

**DEPARTMENT OF TRANSPORTATION****LEGAL DIVISION**

4050 TAYLOR STREET, MS-130  
SAN DIEGO, CA 92110  
PHONE (619) 688-2531  
FAX (619) 688-6905



*Flex your power!  
Be energy efficient!*

WRITER'S DIRECT NO. (619) 688-6924  
E-mail address: [julie\\_jordan@dot.ca.gov](mailto:julie_jordan@dot.ca.gov)

May 30, 2007

*Via Electronic and U.S. Mail*

Dennis C. Crovella, Esq.  
COOLEY GODWARD KRONISH LLP  
4401 Eastgate Mall  
San Diego, California 92121

**Re: State of California and the City of San Diego, et al. v. Sunroad Centrum, L.P., et al.  
San Diego County Superior Court case no. GIC 877054**

Dear Mr. Crovella:

Thank you for your letter dated May 24, 2007, regarding my site inspection. I am extremely disappointed. First, we had an extensive discussion concerning the scope of the site inspection while we were at Mr. Campbell's deposition. I explained that my survey crew needed to get onto the property to verify their survey of the building. I further explained that they needed access to the roof and the top two floors to make their "marks." I explained that I also had a couple aviation experts who wanted to see the roof structure. You never mentioned anything to me during our discussion that your client wanted an indemnity agreement or proof of insurance. Of course the State will indemnify your client. Please forward a draft indemnity agreement that is acceptable to your client and its principle/carrier. Further, enclosed is a copy of the State's statement of self-insurance pursuant to Government Code §11007.4.

Further, I never once said your client would have to shut down operations. Rather, I suggested that if your client was concerned about an inspection, they may want to contact CALOSHA to let them know we needed to get on the roof. You only asked for clarification as to CALOSHA's role. All you asked me at our meeting was the scope of the inspection and how many people I thought would be there. I explained about the survey operations and promised I would forward additional information on that as well as the number of people attending. That is exactly what I did in my letter of May 22, 2007. I specifically told you that we would not alter or destroy your client's property. Your suggestion that my notice is defective because of that is without merit. In my May 22, 2007 letter, I attempted to explain how the survey would occur. However, to err on the side of caution let me explain further.

Dennis C. Crovella, Esq.

May 30, 2007

Page 2

The survey crew will physically set a survey instrument on the roof top. They would do this using a GPS unit (staff with small GPS unit on top) carried by a surveyor. This is used to obtain horizontal and vertical locations. This method of survey leaves absolutely no mark. There is absolutely no alteration of your client's building.

The survey crew measures to points on the ground from the roof which are then verified with measurements taken from ground level. While my survey crew has already completed some measurements, access to the roof will allow measurements to any facilities on the roof that are not visible from ground level. This work will be completed in approximately 2-3 hours.

I would like to mention that the 7-8 survey crew members who will accompany me are extremely experienced, licensed surveyors and geospatial data coordinators each with an excess of 20 years experience. They are all employees of Caltrans. They are licensed through the State Board of Professional Engineers and Land Surveyors. They are very familiar with completing their work in a timely fashion and with safety as a paramount goal. They perform survey work on bridge structures considerably higher than your client's building - think Coronado Bridge and of course work on extremely busy interstate freeways. This exact crew has performed survey work for the Department of Homeland Security and U. S. Navy. They know how to get in and off a job site timely and safely.

Further, the pilots who are going to be in attendance are licensed pilots, 2 of whom have commercial jet pilot experience and therefore know the necessity of "safe carriage" and 2 have formal military aeronautical training as well. Caltrans is constantly concerned with safety and has extensive experience in how to conduct themselves safely at construction sites and tall structures. With indemnity, proof of insurance and Caltrans collective experience for safety your client should not be concerned.

I have provided you with appropriate notice for a site inspection. I have provided you with considerable detail concerning what will be done at the site inspection. I have informed you that we will be on and off the site in a matter of 2-3 hours. I have informed you that we need access to the top two floors, the roof and a few ground locations. If your client would like to have a representative accompanying us that is certainly another option that should provide your client with any additional reassurance that we have no intention of "wandering around" the property as you suggest and we certainly have no intention of altering the property in any manner. With these reassurances, proof of insurance and offer of indemnity there is no reason why the site inspection can not and should not go forward.

Given that you requested an expedited trial schedule, I have no alternative but to proceed with a motion to compel the site inspection. Accordingly, please be advised I have scheduled an ex parte with Judge Enright for June 5, 2007, at 8:30 a.m. in Dept. 72, to obtain an order allowing our entry for the limited time period specified (2-3 hours) and to perform the activities indicated. If you agree in writing that an order will not be necessary, and agree in writing to an expedited date for the inspection to go forward, than I will certainly take the hearing off calendar.

Dennis C. Crovella, Esq.

May 30, 2007

Page 3

I look forward to your written response. Thank you.

Sincerely,

  
Julie A. Jordan,  
Deputy Attorney

JAJ/lao

Enclosure

cc: Carmen A. Brock, Deputy City Attorney  
Gerald Blank, Esq.  
Laura Godfrey, Esq.  
James Pokorny, Esq.

**DEPARTMENT OF TRANSPORTATION**

## LEGAL DIVISION

4050 TAYLOR STREET, MS130

SAN DIEGO, CALIFORNIA 92110

PHONE (619) 688-2531

FAX (619) 688-6905

TTY (619) 688-6424

DIRECT DIAL (619) 688-6119

E-Mail: Jeffrey\_R\_Benowitz@dot.ca.gov

*Flex your power!  
Be energy efficient!*

May 30, 2007

Cooley Godward LLP  
4401 Eastgate Mall  
San Diego, CA 92121

Attention: Mr. Dennis Crovella

Re: Statement of Self-Insurance

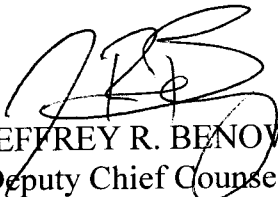
Dear Mr. Crovella:

I am an attorney for the State of California, Department of Transportation (hereinafter "State"), and presently the Deputy Chief Counsel in charge of the San Diego Legal Office. The San Diego Office is responsible for handling legal matters in Orange, Riverside, San Diego and Imperial Counties.

Please note that pursuant to the authority granted to the State in Government Code, Section 11007.4, the State is self-insured.

If you have any questions regarding this statement, please do not hesitate to contact me at the above phone number.

Very truly yours,



JEFFREY R. BENOWITZ  
Deputy Chief Counsel