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City Limits WEEKLY
Week of: June 28, 2004
Number: 440



TIPS

DIRTY BUSINESS: RATNER SEEKS TOXIC TAX BREAK

Environmental advocates worry that new brownfields law is already being abused in New York Times headquarters deal. > By Elizabeth Cady Brown

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Times Square isn't the first place most people think of when they hear the word 'brownfield,' but developer Bruce Ratner and his partner, the New York Times Company, are trying hard to convince the state's Department of Environmental Conservation that it is one. They have applied to have the Times' new headquarters building, a 52-story office tower on Eighth Avenue and 40th Street, deemed an environmental cleanup under the state's brand new Brownfield Cleanup Program.

If accepted, Ratner's company, Forest City Ratner Companies and the Times Company would be entitled to an estimated \$170 million in state income tax credits and a permanent local property tax exemption potentially worth tens of millions of dollars.

But environmental advocates who pushed for the law say this isn't the type of project the law was intended to assist.

"Why should an already viable Manhattan property get millions of dollars in tax credit?" demanded Mathy Stanislaus, board member of the NYC Environmental Justice Alliance and co-director of New Partners for Community Revitalization. "It's ludicrous."

The state's new law, which passed in 2003 after seven years of bitter partisan battles, is intended to make it financially feasible for developers to reclaim polluted, abandoned land. Under the law, a brownfield is any property where development "may be complicated by the presence or potential presence of a hazardous waste."

According to an analysis performed by an environmental consultant hired by Times and Ratner, their site contained a 7,500-gallon above-ground fuel-oil storage tank and two 550-gallon underground tanks, which have since been removed, as well as elevators that may have used fluids with PCBs. Initial soil tests by the consultants show the fill is typical of urban sites and does

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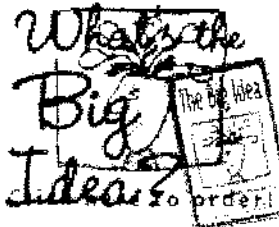


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contain elevated lead levels in some areas.

Yet the site has been in active use since at least 1899, housing a public school and row houses and more recently a garage and a parking lot on the west side. "Historical information sources," the consultants concluded, "gave no indications of industrial use, vacant land that could have been used for dumping, or other significant environmental hazards at the Site."

In fact, neither of the two sites in New York City that have been accepted into the Brownfield Cleanup Program nor the two with applications pending are abandoned or fallow properties. And all had redevelopments slated before the law was ever drafted.

Environmentalists wonder whether the developers are really concerned about contamination or just want the income tax credit, which is the most generous of any brownfield program in the nation, and among the largest tax credits available in New York State. The tax credits are given as-of-right to any development accepted into the Brownfield Cleanup Program, regardless of whether financing is needed to make the project happen or whether contamination is ultimately uncovered. Forest City Ratner and the New York Times would not comment by press time.

Given the criteria laid out by the DEC, it seems likely that the Times-Ratner application will be approved. "If there is contamination or likely to be contamination, it'll probably be eligible," said Dale Desnoyers, head of the department's environmental remediation division overseeing the brownfield program. "The purpose is to get sites investigated."

Supporters of the law are concerned that approving projects such as the Times-Ratner building would set a bad precedent for other developers wanting to exploit the new tax breaks.

"The fear is that incentives are going to go to projects in primo areas where the cost of real estate is high instead of encouraging redevelopment in communities that really need help," said Laura Haight, senior environmental associate at NYPIRG. "We are worried about the cherry picking."

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