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## REGIONAL PUBLIC/PRIVATE PARTNERSHIPS AS ENTREPRENEURIAL BRICOLAGE

*John F. McArdle\**

### **ABSTRACT:**

Entrepreneurial development of contaminated or blighted land, commonly referred to as “brownfield,” carries significant enterprise risk. When considering competing opportunities, capital tends to flow in an adverse direction from higher-risk activity where outcomes are less certain. In addition, a complicated regulatory landscape can increase transaction costs which further limit the desirability of these projects. Often, that leaves the remediation of environmentally compromised property in the hands of the public sector. Yet, in industrialized nations with significant brownfield presence, government is often unable to solely cure defects due to limited fiscal resources and competing policy imperatives. One solution to the problem is to employ a public/private redevelopment partnership along with corollary legal remedies to incentivize brownfield redevelopment, minimize transaction costs, and limit enterprise risk exposure.

**KEY WORDS:** Brownfield, Urban Revitalization, Entrepreneurship, Chelsea Massachusetts, Marseille France, Euroméditerranée, Regional Development.

### **I. INTRODUCTION**

The nature of entrepreneurial ventures involves a substantial amount of risk taking on the part of any potential venture developer. This is particularly true in the context of capital-intensive land development that requires the commitment of significant financial resources from an entrepreneur. Land is, by definition, a finite economic resource “*subject to competing pressures from urbanization, infrastructure, increased food, feed, fibre and fuel production and the provision of key ecosystem services.*”<sup>1</sup> Often, land acquisition and related transaction costs are a substantial barrier to the financing and success of a venture, especially when soil contamination might be a possibility. The presence of environmentally contaminated and compromised land, particularly in urban areas, can have a dilatory effect on moving regional economic development and revitalization efforts

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<sup>1</sup> European Commission (2016). LAND AS A RESOURCE. Retrieved from: [http://ec.europa.eu/environment/land\\_use/index\\_en.htm](http://ec.europa.eu/environment/land_use/index_en.htm).

forward. These in turn can have a number of negative socio-economic impacts. Blighted land negatively impacts property values and disincentivizes investment in often already depressed neighborhoods and communities. It adds to social problems, discourages renovation and maintenance of existing properties, and leads to further deterioration and decay. Remediation costs can be difficult to assess or quantify for the redevelopment of environmentally compromised, or “brownfield,” sites. In regimes that assess liability for land pollution to any and all owners who fall within the chain of responsibility for a given property, the mechanisms for guarding against liability exposure are limited, and the economic and legal risks associated with that development are often a high bar to a project moving forward. Accordingly, capital often seeks less risk-loaded investments with a higher likelihood of successful returns, leaving brownfield sites as a less attractive investment relative to investments with lower barriers to entry.

The purpose of this article is to suggest policy schemes that might reduce transaction costs for and minimize enterprise risk associated with brownfield redevelopment projects through (1) the use of a public/private partnership to acquire and remediate contaminated properties and (2) the adoption of regulatory and policy frameworks for assessing and apportioning liability for environmental damages that reward participation in same. First, it offers a brief discussion of socio-economic impacts stemming from environmentally contaminated land. It then makes the case for considering land development an entrepreneurial activity and discusses some basic tenets of entrepreneurship. Next, it defines the term brownfield and discusses considerations associated with the redevelopment of environmentally contaminated land. Further, it provides a context for considering the economic, social, and political rationales for incentivizing private sector remediation of those sites. Then, it considers differences in the regulatory schemes governing remediation of environmentally contaminated land of the United States and the European Union (E.U.), with particular attention paid to the frameworks of several E.U. member states. In addition, it advances an emerging argument for incentivizing redevelopment of brownfield sites through legal policy frameworks encouraging public/private partnerships to prompt action and the encouragement of covenants not to sue and other legal remedies to minimize enterprise risk. Finally, it discusses two innovative regional public/private partnerships – one from Chelsea, Massachusetts, and the other from Marseille, France, and explores whether the use of similar vehicles to spur entrepreneurial economic development of brownfield sites might be a possible and attractive public policy goal.

## II. THE SCOPE OF THE PROBLEM

### A. SOCIO-ECONOMIC IMPACTS OF ENVIRONMENTALLY CONTAMINATED LAND AND THE INSUFFICIENCY OF A SOLELY PUBLIC SECTOR RESPONSE

The presence of environmentally compromised land has a negative effect on regional quality of life, property values, and economic development.<sup>2</sup> It has severe repercussions across communities. Studies have estimated that public disclosure of brownfield property on a register or database has a significant impact on private investment within a region.<sup>3</sup> Brownfields have social, economic, and health consequences.

In the absence of firms taking responsibility for the externalities created by their profit-seeking activity, government has a responsibility to act on behalf of regional communities to minimize negative consequences associated with those activities. One way of framing this imperative is to consider the broken windows metaphor<sup>4</sup> developed to support community policing. In that theoretical framework, physical disorder emanating from vacant buildings, broken windows, accumulated debris, graffiti, and blight, etc. leads to more significant social harms in the form of social disorder and higher crime rates. In that formula, government has a responsibility to act aggressively to limit the impacts ‘broken windows’ can have on communities.<sup>5</sup> Applied in the context of regional economic development, the presence of broken windows and other indicators of blight and decay on neighborhood properties reduces incentives for investment by the private sector and increases risk and transaction costs among those who might invest. Lack of remediation of these sites results in two major problems. First, limited tax revenue derived from these sites impacts the ability of government to provide and fund essential services and leads to higher levels of inequity imposed on the remaining tax base. Second, lack of remediation drives down the economic value of contiguous properties. Those properties that become marginal operations due to the negative impacts associated with blighted property are more likely to decline in value. The cumulative effect of these conditions is an overall negative trend in the economic health of a region and a shrinking tax base. Therefore, the public sector has both a moral duty and an economic incentive to act on behalf of the region to

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<sup>2</sup> Christopher A. De Sousa, Changshan Wu, and Lynne M. Westphal. *Assessing the Effect of Publicly Assisted Brownfield Redevelopment on Surrounding Property Values*. ECONOMIC DEVELOPMENT QUARTERLY, 23:2, 95-110. (2009).

<sup>3</sup> H.C. Jenkins-Smith, C.L. Silva, R.P. Berrens, and A. Bohara. *Information Disclosure Requirements and the Effect of Soil Contamination on Property Values*. JOURNAL OF ENVIRONMENTAL PLANNING AND MANAGEMENT. 45:3, 323-339. (2002).

<sup>4</sup> J.Q. Wilson, & G. Kelling. *The Police and Neighborhood Safety: Broken Windows*. ATLANTIC MONTHLY. 127, 29-38. (1982).

<sup>5</sup> Id.

maximize economic value and foster conditions for economic development.

However, the costs of remediating brownfield property and other urban blight are simply too large for public sector resolution alone. In a 2004 study, the U.S. Environmental Protection Agency estimated the cost to clean up brownfield sites to be upward of \$209 Billion.<sup>6</sup> Given the number of competing policy obligations that governments need to address, it is unlikely that governments will be able to solely bear the economic cost of that activity. In addition, the presence of competing private rights of property and interests associated with the public good make a defining line as to who bears responsibility to act hard to locate.

If, then, the public sector cannot do it alone, should the problem be left for the private sector to address? That response is equally unsatisfactory. In a free market system, private capital does not have a responsibility to invest in correcting negative economic and social effects resulting from activity it does not have a causal relationship with. Private investment is often difficult to attract in communities where blighted property exists. To encourage and attract private capital to invest in 'social goods,' government needs to create incentives for that investment. However, given the nature of land development as a speculative and entrepreneurial venture the typical model of tax abatement/exemption strategies, grants, and government backed loans employed to attract private sector investment in regional economic development is often insufficient to spur that investment. That is largely due to the nature of how land entrepreneurs acquire and deploy capital.

## **B. THE CASE FOR CONSIDERING LAND DEVELOPMENT AS ENTREPRENEURIAL ACTIVITY**

Land is a generally finite economic asset subject to competing uses with a limited supply constrained by geographic, economic, and political factors.<sup>7</sup> Redevelopment of land in urban areas is fraught with significant amounts of economic risk as, unlike other forms of economic activity, land development is acutely impacted by the condition of other investments in close geographic proximity.<sup>8</sup> Just as neglecting broken windows impacts a neighborhood and fosters negative spillover effects, failing to clean up blighted property can have similar

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<sup>6</sup> United States Environmental Protection Agency. CLEANING UP THE NATION'S WASTE SITES: MARKETS AND TECHNOLOGY TRENDS. (2004).

<sup>7</sup> Klaus Hubacek and Jeroen van den Bergh. *Changing Concepts of 'Land' in Economic Theory: From Single to Multi-disciplinary Approaches*. ECOLOGICAL ECONOMICS. 56:1, 5-27. (2006).

<sup>8</sup> Richard B. Peiser. *Risk Analysis in Land Development*. REAL ESTATE ECONOMICS 12, 12-29. (1984).

results.

The development of any parcel of land involves the assumption of a high degree of risk relating to the allocation and deployment of significant capital assets to an activity that is long-term and largely difficult to reverse. Once you build something, you cannot simply unbuild it. This type of activity is often undertaken by an actor who (1) engages in projects involving risk where the outcome is uncertain; (2) assumes the risk associated with that uncertainty; (3) supplies financial capital; (4) allocates resources among alternative uses; and, (5) is an alert discoverer or seeker of opportunities. All of these attributes apply to land investors, and all fit classical definitions of entrepreneurship.<sup>9</sup> By definition, then, any investor in land development is an entrepreneur.

Regardless of industry, entrepreneurs must engage in a process of analyzing any given opportunity through a lens that assesses anticipated costs, anticipated risks, and the likelihood of achievement of anticipated outcomes. All of the above assumes the creation of a product that has a quantifiable value and serves a particular and identifiable market need. Entrepreneurs must consider the likelihood of receiving an acceptable return on a given investment, and they must weigh the attractiveness of one decision opportunity relative to other decision opportunities. In doing so, one question an entrepreneur should ask is whether, when measured against other possible alternative uses for limited resources, an opportunity has a reasonable likelihood of success.

When conducting that assessment, one important consideration for an entrepreneur is the assessment of any given risks associated with a proposed activity. Land speculation is inherently risky, and all property development is on some level speculative. This is due to factors such as the long-term nature of land speculation, the requirement to allocate and commit significant amounts of capital to that activity for an extended period of time, and the uncertainty associated with economic valuation of any land development given a host of uncontrollable external factors. Developers frequently hedge against risk through a variety of mechanisms including insurance, leverage, and syndication or joint venture. Indeed, employing those strategies in the creation of a profit-seeking new venture might trigger fiduciary responsibility on the part of a developer toward partners and other investors. That developer might, for example, be obliged to seek the most reasonable return on investment when considering risk, likelihood of success, and time to recover investment as some of the primary considerations, which would make higher-risk projects less attractive. In any speculative land investment, there is generally an element of *bricolage* – recombining resources at hand or easily

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<sup>9</sup> For a deeper discussion of these attributes, see Paul Westhead and Mike Wright. *ENTREPRENEURSHIP: A VERY SHORT INTRODUCTION*. Oxford University Press. (2013).

acquirable to accomplish a particular goal – and the above hedging strategies are classic examples of bricolage. Bricolage is also a hallmark of entrepreneurship.

### **C. A BRIEF OVERVIEW OF BROWNFIELD LEGISLATION IN THE UNITED STATES AND THE EUROPEAN UNION**

In the United States, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA," often referred to as the Superfund statute) imposes a strict, joint, and several liability regime at the federal level on a responsible party for environmental contamination. CERCLA was enacted as a mechanism for locating and recovering costs associated with remediating land contamination to facilitate the remediation and reuse of under-deployed and undervalued economic assets. As land is finite, and environmentally compromised land is often an unusable asset that has negative spillover effects on a community or regional level, there is a strong public policy argument for the creation of policy mechanisms to encourage remediation and reuse of that property in a way that maximizes value and utility. The act allows for the retroactive application of liability against any party in the chain of responsibility for contamination with a limited array of available defenses.<sup>10</sup> CERCLA applies both to properties deemed as "superfund" sites and to those defined as brownfields. To be deemed a superfund site, a property must be determined to have been contaminated by hazardous waste and identified by the United States Environmental Protection Agency ("EPA") as a candidate for cleanup because it poses a risk to human health and/or the environment. After classification, the site is placed on the EPA's National Priorities List ("NPL").<sup>11</sup> Although not every environmentally compromised site is classified as a superfund site, there are 1,852 properties currently on the NPL.<sup>12</sup> However, CERCLA has a broader mandate than solely applying to superfund sites and imposes significant legal liability for the remediation of a broader group of environmentally compromised land commonly described as brownfields.

The term "brownfield" was originally a colloquialism coined to describe previously developed land that was environmentally distressed and was contrasted with "greenfield," a land parcel free from environmental contamination that has not been built upon. The EPA has since codified a definition of brownfield as "property, the expansion, redevelopment, or reuse of which may be complicated by the

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<sup>10</sup> Comprehensive Environmental Response, Compensation, and Liability Act. 42 U.S.C. §§ 9601-9675 (2000).

<sup>11</sup> Environmental Protection Agency. <http://www.epa.gov/superfund/superfund-national-priorities-list-npl>.

<sup>12</sup> To search properties where you live, see <http://www.epa.gov/superfund/search-superfund-sites-where-you-live>.

presence or potential presence of a hazardous substance, pollutant, or contaminant.”<sup>13</sup> The E.U. has no formal definition of brownfield. However, a commonly used definition in Europe notes that brownfields are “sites that have been affected by the former uses of the site and surrounding land; are derelict and underused; may have real or perceived contamination problems; are mainly in developed urban areas; and require intervention to bring them back to beneficial use.”<sup>14</sup> In a French context, brownfield sites are referred to as *friches industrielles* – literally translated as “industrial wasteland.”

Characteristics common to all definitions include a notion that brownfield properties are likely to contain negative environmental risks associated with prior industrial or commercial uses. Because the nature of land tenure involves successive ownership of property over long periods of time, and the nature of pollution often makes locating responsibility for contamination difficult, jurisdictions have historically taken fragmented approaches to allocating responsibility for environmental harms. The United States employs a broad policy framework that casts a wide liability net, while in the European context, the trend has been toward narrowing responsibility and following a ‘polluter pays’ approach.

CERCLA liability supersedes state and local legal frameworks and allows for the application of retroactive liability for costs associated with environmental contamination or improper remediation of properties deemed to be “superfund” or brownfield sites. As a result, CERCLA exposure often serves as a disincentive for private sector entrepreneurial development of environmentally compromised land as the assessment of financial risk is often difficult to quantify or, in fact, is largely unquantifiable. When an entrepreneur interested in land speculation considers the enterprise risk associated with remediating a brownfield site, other less risky alternatives comparatively look more attractive, particularly if time horizons for the reasonable recovery of capital investments and/or fiduciary responsibilities are a consideration.<sup>15</sup> As a result of entrepreneurs “passing” on risk-heavy brownfield redevelopment opportunities given liability risks associated with that development, despite the nearly four decades of the law’s existence, the number of superfund sites in the United States is still quite large, and the number of brownfield sites even larger. The EPA estimates that there are more than 450,000 brownfield sites in the

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<sup>13</sup> Environmental Protection Agency. OVERVIEW OF THE BROWNFIELDS PROGRAM. <http://www.epa.gov/brownfields/overview-brownfields-program>.

<sup>14</sup> World Bank. THE MANAGEMENT OF BROWNFIELDS REDEVELOPMENT: A GUIDANCE NOTE. (2010).

<sup>15</sup> A. Alberini, A. Longo, S. Tonin, F. Trombetta, M. Turvani, *The Role of Liability, Regulation and Economic Incentives in Brownfield Remediation and Redevelopment: Evidence from Surveys of Developers*. REG SCI URBAN ECON 35:327–351. (2005).

United States.<sup>16</sup>

In an effort to spur redevelopment of brownfield sites, Congress modified CERCLA in 2002 by enacting the Small Business Liability Relief and Brownfields Revitalization Act (commonly referred to as the Brownfields Act).<sup>17</sup> Among other things, the modification created narrow classes of liability exemption and provided some incentives to foster revitalization of brownfield sites. However, the results have been mixed.<sup>18</sup>

Legal constructs addressing the remediation and redevelopment of environmentally compromised land are significantly different in the European context, where the E.U. has yet to adopt a controlling international standard among member states. The primary vehicle for addressing liability for environmentally contaminated land in the E.U. is found in Directive 2004/35/CE on Environmental Liability (“ELD”), which applies a “polluter pays” standard of liability to an operator.<sup>19</sup> Further, ELD limits that liability solely to activities within the control of an operator and does not apply retroactive liability.<sup>20</sup> With the exception of the ELD (which sets forth a broad policy mandate while allowing for different policy schema amongst the member states), the E.U. does not have a broad policy framework.

To avoid some of the remediation and redevelopment disincentives that flow from the CERCLA statute, a number of European governments have enacted legislative frameworks that restrict liability and/or provide incentives for remediation of environmentally compromised soil.<sup>21</sup> The legislative frameworks generally fall into two distinct categories: those jurisdictions that impose retroactive

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<sup>16</sup> Environmental Protection Agency. OVERVIEW OF THE BROWNFIELDS PROGRAM. <http://www.epa.gov/brownfields/overview-brownfields-program>.

<sup>17</sup> Pub. L. No. 107-118, Stat. 2306 (2002).

<sup>18</sup> For an interesting review of the Brownfields Act, see Flannery P. Collins, *The Small Business Liability Relief and Brownfields Revitalization Act: A Critique*, 13 DUKE ENVTL. L. & POL'Y F. 303, 328 (2003).

<sup>19</sup> As defined in the ELD, an operator is defined as “any natural or legal, private or public person who operates or controls the occupational activity or...to whom decisive economic power over the...activity has been delegated.” ELD, Article II, §6.

<sup>20</sup> The preamble to the ELD states: “According to the ‘polluter pays’ principle, an operator causing environmental damage or creating an imminent threat of such damage should, in principle, bear the cost of the necessary preventative or remedial measures...” (ELD, at 18.) It goes on to state that “an operator should not be required to bear the costs of preventive or remedial actions taken pursuant to this Directive in situations where the damage in question or imminent threat thereof is the result of certain events beyond the operator’s control.” (Id. at 20).

<sup>21</sup> Anna Alberini, Alberto Longo, Stefania Tonin, Francesco Trombetta, Margherita Turvani, *The Role of Liability, Regulation and Economic Incentives in Brownfield Remediation and Redevelopment: Evidence from Surveys of Developers*, REGIONAL SCIENCE AND URBAN ECONOMICS. 35:4, 327-351. (2005).

liability similar to the superfund framework, and those that adopt a “polluter-pays” approach more in keeping with civil law traditions and the European Union’s policy guidance. Many of the “polluter-pays” policy frameworks locate responsibility for environmental cleanup to a sub-national or regional level, and most provide a system of voluntary agreements and initiatives.<sup>22</sup>

In France, management of brownfield or contaminated sites is a regional activity, and there is no retroactive liability imposed on an entity that acquires a brownfield site that had no relationship with the prior use.<sup>23</sup> Accordingly, cleanup costs are difficult to allocate to responsible parties and are often borne by a combination of government and interested private developer.<sup>24</sup>

#### **D. AN ARGUMENT FOR INCENTIVIZING PRIVATE SECTOR REDEVELOPMENT OF BROWNFIELD SITES THROUGH LEGAL POLICY FRAMEWORKS**

As stated above, government alone cannot solve the problem of remediating and redeveloping environmentally contaminated sites. The transaction costs associated with that remediation are too substantial for government to absorb given a host of competing policy imperatives. However, statutory frameworks that impose liability on any responsible party for damages associated with owning, using, or remediating brownfield sites with extremely narrow and limited exceptions, serve as an effective deterrent for entrepreneurial activity in that sector, harming everyone. While property acquisition values for brownfield property might be lower than comparably situated greenfield property given the significant costs associated with redevelopment, the economic risks associated with remediation are often too great to justify investment. A form of “Handyman’s special” logic does not apply, and the result is an oversupply of blighted properties in a market with no interested buyers.

Under a polluter pays framework as employed in the ELD and in the French context, liability for environmental remediation is limited to those activities solely under the control of an operator, is proportional, and is not retroactive. As a result, the enterprise risk calculation is different, but the acquisition and remediation costs to develop a brownfield property might be a bar when projects are considered relative to greenfield development. Similarly, in the United States, the CERCLA

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<sup>22</sup> Id.

<sup>23</sup> Gareth Thornton, Martin Franz, David Edwards, Gernot Pahlen, Paul Nathanail, *The Challenge of Sustainability: Incentives for Brownfield Regeneration in Europe*. ENVIRONMENTAL SCIENCE & POLICY. 10:2, 116-134. (2007).

<sup>24</sup> Lauren Andres, *Levels of Governance and Multi-stage Policy Process of Brownfield Regeneration: A Comparison of France and Switzerland*. INTERNATIONAL PLANNING STUDIES. 17:1, 23-43. (2012).

statute extends liability protection to five types of parties engaged in the acquisition and remediation of a brownfield site, provided that they comply with a specific set of regulatory requirements under CERCLA §101(40)(C-G) and §107(q).<sup>25</sup> Arguably, in the U.S. context, the limited nature of those exceptions does not encourage private purchase and redevelopment of a brownfield site unless the economic costs and associated risks are quantifiable and manageable. Indeed, one important consideration in that analysis is that while an innocent purchaser of a brownfield site might be exempt from CERCLA liability, he will not be exempt from the remediation costs associated with that property as CERCLA contains windfall recovery provisions.<sup>26</sup>

One method of managing such associated risks in a non-polluter pays jurisdiction is for a private entity interested in developing a brownfield property to (1) purchase that property after it has been remediated by an intermediate party who agrees to assume the risk of remediation and become part of the chain of responsibility and (2) do so after the issuance of covenants not to file suit and seek damages for environmental problems from appropriate agencies at the sub-national and national levels.

In the French context, the analysis of enterprise risk with regard to brownfield liability is different given the statutory regime used to allocate responsibility, but the economic calculus is similar – capital seeks similar return conversant with lower risk, and the economic cost of remediation is a significant bar to investment.

Accordingly, the use of a properly structured public/private partnership or other intermediary agency to acquire and remediate contaminated brownfield sites may be an effective way to reduce transaction costs and spur regional economic development in both regulatory schemes. One successful example of such a partnership in the United States is the redevelopment of the Box District in Chelsea, Massachusetts, and another is the Euroméditerranée project established in Marseille in 1995.<sup>27</sup> Both are models for how to effect brownfield redevelopment and spur

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<sup>25</sup> The five types of parties include:

- Innocent landowners, CERCLA §101(35)(A).
- Contiguous property owners, §107(q).
- Bona fide prospective purchasers, §§ 101(40) and 107(r).
- Units of state or local government that acquire ownership or control involuntarily through bankruptcy, tax delinquency or abandonment, §101(20)(D).
- Government entities that acquire property through eminent domain, §101(35)(A)(ii).

<sup>26</sup> For a broader discussion of this issue, see *BROWNFIELDS, A COMPREHENSIVE GUIDE TO REDEVELOPING CONTAMINATED PROPERTY* (Todd S. Davis & Scott A. Sherman, eds., 3d. ed. 2010).

<sup>27</sup> For a comparative analysis of the two projects, see J. F. McArdle, (2018). *3P PARTNERSHIPS AND NEIGHBORHOOD TRANSFORMATION*. Manuscript in preparation.

regional economic and social gains.

### **III. TWO SUCCESSFUL MODELS OF PUBLIC/PRIVATE PARTNERSHIPS FOR THE REDEVELOPMENT OF BROWNFIELD SITES.**

#### **A. THE BOX DISTRICT. CHELSEA, MASSACHUSETTS**

Chelsea, Massachusetts, is a working class suburban gateway community north of Boston. For most of the 20<sup>th</sup> Century, Chelsea had been the home to numerous manufacturing and shipping companies. Many of these companies were centered in any area of Chelsea known as the box district – largely comprised of mattress and cardboard box manufacturing facilities.

The box district is a 10.5 acre parcel of land that has been extensively redeveloped as a result of a three-party, public-private partnership between the city of Chelsea, a local non-profit developer, and a for-profit land development company. Redevelopment of the site has resulted in 248 mixed-income housing units, a multi-modal public transit stop, and a million dollar public access park. The entire project was valued at over \$70 million and took approximately 10 years to complete.<sup>28</sup>

Development of the site occurred after the property languished for years. There was a lack of interest on the part of private development companies to speculatively engage in site remediation and investment to produce housing units that might not be profitable. In 2004, the Commonwealth of Massachusetts modified zoning laws to incentivize development of mixed income housing units under a program known as 40R. The 40R program was intended to encourage adaptive reuse of development sites to create affordable housing in transit-rich neighborhoods. Working with a local nonprofit redevelopment agency, the city of Chelsea was able to attract private development of the site through a mix of streamlined financing and acquisition strategies of properties within the zone, as well as fast-tracked building regulations and approvals. Local control of zoning regulations and strong working relationships between city, state, and federal officials allowed for clearance of many of the administrative hurdles that typically preclude private developers from engaging in complicated brownfield redevelopment projects.

Employing the above approach housed within a public-private partnership, reduced the enterprise risk often associated with projects of this type and allowed for a private developer to commit resources that otherwise might have been

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<sup>28</sup> For greater detail, see Archana Pyati. CHELSEA'S BOX DISTRICT DEMONSTRATES THE POWER OF HIGH-QUALITY AFFORDABLE HOUSING TO ATTRACT MARKET-RATE DEVELOPMENT. Urban Land Institute. (2016).

deployed elsewhere. The partnership was able to leverage a significant amount of federal and state grant monies to clear the financial barriers to entry that otherwise exist for a private developer. By further negotiating the development of an intermodal transportation hub within the development, the partnership was able to create regional neighborhood conditions that made the site much more attractive for residential use. The project has also resulted in spillover effects in the local community, including coordination with a number of workforce and community development organizations that have been able to achieve strong economies of scale to strengthen the community.

#### **B. EUROMÉDITERRANÉE. MARSEILLE, FRANCE.**

At 480 hectares (1186 acres), the project covers almost 75% of the total area of the city of Marseille. It is the largest urban redevelopment project in southern Europe. While significantly larger in scale than the Box District project, Euroméditerranée shares some similar characteristics with its American counterpart.

The project began in 1995 as a partnership between the French national government and several regional governments to renovate a blighted urban district between the historic port, the commercial harbor, and the TGV rail station. Marseille is a gateway city for immigration into southern Europe, and the district had historically been seen as crime-ridden and rife with a number of social issues.

With over two decades of history, Euroméditerranée is an unparalleled success. The project has impacted 40,000 residents and created 35,000 jobs. A 7.5 billion euro investment has resulted in 1 million m<sup>2</sup> of office space, 24,000 housing units, and 200,000 m<sup>2</sup> of public facilities. Those facilities include 150 acres of parks and public spaces as well as 3 miles of waterfront promenade. Every euro of public investment has been matched by 5 euros of direct private investment.<sup>29</sup> Rather than working with an individual private development partner, Euroméditerranée has been successful by employing a strategy of acquiring, remediating, and transferring clean brownfield land post-remediation to private developers.

#### **IV. CONCLUSION**

Both of the above examples are successful models of public/private brownfield redevelopment partnerships able to limit developer liability, incentivize private investment in adapting brownfield sites, and reduce transaction costs

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<sup>29</sup> For a comprehensive overview of the Euroméditerranée project timeline and impact, see <http://www.euromediterranee.fr/districts/introduction.html?L=1>.

associated with site redevelopment. This type of approach works in multiple policy regimes, can be deployed at various points of scale, and allows both the public and private sectors to employ leverage that amplifies the impact of their investments.

As regions weigh the question of what to do with blighted properties within their borders, they would do well to consider the formation of public/private land redevelopment partnerships as a vehicle for success.