

The New York Times

AS FEATURED

DECEMBER 12, 1999

In the Region/New Jersey; Managing Risk at a Tainted Former Factory Site

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FOR MORE THAN FOUR DECADES Rowe International churned out vending machines from its 328,697-square-foot complex on Troy Hills Road in Hanover Township. When it closed in 1995 there were competing visions for the future of the 34-acre environmentally tainted site.

The Morris County township wanted to see it recycled for housing. So three years ago Hanover rezoned the land for 49 single-family detached homes compatible with those that had sprung up over the years around the old plant. Since the site was to be redeveloped for housing, state environmental laws would require that it be cleaned to the highest standard.

But the owner wanted to sell the property for an industrial re-use, which would require a less stringent cleanup. And Rowe International, which had started that cleanup, sued the township over the rezoning.

The result, after two years of negotiations, is unusual. LandBank, an environmental remediation and development firm based in Lakewood, Colo., acquired the site from Rowe last September for an undisclosed price, with the condition that Rowe drop its lawsuit. LandBank also assumed the risks of completing the cleanup of the property according to state standards for residential re-use.

At the same time, LandBank has a deal in place with Sterling Properties of Livingston, under which the housing developer

will buy the site for an agreed upon price once the cleanup, which LandBank expects to take two years, has been completed.

Joseph Forgione, a Sterling principal, said most of the homes in the \$50 million subdivision would be on quarter-acre lots, adding that they would be 2,400 to 2,800 square feet in size and cost an average of \$400,000, the county average for new homes.

The resolution of the conflicting visions not only addresses the cost of the cleanup, but also offers protection from lawsuits if unknown contaminants are found -- issues that historically have daunted buyers and sellers of polluted sites. LandBank has obtained \$16.65 million in insurance policies from United National Insurance Company, of Balla Cynwyd, Pa., to cover cost overruns and protect, in perpetuity, Rowe and Sterling Properties -- as well as Whippany Ventures I, the entity LandBank created to acquire the site. Future liability for the site and surrounding properties is limited to known contaminants associated with the plant.

LandBank's parent -- the IT Group, a publicly traded environmental engineering and services firm in Monroeville, Pa. -- has also supplied a guaranty to the New Jersey Department of Environmental Protection, which oversees such cleanups, that the former Rowe site will be cleaned to state standards.

All parties involved are pleased with the resolution of the problem, calling it an example of recycling so-called brown-

fields as available sites for development dwindle.

"We're seeing more adaptive re-uses as a result of the state's change from a manufacturing to a service economy and of a strong residential market," said David J. Schoner, a vice president at Coldwell Banker, the residential real estate firm based in Parsippany.

He added that the activity was not surprising in eastern Morris County, where available land is scarce, because its access to job centers and major roadways continues to draw home buyers and, in turn, developers.

Mr. Forgione said that was among the reasons his company got involved with the Rowe property, which he said was among the last sizable tracts left open to development in the 10-square-mile township. "To develop such sites requires creative solutions," he said.

Efforts by the state and municipalities like Hanover are also helping to return polluted sites to productive re-use. In Hanover, "the secret is to make the economics work" on such sites as Rowe's, which are remnants of the community's past as a factory and mill town, said Sal Iannaccone, a township committeeman and Hanover's director of planning. With the Rowe site, he said, "we rezoned it to a density that provided enough building lots" so recycling could make economic sense.

Mr. Iannaccone said the township had used, or will use, the same formula for other brownfields in its borders,

including a 77-acre site on Eden Lane that once housed the Whippany Paper Board factory, which has been rezoned for office use. The current owner is advancing plans to turn it into a three-building, 750,000-square-foot office complex.

EFFORTS TO RECYCLE former industrial sites got a helping hand nearly two years ago when the state enacted the Brownfields and Contaminated Site Redemption Act. The measure provides for reimbursing developers up to 75 percent of the cost of the completed cleanup -- if, among other things, the re-development would generate tax revenue exceeding the cost of the cleanup. It also protects purchasers from private lawsuits related to past contamination problems and carries an assurance that the state will not sue once the site is cleaned according to its standards.

The state's efforts have helped facilitate the re-use of the 10,000 contaminated sites in New Jersey, down from about 20,000 in 1985, according to the Site Remediation Program, which is under the jurisdiction of the state's Department of Environmental Protection. Of the remaining sites, 1,130 are brownfields, which the state defines as tainted industrial or commercial sites.

In the case of the Hanover deal, Alphonse J. Inserra, a case manager at the Site Remediation Program, said that "a large company that has the financing is taking on the cleanup project and will be able to do it quickly and make a profit."

Kyle R. Cascioli, director of real estate acquisitions at LandBank, said his

company would clean the Rowe site to state standards without state subsidies, adding that his concern was involved with over a dozen such deals across the country.

For such deals to work, he said, they must include a site with intrinsic real estate value, a firm to competitively clean it and an insurance policy to make the seller and buyer of the land and its developer "comfortable that the risks have been removed." All those factors are in place in the Hanover deal, he said.

Mr. Cascioli said his company estimated the total cost of the Hanover project at \$4.3 million to \$4.5 million, including the cost to acquire, insure and clean the site, with the cleanup alone costing \$1.65 million.

In addition to protecting the parties from environmental liabilities, one of the three insurance policies LandBank obtained will cover an additional \$1.65 million in unexpected costs that could arise if unknown pollutants are found.

The company will recapture the overall cost of the project when it sells the cleaned property to Sterling. Mr. Forgione, the Sterling principal, would only say that his company has contracted to buy the site for more than \$4 million, noting that the assurance against liability was key to the transaction.

Richard J. Conway Jr., a Morristown-based environmental lawyer who represents Rowe International, agreed.

"It's fair to say Rowe is pleased with the transaction," he said. "LandBank has a contract to clean the site and

Rowe will no longer have to worry about the New Jersey facility."

Once LandBank's parent guaranteed the cleanup, the state returned the \$2 million bond Rowe posted for the remediation, which Rowe and LandBank will share. Though Mr. Cascioli would not disclose how the money is to be divided, he said Rowe, which has moved to Grand Rapids, Mich., would be compensated for the land and LandBank would be able to make a profit for taking on the cleanup risk.

LandBank began the cleanup immediately after it took title to the site in September. The work involves removing asbestos from the old plant and then demolishing it and cleaning the contaminants on the site and in the groundwater, including metals such as chrome and chlorinated solvents left behind by the manufacturing operations.

Mr. Forgione said Sterling had secured county approval for the housing project, adding that it would seek approval from the Hanover Township Planning Board this month. He said he expected to start construction on the project, called Forest Hill Estates, late next summer.

As planned, the brick and stucco homes, designed by Thomas Brennan, an architect based in Plano, Tex., will have three or four bedrooms and such features as two-car garages and full basements. He said they would be built on 28 of the 34 acres of the site; the rest will be left as open space.