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Structure near Montgomery Field will be altered to 'FAA-approved height'

By David Hasemyer, Jeff McDonald and Matthew T. Hall
UNION-TRIBUNE STAFF WRITERS

June 27, 2007

Squeezed by government officials at every turn, Sunroad Enterprises abruptly reversed course last night and agreed to lower the profile of its Kearny Mesa office building to comply with federal aviation height limits.

The decision was announced at a 9 p.m. news conference by Sunroad attorney Dennis Crovella, who summoned reporters to the 12-story tower near Montgomery Field, one of the busiest general-aviation airports in the country.

Crovella spoke for barely 10 minutes and answered only a handful of questions. He said Sunroad Enterprises officials decided to comply with Federal Aviation Administration rules after serious soul-searching.



SEAN M. HAFHEY / Union-Tribune

At last night's news conference outside the Sunroad office building under construction in Kearny Mesa, an attorney for Sunroad Enterprises said the company will lower the tower to comply with federal aviation height limits.

But he refused to commit to reducing the 180-foot building specifically to 160 feet, the tallest height allowed. Instead, Crovella said only that Sunroad would re-engineer the building "to an FAA-approved height" that will be worked out with city officials in coming days.

Even though some portion of the tower will be torn down, Sunroad will persist in its legal fight against the city of San Diego, the attorney said.

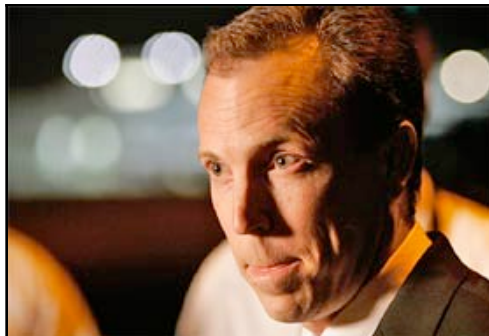
"Sunroad is taking this action as a responsible corporation," Crovella said. "Don't interpret this action as any admission of wrongdoing. We stand behind our previous decisions, but being right isn't always enough."

Sunroad Enterprises pushed ahead with construction of the building at 180 feet last year despite an FAA warning that it was 20 feet too tall.

The company position for more than a year was that it had secured a valid city permit and was entitled to build it taller than the FAA said was safe.

But as the building neared completion, political pressure on Sunroad and San Diego Mayor Jerry Sanders nearly grew to a fever pitch.

The building has been the subject of repeated news conferences, allegations of



SEAN M. HAFHEY / Union-Tribune

Dennis Crovella, an attorney for Sunroad Enterprises, announced the company's abrupt reversal at last night's news conference.

corruption at City Hall and civil lawsuits – with most of those initiated by City Attorney Michael Aguirre.

Aguirre sued the developer in December, saying the company wrongly proceeded with the project. Company lawyers responded with a \$40 million countersuit. The case is scheduled for trial later this year.

The city attorney was clearly pleased with the unexpected decision, which came five days after the mayor issued a stop-work order.

“The orders that were signed by the mayor under our municipal code are required to be complied with,” Aguirre said last night, standing outside the Sunroad Centrum building alongside Sanders.

Sanders did not order a halt to construction for at least nine months after City Hall development officials were told that the Sunroad construction was illegal and was a continuing safety hazard to pilots landing at Montgomery Field in inclement weather.

His office maintained that Sanders did not learn about the controversy until October, when the city first issued a limited stop-work order. But the city subsequently permitted Sunroad to weatherize the building to prevent damage over the winter, and the complex was virtually finished.

Last week, Sanders reversed his position and pulled the plug on the construction project. He also demanded that the building be reduced to 160 feet.

He said his decision last week was based on a new legal opinion from an independent lawyer retained by the city – not persistent criticism from the city attorney.

Sanders last night supported Sunroad's decision to demolish the top portion of the building. But “that's only a positive development if it adheres to the 160-foot height limit on a verifiable timeline,” he said.

Sunroad officials did not make clear how the building specifically would be reduced. Crovella declined to discuss the company's plans to meet the federal safety guidelines in any detail.

But in a letter sent to the City Attorney's Office yesterday afternoon, Sunroad said it would begin meeting with city officials soon and submit a demolition schedule before July 10.

Because the work is costly and intricate, however, the removal of the top section was unlikely to meet an Aug. 25 deadline imposed by Sanders on Thursday, Crovella said.

FAA spokesman Ian Gregor credited the company – and city officials – for finally agreeing to comply with federal guidelines.

“The FAA has always maintained that anything over 160 feet was a hazard to air navigation,” Gregor said late last night. “Our role in the process was very important but very limited. . . . It was really up to the local government to decide what to do with our determination. Unfortunately construction occurred before we reviewed the proposal.”

News of the decision also made the rounds quickly among other elected officials and airport users.

An indignant Councilwoman Donna Frye said it was too bad Sunroad executives took so long to change their minds. She said the company should also drop its countersuit against the city.

“It doesn't sound like they've learned their lesson,” Frye said. “Sunroad's main interest is private profits and not the public interest and certainly not

the public safety. They've been thumbing their nose at the community for over a year now." The tower is in Frye's council district.

Rick Beach, a longtime San Diego pilot who is also a member of the city's airport advisory committee, called Sunroad's about-face "an outcome that represents the best of taking a principle and sticking with it."

He speculated that the loss of so much political support, particularly from Sanders, finally forced the company's hand. But he still wondered why Sanders waited so long to stop construction.

The mayor "had many opportunities to take a principled stand and for months and months and months, he essentially had it both ways," Beach said. "Yes, Sunroad can have the building, and yes the pilots will be safe."

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

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By Charles1966 on 06/27/2007

If they would have done this months ago it would have prevented thousands of dollars in attorney fees and wasted time. How much time did Mayor Sanders take out of his busy day (doing ??) to take care of this situation. Also, all those idiots standing behind Mayor Sanders looking stupid in the picture the other day at the conference would be working and not in a line up lloking dumb.

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By Sky173 on 06/27/2007

Though I applaud Sunroad for finally obeying the law, I somehow wonder how they are going to turn this around on the city and the taxpayers? I can't believe they are just rolling over and playing dead.

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By Bnthere on 06/27/2007

Speaking of wasting time, when is the UT going to stop boring everyone with their obvious jealous relationship with San Diego's City Attorney? It must be tough for them to swallow the jagged pill and admit that he is the sole factor in bringing this issue to the surface. Like him or not, the UT needs to accept him instead of wishing he was gone. The people of San Diego didn't vote to have this editorial staff, but they're stuck with it. They did, however, vote for the City Attorney.

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By Dagobarbz on 06/27/2007

It sounds like Sunroad is going to sue the city of San Diego. That's you and me, fellow taxpayers!

And they have another proposed project planned on Harbor Island! Seems to me we should make it really hard for them to do business here. Who needs developers who sue a community after they, themselves were the ones who defied a Federal agency in the first place?

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By sd_zoom on 06/27/2007

They tried to do an end run around the FAA by pushing it through the city fast. They had to do this or the first plane that hit the building they would be liable.

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By groundloop on 06/27/2007

Concerning Mike Aguirre: Ted Nugent said it best..."You may not like me, but you can't ignore me."

Anyone else notice that those top two floors of the building look like they were designed to be removable?

gl (keeps his eyes peeled)

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