



Redeveloping “brownfield” sites

By Camille Atrache

Every acre developed in a brownfield project saves up to an estimated 4.5 acres of greenfield land from being developed in an outlying area.

Brownfield properties are lands that are potentially contaminated due to historical, industrial or commercial land use practices, and are underutilized, derelict or vacant and need to be cleaned up before they can be redeveloped. Brownfields can be found in communities large and small, urban and rural.

The estimated number of brownfields across Canada range from 30,000 to 100,000. They include locations such as abandoned service stations, railway yards, junkyards, dry cleaners, factories, foundries and mills. It is estimated that 40 per cent of all potentially contaminated properties across Canada are found in Ontario.

Brownfields are often situated in key areas throughout a community, such as the downtown or along the waterfront. The key to these properties lies in their value - not just their

monetary value, but their cultural heritage value and social value as well. For

instance, a building or structure on a Brownfield property may have cultural heritage value because it's an example of an early type of construction or because it's associated with an event that is significant to a community.

The redevelopment of brownfield properties can also increase community pride, encourage

economic investment and contribute to the health and vitality of a community.

Developing a brownfield property can increase your score within the Leadership in Energy and Environmental Design (LEED®) rating system. For example, under the LEED system, points are given for “sustainable sites”, including the redevelopment of a contaminated property.

Brownfields are strategically located sites and represent an important part of the economic land supply. Yet brownfield redevelopment often remains more expensive, time consuming and complex than traditional greenfield properties (properties which have never been previously developed). The benefits of redevelopment far outweigh the costs. In fact, in many cases, leaving these properties idle presents liability risks and financial losses, not to mention the potential impacts to the environment and human health.

Reusing brownfield properties builds sustainable communities by effectively redirecting growth, preserving green space and ensuring the wise management of land and other resources. As most Brownfields are located within the city core, redevelopment makes use of existing transit and other public infrastructure, reducing investment costs. The community benefits as a whole with the added economic activity and increase in municipal tax revenue.

There has been a track record of success in remediating and redeveloping brownfield sites across Canada and the United States. However, most of these successful projects have been called “easy” sites by those involved in brownfield redevelopment.

To encourage redevelopment, Ontario's environmental legislation provides general protection from environmental orders for historic contamination to municipalities, creditors and others. Current brownfields legislation provides property owners with general protection from environmental cleanup orders for historic contamination after they

have appropriately remediated a site.

The Ontario government recently passed legislation to encourage more interest and participation in brownfield redevelopment from municipalities and the private sector. Recent legislative changes make Ontario a leading jurisdiction in brownfield remediation and redevelopment.

The new brownfield's legislation will offer flexibility and incentives for property owners and developers to clean up and develop contaminated land at reduced costs, with provisions for working with regulators and municipalities on using tax breaks and initiatives to finance projects. It will also provide a rigid framework and place additional burdens on professionals conducting site assessments and cleanups.

The new Ontario legislation protects developers from provincial cleanup orders in cases where contaminants migrate from a property. This would apply once cleanup documentation is filed, as long as the migration does not exceed defined environmental standards and the developers did not cause the contamination. Consultants and contractors doing cleanup work are also protected from provincial cleanup orders.

The new regulation does not, however, provide sweeping immunity to current or past owners of brownfields in, for example, situations where contamination has migrated off site or caused another party to suffer damages for which they can sue in the courts.

There have been numerous situations whereby unexpected financial problems have risen for new owners who inherited sites as gifts or purchased properties without proper due diligence, as well as for the previous owners who caused the contamination.

Conducting proper due diligence is a must when planning for developing a brownfield site. It will help avoid or minimize potential unnecessary financial costs. A clear understanding of the location, types and levels of contamination is crucial. More importantly, off site contamination is the main issue that needs to be determined or addressed in this case. The selection of an experienced and competent environmental consultant as well as environmental contractor with the right insurance coverage is a key factor in the due diligence for such properties. **B**

Camille Atrache is chief operating officer and partner at Tri-Phase Environmental Inc.

