

Defining Brownfields

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Brownfields/Voluntary Cleanup Program

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A Quick History Lesson

- The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) aka The Superfund Act
 - A federal law designed to clean up sites contaminated with hazardous substance. It provides for the authority to clean up hazardous substances that may endanger the public health or the environment.
 - Authorizes the U.S. Environmental Protection Agency (EPA) to identify parties responsible for contamination of sites and compel the parties to clean up the sites or reimburse the government for EPA-lead cleanups.

Fast Forward a Few Years

The Small Business Liability Relief and Brownfields Revitalization Act

- Public Law 107-118 Jan. 11, 2002
- Amended CERCLA

Created to put an end to the excessive regulations and litigations many entities incurred when revitalizing dilapidated properties.

Amendments to CERCLA

- Provided funds to assess Brownfields
- Provided funds to clean up Brownfields
- Provided funds to enhance state and tribal response programs
 - The Missouri Brownfields/Voluntary Cleanup Program
- Provides limited liability relief for owners and prospective owners of properties cleaned up through state/tribal programs
- Required the EPA to establish standards and practices for conducting all appropriate inquiries (AAI)

Official Brownfield Definition

- 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.
- Missouri does not have a list of brownfields in the state.

Un-Official Brownfield Definition

Real estate dealing with an environmental “twist” that complicates, but does not prevent, redevelopment. Sometimes the property is not even contaminated.

An environmental assessment will help determine if it is contaminated.

Un-Official Brownfield Definition (cont.)

Properties caught somewhere between clean and not contaminated enough to be considered a Superfund site

- Not a public hazard
- Too “dirty” for bankers, investors, or insurance companies to be comfortable
- Not on the regulatory radar

Different Types of Brownfields

Former Gas Stations





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Schools





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Theaters



Manufacturing Buildings



Churches and Community Buildings





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Buildings on the Town Square



What is an All Appropriate Inquiry (AAI)

- AAI is a process of evaluating a property's environmental conditions and assessing potential liability for any contamination
- May reduce your liability if the appropriate environmental site assessments are performed prior to purchasing the property

What is an All Appropriate Inquiry (cont.)

- In other words, you want to show that you are not responsible for causing the contamination!



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Questions?

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