

GEORGIA BROWNFIELDS 101

Introduction

Both federal and state governments have become increasingly concerned about environmental and economic blight caused by contaminated property. Often contaminated properties are not cleaned up because economic factors make it too difficult or there is the appearance that it would be too difficult. The name that has been coined for these properties is "Brownfields." Developers often do not consider redeveloping such properties, preferring to develop "greenfield," or uncontaminated, properties instead. Brownfield properties may languish in a contaminated, unproductive state for years, contributing to neighborhood decay and urban blight in addition to posing risks to human health and the environment. Recent federal and state legislation has been enacted to provide incentives for the cleanup and redevelopment of Brownfields properties. The goals of federal and state Brownfields legislation are to:

- Enhance protection of human health and the environment,
- Reduce urban sprawl by encouraging in-fill redevelopment,
- Revitalize neighborhoods, and
- Increase community tax base by returning these underutilized properties to productive use.

Q. What is a Brownfield?

A. There are both federal and state definitions of Brownfields, with important differences:

The US Environmental Protection Agency defines a federal Brownfield as:

"Real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant and includes land contaminated by petroleum or petroleum products, a controlled substance as defined in the Controlled Substance Act, or mine-scarred land."

The State of Georgia does not explicitly define Brownfields but instead establishes specific criteria for a property to qualify for state Brownfields incentives. Properties in Georgia cannot be considered a Brownfield until a release of a hazardous substance has been discovered through environmental sampling.

Both federal and state Brownfields laws exclude properties that:

- Are listed on the National Priorities List (Superfund Sites),
- Are the subject of a judicial or administrative order,
- Have a planned or ongoing removal action (cleanup) under federal law, or
- Have a hazardous waste facility permit.

Q. Why would anyone want to develop a Brownfield property?

A. Location, location, location. Many of these properties are in desirable locations, but haven't been developed to their full potential due to contamination issues. These properties either have the potential to be profitably redeveloped using private funding, or they could provide benefits to communities if public funding can be obtained. And, the state and federal incentives have been created in order to provide extra encouragement to redevelop these Brownfields.

Q. What federal and state Brownfields incentives are available?

A. The federal Brownfields program includes funding for grants to assess and clean up Brownfields properties, as well as funds to establish job training programs and revolving loan funds for cleanups. These grants are available, on a competitive basis, to communities and non-profit corporations.

The Georgia Brownfields program provides liability limitations for those wishing to purchase, clean up and redevelop Brownfields properties. After assessing contamination on a property and conducting necessary cleanup of soil and source material, qualifying prospective purchasers of Brownfields properties can obtain a limitation of liability. The limitation of liability relieves the new owner of liability for groundwater cleanup, as well as liability for third party claims arising from the release.

Georgia also provides tax incentives for Brownfields redevelopment. The Brownfields tax law allows property owners to apply for “preferential assessment” of the Brownfield property. The preferential assessment reduces property taxes for ten years, or until the certified assessment and cleanup costs are recouped, whichever occurs first.

Q. What are the main steps in redevelopment of a Brownfield?

A. They vary somewhat with different projects, but generally include:

- Community or business strategic plan/redevelopment vision/partners
- Property selection/eligibility
- Property access/ownership issues
- Financing – public or private
- Environmental assessment (sampling and characterization of contamination)
 - soil contamination
 - source material
 - groundwater
 - risk assessment
- Corrective Action Plan (for on-site soil and source material)
- Compliance Status Report (CSR) reports findings and certifies cleanup is complete
- Limitation of Liability issued
- Redevelopment (Marketing, partnerships, long-term strategic planning, design guidelines, incentives - including limitations on liability)
- Application for preferential tax assessment

Q. Are sites listed on the State Superfund list eligible for Brownfields incentives?

A. Yes. As long as there are no outstanding liens against the property under the State Superfund Program, the site can qualify as a Brownfield. (The site does NOT need to be listed on the Hazardous Site Inventory to qualify, but there must be a pre-existing release of a hazardous constituent on the property.)

Resources: www.state.ga.us/epd/environ/
 www.epa.gov/brownfields/

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