

Name: _____

Period: _____

Questions for: Change In State Brownfields Laws Could Stimulate Development

1. What is the first step in determining the levels of pollution on a piece of property?

2. Who is responsible for paying the cleanup costs?
 - a. The city
 - b. The realtor
 - c. The developer
 - d. The original owner

3. What is a brownfield?

4. How many brownfields are there in Connecticut?

5. Why are brownfields attractive to developers despite the potential contamination?

6. What are two criticisms attorney Doug Pelham has for Connecticut's monitoring requirements?
 - a.

 - b.

7. What are some of the faults in the current law as it pertains to clean up regulations?

8. ON THE BACK

In a well-constructed paragraph: Are there any types of developments or buildings that you feel should never be built in a former brownfield? Explain your answer.

Change In State Brownfields Laws Could Stimulate Development

Vinti Singh, CT Post Staff Writer - Published 6:01 pm, Saturday, January 14, 2012

BRIDGEPORT -- One day, Steel Point will be Steelpointe. The pollution and the contamination on the prime peninsula in the city will be replaced with houses, stores and restaurants. It's a dream that's been deferred for more than a decade, partly because of the state's confusing requirements for cleaning up post-industrial waste sites, experts said.

Steel Point and the other unused contaminated sites in Bridgeport could bring in as much as \$50 million in property taxes, said Ed Lavernoich, the city's deputy director in the Office of Planning and Economic Development. But before these sites can be used again, they must be scrubbed of all their pollution and meet standards set by the state.



Ed Lavernoich, deputy director in the Office of Planning and Economic Development for the City of Bridgeport, stands across the street from the former Parallax Power Components property on Seaview Ave. Jan. 13th, 2012. The property is one of the unused brownfield sites the city hopes to clean up and redevelop. Photo: Ned Gerard

But those standards are so convoluted and inconsistent that often developers will shy away from investing in a brownfield at all. "The problem is not that a developer's proposal for a brownfields site failed," said Carl Wagener, director of the Council on Environmental Quality. "It's that when executives hear how long it might take to clean the site and the potential uncertainty of if it will ever be approved for development, they say 'we can't do that. Give us something ready to go.' "

Perhaps a more predictable cleanup program would get development, and the economy, going again, said Wayne Cobleigh, manager of project development for GZA GeoEnvironmental Inc., at a remediation forum at Department of Energy and Environmental Protection headquarters in Hartford last week.

Making the investment

Developers often pay an up-front cost to drill wells to study what the environmental damage on a site may be, Cobleigh said. The next step is developing a cleanup plan, and that's where most projects get stalled, he said. Developers often don't want to invest in a cleanup plan since current laws don't give them the certainty their investments will pay off.

A brownfield is a commercial or industrial property that has perceived or real environmental contamination, and will require some level of cleanup before it can be used again. There are tens of thousands of contaminated sites in the state, according to DEEP, which has 284 known sites in the state's records. Brownfields are often located in urban areas with existing infrastructure, so they are attractive to developers. But Connecticut's cleanup process is notorious for being too slow, said attorney Doug Pelham, who deals with brownfields development. He advises clients who are buying or selling properties, because he has seen deals fall apart because of the state's cleanup requirements.

"One criticism is the monitoring period is inordinately long," Pelham said. "Usually after the first six months or year you have an idea whether the site is fine or not. But you have to monitor it for too long. The other main criticism is the state has these cleanup standards that many times don't make sense for your site. For example, the numbers for groundwater cleanup assume you will drink the water there every day for 70 years, two liters a day. Maybe in some cases that's an appropriate risk profile. But it's not true in every circumstance. And the way the regulations are set up, there isn't that flexibility."

Changing regulations

The state is in the process of changing its brownfields cleanup requirements, and sites like Steel Point have already benefited. The state Legislature recently passed new provisions in state law to protect an innocent party from liability

related to pollution that existed prior to the innocent party buying that property. This is expected to promote new investment in current and former brownfields, critical to Bridgeport's redevelopment.

When completed, the Steelpointe project will have 200,000 square feet of commercial space, 300,000 square feet of hotels and meeting areas, up to 1,500 residences, and a marina, according to development plans. The city of Bridgeport owns Steel Point, and will pass it on to the developer, Bridgeport Landing Development, once it meets specific cleanup targets. The new laws, in theory, will make sure cleanup targets don't change.

The Steel Point site has several properties that require environmental remediation. The city is working with the developer and state agencies to obtain these liability protections for future investors when the remediation is completed. The future investors, whether they be lending institutions or other developers, will not have to worry about remediation standards that may change in the future.

A patchwork of regulations

And there are more changes to come. The state is in the process of revamping its brownfield laws. DEEP issued a report in the beginning of 2011 detailing the laws' current faults. That was followed up by a 229-page report in December that said new laws should focus on getting rid of those pollutants that carry the threat of escaping from the ground, water, and air, rather than everything in the entire property. Also, a site should be allowed to be considered "clean," the report said, if it can be considered reasonably safe well before the last pollutant is removed.

Overall, the state should have one clear process for brownfields cleanup, rather than the patchwork of 14 laws scattered now throughout state statutes, the report said. The new laws would overrule the Connecticut Property Transfer Act established in 1985 that links a property's cleanup with when it is bought or sold. The intent of the law was to make sure someone was held accountable for cleanup, but it has mostly hindered properties from changing hands. Of the thousands of sites that have entered this program in 25 years, only several hundred have reached regulatory closure, he said.

"The difficulties of getting through the Transfer Act have stymied the very type of private investment that should be encouraged, leading to more abandoned properties," Budgen said. "In effect, the Transfer Act, which was designed to protect human health and the environment, has created more brownfields."

The details of the new process have yet to be hammered out. The report provided guidelines, but new legislation translating those ideas into reality will have to be presented, debated and approved by the General Assembly. Connecticut will probably adopt a system similar to the one Massachusetts put in place in the 1990s and New Jersey enacted recently, Stevens said. Massachusetts has a single, easy-to-understand law that governs all types of hazardous materials. But the state will have to be careful not to repeat the mistakes of the Transfer Act, Budgen said. "As the state proceeds, it must be wary of unintended consequences," Budgen said. "Few, if any, of the shortcomings of Connecticut's current cleanup programs were foreseen. Thus, it is very possible that in making sweeping changes, Connecticut could trade one set of poor programs for another."

Environment, Health

The report emphasizes that the new laws will not compromise public health or environmental quality, and that while the process will be easier, it won't be less stringent. Still, some environmental groups are worried. Gladys Ellis, the president of the Clay Hill Improvement Association, said her neighbors in the North End of Hartford want control of how the contaminated sites near their homes are developed. "We need to know if hazardous material is being transported through our community," Ellis said at a "remediation transformation" forum at DEEP headquarters on Tuesday. "Cleanup standards need to be uniform and should not be tied to the economic value of the property. We are afraid that cleanup standards may be compromised in the North End of Hartford and other poor communities."

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Selected CT Brownfield Sites from <http://www.ctcda.com/Sites/counties.asp>

1	Site Name:	Former GE/Complex
	Address:	1285 Boston Avenue Bridgeport, CT 06610
	Acres:	50.4
	Past Use:	Manufacturing / Electrical Components
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2	Site Name:	Metal Scrap Yard
	Address:	1558 Barnum Avenue Bridgeport, CT 06610
	Acres:	4.5
	Past Use:	Manufacturing Autobody/Scrap Yard
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3	Site Name:	Former Bridgeport Metal
	Address:	365 Cherry Street Bridgeport, CT 06605
	Acres:	8
	Past Use:	Manufacturing/Metal Products
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4	Site Name:	Former Remington Arms Factory
	Address:	939 Artic Street/Barnum Avenue Bridgeport, CT 06608
	Acres:	28
	Past Use:	Manufacturing Munitions/ Metal Finishing
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5	Site Name:	Former Hat Factory
	Address:	13 Barnum Court Danbury, CT 06810
	Acres:	0.5
	Past Use:	Manufacturing using mercury and nitric acid to convert animal fur into felt for hats
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6	Site Name:	Dabko Property
	Address:	61 East Main Street Bristol, CT 06010
	Acres:	3.2
	Past Use:	Manufacturing clocks using radium
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7	Site Name:	Gavlick Property
	Address:	Terryville Avenue Bristol, CT 06010
	Acres:	3.56
	Past Use:	Fuel tank farm now Vacant Land
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8	Site Name:	DOT asphalt production facility
	Address:	Route 34, near Route 8, Derby, CT
	Acres:	27
	Past Use:	Asphalt production
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9	Site Name:	Exide Battery (Inco)
	Address:	2190 Post Rd, Fairfield, CT
	Acres:	6.2
	Past Use:	Battery manufacturing
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10	Site Name:	International Silver
	Address:	77 Cooper St, Meriden, CT
	Acres:	7
	Past Use:	Silver manufacturing