CONCORDIA PORTLAND

Legal issues could snag UO's purchase of campus

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The Oregonian

The University of Oregon's purchase of the former Concordia University campus in Portland to host an ambitious youth behavioral health institute seems the proverbial win-win.

The deal solidifies UO's relationship with a pair of mega-wealthy supporters — Connie and Steve Ballmer, who have contributed $425 million toward the center — and establishes a new Portland campus. The city of Portland gets a big economic development win. Even the site's northeast Portland neighbors are thrilled the land will remain part of a university after Concordia shut down in 2020.

More broadly, if the Ballmer Institute for Children's Behavioral Health accomplishes its far-reaching goals, troubled young people all over the planet could benefit.

The most surprising winner of all may well be Concordia's parent organization — the Lutheran Church-Missouri Synod. The conservative church that threatened to withhold financial support for Concordia Portland in part because it was too supportive of gay, lesbian, trans, queer and nonbinary students could enjoy an unexpected $70 million windfall.

The University of Oregon board of trustees will meet Monday to consider the Concordia property purchase. Oregon has offered $60.5 million.

Matthew Harrison, president of the St. Louis-based synod, said publicly in 2018 that shutting down Concordia in Portland could blow a "$400 million crater" in the church's finances.

So far, it hasn't turned out that way. If the UO purchase goes through as planned, the proceeds from the real estate sales will cover the $37 million the Lutheran Church Extension Fund had loaned to Concordia and put many millions more into the into the extension fund's treasury.

But there are two wildcards complicating the purchase.

Concordia's long-time technology partner — a Bay Area firm called HotChalk Inc. — has sued the college and its parent church in an attempt to collect $300 million it claims it is owed.

On Feb. 7, 2020, two days before Concordia publicly announced it was shutting down, the school transferred ownership of the campus to the extension fund.

HotChalk protested that it was an insider deal that amounted to a "fraudulent transfer." In hopes of protecting its claim against Concordia, HotChalk has filed what's known as a lis pendens on the campus property.

A lis pendens is a legal notice filed with the county recorder's office essentially warning prospective buyers that the property has become embroiled in a legal dispute. The resulting "encumbrance" on the property is generally sufficient to scare off potential buyers.

There is another impediment to closing the sale from a most unlikely player in the drama — the Lutheran Church Missouri Synod.

The synod has its own publicly recorded legal right that allows it, in the words of UO officials, "to take title to the (campus) property should the property be used for a purpose other than as a religious or educational institution affiliated with the Lutheran Church."

The UO's tentative purchase agreement requires the extension fund to "reach agreement with the Missouri Synod to extinguish that right of reentry. Should for any reason LCEF fail in doing so, the University will not purchase the property."

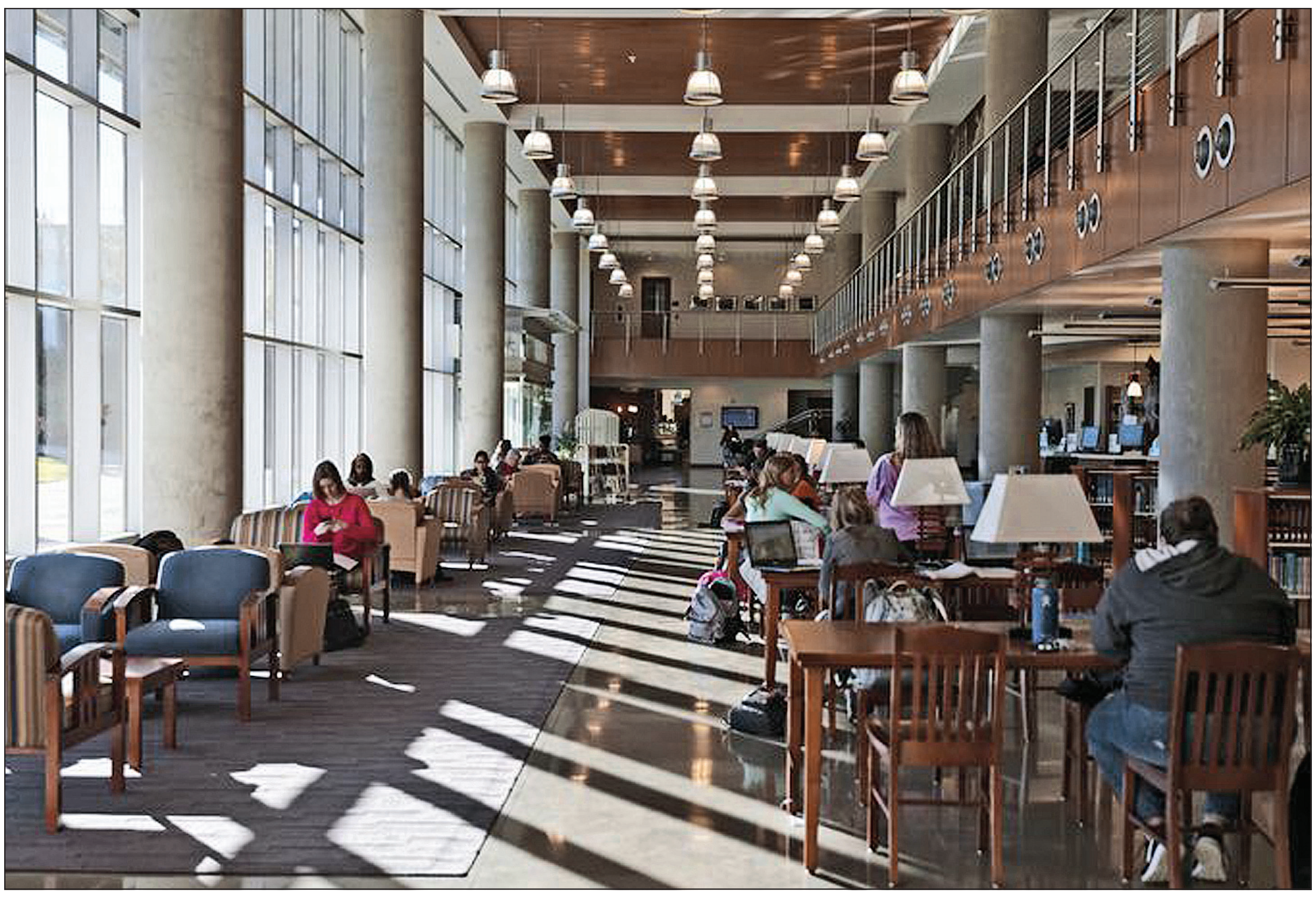
Many players in the Concordia drama consider the extension fund as subordinate to the synod and believed that the two entities were on the same page. In its own mission statement, the fund states its primary purpose "is to support the Lutheran Church-Missouri Synod."

But the current situation challenges that view.

David Foraker, a Portland attorney representing the extension fund, said there is no deal currently for the synod to give up its right of reentry. "They're reluctant to engage with us," Foraker said. "There have been no negotiations."

The extension fund is a significant operation. It has $2.1 billion in assets and invests money on behalf of the synod and its members. It also loans money to individual church workers and affiliated colleges and other schools.

"There's this myth that the synod is the parent and puppet master," Foraker said. "That's not true. They don't have the same management, and they have different boards of directors."



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In this Oct. 10, 2016, photo, students study on the former campus of Concordia University in Portland. The University of Oregon's plans to buy the campus and turn it into a youth behavioral health institute needs to clear several legal hurdles.

Oregonian file photo