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A new grade for Connecticut brownfield redevelopment - new initiatives underway

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2014 is half completed, but with the evolving brownfield landscape in Connecticut, the state's brownfield stewardship report card for 2014 already deserves an A rating. Several new initiatives are underway - both from the state administration and legislature. Each year, the state continues to bolster its programs and funding in order to prioritize and stimulate brownfield development in all municipalities. The first six months are setting a new standard for resurrecting these properties and turning them again into productive use.

First, as of January 28, Tim Sullivan was appointed the new state director of brownfield, waterfront and transit-oriented development within the Connecticut Department of Economic and Community Development. He previously served in New York City under the mayor Bloomberg administration, where he was the chief of staff to the deputy mayor for Economic Development. For the first time, Connecticut has a director focused on overseeing all the state programs focused on redeveloping the state's brownfields and spearheading the funding and liability relief programs, coordinating with municipalities, businesses, developers and the banking community. He is to captain brownfield projects and pull together the various agencies in state government so that efficient development may occur and a project may be developed successfully.

Second, it is abundantly clear that governor Malloy is committed in word and actions to brownfield initiatives as he continues to put necessary funds on the table. While brownfield development is a real estate deal, mitigating the historic environmental conditions to transform the site often necessitates public sector support to make such sites attractive. Public sector financing stimulates the development, assists to manage the risks, and leverages traditional lending. Hearing these concerns, on May 15th, governor Malloy announced that \$20 million of brownfield funding was available in the form of both grants and loans, with up to \$1 million dedicated to municipal assessment grants. While the window for applications on the grants and loans closed on June 30, the municipal assessment funding is open until July 14. This funding round appears on the heels of a recent round of grants announced on April 16, where more than \$3.8 million was awarded to 21 municipalities to perform pre-development investigative activities, so that the sites may be more attractive for redevelopment.

Finally, the legislature remains a driving force and continues to prioritize (and pass unanimously) a brownfield bill each year. This year, included in Public Act 14-88, are two new initiatives that are very important to brownfield redevelopment. First, a portion or piece of property (regardless of how large or small) may be verified through an interim verification to the Department of Energy & Environmental Protection (DEEP). This means, for example, that a person who cleans up 50 out of 100 acres, or 3 out of 6 acres, can qualify for an interim verification. This designation means (a) the investigation has been performed according to prevailing standards and guidelines, (b) the

remediation has been completed except for groundwater, (c) the groundwater remedy, its duration and ongoing operation, maintenance and monitoring continues and (d) there are no current exposure pathways that have not yet met the remediation standards. This significant change provides certainty as to the status of the portion of the property, allows a development and financing to readily move forward, and the costs for the work remaining can be more readily projected. Although an excellent step, any owner seeking an interim verification must still file an environmental land use restriction (ELUR) for that portion (assuming one is needed). To assist owners who are able to take advantage of this program today, the legislature did provide a grace period. If a portion qualifies, an application for the interim verification may be filed without recording an ELUR until December 31, 2014. But, such owner has until September 1, 2015 (or a later date as approved by the DEEP) to record the ELUR.

The legislation also exempts building materials from the classification of whether a site is subject to the Connecticut Transfer Act. Previously, even if no hazardous waste was generated at a property, a renovation or demolition of a building could trigger the applicability of the Transfer Act to a site, necessitating a much more extensive investigation of a property. Effective now, the removal or abatement of building materials - even if generated and shipped off-site as hazardous waste - does not create a Transfer Act site.

So, the first six months, deserve an A. What the next six month's report card will be remains a work in progress, but 2014 is certainly off to a record start.

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