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Notes on the disposition of the assets of a religious institute

Firstly, as part of your canonical assets, you need to give a lot of thought to your archives, and your graves especially if they are not in a public cemetery. These are two areas which give a lot of trouble to those who have to work out a long term solution for them.

Secondly, not all the real estate of an institute is 'stable patrimony'. Your traditional large convents and similar properties would be in this category, but you may have small houses, apartments, offices or aged care residences etc. which are not considered part of your permanent assets. So while all the properties must be on the assets register, they would not be considered canonically as part of stable patrimony. Most canonists would not include these properties as requiring the permission of the Holy See for alienation. Actually, most such properties don't reach the value limit anyway.

In Australian law, corporations etc. are meant to keep an up-to-date 'assets register' of property and other physical assets that have a 'material' value. In Church law, this is described as 'immovable goods' (i.e. land and buildings), and moveable goods with a considerable resale value (e.g. machinery, motor vehicles, valuable furniture), and items which may have cultural or artistic value such as heritage memorabilia, archival collections, records and letters, valuable liturgical vessels and vestments, paintings and other art works, and especially items of long-term value which have been donated for a special purpose. For the canonical requirements, funds donated for a special purpose have to be included. You don't need to be itemising down to the last detail.

The other aspect which I am not confident about is the 'Congregational will'. The officials at the Congregation for Institutes of Consecrated Life don't like this terminology. They do not want the assets of religious institutes which have reached the point of 'completion', namely when none of the living members are competent to make decisions, to be independently disposed without any oversight. At that point, the Holy See is the responsible entity to oversee the disposal of the goods (see can. 616 §2). But while you have competent leadership, that leadership can freely alienate assets. This is underlined in the same canon, §1, which allows an institute's own law 'to make provision for the disposal of the goods of a suppressed house, with due regard for the wishes of founders or benefactors and for lawfully acquired rights'. This means that the authority of the institute, namely the general council, or maybe the chapter, can suppress a house even one belonging to its stable patrimony and decide the disposal of assets surplus to requirements in accordance with the constitutions.

So my advice is to do the itemization of the assets as above. You then make long term provision to meet your anticipated liabilities, such as obligations concerning child protection. Then discern, with advice from experts in the various fields of law, tax, art, archives, how you might want the remaining goods used, or preserved, in the future. Of course, in the law for not-for-profit companies in Australia, the goods of NFPs must be transferred to entities with similar purposes that are also not-for-profit companies. Likewise, in canon law, the assets of religious institutes, which is ecclesiastical property, must be passed to other ecclesial entities such as a diocese or parish, another religious institute or a pjp (with the exception of donations to charitable works).

You would then work out, with your accountants how much of this property can be disposed of in a timely manner, either now, or in the next x years, and then next y years. This would include the archival and cultural items, and art works etc. Using your actuarial projections your financial people can work out what sort of a fund could be set up to meet the needs of the members until the last one dies. Property can also be sold and leased back along similar lines. There are two huge benefits to completing this very challenging task. One is that you are lifting the burden off the members as they age into the future. And the second one is that your community assets, which you worked so hard to acquire and to preserve, can be put to good use as soon as possible for the ministry and for those living in need, instead of sitting in idleness, deaf to the cries of the poor.

This process will involve the alienation requirements, where the permission of the Holy See is required for the sale of the 'stable patrimony' of the institute when it exceeds the limit established or when the item has cultural or artistic value. This process shouldn't be feared, however, if it is done prudently. They may want you to include a contribution to the local diocese, and this is often very appropriate, especially in institutes which have such strong roots in the local Church. They also ask for a 'donation' to cover their own costs, of 1 Euro in every 1000 (equal to 1000 in every million). This is minimal in the scheme of things, and shouldn't be a reason for trying to avoid this procedure.

This exercise will ensure that the members, as they age, can be free of the pressures of governance of these assets, and financially secure to the extent of their needs, and can be grateful that they have been able to help others through their good stewardship.

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