The Brownfields Redevelopment Process

- Background & History
- Development Process
- Due Diligence
- Collaboration & Clean up
CCLR Program Areas

- Technical Assistance to Community Developers
- Policy & Legislative Research
- Training for Redevelopment Specialists
  - [www.cclr.org](http://www.cclr.org)
  - Resource Center
  - Media Gallery
• EPA definition - “real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of “toxic substances””
  – Estimated 1,200,000 sites nationwide
  – Examples: most vacant or underutilized industrial or commercial property such as gas stations, landfills, transferred military sites, manufacturing, office, etc.
How the problem evolved?

- Love Canal
- Unintended Effect of Environmental Laws
- Joint and Several Liability
- Enforcement Policies Targeting Lenders
- Lender Liability Laws
- Ignorance of the Science of Contamination
- Local area-wide concerns
Brownfields Stigma

♦ Cost uncertainty -- What will I have to pay? …and when?

♦ Legal uncertainty – Will I be responsible for contamination I did not cause? Do I really want to buy this property? What does AAI mean?

♦ Regulatory uncertainty -- What will they want, and when will they want it?

♦ Financing uncertainty -- Will anybody finance my project?

♦ Time uncertainty -- How long before I can really build?

♦ Community uncertainty — Will the City like my proposal? Will there be NIMBY, density and other Infill issues?
Cost Uncertainty

- **Phase I**
  - AAI, Records search, interviews, inspections
  - $5,000-$10,000
- **Phase II**
  - Sample collection & analysis – soil, groundwater, vapor
  - Compare samples with “remediation goals”
  - $20,000 - $000,000’s depending on size/complexity
- **Other Studies**
  - Feasibility Study, Risk Assessment, Sampling Plans, Cleanup Plans, Workplans, etc
- **Cleanup**
  - $10 / sf > + + + + + +
Regulatory Uncertainty

• U.S. EPA
• Hawaii Department of Health
• County Health
Periods of Collaboration & Cooperation

- **1st Generation: 1980’s to early 1990’s**
  - States enact Superfund-like cleanup laws
  - Command & Control from Regulatory Agencies
  - Horror stories create often unfounded fears related to contamination

- **2nd Generation: Mid-1990’s to 2000’s**
  - Realization of unintended consequence of strict liability & heavy handed regulation
  - States enact Voluntary Cleanup Programs
  - Client-based, regulators hands-off
  - Private Sector-led redevelopment
3rd Generation: 2005>>
- Collaboration WITH State Government
- Community-led redevelopment
- 3-E’s: Economy, Environment, Equity
- Solving multiple community goals
- Leveraging Resources
- Connection with climate change: HUD/DOT/EPA Sustainable Communities Partnership
Components of a Brownfields Program

♦ Community: obtain City leadership, convene stakeholders, address concerns, incorporate plans

♦ Technical: collect and analyze good information

♦ Regulatory: coordination, screening criteria, assistance, legal and acquisition strategies

♦ Financial: site assessment and remediation assistance – loans and grants

*Seed funding and assistance to local government and communities are available through various programs.*
Rule-of-Thumb Steps in a Brownfields Redevelopment Project

- Determine Nature & Extent Contamination
- Partnership among Community, City, Regulators & Developer
- Incorporate land use in cleanup design
- Incorporate other development strategies
Remediation Considerations

Before
- Due Diligence (AAI Phase I, Phase II, etc.)
- Stakeholders & roles
- Public access, access to affected soil and water, activities
- Planning - design, acquisition, finance, etc.
- Myths & strategies for soil, vapor and water
- Liability & assurance
- Various ownerships, site control
- Costs

During
- Remediation impacts: Dust, noise, run-off, etc.

After
- Recording, maintenance & enforcement
Remediation Strategies

- For Soil, Groundwater & Vapor
- Remove and dispose
- Limit exposure
- Use controls
- Engineering & institutional
- In-Situ & Ex-Situ Treatment
  - Chemical, Physical or Biologic treatment
Environmental / Planning Process

Application Submittal

No Significant Impact
- Draft Document
  - Public Review (days/weeks)
- Exempt Projects
  - Public Notice
  - Project Community Meetings
    - Public Notice
    - Decision by Board or Commission
      - Public Hearing
      - Appeal to Council
    - Decision by Council
      - Public Hearing by Recommending Body
      - Public Hearing before Council

Potential Impact
- Scoping Meeting
  - Draft Document
  - Public Review (days/weeks)
  - Public Comment Meeting
Zoning Process
(varies by City)
Dev’t Agrmnt / Owner Participation Process (varies by City)
Brownfields Process
(varies by City)
Other Funding & Project Approval Considerations

- Regional authority
- Transportation
- Housing
- Parks
- Flood plain
- Air Board
- Special districts, etc.
Federal & State Funding

- Sustainable Communities Partnership:
  - Environmental Protection Agency (EPA)
  - Housing & Urban Development (HUD)
  - Transportation
- Economic Development Admin. (EDA)
- Energy
- Agriculture (USDA)
- Other Federal Funds

- Hawaii Brownfields Program
  - State 128 funds
  - Hawaii Brownfields Cleanup Revolving Loan Fund (HBCRLF)

Many require demonstration of public support
Lessons Learned

- Brownfields projects are real estate projects with a haz mat twist
- If possible, have a reuse plan
- Don't overreact to contamination
- Speak to regulators early
- Expect & encourage collaboration

Ignacio Dayrit  ▪  Center for Creative Land Recycling (CCLR)  ▪  www.cclr.org