT, UNLESS THEY ARE FINANCED WITH BORROWED MONEY
  - E.g. You get mortgage property to a build school,
    - Rents from the school could be subject to UBIT
    - We have not heard that this is a concern where the IRS has come back and done an audit or charged penalties.