



# Legal advice backs bid to buy Calvary

## EXCLUSIVE

By **Victor Violante**  
 Chief Assembly Reporter

The ACT Government has released legal advice that it says justifies its bid to buy Calvary Public Hospital for \$77 million.

Critics of the sale have argued the ACT Government might not have to pay the company for the hospital because the lease said the Little Company of Mary was not entitled to compensation if it surrendered or terminated the lease before it expired in 2070.

In 1971, the Commonwealth government gifted the Bruce hospital site and buildings to the Catholic health care provider, and since then Commonwealth and ACT governments have fully funded the hospital's operation. But ACT Health Minister Katy Gallagher provided *The Canberra Times* yesterday with a summary of advice from the ACT Government Solicitors received over the years, which she said refuted the claims.

"We don't normally release our legal advice, but it did come up through the community consultation, particularly from people who felt that LCM doesn't own it and we shouldn't have to pay for it," she said.

The advice concludes that unless the Little Company of Mary waives its right to compensation, it is entitled to payment for prematurely giving up its rights to the land and assets.

"If the territory wishes Calvary to surrender its rights, then the surrender or acquisition of those rights – the right to use the public hospital and its assets – is a right that can be valued and for which a payment may be required," the advice said.

"What is being acquired is Calvary's unexpired portion of its Crown lease and its right to occupy and use the land, building and assets over that term."

Ms Gallagher said the Government had in previous years asked the Little Company of Mary if it would surrender the lease without compensation, but it had refused.

"They're not surrendering their lease, they're selling their lease. They could surrender it if they wanted to, we have tried ... and it's not something they would consider."

This was still the case, and the sale was dependent on the Government selling Clare Holland House to the company. She rejected allegations from the ACT Palliative Care Society that hospice was being used as a bargaining chip in the negotiations.

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ACT Health Minister Katy Gallagher

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In an opinion piece published in *The Canberra Times* last month, Peter O’Keefe, a lawyer with a long-standing interest in the hospice, said the sale could be unlawful because of the lease terms.

"There is no doubt that under currently disclosed agreements and leases, the Government cannot acquire Calvary unless the LCM decides to discontinue the conduct of the hospital," Mr O’Keefe said.

"Equally, there is no doubt that if the LCM decides to discontinue, they must surrender their lease and are not entitled to compensation for the value of any buildings or improvements which have been paid for by the taxpayer."

Ms Gallagher said the legal advice, which will be posted on ACT Health’s website today, shows that this interpretation is at odds with the Government’s legal advice.