

FEB 06 2008

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# SENATE CONCURRENT RESOLUTION

REQUESTING THE AUDITOR TO CONDUCT AN AUDIT OF THE ALOHA TOWER  
DEVELOPMENT CORPORATION, PARTICULARLY WITH REGARD TO  
LAWSUITS RELATING TO DEVELOPMENT PROJECTS.

1           WHEREAS, the Aloha Tower Development Corporation was  
2 created pursuant to Act 236, Session Laws of Hawaii 1981,  
3 codified as chapter 206J, Hawaii Revised Statutes; and  
4

5           WHEREAS, section 206J-1, Hawaii Revised Statutes, states  
6 the legislative findings and purpose in creating the Aloha Tower  
7 Development Corporation, in pertinent part as follows:  
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9           "The legislature finds that the area in downtown  
10 Honolulu on the waterfront, including the Hale  
11 Awa Ku Moku Building and Irwin Memorial Park,  
12 hereinafter called the Aloha Tower complex, is  
13 one of the most valuable properties in downtown  
14 Honolulu and that certain portions of this area  
15 should be redeveloped, renovated, or improved to  
16 better serve the economic, maritime, and  
17 recreational needs of the people of Hawaii.  
18

19           The legislature further finds that the Aloha  
20 Tower complex still serves a vital maritime  
21 function that must be maintained to insure  
22 adequacy and viability for existing and future  
23 maritime activities."; and  
24

25           WHEREAS, the Aloha Tower Development Corporation is  
26 authorized under section 206J-5(9), Hawaii Revised Statutes, by  
27 itself, or in conjunction with qualified persons, to develop,  
28 construct, reconstruct, rehabilitate, improve, alter, or repair  
29 or provide for the development, construction, reconstruction,  
30 rehabilitation, improvement, alteration, or repair of any  
31 project, including projects or any portion thereof under the  
32 control or jurisdiction of qualified persons; to own, hold,



1 assign, transfer, convey, exchange, lease, sublease, or encumber  
2 any project, including projects or any portion thereof under the  
3 control or jurisdiction of qualified persons; and  
4

5 WHEREAS, the Aloha Tower Development Corporation has been  
6 embroiled in at least three lawsuits concerning its development  
7 agreements since its inception; and  
8

9 WHEREAS, in 1988, developer Honolulu Waterfront LP sued  
10 Aloha Tower Development Corporation for breach of a development  
11 agreement executed in 1986, which was apparently settled; and  
12

13 WHEREAS, in 2002, developer Aloha Tower LP sued Aloha Tower  
14 Development Corporation for breach of a development agreement  
15 concerning Aloha Tower Marketplace parking, which is still  
16 pending; and  
17

18 WHEREAS, in 2007, developer Hughes Development LP sued  
19 Aloha Tower Development Corporation for breach of a development  
20 agreement executed in 2004, which case is set for hearing in May  
21 of 2008; and  
22

23 WHEREAS, in its twenty-seven year history, the Aloha Tower  
24 Development Corporation has only entered into the aforementioned  
25 three development agreements, all of which have culminated in  
26 lawsuits that have stalled, vitiated, or otherwise eviscerated  
27 development plans for the area; and  
28

29 WHEREAS, it is believed that Aloha Tower Development  
30 Corporation does not have any current new projects, and exists  
31 presently to defend itself against the aforementioned pending  
32 litigation; and  
33

34 WHEREAS, the Aloha Tower Development Corporation was last  
35 the subject of a state audit in 1987 by the Auditor, whose  
36 Report No. 87-13, found in pertinent part: "The Aloha Tower  
37 redevelopment project is a concept that is flawed, and it should  
38 be shelved," citing a litany of systemic problems and erroneous  
39 assumptions; and  
40

41 WHEREAS, a management, performance, and financial audit of  
42 the Aloha Tower Development Corporation is appropriate at this  
43 time; now, therefore,  
44



1 BE IT RESOLVED by the Senate of the Twenty-fourth  
 2 Legislature of the State of Hawaii, Regular Session of 2008, the  
 3 House of Representatives concurring, that the Auditor is  
 4 requested to conduct an audit of the Aloha Tower Development  
 5 Corporation; and

6  
 7 BE IT FURTHER RESOLVED that the Audit include, but not be  
 8 limited to, a study of the aforementioned three litigated cases  
 9 against the Aloha Tower Development Corporation, and on whether  
 10 chapter 206J, Hawaii Revised Statutes, relating to the Aloha  
 11 Tower Development Corporation, should be repealed or amended;  
 12 and

13  
 14 BE IT FURTHER RESOLVED that the Auditor report to the  
 15 Legislature on findings and recommendations no later than twenty  
 16 days prior to the convening of the Regular Session of 2009; and

17  
 18 BE IT FURTHER RESOLVED that certified copies of this  
 19 Concurrent Resolution be transmitted to the Chief Executive  
 20 Officer of the Aloha Tower Development Corporation, the Director  
 21 of Business, Economic Development, and Tourism, and the  
 22 Governor.

23  
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OFFERED BY: James Mervado Kii

Mike Gebhardt [Signature]  
Business Kohlb [Signature]  
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