Where Brownfields and Land Banks Meet

7th Annual Ohio Land Bank Conference

Presented by Partners, an Environmental, Safety, Engineering & Surveying Firm

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Overview

I. Introduction
II. Defining the Nexus
III. Case Studies
   A. Richmond Heights
   B. Bedford Heights
   C. Parma
   D. Akron
   E. Cleveland
Land Banks

- Land Bank is the “informal” name for land reutilization corporations established under Sections 1724 and 5722 of the Ohio Revised Code. County land banks are quasi-governmental nonprofit community improvement corporations with the public purpose of reclaiming, rehabilitating, and reutilizing abandoned, vacant, blighted and tax-foreclosed property.”
Land Banks

- What do they do?
  - Traditional Roles
    - Clear Title
    - Demolition
    - Land Assembly
    - Residential - only
Brownfields

- The U.S. EPA defines a Brownfield as “a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”
Brownfields

- Issues:
  - No responsible party, but significant liability to owner
  - May not be just big industrial sites
Brownfields

- What happens to them
  - In Ohio:
    “if you could get the land for free and it is clean, the deal may still not work” attributed to Ohio Developer
  - Traditional Result
    - They sit abandoned and underutilized
    - City’s pursue public subsidy to redevelop
    - Developer acquires (rare exception)
The Nexus

Brownfields + Land Banks = Redevelopment
Often funding and an end user are available for Brownfield Redevelopment.

But the project cannot proceed without an entity to own the site, while environmental issues are investigated and/or remediated, due to liability concerns, such as:

- Cost overruns
- Worker safety
- Regulatory risk
- Corporate/governmental policy
- Experience
- Risk tolerance
Solution

- Land Banks

[Map showing counties in Ohio, with some counties marked as Land Banks established (46) and others as county boundaries (88).]
Safe Harbor Provisions

Due to foreclosure process; not considered a Responsible party under CERCLA

ORC §5757.22, Immunity of Land Reutilization Corporation: … not liable for violations of …Chapter 3745 (Ohio EPA)… § 6111 (BUSTR)….in connection with a parcel of land acquired by the county land reutilization corporation.

ORC §5723.01(4)

- …..may enter forfeited lands and any buildings… for any of the following purposes:
  - Inspection of building
  - Conducting a voluntary action
  - Conducting health and safety inspection
- Unless willful misconduct, not liable for any action resulting from testing or release of hazardous substances or petroleum
Case Studies
Background

- Owner proceeding through BUSTR process while station operating
- Owner passes away before BUSTR process is completed
- Site becomes eyesore and source of complaints by residents and business
- USTs remained
- BUSTR determines Class “C” site
- 10 years pass
County Treasurer initiates tax foreclosure

Property forfeited to State of Ohio

City of Richmond Heights declares Property public nuisance

Signs agreement with Cuyahoga Land Bank to serve as agent to abate nuisance (O.R.C. §715.26)
Ok – So Now What?

- Identified a path to closure, but not through BUSTR, used Voluntary Action Program (VAP) process

- Combination of Cuyahoga County Department of Development USEPA Brownfield Revolving Loan Fund, Cuyahoga County Demolition Funds and Cuyahoga County Land Reutilization Corporation administration of both funding sources

- End point is a No Further Action (NFA) Letter under Ohio’s VAP
Not So Fast …..

- If City acquires property BEFORE tanks are pulled, they could become a responsible party if a new release is detected.
- If that occurs; Class “C” status is revoked.
- However, because of environmental immunities in ORC, if property remains in forfeiture or is owned by Land Reutilization Corp., responsible party status does not transfer.
So How Did We Do It?

- Land Bank applies County demolition funds to remove USTs and demolish structure.
- Land Bank acquires title via O.R.C. §5723.04; 1 day after tank is removed and immediately transfers title to the City of Richmond Hts. RLF Funds can now be used.
So How Did We Do It?

- City uses County RLF funds to complete cleanup and VAP process.
- Land Bank added as City’s agent to manage RLF funded activities.
- NFA to be provided at completion.
What Are We Left With?

- Cleared land, no building, no UST
- BUSTR Class “C” status intact and no responsible party
- NFA under VAP (to come)
- City owns the property
- Environmental risk mitigated
- Community eyesore removed
Former Metaldyne Facility
Metaldyne
Former Aluminum Extrusion Plant

- PCB impact to buildings and soil well documented since 1990’s
- Cuyahoga County funds development of a Remedial Action Plan (RAP) with USEPA money
- RAP says $2MM to reuse – end user walks
- New end user comes in – not reuse
- Land Bank funds sought for limited assessment for determining the “clean area”
- JobsOhio funds will be sought for demolition, remedy (capping) and VAP process
Former Parmadale Hospital

- 80 acre site originally developed for institutional purpose (churches, schools)
- 1.5 million Clean Ohio Conservation Program Grant for land acquisition

1930s

1950s
Funds needed for environmental assessments

- Asbestos, hazardous materials
- Due diligence (Phase I)
- Phase II Investigations
CCLRC provided funding to bridge gap for environmental assessments

Cleveland Metroparks to partner with West Creek Conservancy during the restoration phase.
End result

- 52 acres of heavily forested land and 2,300 linear feet of primary headwater streams will provide new access to the West Creek reservation.
Summit Lake: Site History

- 100 acre lake located in South Akron.
- Prior to 1900s, the lake was Akron’s primary drinking source.
- Between the 1920s and 1930s it was home to three amusement parks, dance halls and boat rides.
First comprehensive look at environmental issues in 40 years.

Environmental analysis focused on contaminated sediments and water quality.

Previously Ohio EPA estimated 29 million cubic feet of contaminated sludge.

Swimming is prohibited because the state only allows swimming at designated supervise beaches – not because of the sediments.
Partners is working with local stakeholders to support revitalizing recreational use as a viable plan.

- Trust for Public Land and Knight Foundation launched initiative to revitalize the lake, with the Knight Foundation contributing $195,300.
- NEFCO providing an additional $110,460 in federal funds from sub-grant of USEPA brownfield funding.
Summit Lake: Desired Outcome

- Increase access to recreational facilities.
- Promote reinvestment and economic development in surrounding neighborhoods.
- Demonstrate that the lake is safe for recreational use, such as fishing, kayaking, and possibly swimming.
NEORSD West Basin
West Basin: Site History

- **Late 1800s** - Residential area around ravine

1892 Atlas Map

1896 Sanborn Map
West Basin: Site History

- 1994
- 2000
- 2004
- 2013

2014 – Cuyahoga County Environmental Crimes Task Force raids site and court case is filed
Existing Conditions

- Site and Wetlands filled with:
  - Scrap materials and tires
  - Demolition debris
  - Solid waste
  - Industrial waste

- Contaminants of Concern:
  - Polynuclear aromatic hydrocarbon (PAH) compounds
  - Lead
  - Polychlorinated Biphenyls (PCBs)
Modified Cleanup

- Removal of “hot spots” for lead, PCBs and PAHs
- Removal/Recycling of trash
- Cover remaining buried solid waste
- Restore Wetland

Site Meets Recreational Use Standards
Original Basin Configuration
EPA Brownfields Program

EPA's Brownfields Program empowers states, communities, and other stakeholders to work together to prevent, assess, safely clean up, and sustainably reuse brownfields. A brownfield site is 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. In 2002, the Small Business Liability Relief and Brownfields Revitalization Act was passed to help states and communities around the country cleanup and revitalize brownfield sites. Under this law, EPA provides financial assistance to eligible applicants through four competitive grant programs: assessment grants, removal loan fund grants, cleanup grants, and job training grants. Additionally, funding support is provided to state and tribal response programs through a separate mechanism.

Cleanup Grants

$200,000 for hazardous substances

EPA has selected the Northeast Ohio Regional Sewer District for two brownfield cleanup grants. Hazardous substances grant funds will be used to clean up the Shaker Heights property at 6417-6409 Grand Avenue and 2696-2700 East 65th Street in Cleveland, and the Greenspace property at 657-659 Grand Avenue in Cleveland. Both properties were historically developed with residential buildings, with portions used as a salvage material yard. They are both contaminated with polynuclear aromatic hydrocarbons and metals. Grant funds at both sites will be used to conduct community involvement activities.

Contacts

For further information, including specific grant contacts, additional grant information, brownfields news and events, and publications and links, visit the EPA Brownfields Web site (http://www.epa.gov/brownfields).

EPA Region 5 Brownfields Team
(312) 353-8827
EPA Region 5 Brownfields Web site
(http://www.epa.gov/region5brownfields)

Grant Recipient: Northeast Ohio Regional Sewer District
(216) 701-6933

The information presented in this fact sheet comes from the grant proposal. EPA cannot attest to the accuracy of this information. The cooperative agreement for the grant has not yet been negotiated. Therefore, activities described in this fact sheet are subject to change.
Success
Henninger Road Landfill
Since 1948, undocumented and documented dumping occurred at the Property.

Foundry sand cores from the Ford Motor Foundry were disposed on the Property since 1975.

From 1976 to 1987, the Property operated as a demolition and industrial waste landfill.

Big Creek was relocated due to the filling activities, but runs along the boundary of the waste placement.

Prior entities failed to repurpose the landfill for recreational use, due to issues related liability and contamination.
Utilizing a unique Brownfield Grant program, Partners supported the WRLC in their decision to acquire the landfill.

- WLRC secured a Clean Ohio Conservation Fund Grant for the acquisition;
- Cuyahoga County used Northcoast Brownfield Coalition funding (USEPA) to pay for the consolidation of prior data and risk assessments; and
- A Revolving Loan Fund grant from Cuyahoga County was received for the cleanup.
The goal is to create a neighborhood park that provides a key link between the Cleveland Metropark Zoo and the Towpath Trail.

Part of the growing green corridor that includes the Zoo, Brookside Reservation and the Ohio Erie Canal Towpath Trail.
Partners successfully prepared a Risk Assessment, based on prior investigation data and the use of the Ohio Voluntary Action Program (VAP), to determine the extent of the contamination.

Partners used ecological and human health risk assessments to demonstrate the site posed an acceptable risk to human health and the environment.

WRLC is able to manage the environmental risks associated with the project.
Reliable Counsel, Unique Solutions

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