

Welcome

Our Presentation Will Begin at 12pm

- All viewers are muted. Audience cameras cannot be turned on.
- Who's with us today? We invite you to share your nonprofit's name in the chat box.

Nonprofit Redevelopment & Acceptance of Environmentally Challenged Properties



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Mission of Pro Bono Partnership of Atlanta

To provide free legal assistance to community-based nonprofits that serve low-income or disadvantaged individuals.

We match eligible organizations with volunteer lawyers from the leading corporations and law firms in Atlanta who can assist nonprofits with their business law matters.

PBPA Learning Center for Georgia Nonprofits

www.pbpatl.org/resources

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Client Criteria

In order to be a client of Pro Bono Partnership of Atlanta, an organization must:

- Be a 501(c)(3) nonprofit.
- Be located in or serve the greater Atlanta area.
- Serve low-income or disadvantaged individuals.
- Be unable to afford legal services.
- Employ at least one paid staff person.

Visit our website at www.pbpatl.org to apply.

Legal Information

This webinar presents general guidelines for Georgia nonprofit organizations and should not be construed as legal advice. Always consult an attorney to address your particular situation.

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Introduction & Overview

What to do When Offered a Property

- Nonprofit should internally assess whether they are ready to take on property. Some questions to ask include:
 - Do you have a use for the property?
 - Is there room in the budget for associated costs?
 - Are there reputational considerations?
- If the nonprofit is ready to take on the property, it should conduct due diligence regarding the property before accepting. This can help determine the existence of any environmental impacts or other special risks attached to the property.



Regulatory Overview

A Bird's Eye View of Georgia's Potentially Relevant Regulations & Programs

- Hazardous Site Response Act (“HSRA”):
 - Georgia’s “Mini Superfund” (O.C.G.A. 12-8-90 et seq.);
 - Governs “regulated substances”.
- Underground Storage Tank Program (“UST”):
 - Governs leaks from tanks containing petroleum fuel;
 - Oversee trust fund for some cleanups.
- Georgia Brownfield Program (“GBP”):
 - Pathway to liability protection (O.C.G.A. 12-8-200 et seq.);
 - Transferrable to future owners.
- Voluntary Remediation Program (“VRP”):
 - Pathway to regulatory closure (O.C.G.A. 12-8-100 et seq.);
 - No liability protection.

Who is Liable for Past Environmental Issues?

- For Nonprofit organizations in 99.9% of situations:
 - (1) Current owner of property impacted by “hazardous substances”
 - (2) Owner or operator of underground storage tanks containing petroleum products
- Other classes of liable parties almost never matter

Due Diligence is Key

- Most environmental problems can be fixed if money is no object
- How much will it cost?
- Is the property worth the cost?
- Is the cost worth the benefit?

Nonprofit Brownfields

Concrete Examples

Atlanta Humane Society

1551 Perry Blvd NW



Atlanta Humane Society

1551 Perry Blvd NW

• **History & Site Characteristics**

- Subject Property was originally developed in 1967 and was occupied by an active scrap metal recycling company immediately prior to AHS.
- A 2012 Phase I Environmental Assessment (“Phase I”) identified petroleum impacts from underground storage tanks formerly located at the Subject Property, potentially problematic fill material onsite, and at least three prior reported chemical releases at neighboring properties.
- Soil and groundwater sampling in 2017-2019 confirmed metal contamination, including silver, lead, mercury, barium, and chromium above regulatory threshold levels.

• **Redevelopment & Remediation**

- AHS purchased the Subject Property in 2020 for \$3.5M.
- AHS submitted a Prospective Purchaser Corrective Action Plan (“PPCAP”) in 2019 outlining planned remediation activities, and followed that up with a Prospective Purchaser Compliance Status Report (“PPCSR”) which was approved in 2023 through the issuance of Limitation of Liability.
- United Consulting developed and implemented a Soil and Groundwater Management Plan beginning in 2020 in areas where soil and groundwater impacts were above the applicable Risk Reduction Standards (“RSS”).
- Remediation activities included: (1) initial excavation and landfill disposal for six areas requiring soil corrective action, (2) waste characterization of impacted and removed soils prior to transportation to a hazardous waste landfill, and (3) installation of a vapor mitigation system.
- Over 1,000 tons of impacted soils were removed from the Subject Property.
- Post-remediation sitewide soil sampling confirmed compliance with the non-residential RRS.

Trees Atlanta

825 Warner St SW



Trees Atlanta

825 Warner St SW

- **History & Site Characteristics**

- The Subject Property was developed with two buildings on 2.9 acres of land in Oakland City near Adair Park, with structures dating to 1950.
- Historically, the property was used by various businesses, including a steel working company (until approximately 1962), produce and meat companies (1950-70), a commercial bakery (1994-2015) and an artists' studio (2008-2019).
- A May 2019 Phase II indicated site soil was contaminated with lead.

- **Redevelopment & Remediation**

- Trees Atlanta submitted a PPCAP in June 2019 outlining planned site remediation activities.
- Trees Atlanta purchased the property in July 2019 for \$3M.
- Trees Atlanta engaged contractors who began soil excavation in November 2021, excavating and removing more than 1,000 tons of soil.
- Subsequent site preparation uncovered soil that appeared potentially lead-contaminated, which testing confirmed. An additional 337 tons of soil were then excavated and removed.
- Post-remediation sampling confirmed compliance with non-residential risk reduction standards.
- Trees Atlanta built its headquarters and implementation center on-site and converted the rest of the site to natural landscape with 200 new trees and thousands of native plants.

Lifecycle Building Center

1116 Murphy Ave SW



Lifecycle Building Center

1116 Murphy Ave SW

• **History & Site Characteristics**

- The Subject Property consists of two historic industrial buildings totaling ~70,000 sq ft on 3.6 acres in the “Murphy Triangle,” with structures dating to 1914, 1918, 1935 and a Butler Metal building added in 1966.
- Historically, the Subject Property was used by various businesses such as Bailey Burruss Foundry (until 1932), Link-Belt Sprocket Manufacturing (until 1971), PT Components, DMC Atlanta and D&D Diesel.
- A May 2015 Phase I and September 2015 Phase II identified and confirmed, respectively, the presence of arsenic and cadmium in groundwater as well as lead in the soil. Heavy metal concentrations in excess of applicable RRSs were noted down to two feet along the northern border of the Subject Property.
- LBC acquired the property in 2016 and a five-year lease term and entered into the Georgia Brownfield Program with submission of a PPCAP, which was accepted by EPD in Sept. 2016.

• **Redevelopment & Remediation**

- In addition to the Georgia Brownfield Program, LBC applied for and received a \$200,000 cleanup-grant from EPA Region IV in 2016 (Cooperative Agreement #BF-00D59717).
- Remediation activities were planned to begin in 2019 and were to consist of the removal of 70 cubic yards of on-site impacted soil exceeding notification concentrations or non-residential RRSs, as well as indoor air quality improvement through the removal of asbestos containing materials.
- Planned redevelopment consisted of facilitating the unencumbered connection of the LBC to the then planned BeltLine Westside Trail Spur.
- To date, LBC has reported over 13.3 million pounds of building materials diverted from disposal and around \$7M in community savings as a result of the Center.

Mary-Leila Lofts

316 N West St, Greensboro, GA



Mary-Leila Lofts

316 N West St, Greensboro

• **History & Site Characteristics**

- The Subject Property consisted of four buildings including two primary mill buildings totaling approximately 224,500 square feet on 5.25 acres of land in Greensboro, Georgia.
- The property was used as by Mary-Leila Cotton Mill, Inc. until 1971, when it was purchased by Wellington-Puritan Mill, Inc. and used to manufacture ropes and cords until 2005, when it went into foreclosure. The property was then purchased by Historical Mill Restoration of Georgia, LLC.
- A Phase I investigation in 2005 identified the location of former USTs on-site, and property owners sought coverage under the Georgia Brownfields program, leading to excavation of contaminated soil near the location of the former USTs.
- A Phase II ESA was conducted in June 2013, showing the soil was contaminated by several metals and semi-volatile organic compounds above residential risk-reduction standards.

• **Redevelopment & Remediation**

- Greensboro Mill, LP, purchased the property in January 2015 for \$350,000, with the plan to convert the old mill buildings into affordable housing.
- Georgia EPD approved Greensboro Mill's Corrective Action Plan in 2017, and site remediation proceeded, with approximately 2600 tons of soil removed and use of asphalt and concrete as engineering controls.
- The property now consists of 71 affordable housing units ranging from 1-3 bedrooms, and community amenities including a playground and fitness center.

East Decatur Greenway

890 Columbia Dr



East Decatur Greenway

890 Columbia Dr

• **History & Site Characteristics**

- Subject Property is a former gasoline service station on roughly 1.1 acres at 890 Columbia Drive, directly across from Friends School and adjacent to the East Branch of the Middle Fork of Shoal Creek.
- Historic operations included three 8,000-gallon underground storage tanks (“UST”), pump islands and a small service station.
- The Subject Property was abandoned in 1999 and subsequent 2007 and 2012 environmental assessments revealed petroleum impacts to soil yielding concentrations exceeding applicable EPD thresholds.
- Under EPA direction, the three USTs were removed in 2012.

• **Redevelopment & Remediation**

- In August 2015 EDG submitted a CAP to EPA outlining planned remediation activities.
- Cleanup activities (2015-2017) included complete demolition of the former station, targeted excavation and off-site disposal of impacted soils, backfilling with clean material and stormwater quality upgrades such as rain-garden features.
- Engineering and institutional controls were put in place to meet EPD Type 3 RRS, including cap/cover maintenance and a soil management plan for any future subsurface work.
- In 2017 EDG was able to secure an additional \$86,639 in funding from the Decide DeKalb Development Authority to complete the ongoing petroleum impact remediation.
- A PPCSR was accepted in 2017, with “cleanup complete” recorded by EPD and restricted use noted consistent with Type 3 performance standards.
- The property now serves as the East Decatur Greenway Trailhead, providing a safe, landscaped gateway and off-street connection from the neighborhood to the Avondale MARTA station.

Paul Avenue Park

0 Paul Ave NW



Paul Avenue Park

0 Paul Ave NW

- **History & Site Characteristics**

- This property was undeveloped land in a residential area.
- Contaminated fill material from a former Bernath Barrel & Drum facility was deposited on the property some time prior to 1995.
- 1995 soil samples from the site showed metal contamination, and Georgia Power conducted a cleanup of the property to EPD's satisfaction in 2006.
- As part of The Conservation Fund's planned development of the Paul Avenue Park, they conducted a Phase II Environmental Site Assessment, which showed lead and chromium contamination persisted at the site.

- **Redevelopment & Remediation**

- In 2019, The Conservation Fund submitted a Prospective Purchaser Corrective Action Plan to EPD, which EPD approved.
- The Conservation Fund started remediating the property in 2021, excavating and removing 744 tons of contaminated soil.
- Confirmation sampling showed the remediation was successful, as the soils were now in compliance with residential risk reduction standards.
- The site now serves as part of the 10-acre park developed by The Conservation Fund, with additional facilities anticipated to be added to the site in the near future.

Nonprofits Accepting Property Donations

Accepting a Property Donation

LISTEN TO OUR PODCAST EPISODE: Real Estate, Real Impact:
Accepting Donations of Property

<https://pbpatl.org/real-estate-real-impact-accepting-donations-of-property/>

1. **Motivations**
 - a. What purpose does the donation serve for the organization?
 - b. What does the donor aim to accomplish?
2. **Authorizations**
 - a. Does the nonprofit's charter allow for the acquisition of real estate?
 - b. Should the nonprofit consider taking title through a Limited Liability Company?
 - c. Is acquisition of the property the optimal arrangement?
3. **Contract Considerations**
 - a. Purchase agreement considerations?
4. **Due Diligence**
 - a. Title considerations such as easements or use restrictions.
 - b. Property condition and appraisal.
 - c. Environmental due diligence.
 - d. Existing tenants?
 - e. Insurance and tax considerations.
5. **Operational Considerations**
 - a. Does accepting this donation pose a risk to the organization's reputation?
 - b. Maintenance and management obligations.

Questions?

Pro Bono Partnership of Atlanta

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As a nonprofit ourselves, PBPA relies on donors to continue providing free legal assistance to organizations like yours. If you're able to give, please consider donating to help us keep serving Georgia's nonprofits.