

Delaware CEDS

*a Comprehensive Economic Development Strategy
for the State of Delaware*



Delaware CEDS – a program of the Delaware Economic Development Office
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published September 2005

BROWNFIELDS Facts

I. Relationship of Brownfields to Economic Development

Delaware's Hazardous Substance Cleanup Act (HSCA) defines a brownfield as "any vacant, abandoned, or underutilized real property, the development of which has been hindered by the reasonably held belief that the real property is environmentally contaminated." These areas include former industrial sites, gas stations, dry cleaners, tanneries, and salvage yards.

Sustainable economic-development strategies encourage the beneficial re-use of brownfield sites. Many states have developed programs to encourage the reclamation and re-use of brownfields as a smart-growth strategy to prevent sprawl and the spread of new development to open-space areas. "Infill" development projects, which target development to vacant or underutilized parcels of land that already have infrastructure, may occur within existing brownfield sites.

The revitalization of brownfields is compatible with Governor Minner's Livable Delaware Initiative, a comprehensive strategy which directs growth to areas most prepared for new development in terms of infrastructure, services, and thoughtful planning. In recent years, the state of Delaware has expanded state programs and adopted new brownfield legislation to provide incentives for brownfield site cleanup and redevelopment.

II. Existing Programs and Trends

Existing Programs

In 2002, the Delaware Department of Natural Resources and Environmental Control (DNREC) adopted regulations that establish a formal process for certifying a property as a brownfield. To be certified as a brownfield, a property must be marginally contaminated, cannot be of NPL caliber, cannot be subject to an ongoing enforcement action of another branch/agency, and must carry a presumption that redevelopment is hindered by a fear of contamination. Property certified as a brownfield may qualify for financial/technical assistance under programs offered by DNREC and the Delaware Economic Development Office (DEDO). State of Delaware financial/technical assistance programs include

- ***Hazardous Substance Cleanup Act Brownfield Grants***, which provide direct pay or reimbursement of allowable environmental-activities expenses.
- ***Brownfields Assistance Program***, (DEDO), which provides matching grants to conduct investigations of Brownfield Certification properties that meet eligibility criteria.
- ***Hazardous Substance Cleanup Act (HSCA) Loan Fund***, (DNREC), provides low-interest loans to businesses for environmental investigations and remediation activities.

- **First Fund**, (DNREC), which provides financial assistance for the removal of abandoned storage tanks and site cleanup.
- **Program Loans for Underground Storage (PLUS) Tanks Systems**, (DNREC), which provides low-interest loans for the removal of UST systems and related site-remediation activities.
- **Brownfields Development Program (BDP)**, which provides extensive liability protections to brownfield developers who enter into a Brownfields Development Agreement (BDA) to remove risks at a brownfield site prior to redevelopment.
- **Voluntary Cleanup Program (VCP)**, (DNREC), which sets the standards for a site investigation, provides review of the adequacy of site investigations, oversees cleanup plans, and provides assurances that EPA will not intervene conditionally in the cleanup process.
- **Delaware Brownfield Tax Credit Program**, (DEDO), which provides tax credits to taxpayers/employers in a qualified brownfield facility and new companies that locate in a brownfield and provides enhanced tax credits for businesses located in a targeted area.
- **Brownfields Environmental Assessment Program**, (DNREC), is administered by the DNREC Site Investigation and Restoration Branch (SIRB) and provides Phase I and Phase II site investigations for brownfield properties.

Trends

More local governments are developing creative approaches to redeveloping brownfield properties. Public/private partnerships are often formed between local governments and private investors to help fund and initiate brownfields revitalization projects. Citizen involvement is also deemed critical to the success of a brownfield-revitalization project. DNREC provides a checklist to consider when enlisting community involvement in a project. Brownfield authorities, consisting of local residents and other economic-development stakeholders, are being formed by local governments to establish brownfield-redevelopment plans, apply for project funding, and use captured tax revenues to reimburse project investors and finance future remediation projects.

Local governments are also developing innovative strategies to address vacant and deteriorated properties that may not meet the criteria of a brownfield property. Local governments are adopting stricter code enforcement measures to allow for court-ordered demolition of vacant and unsecured properties and the criminal prosecution of repeat code violators. Other local governments have institutionalized interdepartmental cooperation and coordination, both within and among municipal/county governments, to respond to and seek prosecution for violations related to public-nuisance buildings. In 2003, a coalition of smart growth and local government organizations began a National Vacant Properties Campaign (www.vacantproperties.org) to make vacant-property revitalization a national priority and smart-growth strategy.

III. Identified Opportunities and Constraints

Opportunities

There are approximately 5,000 brownfield or potential brownfield sites of various sizes within the state of Delaware, most of which are located within New Castle County. Many brownfield properties have ideal business locations, near existing employment centers and transportation corridors. In most cases, costly infrastructure is already in place, which makes the site ready for

purchase, remediation, and development. The market value of brownfield sites may be substantially less than that of other comparable development sites. Once the site is remediated, the market value of the property often rebounds, and the value of surrounding properties may escalate.

Brownfield cleanup and redevelopment can promote economic-development goals of a community through job creation, commercial and retail development, and neighborhood revitalization. In addition, brownfield redevelopment results in the productive re-use of an abandoned property and contributes to a community's financial stability and increases in a local government's property-tax revenue. Often brownfield properties are located within a town's central business district, and redevelopment of these properties can promote overall community revitalization. The Livable Delaware initiative encourages infill and redevelopment within targeted areas, such as central business districts, that are designated for growth or renewal.

Constraints

Because a property may have been contaminated and abandoned by a previous occupant, investors and redevelopers often fear becoming entangled with cleanup liabilities. The state of Delaware has enacted changes in brownfield-liability laws to encourage redevelopment. Senate Bill 328 amended Delaware's Hazardous Substance Cleanup Act to create the Brownfields Development Program to entice prospective purchasers to enter into Brownfield Development Agreements with DNREC for recycling brownfield sites. The Voluntary Cleanup Program likewise offers streamlined cleanup agreements, greater flexibility to facilitate remediation, and limits liability fears of otherwise potentially legally responsible parties that did not cause or contribute to the contamination and that voluntarily agree to remediate a contaminated site under DNREC's purview.

In addition to liability concerns, primary obstacles to brownfield redevelopment include the availability of greenfields (undeveloped property), uncertainty in the cleanup process, types, and amounts of contamination; time involved in completing the environmental process; and cost of investigation/remediation. The cleanup of hazardous substance contamination often makes the purchase and redevelopment of brownfield sites cost-prohibitive. To offset costs, the federal government and the state of Delaware offer grants and incentive programs to encourage the re-use and redevelopment of these properties.
