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Date: November 25, 2019
To: Parish Business Managers
From: Brad Wilson, Chief Financial Officer, Office of Finance
Re: Parish Incorporation Frequently Asked Questions

Some parishes have raised questions regarding the process of incorporation. We hope the Frequently Ask Questions attached can answer most of them. If you need additional assistance, please contact any of the people below.

Patrick Warner - pwarner@archatl.com, 404-920-7410
Brad Wilson - bwilson@archatl.com, 404-920-7404
Michael Warren - mwarren@archatl.com, 404-920-7411

Thank you.

Frequently Asked Questions

1. *What is the present legal structure of parishes in the Archdiocese of Atlanta?*

Parishes in the Archdiocese of Atlanta are presently structured as unincorporated associations under Georgia law.

2. *Why are parishes in the Archdiocese of Atlanta being separately incorporated?*

According to canon (Church) law, every parish exists as a “public juridic person,” which is a concept similar to that of a corporation under civil law. Canon law further provides that each parish has its own unique set of rights and responsibilities, including the right to hold and administer Church property. Under our current civil structure, where parishes have been functioning as unincorporated associations, its and its members’ legal rights, duties, and responsibilities with regard to the public and to one another are not entirely certain. There has also been a great deal of discussion between dioceses and between and among Bishops regarding the concern that the unincorporated association structure may not fully reflect the theological and canonical vision of the Church. After much study and prayer, we have determined that creating non-profit parish corporations is the most effective way to ensure that a parish’s rights, duties, and responsibilities will be respected not only under Church law, but also under civil law. In other words, by separately incorporating our parishes, we will be adopting a civil law structure that will most accurately reflect our ecclesiastical identity and our canonical structure.

3. *Are there theological reasons supporting parish incorporation?*

Yes.

In every step of the restructuring process, the Archdiocese has been guided by an understanding of ecclesiology, the principle of subsidiarity and the requirements of canon law.

“Church” is the people of God, not simply physical facilities or ordained individuals. The Second Vatican Council stipulated a proper role of the laity in fostering and guiding the mission entrusted by Jesus to the Church. In accordance with Vatican II and the First Synod of Atlanta following the Council, clergy and laity are linked intimately in the guidance of parish life and in the administration of parish affairs, as well as in the continued outreach of parish ministries. All aspects of parish life must be linked to the Archbishop as the chief pastor of the Church in Atlanta. The corporation structure will foster this interaction.

In canon law a parish is not a “branch office,” but rather is an integral component, of a diocese. So, a diocese, which is a communion in and of itself, is a communion of communions. That understanding will guide everything we do as an archdiocese and as an individual parish. The parishes will continue to interact with the Archdiocese, and the Archdiocese will continue to provide administrative support and episcopal oversight and guidance to the parishes.

Parish incorporation will help to define the rights and responsibilities of the parish as well as the duties and obligations of the pastor, the clergy, and the laity in their relationships to the Archbishop.

4. *Why now?*

The idea of parish incorporation has been studied by the Archdiocese for several years. We have watched other dioceses reorganize for various reasons. We have received inquiries from priests and laity alike, who have asked why the Archdiocese has not separately incorporated our parishes. We have retained outside civil and canonical counsel to analyze the Archdiocese's structure and to give recommendations. After years of study and prayer, the Archdiocese and its outside advisors have now reached a consensus that separately incorporating the individual parishes will have the benefits described above, and that the time has come to move forward with this transition.

In some cases, civil courts have directed dioceses to separately incorporate their parishes to clear up the confusion between the canonical and civil identity of the parishes and to reinforce, through civil law, the fact that parish assets belong to the parish, not the diocese. In our case, there is no such pressure from any court or other such entity. In our mind, that makes this the perfect time to take this step – on our terms, and for our own reasons.

5. *Is parish incorporation something new? Have other archdioceses already separately incorporated their parishes?*

Parish incorporation is not a new concept in the United States. In 1911, the Holy See recommended that Roman Catholic dioceses in the United States consider separate parish incorporation. At that time, a particular model of parish incorporation was available under New York law, and the Holy See suggested that archdioceses follow that model if at all possible. The civil structure that New York adopted may not have been available in Georgia in 1956, when Atlanta was made a Diocese, or in 1962, when it became an Archdiocese. For that reason, the Archdiocese of Atlanta adopted the fairly simple model known as an “unincorporated association,” which was allowed under Georgia law. Since 1911, many archdioceses have adopted the separate incorporation model, either at the time of their formation or afterwards, and many more, like our Archdiocese, are in the midst of such a transition.

6. Will schools be separately incorporated?

Under canon law, a parish school is a part of the parish and serves as a ministry of the parish. For that reason, there are no plans to separately incorporate our parish elementary schools and parish preschools. Those schools will continue to be ministries of the parish they serve. The three high schools and three elementary schools of Catholic Education of North Georgia, Inc. will remain in this entity.

7. How will parishes be incorporated?

Incorporation in Georgia is a relatively simple process. Articles of incorporation are filed with the Georgia Secretary of State's office. Each parish corporation will then hold an organizational meeting, at which the Board of Directors [see number 8 below] will adopt bylaws regulating the governance of the corporation and adopt corporate resolutions adopting various policies and programs. The articles of incorporation and bylaws will be drafted by legal counsel and will be identical in form for all parishes.

8. Who will serve as members of the Board of Directors and officers of the corporations?

Each parish corporation will have a Board of Directors consisting of the following three persons: The Archbishop, the Vicar General, and the pastor (or, if there is no pastor, the rector or administrator) of the parish.

The Archbishop will be designated as the chairman and shall preside over all meetings of the Board of Directors. The Vicar General will be designated as the Vice-Chairman. The pastor (or, if there is no pastor, the rector or administrator) of the parish shall be designated as the president of the corporation, and will exercise the same powers and duties that he currently has over the parish. The Chancellor of the Archdiocese shall serve as the corporate secretary, and the Chair of the Parish Finance Committee (or another person named by the president) shall serve as the corporate treasurer.

The Board of Directors may also designate from time to time other persons to serve as an assistant secretary or assistant treasurer, with such officers to have such duties of the secretary or treasurer, respectively, as the Board of Directors specifies.

9. How will the minutes of Board of Directors meetings be prepared? Where will they be filed?

The corporate secretary will draft the meeting minutes, and the minutes will be filed in the parish office and in the Archives of the Archdiocese.

10. What types of issues will the corporation's Board typically consider?

The Board will typically review issues involving the temporal affairs of the parish, such as approval of the purchase or sale of any real property and the borrowing of

money. The Board is not intended to replace the main consultative groups required presently for parishes, such as the Parish Pastoral Council and the Parish Finance Committee. These groups will continue to perform the critical tasks that they perform today. For example, the Parish Finance Committee will continue to submit budgets and financial reports to the pastor for his approval, just as it does today.

Typically, an agenda for each meeting will be distributed to the Board members in advance and would usually include the following:

- (i) approval of minutes of the prior meeting and confirmation that the minutes have been properly filed at the parish office and with the Archdiocese;
- (ii) confirmation that the parish corporation has filed when due the required annual report with the Georgia Secretary of State and fulfilled any requirements of the Internal Revenue Service; and
- (iii) discussion of any major changes since the last board meeting or major future plans relating to the temporal goods of the parish.

11. What will be the Archbishop's roles in the parish corporations?

The Archbishop, in addition to serving as a Director and the chairman of the corporation, among other things will be responsible for:

- (i) approving any amendments to the Articles of Incorporation or Bylaws;
- (ii) appointing the Vicar General who will serve on the Board of Directors; and
- (iii) exercising all authority granted to the Archbishop under canon law.

Permission of the Archbishop will still be needed when the administration of parish goods is an act of major importance, exceeding what is considered ordinary administration, as that is a requirement under canon law.

12. What duties and responsibilities will Parish Board members assume?

Civily, board members will owe a fiduciary obligation to the parish corporation, i.e., they must act toward the corporation with utmost honesty, loyalty, good faith and fair dealing. Board members must resolve any conflicts of interest in favor of the corporation and must discharge their duties in good faith with the care of an ordinarily prudent person, in a manner which they reasonably believe to be in the best interests of the corporation.

13. Will the Board of Directors be indemnified against lawsuits that may be filed against them for decisions that they make on behalf of the parish corporation?

Yes. The bylaws of the parish corporation will specify that directors have indemnification rights as provided under Georgia non-profit corporation law. In

addition, each parish corporation will provide Directors and Officers liability insurance coverage, which is currently in place for all parishes and for the Archdiocese itself. Appropriate levels of D&O liability coverage will remain in place, with the parish and its directors and officers as named insureds under the insurance policy, once the parishes are separately incorporated. Indemnification will not be provided for, and D&O insurance will likely not cover, intentional acts of misconduct, theft, fraud or other similar offenses.

14. How will parish incorporation affect the parish tax status, employee benefits, insurance, and other benefits and services currently provided by the Archdiocese?

Incorporation will not require parishes to independently obtain IRS approval of the parish's tax-exempt status. Such tax-exempt status already exists and will continue to be granted as evidenced by the parish's listing in the Official Catholic (Kenedy) Directory. Incorporation will not affect any employee health or benefit programs (including employee insurance), the procurement of property/casualty insurance for parishes or any other financial services provided by the Archdiocese of Atlanta. Those programs and services will continue to be maintained through the Archdiocese for the benefit of the parishes.

Incorporation also will not change any of the support programs currently available to assist parishes. Written service agreements will be signed by board members of both an archdiocesan service corporation and each parish corporation describing the services provided and any compensation/assessments received for these services.

15. How will parish incorporation affect the day-to-day operations of the parish?

No material change in the normal operations and day-to-day activities of any parish is anticipated. The pastor will continue to handle the daily affairs of the parish as he did previously, in consultation with the Parish Finance Committee and the Parish Pastoral Council as required under canon law. The pastor, through his school principal, will also continue to lead any parochial school that has been established on the parish's property. All parishes will remain in communion with and will continue to be accountable to the Archbishop.

The Archdiocese will continue to provide a wide variety of administrative services to the parishes. The fact that the parishes will now be separate non-profit civil incorporations will not change the basic patterns of parish and archdiocesan life.

16. What is going to happen to parish property?

Today, most, if not all, parish real property in the Archdiocese is held (civilly) in a trust identified as the AoA Parish Real Estate Trust, having the Archbishop as

Trustee, for the benefit of the people of the respective parishes of the Archdiocese of Atlanta, in trust for each applicable parish. This will remain the case following the parish incorporations. Parish personal property today held by the parish will, after incorporation, be held by the corporation. The Archbishop will continue to have certain powers over real property, similar to our current practice and in accord with canon law (e.g. approval of sale or purchase of real estate, leases, etc.), but the parish will also have certain rights and responsibilities over that property.