

Real estate battle key in San Diego diocese bankruptcy

by Mark Sauer and Bruce Bigelow

SAN DIEGO - Serving the spiritual needs of 980,000 Roman Catholics, the Diocese of San Diego says it has 98 parishes, 16 missions, 43 elementary schools and three high schools.

Yet in bankruptcy documents filed Wednesday in the long-running priest sex-abuse scandal, church officials claim the diocese owns about \$96 million in property.

An important battle in the bankruptcy marathon starting today before federal Judge Louise DeCarl Adler will be over what property the diocese has and what it is worth.

Among major real estate the diocese says it owns:

- Mater Dei High School in Chula Vista: \$60,790,222

- Holy Cross Cemetery: \$11,376,471

- The diocese Pastoral Center in Clairemont: \$6,351,798

- San Luis Rey Academy in Oceanside: \$5,505,953

But the diocese says it does not own a long list of parish buildings.

Larger properties in this category include Mission San Diego de Alcala (\$3.5 million); a Rancho Santa Fe church and school (\$5.3 million); and Our Lady of Mt. Carmel church and chapel (\$2.3 million).

DIOCESE - Abuse victims Esther Miller of Orange County and David Clohessy, the national director of SNAP (Survivors Network of those Abused by Priests), embraced after a press conference in downtown San Diego responding to the San Diego Diocese's decision to seek bankruptcy. Photo by John Gibbins.

Diocese lawyers argue that hundreds of such properties - from houses, condos and apartments to commercial buildings and undeveloped land - are "exempt" from liability claims because they belong to individual parishes.

More than \$211 million in such holdings is listed for San Diego County alone, in the diocese's bankruptcy documents. The diocese also owns property in neighboring counties.

"The typical squabble in these cases is whether or not the diocese has an ownership right in parish property," said Jim Waggoner, a bankruptcy lawyer in Portland, Ore. "That's been the huge fight in every one of these cases."

Plaintiffs' attorneys labeled the total figure of diocese holdings "ridiculously low," saying many properties it owns have been omitted or grossly undervalued. However, the diocese has 15 days to file complete details of its assets and liabilities.

"This accounting of assets is a straight-up lie," said John C. Manly, an Orange County, Calif., attorney specializing in real estate matters whose firm represents 18 of the approximately 150 San Diego plaintiffs. "Our preliminary analysis of the real-market value of the diocese properties is close to \$1 billion."

Other plaintiffs' attorneys have put the figure at about \$600 million.

The diocese documents also contain an extensive listing of such property as framed art in the bishop's office, his exercise machine, an ice maker and red gloves. Values for such items are listed as "unknown."

While San Diego is the largest U.S. diocese to file for Chapter 11 bankruptcy protection, four others have

already done so. In Spokane, Wash., and Portland, Ore., the dioceses claimed that under church law, most of the real estate belonged to individual parishes.

Judges have ruled in favor of the plaintiffs on those issues in recent cases, though the law remains unsettled.

In the San Diego cases, Manly and other plaintiffs' attorneys insisted that no Catholic schools, churches, offices or other buildings essential to the core mission of the church need be sold to satisfy settlement demands.

Calls left with bankruptcy attorneys representing the diocese were not returned Wednesday.

Years of fruitless negotiation and endless legal skirmishes were to have given way this week to the first trial in about 150 cases filed since 2002. Those cases were automatically postponed, though, when San Diego filed for Chapter 11 bankruptcy protection.

Plaintiffs' attorneys charged that the diocese's decision to go the bankruptcy route was a bad-faith attempt to avoid revealing in open court details of rape and molestation of children by priests.

In its bankruptcy documents, lawyers for the church argue that the Chapter 11 reorganization enables the diocese to settle all of its sexual-abuse claims "on a fair and equitable basis."

Chapter 11 is designed to provide a "cooling off period," in which a judge takes control of a corporation's financial situation while considering the concerns and claims of its creditors.

"We take the position that the last four years have been chilly enough," said Andrea Leavitt, a San Diego attorney representing several plaintiffs.

Leavitt, who said she hopes Adler will allow some of the abuse cases to be tried alongside the bankruptcy proceeding, accused diocese attorneys of transferring certain properties in recent years in an attempt to hide assets.

She cited, for example, the Carmel Valley property on which Cathedral Catholic High School was built.

"The diocese transferred the property to a new corporation formed in the midst of this litigation," she said. "We're looking at a fraudulent-transfer claim on that."

As part of its bankruptcy filing, the diocese listed assets that included real estate property worth more than \$95.7 million and personal property of \$60.4 million.

In filing for bankruptcy reorganization, the San Diego diocese has made its financial operations subject to court scrutiny.

Federal bankruptcy law allows the diocese to control much of its business operations during the reorganization process and, with court approval, the diocese can withhold key information.

The San Diego diocese argued in court papers that it "has the duty to keep the identities of abuse victims private." Last August, however, Bishop Robert Brom's attorneys were unsuccessful in an attempt to have the alleged victims' names publicly revealed.

Today's hearing will cover a series of motions the diocese has filed that allows it to pay bills and continue operating during the bankruptcy. A special pool would be created to pay the plaintiffs in the sexual-abuse cases.

The diocese will pay all of the bankruptcy-attorneys' fees for both sides.

Susan Boswell, a bankruptcy lawyer for the San Diego diocese, structured the reorganization for the Tucson diocese that way. She represented the Tucson diocese, which emerged from Chapter 11 two years ago.

In 2005, a federal bankruptcy court in Arizona approved a plan by the Diocese of Tucson to sell about 85 of its properties to settle claims filed by people who alleged they were molested by priests.

The Tucson diocese created a \$22.2 million pool for settlements in its sex abuse cases. Late last year, the Archdiocese in Portland, Ore., proposed to set aside \$75 million to settle its pedophile cases in an agreement that is pending.

Adler was picked at random to handle the San Diego bankruptcy proceedings.

Appointed to the bench in 1984, Adler has handled the prominent bankruptcy cases of the San Diego Symphony in 1996 and the HomeFed Corp. demise in 1992.

The symphony emerged from Chapter 11 reorganization in 1998. It took HomeFed until 1995 to come out of Chapter 11.

Staff writer Greg Moran contributed to this report.

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