We’ve all seen conference brochures that rely on colorful turns of phrase, promising to teach us how to “turn brownfields into gold” or “convert brownfields into greenfields.” These events are often attended by a mix of optimistic government agency representatives, well-funded developers, and environmental professionals eager for the long-promised market to gain some serious momentum. But out in the real world, the current state of the brownfields market can best be characterized as the title of the well-known Sergio Leone Western: “The Good, The Bad and The Ugly.” There are, however, some recent developments that could bode well for these eyesores that dot the urban and suburban landscape.

WHERE WE’VE BEEN
There’s no doubt: The brownfields market has come a long way in a short time. Back in the 1990s, the proliferation of state voluntary cleanup programs (VCPs) gave birth to a market surrounding the redevelopment of these abandoned, contaminated sites. The second phase of the market’s development, as noted recently by Robert Colangelo, executive director of the National Brownfield Association, began in 2000, signifying “the end of the beginning of the brownfields market.” By then, the low-hanging fruit had been picked, and what began as a cottage industry matured into a market with “real estate discipline,” as potential buyers and sellers of brownfields properties moved up the learning curve of environmental risk management.

WHERE WE ARE NOW
Currently, the market is in its third stage of development. Key factors driving strength in brownfields redevelopment include:

• Virtually every state has some type of VCP in place.
• A network of 5,000 to 10,000 professionals now specializes in brownfields redevelopment.
• Stories about the successful remediation and reuse of brownfields sites are widespread, contributing to a greater comfort level on the part of developers in building on these properties.
• The 2002 Small Business Liability Relief and Brownfields Revitalization Act earmarked funding for brownfields redevelopment initiatives and created a new landowner liability protection—the bona fide prospective purchaser protection—under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) specifically for purchasers of sites with known contamination at the time of purchase.
• A robust commercial real estate market and the record flow of capital from institutional investors is driving interest in financing brownfields redevelopment projects.
• A growing number of environmental consulting firms are offering finite risk transfer and taking equity positions on cleanup projects.
Corporations are putting their impaired, mothballed properties—an estimated 40% of brownfields real estate—on the selling block rather than accounting for the sites as environmental liabilities on their balance sheets under new corporate transparency requirements.

Those willing to look more seriously at brownfields have expanded to include real estate investment trusts, developers, municipalities, pension funds, insurance companies, hedge funds, and specialty development companies, to name a few.

WHERE WE’RE HEADED
Can the progress of the past decade persist? As land scarcity puts pressure on developers in urban areas, more demand is being generated for brownfields redevelopment projects. Thanks to expansions in the type of information available about a property’s past uses and improvements in technologies that allow for much more accurate characterization of a site’s current environmental condition, prospective owners and lenders can head into a real estate deal with their eyes wide open.

There are still some obstacles in the road ahead. One problem, according to a recent Wall Street Journal article, is reluctance on the part of commercial lenders to approve loan applications for contaminated sites. According to the article, a Seattle-based developer planned to build a major condominium development on one of the last centrally located sites in Colorado Springs, CO. Although state regulators approved the project, lenders hated it. Nearly 20 banks and private funding sources turned the developer down. Why? Because the site was contaminated by its past use as a gold and silver mill. This leaves developers to look to other nontraditional funding options. The financing for the Colorado project ultimately came in the form of an innovative offering by a firm that packages loans to brownfields developers as a bond-like instrument that is, in turn, sold to institutional investors (see “Brownfield Lending Perks Up a Little,” The Wall Street Journal, April 12, 2006).

On a promising note, there are signs that banks are moving up the learning curve in terms of truly understanding these properties and a lender’s own liability exposure in financing cleanup efforts. If bank lending on brownfields projects becomes more widespread, the potential could be significant. There is an estimated US$2 trillion of contaminated real estate out there and no shortage of developers interested in it for conversion to offices, shopping malls, and mixed-use developments. Awareness about these sites and tools for handling liability concerns can only improve. Even better, there seems to be significant interest from nontraditional participants, eager to invest in today’s robust commercial real estate market. The “good” in brownfields redevelopment could soon get even better!

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