

Federal Brownfields Tax Incentive:

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Milwaukee, Wisconsin

Overview

The Federal Brownfields Tax Incentive encourages brownfields redevelopment by allowing taxpayers to reduce their taxable income by the cost of their eligible cleanup expenses. The Incentive was originally signed into law in August 1997 as part of the Taxpayer Relief Act. It was renewed in October 2004 through the Working Families Tax Relief Act of 2004 and continues until December 2005. To qualify for the Tax Incentive, three criteria must be met:

- The property must be held by the taxpayer incurring the cleanup cost for use in a trade or business;
- Hazardous substances must be present or potentially present on the property; and
- The taxpayer must obtain a statement from a designated state agency verifying eligibility for the Tax Incentive.

Designed to spur investment in blighted properties and assist in revitalizing communities, the Federal Brownfields Tax Incentive can serve as a critical tool in brownfields cleanup and redevelopment efforts.



Project Highlights

- The Federal Brownfields Tax Incentive has assisted in the cleanup and redevelopment of idle properties along Martin Luther King Drive in Milwaukee, Wisconsin.
- On one formerly contaminated property, new commercial space and residential units were developed.
- The Federal Brownfields Tax Incentive allowed the site's developer to expense more than \$100,000 in cleanup costs.

Project Background

As a local environmental engineering firm in Milwaukee, Wisconsin, J. Spear Associates has advised multiple clients on the advantages of using the Federal Brownfields Tax Incentive. One of those clients was a contractor who had recently purchased a property on Martin Luther King (MLK) Drive. The approximately one-acre property is within the Historic King Drive Business Improvement District, and the contractor was looking to create a mixed-use office/residential/retail redevelopment project to coincide with the area's general revitalization. However, initial assessments of the site revealed a high level of PCBs in the groundwater and some cleanup would be needed before any redevelopment could occur.

Mr. Spear, head of J. Spear Associates, first heard about the Federal Brownfields Tax Incentive several years ago, at an EPA-sponsored seminar in Wisconsin. Presenters included EPA staff and consultants who had developed tools for brownfields stakeholders to assist with cleanup and redevelopment efforts. One tool which was discussed, the Federal Brownfields Tax Incentive, caught Spear's attention and he began to think of ways to creatively combine elements in construction and cleanup that would be eligible to deduct under the Tax Incentive.

Benefits of the Tax Incentive

Cleanup of contamination on the site was easier than originally suspected, as tests revealed that the property's contamination had actually migrated from another site. J. Spear Associates advised its client to cap the contamination; a portion of the cap was then used as a parking area for the site. Through the Federal Brownfields Tax Incentive, the developer expensed more than \$100,000 in cleanup costs. The site is now home to new commercial space, occupied by a dentist's office, and two new apartments units.

Mr. Spear lauds the Tax Incentive as an advantage to developers, one that allows brownfields stakeholders to know earlier in the cleanup process if a planned redevelopment is feasible. Mr. Spear believes that with the Tax Incentive, "stakeholders do not have to spend a large amount of their own money on cleanup costs only to eventually realize that redevelopment isn't a possibility." Regarding the new commercial and residential redevelopment on MLK drive, Spear says, "I feel like the Incentive really drove the project forward."

Process for Utilizing the Tax Incentive

According to Mr. Spear, utilizing the Federal Brownfields Tax Incentive is not a difficult process; J. Spear Associates advises its clients to follow the guidelines set forth by the Wisconsin Department of Natural Resources (DNR). Property owners must request a certification statement from the Wisconsin DNR that the property is a "qualified, contaminated site." Deductible costs include site assessments, investigation and monitoring, remediation activities, operation and maintenance costs, voluntary cleanup program fees, and costs for

the removal of demolition debris.

Community Impact of the Brownfields Tax Incentive

Due to the efforts of brownfields stakeholders and consultants such as J. Spear Associates, the MLK Drive area and surrounding neighborhood are experiencing a positive transformation. Redevelopment of the formerly contaminated site on MLK Drive improved the area's business environment by providing additional commercial and sought-after urban residential space.



New apartments and a dentist's office built on a former brownfields property.

Continuing Success

While Mr. Spear supports developers' use of the Federal Brownfields Tax Incentive, he believes that more brownfields stakeholders would take advantage of it if they were aware of its availability. Mr. Spear acknowledges that the flexibility in the types of cleanup costs that can be deducted, such as capping, can significantly relieve a portion of a taxpayers' financial burden in an eligible cleanup and redevelopment project. J. Spear Associates will continue to promote and support the use of the Federal Brownfields Tax Incentive as a means to accomplish cleanup and redevelopment projects in Milwaukee.

For more information about the Federal Brownfields Tax Incentive, please visit <http://www.epa.gov/brownfields/bftaxinc.htm>.

For more information on requirements for using the Federal Brownfields Tax Incentive in Wisconsin, please visit http://www.dnr.state.wi.us/org/aw/rr/financial/fed_tax.html.