OVERVIEW

Management Audit of the Aloha Tower Development Corporation

Report No. 10-04, April 2010

Summary

This is the first audit of the Aloha Tower Development Corporation (ATDC) performed by the Office of the Auditor. Previously, the State Auditor conducted Special Study 79-4, *Evaluation of the Proposed Hawai‘i World Trade Center* and Report No. 87-13, *Review and Analysis of the Aloha Tower Redevelopment Project*. Our 1987 review recommended that Chapter 206J, Hawai‘i Revised Statutes (HRS), which established the corporation, be repealed.

The 2008 Legislature requested this audit in House Concurrent Resolution No. 245, House Draft 1, Senate Draft 1. The resolution asks for a financial, performance, and management audit of the corporation and specifically requests that the Auditor study three litigated cases and determine whether the corporation's enabling statute should be repealed or amended.

Since establishment of the corporation in 1981, almost every development it has undertaken has resulted in litigation. After four sets of litigation, it owes upwards of $1.6 million in damages and settlements, and has paid over $725,000 in attorneys' fees and costs. Burdened by litigation costs of over $2.4 million and delays, the corporation is unlikely to succeed in redeveloping the Aloha Tower Project Area.

Moreover, after 30 years of effort, the corporation has managed to complete only one phase of its original mixed-use development plan—and that development, the Aloha Tower Marketplace, is struggling. Without its component parts, the marketplace generates far less than was expected and has been unable to realize its projected financial benefits for the State—over $4 billion over 65 years. The marketplace was supposed to generate $22.2 million from 1996 to 2001; in fact, it fell far short, paying the corporation only about $4.8 million. Without a resolution to the parking-related litigation, completed surrounding development, or subsequent development plans, the corporation is unlikely to succeed in reversing the marketplace's poor performance.

Our audit also found that the corporation has made little progress in resolving problems we identified in 1987, including an inherent conflict between redevelopment of the project area and maritime uses, and the corporation's pursuit of unrealistic financing strategies. Moreover, the corporation has known since 1999 that its master plan and administrative rules are outdated, affecting its ability to accomplish its mission. Yet, the corporation shirked its responsibility to update its plan and rules by ignoring professional advice from two credible consultants. The events of 9/11 and their resulting harbor security and restrictions render commercial, residential, and hotel uses at the project area even less viable.

Even if its master plan were not obsolete, the corporation would not be able to execute it. The corporation does not have a strategic plan and relies instead on its

Yearly Activity Plans—a requirement of the Department of Business, Economic Development & Tourism—mission statement, and the 16 development objectives in its administrative rules as a long-term strategic plan. None of these meets the requirements of a strategic plan.

Finally, with little to show for its development efforts and no projects on the horizon, the corporation now justifies its existence with recently added harbor infrastructure improvement work, which has little to do with its core mission to develop the Aloha Tower Project Area. Despite the urgent need to carry out the harbors work, we conclude that the corporation's development expertise is limited, at best, and its ability to enter into public-private partnerships to provide DOT-Harbors additional sources of funding is not needed. Moreover, the law creating the partnership between the corporation and DOT-Harbors allows the redirection of funds from the corporation's net revenues to a fund for harbors development. This ability to redirect funds will not help the corporation achieve its core purpose and could potentially starve redevelopment of the Aloha Tower Project Area.

Recommendations and Response

We recommend that the corporation be abolished on June 30, 2011. Prior to the corporation's sunset and to allow an orderly transition of responsibilities, we also recommend that the responsibility for harbors improvements be restored to the DOT-Harbors.

Further, responsibility for the Aloha Tower Project Area should be shifted to the Hawai'i Community Development Authority, with its comparable functions and greater development powers, even as we recognize that the authority's redevelopment efforts have not been without controversy. Yet, with its successful completion of 34 projects as of 2007 and similar organizational structure, merger of the authority and the corporation would eliminate duplication between the two agencies. In the transfer of the corporation's redevelopment responsibilities, the authority would need to assume responsibility for the corporation's contractual rights and obligations and the almost $7.7 million the corporation owes the DOT for lost revenues, and resolve the corporation's legal disputes and debts.

The corporation agreed with some of our findings but disagreed with our recommendations. The corporation responded that the audit condemns "the current board and staff who have tenures of five years or less for actions long past." The corporation misses the point—that it is the corporation's responsibility to effectively address constraints to redevelopment at the Aloha Tower Project Area—and attempts to deflect blame by saying that solutions to these constraints "will require political will and funding resources" without acknowledging its own failure to muster the support needed for redevelopment. The corporation provided information to clarify a number of points raised in our audit, which neither contradicts nor changes our findings and recommendations.

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