

**From:** Jim Waring  
**To:** Cathey, Gary; Brown, Jeff  
**CC:** Escobar-Eck, Marcela; Miller, David  
**Date:** 10/27/2006 1:03:16 PM  
**Subject:** Re: Fw: Sunroad Letter

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Mr. Cathey;

Thank you for the email. Are you requesting the City of San Diego issue a stop work order on this already built project as the only possible solution? If so, will your department assume and accept responsibility for any financial liability and cost of defense that may arise from that action?

I look forward to your response.

James T Waring, Deputy Chief  
Land Use and Economic Development  
City of San Diego  
202 C Street, 9th Fl  
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>>> "Gary Cathey" <gary\_cathey@dot.ca.gov> 10/27/2006 11:41 AM >>>

It is our position that any structure constructed to a height that the FAA defines to be a "hazard to air navigation" constitutes a hazard as defined in the State's Government Code, Section 50485.1 and constitutes a "nuisance" as defined in Section 50485.2. Additionally, any structure that penetrates a FAR Part 77 imaginary surface is ILLEGAL, unless we issue a permit for its construction OR the FAA determines the height of the structure is NOT hazardous to air navigation. In this case, the FAA stated that the height of the structure IS HAZARDOUS to air navigation.

GARY CATHEY, Chief  
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California Department of Transportation  
Division of Aeronautics, MS40  
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----- Forwarded by Gary Cathey/HQ/Caltrans/CAGov on 10/27/2006 11:31 AM

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"David Miller"  
<DEMiller@sandieg  
o.gov>

To

jeff\_brown@dot.ca.gov  
10/27/2006 11:25 AM cc  
gary\_cathey@dot.ca.gov,  
raiyn\_bain@dot.ca.gov, "Abbe  
Wolfsheimer"  
<AWolfsheimer@sandiego.gov>,  
"Carmen Brock"  
<CBrock@sandiego.gov>  
Subject  
Re: Sunroad Letter

Jeff,

We just finished a meeting with Barbara and Sunroad. They are claiming that the building is not a hazard. We would like your assistance in the form of a letter or opinion from a qualified individual on this issue.

Thanks,

David

>>> "Jeff Brown" <jeff\_brown@dot.ca.gov> 10/27/06 9:45 AM >>>

David,

Thanks for promptly informing us of and providing us with the letter you received fm Barbara Lichman today. I also received Abbe Wolfsheimer's e-mail and concur with her comments.

The aviation-related portions of her letter to you are full of the twisted logic she seems to apply to whatever purpose it serves. They're just plain wrong. We are available to provide you assistance in rebutting the points she has tried to make.

Yesterday I did receive the letter fm Lichman to me, dated 10/24/06, that was provided to you as Attachment D of the letter to you. Much of the letter is legalese attempting to challenge the legal standing of PUC 21659 ... that's more in Raiyn's area of expertise and she is better able to respond to it (she was out of the office today). The part about the lack of previous PUC 21659 requests and permits is a little aviation related; in that section, Lichman tries to use some inverse logic that doesn't make any sense.

I have still not been able to find out if a Stop-Work Order for the Sunroad Centrum 1 building has been issued. I get the feeling it has not, but would you please confirm the status of the order? As I asked yesterday,

how does that work for a City Department to ignore a directive from the City Attorney to issue an order? And then you get a threatening letter from the developer's attorney to this same letter of yours, a letter that did not appear to have been sent to the developer? Seems very strange, but then many things related to this issue have been.

Also, have we been sent the package of documents that your investigators obtained? I've found definite problems in the few things I do have, such as the airport-related response in the 4 pages of the EIR I was given, but it's important we see other documents including the full EIR, the full Mitigated Negative Declaration, etc. so we can see the entire context of City/developer actions.

Thanks, Jeff

Jeff R. Brown  
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"David Miller"  
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To  
jeff\_brown@dot.ca.gov,  
10/26/2006 01:28 PM raiyn\_bain@dot.ca.gov, "Abbe  
Wolfsheimer"  
<AWolfsheimer@sandiego.gov>,  
"Carmen Brock"  
<CBrock@sandiego.gov>  
cc  
Subject  
Sunroad Letter

I just received the following from Sunroad's Attorney.

[attachment "Sunroaddoc1.pdf" deleted by Jeff Brown/HQ/Caltrans/CAGov]  
[attachment "sunroaddoc2.pdf" deleted by Jeff Brown/HQ/Caltrans/CAGov]

