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U.S. probe sought of Sunroad project

Aguirre targets tower near Montgomery Field

By David Hasemyer
STAFF WRITER

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City Attorney Michael Aguirre said yesterday he will ask federal prosecutors to open a criminal investigation into people involved in the construction of a 12-story building near Montgomery Field that the FAA has declared a hazard to airplanes.

Aguirre suggested that both city officials and executives with Sunroad Enterprises, the developer, should be targets of the federal probe, though he declined to name the individuals he wants prosecuted.

Aguirre said he is seeking the prosecutions because the office tower violates regulations governing the height of buildings near airports and because construction was allowed to continue despite the safety warning.

"There has been a willful disregard for federal and state laws and for the safety of people," Aguirre said at a news conference a block from the Kearny Mesa building. "I am hoping the U.S. Attorney will take speedy action and make an aggressive prosecution of this matter."

A spokesman for the U.S. Attorney's office did not respond to a request for comment.

Aguirre said officials in the city's Land Use and Economic Development Department should be held accountable for allowing the project to proceed despite FAA warnings.

He called Sunroad executives "irresponsible" for putting up a building they knew exceeded the height limit and for continuing to disregard the FAA.

"Their disrespect of the law continues," Aguirre said.

Jim Waring, head of the city's Land Use and Economic Development department, said Aguirre's accusations were "hysterical" and "misplaced." Waring dismissed any suggestion that city officials have been negligent.

"We do not have a position that is different from that being taken by the City Attorney," Waring said. "We want to see the safety issues resolved."

Sunroad's attorney, Steven M. Strauss, said the company's executives have nothing to worry about because the city approved construction of the building at its current height.

"The threat of criminal indictment is absurd," Strauss said.

Sunroad is a holding company that has operated in San Diego County for more than 20 years. Its properties include Pacific Honda, Kearny Mesa Ford & Kia, Kearny Mesa Hyundai-Subaru, Kearny Mesa Infiniti and Toyota Chula Vista. The company also owns Maderas Golf Course in Escondido, the Sunroad Marina on Harbor Island and other real estate projects.

The Federal Aviation Administration labeled the company's new office tower a hazard last summer after Sunroad disregarded a warning that the building's height would make it dangerous to airplanes landing in bad weather.

Sunroad officials continue to maintain that the \$45 million building is not a hazard because the FAA has warned pilots to fly a safe distance away. The office tower is going up about a mile northwest of the airport near the intersection of Kearny Villa Road and Clairemont Mesa Boulevard.

Since the building eclipsed the 160-foot limit placed on it by the FAA, it has

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caused jitters among pilots; become the subject of a lawsuit by Aguirre's office and a national pilots organization; and been targeted by the state Department of Transportation, which says the top two floors must come down.

Waring said that once the building's height became a safety issue, the city reacted appropriately and promptly, trying to negotiate with Sunroad to find a solution to satisfy the FAA. But, he said, the city had to abandon that low-key tactic last month, after Aguirre filed suit asking a judge to decide the issues.

"What this is all about is freezing the risk while the parties who have a dispute are able to resolve it in court," Waring said.

Aguirre's office became involved in the dispute last fall, when it learned of the FAA's concerns and urged the city to demand that work on the top two floors of the building be halted.

In October, the city issued a stop-work order and said construction could not resume until the FAA removed the hazard designation.

But late last month, the city agreed to allow Sunroad to proceed with roofing the building to prevent rain damage to the lower floors.

City officials said the compromise was reasonable and did not mean they were softening their position that the hazard designation must be removed before the building could be finished.

But Aguirre saw it as an informal agreement between the city and developer to move the building one step closer to completion.

"What that amounts to is a game of cat and mouse," he said.

As for Sunroad, Aguirre said he thinks the developer is willing to pay a penalty or some other price as a trade-off for maintaining the building's height.

"It's a violation of the law; they know it, yet they want to have this building for the price of a fine," Aguirre said.

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