

## Brownfield sites offer development opportunities

Phillips Lytle hosts expert discussion of state incentives

By **BENNETT LOUDON**

Contaminated properties that were off-limits to developers are now seen as viable community projects, thanks to New York's Brownfield Cleanup Program.

Developers who clean up and reuse property with environmental contamination — better known as brownfields — not only qualify for state income tax credits, but the state also will officially release them from liability for potential litigation related to the contamination.

"Brownfields and their incentives do not turn a bad real estate project into a good one," said David Riedman, CEO and president of Riedman Companies, a real estate developer.

"I think they can be very useful in bringing a brownfield up to a competitive alternative to a greenfield site in a market that would justify the investment in the process and help us to revitalize property that has been mothballed, so to speak, and bring new life to it," Riedman said.

Riedman was one of five experts who discussed the state's Brownfield Cleanup Program during a breakfast event on June 25 hosted by the Rochester Business Journal and sponsored by Phillips Lytle LLP.

The event, called State of the Region: How to turn brown into green, was held at the Joseph A. Floreano Rochester Riverside Convention Center.

Riedman was joined by Craig



Photo by Bennett Loudon

**David Riedman, CEO and president of Riedman Companies, discusses New York's Brownfield Cleanup Program during the State of the Region event.**

J. Burton, senior vice president and commercial real estate executive for Five Star Bank; David P. Flynn, partner at Phillips Lytle; Greg Senecal, senior vice president, director of environmental services for LaBella Associates; and Don L. Warrant, director, Freed Maxick.

The discussion was moderated by Phillips Lytle partner Anthony J. Iacchetta.

Flynn called the Brownfield Cleanup Program "one of the most successful, if not the most successful, brownfield programs in the United States."

The program limits developers' liability for contaminated property.

"And once you remediate it, you get a release of liability from the state of New York for known contamination," Flynn said.

The release is very helpful if you sell the property because it certifies that the site has been remediated to the state's requirements, he said.

The tax credits vary depend-

ing on the specific site, the cost of the cleanup and the development investment.

The state Brownfield Cleanup Program matches the remediation requirements with your intended use of the property in the future.

"So, if it's an industrial, or commercial use, your cleanup is different than if you're looking to redevelop, or use the property for residential," Flynn said.

The Buffalo area leads the state in active brownfield sites and the Brownfield Cleanup Program is "wildly popular with developers" there, Flynn said.

"There isn't a significant development project in the western New York/Buffalo area that I can think of that doesn't have a brownfield piece to it," he said.

Flynn said Phillips Lytle organized the event to tap into what is considered "a real pent up demand for brownfield development in the Rochester market."

And he pointed out that the Brownfield Cleanup Program aligns with the state's renewable energy goals. While communities may be nervous about using farmland or prime development property to install solar panels or wind turbines, brownfield sites offer an attractive alternative.

The Brownfield Cleanup Program started in 1994 and in the past 25 years the program has evolved. New technologies have emerged to improve the efficiency of soil and groundwater remediation, said Senecal.

But it's not just the engineering side of the program that has changed.

"In the mid-1990s if you were doing brownfield programs ... a bank or financial institution would not touch it," Senecal said.

"Now throughout the brownfield process, sometimes even before the cleanup takes place, commercial lenders are willing to work with consultants, attorneys and developers," he said.

In addition, during the past 2 ½ decades, the state Department of Environmental Conservation (DEC) has become much more of a partner, Senecal said.

"We've seen a great amount of partnership by the DEC in allowing projects in the last five or six years to go right into the mediation phase without doing an expensive investigation," he said.

"That sort of forward-looking stance from the DEC is very very welcome and making it a lot easier to make these projects economically viable," he said.

[BLoudon@BridgeTowerMedia.com](mailto:BLoudon@BridgeTowerMedia.com) / (585) 232-2035



**STATE** of  
**THE REGION**

# HOW TO TURN BROWN INTO GREEN



PRESENTED BY  
**Phillips Lytle** LLP

*Transforming Brownfields into Viable Community Projects*

**Tuesday, June 25, 2019 | 8:00 a.m. Registration | 8:30 a.m. - 10:30 a.m. Program**  
**Joseph A. Floreano Rochester Riverside Convention Center**  
**123 E. Main St, Rochester, NY 14604**



There are significant brownfield opportunities in the Rochester market. Join us to hear a panel of local business professionals discuss how the Brownfield Program works, how you can limit your exposure to environmental liabilities and how to take advantage of the significant financial incentives that are available. Find out what you need to know to better understand how the Brownfield Program can contribute to your bottom line.

**To register, please visit: [Rbj.net/events/pl-state-of-the-region](http://Rbj.net/events/pl-state-of-the-region)**

Or contact Jessica Sims at: 585.363.7271 or [jsims@bridgetowermedia.com](mailto:jsims@bridgetowermedia.com)

## Panelists



**Craig J. Burton**  
Senior Vice President  
and Commercial Real  
Estate Executive  
Five Star Bank



**David P. Flynn**  
Partner and Environmental Law  
Practice Team Leader  
Phillips Lytle LLP



**Greg Senecal, CHMM**  
Director of Environmental &  
Energy Services  
LaBella Associates, PC



**Don L. Warrant, CPA**  
Tax Director  
Freed Maxick



**David J. Riedman**  
President  
Riedman Companies



**Moderated by**  
**Anthony J. Iacchetta**  
Partner  
Phillips Lytle LLP