

MARSH

October 21, 2003

Partnerships for Financing Redevelopment

Atlantic RBCA
Contaminated Properties Conference 2003

Agenda

- Banks and Brownfields
- Managing Environmental Risks
- Risk Transfer Products

Why Are Canadian Lenders Wary of Contaminated Sites?

- Liability
- Lack of understanding
- Lack of incentive
- Liquidity

Liability

- Historical concerns related to “special loans” (bad loans) where bank (through trustees/receivers) is seen as having had “care management and control” of contaminated sites.
- Regulations and/or Agreements with most provincial regulators permit site assessments without incurring liability.
- Not really as big a concern to lenders as they may tell you it is.

Lack of Incentive

- Easier to do greenfield development.
- Risk vs. Return much higher.
- Most Canadian lenders commercial mortgage books close to limit.
- No great demand by developers (this in changing).

Lack of Understanding

- Bankers are not scientists. Only RBC and CIBC have environmental managers on staff.
- Brownfield redevelopment much more complex than average development. Most account managers (and general public) don't even know what a Brownfield is.
- Very difficult to assign proper value to contaminated land.

Liquidity

- **Number 1 concern for Canadian FIs**
- Still a limited market for brownfield properties or properties with restrictions on title.
- Brownfield properties not eligible for CMBS conduit.
- Once you are in, there is no one to take you out.
- May end up writing off entire loan in default situation as limited value in contaminated land.

How do I get my lender to look at my Brownfield Redevelopment Proposal?

- Make sure that your business plan and your proposed loan payback plan is financially sound. Where is the cash flow going to come from?
- Ensure that there is a strong demand in the market for the development/final use.
- Ensure that the regulatory agencies, the municipality and the community backs your proposal - no surprises
- Ensure that your remediation program and construction schedule is viable.

How do I get my lender to look at my Brownfield Redevelopment Proposal?

- Employ experienced top notch legal, planning and environmental personnel (and listen to them).
- Ensure there are no liens on the property and the property is free of any encumbrances.
- Consider using a clean property that you currently own as the collateral for the redevelopment of this property.
- Consider some other form of security such as an insurance product that guarantees the loan. Make sure it fits the situation
- Provide lender with a viable take out strategy after construction if need be.

How do I get my lender to look at my Brownfield Redevelopment Proposal?

- Phase your redevelopment, if possible, to generate cash flow (i.e. develop clean parts of property first)
- Consider the remediation and design together to reduce costs.
- Provide the information that the bank requests.

Going Forward.....

- Situation is getting better - improved regulatory regime in most provinces.
- Increased understanding and acceptance of “risk based corrective action”
- Banks are becoming interested in Brownfields
- Banks are starting to compete for Brownfield construction loans (for the right clients/projects).

Managing Environmental Risk

- Identify - e.g. due diligence (Phase I, II ESAs, etc)
- Prevent - e.g. develop EMS
- Avoid - e.g. don't buy property/business (or don't lend against it)
- Remove - e.g. remediate contaminated site
- Transfer - e.g. purchase environmental insurance coverage

Traditional “Risk Handling” Techniques

- Environmental Indemnification
- Risk Financing
 - Loan / Collateral Guarantees
 - Trust Funds
 - Letters of Credit
 - Escrow Funds
- Purchase Price Negotiations



Role of Environmental Insurance

- Transfer Risk & Reduce Uncertainty:
 - Back up/substitute for /augment indemnity
 - Bring certainty to known cleanup costs
 - Transfer risks of unknown, pre-existing contamination and new contamination
 - Transfer risks of 3rd party liability
 - Provide an environmental cleanup “warranty”
 - Transfer risk associated with cleanup process

Two Principal Insurance Products



What does “Secured Creditor” Insurance do?

- Pays for the lesser of loan balance or clean up
 - Dual Trigger - combination of a default **and** an environmental condition.
- Protects the lender from 3rd party bodily injury, property damage, and cleanup claims resulting from on and off site pollution conditions.
- Provides coverage for 1st party claims for on and offsite cleanup costs if the insured has foreclosed on the property.
- Third party or discovery trigger.
- Unlike PLL insurance, can cover known pollution conditions - helps close difficult loans.

Insured Fixed-Price Cleanups (“IFCs”)

- Contractor gives a fixed price bid that is backed up by insurance
- Contractor assumes all responsibility for remediation including regulatory liability (note: depends on jurisdiction)
- Site owner gets as close to absolute protection against further liabilities as is currently available
- Insurer acts as fund manager and/or insurer
 - cost cap alone, PLL alone, Finite alone or any combination

IFC Benefits

To Clients:

- Maximize cost certainty (insurance; contractor indemnity; contractor incentive)
- Seller obtains full “market” price and avoids dependence on Buyer’s good management and solvency
- Outsource (to insurer) the duty to manage the contractor
- Possible tax benefits

To Contractors:

- Differentiator - others typically offer “time and materials” services
- Easier to budget and fund (I.e. provides revenue/liability certainty)

Who Writes This Coverage?

The Insurance Markets:

AIG Environmental

Term:

XL Environmental

Up to 10

Chubb

Years

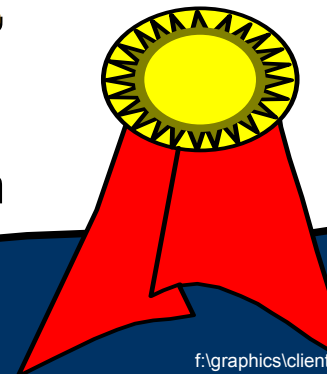
Zurich Environmental

ACE INA

Liberty

**Single site, multi site,
portfolio**

Limits: Up to 150mm



Consider Environmental Insurance when.....

- Clients with sites remediated to “site-specific” risk-based standards
- Clients wanting to redevelop “Brownfield” sites
- Clients with higher degrees of operational environmental risks (e.g. heavy manufacturing)

Any Questions.....

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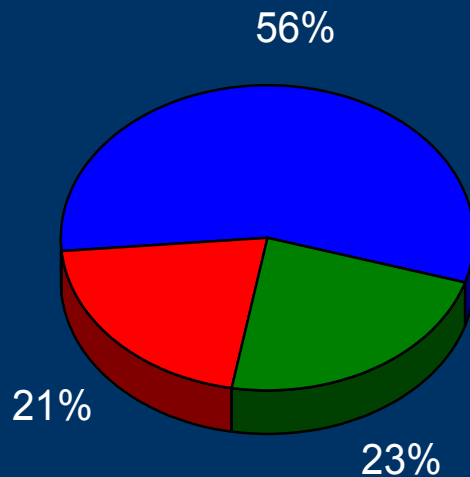
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