

The organizational challenge of the TCC: A discussion paper for a new organizational model

*“I don’t know what your destiny will be, but one thing I do know:
the only ones among you who will be really happy are those who
have sought and found how to serve.”*

- Albert Schweitzer

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0. Executive Summary

- 0.1 The Task Force recommends a new selection process for the Board of Directors of the Toronto Central Council Corporation. Currently the Board consists of the 11 Particular Council Presidents, an elected President, a Vice-President, a Secretary and a Treasurer.
- 0.2 A Particular Council President needs to be someone who has a good sense of how a conference should operate and can help other conferences when they need assistance. A good Particular Council President may not always have the skills and/or time available to be a board member of a non-profit corporation providing shelter for 270 people and a camping experience for 1,700 children each year with 73 full time and 300 part time staff operating with an \$8 million annual budget. The Task Force therefore recommends that the duties of Particular Council President and director of the Corporation be separated.
- 0.3 The proposed Corporate Board will consist of 9 directors selected and elected from the 1200 Vincentians (excluding the Particular Council Presidents) in the conferences of Toronto Central Council. If sufficient Vincentians with the required skills are not willing to join the Board, then up to 3 of the 9 directors may be non-Vincentians. These 9 directors will select a Chair, a Vice-Chair, a Secretary and a Treasurer.
- 0.4 The 11 Particular Council Presidents will form a committee (the Vincentian Board) reporting to the Corporate Board, but with no legal responsibilities of the Corporation. The Vincentian Board will be responsible for working with the Conferences and Particular Councils to ensure that Vincentians are well trained, are supported in their spiritual development and are following the Rule of the Society. The Vincentian Board will select a Chair. There will no longer be a Toronto Central Council President. The Particular Council Presidents will serve a term of 3 years (instead of 4 currently) with one option to renew for a term of 3 years (instead of 2 currently).
- 0.5 The Nominating Committee is responsible for identifying, interviewing and orienting prospective members of the Corporate Board. The Nominating Committee will propose a slate of candidates to fill the board vacancies each year. The directors will be elected for a 3 year term with one-third of the directors coming up for election each year.
- 0.6 These changes to the composition of the Corporate Board will require approval of the Toronto Central, Ontario Regional and National councils and once approved, will also require changes to the by-laws. Changes to the by-laws were already anticipated because of the need to comply with the new Ontario Not-for-Profit Corporations Act, when it becomes law.

1. Introduction & Background

1.1 The Toronto Central Council (TCC) is, in current parlance, an outlier. It has financial assets (particularly considering real estate) and a membership that exceed all such Councils of the Society of Saint Vincent de Paul in Canada. Most importantly, the TCC conducts Special Works that differentiated it, markedly, from other organizations.

1.2 TCC's Special Works include residential housing throughout Toronto, where TCC provides shelters, recovery housing, supportive housing units and housing for adults with development disabilities. TCC runs three stores and a distribution centre, acting as an intermediary between those who wish to donate and those in need. TCC operates two, large, fully subsidized camps for children. It also provides Court Services, providing assistance to those held awaiting trial. And it does all this with a staff of over 350, including part time and seasonal employees, and an operating budget of over \$8 million.

1.3 The Special Works, though, are not the only responsibility that TCC has – arguably, they are not even the most important responsibility it has. TCC is also there to “provide the leadership, coordination and support required by the Vincentian community” as they conduct their fundamental charitable work of home visitations. That Vincentian community, within the geographic area of the TCC, represents more than 1,200 volunteers, belonging to 112 Conferences and grouped into 11 Particular Councils – a significant force to support.

1.4 The organization of the TCC is driven by The Rule and by provincial legislation. (The TCC is incorporated under the Ontario Corporations Act and is a registered charity, under the Income Tax Act.) Unfortunately, The Rule does not cater well for the sort of organization that TCC is, with the responsibilities that the Special Works bring and the demands that legislation and regulations are increasingly imposing on it. Such a significant, almost corporate-like, size and set of activities and responsibilities were not foreseen when The Rule was drafted. That is one problem the organization now faces. Another is that the provincial legislation is changing – with the need to apply for continuance under the new Ontario Not-for-Profit Corporations Act when it is read into law – and, as noted, the continually evolving demands of funders and regulators. Together they constitute a second problem. It is, therefore, time to revisit the structure and governance of the TCC.

1.5 External pressures, though, are not the only reason. There is growing awareness and criticism of the way TCC is governed – though not about how it is managed and run on a day-to-day basis. That criticism reflects the fact that the Board, the governing body of the TCC, is faced with two quite different tasks and fails, at some level, to deliver on either.

1.6 The first task is the legislated responsibility for the corporation (primarily Special Works, when staff and assets etc. are considered) and its operations, finances, risk management, regulatory compliance and the like. The second task is facilitating and supporting the Vincentian community (the PC's and Conferences) in their everyday work. These criticisms come both from within, from the individual directors on the Board themselves, and from the community, as the important reality is that the apparent "failure to deliver" is not the fault of the well-intention individuals involved but of the system. The structure and the rules (and The Rule) governing the TCC and its Board simply do not allow things to function properly.

1.7 It is to address this set of issues that this task force was struck. Its mandate: to develop a potential solution. This document does so.

2. The "givens"

2.1 The Task Force identified a number of "givens" – items that were agreed as, essentially, facts to be accepted, not for debate but highly relevant to any solution proposed:

2.2 The law prevails. Regardless of anything written in The Rule, wherever there might be conflict the law will apply and prevail.

2.3 Special Works, as undertaken by the TCC, are a source of pride within the community even if outside and apart from the basic Vincentian focus and experience of the community's members. As such the Special Works are not for abandoning.

2.4 Special Works must be conducted in the "Vincentian spirit" with regard to the moral codes and beliefs that are basic to Vincentians, and not directed as a free standing independent operation.

2.5 To carry out, effectively, any responsibility makes substantial demands on individuals' time. Having responsibility for the Corporate Board and supporting the Vincentian community requires a very significant time commitment and thus excludes many qualified volunteers from contributing their services.

2.6 Different skill sets and experience are appropriate to facilitating customary Vincentian work as opposed to providing governance to Special Works.

2.7 There is a willingness to seek modification to The Rule if required.

2.8 There is no expectation of success in seeking to modify the legislative environment.

3. The problems of running Special Works

3.1 The operation of Special Works requires something akin to a conventional business organization. Indeed, funders and regulators increasingly measure and expect “business-like performance”, regardless of the charitable nature of the enterprise.

3.2 The current laws governing the corporation that is the Toronto Central Council include the act under which it was incorporated – the Ontario Corporations Act. Under this act the directors are responsible for the management of the corporation. Responsibility begins and ends with them. It is not with the Executive Director and it is not with staff. The courts have, over time, imposed various duties and responsibilities on the individual directors in this regard. (Such duties and responsibilities are now codified in the recent Not-for-Profit Corporations Acts.) Those duties include a duty of care, where the director must “exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances”. It is difficult to do that if you have little or no such prior experience, are unaware of the intricacies – legal (e.g. Charities Accounting Act, Workplace Safety or Privacy related legislation) or operational (budgeting, network planning, fire regulations) – of running the corporation and, frankly, do not know enough to ask the right questions in the first place. Yet that, unfortunately, is the position a number of directors find themselves in.

3.3 Because of the system by which Particular Council Presidents are, effectively, appointed de facto as directors, there is no process for orienting them, for assessing their qualifications or suitability (let alone wish!) to end up responsible not just for the running of their Particular Council but also for an \$8 million corporation, in the supportive housing business – among others – a business with which they may lack even the most passing familiarity.

3.4 The result is that the directors can find themselves in a position where: “this is not what I volunteered for”; they lack any real appreciation of or comfort with their responsibilities; they are exposed to legal consequences from failure to discharge those responsibilities; they can face monetary penalties; and their personal reputation and good name is on the line. It is no wonder there is a distinct level of discomfort with the present system.

3.5 Some directors may choose to absent themselves in the face of this or because the work of running a Particular Council is already too time consuming. Unfortunately, that in no way relieves the person of his or her legal responsibilities. The Board is collectively liable and individuals are personally accountable.

3.6 The Committee structure, it must be allowed, does provide for some additional expertise to be brought in to assist the Board. However, in the absence of basic knowledge or technical appreciation it is often a challenge for directors to ask the right questions and any advice they receive is frequently taken without question, whether potentially incorrect or incomplete.

3.7 One last, particular challenge (specifically associated with Special Works) for the Board is that the focus of the work is on clients – those in shelters or residences or held in detention. The personal familiarity the Board members have with these individuals and environments is limited.

4. The problems of supporting the Vincentian Community

4.1 When it comes to supporting and facilitating the Vincentian community the focus is on members, not clients. The role of the Board is to help the helpers, as it were. Their issues are well understood – and valuable assistance could be provided – if only there was time! As noted, although time is spent in meetings discussing such Vincentian matters it is not, of necessity, 100% of the time – far from it. Vincentian matters could never be considered as issues that have the full, undivided attention of the Board.

4.2 Even if the directors were to put on their PC Presidents' hats and meet informally after Board meetings, absenteeism means there is no effective, cohesive, forum where PC Presidents could share, discuss and mutually aid each other.

4.3 The reasons for absenteeism, where individual PC Presidents do not regularly attend Board meetings, can be speculated on. Some, perhaps, feel they have little to contribute to the discussion of “corporate” matters; some may feel the task of running their own Particular Council requires too much of their time already. The reasons are largely immaterial – the fact of non-attendance is not. When discussions do happen regarding Vincentian matters – i.e. the support of the Conferences and Particular Councils – there are populations of Vincentians not represented at the table. Ironically, it may be that those who are “too busy” are in fact too busy because they are running the most effective and successful Particular Councils and have some of the best ideas, from which everyone could benefit if they were shared.

4.4 In the absence of focused attention / communication from the Board, the TCC can be and, some would argue, is seen as irrelevant and removed from Vincentian activity by the general membership. The average Vincentian has little understanding of the scope and impact of Special Works and the importance of their financial contribution, with the possible exception of how it relates to camps. And they see little done to help them grow membership, fund raise more effectively and so forth.

5. The self-evident solution

5.1 The solution is seen as self-evident: two “Boards”. By having two groups with separate responsibilities – one for Special Works (“Corporate”) and one for Conference / PC support (“Vincentian”) – with separate recruitment / appointment / election mechanisms as needed and a different skills and experience focus among their constituent members, both tasks the current Board is faced with can be properly addressed.

6. The challenges

6.1 Concept is one matter, practical implementation another. The following represent specific challenges that will need to be met.

6.2 *Legal niceties* – a corporation can only have one legally recognized Board, so to have two “Boards” might imply the need to establish a separate corporation. However, having a second, separate corporation is not seen as a solution. Experience elsewhere has shown such an approach can be highly problematic, with issues of overall control and ensuring adherence to Vincentian practices (such as financial pass-up’s) causing difficulties. A separate corporation (presumably to handle Special Works) introduces yet further remoteness from the general Vincentian community, which assists with funding. Having two corporations also adds costs and does not relieve or avoid anyone’s corporate management obligations (individual directors of both corporations still have legal responsibilities and liabilities) around finance, risk management etc.

So, a technically “one Board” requirement (for the single TCC corporation) has to accommodate a second virtual board to meet the “two boards” solution. Fortunately, parallels exist, so such a solution appears quite feasible. (It is not uncommon, for example, to have an “Advisory Board”, particularly in social housing situations, where residents are elected to represent the interests of tenants or residents on this second “board”, while having none of the legal responsibilities that the “main” Board directors have.) From a legal standpoint, the “Corporate Board” would constitute the legally responsible body. The second “Vincentian Board” would be constituted simply as a special committee or adjunct group with responsibility for Vincentian matters.

6.3 *Design of the “Corporate Board”* – there is a need to identify particular functional talents and appropriate skills and experience best suited to running the Special Works aspects of the Council. One could anticipate these might include working knowledge of social housing, risk management, regulatory authority liaison, financing, real estate, information technology, human resource management, property management and the like. In the current Vincentian community of some 1200+ volunteers it is likely that much of the requisite skill base exists. The Task Force recommends a Board of nine

directors. This number balances the need for a relatively compact group to facilitate decision-making with the desire to have a range of appropriate skills and expertise represented around the table. Nine members reflects an idealized number where the Board might consist of: Chair, Secretary / governance, Treasurer / finance and directors with a background in technology, risk management, social housing, human resources, government liaison, real estate / property management or some such combination. While, as a practical matter, the by-laws should allow for some flexibility with the number, at the Board's discretion. The by-laws should require a minimum 80% attendance for quorum.

6.4 Ensuring a continuing focus on Vincentian ideals and practices within the "Corporate Board" – it is a "given" that no one wants a board of directors so focused on assisting clients or bowing to regulatory pressure that they look to do things (i) to the exclusion and detriment of Vincentian values (installation of condom dispensers is a recent example) or (ii) broader organizational practices e.g. funding pass-ups. Having a by-law (the by-laws have to be rewritten in any event) requiring Corporate Board members, or a majority of them, to be Vincentians readily addresses this issue. The Task Force recommends a maximum of three non-Vincentian Board members. This will require a clear definition of a "Vincentian": for example, "a screened, active member of an aggregated conference (not necessarily in a TCC conference) for 2 years or more".

6.5 New Recruitment Process – implementation of "two boards" necessitates a new recruitment mechanism for the official Corporate Board. Endeavouring to utilize the existing "alternative representative" mechanism is unsatisfactory for a number of reasons, not least is the fact it is geographically based and so too limiting. The intent would be to exploit the talent pool that the entire Vincentian community represents, without

- a) concern for whether two highly qualified individuals live within the same boundary area, and
- b) feeling bound to enforce arbitrary quotas based on some one-per-geographical-area formula.

Indeed, for the purposes of the Corporate Board thought could be given, if found appropriate, to seek particular talents from outside the Vincentian community (but with due regard to the immediately preceding "ideals" challenge – see 6.4 above).

The Nominating Committee (appropriately up-dated) would be charged with:

- a) promoting the opportunities for (alternative) service that a role on the Corporate Board would present,
- b) developing appropriate position descriptions and required skill / experience characteristics sought,
- c) finding prospective candidates,
- d) holding screening, interviewing and orientation sessions for prospective

- candidates, and
- e) proposing a slate of candidates to fill the board vacancies.

As a result, a slate of well qualified directors – as many as needed – can be presented to the TCC membership (strictly the Conference Presidents, etc., as now) for approval. It is intended that the nominating process will be sufficiently rigorous to allow the members to approve the proposed slate of Directors at the Annual General Meeting. Directors will be allowed to serve a potentially limited number of consecutive 3 year terms, if they stand for re-election and are successful. Any limits to the number of terms directors can serve on the Corporate Board or in an Officer position can be set in the by-laws when they are updated.

The Vincentian Board would be taken care of, as now, by local election of PC Presidents with automatic appointment to the Vincentian Board, rather than what is presently termed the TCC Board. This may require clearance with Rule authorities but such is not explicitly banned. The PC Presidents will elect one of the PC Presidents as Chair of the Vincentian Board. Some thought may be given to the currently imposed 4 year terms for which PC Presidents serve, under The Rule, as this length of term is considered inappropriately long from a governance standpoint. (The maximum term for a director, possible under the new legislation, is 4 years but this is widely considered excessive.) Further, some may see 4 years as too long a commitment such that good people are deterred from standing. The Task Force recommends a term of 3 years renewable once for a second term of 3 years.

6.6 General governance practices – the design of the Corporate Board needs to address modern governance practices, especially with regard to term in office, rotation of directors and selection of officers, including the Chair. (This requires attention to The Rule and modifications to its current stipulations will need to be made – some simply to comply with the legislation.) The current practice of allowing any member to stand for President is not favoured; rather the Task Force recommends that the Chair is elected by fellow board members based on seeing the person in action within the board setting, i.e. the candidate should be an existing board member. The current practice of electing a TCC President by the TCC membership will no longer be required.

6.7 Minimizing effort and cost – the solution proposed will require certain changes to the by-laws. Those are in need of reviewing and updating, in any event, to be compliant with coming legislation. A thorough review should be undertaken in order that all changes are made at the same time and there is no duplication of effort and legal fees are incurred only once. At the same time, the National Council will need to be approached identifying such changes to the organization structure, the by-laws and The Rule as are needed to implement this “two board” solution and to ensure TCC is fully compliant with legislative requirements and modern governance practice.

6.8 *Implementation* – It is the view of the Task Force that none of these issues is insurmountable and that it is unlikely that the National Council would object to making such changes (perhaps ‘extensions’ might be a more apt description) to The Rule as will be necessary to address coming legislative challenges and the unique characteristics of the TCC as it stands today.

7. Key elements of the proposed Two Board solution

7.1 The TCC remains a single, incorporated entity and a registered charity, fully compliant with anticipated not-for-profit legislation, the Income Tax Act etc.

7.2 The TCC has a board of directors (the “Corporate Board”) recruited from the broad Vincentian community (1200+). This community is canvassed as needed and candidates are provided with a well-considered briefing on the role of a corporate director, particular skill sets or experience being sought and the responsibilities associated with being on the board, prior to their self-selection to stand. The hope is that this will provide a further and attractive opportunity to qualified individuals who feel willing to serve the Vincentian cause in a particular professional / functional capacity. As now and as is required, they will all be volunteers and not paid. They will serve for a 3 year term and will be elected on a rotating basis, such that in any year only a third of the directors are up for re-election.

7.3 The Corporate Board will have a targeted membership to ensure a broad range of essential skills and expertise are represented. It might be expected to have a membership reflecting general business management skills and subject matter experts relevant to the Special Works conducted.

7.4 The Corporate Board will have, as now, committees to address specific topics, either of a more operational focus or of a more specialized nature e.g. finance, fund-raising, camp, stores.

7.5 In addition the Corporate Board will have an adjunct group, for which it is technically (= legally) responsible. The focus of this group (the “Vincentian Board”) will be exclusively on “Vincentian” matters. The membership of the Vincentian Board will comprise the PC Presidents. The membership process will mirror the current practice of locally elected PC Presidents being automatically appointed to the current TCC Board but in this new structure they will be appointed to the Vincentian Board.

7.6 The members of the Vincentian Board will have none of the responsibilities of the current TCC board in relation to Special Works. Moreover, the operation of this Vincentian Board will be governed by

considerations of effectiveness and will not be subject to externally imposed legislative requirements, unlike the Corporate Board. The Vincentian Board members will not be “directors” under the legislation and therefore not subject to legal obligations and responsibilities, but are free to follow their moral and ethical principles.

7.7 It is suggested that the Chair of the Corporate Board, the Chair of the Vincentian Board and the Executive Director meet informally as a management group on a monthly basis to facilitate communication between all parties. No formal reporting is suggested and cross membership is to be discouraged because of the anticipated workload on an individual discharging his or her responsibilities on whichever Board they sit.

7.8 A joint meeting of the two “Boards” might be held every 6 months to enhance personal fellowship and strengthen the relationship. Such joint sessions will serve to emphasize and mutually recognize, on the one hand, the value and reputation of Special Works (the focus of the Corporate Board) and, on the other, the fundamental “ownership” that the whole Vincentian community (the focus of the Vincentian Board) has in the Toronto Central Council. One of these semi-annual meetings that both “Boards” attend would be the Annual General Meeting of the Corporation. This would serve to attract TCC voting members to attend the meeting as the business of the Corporation could be followed by a meeting chaired by the Vincentian Board that they could also attend.