

# The Challenge of Brownfield Redevelopment: Addressing Contamination and Perception

Nicole T. Allen, Planning Services Manager  
Laberger Group

Daniel Pollay  
Pollay Redevelopment & Planning

Oswego County Department of Community  
Development, Tourism and Planning

New York State Department of State

New York State Department of Environmental  
Conservation

## Stakeholder Seminar #2 Purpose

- Identify and discuss elements unique to brownfield redevelopment
- Examine the tools available to assist in studying and remediating properties
- Consider the importance of such tools in community planning

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## Remember the Definition of a Brownfield?

- “any real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a contaminant”  
NYS ECL Article 27, Title 14
- Brownfield redevelopment is complicated because of perception and expectations

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## Power of Expectations

- MIT Muddy Charles Experiment
- Perception is formed before testing is done

*“if you tell people up front that something might be distasteful, the odds are good that they will end up agreeing with you” – Dan Ariely, [Predictably Irrational](#)*

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## What are common perceptions and expectations of brownfields?

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## Owning a Brownfield

- What is its history?
- What are my liability concerns?
- Can I redevelop it?
- Can I sell it?
- Where can I get help?

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## History of the Property

- Phase 1 Environmental Site Assessment
  - Review past property and tax records
  - Interview present and current owners
  - Visual survey of the property
- Phase 2 Environmental Site Assessment
  - Take soil samples and test them
- Reporting requirements

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### Liability Considerations

- Experienced legal advisor
- Third-party
- Natural resources
- Cost of cleanup

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### Considerations in Decision to Redevelop

- **Cost**
- Availability of assistance
- Market for future use or space
- Characteristics of contamination

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### Considerations in Decision to Sell

- Depth of knowledge of the property
- Perception
- Regulatory agency coordination
- Real estate market

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## Importance of Partnership

- BOA is a community planning tool
- No plan for the future of brownfields in a community WILL EVER work without the owners of the properties
- Partnership is the only way to get it done

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## Where can I get help?

- Government: federal, state, local
- Community based organizations
- Legal
- Insurance
- Other studies

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## Federal Assistance

- HUD Programs
  - Brownfield Economic Development Initiative
- EPA Programs
  - Brownfields Tax Incentive
  - Brownfields Training, Research and Technical Assistance Grants
  - Brownfields Assessment Grant
  - Brownfields Revolving Loan Fund Grant
  - Brownfields Cleanup Grant
  - Superfund

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## State Assistance

- Brownfield Cleanup Program (BCP)
  - Brownfield Tax Credits
  - Liability Release
- Brownfield Opportunity Area (BOA)
  - Phase 1 and Phase 2 ESA funding
  - More to come
- Environmental Restoration Program (ERP)
  - 90% funding for ESAs and remediation for municipally owned properties, IDAs also eligible
- Other state grants (e.g. EPF)
- Superfund

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## Local Assistance

- Participation in federal or state programs
- Advantages of participation
- Loan programs

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## Community Based Organizations

- Not-for-profit status
- Mission-focused
- Community support

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## Legal Assistance

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## Insurance

- Liability insurance for third-party claims
- Cost cap insurance
- Contingent Contractors Coverage

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## Other Studies

- Market demand study
- Economic impact analysis
- Environmental impact assessment

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## Brownfield Redevelopment Process

- Line up your help
- Perform investigation (Phase 2 ESA)
- Interim remedial measures
- Determine desired remedy
- Implement desired remedy
- Maintenance
- Institutional controls

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## Meat Packing Plant



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## History of Site and Results

- Contaminated meat discovered by inspector in 1960s
- Building lies dormant for decades
- Strength of real estate market
- Testing
- Minimal contamination

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## Industrial Park



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## History of the Site and Results

- Former foundry, metal working
- Construction of jail
- Voluntary Cleanup Program
- Environmental Restoration Program
- Expansion of jail
- Implementation of remedy

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## Public Health Considerations

- New York State Department of Health consultation
- Set out in Technical and Administrative Guidance Memoranda (TAGM)
- Several TAGMs covering several different circumstances

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**Enforcement Actions**

- Potentially Responsible Parties (PRPs)
- Consent Order/Consent Decree
- Recovery of response costs
- State and Federal Jurisdiction

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