

MICHIGAN

BROWNFIELDS REDEVELOPMENT

Dozens of sites throughout the state of Michigan that were once toxic, abandoned, or obsolete are being revived and put to use thanks to the state's brownfields revitalization efforts. Considered the premiere brownfield model in the country,¹⁷ the most recent version of the law, passed in 2000, has spurred significant investment from the state, local municipalities, and developers, including a variety of affordable housing projects, on sites that might otherwise remain underused eyesores.

- ✓ Redevelopment of brownfields
- ✓ Infill development
- ✓ Tax increment financing
- ✓ State tax credits

Michigan's brownfield strategy is one of a kind

One unique element of Michigan's strategy is its liberal definition of a brownfield, which expands significantly the amount of land that is eligible for redevelopment incentives. Under the law, the state is divided into core and non-core communities, based primarily on population. Non-core communities consist of the more rural areas of the state with significantly less development. These communities retain the standard brownfield definition, which includes abandoned or idle industrial or commercial sites where redevelopment is complicated by environmental contamination.

In core communities, on the other hand, land defined as brownfields is expanded to include blighted and functionally obsolete parcels, in addition to those that are environmentally contaminated. The 100 or so core communities are urban areas and inner-ring suburbs where the vast majority of brownfield redevelopment activities are taking place.

Brownfield financing tools are keys to its success

Michigan offers developers two major financing tools to promote development on brownfield sites. The first is revenues from tax increment financing (TIF), which can be used to help reimburse developers for the remediation process. The tax increment bonds are paid off from increases in property taxes created by the redevelopment.

The second tool is the Michigan Business Tax brownfields credit, which is offered to organizations redeveloping property declared as brownfields. The developer can apply for a tax credit of up to 10 percent of all eligible project costs including new construction, rehabilitation, and overall site improvement. The tax credit can be sold in a process similar to that of syndicating federal Low Income Housing Tax Credits (LIHTC) to raise equity for the project. These credits sell for about 80 to 85 cents for every dollar of tax credit.



Brownfields laws offer liability protection

A third unique feature of Michigan's brownfield efforts is the liability protection it offers to key stakeholders. Contaminated land may be purchased without liability, provided the new property owner establishes that they are not responsible for the contamination. Among other things, the buyer must participate in a Baseline Environmental Assessment (BEA) that proves they did not contaminate the land prior to or within 45 days of owning the property. Over 400 BEAs were filed within the first year (1996) of the liability provision, ten times the number of covenants-not-to-sue that were issued in the previous four years combined under the old legislation.¹⁸ The Department of Environmental Quality oversees the entire process to ensure that any liability that does exist is applied appropriately.

Once a brownfield site is identified, the state's Department of Environmental Quality addresses the environmental redevelopment concerns while the Michigan Economic Growth Authority (MEGA) assesses the financial redevelopment incentives applicable to the project.

Brownfield affordable housing development seeing positive growth

While Michigan's brownfield efforts were not initially developed to target affordable housing needs, they nevertheless have had a significant positive impact throughout the state.

An important development in this trend is the combination of the LIHTC with brownfields redevelopment incentives. The state realized that combining these tools could provide enough of a subsidy to developers to make affordable housing an attractive alternative.



Michigan State Housing Development Authority Director Joe Borgstrom views this packaging of financial incentives as an important feature. “Individually, both brownfields and [other] financial incentives for affordable housing have had great impacts, but when they are combined, they can be that much more effective,” he said.

As a result, mixed use and high-density affordable housing developments are on the rise, primarily in core communities. Affordable housing development is successful in these communities because of their higher population densities, according to Borgstrom. “You have to have the density to make affordable housing development really work,” he said.

For example, Ann Arbor is developing a \$100 million mixed-use and mixed-income project in its downtown using brownfields and other incentives. In Detroit, a combination of public and private investment has contributed a total of \$800 million over the last few years to revitalize abandoned and otherwise blighted inner city lots, including a number of affordable housing projects.

Michigan brownfield strategy is effective, but not perfect

Despite Michigan’s many successes in its brownfield redevelopment efforts, Borgstrom notes there is some room for improvement. The law does not currently contain a clawback provision that allows the government to rescind tax credits given to the developer, should he or she break the original contractual commitment. Similarly, the law lacks a long-term brownfield compliance ordinance, which would ensure the property remained utilized and free from contamination over the long term.

Overall, the state’s brownfield strategy has achieved significant success thus far, and with additional improvements, should continue to revive and revitalize areas once

marred by contamination, blight, and obsolescence. “I think we’ve got a great model,” Borgstrom said.

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