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victims.

The diocese's chief bankruptcy attorney countered that the property, which is in escrow and set to be acquired and developed by William Lyon Homes Inc., is not owned by the diocese, but by corporate entities that it established.

"The University of San Diego High property is owned by the Catholic Secondary Education-Diocese of San Diego Corp.," said Susan Boswell. She is a Tucson-based attorney who helped her hometown diocese emerge from Chapter 11 bankruptcy two years ago.

On Feb. 27, San Diego became the fifth Roman Catholic diocese in the United States to file for bankruptcy protection in the decades-old sex-abuse scandal. The Tucson diocese is the only one so far to have emerged from Chapter 11 protection.



K.C. ALFRED / Union-Tribune
Buildings sit empty on the 14-acre site of the former University of San Diego High School in Linda Vista. The property was transferred from the Roman Catholic Diocese of San Diego to the Secondary Education Corp. in 2004.

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

Boswell said the Secondary Education Corp. is "a separately incorporated entity from the Diocese of San Diego." It was formed in April 2003, according to the California Secretary of State's Web site, so the diocese could raise construction money for schools through the public sale of bonds.

The University of San Diego High property was transferred from the diocese to the Secondary Education Corp. in 2004.

In addition to that property, Cathedral Catholic High School in Carmel Valley also is listed as owned by the Secondary Education Corp.

Plaintiffs' attorneys have long argued that Cathedral Catholic, an \$80 million facility built to hold 2,000 students and the largest Catholic school in the county, is in reality owned by the diocese, which they say is transferring properties to shield assets.

They now include the University of San Diego High property in the same category.

"Here's where the diocese is in trouble: They own the Catholic Secondary Education Corp.," said Irwin Zalkin, a San Diego attorney representing about 30 of the 150 people suing the diocese, who now are listed as creditors in bankruptcy court.

"Federal bankruptcy law requires them to list all assets, including real property, under penalty of perjury. But they did not list a wholly owned

subsidiary that holds two major assets," Zalkin said. "How do you miss that?"

"If the diocese doesn't own the Catholic Secondary Education-Diocese of San Diego Corp., who does?"

Boswell said the diocese has done nothing wrong regarding how assets were listed in its bankruptcy filing.

"I can assure you the diocese listed in all of the appropriate places every piece of property it owns, or that it holds in trust for other parties," Boswell said.

"If they (plaintiffs' attorneys) think something was not done properly," she said, "they can bring the matter before the court as opposed to trying to make their allegations in the press."

Michael T. O'Halloran, a San Diego attorney specializing in bankruptcy, said that while it is common practice to amend asset lists, even weeks after a bankruptcy is filed, omitting assets is a grave matter.

"Not listing real property is a serious violation," O'Halloran said. "Nobody fails to list real estate – the records are so public; the diocese will simply argue, 'We don't own it.'"

Another San Diego plaintiffs' attorney, Andrea Leavitt, raised the issue of the diocese shifting assets – namely Cathedral Catholic High – in 2004, when the abuse lawsuits were being litigated in state court.

Leavitt, who represents several abuse clients, argued that the diocese not only tried to hide assets from plaintiffs, but also defrauded bond investors by not disclosing the pending lawsuits and potential liability totaling many millions of dollars.

A Superior Court judge denied Leavitt's fraud motion on grounds that she "had no standing" to bring it. But she vowed to raise the fraud issue again in bankruptcy court.

The 2004 deed transferring the University of San Diego High property to the Secondary Education Corp. says it was a "name change only," and therefore the property-transfer tax was zero, Leavitt said.

"That is an admission by Bishop (Robert) Brom that the diocese still owns the property," Leavitt said. "The public can be assured that the bankruptcy court will be apprised of the sleight of hand by this diocese regarding its financial transactions."



An official for William Lyon Homes did not return a message seeking comment.

Among the other contentious issues that will be taken up before federal Judge Louise DeCarl Adler is the matter of whether \$50 million the diocese obtained from the ALSAM Foundation, a charitable organization, was a loan or a gift.

Plaintiffs' attorneys argue that the money, used to build the nearly completed Mater Dei High School in Chula Vista, was originally a grant, or gift. Diocese attorneys say it was an interest-free loan.

The difference is huge: The \$50 million is an asset if it were considered a gift, but a lien/liability to the diocese's estate if deemed a loan.

The next hearing in the case is scheduled for April 11.

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