Nuts and Bolts of Brownfield Redevelopment
Overview

BROWNFIELD 101
• Who, What, and Why of Brownfields
• Incentives and Funding
• Examples

BROWNFIELD 201
• Critical Questions
• Brownfield Redevelopment Authorities
• Tax Increment Financing
• Understanding Brownfield Plans
What is a Brownfield?
What is a Brownfield...?

• **Facility** - Contamination exceeds state residential criteria

• **Blighted** - Attractive nuisance to children, utilities permanently disconnected, fire hazard, subsurface debris; Designated by local government

• **Functionally Obsolete** - Unable to perform function it was originally intended for

• **Historic Resource** – Building on the Historic Register or in a Historic District

• **Owned by a Land Bank**

• **Adjacent or contiguous to eligible property**
What is a Brownfield?
R&B Electronics in the Sault

FUNDING AND INCENTIVES

• $155,000 DEQ Brownfield Grant
• 12-year personal property tax abatement
• 6-year industrial facility tax abatement
• $190,000 MEDC CDBG
• $220,000 Sault Ste. Marie EDC Grant
• DEQ Site Assessment Funding

OUTCOMES

• SEV increase $0 (1994) to $134,100 (2017)
• $1.8M Private Investment
• 33 jobs
• Removed contaminated soil
Brownfield Redevelopment

expectation

reality
Brownfields - Cause

- Industrial Revolution
- Potential Environmental Liability
- Socioeconomic Changes
  - Population Changes
  - Transportation Changes
- Cost to Renovate and Retrofit Buildings
  - Energy Efficiency
- Economy
Brownfields - Solutions

• **Michigan Law** – Liability protection to innocent landowners for pre-existing environmental conditions

• **Causation Based Liability** – if did not cause may only be obligated to perform Due Care

• **Risk Based Cleanup** – level of cleanup based on use of property

• **Financial incentives** to address pre-existing contamination and development issues at brownfield sites.
Brownfield - Who

- Local Government
- State Government
- Regulators
- Developers
- Economic Development Corp.
- Environmental Consultants
- Attorneys
- DEQ & MEDC Staff

Policy
Incentives
Public $

Driver
Private $

Guidance
Brownfield - Benefits

• Spur Economic Development
• Eliminate Health and Safety Hazards
• Enhance Environmental Quality
• Revitalize Communities / Neighborhoods
• Reuse Infrastructure
• Jobs Creation
• Eliminate Eyesores
• Increase Tax Revenue
• Architectural Beauty
• Great Location, Less Vehicle Miles Traveled
Brownfield - Reality

A real estate transaction with environmental or development complications
# The Gap

<table>
<thead>
<tr>
<th>Brownfield Site Costs</th>
<th>Greenfield Site Costs</th>
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$550,000 - Difference
Brownfield - Reality

• Developers have options
• Eliminate Unknowns (create certainty)
• Knowledge is Power (but only if you use it)
Due Diligence – Eliminating Uncertainty

Due Diligence:

• Phase I ESA
• Phase II ESA
• BEA
Environmental Due Diligence

• Generally, an owner or operator of contaminated property is liable for cleanup of contamination on the property, unless they meet one of the liability exemptions.

• This is a problem. How do you avoid it?
Environmental Due Diligence
Step 1

• Phase I Environmental Site Assessment (ESA)
  • Historic document review, site inspection, and interviews.
  • *If Phase I does not encounter any reason to suspect a material threat of contamination, you’re done!*
  • If Phase I finds Recognized Environmental Conditions (RECs), you need to perform a subsurface investigation (Phase II ESA).
  • You need to complete the Phase I ESA prior to acquisition or use of the property.
Environmental Due Diligence
Step 2

- **Phase II ESA**
  - Collects samples for laboratory analysis from soil, groundwater, or soil gas as appropriate.
  - *If contamination is not encountered > MDEQ criteria, you’re done!*
  - If contamination exceeds MDEQ criteria, you need to complete a baseline environmental assessment (BEA).
  - BEA provides liability exemption to the new owner/operator.
Environmental Due Diligence

Step 3

• **Baseline Environmental Assessment (BEA)**

• Report that summarizes Phase I ESA and Phase II ESA, confirming that the property is contaminated.

• **Must be substantially complete within 45 days of ownership or occupancy.**
Environmental Due Diligence
Step 4

Due Care
• Don’t lose what you’ve earned!!

• Due Care Obligations:
  • Preventing exacerbation
  • Mitigating unacceptable exposures to hazardous substances, fire and explosion hazards and allowing use of the facility that is protective of human health and the environment
  • Providing reasonable precautions against acts of a third party
  • Providing access for authorized personnel
  • Complying with and not impeding the integrity of land and resource use restrictions
  • Documentation of Due Care Compliance (DDCC)
Leveling the Playing Field
Incentives

- A thing that motivates or encourages someone to do something

“The cornerstone of economic life”

- Freakanomics
DEQ brownfield redevelopment incentives and funding sources

Grants  Loans  Act 381 Tax Increment Financing (TIF)
DEQ Grants and Loans

- **Annual Applicant Limit:**
  - 1 Grant of up to $1M
  - 1 Loan of up to $1M
  - *Exceptions*

- **CMI Origins**

- **Loan Terms**
  - 1.5% Interest
  - 5 years payment & interest free
  - 15 year term
Other DEQ Resources:

• Strategic Water Quality Initiative Funds (SWQIF)
• Refined Petroleum Fund (RPF)
• Leaking Underground Storage Tank (LUST) Triage
• Brownfield Redevelopment Assessments
• RPF Brownfield Grants (Coming soon...)
MEDC Resources:

- Community Revitalization Program (CRP)
- Business Development Program (BDP)
- Public Spaces Community Places
- Community Development Block Grants ("CDBG" in non-entitlement communities)
Other Resources:

**EPA Brownfield Resources:**
- Assessment Grants
- Revolving Loan Fund or RLF Grants
- Cleanup Grants
- Area Wide Planning Grants
- Target Brownfield Assessments

**Local Resources:**
- Demolition Funds
- Tax Abatements
- Obsolete Property Rehabilitation Act
- Bonds
- CDBG
- TIF
- Philanthropic Funds
- Local Funds
What is Brownfield TIF

The mechanism that allows capture of the increase of local and school property taxes paid after a property is improved to help reduce the burden of Brownfield related costs.

Central School
Iron River
Brownfield TIF: How it Works

Incremental increase in value – this is the TIF

St. Anne Lofts
East Lansing
Brownfield TIF: How it Works
Partial List of Eligible Activities

- Phase I, II, BEA
- Due Care Report and Planning
- Asbestos, Lead, and Mold Survey
- Vapor Mitigation, Capping, etc.
- Demolition (Building, Interior, Site)
- Lead, Asbestos, & Mold Abatement
- Deed Restrictions
- Contaminated Soil Disposal
- Unsuitable Soil Disposal, Specialized Foundations
- Sheeting Shoring
- Pump and Treatment of Groundwater
- Industrial Cleaning
- Dredging
- Infrastructure Improvements e.g. Utilities, Landscaping, Roads (Public Only)
- Vertical or Underground Parking
- Site Preparation e.g. Clear & Grub, Cut & Fill, Dewatering
- Engineering, Legal, and Professional Fees
- BRA Administration Fees
Pre-Approved Activities

(“Look Back”)

• Environmental Investigations / Planning

and

• Brownfield Plan & Act 381 Work Plan implementation
TIF Key Points

• Most common and readily available financing tool at brownfield projects
• Other forms of state and federal support are in decline
• Can address all brownfield conditions
• Can pay back brownfield loans and other debt
• Can provide funding certainty to developers and lenders
• Put responsibility on the developer (no upfront $ from LUG)
• Can be completely a local decision
Where does TIF come from?

- Local taxes
- State school taxes (24 mills)
  - Local School Operating Tax (18 mills)
  - State Education Tax (6 mills)
Who Approves What Type of Site?

“Brownfield Plan”

**LOCAL**
- All Eligible Property

**MDEQ**
- “Environmental” Facility

**MEDC**
- “Non Environmental”
  - Facility
  - Blighted
  - Functionally Obsolete
  - A Historic Resource
  - Adjacent and Contiguous

“381 Work Plan”
Critical Questions

• But For Test
• Developer and Community needs?
• TIF Criticism...?
Benefits of a BRA

• Cannot utilize Brownfield TIF without it!

• Provides local decision-making and control of brownfield redevelopment projects

• Enhance local economic development capacity
Benefits of a BRA

• Receive multiple taxing jurisdiction participation in redevelopment financing

• Set duration and maximum amount that can be captured

• Focus development to existing service areas

• Apply for and manage grants and loans

• Hold, buy, market and sell property

• Create a Local Brownfield Revolving Loan Fund (LBRF)
Brownfield Plan Process

For local tax capture:

- Prepare a Brownfield Plan
- BRA approves Brownfield Plan
- Public Hearing Notification
- Public Hearing held for Brownfield Plan
- Brownfield Plan approved by municipal governing body

*Note:* Only a BRA can authorize brownfield TIF
The Brownfield Plan can be abolished after two years
What’s in a Brownfield Plan

Brownfield Plan:

• Costs
• Eligible Activities
• Estimate taxable value and TIR
• Start date and duration
• Impact to taxing jurisdictions
• Property Description
• ..and a few more things
Lakeshore Park Place
Marquette, Michigan

FUNDING AND INCENTIVES
• $455,055 DEQ Site Reclamation Grant
• $319,391 of new taxes for other environmental cleanup
• $1,110,003 of new taxes earmarked for other brownfield projects by the City
• PUD Flexible Zoning

OUTCOMES
• SEV increase $325,000 (1998) to $6,625,700 (2017)
• $45,000,000 est. PI
• 138,000 yards of contaminates soil removed
• 8,302 yards of solid waste removed from site
Nestledown Bed and Breakfast
Marquette, Michigan

FUNDING AND INCENTIVES
• $69,990 local and state tax increment financing
• $306,000 Michigan Certified Development Corporation / Small Business Administration Loan

OUTCOMES
• Taxable Value increased from $61,500 to $405,000
• $984,411 in private investment
• 2 new jobs
• 2 oil tanks removed
• Install 815 yards of clean fill for protective barrier
Questions? Ask Us

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#mibrownfields