

# **LEGAL ISSUES AND ANSWERS FOR CHURCH DEVELOPERS**

**April 28, 2006**

Jon M. Hughes  
Kee & Selby, LLP  
1900 International Park Drive  
Suite 220  
Birmingham, Alabama 35243  
(205) 968-9900  
jh@keeselby.com

## **I. Getting Started**

### **A. Incorporation**

- Create a non-profit corporation, a separate legal entity
- Protects leaders and members from personal liability
- Generally makes other aspects easier, such as
  - opening a separate bank account
  - obtaining insurance
  - obtaining financing
  - gaining tax-exempt status
- Required document – Articles of Incorporation, filed with Probate Court
- Cost - \$500 to \$1000 to prepare and file

### **B. By-laws**

- Often standard terms with for-profit and even non-profit corporations, but very important with churches

- Set forth how you will operate
- Can be specifically tailored to meet your needs and preferences
- Items typically addressed:
  - Statement of Faith
  - Government – establish board of elders, deacons, etc.
  - Admission of Members
  - Treasurer and financial policies
  - Business meetings
  - Staff – search or nominating committees
  - Sunday services and care groups/small groups
  - Ceremonies and ordinances, such as baptism, child dedication, The Lord’s Supper, Elder/Deacon ordination
- Cost - \$250 to \$1500 (varies depending on level of specificity and detail)

**C. Apply for non-profit status**

**D. Open separate bank account, obtain bulk rate mailing permit, post office box**

## **II. Leases and Other Contracts**

**A. Landlord will likely require insurance, discussed further below**

**B. Read all leases and contracts carefully, seek advice if you don’t understand**

**C. Enter leases and contracts on behalf of the church/corp., don’t sign personally as a guarantee unless absolutely required**

### **III. Minimizing Risk**

#### **A. Child care**

- develop screening process, which may include background checks, for child care workers
- detailed written policy can help avoid liability
- can be addressed in by-laws, we can also help draft a comprehensive policy

#### **B. Driving records of those allowed to operate vehicles**

### **IV. Insurance**

#### **A. General Liability**

- \$1 Million per occurrence, \$2 Million aggregate limits
- Rider for Pastoral/Professional Liability
- May have to name landlord/lessor as additional insured
- If meeting in someone's home, may need to name owner and/or obtain rider on that person's homeowner's policy
- Cost - \$250 to \$500 per year

#### **B. Property and Equipment Coverage**

- Insures sound equipment and other property against fire, theft, etc.
- Cost - for \$50,000 in equipment, approximately \$50 to \$200 per year

**C. Workers' Compensation**

- Cost - For \$60,000 salary, approximately \$260 per year

**D. Automobile**

- Cost varies with type of auto, should be fairly consistent with personal auto coverage
- Limits should be as high or higher than typical personal auto coverage

**B. Insurance Agents**

- Church insurance is specialized, find a qualified agent with experience writing insurance for churches

**V. Copyrights for Songs and Worship Materials**

**A. Avoiding Infringement**

**B. Obtaining Copyrights on your own materials**