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Redeveloping Manufacturing Property

Hazardous materials released at manufacturing facilities are common, especially at older facilities that were in operation before the current environmental regulations were in place. Since new owners are liable for historic contamination at a property, the presence (or the potential presence) of hazardous materials has often hindered redevelopment of manufacturing properties. Many of these properties can be developed successfully, however, and it is increasingly common to find new productive uses for older manufacturing locations. As long as all parties involved in a redevelopment project address the historic contamination issues cooperatively and practically, a successful redevelopment is often possible. This article looks at the various motivations of parties to a redevelopment and describes the elements that contribute to a successful project.

■ **Characteristics of Environmental Contamination.** Generally, the presence of hazardous materials in the environment cannot be detected readily. Very often, a property owner, even an owner who has held the property for decades, has no precise information about whether hazardous materials have been released, where they have been released and the extent of the release. Contamination often is hidden underground and may have remained in place for decades, often without incident. The contamination can cause problems if people are exposed, but, in many cases, exposure is very limited, if at all.

Once development begins, however, the property use may change. Buildings or parking lots that have limited access to contaminated soil are taken out or moved, soils are excavated and moved around, groundwater is accessed, and property use that was limited to adult occupational use may become residential. Thus, the entire exposure potential changes.

■ **Motivations.** Owners of manufacturing properties often are reluctant to agree to redevelopment because once the property use



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changes, hazardous materials that are present but are not a current risk can quite quickly become a large, unpredictable expense. Even if the property owner is in the midst of a cleanup, many cleanups can be staged so that costs can be allocated predictably over many years. Many owners simply prefer to leave a property vacant rather than risk activities that might end up costing more than the property value or more than the owner is willing to spend. This approach ignores the sometimes significant carrying cost for the property (insurance, taxes, maintenance, etc.), the stigma of owning property that is a community eyesore, and the reality that at some point the property will have to be addressed.

Persons advocating or proposing redevelopment may have unrealistic expectations that a property owner will remove willingly all contamination and present a property free from any hazardous materials. Several decades of remediation experience have taught environmental professionals that complete removal of hazardous materials can be prohibitively expensive, very disruptive and sometimes unnecessary to protect human health and the environment.

An expectation of complete removal will make redevelopment very unlikely. With cooperation between all the parties to allow for a risk-based cleanup tailored to the particular redevelopment needs, a reasonable cleanup that will allow for the redeveloped use often is possible and practical.

■ **Elements Critical for Success.** The following elements will contribute to the success of the project:

1. **Gather complete information.** The first steps to a successful redevelopment are gathering information on the contamination and developing a plan among all parties to address the known issues. Not all discoveries of hazardous materials need to be reported to a government agency. By carefully coordinating with legal counsel knowledgeable in the reporting requirements, a good deal of information can be gathered in advance of agency participation.

2. **Tailor development plans to address known contamination.** The redevelopment plans can be designed to minimize the amount of remediation required. For example, parking lots or buildings can be located where contaminated soils need to be capped.

3. **Allocate costs among development parties.** The environmental

remediation costs may be allocated among different parties with an interest in the development. For example, the old owner may agree to monitor long-term groundwater to ensure no migration, but the developer may address building issues such as asbestos removal and vapor barriers in the basement.

4. **Take advantage of alternate funding sources.** Municipalities may have access to federal brownfields assessment money or other funding sources to contribute to the project costs. federal new markets or historic tax credits may be available to provide the needed extra increment of funding.

5. **Involve the Colorado Department of Public Health and Environment's Voluntary Cleanup Program.** Where many parties are involved, including lenders, credibility of the cleanup process is key. The Colorado Department of Public Health and Environment has a Voluntary Cleanup Program that will oversee the remediation and at the end issue a letter that no further action is required. The involvement of the Voluntary Cleanup Program ensures that the remediation was performed correctly and that the redeveloped use meets state environmental standards.