



***National League of Cities***

**STATEMENT OF**

**THE HONORABLE MATT ZONE  
COUNCILMAN, CLEVELAND, OHIO**

**BEFORE THE  
HOUSE COMMITTEE ON TRANSPORTATION AND  
INFRASTRUCTURE,**

**SUBCOMMITTEE ON WATER RESOURCES AND  
ENVIRONMENT**

**FEBRUARY 14, 2008  
WASHINGTON, DC**

Statement of

Matt Zone  
Councilman, City of Cleveland, Ohio

On behalf of the National League of Cities

Before the House Transportation and Infrastructure Committee,  
Subcommittee on Water Resources and Environment

*“Revitalization of the Environmental Protection Agency’s Brownfields  
Program”*

February 14, 2008

Good afternoon, Madam Chairwoman and Members of the Committee. I am Matt Zone, Council Member from Cleveland, Ohio. I am here today on behalf of the National League of Cities (NLC), the oldest and largest organization representing local elected officials in America’s cities and towns. I appreciate the opportunity to present the views of local elected officials on the revitalization of the Environmental Protection Agency’s (EPA) Brownfields Program.

The City of Cleveland has had a successful partnership with the EPA Brownfields Program in redeveloping our urban landscape. Since 2004, Cleveland has received \$800,000 in EPA brownfields assessment grant funds that led to the cleanup of nearly 100 acres. Assessment dollars are critical to local governments, as they support the first, and most risky, phase of a redevelopment project. Assessment funds granted by the EPA Brownfields Program assist local governments in evaluating the extent of contamination and potential costs for remediation. The City of Cleveland has successfully used these grants to leverage over \$15 million. Without these funds many projects would not have gone forward.

In addition to assessment dollars, the City of Cleveland also received technical assistance from EPA. This assistance is just as critical to local governments as grant funds. With the technical assistance of an expert brownfields professional from the EPA Region 5 Brownfields Office, the city’s development department has increased their capacity to redevelop brownfields in Cleveland.

The EPA Brownfields Program is vital for local governments in aiding their redevelopment efforts, but much work remains to be done. NLC urges Congress to increase the overall funding authorization level for the EPA Brownfield Programs, to increase the cap on the assessment grant amounts, whether site-specific or community wide, and to increase technical assistance offered to communities. Additionally, NLC asks Congress to enact legislation addressing and resolving the disincentives created by potential liability to facilitate reuse of brownfield properties. Such legislation should provide a waiver, a definitive limitation or elimination of

liability for non-contributing local governments coming into title of previously contaminated properties involuntarily.

## **BROWNFIELDS REDEVELOPMENT ISSUES**

Cleveland truly considers the EPA to be a partner in the area of brownfields redevelopment, but I come to you today with pressing issues that could jeopardize Cleveland's and other cities' strategic redevelopment policies.

As an older industrial city, Cleveland's legacy of manufacturing and commerce is now symbolized by numerous abandoned structures, obsolete buildings, leaking underground storage tanks and polluted properties. The impact of our industrial legacy has spread across our neighborhoods like cancer, killing once vibrant areas and leaving behind dead zones. The factories that once built America and employed thousands of Clevelanders are no longer an asset—they are a liability. To regain our stature as a great American city once again, we will need help in revitalizing our land and buildings.

Our current vacant property portfolio puts my city at risk beyond previous crises. Local governments need the support of Congress and our federal agencies to revitalize the abandoned properties and buildings that are growing in number in our communities. These abandoned buildings have compounded our financial problems and costs the City of Cleveland millions by shrinking our tax base, undermining property values and increasing service costs. In fact, our city has had to increase its demolition budget four-fold since 2006—we anticipate spending over \$9 million this year to demolish dangerous abandoned structures that threaten the safety of our citizens. In addition to depressing the economic well-being of my city, a failure to act will compromise the well-being of our residents.

Local governments rightly approach brownfields redevelopment as an economic development activity. However, strategically redeveloping these contaminated properties means much more than dollars and taxes. It means correcting the environmental injustices unduly thrown upon those living in our impoverished neighborhoods that are host to a disproportionate share of brownfields. It means protecting our first responders by eliminating contaminated enclaves of criminal activity and structures of high fire risk. For Cleveland, it means protecting Lake Erie and our streams and rivers. It also means creating a more sustainable future by promoting urban infill rather than urban sprawl and incorporating more environmentally-friendly design and building stock into our existing urban fabric.

Finally, the issue of municipal liability for cleanup costs is a concern for local governments, particularly if they were not involved in the contamination of the site. As a general rule, under current law, local governments have a disincentive to cleanup and develop brownfield properties because of the liability that they could face. Often, as involuntary owners of brownfields property, many local governments are wrongly designated potentially responsible parties and held liable for cleanup. The fear of such designation has led to municipalities choosing not to invest in the cleanup or development of land, not because they do not want to, but because they cannot afford the liability costs.

## **THE CLEVELAND EXPERIENCE: TRINITY BUILDING**

The City of Cleveland, through its partnership with the EPA, State of Ohio, local businesses and other entities, implemented a land bank program in 2005, targeting former industrial and commercial properties for redevelopment. Known as the Industrial-Commercial Land Bank, the rationale for the program is simple—to strategically invest our limited local resources in properties that would, if not for the investment, sit unused for decades.

The land bank allows the city to take a holistic approach to brownfields redevelopment and to take on multiple projects at a time. Currently, the city is redeveloping nearly 50 acres of brownfields properties through the land bank program and has invested over \$16 million in demolition and cleanup costs. One property of particular interest is referred to as the “Trinity Building.” This six-acre site, while small, is posing huge challenges to the city and puts the land bank program in jeopardy due to the lack of federal liability protections afforded to local governments that assume the responsibility of cleaning up contaminated properties polluted by previous users. The current cap on assessment grants for each community, however, actually limits the city’s ability to invest in multiple properties at one time.

The Trinity Building, once the workplace to over 500 Clevelanders, sits on a main thoroughfare adjacent to a daycare, multi-family housing, a nursing home and several commercial businesses. In the 1980s the company that occupied the Trinity Building relocated out of state. By the mid-90s, after many failed attempts to encourage the property owner to voluntarily bring the building up to code, the abandoned building became a blight on the community that posed a risk to public health and safety. Demolishing and remediating the property was the only solution to these problems, and it wasn’t until the city established its Industrial-Commercial Land Bank that a local mechanism was available for implementation.

The city eventually took ownership of the property through a foreclosure action. Using the land bank as a mechanism, the city determined that it was in the best interest of the neighborhood to demolish the building and remediate the land. Within a year, the city allocated \$2.9 million for these costs. In early 2007, the city discovered unforeseen PCB (polychlorinated biphenyl) contamination. Because the cost and extent of the risk to public health and the environment was beyond the capacity of the city, the city requested that EPA investigate the contamination and take immediate response measures to protect adjacent residents and businesses. During the summer of 2007, the EPA conducted interim response actions under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, also known as Superfund) to address the most urgent public health matters.

In December 2007, The EPA notified the City of Cleveland that it was a party potentially liable for the cleanup under Superfund. Now, instead of EPA and the city partnering to clean up the site, the city finds itself defending its demolition and cleanup activities of a vacant and abandoned brownfields. After following all the rules and the city’s good intentions, the redevelopment is at a standstill and the Trinity Building remains a pile of rubble on contaminated land in the middle of Cleveland. The current situation prohibits a neighboring business from expanding onto the property. In addition, the demolition debris left on the site attracts metal scrapers and is an eyesore.

The 2002 amendment to CERCLA that established the brownfields program was a step in the right direction, but as the portfolio of risky, polluted properties in our urban cities is growing larger and larger, the exposure to liability, such as the one Cleveland is experiencing with the Trinity Building, makes redevelopment of these site impractical and cost-prohibitive.

In closing, the City of Cleveland has the experience and expertise to address the brownfields in its neighborhoods. The city established a land bank program to prepare brownfields sites for economic growth. Cleveland's story and experiences are no different than any other American city with an industrial legacy. Congress showed great leadership amending CERCLA in 2002. While progress has been made and beneficial relationships formed between local and federal entities, the federal brownfields program has not achieved its full potential. The Federal government must continue its commitment to the brownfields program and to the cities protecting its citizens and the environment from the dangers these sites pose.

On behalf of the National League of Cities and the City of Cleveland, I thank you for the opportunity to submit this testimony on a most timely issue. I look forward to your questions.