



THE CITY OF SAN DIEGO

June 21, 2007

Sent Via Certified Mail

Craig Bachmann
Sunroad Enterprises
4445 Eastgate Mall #400
San Diego, CA 92121

Dear Bachmann:

Subject: Restoration and Mitigation Order (San Diego Municipal Code Section 121.0312)

You are hereby ordered, pursuant to San Diego Municipal Code Section 121.0312, to restore and mitigate the *structure* and *premises* at 8620 Spectrum Center Boulevard to their lawful and prior condition where all buildings, *structures*, towers and projections on the *premises* remain below 160 feet (160 feet AGL/576 feet AMSL), in compliance with the Federal Aviation Administration ("FAA") No Hazard Determination, which was issued to Mr. Craig Bachman, Sunroad Enterprises, on June 27, 2006. (Copy enclosed with this order.)

1. All buildings, structures, towers and projections which exceed this 160-foot height level established by this June 27, 2006 FAA No Hazard Determination are unlawful and are to be removed.
2. A temporary construction crane may be used to comply with this Restoration and Mitigation Order, if such crane has received an FAA No Hazard Determination, and evidence of such determination is submitted to and approved by the City.
3. Pursuant to SDMC Section 121.0312, no further permits for the *premises* other than those required to remove those portions of the structure above the 160-foot height level shall be processed until the restoration has been completed and the specified performance criteria have been met as required by the City.
4. Pursuant to SDMC Section 121.0312(c) all restoration and mitigation required by this Order shall be at the sole cost of the property owner, the entity which failed to obtain a valid No Hazard Determination from the FAA or a permit from the California Department of Transportation for construction above the 160-foot approved level.
5. Failure to comply with this Restoration and Mitigation Order will result in additional remedies, including without limitation enforcement action and administrative penalties pursuant to the San Diego Municipal Code.



Development Services

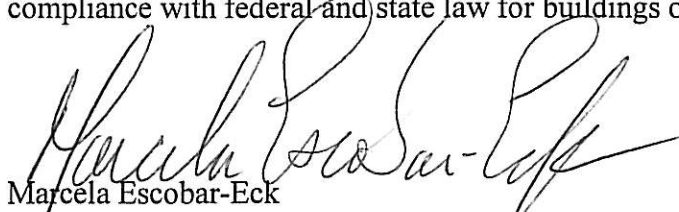
1222 First Avenue, MS 501 • San Diego, CA 92101-4155
Tel (619) 446-5460

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Mr. Craig Bachmann
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6. Removal and mitigation is to be completed by August 25, 2007. Submit a schedule for removal and mitigation by July 10, 2007. The City will consider and may grant an extension of these dates if the written application for extension is accompanied by a schedule for removal and mitigation, an explanation for the need for the required extension, and a performance bond.

This Restoration and Mitigation Order is based on the following facts:

1. The Federal Aviation Administration has determined that a building which exceeds 160 feet is a hazard to air navigation. The California Department of Transportation has informed the City that the buildings on the site which exceed 160 feet violate Public Utilities Code Section 21659. Sunroad has failed and refused to apply for or obtain a permit from the California Department of Transportation under Section 21659. Conditions on the site became unlawful when the building on the site was constructed above the 160-foot approved level.
2. City building permits require compliance with the federal, state and local law and do not entitle the holder to violate federal, state or local law. The San Diego Municipal Code requires compliance with federal, state and local law.
3. The City has been directed by the California Department of Transportation to ensure compliance with federal and state law for buildings on this site.



Marcela Escobar-Eck
Director, Development Services Department

lgb

Enclosure: June 27, 2007 FAA Determination of No Hazard to Air Navigation

c: Honorable Mayor and City Council
City Attorney
Melody Negrete, Acting NCC Deputy Director
Chris Garrett
James M. (Pete) Cox, 17140 Bernardo Center Dr., Suite 216, San Diego, CA 92128-2088



CITY OF SAN DIEGO
DEVELOPMENT SERVICES
DEPARTMENT

NOTICE

JOB ADDRESS 8620 Spectrum Center Blvd		
CENSUS TRACT NO	PERMIT NUMBER 84081	PLAN FILE NUMBER A
CONTRACTOR Swinerton Builders		
MAIL ADDRESS FOR <input type="checkbox"/> OWNER, OR <input checked="" type="checkbox"/> CONTRACTOR 4445 Eastgate Mall # 400 San Diego CA 92121 858-362-8500		

OWNER'S OR PERMITEE'S NAME
Craig Bachmann

VIOLATION **READ REVERSE SIDE** **STOP WORK**

NO PERMIT - REMOVE CONSTRUCTION, OR OBTAIN PERMIT AND MAKE ANY WORK COMPLY WITH BUILDING LAWS. (See comments on reverse side regarding penalty fees).

CONSTRUCTION NOT IN ACCORDANCE WITH APPROVED PLANS AND PERMIT MAKE EXISTING WORK COMPLY WITH APPROVED PLANS AND PERMIT OR REMOVE IT.

CALL ZONING DIVISION AT (619) 446-5000, CONCERNING VIOLATION OF ZONING REGULATION LISTED BELOW.

CONTACT INSPECTOR AND ARRANGE FOR APPOINTMENT. (See telephone number below)

CORRECTIONS REQUIRED CORRECTIONS LISTED BELOW MUST BE MADE BEFORE WORK CAN BE APPROVED.

PAY REINSPECTION FEE(See back); THEN **CALL FOR REINSPECTION AT (858) 581-7111**

PARTIAL APPROVAL WORK DESCRIBED BELOW HAS BEEN INSPECTED AND IS APPROVED.

NOTE:
PRESENT THIS NOTICE WHEN
MAKING APPLICATION FOR PERMIT

This is a stop work order requiring all work on the structure to stop immediately. This stop work order replaces the stop work orders issued on May 18, 2007, December 13, 2006 and October 27, 2006 for this property. No work is permitted unless and until:

- (1) the City has received a new building permit application from Sunroad and the City issued a new building permit for a replacement or modified structure on the site which has received an FAA No Hazard Determination; or
- (2) the City is provided evidence that Sunroad has received an FAA No Hazard Determination for the previously permitted building or
- (3) the City is provided evidence that Sunroad has received a permit from Caltrans which would authorize the construction of the building despite the prohibition of Public Utilities Code Section 21659.

This Stop Work Order is based on the following facts:

1. The building permit issued for this building by the City was issued without knowledge by the City that Sunroad had not complied with FAA Part 77 requirements, and Public Utilities Code Section 21569.
2. City building permits require compliance with the federal, state and local law and do not entitle the holder to violate federal, state or local law.
3. The City has been directed by the California Department of Transportation to ensure compliance with federal and state law.
4. Because the City's prior building permit was for the entire building, and the building violates federal and state law. The portions of the building below 160 feet support and maintain the portions of the building which violate state and federal law. The building has been determined to be a hazard by the Federal Aviation Administration and the California Department of Transportation. After consultation with the FAA and the California Department of Transportation, it has been determined that these agencies will not change their determination of hazard.
5. This Stop Work Order will not preclude construction pursuant to a new or revised building permit, if one is applied for by the landowner, and issued by the City, to correct the violation of federal and state law, and remove the portions of the structure which exceed the 160 foot height limit established by the Federal Aviation Administration.

THE ACTIONS OR CORRECTIONS INDICATED ABOVE ARE REQUIRED WITHIN, _____ DAYS. THE SAN DIEGO MUNICIPAL CODE REQUIRES PENALTY FEES WHEN WORK HAS BEEN STARTED WITHOUT PERMIT.

Joe Harris
NAME OF INSPECTOR (PRINT)
Joe Harris
INSPECTOR'S SIGNATURE

858-573-1225
OFFICE TEL. NO.

June 21, 2007
DATE

<input checked="" type="checkbox"/>	BUILDING
<input checked="" type="checkbox"/>	ELECTRICAL
<input checked="" type="checkbox"/>	HEATING
<input checked="" type="checkbox"/>	PLUMBING
<input type="checkbox"/>	REFRIGERATION
<input type="checkbox"/>	COMBINATION
<input type="checkbox"/>	SIGNS
<input type="checkbox"/>	MOBILE HOME

**Development Services Department
General Permit and Inspection Requirements**

Separate Building, Plumbing, Mechanical and Electrical Permits are required for each building or structure except where a Combination Permit is issued for all phases of work.

The following guidelines for plans, permits, and inspections are for informational purposes only. Referenced sections of the San Diego Municipal Code (SDMC) contain the exact legal language.

1. Required Compliance with the Land Development Code.

It is unlawful for any person to maintain or use any premises in violation of any of the provisions of the Land Development Code; for any person to erect, place, construct, convert, establish, alter, use, enlarge, repair, move, remove, equip, maintain, improve, occupy, or demolish any premises; for any person, whether as owner, architect, contractor, or otherwise to install any electrical wiring, device, appliance, or equipment in such a manner that it does not comply with the provisions of the Land Development Code or to maintain an electrical system in an unsafe condition; or, for any person, firm, or corporation to erect, install, alter, repair, relocate, add to, replace, use, or maintain plumbing, heating-, ventilating, air conditioning, or refrigeration equipment, or cause the same to be done, contrary to or in violation of any provision of the Land Development Code. (Section 121.0302, SDMC)

2. Fee for Work without Permit

Where work for which a Construction Permit is required by the Land Development Code is started or completed prior to obtaining the required permit, a penalty fee shall be assessed. The payment of the penalty fee shall not relieve the responsible person from complying with the provisions of the Land Development Code. (Sections 129.0106, SDMC)

3. Requirements for Approved Plans

Plans and specifications that are approved as part of the application for a Construction Permit shall be signed and stamped "APPROVED" by the Building Official and shall be filed as an attachment to the Construction Permit. Approved plans and specifications shall not be changed, modified, or altered without authorization of the Building Official. One set of the approved plans and specifications shall be returned to the applicant and that set shall be kept on the site of the structure or work at all times during which the work authorized by those plans is in progress. (Section 129.0214, SDMC)

4. Voiding/Expiration of a Construction Permit

A Construction Permit shall become void if the work authorized by the Permit has not begun within 180 calendar days of the date of permit issuance. A Construction Permit shall become void if at any time after the work is begun, the structure or work authorized by the Building Permit is suspended or abandoned for a continuous period of 180 calendar days. A Construction Permit shall expire by limitation and become void 24 months after the

date of permit issuance, unless an exception is granted. The Building Official may extend the Construction Permit one time, for a period not exceeding 180 calendar days, if the Building Official determines that circumstances beyond the control of the permittee prevented completion of the work. (Sections 129.0216, 129.0217, 129.0218, 129.0310, 129.0311, 129.0312, 129.0411, 129.0412, 129.0413, 129.0809, 129.0810, and 129.0811, SDMC)

5. General Rules for Construction Permit Inspections

All work for which a construction permit is issued shall be subject to inspection by the Building Official. Required inspections shall be performed in accordance with the inspection procedures established by the City, except as may be exempted by the Land Development Code. No work shall be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official. No portion of any construction work shall be concealed until inspected and approved. Any portions of work that do not comply with requirements shall be corrected and such portion shall not be covered or concealed until inspected and authorized by the Building Official. A final inspection, with approval of all structures and installations, is required before occupancy and use. (Section 129.0111, SDMC)

6. Stop Work Order

Whenever any work is being performed that is contrary to the provisions of the Land Development Code, the City may order the work stopped by issuing a Stop Work Order. The Stop Work Order shall be in writing and shall be served on any person engaged in the work or causing the work to be performed. The person served with the Stop Work Order shall stop the work until authorized by the City to proceed. (Section 129.0309, SDMC)

7. Re-inspection Fee

A fee may be assessed for re-inspection: if the inspected work is determined to be incomplete; when the inspection record card is not posted or otherwise available on the work site; when the approved plans are not readily available to the inspector; for failure to provide access on the day for which the inspection is requested; when the work to be inspected is not completed prior to the inspectors arrival; or, for deviations from the approved plans. If re-inspection fees have been assessed on a site, no additional inspection of the work will be performed until the required fees have been paid. (Section 129.0112, SDMC)

Please direct inquiries regarding requirements for obtaining construction permits to the Development Services Department Information and Application Services Division, 1222 First Avenue, Third Floor, San Diego, CA 92101, (619) 446-5000

This information is available in alternative formats upon request.