

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

THE CONFERENCE OF AFRICAN)	
UNION FIRST COLORED METHODIST)	
PROTESTANT CHURCH,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 1751-MG
)	
HOVINGTON FAITH COMMUNITY)	
CHURCH, MARY E. HICKS,)	
PEARLIE M. MARTIN, and)	
WAYNENICKA D. JOHNSON,)	
)	
Defendants.)	

MASTER'S REPORT

Date Submitted: October 22, 2009
Draft Report: April 6, 2010
Final Report: July 2, 2010

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GLASSCOCK, Master

On October 18, 1909, the congregants of a church in rural Kent County incorporated a religious society, St. John's African Methodist Protestant Church of near Woodside, Delaware ("St. John's"), and elected seven trustees to act on behalf of the society. The Certificate of Incorporation was recorded on November 1, 1909. A few weeks later, on December 9, 1909, James H. Jones "and wife" recorded a deed transferring to St. John's a small parcel of real property (the "Property") in rural Woodside, presumably already improved with a chapel.¹ For many years, St. John's maintained an affiliation with the plaintiff, the Conference of African Union First Colored Methodist Protestant Church (the "Conference"). In 1909, the Conference was an unincorporated affiliation of churches. The Conference itself was incorporated in 1941.

In 1983, the affairs of St. John's were under the direction of three trustees: Sarah Pleasanton ("Mother Pleasanton"), Pearlie Martin and Robert Crain ("Deacon Crain")². On July 26, 1983, the trustees filed a Certificate of Amendment of the Certificate of Incorporation of St. John's. Under that amendment the name of the corporation was changed to Hovington Faith Community Church ("Hovington"). St. John's/Hovington continues as a corporate body. In 2002, Pearlie Martin, along with Mary E. Hicks ("Sister Hicks") and

¹ The Certificate of Incorporation describes notice of the meeting at which St. John's was incorporated as having been posted on the church door.

² In referring to individuals in this report, I have adopted the honorifics used by the witnesses at trial.

Waynenicka D. Johnson filed a Certificate of Incorporation as trustees purporting to incorporate, again, a Hovington Faith Community Church.

In 2005, the Conference brought this action to quiet title, seeking a declaration that it is the legal and equitable owner of the property. The named defendants are Hovington Faith Community Church and the three trustees of Hovington named in the 2002 Certificate of Incorporation: Martin (now deceased), Hicks and Johnson. According to the defendants, Hovington Faith Community Church is the equitable and legal owner of the property. Trial in the matter commenced on June 14, 2007. Due to several unfortunate circumstances, most notably the protracted illness and eventual death of Pearlie Martin, the trial was continued and eventually completed on June 10, 2009. The parties have filed briefs and suggested findings of facts. This is my report after trial.

I. FACTS

This matter, while involving a property of little commercial value, is a matter of substantial historical and spiritual importance to those involved. The Conference traces its lineage to the founding by Peter Spencer of the Union Church of Africans in 1813 in Wilmington. According to the Conference, this was the first church founded by and for African Americans in the United States. In 1866 the Union Church of Africans merged with the First Colored Methodist Protestant Church to form the Conference. Prior to 1941, the Conference was an

unincorporated affiliation of local member churches. The Conference imposed religious discipline upon its member churches via the “Book of Discipline,” which has gone through many editions since 1866. The Conference, in addition to imposing doctrinal discipline, assigned pastors approved by it to minister to the member churches. The Conference collected a yearly assessment in the form of dues paid by the member churches, and in turn provided some support for payment of pastors and upkeep of the local churches. Primarily, however, it was the local churches that paid the salary of the Conference-assigned pastor who ministered at each church, and it was the local church that provided for the maintenance and upkeep of its own chapel and grounds. The Conference also held quarterly conferences at each church lead by a Conference elder, an individual designated by the Conference to supervise a number of local churches. The purpose of the quarterly meetings was for the local elder to inquire into the spiritual and financial fitness of each local church and to examine the condition of the church buildings, as well as to explain the Book of Discipline to the members.³ In addition, the Conference convened an annual meeting which all members of affiliated churches were invited to attend. After 1941, the Conference became an incorporated entity, but its function remained unchanged.

³ While quarterly conferences were theoretically held at each church four times per year, as will be discussed, such conferences were frequently omitted at St. John’s.

Today, the Conference is a denomination of around 30 member churches in the mid-Atlantic region of the country.

As is described above, St. John's was incorporated in 1909. Pursuant to the Certificate of Incorporation, its trustees were "duly elected...according to the manner prescribed in the rules and regulations of the denomination with which said society is connected." While the Certificate of Incorporation is silent as to which denomination is referenced, both the church name and the uncontested evidence at trial indicate that the denomination with which the society was connected was and remained the Conference, and that the "rules and regulations" according to which the trustees elected in 1909 were subject was the Book of Discipline of the Conference.

Unfortunately, records pertaining to activities at St. John's in its early decades were not available to be placed in the record.⁴ What records do exist, however, dating back a half century, demonstrate clearly that St. John's was a church with a small congregation, which operated as one of the churches connected to the Conference. Prior to 1983, it paid yearly dues to the Conference, was subject to the Book of Discipline, was ministered to by a pastor assigned by the Conference and was carried in the records of the Conference as

⁴ According to the current Presiding Bishop of the Conference, Delbert Jackson, the records were destroyed in a fire.

a member church. The membership, which consisted of “more than 15” at the time of incorporation, appears never to have been large. The record indicates that by the late 1970s or early 1980s, it may have dwindled to as few as four. The most prominent members at that time were Sara Bowers (“Mother Bowers”) and Sarah Pleasanton (“Mother Pleasanton”), two elderly ladies who devoted their energies to St. John’s. At some point during this period, Mother Bowers’ son became pastor of his own church in the Dover area. Bowers’ son accused her of “playing church” through her involvement with St. John’s, and convinced her to leave that small congregation and join him at his church in Dover. Thereafter, Mother Pleasanton was the only church member known to the Conference.

In the late 1970s and 1980s, according to the testimony of Ms. Martin and Sister Hicks,⁵ the small congregation, and notably Mothers Bowers and Pleasanton, were responsible for most of the cost of what little was expended to maintain the property.⁶ Mother Pleasanton arranged for the lawn to be cut and maintenance to be done on the hall and church building. While a Conference pastor continued to be assigned to the church during the late 1970s and early 1980s, the evidence indicates that services became irregular. During this period,

⁵ Martin and Hicks testified by deposition; Hicks also testified at trial.

⁶ There is no record that St. John’s sought maintenance funds from the Conference. According to several witness, such funds were available.

St. John's was unable to pay its assessed dues to the Conference. According to Martin and Hicks, during this period representatives of the Conference on several occasions asked Mother Pleasanton to raise funds to pay the yearly Conference dues. When these representatives were told that tithes and offerings were insufficient to pay the dues, they suggested that the ladies of the church raise money through bake sales or similar fund-raisers. According to Hicks and Martin, virtually the only contact with the Conference in these years (other than with the pastor assigned to St. John's by the Conference) involved requests for such funds.

According to Hicks and Martin, Mother Pleasanton became concerned that the Church would be "taken" from them if the yearly dues were not paid.⁷ It was this concern that caused Mother Pleasanton, around 1983, to consider ending St. John's connection with the Conference. The record is clear that up until 1983, St. John's was a member church of the Conference subject to its Book of Discipline.

Like the records maintained by the Conference, the records at one time kept by St. John's/Hovington are largely missing.⁸ Other than the 1983 amendment to the Certificate of Incorporation of St. John's, changing the name to

⁷ In fact, the record indicates that the Conference would waive its dues if a congregation was unable to pay them.

⁸ The record indicates that Mother Pleasanton's daughter threw the records away after her mother's death in around 2000.

Hovington, there is no documentary evidence concerning Mother Pleasanton's intention to remove St. John's from the Conference. The Certificate of Amendment recites that "on February 3, 1983, at a public meeting of the congregation, held at their usual place of worship, on ten days notice by advertisement at the front door of such place and by a plurality of votes of the members present, the following persons were elected trustees": Sarah Pleasanton, Pearlie Martin and Robert Crain. It appears from Martin's testimony that a meeting of the congregation was really no more than a meeting of Pleasanton, Martin and Crain.⁹ The Certificate of Incorporation recites that these trustees "unanimously thought it wise" to change the name of the corporation to Hovington Faith Community Church. Hovington was the maiden name of Mother Bowers, who by this time had left St. John's and joined her son's church. Mother Pleasanton was a great friend of Mother Bowers, and the name change to Hovington was a tribute to Mother Bowers. The record is not clear as to the relationship between the name change and Mother Pleasanton's desire to remove St. John's from the Conference. Perhaps removing the words "African Methodist Protestant Church" from the name of the corporation was intended to sever the connection with the Conference. In any event, the testimony of Martin and Hicks, though far from clear with respect to events at St. John's in the early

⁹ Crain assisted the church as a friend of Martin's. According to Martin, he was not a regular member of St. John's congregation.

1980s, demonstrates that the trustees intended at some time around 1983 to remove St. John's/Hovington from the Conference.

Meanwhile, the Conference, after its unsuccessful efforts to get Mother Pleasanton to pay the congregation's dues, apparently considered the St. John's congregation defunct. Although St. John's was, and is, carried on the records of the Conference as a Conference church, there was little Conference activity concerning St. John's between 1983 and 2000. The elder assigned to St. John's, Rev. Thomas Moon, attempted to hold quarterly meetings at the church in the early 1980s, but always arrived to find it locked and unoccupied. He attempted to locate Mother Pleasanton, the last individual known to the Conference as a member of the church, but was unable to do so. The Presiding Bishop, Delbert Jackson, and other officials stopped by the church on a few occasions, but also found it closed.¹⁰ According to the Bishop, the Conference never received a notice from St. John's/Hovington that it believed it had seceded from Conference membership, and nothing in the record indicates that any such notice was given. A sign board at St. John's, prior to 1983, described the church as "St. John's A. U. M. P. Church." Nothing in the record indicates that this sign board was ever changed to read Hovington Faith Community Church. By 2003, the sign was illegible.

¹⁰ Jackson testified that he preached one sermon at St. John's, in 1988.

After 1983, Mother Pleasanton arranged for some visiting pastors to hold services at the church, but church was not held every Sunday. By 2000, the church was in a state of some disrepair. The record is insufficient to demonstrate how often services were being held at that time; it is clear that they were not regular. Deacon Crain left the church sometime after 1983, leaving Mother Pleasanton, Sister Hicks and Pearlie Martin as the only regular members.¹¹ Mother Pleasanton died around the year 2000, and Martin had stopped attending services at St. John's at some point before Pleasanton's death.

In the early 1990s, the Conference faced the secession of an affiliated church, the Mother African Union First Colored Methodist Protestant Church in Wilmington. As a response to the perceived threat posed by this secession, in 1991, Conference Rev. Deborah Collins signed a deed (the "1991 deed") purporting to transfer ownership of the Property from the local trustees to the Conference.¹² In 1993, Bishop Jackson executed another deed (the "1993 deed") purporting to transfer ownership of the Property, as well as several other local church properties to a Conference church in Chester, Pennsylvania, in trust for the "Peter Spencer Historical Society," which is an unincorporated part of the

¹¹ When services were held, the families of these members would sometimes attend, along with other guests.

¹² Since the Conference was incorporated in 1941, it could legally hold real property after that time. Simultaneous with the 1991 deed, other deeds were created attempting to transfer all A.U.M.P. denominational churches to Conference ownership.

Conference itself. Because legal title to the Property was held by the trustees of St. John's, the 1991 and 1993 deeds are (with respect to the Property) nullities, and have no effect on this litigation.¹³ See St. Thomas v. The Conference, Del. Ch., C. A. No. 13006, Steele, V.C. (Nov. 6, 1995)(OPINION).

Around 2000, Mother Pleasanton passed away. Sometime between 2000 and 2004, the Conference began to take a renewed interest in the Property. At some point in these years, the Conference began to do maintenance work on the chapel. Sister Hicks confronted workers at the chapel, and she and they disagreed as to whether St. John's remained a Conference church. Starting in 2001, Reverend Priscilla Robinson was assigned as pastor to St. John's. The record does not explain why the Conference decided to invest the church with a pastor for the first time in over a decade.¹⁴ In 2003 or 2004, the defendants provided a letter to the Conference¹⁵, stating that Hovington had resigned from the Conference. Bishop Jackson responded by letter of April 5, 2004, barring the defendants from the use of the chapel without written permission from the

¹³ The Conference-affiliated church holding whatever legal title was transferred by the 2001 and 2003 deeds has filed an affidavit indicating that it holds that interest in trust for the Conference, and that the Conference, not it, has the right and interest to pursue this quiet-title action.

¹⁴ The record reflects that Tyrone Jones was assigned as pastor by the Conference to St. John's in 1988 to 1989.

¹⁵ The letter was found attached to the chapel door by Rev. Wayne Kennedy, assigned to St. John's as pastor in 2003 and 2004.

Conference. While Bishop Jackson testified that the Conference was unaware of the attempted secession until a note was left at the church by the Hovington trustees alleging that they were not within the Conference, it seems most likely to me that the Conference's actions in assigning a pastor and doing maintenance work at the church in the early 2000s reflected a fear that whatever claim it had to the Property might be lost. In any event, in the early 2000s a contest of will between the Conference and Sister Hicks ensued, in which each was frustrated in its attempts to use the chapel by the other's having changed the locks. After several lock changes occurred, the Conference retained possession of the Property.

Since the filing of this action, the Conference has assigned pastors to the church, but its attempts at demonstrating that "St. John's" has been revived as a Conference church have been only minimally successful. The Conference has done renovation on the building, making it usable once again as a house of worship. Services have been held irregularly at St. John's lead by Conference pastors, but the church has no local members; aside from a few visitors attending occasionally from the local community, all attendees are members bussed in from other churches for the purpose of holding worship at the physical location of St. John's. Even the bussing-in of worshipers has been suspended in the cooler months, due to a faulty heating plant. Nevertheless, Bishop Jackson proclaimed St. John's an African Union Methodist Protestant Church "church of the year" in

2004.¹⁶ Despite this, there is no local congregation of St. John's church. The "members" of St. John's are from outside the community; they attend at the request of the current pastor, Pearline Montgomery. A few local people attend services. According to the Conference, if it is found to be the owner of the Property, the Conference will continue to attempt to re-establish a local congregation.

Meanwhile, neither is there a congregation identifying itself with Hovington Faith Community Church. By 2002, Mother Pleasanton had passed away. In 2002, Sister Hicks, Pearlie Martin and Waynenicka Johnson filed a Certificate of Incorporation, purporting to incorporate Hovington Faith Community Church. As described above, a religious corporation had existed since 1909, and continued to exist, which had amended its Certificate of Incorporation to change its name to Hovington Faith Community Church in 1983. I assume that the purpose of the 2002 Certificate of Incorporation was to influence the outcome of the conflict over the Property. Nothing about the Certificate of Incorporation in 2002 indicates that the newly-created entity owns the Property, and no deed transferring the Property to the "second" Hovington Faith Community Church was ever created. Neither Hicks nor Martin was able to explain why this Certificate of Incorporation to the

¹⁶ Jackson testified that all Conference churches were so designated.

“second” Hovington Faith Community Church was created, and the Certificate appears to be a nullity with respect to its affect on this litigation.

While Waynenicka Johnson is a named defendant, she did not testify at trial and her deposition was not placed in evidence. I assume that she is no longer associated with Hovington as a trustee and the record is not clear as to whether she ever attended services at St. John’s/Hovington. Of the remaining trustees listed in the Certificate of Incorporation of Hovington Faith Community Church, only Sister Hicks survives. Sister Hicks is an ordained minister and she would like to establish herself at the chapel on the Property, unaffiliated with the Conference, should she prevail in this litigation. However, she admits that there is no congregation of “Hovington Church” at this time.

II. LEGAL FRAMEWORK

Litigation involving churches demands consideration of First Amendment implications. I am forbidden from deciding church property disputes based on religious doctrine. “Courts may—indeed must—resolve such disputes only on the basis of ‘neutral principles of law’ without considering doctrinal matters such as the ‘ritual and liturgy or the tenants of the faith’.” Mother African Union First Colored Methodist Protestant Church v. The Conference of African Union First Colored Methodist Protestant Church, Del. Ch., C.A. No. 12055, Jacobs, V.C.

(May 15, 1991)(Mem. Op.) [Mother African I] at 17 (citations omitted). Under a neutral principles approach, a civil court

may consider, and resolve church property disputes on the basis of, sources such as state statutes, church corporate charters and constitutions, and the language of trusts, deeds and similar granting instruments. If, however, the interpretation of instruments of ownership would require the Court to resolve a religious controversy, the Court must defer that doctrinal decision to the authoritative ecclesiastical body.

Id., citing Jones v. Wolf, 443 U.S. 595, 604 (1979).

If a church is “hierarchical in nature” state courts may defer the resolution of a controversy to “an authoritative tribunal established by the church.” Mother African Union First Colored Methodist Protestant Church v. The Conference of African Union First Colored Methodist Protestant Church, No. 12055, Del. Ch., Jacobs, V.C. (April 22, 1992) (Mem. Op.) [Mother African II] at 5. “Alternatively, whether or not the church is hierarchical, a state court may resolve the property dispute on the basis of ‘neutral principles of law’.” Id., citing Jones, 443 U.S. at 602-10. I apply the “neutral principles of law” approach here.

III. DISCUSSION

A. Legal Title to the Property

This matter involves legal and equitable ownership of the property arising from its transfer by deed to St. John’s in 1909. In this jurisdiction, real property is

not held by a church qua church, but by an incorporated body formed by the congregation to hold the property in trust for the church and its congregation, directed by a body of trustees. 27 Del. C. § 101 *et seq.* It is clear from an examination of the Certificate of Incorporation of St. John's and the deed of the property to St. John's that the corporation was established specifically to hold the property in question here. The Certification of Incorporation describes a congregation and a chapel already in being: the Certificate recites the occurrence of

a public meeting of the "Society of Congregation of St. John's African Methodist Protestant Church of Near Woodside, Delaware" in Kent County and State of Delaware, which said Society or Congregation consists of more than fifteen (15) members, held at the usual place of worship of the said Society or Congregation, on Monday the 18th day of October, in the year of Our Lord One Thousand Nine Hundred and Nine, in pursuance of ten days' notice by advertisement posted at the front door of the said place of worship.

At that meeting, the congregation elected trustees and produced a Certificate of Incorporation. Thus the chapel itself, and the congregation, were already in existence as a body before incorporation. In addition, the congregation was already affiliated with the Conference. The Certificate provides that the trustees were "duly elected...by a plurality vote of the members present, according to the manner prescribed in the rules and regulations of the denomination with which said society is connected...." That society, as the name

“St. John’s African Methodist Protestant Church” indicates, and as the subsequent evidence of affiliation confirms, was the Conference of African Union First Colored Methodist Protestant Church, that is, the Conference. The Conference was not incorporated until 1941; as of 1909, therefore, it could not itself hold real property.

It is likely that the congregation of St. John’s incorporated a religious society for the purpose of taking title to the Property on which their chapel was already located. A few weeks after the Certificate of Incorporation was filed, St. John’s filed with the Recorder of Deeds a deed for the Property in question together with “all and singular the buildings, improvements [and] fixtures...” thereon. The property contained a grave, which the society agreed to maintain, as well as, presumably, the chapel upon whose door notice of the election of trustees referred to in the Certificate of Incorporation had been fastened. The grant was subject to a reversionary interest: should the Property cease to be used as a church “for the purpose of the worship of God and the expounding of God’s Holy Word therein”, or if additional burials took place on the Property, it would revert to the grantor.¹⁷

The grantee of the deed was “‘St. John’s African Methodist Protestant Church of Near Woodside, Delaware’, (a religious society duly incorporated

¹⁷ Actually, the grantors were James H. Jones and wife but the reversionary interest was to Annie M. Jones—presumably wife of James—and her heirs and assigns.

under the laws of the State of Delaware, and whose Certificate of Incorporation is now of record in the Office for the Recording of Deeds, etc., at Dover, in and for Kent County and State of Delaware).” Therefore, with the execution of the deed, record title was in the religious society, St. John’s, acting through its trustees. Nothing in the record demonstrates that legal title has ever been transferred from St. John’s to any other person or entity.

While the Conference attempted in the 1991 deed to transfer title to the Property from St. John’s to the Conference, this deed was ineffective. See Mother African II. Only the holder of legal title, St. John’s acting through its trustees, may transfer legal title to the Property. In 1983, the trustees of St. John’s filed an amendment to the Certificate of Incorporation changing its name from St. John’s African Methodist Protestant Church of Near Woodside, Delaware to “Hovington Faith Community Church.” The amendment in its entirety simply deleted the name ‘St. John’s’ from the Certificate of Incorporation and inserted, in lieu thereof, ‘Hovington’. Nothing in the amendment affected the legal title to the Property. The Conference has suggested that this name change was beyond the power of the trustees, as modified by the Book of Discipline, and that election of the trustees (excluding Mother Pleasanton) was improper under the Book of Discipline. Because the name of the religious society, whether St. John’s or Hovington, has no bearing on the issue before me, which is limited to ownership

of the Property, and because resolution of the question may implicate ecclesiastical principles beyond the scope of a neutral principles analysis, I decline to opine on the current name of the religious society, and will refer to it, post 1983, as St. John's/Hovington.¹⁸

The trustees recited as duly elected in the 1983 amendment to the Certificate of Incorporation were Mother Pleasanton, Pearlie Martin and Deacon Crain. In 2002, after the dispute between St. John's/Hovington and the Conference became manifest, three trustees filed a second Certificate of Incorporation for a Hovington Faith Community Church. Only one of these trustees was a trustee of St. John's at the time of the 1983 amendment, Pearlie Martin.¹⁹ The other trustees listed are Sister Hicks and Waynenicka Johnson. This Certificate provides that Hovington Faith Community Church consisted of 15 or more congregants²⁰ who had elected the three trustees by vote at a public meeting. The Certificate provides "all the estate, right and title which the society or congregation may have in any property, real or personal, in themselves, or by

¹⁸ I note that the number of trustees representing St. John's in the original Certificate of Incorporation was seven, that only three trustees acted to create the amendment, and that, by statute, a change in the number of trustees for a religious society must be by a plurality of votes at a meeting of the members and must be certified with the Recorder of Deeds. 27 Del. C. §101(b). The record is silent as to compliance with these statutory commands.

¹⁹ Martin had stopped attending services at St. John's/Hovington by the year 2000.

²⁰ Fifteen congregates is the minimum allowed by statute for formation of a corporate religious society. 27 Del. C. § 101(a). The record makes it doubtful that Hovington had 15 members as of 2002.

trustees, or for their use before incorporation shall upon incorporation become vested in the corporation, which may grant, demise or dispose thereof as provided in 27 Del.C. §104.” If this was an attempt to transmit title from the first, and still existing, St. John’s/Hovington religious society to a second Hovington Faith Community Church, as with the 1991 deed executed by Rev. Collins, the attempt is a nullity. The Property was owned by the trustees of St. John’s/Hovington, and there is no deed transferring the Property from St. John’s/Hovington to the “new” Hovington Faith Community Church. There is nothing to indicate who the trustees of St. John’s/Hovington were as of 2002. There are no records indicating that the trustees of St. John’s/Hovington took any action or even met, as a board of trustees, after the meeting at which they adopted the 1983 amendment to the Certificate of Incorporation. In short, whatever the reason for the execution of the 2002 Certificate of Incorporation of the Hovington Faith Community Church, it cannot affect legal title to the Property, which remains with St. John’s/Hovington.

B. Equitable Title

The Conference insists that it holds equitable title to the Property. It points to the connection between St. John’s and the Conference. Among the neutral principles of law to which this Court looks in resolving disputes over church property is the doctrine of implied trust. Under that doctrine, “where a local

church, incorporated under the laws of this State, exists in affiliation with and is a member of a general denominational church and holds property acquired by general grant, the property is held in ‘trust for the maintenance and furtherance of the faith and creed of the denominational church at large’.” Trustees of the Peninsula-Delaware Annual Conference of the United Methodist Church, Inc. v. East Lake Methodist Episcopal Church, Inc., Del. Ch., C.A. No. 14530, Chandler, C. (Feb. 13, 1998)(OPINION) at 23, *aff’d*. 731 A.2d 798 (1999), *citing* Trustees of Pencader Presbyterian Church v. Gibson, Del. Supr., 22 A.2d 782, 787-88 (1941). In considering whether an implied trust arose over the Property due to the relationship between St. John’s and the Conference, I have considered the following: I find that St. John’s was a Conference church before and after the 1909 Certificate of Incorporation and deed were created, and that it remained a Conference church at least through 1983. It is clear from the record that St. John’s trustees and congregants accepted the appointment of pastors from the Conference to preach at St. John’s, provided a yearly assessment of dues to the Conference, had members attend the yearly conference and that St. John’s otherwise functioned as a member church of the Conference. The defendants concede that, prior to 1983, St. John’s was a church affiliated with the Conference and that its members were subject to the oversight of the Conference and governed by the Book of Discipline. It is clear that the deed of the Property into St. John’s was a transfer of church Property to trustees elected pursuant to

and bound by the Conference Book of Discipline. I find under these facts that the Property was held by St. John's in trust for the Conference, prior to 1983.²¹

The defendants point to Mother African I, resolving a real property dispute between the Conference and a local church (the "Mother Church") in favor of the Mother Church; defendants contend that the reasoning of that case is applicable here. The facts of Mother African I are distinguishable, however. In that case, the Mother Church existed as a congregation and religious corporation long before becoming affiliated with the Conference. The trustees held the Property in trust for the local congregation prior to that event; the issue was whether they had at some point transferred ownership to the Conference. The Court found that they had not. Here, by contrast, the deed in to St. John's conveyed the Property to a religious corporation and trustees, as I have found, already affiliated with the Conference.

The defendants argue that, whatever affiliation had existed between the Conference and St. John's, it was abandoned by the Conference after St. John's congregation dwindled to the point that it was no longer able to pay its annual dues. The defendants point to the period between 1983 and the early 2000s when pastors were rarely assigned by the Conference to St. John's, and services

²¹ The defendants point out that the deed allowed the trustees of St. John's to mortgage the Property, a right they find inconsistent with a trust in favor of the Conference. The ability to mortgage was held only in connection with facilitating church construction and repair, however. I do not find the ability of the trustees to mortgage the property to raise funds for that purpose inconsistent with a trust in favor of the Conference.

by pastors affiliated with the Conference were rarely if ever held.²² Quarterly meetings were not held and contact with the Conference was limited to cursory “drive by” inspections of a locked and deteriorating church building by Conference officials at long intervals. The defendants argue that whatever connectional ties existed between St. John’s and the Conference were severed during this period, and that the “abandonment” of St. John’s by the Conference was sufficient to sever the trust relationship, permitting St. John’s/Hovington to act to withdraw the Property from the Conference. Whatever the persuasiveness of this argument, however, I need not address it here, because I find, based on the record before me, that neither the trustees nor the members of St. John’s/Hovington took any affirmative step to withdraw the Property from the Conference.

The record reflects that Mother Pleasanton in the early 1980s was distressed by the continued request for dues from the Conference and feared that the Conference would attempt to “take away” the church. The record reflects that in 1983, there were three trustees elected by the congregation, Mother Pleasanton, Pearlie Martin and Deacon Crane. The record makes it clear that

²² Bishop Jackson testified that he preached a sermon at St. John’s in 1988, with Mother Pleasanton in attendance. A Conference pastor was assigned to St. John’s in 1988-1989.

these trustees attempted to change the name of St. John's to honor Mother Pleasanton's great friend and a benefactress of the church, Mother Bowers, nee Hovington. The record also reflects there was some discussion that the church should be removed from the Conference among Mother Pleasanton, Pearlle Martin and Sister Hicks, and that Martin and Hicks believed that St. John's had "come out" of the Conference. What is lacking, however, is any official action by the congregation or trustees to remove St. John's/Hovington from the jurisdiction of the Conference.

It is abundantly clear that by the early 1980s the affiliation between the Conference and St. John's became less strong than it had been in the past. With the possible exception of a one-year period, the record reflects that there was no Conference pastor assigned to St. John's between the mid-1980s and the early 2000s. Services held by Conference-provided pastors were the heart of the affiliation that had existed between St. John's and the Conference. Starting in the late 1970s, although an elder occasionally attempted to hold quarterly meetings, he always found the church locked and unoccupied. Therefore, the inspection into the spiritual and physical health of the congregation and church property on a quarterly basis could not be held. The Book of Discipline could not be explained to the congregation. With perhaps a single exception, there were no representatives from St. John's who attended the annual conferences in these

years.²³ There were no dues paid to the Conference over these years, nor were there any expenditures made by the Conference to or on behalf of St. John's.

The record is not consistent as to the size of the congregation during this period. There is testimony that the Conference regarded Mother Pleasanton as perhaps the only member of the church. Church records show a varying number of congregants at St. John's in the late 1970s and early 1980s, perhaps as many as 14. Because the Conference included as members the minor children of adult members, it is difficult to ascertain how many adults were attending service at St. John's.

The record does reflect that a congregation continued at St. John's/Hovington after 1983. Deacon Crain and Mother Bowers left the church at some point, but Mother Pleasanton, Sister Hicks, Pearlie Martin and their families and friends attended on an irregular basis. Mother Pleasanton invited pastors to preach at the church. However, there is no indication that any overt acts were taken to indicate that St. John's/Hovington had been removed from the Conference. Neither Sister Hicks nor Pearlie Martin was able to testify as to any meeting of members or trustees of St. John's at which a resolution was taken in favor of secession from the Conference. No documents (aside from the Certificate of name change) are in evidence demonstrating secession. Just as

²³ Mother Pleasanton and Pearlie Martin, according to Martin, attended one Conference yearly meeting during Bishop Jackson's tenure, post 1988.

there is no evidence that the trustees or the congregation ever voted to secede from the Conference, there is no evidence that any congregant or trustee provided notice to the Conference, prior to 2003 or 2004, that St. John's/Hovington had seceded. The only testimony as to the sign which announced to the public the affiliation of St. John's/Hovington is the testimony (admittedly self-serving) of Conference witnesses that the sign continued to disclose the church as St. John's A.U.M.P. Church after 1983.

I therefore find that, despite the fact that the trustees attempted to change the name from St. John's to Hovington, and despite the fact that Mother Pleasanton and at least two church members intended to and believed they had removed St. John's/Hovington from the Conference, neither the members of the congregation nor the trustees ever took any legally significant act to secede from the Conference. The defendants have cited as dispositive the decisions of this Court in Mother African I and African Methodist Episcopal Church, Inc. v. John Wesley United Church, Inc., Del Ch., C.A. No 1167-K, Allen, C. (July 17, 1994)(Mem. Op.). Those cases, however, involved active religious societies in a dispute with a denominational parent church. The members or trustees of those religious corporations acted to remove the local church from the overarching denomination. In such a case, the Court considers the factual record to determine whether the local corporation holds the property in trust for the denomination. Here, in contrast, the record is bare of any actions taken on behalf

of the local entity by its members or trustees, and is bare with respect to the identity of the current membership or trustees. There is simply no action before me to review.

A religious society incorporated in Delaware is an entity which cannot act other than through its trustees as elected by its members. St. John's/Hovington remains a religious corporation. The record is silent as to duly-elected trustees of this entity, after the election of Pleasanton, Crain and Martin in 1983. Sadly, those trustees have all moved on or passed on. The last remaining, Pearlie Martin, testified that she was indifferent as to whether the Property was owned by the Conference or by St. John's/Hovington, so long as the chapel remained open for worship. There are one or two trustees for the "new" Hovington Faith Community Church; that entity, however, does not own the Property. Moreover, that congregation, according to Sister Hicks, is defunct. Without something more than vague testimony of an intent to break away from the Conference, I must find that the *status quo ante* prevails, and that the Property is held in trust for the Conference.

IV. ADVERSE POSSESSION/LACHES DEFENSE

The defendants argue that they hold title to the Property by adverse possession, or that the Conference is barred from seeking title to the property under the doctrine of laches. Assuming trustees may possess property adversely

to the beneficiaries of that trust, neither laches nor adverse possession may prevail here, because the defendants have failed to demonstrate that the Conference was on notice, real or constructive, of an invasion of its rights before 2003.

V. CONCLUSION

For the forgoing reasons, I find that the Property is held by St. John's/Hovington, for the benefit of the Conference.

/s/ Sam Glasscock, III
Master in Chancery