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## End work on tower now, Frye says

### Construction continues on 180-foot-tall building

By David Hasemyer  
UNION-TRIBUNE STAFF WRITER

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SAN DIEGO – Councilwoman Donna Frye urged Mayor Jerry Sanders yesterday to demand that Sunroad Enterprises stop work on a building near Montgomery Field that the FAA has declared a hazard to planes landing in bad weather.

“The mayor's office has to step in and stop it,” Frye said. “The public's safety has to come before a developer's interest.”

She prodded Sunroad to “behave as a responsible corporate citizen” and remove the top two floors of the 180-foot-tall building because it exceeds the Federal Aviation Administration's height limit.

Frye said she consulted with the FAA earlier this week and was told the building remains a hazard and will always be one unless the top floors are torn down.

“That's what has to happen,” she said. “The solution to ensuring the public's safety is to remove the top two floors of the building – period.”

Fred Sainz, a spokesman for Sanders, said the mayor was not sufficiently aware of the details of the project to respond to Frye's remarks. Instead, Jim Waring, head of the city's Land Use and Economic Development Department, discussed the city's position.

Waring said the city has already asked Sunroad – to remove the top two floors, and the developer has refused. It would be a “pointless exercise” to ask again, he said.

The fate of the building now rests with the courts, Waring said.

The FAA declared the \$45 million building a hazard in August after telling Sunroad during construction that it would be a hazard if it exceeded 160 feet.

Since then, City Attorney Michael Aguirre has filed a lawsuit in an effort to force Sunroad to tear down the top two floors, and Sunroad has countersued for \$40 million.

The Development Services Department has ordered Sunroad to halt work on the top of the building. But despite that order, the city made a strategic decision to allow construction to continue, Waring said.

“It's a matter of liability,” he said. “If the city loses (the lawsuit), then the

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more work that has been done will reduce the claim against the city.”

If the city wins, Waring said, Sunroad will bear all the expense of the demolition.

“Since we do not know how the lawsuit will turn out, we have to reduce the potential liability to the city,” he said.

Sunroad's vice president of development, Tom Story, did not reject talking with the city about removing the two floors, but he said compensation would be a factor in those discussions.

“This building has been constructed in accordance with all of the city's regulations and with all proper city-issued permits,” Story said in an interview after Frye's news conference.

He chafed at the implication that Sunroad doesn't care about the safety of the people of San Diego, pointing out that the company donated \$1 million to help the city buy a firefighting helicopter.

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“We are sensitive to the safety issue,” he said.

Story said the office tower is not a hazard, because once the FAA warned pilots about the building and adjusted the landing approach, the hazard was removed.

That's not true, FAA spokesman Ian Gregor said.

“The notice to pilots was the only thing the FAA could do in the short term to address the hazard Sunroad created,” Gregor said. “Although the notice alerts pilots that there is a hazard, it does not eliminate the hazard.”

Two months after the city ordered Sunroad to stop working on the top 20 feet of the building, Development Services officials modified the order to allow the company to weatherproof the office tower by adding a roof and constructing an elevator equipment room.

The modification agreement did not mention adding exterior walls, but Sunroad began installing the walls last month.

When Aguirre learned the walls were going up, he immediately sent a letter to Sunroad revoking permission to do any work on top of the building.

But Marcela Escobar-Eck, the director of Development Services, said the walls were within the limits of the order. They weren't specifically listed, she said, because it wasn't possible to itemize all the work involved in weatherproofing the building.

Sunroad is continuing construction, saying that only Development Services has the power to order the work stopped. Yesterday, Story also suggested the company will begin work on the interior when the time comes.

Frye said she will try to find a way for the council to intervene in the Sunroad controversy. But Council President Scott Peters said the city can't compel Sunroad to work with the federal government to resolve the hazard issue.

“It is my hope that this company will recognize the importance of ensuring public safety in the air and on the ground and will reach an agreement that will satisfy the FAA,” Peters said.

Staff members for council members Toni Atkins and Ben Hueso said the two were unavailable for comment yesterday. None of the other council members responded to a request for comment.

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■ David Hasemyer: (619) 542-4583; [david.hasemyer@uniontrib.com](mailto:david.hasemyer@uniontrib.com)

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