

**St. Peter's Catholic School**  
**FORM 318 APPLICATION FOR PERMIT TO CONSTRUCT LPFM STATION**  
**EXHIBITS 4 - 6: Attribution and Ownership Restrictions**

***Multiple Ownership.*** The Applicant owns no Low Power FM facilities or in any other broadcast facility licensed by the agency.

***Cross Ownership.*** The Applicant holds no attributable ownership interests in another media facility or in any application for a full power facility pending before the agency.

***Family Relationships.*** No party to this application has a family relationship with another other party to the application.

***The Implications of Catholic Church Clergy-Governed Institutions' Traditional Organization as Corporate Soles.*** As set forth in Exhibit 2 to this Form 318, Applicant is a corporate sole. Inasmuch as the form of a corporate sole is unfamiliar to many today, enclosed herewith as an Addendum to this exhibit is a brief discussion of its features and, to the extent necessary or appropriate, a **request for waiver relief** to ensure that the Catholic Church's clergy-governed institutions adhering to this traditional structure are in no way placed at a competitive disadvantage relative to other similarly situated applicants.

***The Implications of the Commission's MEMORANDUM OPINION AND ORDER, FCC-13-116 (rel. August 23, 2013).*** The Commission only recently issued a decision involving far-flung Low Power FM facilities, with ownership of one such facility attributed to the "national" Methodist church.<sup>1</sup> Inasmuch as the case turned on the unincorporated nature of one or more of the local churches involved, it does not seem to be applicable here.<sup>2</sup> Even so, whether this decision holds any import in the agency treatment

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<sup>1</sup> See *Applications for Review of Decisions Regarding Six Applications for New Low Power FM Stations*, MEMORANDUM OPINION AND ORDER, FCC 13-116 (rel. August 23, 2013) (hereinafter the "*August 23 Decision*").

<sup>2</sup> We acknowledge there are at least two other ways of thinking about the "square peg" of a Catholic parochial school while speaking of the "round hole" of the agency's analytical framework. That is, we state at Exhibit 2 that Applicant is impliedly a corporate sole. Inasmuch as it functions as a corporate sole -- with a pastor constituting the sole governing authority in the civil and canonical domains (except to the extent he chooses to hire a principal to serve as chief executive officer and various administrative staff) and with the privileges and responsibilities of the office being retained in the office (as opposed to the individual in custody of the office), and since the Bishop appoints the pastor and any successor to the pastor pursuant to Canon Law, the Office of the Pastor can reasonably be described as functionally parallel to the Office of a Bishop. Admittedly, the General Assembly expressly recognized only the office of the Bishop himself as a corporate sole. Thus, in the eyes of the state, all title to the Church's physical assets in the Diocese lies with the Office of Bishop. Moreover, while the Bishop ultimately controls all such assets, the persons who comprise the church parish community, as well as the educators and those who seek an education at the parish school, might plausibly be described as unincorporated associations. To the extent the agency believes either of these legal descriptions are more accurate than a corporate sole, we nonetheless seek treatment as if each Catholic parish is separately incorporated, regardless of whether it has taken steps to incorporate formally, to avoid the sort of nonsensical and/or discriminatory outcomes that might otherwise occur in a

of an applicant incorporated as a corporate sole is not yet widely understood. Accordingly, in an abundance of caution, we herein support our certifications with respect to Form 318, Section II, Items 5(a) and 5(b, as these relate, respectively, to Sections 73.855 and 73.860 of the Commission's Rules.

In the wake of the *August 23 Decision*, it is not clear whether the Commission seeks disclosure of, or would recognize as an attributable interest, every regulated media authorization (or application for the same) of a religious entity also governed by clergy in the same faith tradition. For the reasons set forth in our Addendum hereto, we presume such an onerous burden was not within the scope of the Commission's intent in issuing its *August 23 Decision*. The Catholic Church is an ancient and vast organization -- not just national, but worldwide, in scope. Any particular parish or diocese (including this one) is normally unaware of the media holdings or media-related ambitions of most other local parishes or dioceses. Moreover, most -- if not all -- Catholic radio facilities in this country are generally owned and operated by the laity, via independent nonprofit corporations. We nonetheless imagine that numerous Church institutions, including many governed by clergy, will -- like this Applicant -- seek permits to construct LPFM facilities in this same Filing Window of which the Applicant avails itself. And it is quite possible, even probable, that the ownership of some existing regulated media entity authorization -- perhaps even a Low Power FM authorization -- rests in the custody of a clergy-governed organization within the general fold of the Catholic Church. However, we cannot herein catalogue the ownership, or applications, of every clergy-governed Catholic institution in the country.<sup>3</sup>

In any event, pursuant to Section 73.858(b) of the Commission's Rules, a local chapter of a national organization will not have the attributable media interests of the

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strict application of the agency's Rules, which recognize only separate incorporation as a means of avoiding ownership attribution.

However, we believe the most accurate treatment is to view every pastor's parish as a subsidiary corporate sole. In that sense, all Catholic parishes are functionally independent of each other for purposes of ownership analysis, the same way similarly situated protestant churches -- less encumbered by the hierarchical theological precepts to which Catholics adhere -- might be deemed independent of others within their faith tradition. This is potentially significant in view of the theological reasons for the Catholic church's reluctance to separately incorporate its clergy-governed institutions, a point explained a bit more in the Corporate Sole Addendum to the instant application.

<sup>3</sup> For the record, we must respectfully -- and categorically -- reject the notion that the broadcast interests of any single clergy-governed Catholic Church institution within a particular American diocese could ever be rightly construed as attributable across diocesan boundaries. Attribution is a concept that applies to ownership and control, and neither ownership nor control cross diocesan boundaries. Regardless of whether such an institution is separately incorporated, in the sole or aggregate, or whether it is unincorporated, the notion that any pastor or Bishop in one American diocese might have ownership or control of broadcast facilities owned by institutions in another diocese is contrary to Civil Law and to Canon Law, as well as to the experience of any Catholic. Pastors and Bishops in one American diocese simply have no authority whatsoever, whether under civil or canonical law, over activities of the Church institutions of another American diocese, regardless of how either institution may (or may not) be organized.

national organization attributed to it, provided that the local chapter: (1) is incorporated in its local area separately from the national organization with which it is affiliated; and (2) has a distinct local presence and mission.

As explained in Exhibit 2, the Applicant is a corporate sole. And to whatever extent (if any) the agency may be otherwise disinclined to treat incorporation as a corporate sole in the same manner as provided by Section 73.858(b) of its Rules, we have requested waiver relief to ensure equal treatment under both corporate forms.

Furthermore, the Applicant's distinct local mission includes the purpose of conducting religious education and operating a school specific to the geographic boundaries of its local community. Accordingly, any far-flung media interests of other clergy-governed entities within the Catholic Church are not attributable to the Applicant here. Likewise, the fact that other Catholic parishes or schools in the same diocese are also seeking authority to launch a new LPFM facility should not be held against the instant Applicant, in the same way that two separately incorporated protestant churches, even protestant churches within the same faith tradition, could be treated by the FCC as sufficiently independent from one another so as not to place the protestant church at a disadvantage to other applicants from either an eligibility or competitive perspective.

Neither Section 73.855 nor Section 73.860 addresses directly the question of an attributable interest in multiple applications for a permit to construct a new LPFM by a common party to both applications, even where that party with the attributable interest is not an applicant for a single LPFM anywhere. Rather, the Rules prohibit common ownership of existing LPFM facilities, or cross ownership of another regulated media facility and a LPFM.

Nonetheless, the most reverend Bishop Robert Guglielmone, to whom all pastors in the Diocese answer pursuant to Canon Law, is equivalent to the sole director and officer of the Office of the Bishop, corporate sole. Bishop Guglielmone is not a party to any other broadcast licensee or regulated media entity, or to any application for another LPFM authorization or regulated broadcast authorization, except to the extent he is a single Bishop within that jurisdiction, and that multiple pastors serving under the Bishop may well be pursuing an opportunity to obtain a LPFM permit.

Even if the agency believes the Bishop is a party to multiple applications, pursuant to Section 73.858(a) of the Commission's Rules, an officer or director of the Applicant may hold an otherwise attributable interest in another broadcast licensee, daily newspaper or cable television system only if: (1) the LPFM applicant or licensee entity is a multi-faceted organization; (2) the duties of the officer or director are wholly unrelated to the LPFM station; and (3) the officer or director recuses himself or herself from consideration of any matters affecting the LPFM station.

In an abundance of caution we emphasize that the Applicant – that is, the incorporated office of the Bishop – is indeed a multi-faceted organization with numerous activities in a broad geographic jurisdiction.

Moreover, the Bishop is charged with shepherding his flock within the Diocese in a threefold manner -- as “priest, prophet, and king”. That is, he must minister to the peoples’ spiritual needs, teach them about the faith, and serve them well in the administration of the Church. And the duties of the Bishop, who is the sole director and officer of the Applicant, are wholly unrelated to the operation of any LPFM facilities not owned or operated by his office.

Accordingly, pursuant to Section 73.858(a) of the agency’s Rules, to the extent the FCC deems it necessary or appropriate, Applicant hereby certifies that Bishop Guglielmone has recused himself, and will continue to recuse himself, from any consideration of matters affecting the low power FM facility (facilities) contemplated in any other LPFM facility, or application(s) pending before the agency that would secure a permit(s) to launch a LPFM facility. We likewise stipulate that no clergy governing a Catholic Church entity of any other American diocese – including without limitation those entities that may hold an attributable ownership interest in a regulated media authorization, or that may be a party to a pending application for such an authorization -- shall exercise any role in the consideration of matters affecting the low power FM facility contemplated herein.