

Brownfield Redevelopment Tools in Georgia

Georgia Department of Community Affairs

Revitalization Tools:

Urban Redevelopment Act/
Opportunity Zones Training

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Brownfields – Federal Definition

- Real property, the expansion, development or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant
- Includes mine-scarred property and former crack houses

Georgia Brownfields Legislation

- Georgia Hazardous Site Reuse and Redevelopment Act
 - Amended 2002
- Brownfields Tax Incentive Law
 - Enacted 2003

Georgia Brownfields

- Must have a pre-existing release of hazardous constituents in order to qualify for Georgia incentives
- Are not considered to include petroleum releases

Georgia's Approach to Brownfields Redevelopment



- Recognizes that real estate factors, rather than contamination factors, drive redevelopment

What incentives does Georgia offer?



- Two Types of Incentives:
 - Liability Limitation
 - Tax Incentive

What liability is limited under Georgia's Brownfields Program?



- Liability for the cost of groundwater cleanup
- Liability for third party claims (lawsuits) arising from the contamination

Why is the limitation of liability important?

- It is now possible to buy contaminated property in Georgia without becoming responsible for groundwater cleanup
 - The liability for groundwater cleanup remains with the seller
- The new owner can't be sued for issues resulting from prior contamination

What responsibilities do I assume when buying a Brownfield?

- The buyer typically assumes responsibility for:
 - Site investigation (soil and groundwater)
 - Soil cleanup
 - Source material cleanup
 - Compliance Status Report

*Why investigate groundwater?
I won't be cleaning it up.*



The groundwater investigation forms the basis for the limitation of liability. It establishes the baseline site conditions for which you **ARE NOT** responsible.

How does the limitation of liability take effect?



- There are two ways:
 - Upon approval of the Corrective Action Plan
 - Upon concurrence with the Compliance Status Report

More about Georgia's Limitation of Liability



- Dependent upon completing Corrective Action as planned
- Fully transferable (with one exception)

What is the exception?



- The property can not be transferred back to any party that had a role in contaminating it
- Doing so will result in the loss of the limitation of liability

How does the tax incentive work?

- The prospective purchaser files an application for a limitation of liability
- Following approval of the application, the new owner applies to the local taxing authority for preferential tax assessment
- The tax assessment applies for the first of 10 years, or until the EPD-certified site investigation and cleanup costs are recouped

Two Categories of Georgia Brownfields Eligibility



- Brownfields property eligibility
- Brownfields prospective purchaser eligibility
- Both must be eligible

Georgia Brownfields Properties

Must:



- Have a preexisting release of a hazardous waste, hazardous constituent, or hazardous substance

How do I know if there is a preexisting release?

- If you obtain environmental sampling data showing a release
- If the property was placed on the State superfund list
- If EPD has been notified of a release of hazardous constituents, even if the property was not listed

Can state superfund sites be Brownfields?



- Yes, providing the prospective purchaser of the site is eligible, and
- There are no outstanding liens on the property under the state superfund act

Two Types of Georgia Brownfields Cleanups



- Voluntary
Brownfields
Cleanups – for sites
that are not on the
state superfund list
- Regulated
Brownfields
Cleanups – for sites
that are on the state
superfund list

All Georgia Brownfields Cleanups



- Can result in limitations of liability if criteria are met
- Can result in tax incentives if criteria are met
- Protect human health and the environment through cleanup to risk reduction standards

What are Risk Reduction Standards?

- Cleanup standards promulgated under Georgia's state superfund law
- Two types, based on the use of the property:
 - Residential
 - Non-residential

More Georgia Eligibility Criteria



- Eligible Properties Must Not:
 - Be a federal superfund site
 - Be under a federal cleanup order
 - Be a hazardous waste facility

*How will I know whether these
criteria apply?*



EPD has records on these types of sites and
will be able to give you information about
the property you are considering purchasing

Brownfield Purchaser Eligibility



Is Prospective!!!

If you already own the site, you cannot
apply!!!

Prospective Brownfields Purchasers Must Not:

- Have contributed to the release of hazardous substances
- Have a substantial business relationship or other affiliation with a party responsible for the release
- Be in violation of EPD's enforcement authority

Voluntary Brownfields Cleanups



- Are not “regulated” cleanups, although they do clean up to the same promulgated risk reduction standards as state superfund cleanups

Voluntary Brownfields Cleanups



- Address contaminated soil
- Address source material
- Establish baseline for groundwater
limitation of liability
- Apply risk reduction standards to soil and
source material

Georgia's Approach to Voluntary Brownfields Cleanup

- Recognizes that timeliness is critical
- Relies on being available to prospective purchasers
- Encourages working face-to-face in lieu of paper exchanges for most purposes
- Is based on achieving results that accommodate needs of all stakeholders

Benefits of Voluntary Brownfields Approach



- Real-time decision-making
- Reduced transaction costs
- Common understanding of next steps

May we help you ?

- Georgia's new Brownfields program is committed to helping redevelopment efforts
- We've learned that contamination doesn't have to get in the way of redevelopment
- We are available to discuss your project, even if you're still just thinking about it

Georgia Brownfields Contacts

- Voluntary Brownfields:
 - Madeleine Kellam 404/656-7802
 - madeleine_kellam@mail.dnr.state.ga.us
- HSI Brownfields:
 - Tim Cash 404/657-8600
 - tim_cash@mail.dnr.state.ga.us

Federal Brownfield Resources

2002 Small Business Liability Relief and Brownfields Revitalization Act

Modified the Environmental Protection Agency's existing brownfields program:

- Authorizes up to \$200mm in funding annually through grants to “eligible entities”:**
 - (1) assessment**
 - (2) cleanup**
 - (3) revolving loan fund**
 - (4) job training**

Federal Brownfield Resources

2002 Small Business Liability Relief and Brownfields Revitalization Act

- First grant round under new legislation - \$73 million awarded in 2003
 - Augusta, Georgia – only GA award in 2003
- 2004 grants – 2 Georgia projects
 - Atlanta Youth Soccer Organization
 - Lumber City– regional focus
 - 17 awards nationwide to regional projects – rural focus

Who is eligible for a grant?

- General purpose unit of local government
- Land clearance authority
- Governmental entity
- Regional council
- Redevelopment agency
- State
- Indian Tribe
- Nonprofit organizations (cleanup grants only)

Assessment Grants

- Per Site - Up to \$200,000 for Hazardous Substances and up to \$200,000 for Petroleum Assessment
- Eligible Activities:
 - Site inventories
 - Phase I and Phase II environmental assessments
 - Cleanup planning
 - Community involvement

Revolving Loan Fund Grants

- Up to \$1million per year per qualified applicant
- Co-applicants can combine application totals
- Awards made over five years
- 60% must be used as loan funds
- 40% may be used for clean up grants

Assessment, Cleanup and Revolving Loan Fund Grants

- Basic Threshold Criteria
 - Applicant Eligibility
 - Community Involvement
 - State Letter
 - Site and Ownership Eligibility

Assessment, Cleanup and Revolving Loan Fund Grants

- Basic Ranking Criteria
 - Budget
 - Community Need
 - Site Selection Process
 - Sustainable Reuse
 - Greenspace
- Basic Ranking Criteria
 - Community Involvement (PLANNING)
 - Leveraging
 - Ability to Manage Grants
 - Reduction of Threats

Additional Information

- EPA Region 4 Brownfields Program

Contact:

- Olga Oliver Perry – EPA Brownfields Coordinator for the State of Georgia

- perry.olga@epa.gov
- (404) 562-8534
- <http://www.epa.gov/region4/waste/bf/> OR
- www.epa.gov/brownfields -examples and descriptions of successful applicants from Region 4 and around the country

Environmental Insurance



- Seller incentive
- Fills “gaps” in the transaction
- Variety of tools available

Environmental Insurance

- Capping Cleanup Costs – protects against cost overruns when remediating for known contaminants
- Pollution Liability – protects against liability from:
 - Unknown pre-existing conditions
 - New pollution

Brownfield Redevelopment Tools



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