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DEVELOPMENT OPPORTUNITIES TO RETURN BROWNFIELDS PROPERTY TO THE TAX ROLLS

By: Michael J. Donahue, Esquire

What are Brownfields Properties?

- Underutilized or abandoned environmentally impaired property, but not Superfund Sites;
- Outstanding tax liens or taken for taxes under the safe harbor of RSA 147-A:2 and producing no revenue, or other significant documented municipal interest;
- May also be owned by Mortgagees, but usually they stop paying taxes;
- Usually too small for Superfund cleanup, but could be on EPA's NPL list;
- Must be an otherwise good real estate deal.

NH DES Brownfields Program - RSA 147-F

- 1996 - goal spur cleanup; create incentive to develop; DES cannot afford to clean up;
- We-are-here-to-help-you attitude: Keith DuBois (keith.dubois@des.nh.gov) - Telephone 603-271-2987 and Mike McCluskey (michael.mccluskey@des.nh.gov) - Telephone 603-271-2183
- Eligibility: Someone who did not cause the contamination: Purchaser; Owner who didn't cause; Mortgage holder; Municipality;
- \$750 application fee waivable for municipality, and a Site Assessment; and
- Get liability protections - covenant not to sue, even if you stop cleanup, as long as you stabilize.

Role of Municipality

- Concord Corridor designation;
- Durham-vision to start a working group. UNH targeted as potential ultimate end user with parking as interim use;

- Raymond - potential municipal site with commercial development;
- Nashua - Whitney Screw industrial property; and
- Berlin - Multiple properties including former Brown Paper Co. properties and former Notre Dame High School.

Funding Sources

- EPA Direct or via NH DES and OSP for site assessment;
- Brownfields pilot-site assessment and RAP Design; NH DES administers;
- Tax Incentive Financing- designated areas; or
- Remedial action - NH DES revolving loan funding; may be augmented by grants in future;
- 200K EPA Grants for clean up; highly competitive municipalities and non-profit owners only; requires 20% local match, but may be able to use CDBG; and
- Stimulus (ARRA) Funding administered by DES; cleanup of petroleum sites (independent gas stations and c-stores)

TEAM

- Staffers interested in economic development, planner and lawyer with environmental consultant if Municipality is to perform or assess cleanup.

