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Aguirre, chief escalate war of words

City attorney sees obstruction of justice

By Alex Roth
and David Hasemyer

UNION-TRIBUNE STAFF WRITERS

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SAN DIEGO – A dispute between San Diego City Attorney Michael Aguirre and a local developer erupted into a barrage of accusations yesterday, with Aguirre accusing the police chief of obstructing justice and the police chief accusing Aguirre of “character assassination.”

The fireworks began after a San Diego Superior Court judge unsealed a warrant that gave Aguirre permission to search the offices of Sunroad Enterprises, which is building a controversial office tower near Montgomery Field.

According to the warrant, Aguirre is investigating Tom Story, Sunroad's vice president of development, for possible misdemeanor violations of a city lobbying law.

At a news conference after the warrant was unsealed, Aguirre accused Police Chief William Lansdowne of deliberately hampering the investigation.

“I am ashamed of Mr. Lansdowne,” Aguirre said.

Mayor Jerry Sanders rushed to the chief's defense, expressing outrage at Aguirre's “irresponsible” accusations against Lansdowne.

Lansdowne lashed back at Aguirre in an opinion piece submitted to *The San Diego Union-Tribune's* newsroom and editorial board.

“Never in my four-decade career in law enforcement have I seen a more blatant attempt by an elected official to misuse his powers for personal political gain,” Lansdowne wrote. “If you were to believe Aguirre, it seems that everyone in San Diego is either corrupt or conspiring to commit a crime. Everyone of course but himself. Joseph McCarthy would be very proud.”

District Attorney Bonnie Dumanis informed Aguirre this week that his office no longer has authority to prosecute so-called “wobbler” cases – those that could be charged as either felonies or misdemeanors.

Aguirre used his authority to prosecute wobblers as an avenue to help him conduct a criminal investigation of Sunroad.

“(A)s the District Attorney has original jurisdiction of all felonies in this county, it would be greatly appreciated if the City Attorney's Office refers

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all investigations, requests for search warrants, and any other matters potentially resulting in felony criminal charges to this office,” Dumanis wrote in a Tuesday letter to Aguirre.

Aguirre said Dumanis' decision won't affect his ability to proceed with the Sunroad investigation.

The controversy involves a 12-story office tower Sunroad is building near the airport in Kearny Mesa. The Federal Aviation Administration has declared the 180-foot tall building a hazard because it violates the agency's height limit. In December, Aguirre filed a lawsuit demanding that Sunroad remove the top two floors.

Last week he obtained the warrant to search Sunroad, but the search was never executed because Lansdowne expressed reservations about the warrant's validity. With rare exceptions, search warrants are granted only in felony cases, which are handled by the District Attorney's Office, not the city attorney.

After the police balked, Aguirre approached Dumanis and the state Attorney General's Office, but they also refused to execute the search, citing the same concerns. No one on Aguirre's staff is authorized to execute a search warrant.

Yesterday, Superior Court Judge George “Woody” Clarke, the judge who signed the warrant, unsealed it at the request of the *Union-Tribune* and Sunroad, whose lawyer said the company “has nothing to hide in this matter.”

The warrant's affidavit accuses Story, the Sunroad executive, of violating a municipal ordinance that requires former city officials to wait a year before lobbying their former employer.

Story served as deputy director of the Planning Department from 1997 until 2001 and later became then-Mayor Dick Murphy's chief of staff. When Murphy resigned in July 2005, Story quit too, though he remained on the city payroll through November because of unused vacation.

According to the warrant, Story went on Sunroad's payroll in late 2005 and began contacting development services officials in February 2006.

At the news conference, Aguirre said he is also investigating city employees whom Story contacted either directly or indirectly.

Pam Naughton, Story's lawyer, insisted her client “scrupulously followed the law” and was hired for his background as a landscape architect and his 30 years of experience with land-use matters.

“Mr. Aguirre has a rather twisted notion of what the law allows and doesn't allow in this area of 'lobbying' ” she said.

At his news conference, Aguirre accused the police chief of leaking information about the warrant before the search could be conducted.

As a result of a story about the warrant in last week's *Union-Tribune*, Sunroad was given “whatever time they needed to do whatever they wanted to do with the documents,” he said.

Sunroad eventually agreed to turn over documents voluntarily, but Aguirre said his office obtained only a fraction of the documents that might have been seized had news of the search not been made public in advance.

Although Aguirre accused Lansdowne of obstructing justice, he said he didn't plan to formally investigate the police chief.

"I've got my hands full right now just dealing with this case," he said, referring to the Sunroad investigation.

Lansdowne denied leaking information about the warrant.

"He's making these wild accusations, and he's got no foundation for it," Lansdowne said in an interview yesterday. He accused Aguirre of "character assassination, which is his tactic."

Earlier this week, Sheriff Bill Kolender defended Lansdowne's decision not to execute the warrant. Yesterday, officials in the state Attorney General's Office said they also agreed with Lansdowne, which is why they declined to conduct the search.

Dane Gillette, a senior assistant attorney general based in San Francisco, cited "concerns over the adequacy of the affidavit in support of the search warrant."

The affidavit was signed by Barry Bruins, an investigator in Aguirre's office. Before joining Aguirre's public integrity unit, Bruins worked in the San Bernardino County District Attorney's Office, where he was demoted after he was accused of helping leak information about an ongoing corruption investigation to the political opponent of one of the targets.

Bruins sued San Bernardino County for \$1.7 million, claiming he was made a scapegoat in a political dust-up. The case was later dismissed.

In her first comments on the controversy, Dumanis said yesterday that her office agreed with the assessment of the state Attorney General's Office.

"We declined the city attorney's request to serve the search warrant because it was defective, and we so advised the chief of police," Dumanis said.

■ Alex Roth: (619) 542-4558; alex.roth@uniontrib.com

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