

***Location, Location, Location:
Brownfields Program Placement in Local Governments***

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Introduction

Although most environmental regulation is concentrated at the federal level, states and local governments are moving more to the forefront in dealing with environmental issues. “As of 2001, over 75% of the federal environmental programs that can be delegated have been delegated to the states.”¹ By the end of 2004 all 50 states had some form of brownfields program. Although local governments have not been forced to create any form of brownfields program—many have chosen to undertake that task. “... [T]o succeed in brownfields, a local community must juggle a complex set of factors. Funding and financing schemes mix with cleanup tools and technologies, multiple levels of regulation twirl round issues of legal liability, risk assessment intersects with real estate, and public participation blends (hopefully) with redevelopment plans. Success in brownfields is no easy task, despite the growing abundance of information on the issue.”²

The complexities associated with dealing with brownfields make the creation of a local program logical for many local governments. “A program consists of governmental action initiated in order to secure objectives whose attainment is problematical” (Pressman, xx). Brownfield redevelopment, by virtue of the uncertainties associated with contamination, is an objective filled with problems. Unlike the state and federal government, local governments are at the ‘street-level’ and, as such, they face the issue of brownfield properties on a daily basis. Being at the ‘street-level’ literally means that the local government deals with the specific daily chores associated with service provision and citizen service. This proximity to brownfields *forces* most local governments to be involved, at some level, with both the problems (from their existence) and the benefits (from redeveloping them) that can be associated with brownfields. Even the local government that chooses not to take an active role in brownfield remediation and redevelopment will be impacted through lost tax revenue, community blight, and other indirect consequences of idle, abandoned, or underused properties (brownfields). While the state and the federal legislators are shielded to some degree from the citizen complaints and direct problems that brownfields create, local government officials do not enjoy that same degree of distance. Their proximity to brownfields and the complexities surrounding brownfields creates a need to develop some type of system, most often a program, to deal with these properties.

The process of creating a local brownfields program requires that city officials make decisions on the placement of that program within their governmental structure. Recognizing the fact that creating a new bureaucracy is both time and resource consuming, localities usually opt to place their brownfields program within an existing structure. However, what most local governments do not recognize, or account for, is that the organization of their local government and the structure of their existing bureaucracies can have significant influence on the outcomes of their local brownfields program. Existing bureaucracies have embedded cultures, missions, and goals which will all dictate how the programs they control will be handled. In addition to the embedded facets of existing bureaucracies, relationships with other local agencies will also contribute to the success or failure of a local brownfields program. This practice guide will help local officials answer the question “*Where do I put my brownfields program?*”

by offering some insights into the impact that the placement of a program can have on that program and by outlining some examples of placements that have had successes and failures. If a city makes the decision to create a brownfields program, it is imperative that local officials understand the impacts organizational placement can have.

The Bureaucracy

In the United States the predominant way in which governmental activities are organized is through the bureaucracy. According to Webster's dictionary, bureaucracy is defined as "[a] system of carrying on the business of government by means of departments or bureaus, each under the control of a chief." These departments vary widely in scope, power, authority, accountability, and culture. Although bureaucracy is the accepted and normal means of carrying on governmental business in the United States, it is not always the most appreciated facet of United States government. According to one spoof definition of bureaucracy it can be defined as follows: "You have two cows. At first the government regulates what you can feed them and when you can milk them. Then it pays you not to milk them. After that it takes both, shoots one, milks the other and pours the milk down the drain. Then it requires you to fill out forms accounting for the missing cows."³ Although this representation may seem a bit harsh, the reality is that bureaucracies in United States do not have the most favorable image - an image that is, at least some of the time, based on real problems people experience in their relationships with bureaucracies.

This negative opinion of bureaucracy has not always been the normal, accepted view. "Curious as it may seem today, bureaucrats in the '30s were regarded by many as heroes in the struggles for a better social order" (Kaufman, 1956, p. 3). The negative view of bureaucracy has emerged "...because substantial (though minority) segments of the population apparently believe the political, economic, and social systems have not delivered to them fair — even minimally fair — shares of the system's benefits and rewards... [Partially as a result of] gross discrepancies between the promise of the programs (as construed by the populace to be served) and performance — sometimes because the expectations of the populace are unrealistically optimistic, sometimes because programs are impeded by difficulties that could not be foreseen, and sometimes because bureaucracies are too bound by habit or timidity to alter their customary behavior in any but the most modest ways" (Kaufman, 4-5). Although bureaucracy has many difficulties and negative images associated with it, it is still the way in which the United States' government is organized and, as such, it is important to understand the influence it has on the programs that it is trusted to administer to the public. Although bureaucratic structure is not the sole reason for a particular program's outcome, it is an important contributor and, as such, needs to be well understood.

In examining local brownfield programs it is useful to understand that the central task of any brownfield program will be some variation of remediating and/or redeveloping as many brownfield sites as possible. These brownfields are problems to the community and getting rid of them will be the central task of a program. It is important to look at the central task rather than goals because "...government agencies, much more than business

firms, are likely to have general, vague, or inconsistent goals about which clarity and agreement can only occasionally be obtained.”⁴ According to the Environmental Protection Agency (EPA) their brownfields program has the task of “...empower[ing] states, communities, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely clean up, and sustainably reuse brownfields.”⁵ Given the fact that brownfield programs are not mandated by law, the methods by which the central task is achieved vary widely from program to program. However, examining existing programs and the successes and failures they have enjoyed related to their central task can help local officials in making the decision of “*Where do I place my brownfields program?*”

State Influence

A logical starting point for an official looking into creating a brownfields program is to examine their state’s brownfield policies/programs. All 50 states have created some form of a brownfields program; however, those programs vary widely from state to state. Some states, like Florida, have an extensive program that includes liability waivers and financial and technical assistance. However, other states, like South Dakota, have fairly limited programs that are just getting started and have little to offer. The state will have a direct influence on local programs through their requirements, aid, and/or lack of resources available to the local governments. A brief example will be helpful here.

Florida

Florida’s state brownfield program is located in the Department of Environmental Quality. The program was created in 1997 as a result of state statutes called the Brownfield Redevelopment Act. This group of statutes is essentially a lengthy list of what local governments are to do if they opt to use or take advantage of any of the state created benefits. The major features of this dictation are as follows: “the **local government** [emphasis added by author] must designate a brownfield area and the local government must establish an advisory committee to address redevelopment of the designated brownfield area.” This requirement simply says that local governments have to designate an area in their city that brownfield redevelopment actions will be focused in. In order to utilize any state incentives or create a local program the local government must complete this designation of an area. An important feature of this state mandated requirement is that the state prefers that area to be either in a community redevelopment area, enterprise or empowerment zones, closed military bases, or brownfield pilot project areas. If a local government chooses to designate a brownfield area that is not in one of these areas a public hearing has to be held about the proposed designation. No specific size or other location constraints are placed on the city. This is an important feature that will impact the local government’s program. By requiring a locality to designate a specific brownfield redevelopment area, local governments are limited in the scope by which their local program can act. Of course, a local government could choose not to create a local program at all, thereby eliminating the need to designate a brownfield area.

Although Florida has placed this constraint on the local governments, it has offered a number of beneficial sub-programs to localities in relation to their own brownfield programs. These programs include the following: liability waivers (through the state brownfield site revitalization agreement), grants (general state grants and community development block grants), tax incentives (wide range of tax incentives from electricity tax exemptions to waiving of impact fees), and state loan guarantees (through state loan pools). A good starting point for any local government interested in creating a brownfield program is a thorough examination of the state program's requirements and incentives. Building upon or with the state program will most likely provide a jumpstart any local brownfield endeavor. Local governments in Florida, although constrained about the designation of a brownfields area, enjoy a menu of brownfields incentives and tools to begin formulating their own program.

South Dakota

South Dakota was one of the last states (with North Dakota) to create a brownfields program. In 2004 the state legislature passed HB 1175 which authorized the creation of a brownfields revitalization and economic development program.⁶ This authorization also created two funds; a brownfields cleanup revolving loan fund and a brownfields assessment and cleanup fund. Given the very recent authorization of the program, South Dakota will offer little assistance to local governments looking to start their own program.

Florida and South Dakota Compared

Although Florida and South Dakota can be viewed as extremes in terms of the scope and extent of their state brownfields programs, a comparison clearly demonstrates the impact that a state program will have on a local brownfield program. A local government in Florida will face rules but be offered important tools and assistance in creating their brownfields program. Conversely, a local government in South Dakota will not face specific, state created rules, but also will not be offered the menu of tools that localities in Florida are offered. Overall these two examples are meant to illustrate the importance of recognizing the influence that a state program will or will not have on the creation of a local program.

Local Influence

After recognizing the influence a state can have on a local brownfields program, it is useful to move to the impact that a city, and its structure, can have on its brownfield program. It is helpful to examine two cities with very different city structures — Jacksonville, Florida, and St. Petersburg, Florida.

Jacksonville

Jacksonville, Florida, is a city of over 800,000 people and 841 square miles of area (the largest city in terms of land area in the US). In 1968 Jacksonville merged the city and

county to form one metropolitan government. “Prior to city-county consolidation in 1968, the governmental structures of Jacksonville and Duval County were marked by a large amount of organizational fragmentation” (Stephens and Wikstrom, 200, p. 75). After the merger the city operated more, although not purely, in a consolidated or concentrated fashion. Jacksonville’s centralized character has directly impacted local bureaucracies and the city’s brownfield program. For example, in 1997 the state, on behalf of the city of Jacksonville, passed HB 917. HB 917 states, “Whereas, the city has realized many benefits from the centralized aspects of consolidation and desires to undertake similar centralization of economic development programs so as to ensure more efficient and practical means of addressing the goals and strategies for economic development and to expand the city’s utilization of economic development ‘tools’ authorized by state law...” Prior to the passage of this bill, many of the individual bureaucracies had some level of economic development capability and/or discretion if it applied to a program it was charged with administering. However, after the passage of this bill, all individual bureaucracies lost their economic development ‘arm’ to a centralized, umbrella agency called the Economic Development Commission. This commission “...oversees all economic development programs for Duval County’s consolidated government and offers a streamlined approach and a team of professionals to offer one-stop service to identify infrastructure needs, customize assistance packages and guide businesses through the permitting process.”⁷

The brownfield program of Jacksonville resides in the Planning Department and more specifically in the Community Development Division. With the umbrella agency overseeing economic development activities this program, which arguably is directly related to economic development, is forced to filter economic development activities through an outside bureaucracy. This particular impediment can work to directly restrict the creation and usage of economic development tools on the part of the local brownfields program. This type of local structure is something with which all government officials need to be concerned when creating a program that relies heavily on economic development tools. Having a program rely upon an outside agency for any economic development activities poses several problems that can negatively impact the performance of the program. These problems include the inefficiency of having to *seek permission* from an outside source, which will undoubtedly hold up a remediation and redevelopment through an approval process. Additionally, as regimes change within each department, the program could face hurdles that impede its functioning. More specifically, if relationships between the heads of each agency are compromised or are not cooperative, then the program can be put at a disadvantage. It is not too difficult to envision a scenario in which every request from *that* department gets placed in a to-do basket for a bit longer than other requests. The city’s centralized structure has influenced bureaucracies in Jacksonville and has created a situation where their local brownfield program is crippled in the sense of not being able to control an important aspect of brownfield redevelopment— economic development. Since the local program was created, Jacksonville has five remediations in progress with no completions to date and has secured \$900,000 in total grants from the EPA.

Jacksonville's brownfield program is not only constrained by the city's centralized nature, but it is also constrained simply by where it is placed. As previously stated the program is in the Community Development Division of the Planning Department. This particular division has laid out a mission statement that is as follows: "To improve the quality of life of low and moderate income citizens of the City of Jacksonville."⁸ While this mission statement is appropriate for a division that aims to alleviate issues related to poverty, brownfields are not specifically confined to low income areas. Having a program placed into a division whose own mission is not necessarily conducive to the central task of that program will certainly impede that program's performance.

St. Petersburg

St. Petersburg, Florida, is the fourth largest city in terms of population in the state of Florida. In 2000 the city had a population of 248,232. Structurally, St. Petersburg is much more fragmented than is Jacksonville. This fragmentation has avoided the strong centralization of economic development activities that was apparent in Jacksonville. St. Petersburg has placed its brownfields program in its Economic Development Department. Within this department resides a plethora of activities and programs including historic preservation, business development incentives, transportation road grants, and many other economic development related activities. With the less centralized, or fragmented, nature of this city the Economic Development Department can be seen as a 'catch all', such that anything that is remotely related to economic development or uses economic development tools has been placed under this department. It can be argued, like many proponents of centralized government argue, that this reduces efficiency and creates overlapping duties. However, looking at the local brownfield program reveals that this structure has aided the program in achieving remediation and redevelopments of local brownfields.

The St. Petersburg brownfields program has received \$2,461,000 in grants to date for Brownfield activities in St. Petersburg. These grants have included the following: \$200,000 EPA Assessment grant; \$1,000,000 EPA Brownfields Economic Development Initiative; \$111,000 EPA USTfields grant; \$350,000 EPA Revolving Loan Fund Grant; \$200,000 EPA Brownfields Petroleum Assessment Grant Funding; and \$600,000 state of Florida Office of Tourism, Trade and Economic Development Grant.⁹ This level of grant activity is more than double what Jacksonville has received (over \$2.4 million compared to \$900,000).

A clear and illustrative example of the impacts that the local bureaucracy has had on brownfield remediation can be seen with the Dome Industrial Project. In the 122-acre Dome Industrial Park Project several divisions of the Economic Development Department have been involved and, due to this involvement, a variety of incentives from many different sources have been utilized. In this project Historical Property Funding, State Bank Participation Funding, Housing Authority, and Brownfields Grants were used for various portions of this site. Having the structure of this department arranged in such a way so that it is possible for all of these funding sources to work together in this manner

has created a significant amount of success in getting this project remediated and redeveloped.

In recent years more attention has been paid to the impacts that a lack of communication and isolation in government agencies can have on that agency's outcomes. Specifically, the Central Intelligence Agency (CIA) and Federal Bureau of Investigation (FBI) have endured a significant amount of negative attention for their failure to communicate information that may have been able to stop the events of September 11th [see, for example, The 9/11 Commission Report chapter 13 available online at: <http://www.9-11commission.gov/report/index.htm>]. Taken on a smaller and less disastrous level, the same lack of communication can impede a local program. In St. Petersburg the city has been successful in arranging this department so that multiple programs can all *speak* to each other and utilize varying sources to complete projects.

Conclusions on Local Impact

Although Jacksonville may be uniquely centralized due to its decision to consolidate with its county, this type of relationship is not uncommon in local governments, and variations of centralization will exist in many other cities across the US. When local officials make the decision to organize, or re-organize, their government, it is imperative that the structure is conducive to coordination, cooperation, and information sharing. In Jacksonville no locally initiated brownfield incentives have been created, grant activity has been mediocre at best, and there are no large or impressive success stories to report. Although some of the results of this program could be attributed to employees or other non-bureaucratic reasons, it is important to recognize that without the authority over economic development tools and sovereignty to make decisions directly related to a program— that program will be set up to fail. A local government looking to create a brownfields program will need to understand and appreciate whatever state and local structure exists. By understanding the overall structure that a local government faces, the official who creates a brownfields program can address impediments, challenges, and benefits to be endured or gained through the system.

Inter-Agency Relationships

In addition to the overall local structure of a city, the relationships between local bureaucracies can have a significant impact on a program within a local bureaucratic system. Bureaucracies' level of dependence on each other varies widely across local governments and across tasks. For example, a bureaucracy with the central task of caring for local landscaping issues will have little dependence on other bureaucracies. Conversely, a bureaucracy with the central task of promoting economic development in a city will have a high level of dependence on other bureaucracies. Economic Development can be seen as a task that both broad and narrow, in the sense that you aim to achieve one thing— economic development; but have wide discretion in the method of achieving that one thing. An economic development bureaucracy could easily come into contact, or depend upon, other agencies for achieving their central task. For example, a business that may or may not locate in an area will require a number of infrastructure

related items and as such will affect agencies that deal with these infrastructure needs and problems. A bureaucracy that can easily maintain and foster relationships with other bureaucracies will be in a better position to achieve its central task. An example is useful here.

Returning to Jacksonville's brownfield program reveals some areas where inter-agency cooperation could benefit their brownfields program. "The Department of Planning and Development manages Jacksonville's planning and community development activities; makes zoning recommendations to the City Council; advises the Planning Commission regarding exceptions and variances in the Zoning Code; develops the city's Comprehensive Plan and assists in the reapportionment of the City Council districts."¹⁰ A fair amount of issues surrounding brownfield redevelopments may be facilitated by different divisions of the Planning Department. For example, a brownfield redevelopment that would be successful only if the zoning of the property was changed could easily be facilitated within this department. Conversely, a redevelopment that could be facilitated or accomplished by redeveloping the site into affordable housing would be aided through the assistance of an outside agency—the Jacksonville Housing Commission.

The Jacksonville Housing Commission has a lengthy list of its goals and tasks in which one reads, "Identify, specify as to location and map substandard housing properties and blighted areas of the city for the purpose of elimination."¹¹ An additional task reads, "Provide technical and financial assistance to non-profit and faith-based organizations to increase their capacity to provide infill housing."¹² Both of these stated tasks could prove advantageous for the local brownfields program. It is not difficult to envision a local nonprofit or faith-based group looking to invest into affordable housing. Brownfields are increasingly becoming a target for low income housing redevelopments due to the increase in usage of Risk Based Corrective Action and the appeal of Federal Low Income Housing Tax Credits (see Practice Guide #10, *Brownfield Redevelopment: Make it Possible!*). An agency that can communicate readily and effectively with outside agencies will capture more opportunities and waste fewer resources in achieving their tasks.

Overall, it is important to recognize that a majority of the time no one local agency can serve in all capacities. Regardless of how inclusive that agency is, at some point a task will be best served through cooperation and coordination with a separate agency. Department heads should be chosen so that communication and cooperation is facilitated, meetings should be regularly scheduled to provide input and feedback on current projects, and city codes should be written in a manner that promotes or encourages cooperation between local agencies.

Conclusion

It is important to recognize that local, state, and bureaucratic structure will influence a local brownfields program. As most local officials know, creating a program requires a significant commitment in the form of time and resources. This required level of

commitment requires that public officials be wise in their placement of brownfield programs so that public dollars are not wasted on an ineffective or inefficient program. Brownfields are a problem and opportunity for local governments. Creating a program to deal with these properties is a wise and logical choice, but should be undertaken with caution and foresight. Understanding the state and local environment, both in terms of structure and informal relationships, is imperative for a properly or effectively functioning program. Looking at the broad examples outlined in this practice guide demonstrates the ways in which local programs can be influenced. Cities in the state of Florida are given a menu of items to build upon but are required to designate an area for redevelopment focus. This requirement of a designation of an area that is the brownfield redevelopment area will require that states place a focus onto their programs. This can be a good or bad thing depending on what interests the city may have in relation to their brownfields. Conversely, a city in South Dakota will be free to construct their program as they wish but will not receive much assistance from their state.

Public officials are ethically bound to the public in which they serve. This obligation logically implies that when creating a local program the officials need to be wary of the impacts the local structure and informal relationships can have on these programs to ensure public resources are efficiently allocated. Failing to recognize structural impediments, like Jacksonville's local centralization, or structural benefits, like the *catch-all* nature of St. Petersburg's Economic Development Department, will necessarily lead to an inefficient or ill-placed program. Upon deciding to create a local brownfields program, public officials should thoroughly assess the structure of its local public organization and the relationships between local bureaucracies in order to maximize the effectiveness of the newly created program.

¹ <http://www.sso.org/ecos/states/StateInfo.htm>

² http://library.lp.findlaw.com/articles/file/00430/001216/title/Subject/topic/Property--%20Real_Eminent%20Domain%20and%20Inverse%20Condemnation/filename/property--real_2_5319

³ <http://www.whiteline.com.au/funnies/funnies33.htm>

⁴ Wilson, James Q. Page 25-26

⁵ <http://www.epa.gov/swerosps/bf/about.htm>

⁶ <http://www.state.sd.us/denr/DES/Ground/Brownfields/SDBrownfieldsLegislation.htm>

⁷ <http://www.coj.net/Departments/Jacksonville+Economic+Development+Commission/default.htm>

⁸ <http://www.coj.net/Departments/Planning+and+Development/Community+Development/default.htm>

⁹ <http://www.stpete.org/bdc.htm>

¹⁰ <http://www.coj.net/Departments/Planning+and+Development/default.htm>

¹¹ <http://www.coj.net/Departments/Jacksonville+Housing+Commission/default.htm>

¹² <http://www.coj.net/Departments/Jacksonville+Housing+Commission/default.htm>

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