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## Brownfields: Finding Use for Forgotten Land

**A** local industrial plant locates in an area of the city that is robust and growing. It chooses this location because of convenience to the interstate, rail service, and plenty of neighborhood residents that can be employed. The plant benefits the community through jobs and overall economic growth. Several years pass and demand for the plant's product diminishes, so it begins to decrease its workforce and eventually closes. Since this was the main employer for the area, the surrounding community begins to decline, and the plant is idled, using up land that could be used for other economic development. The property and facilities that remain are commonly referred to as "brownfields."

Brownfields are abandoned, idled or underutilized industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination. These properties have fallen the mainstream of commercial real estate transactions, government redevelopment and reuse-generating strategies fully because their cleanup costs exceed the value of the property. Brownfields have minor contamination but potential to be redeveloped for industrial, commercial, recreational or residential purposes.

Ironically, brownfield sites once contained the employment base and

economic activity which built metropolitan areas. To communities, brownfields represent reduced economic activity, lost employment opportunities, a diminished tax base and physical

unusable and economic activity continues its outward growth, consuming "greenfields," or raw land in more rural areas.

This special issue of *Community Affairs* focuses on the redevelop-



## SPECIAL BROWNFIELDS ISSUE

### CRA a Key to Property Redevelopment

Because most brownfield sites are located in low- to moderate-income areas, the revised Community Reinvestment Act (CRA) is a critical tool to restoring the viability of these properties. Under new CRA regulations, the community development definition includes "loans to finance environmental cleanup or redevelopment of an industrial

site as part of an effort to revitalize the low- or moderate-income community in which the property is located."

As laws are changed to limit lender liability, many community development organizations are actively pursuing the economic potential of brownfields. This should raise the comfort level of those financial institutions that

have the opportunity to redevelop brownfield sites.

The good news is that all sectors are working in collaboration to increase the predictability and consistency of cleanup standards, levels and costs. Capital and credit should start flowing once again, bringing brownfields off the sideline and back into the mainstream of productivity and profit.

# Barriers to Brownfield Redevelopment Crumbling

**L**ongstanding impediments to the redevelopment of brownfields—barriers that deter investment, encourage urban sprawl, and inhibit the potential of prime real estate—are starting to be removed.

Brownfield properties are the ghosts of industrial productivity which originally built urban areas. Federal and state policy is now recognizing a responsibility to do whatever is necessary to remove barriers so that the sites can compete in the marketplace again.

One of the biggest changes is that the Clinton administration and the Environmental Protection Agency (EPA) are putting a high priority on revitalizing urban areas spoiled by environmental contamination. It has launched the Brownfields Economic Development Initiative to empower states, communities, and other stakeholders to work together in a timely manner to prevent, assess, clean up, and reuse brownfields.

The Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as Superfund, created most of the non-level playing field to brownfields redevelopment. Barriers primarily involve environmental liability to owners, sellers, lenders and borrowers. Old industrial sites are usually contaminated, and new owners risk assuming liability for potentially costly cleanups. Liability under Superfund for all cleanup costs can be assessed against the owner at the time of cleanup regardless of fault or when contamination occurred. Uncertainty about cleanup costs, standards, levels, and the time frame for cleanup has maintained a lock on otherwise market-driven opportunities. If cleanup costs are

uncertain, an asset can quickly become a liability when costs exceed the value of the property.

One way current owners of brownfield sites can avoid liability is by showing themselves as “innocent” landowners, but the statutory definition of innocence is too strict for many to qualify. The current

redevelopment is the uncertainty surrounding risk and liability. Although many brownfields pose little actual risk, the potential for environmental hazards has kept lenders away. Lenders and developers have been inclined to pursue market opportunities in suburban undeveloped land or “green-

about environmental contamination of real estate and the ensuing liability to all parties of a transaction inhibit market-driven economics because the environmental liability to the borrower must be factored into the lending formula. All aspects of the lending decision are affected including creditworthiness of the borrower, value of collateral and cash flow.

The good news is that fear of environmental liability is becoming a thing of the past and no longer needs to be an obstacle to commercial or industrial redevelopment projects. The EPA has removed nearly 25,000 of the 36,000 sites from its Superfund database to erase the stigma that all sites contain serious environmental problems. These sites contain low levels of contamination and represent potential for redevelopment.

Federal law now protects lenders with a security interest in a property. EPA granted exemptions provide greater certainty and help the lender with manageable risks. Recently enacted legislation in most states increases incentives and benefits for voluntary cleanup on the part of private parties. Uncertainties may also be reduced through the use of indemnity agreements, which promise the purchaser of a site will be held harmless of discovered environmental liabilities.

As liability issues are alleviated, the participation of lenders in brownfields redevelopment is critical for the return of this real estate to the mainstream of the economy.

## 10 Benefits of Redeveloping Brownfields

1. Reduce inner city blight
2. Lower taxpayers' burden for economic and social costs of the inner city
3. Open new market opportunities and expand financial relationships for lenders
4. Increase employment opportunities
5. Increase tax base/revenues
6. Promote environmental and public health benefits
7. Reduce urban sprawl by removing barriers to potential redevelopment of dormant metropolitan areas
8. Provide appealing location for infrastructure, transportation, and workforce availability
9. Provide more affordable alternative than outlying greenfields
10. Allow for multiple layers of business financing opportunities, subsidies, and incentives

owners of brownfield properties are usually reluctant to sell because any person who owned (or operated a facility on) the property when contamination occurred remains potentially liable for the cleanup. This is true even if the property has been sold and they had nothing to do with the new contamination that is the immediate cause of the problem. For lenders, the greatest impediment to brownfields

fields.” Lenders fear making loans because the bank may become liable for a contamination cleanup and, if the lender ever foreclosed, the “owner” of the site. Often seen as a deep pocket, lenders are concerned about long-term exposure to environmental liability.

Lenders also fear devaluation of real estate collateral if contamination is discovered. Uncertainties

# Brownfield Grants to Fund Projects in Three Eighth District Cities

Three Eighth District cities have been chosen by the Federal Environmental Protection Agency (EPA) for a Brownfields Economic Development Initiative Pilot project grant. The grants will fund activities in Louisville, St. Louis and East St. Louis, Ill.

The two-year Brownfields pilots are designed to help reverse the effects of years of disinvestment that currently plague urban communities. According to the EPA, "The pilot projects will encourage partnerships to use the cleanup



*New construction on brownfields, like this one in St. Louis, helps re-energize neighborhoods.*

and redevelopment activities employed at pilot sites as a Brownfields redevelopment model that can be applied elsewhere in the cities and their regions. The pilots are a tool to see how the partnerships will work together."

Successful collaborations start with a common vision. Keeping this shared vision in mind, each pilot has identified specific objectives. Michele Duffe, Director of Real Estate Development for the St. Louis Development Corp. says, "We designed the pilot to promote economic development founded on a healthy and sustained environment. It will test redevelopment models, direct special efforts toward removing regulatory barriers, and facilitate coordinated public and private efforts." The intent of the Mississippi River Gateway

Initiative pilot project in East St. Louis is to develop a sustainable secondary materials manufacturing district. The Louisville pilot will test the idea of a municipality temporarily taking a site title in an effort to create a unique method of uniting cleanup and redevelopment efforts.

The pilot projects are aware of the value of a holistic approach to economic development. Experience suggests that solutions to tough job market problems are found when new jobs are created in close proximity to the labor force. The St. Louis Pilot site is the Dr. Martin Luther King Business Park. It is contiguous to other redevelopment projects including a proposed housing and golf course development and three private housing developments currently under construction. Pilot communities are concerned with developing the workforce of the surrounding neighborhoods. Louisville's pilot includes that community's most distressed neighborhoods, and the Mississippi River Gateway pilot area includes neighborhoods in nine different communities.

Each pilot recognizes the necessity of exercising good partnering skills. The first step has been to identify all pertinent players and use them in appropriate ways. Community volunteers provide invaluable technical assistance and expertise. Each pilot uses citizen advisory panels and project review boards to ensure community participation. The pilots involve many partners and layers of programs including Enterprise Community, Enterprise Zone, Empowerment Zone and tax incentives. "The interchange of programs, services, initiatives and entities working toward a common vision is essential," Duffe says.

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## Who Should Be Involved in Brownfields Redevelopment?

1. Lenders
2. Environmental liability management firms
3. Environmental Protection Agency (EPA)
4. Citizen volunteers
5. Community-based development organizations
6. State government
7. City government
8. Regulatory agencies
9. Property owners
10. Economic development organizations
11. Insurance industry
12. Investors and developers
13. Environmental contractors
14. Public relations professionals
15. Commercial real estate experts
16. Environmental lawyers
17. Economics specialists
18. Urban planners
19. Geographic Information Systems specialists (mapping)
20. Funding organizations

# Resources

- A.** The EPA has issued the following policy resources for removing potential barriers to brownfields redevelopment:
- *Policy on Superfund Enforcement Against Lenders and Government Entities That Acquire Property*
  - *Underground Storage Tank Lender Liability Rule*
  - *Policy Toward Owners of Property Containing Contaminated Aquifers*
  - *Guidance on Agreements with Prospective Purchasers of Contaminated Property*
  - *Guidance on Deferral of National Priorities List Determinations While States Oversee Response Actions*

The EPA Homepage on the Internet can be reached at <http://www.epa.gov>.

- B.** The General Accounting Office has issued these reports: Community Development and Reuse of Urban Industrial Sites, GAO/RCED-95-172 and Superfund—Barriers to Brownfield Redevelopment, GAO/RCED-96-125. They are available free of charge by calling (202) 512-6000. GAO reports on the Internet at [info@www.gao.gov](mailto:info@www.gao.gov).
- C.** The Bank of America, headquartered in San Francisco, has created a partnership with the California Resources Agency, the Greenbelt Alliance, and the Low Income Housing Fund and set out a vision of

## Approaches for Getting Started

The July 1996 issue of *Mortgage Banking* magazine suggests the following steps:

1. Evaluate the feasibility and desirability of entering into an agreement with federal authorities to resolve the Superfund liability of the new owner and plan the best way to negotiate such an agreement.
2. Evaluate the pros and cons of working exclusively with state authorities.
3. Carefully consider various aspects of cleanup liability.
4. If the property in uncontaminated but is included in a site listed on the National Priorities List, evaluate the chance of having EPA redefine the Superfund site so as to exclude the uncontaminated parcels.
5. Use the prospect of a brownfields redevelopment as an opportunity to convince regulatory authorities to be reasonable in their choice of cleanup remedy.
6. Evaluate private arrangements to minimize liability risks.

growth entitled “*Beyond Sprawl*,” to revitalize central city brownfields and protect rural resources. For informa-

tion on the Internet, contact <http://www.bankamerica.com/> community.

## Grants

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For example, Louisville’s first working project, the Garfield Pilot, is located in the Louisville Empowerment Zone, 25 percent of which is classified as brownfields. In 1994, Louisville applied for a HUD Empowerment Zone grant but was denied. Rather than accepting defeat, a Community Board made up of more than 100 residents went forward with the strategic plan it devised for the grant application and, in September 1995, established the Louisville Brownfields Working Group Subcommittee.

Community collaborations are producing strategies to mitigate fear and uncertainty and manage the risk associated with brownfields. Louisville has benefitted from specialized knowledge developed within the community. In 1995, the EPA and HUD collaborated on the largest brownfield research project ever by awarding the University of Louisville and Northern Kentucky University a grant to conduct the Analysis Plan and Research Design to study the impact of environmental hazards and regulations on urban redevelopment.

Community members of all three pilot communities are work-

ing hard to overcome the barriers to recycling brownfields. A major concern of bankers is lending money on properties that are feared to have environmental problems. “One of the barriers we must contend with is selling lenders on the fact that the land is clean,” explains Dr. Peter Meyer, Professor of Urban Policy and Economics at the University of Louisville. Dr. Meyer and his staff have been researching brownfields since the early 1990s.

Although barriers to the redevelopment of America’s brownfields are coming down, they represent one of the most complex chal-

lenges facing community reinvestment efforts today. Most urban communities have hundreds of idled industrial sites representing thousands of unproductive acres. Collaborative ventures are making progress toward opening new market opportunities for once productive land. The partnership models being developed in each of the three Eighth District pilot communities show that even the toughest challenges can become a window of opportunity for community reinvestment.

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