

# *Connecticut's Land Banking Law*

*Helping Municipalities to  
Redevelop Brownfields*

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& COMLEY<sub>LLC</sub>**  
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# What is a Brownfield Land Bank?

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In June 2017 Governor Malloy signed into law the Connecticut Brownfield Land Bank Law  
(Public Act 17-214)

*The Connecticut Brownfield Land Bank model is unique in the United States*

# What is a Brownfield Land Bank?

## “Brownfield Land Bank” versus “Land Trust”

- BLB does not hold land in perpetuity
- BLB’s purpose is not to create open space or sites for public recreation
- BLB holds properties for the specific purpose of remediation and redevelopment
- BLB’s goal is to convey properties back to private sector to enhance economic development and increase tax base of communities

# What is a Brownfield Land Bank?

## “Brownfield Land Bank” versus “General Land Bank”

- General Land Banks are used in other parts of country to assemble blighted sites (primarily residential) for future resale
- General Land Banks are primarily controlled by county government for exclusive use in county
- BLB : exclusive focus on redevelopment of former industrial/commercial sites with existing or perceived contamination
- BLB certified to conduct business state-wide
- BLB assists multiple municipalities
- BLB is an independent non-governmental entity
- BLB’s non-profit status under IRC attractive to foundations and philanthropists

# Certification Process

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## **DECD Commissioner oversees the certification of Connecticut Brownfield Land Banks**

Commissioner will certify based on certain criteria:

- Financial and technical capabilities
- Economic condition of municipalities served
- Level of support from municipalities
- Quality of applicant's business plan

# What is a Brownfield Land Bank?

## Certification confers on BLB many rights and immunities given to municipalities under state statutes:

- **Acquire real property** by purchase contracts .... foreclosure of municipal tax liens, and accept transfers from municipalities
- **Transfer property** to third parties ... on such terms ... as determined by the municipality in which the property is located
- **Access brownfield sites** to perform environmental due diligence
- Qualify for **exemption** from state and municipal taxes
- Qualify for **tax forgiveness** on any property acquired by the land bank
- Participate in the Brownfield **liability relief programs**
- Qualify for **Transfer Act exemptions**
- Participate in the state's Remedial Action and Redevelopment **Municipal Grant Program**



# *Why Brownfield Land Banks Are Needed*

Connecticut's Industrial Legacy:

Abandoned and Contaminated  
Industrial Sites!



# *Why Brownfield Land Banks Are Needed*

## **State Legislature provided many new tools for brownfield redevelopment:**

- Liability Relief
- ABC
- BRRP
- Municipal Brownfield Liability Relief Program
- Financial Incentives
- Brownfield Grant and Brownfield Loan Programs
- Urban Site Remedial Action Program
- Property Tax Abatement or Forgiveness Program
- Administrative Improvements



# *Why Brownfield Land Banks Are Needed*

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## **Legislative Reforms Did Not Address Other Practical Concerns of Municipalities:**

- Lack of Expertise
- Liability and Cost Exposure
- Management Cost and Concerns During Holding Period
- Compliance with Procurement/Sale Ordinances
- Political Considerations

# *Why Brownfield Land Banks Are Needed*

**Towns Lack Expertise** to navigate through alphabet soup of federal and state environmental laws

- \*EPA
- \*DEEP
- \*AG
- \*RCRA
- \*TSCA
- \*RSRS
- \*CWA
- \*CAA
- \*CERCLA
- \*ASTM
- \*SCGD
- \*OSHA
- \*EPCRA



## *Why Brownfield Land Banks Are Needed*

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**Except for some of the larger cities in the region, most municipal officials don't have the experience to assess the environmental conditions at brownfield sites or plan and manage the remediation and redevelopment of these sites**

# *Why Brownfield Land Banks Are Needed*

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## Liability and Cost Exposures



## Liability and Cost Exposures

- State laws do not provide complete liability relief from:
  - Third-Party claims
  - Federal laws (e.g., RCRA and TSCA obligations)
- Uncertain cost of remediation could be municipality's obligation if municipality owns property
- Cost and potential liability of owning abandoned brownfield site during holding period
  - Safety of structures
  - Fires caused by vandals

# *Why Brownfield Land Banks Are Needed*

## Internal Considerations of Municipality

### **Procurement and Sale Ordinances**

- Delay and limitations in selecting remediation consultants and contractors
- Make sale of brownfield site to most appropriate redeveloper difficult

### **Political Considerations**

- Brownfield redevelopment is long-term that often extends beyond election cycles
- The uncertainty of cost and liability can be exploited by political opponents
- Need for multiple approvals throughout the remediation process can be exploited by political opponents



# Brownfield Land Bank: Valuable New Tool

*Municipalities maintain control of the remediation and redevelopment process through Land Banking Agreement*



# Land Banking Agreement

*Municipalities maintain control of the remediation and redevelopment process through Land Banking Agreement*

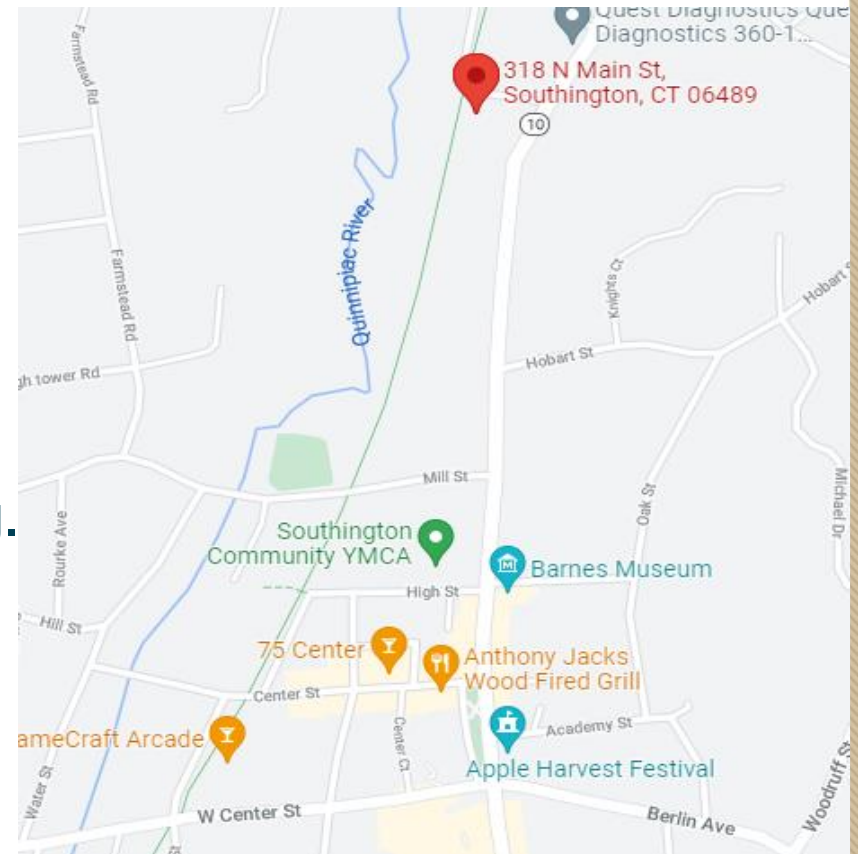
- Control the scope of remediation
- Delegate grant application work to BLB
- Transfer liability as owner of site to BLB
- Transfer management concerns during holding period to BLB
- Control selection of redeveloper

# Case Study

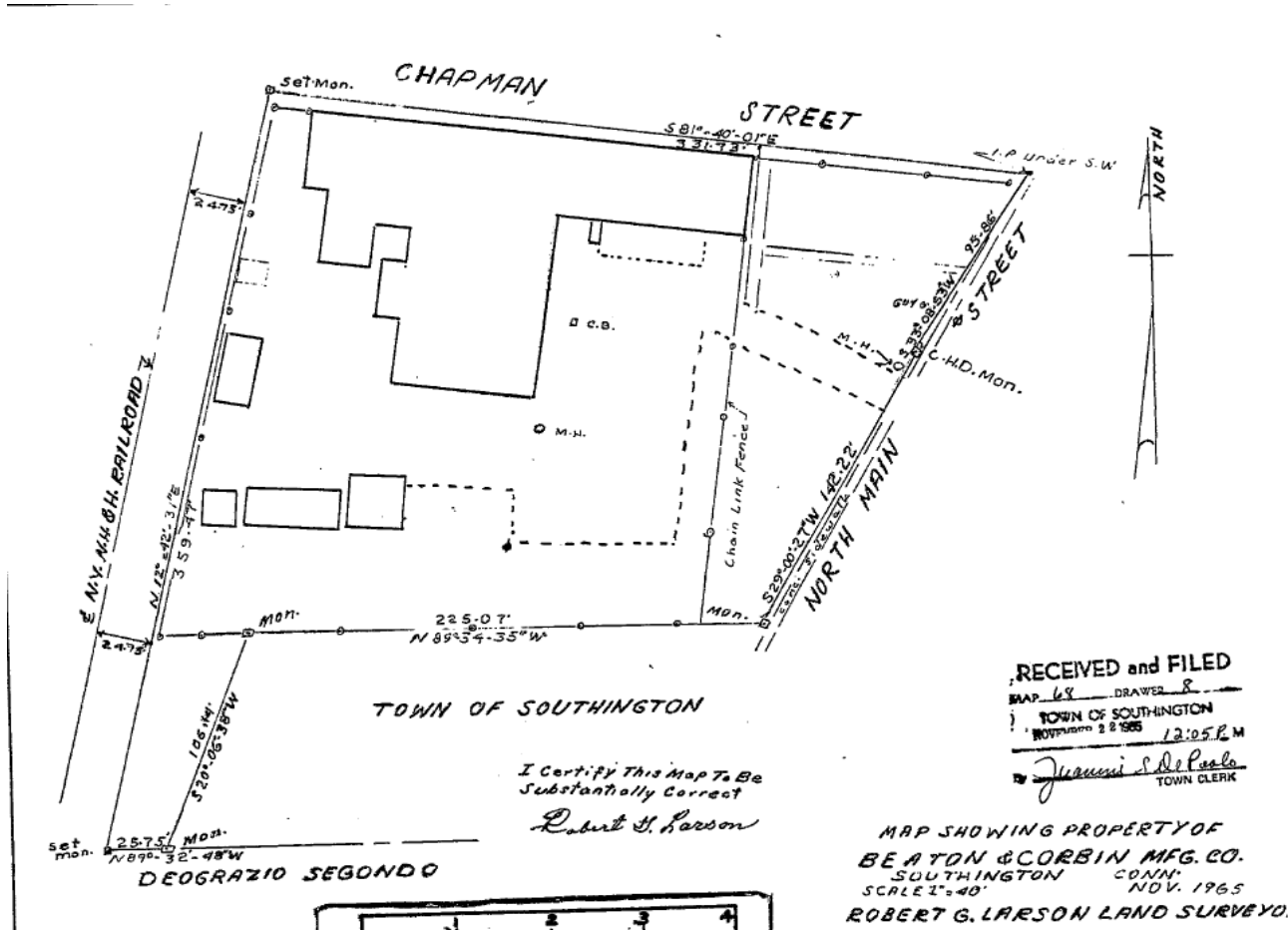
## Beaton & Corbin Site

318 North Main Street,  
Southington, CT

- Acreage: 1.65
- Abandoned property
- Owner Beacon and Corbin Mfg.
- Gateway Area to Downtown Southington



# Site Survey



# History of Site

- 1800s – **Aetna Match Company** operated manufacturing facility
- 1900-1989 – **Beaton and Corbin Mfg.** conducted manufacturing:
  - Ceiling and floor plates
  - Plumbing fixtures
  - Metal machining and metal plating
- 2003 – Fire destroyed 25,000 sq. ft. main building
- 2017 - Site consisted of: building foundations, remnants of the boiler room, a settling basin for wastewater treatment, 10,000-gallon AST, 1,000-gallon UST and 3 dilapidated storage sheds – an eyesore for those travelling on North Main St.





# Condition of Property

## November 2020



*7. General view of a former wastewater treatment settling basin,*



*9. General view of the existing foundation and rubble, looking easterly;*



# Environmental Challenges

- Site is an “establishment under Connecticut Transfer Act
- Significant Contamination of Soil and Groundwater
  - Volatile Organic Compounds (VOCs)
  - Total Petroleum Hydrocarbons (TPH)
  - Metals (cadmium, arsenic, chromium, copper, lead, nickel and zinc)
  - PCBs
- Estimated Cost to Investigate and Remediate: \$1,354,145
- 1984 DEEP Order to Abate Pollution
- 1998 DEEP Judgment Lien - \$400,000
- 2010 DEEP Lien - \$14,237.79

# Title Challenges

- Five Unreleased Mortgages to Banks, Contractors and Individuals
- Only 2 years of Municipal Real Estate Tax Liens
  - Small amounts
  - Wrong property description
- Legal ownership of main parcel uncertain
  - Two title searchers reached different conclusions
  - No record of main parcel being transferred from Aetna Match Company to Beaton and Corbin Mfg.
    - Aetna Match dissolved in 1905
    - Beaton and Corbin no longer in business

# Brownfield Land Bank Process

- **Initial Phase**
- **In 2015 CBLB began its initial evaluation of the Site and negotiated with the Town of Southington during the first half of 2017:**



# Brownfield Land Bank Process

## SCOPING MEETING

Land Bank staff will want to find out as much as they can about the site(s), the owner(s), potential developers (if any), your organization's experience, preliminary reuse ideas, existing land use plans, zoning, etc. A site visit might happen before or after the scoping meeting.

## SITE REVIEW/ SWOT ANALYSIS

- No Current Developer vs. Interested Developer(s)
- Single site vs. Multiple sites
- Financial Feasibility
- Municipal Capacity
- Site Assets
- Environmental Liabilities
- Reuse Potential
- Political and Community Support (or opposition)
- State Agency Assistance and Support

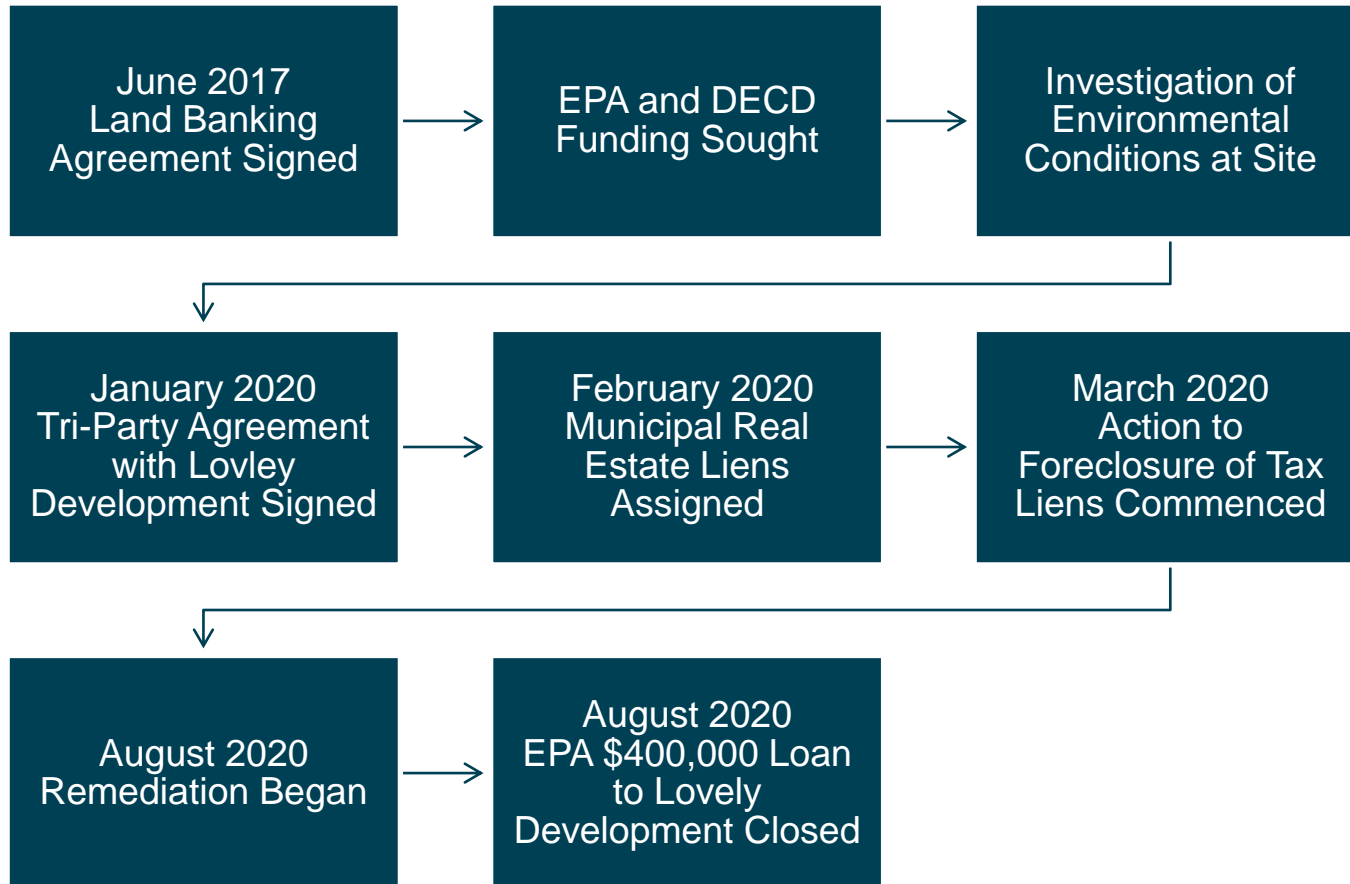
## LAND BANK PROPOSAL

Land Bank submits proposal to client for review and discussion; client accepts proposal with or without revisions or rejects proposal; land bank proceeds with action plan or requests debrief with client.

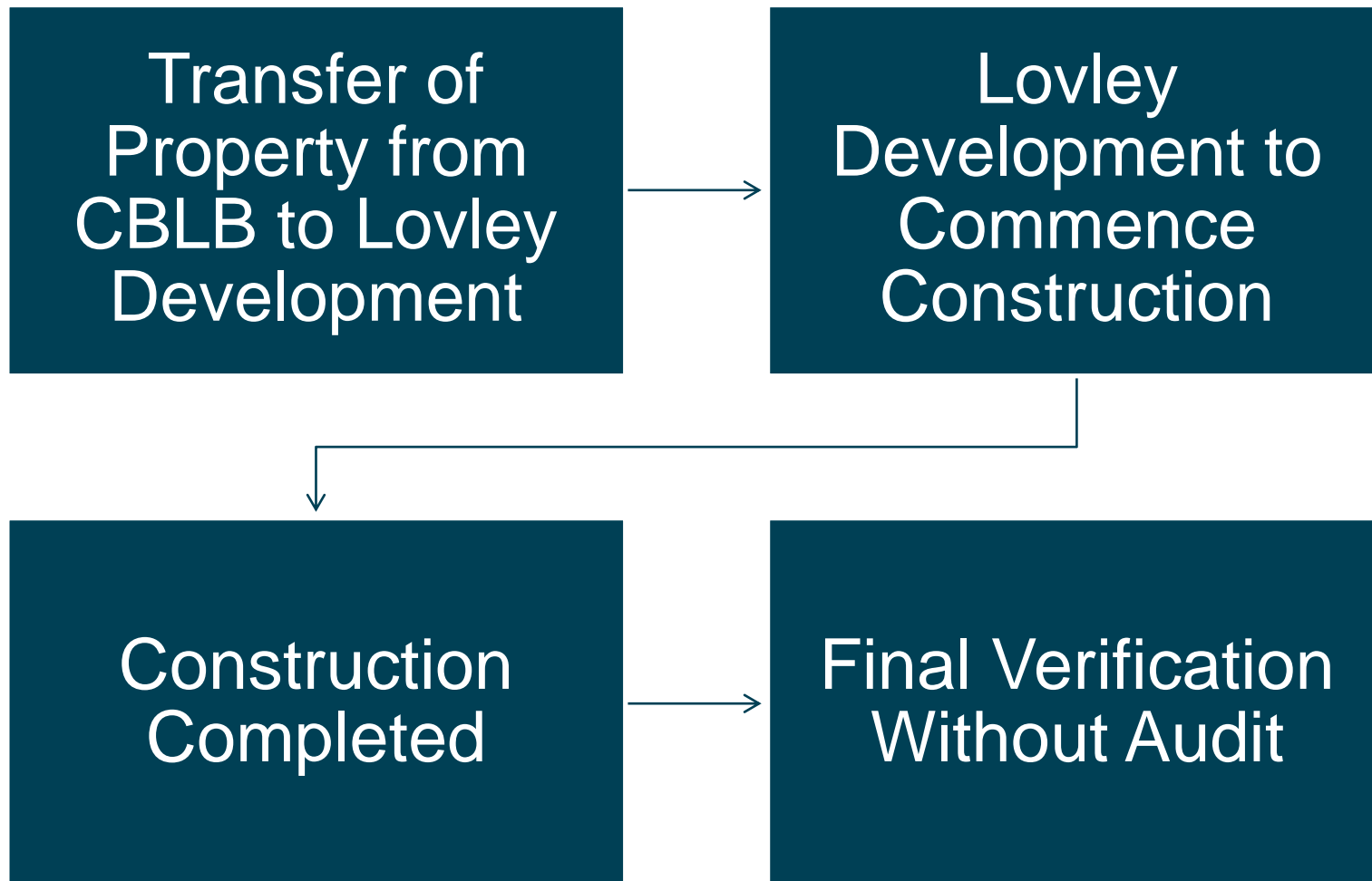
## LAND BANK ACTION PLAN

If client accepts proposal, Land Bank develops action plan consistent with client's priorities and circumstances surrounding the site(s); plan outlines specific tasks, activities, timetable, staffing, budgets, etc.

# Brownfield Land Bank Process: Intermediate Phase



# Brownfield Land Bank Process: Final Phase





# Successful Completion

## Collaboration of EPA, DECD, DEEP, CBLB Town of Southington and Lovley Construction

- Office Complex
- 2 Buildings
- 13,000 square feet
- Productive reuse of site
- Adds Value to Neighborhood
- Significant Real Estate Taxes
- Remediated Property



# Contact Information

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