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Conducting brownfield transactions in central NY: The fundamentals to keep you focused on the deal

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SWRNA

Upstate brownfields represent significant challenges to development, sometimes the least of which is the amount of contamination on the site. Unlike our downstate counterparts, central, northern, and western New Yorkers do not enjoy the robust property values that make environmental issues an incidental cost of development. Although we have enjoyed increased property values over the last several years, values remain at a level that make property transactions containing environmental issues often unattractive or simply undoable.

But it is not all bad news. There are ways to successfully conduct brownfield transactions in Syracuse and other parts of central New York. S&W Redevelopment of North America, LLC (SWRNA) acquires, cleans up, and redevelops brownfields across NYS. SWRNA has successfully completed brownfield acquisitions in central New York including several sites in Syracuse. The key to any brownfield transaction is to remember that it is a real estate deal, not an environmental clean up. You must apply the same real estate principals you would apply to a deal with no environmental issues. It is easy to get overwhelmed with the environmental portion of the transaction. Some fundamentals to keep focused on include:

- Know your end use and that it can sustain the property value clean.
- Make sure your purchase price accounts for environmental condition.
- Plan for the worst. Make sure the deal works under worst case scenarios.
- Don't get emotionally involved. Always be able to walk away if it doesn't make business sense.
- Brownfields take a long time. Sites always take longer for development, preparation, and approvals so be prepared.
- Be creative. Problems arise mid-stream so be ready to come up with creative solutions as you go.
- Location. Like any other real estate deal, the location has to make sense.

SWRNA's brownfield deals have taken a variety of forms. Environmental issues often give the buyer the opportunity to acquire a property at a lower cost. If the purchase price is minimal, the cleanup cost may no longer seem daunting. Municipalities will sometimes let brownfields go for little to

nothing at tax auctions. These can be good deals, but a buyer should always beware since once you own it, any contamination is your responsibility, regardless of whether or not you are the polluter. SWRNA has acquired several severely delinquent tax parcels in Syracuse. After clean up, one of the properties sold in 2005 and two others will be sold this year. By sticking with the fundamentals listed above, particularly purchase price, location, and creativity, SWRNA was able to make these deals profitable.

Other transactions take a less traditional form, particularly when the property is upside down, which happens too often in central New York. In these situations the buyer can sometimes negotiate a contribution from the owner, especially if the

owner is the polluter of the property. It may be worth it for an owner to make a single contribution and give up their property, rather than face state regulatory intervention that has no defined budget or time frame. SWRNA is currently completing remediation on a property it would never have been able to take on without a contribution from the owner.

Although these deals can be done, they cannot be done in a vacuum. SWRNA does all of its projects under NYS's Brownfield Cleanup Program (BCP). The BCP was approved in 2003 and became New York's first statutory program for volunteers to deal with brownfields. The program encourages private redevelopment of brownfields by offering significant refundable income tax credits based not only on the

amount spent on site clean up, but on the total investment in the end use development. The credits range from 10-22% and can become quite significant, especially if the development investment reaches into the millions or tens of millions of dollars. For example, developers building a \$10 million building on a BCP site would receive a minimum \$1 million in refundable income tax credits. This may be the financial incentive that makes a marginal deal workable. However, the state does not give these credits away. When doing brownfield transactions administrative costs of the BCP can add up quickly. Many people make the mistake of estimating their clean up costs as strictly the investigation and cleanup of the property. Going through any regulatory program

involves administrative time and effort for approvals, regulatory reviews, citizen participation, meetings, and regular submittal of forms and notifications. Your soft costs can eat up your project quicker than you might think.

So where do you start? You start with the question, "If this site were clean, would I do this real estate deal?" If the answer is yes, you proceed with appropriate caution and due diligence, and most of all with an open mind. Brownfields in central New York can work as long as we think about them as real estate deals that require creative thinking, not an environmental clean up project.

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