

FAQ 3 USING DESIGNATED GIFTS

The church has received donations restricted for a specific project. How can Council reallocate those funds when they are not needed for the project for which they were donated?

A. In general it depends on how the funds were solicited and what the restrictions actually were when the donation was solicited and accepted. To give a specific answer, all the facts relating to the specific situation should be presented. The following are some guidelines which demonstrates the underlying principles.

1. Funds solicited and accepted with specific restrictions constitute a specific trust. The question is what the precise wording of the solicitation was when it was made. For example, if the funds were raised for mission projects (plural), there are few restrictions since mission can be very broadly defined. However, if the funds were raised for a very specific project, e.g., short term mission trip to Belize, then the funds are held in trust for that specific purpose. Neither the donor(s), nor the church has the power to amend the terms of such a specific trust. The only way to relieve that kind of a trust restriction is through mechanisms described in the [Charities Accounting Act](#), Ontario.
2. The second consideration is the amount of funds received that were specifically restricted to a specific project. If the amount remaining is less than \$1,000, the Public Guardian and Trustee (PGT) has in the past suggested that their office would be unlikely to take action if a complaint of misapplication of funds were filed with their office. Note that the PGT acts only on complaints filed by any member of the public. It can be anyone who has an ax to grind with the church. The complainant remains anonymous and incurs no costs in filing the complaint. The church directors personally might have to defend such a very costly action. If it were found guilty, they could incur both the cost of defense as well as the cost of replacing the funds out of their own pockets.
3. Whether the church could transfer the funds to another registered charity that is prepared to carry out the project is a question that can be answered only after reviewing church's governing documents and any contracts related to the project. In general, if the funds were raised for a specific church project, then the church would have to be demonstrated that the original intent of the project was being carried out. The original intent is what was spelled out to the donors in writing or verbally.