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Escobar-Eck's Sunroad letter raises a huge red flag. 02/04/07

Flannery by Pat
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Tom Story, VP of Sunroad Enterprises, wrote [this letter](#) dated November 21, 2006 to the City's Development Services Department (DSD), requesting it to lift its "Stop Work Order" of October 27, 2006. Here is the [City's response](#), signed by his old friend Marcela Escobar-Eck, now the City's Development Services Director.



[Sunroad](#) is building that controversial 180 foot high-rise building next to Montgomery Field. Here is a December 3, 2006 [U-T article](#) about it. The picture opposite is from that article.

Sunroad's Tom Story became Dick Murphy's

Chief of Staff when John Kern bailed out in January 2005. For 11 years prior to that, Story served as deputy director of the City's Planning Department. He and Escobar-Eck know each other well.

Mike Aguirre [thinks they committed](#) a Federal crime by conniving to defeat a "Stop Work Order" imposed by the City because the FAA declared the building a hazard to aviation. That is a serious charge against a City employee, with serious implications for the Mayor and dangerous liabilities for the City.

When you read the last paragraph of the Escobar-Eck letter you cannot but be struck by its lawyerly tone, the use of the word "estops" for example. That raises the question: who is the lawyer for the Development Services Department? Is it not the City Attorney? Yet Mike Aguirre's Office could hardly have lawyered this letter, if, according to Mike, it was a criminal act! Very strange goings on at the

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City.

The Pension Fund went off the rails once it stopped accepting legal advice from the City Attorney. I think we are very close to that situation at Development Services.

DSD is fast becoming a rogue Department. The fact that Marcela Escobar-Eck wrote that letter to Sunroad Enterprises, without clearance from the City Attorney, on a very sensitive legal matter, raises a huge red flag and is reminiscent of the pension crisis.

Sunroad's letter contained a threat of legal action with a claim for damages arising out of the "Stop Work Order". It should have gone straight to the City Attorney's Office. Yet Escobar-Eck seems not to have sought the advise of the City Attorney before replying. The City's response should have represented the best efforts of both the DSD and the City Attorney's Office, to protect the City and its tax payers. That was not the case.

On discovery of Escobar-Eck's rogue letter, Aguirre should have stormed into the Mayor's office demanding an explanation. Instead he wrote to the U.S. Attorney!

The Mayor and the City Attorney have formed a close personal friendship. That's fine, but it seems to be affecting the way the City Attorney is doing his job. He seems reluctant to place responsibility for the behavior of the Mayor's staff on the Mayor.

Did Escobar-Eck write that letter without legal advise? If not, who is giving her legal advice? An outside attorney? Who authorized that outside attorney? Did the Mayor authorize Escobar-Eck to circumvent Aguirre and get her legal advice elsewhere?

If a crime was committed, it must be laid at the door of the Mayor, he is responsible for the people under him. But most importantly, he must tell his DSD staff that the City Attorney is their attorney, whether they like it or not. If Escobar-Eck, in writing that letter, circumvented the elected City Attorney, the Mayor should discipline her. We went down that road before with the Pension Fund, let's not do it again with the DSD.

What the DSD is doing vis-à-vis developers is uncannily similar to what the union-packed Pension Board did for the unions: it granted the unions illegal "vested rights". We may

never be able to roll them back. Every time DSD issues a permit it confers a "vested right" on a developer. In fact, both the DSD and the developers no longer refer to them as "permits", they call them "entitlements". They know what they are doing.

It is a reality of current political life in San Diego that the developer-friendly Mayor's Office, that controls and directs Development Services, sees the City Attorney's Office as the enemy. Unfortunately that is how we got into the pension mess.

Mr. Aguirre and his staff now have to try to "roll back" the damage already done by Escobar-Eck (and the Mayor) with regard to Sunroad. Fortunately State law trumps local law. The Department of Transportation (DOT) has jurisdiction over anything that exceeds certain obstruction standards in navigable airspace. When that happens California PUC §21659 requires any developer, in this case Sunroad, to obtain a construction permit from DOT. DOT has ruled that this has happened at Sunroad.

This "inconvenient truth" (for developers) will also shortly emerge between the Coastal Commission and Manchester on the Navy Broadway project. Manchester is required to obtain a development permit from the Coastal Commission before the City can issue any construction permit, even a demolition permit. That will probably sink his NBC ship.

Fortunately at Navy Broadway the DSD has not yet issued any permits. Not so at Sunroad. Tom Story knew his stuff. He secured his "entitlements".

The bottom line is that Mayor Sanders is doing for the developers what Judie Italiano and Ron Saathoff did for the unions. Aguirre's personal relationship with Sanders is akin to being best buddies with Juliano and Saathoff right in the middle of their orgy of pension-right giveaways.

Suing after an illegal right has been conferred is closing the door after the horse has bolted. Aguirre has to personally confront the Mayor on DSD's rogue behavior.