



Regional's Clark Report is being published to provide information and provoke debate on property matters, at a time when issues of assessment and brownfields are appearing on front pages of mainstream newspapers.

Topical issues will be reported, with this issue focusing on the economics and tax treatment of brownfield remediation in Ontario. Many unused sites across the province could be brought back into use, were it not for unsupportive economics. Public policy is critical in changing the landscape and Queen's Park has taken an initiative – property owners, developers and local government need to be shown what tools are newly available and how to take advantage of these.

Next issue of the Report will be on property taxes and current value assessment. Property tax is a good tax if managed transparently.

Comments are welcome and can be addressed to:

clarkreport@regionalgroup.com

Contents

Introduction	1
Ontario Act Provides New Opportunity for 'Brownfield' Cleanup	1 – 3
Snapshots	2 – 3
John Clark Biography	3
West River Park	4
The Regional Group of Companies Inc. Directory	4



Major brownfield sites, like Ottawa's Lebreton Flats, could benefit from recent amendments to provincial legislation.

Ontario Act Provides New Opportunity for 'Brownfield' Cleanup

by John Clark & Shari Elliott

Contaminated real estate can be found in all major Canadian cities, and all levels of government avidly hope to see these "brownfield" properties redeveloped. Pursuing the goal of site rehabilitation, the province of Ontario, for its part, has passed the *Brownfields Statute Law Amendment Act, 2001* (the "Brownfield Act").

This Brownfield Act was enacted to facilitate remediation activity in part by providing developers with a form of financial assistance. Real estate developers normally undertake projects only where a reasonable expectation of profit exists, and accordingly, the Brownfield Act speaks to this concern by attempting to make investments in brownfields more attractive through the use of tax *holidays*. This article addresses the impact of this form of assistance.

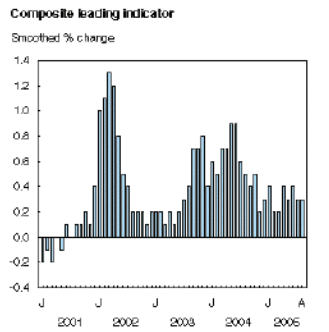
Remediation costs of contaminated sites vary widely; they may range from nominal to prohibitive. In this article, costs are expressed as a ratio measured against the projected value of the site as if it were clean. This is known as the remediation ratio. Sites with a ratio of *less* than 1.0 (*i.e.*, the clean-up cost is less than "clean" fair market value) can be considered to be worthwhile for redevelopment opportunities.

Assuming that all costs of rehabilitation and associated risks are known, redevelopment plans can be pursued for brownfields with a ratio of less than 1.0 on a competitive basis. That is, where a ratio of 0.5 applies to a contaminated property, one can expect to see its value discounted by 50 percent of the value of the site as if clean. This is directly comparable to the discount that might apply where the sale price of an otherwise clean site is affected by the costs of demolishing derelict buildings. Where a competitive redevelopment ratio exists, an owner is encouraged to remediate the site and establish a new use rather than maintaining a long-term management strategy often referred to as mothballing the site. While the authors acknowledge that in some circumstances the fear of future liability that could result from the transfer of ownership and redevelop-

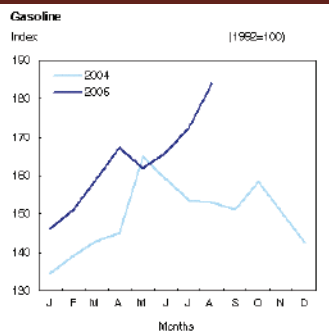
continued ...

Snapshots

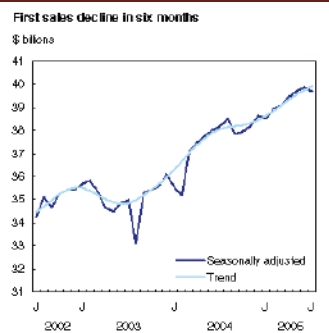
Leading Indicators



Consumer Price Index



Wholesale Trade



SOURCE: STATISTICS CANADA

Regional Consulting/ Valuation

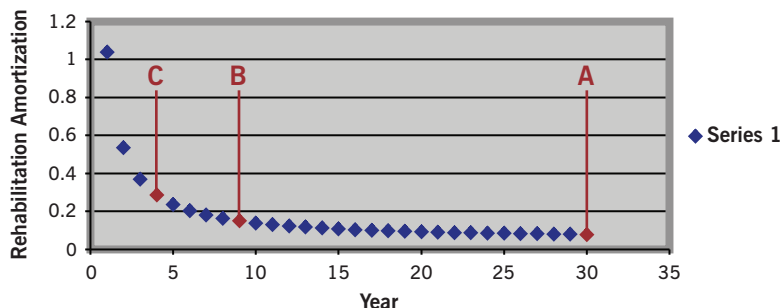
Practice areas include advisory services - development options; lease review - due diligence; valuation; and assessment and property tax administration. Value added benefits go to the bottom line. The Consulting and Valuation Division of Regional, through its due diligence work, has saved clients up to \$900,000 on single assets alone.

ment is too onerous to be overcome without further legislative changes, this article addresses the bulk of the sites throughout the province that can benefit from the financial incentives and other liability comforts provided in the Brownfield Act.

Remediation can become problematic when the ratio for a site exceeds 1.0 (*i.e.*, the clean-up cost exceeds the "clean" fair market value). Without financial assistance, most reasonable investors/developers would not acquire such a site, even at a nominal or negative price. For example, if the ratio was 1.2, the first 20 percent of remediation costs would only take the site to the point where it was worth nothing. Financial support provided through this legislation may change that outcome.

To help encourage the return of brownfield properties to the marketplace, the Brownfield Act, through amendments to the Municipal Act, grants municipalities the power to provide property owners with financial assistance in the form of municipal property tax holidays, both during and after remediation. The terms used under the Municipal Act are the "development period" and "rehabilitation period". While many lobbied for a longer length of time for the rehabilitation period, this remains capped at 18 months. However, it is important to note that the eligible period for cost recovery includes the development period. The development period will be defined on a case-by-case basis and implemented by the passing of a municipal by-law. There is no cap on the maximum length of the development period.

Property Tax Holiday Benefits



The curve in the chart above demonstrates the declining amortization term of rehabilitation. The longer the term the lower the annual amortization. Points A, B & C demonstrate the effect of redevelopment intensity on the required length of tax holidays necessary to fully amortize site rehabilitation.

Points A, B & C are for projects with redevelopment intensities of 1:1, 1:3, and 1:7 respectively, and assume no inflation and an average 4% commercial tax rate.

Municipal tax holidays have been provided to give financial relief to property owners by offsetting some of the combined holding and rehabilitation costs. The Brownfield Act amendments to the Municipal Act have provided that tax holidays may be extended for the length of both the rehabilitation and development phases. These changes to the legislation could significantly alter the landscape. Tax holidays could be in place for a sufficient period time to allow tax holiday benefits to equal the sum of costs of actions undertaken to reduce contaminants, and costs of complying with any certificate of property use required under Section 168.6 of the Environmental Protection Act¹.

A win-win-win situation can be created with an eye-sore or potential hazardous site brought back into productive use, and eventually generating full property taxes. In the mean time, a property that would otherwise not have generated much in the way of tax revenue benefits from a tax holiday that makes a redevelopment project feasible.

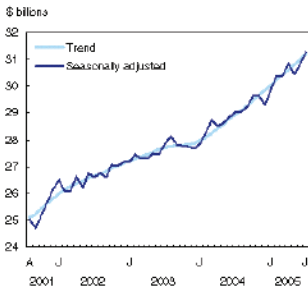
continued ...

¹Ontario Municipal Act, A Comprehensive Guide, John G. Chipman, Canada Law Book, page 10-54

Snapshots

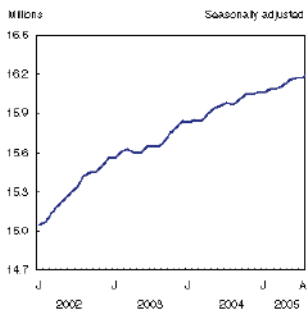
Retail Trade

Retail trade continues to show strong sales gains



Labour Force Survey

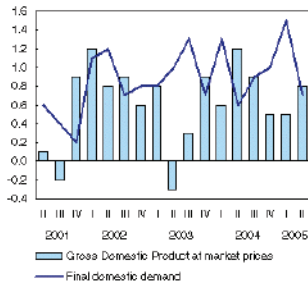
Employment



Canadian Economics Accounts

GDP accelerates in the second quarter

Quarterly % change, chained (1997) dollars



SOURCE: STATISTICS CANADA

Municipalities and the Provincial Government win with future tax growth, developers win with a feasible project, and the community wins with a potential safety problem and/or threat to surrounding land values returned to productive use.

Circumstances have begun to shift both legislatively and through public education, and many previously unviable redevelopments may now be feasible.

To demonstrate the potential impact of tax relief, compare the quantum of financial relief and remediation costs. The chart below shows the impact of tax holidays versus clean-up costs. The curved line on the graph (rehabilitation amortization) shows the annual payment to amortize a remediation cost with a rehabilitation ratio of 1.0, *i.e.*, equal to the site value as if clean. Annual amortization costs decline significantly as time increases.

Tax holiday points on the graph indicate the number of years of tax reductions necessary to fully amortize remediation costs. Redevelopments with a ratio of new building cost to land value of 1:1 would take 30 years of tax holiday to pay off remediation costs. Conversely, as the ratio increases, *i.e.* the development is of a larger scale, time is reduced. A development with a ratio of 1:3 takes only 9 years to pay off, while a project with a ratio of 1:7 reduces the necessary tax holiday to about 4 years, based on a commercial project and an average tax rate of 4%.

Clearly, it would be politically more acceptable to support larger projects with relatively short property tax holiday terms. Note, the scenarios demonstrated will vary when the remediation ratio changes, as well as with different tax rates.

Financial assistance is most needed for brownfields whose remediation ratios exceed 1.0. The Brownfield Act can provide relief, providing local municipal councils adopt enabling by-laws.

Challenges will still limit brownfield redevelopment. Financing may be difficult to obtain. Further, as opposed to a clean site, equity and debt financing need to be in place to cover not only land value and normal development expenses, but remediation costs as well. Lenders may need to be more creative in adopting policies that provide for loan to value ratios higher than the norm. These are short-term situations, as loan ratios will drop quickly with the investment in remediation being quickly amortized so they are discharged in parallel with the tax holiday term. Normal long-term takeout financing is otherwise not affected.

John Clark is Vice President, Consulting/Valuation, of The Regional Group of Companies Inc, Ottawa. Shari Elliott is an associate practicing Municipal Law with Graham, Wilson & Green in Barrie.



PHOTO: COLVRETT/OTTAWA

John Clark, AACI, Vice President - Consulting / Valuation, is responsible for Regional's client advisory services. Mr. Clark is a published author on property matters and professional development, and is a Past President and Fellow of the Appraisal Institute of Canada.

John Clark
jclark@regionalgroup.com

“Success comes from the right to make decisions tempered by the responsibility to respect the rights of others.”



Naturally Private... Comfortably Elegant



ARTIST'S CONCEPT

**NOW UNDER
CONSTRUCTION**

SPRING 2006 OCCUPANCY

West River Park

Tucked away on a quiet cul-de-sac overlooking the Ottawa River Parkway and just steps from the Lincoln Fields Transit Station, this new limited edition collection is nestled in an established neighbourhood only a few minutes drive from Ottawa's trendy Westboro Village. This is an ideal starting point for walking, jogging and biking, and being close to the transitway and shopping means you have all conveniences nearby.

This charming enclave of just 22 units offers six, 3-storey freehold town homes and 16 parkside terrace homes that offer an abundance of windows that light up your indoor space while allowing you to enjoy the natural beauty of the outdoor space that surrounds the site.

Choose from such features as attached garage, double master ensuite bath with oversize soaker tub, home office, entertainment size living room and contemporary kitchens with breakfast or spacious breakfast room.

These contemporary homes starting from \$214,900 for the terrace homes and \$292,900 for the freehold town homes are under construction and await your discovery.

www.westriverpark.ca



The Regional Group of Companies Inc.
www.regionalgroup.com

200 Catherine Street, Suite 600
Ottawa, Ontario K2P 2K9

Tel 613.230.2100
Fax 613.230.3454

Land & Development	David Kardish	613.230.2100 ext. 7004 dkardish@regionalgroup.com
Property & Asset Management Division	Jeffrey Gould	613.230.2100 ext. 7003 jgould@regionalgroup.com
NAI Commercial - Brokerage	Steve Gordon	613.230.2100 ext. 7000 sgordon@regionalgroup.com
Consulting / Valuation	John Clark	613.230.2100 ext. 6200 jclark@regionalgroup.com
Assessment & Property Tax Administration	John Clark	613.230.2100 ext. 6200 jclark@regionalgroup.com