



April 8, 2013

Honorable Jay R. Kaufman, House Chair
Honorable Michael J. Rodrigues, Senate Chair
Joint Committee on Revenue
Room 43, State House
Boston, MA 02133

Subject: Support for H. 2515 “An Act Relative to Brownfields Tax Credits” and H.2755 “An Act Extending the Brownfields Tax Credit Program”

Dear Chairman Kaufman and Chairman Rodrigues:

The LSP Association (LSPA) is the non-profit, professional society for Licensed Site Professionals (LSPs), the environmental consultants licensed by the Commonwealth to oversee the investigation and remediation of hazardous waste sites in Massachusetts, and for other professionals (attorneys, laboratory personnel, risk analysts, etc.) involved in these activities. Through education and information, we work to help our nearly 1,000 members achieve and maintain high standards of practice in overseeing the assessment and remediation of hazardous waste disposal sites. Our members work with their institutional, non-profit, government, and private clients to remediate contaminated sites, often in economically distressed areas, so these properties can be placed back into active and productive use.

We write to express our support for both H. 2515 “An Act Relative to Brownfields Tax Credits” and H.2755 “An Act Extending the Brownfields Tax Credit Program.” These bills propose to extend the Massachusetts Brownfields Tax Credit program to 2018 and 2015, respectively, thereby ensuring liability relief and financial incentives to clean up and redevelop contaminated properties. The Brownfields Tax Credit is an important part of the Commonwealth’s comprehensive program to revitalize and reuse contaminated sites. We urge the committee to support and fast track these bills so that current remediation projects are not stalled and new projects may begin.

Incentives and Benefits Quantified

Since 1998, the Brownfields Tax Credit, created as part of the Brownfields Act, has been a key factor in attracting new investment in properties that might otherwise be tied up in litigation and financial woes, while ensuring that the Commonwealth’s high standards for public health, safety, and the environment are met. Sites that would otherwise have been dormant, or worse, have become useful again. These success stories are ones in which our members are actively involved.

The October 2012 report by Redevelopment Economics entitled “*Analysis of the Economic, Fiscal, and Environmental Impacts of the Massachusetts Brownfields Tax Credit Program*,” for NAIOP Massachusetts, the Commercial Real Estate Development Association, and the Massachusetts Economic Development Council, quantifies the economic, employment, state revenue, public health, environmental, and smart growth benefits of this tax credit. The report demonstrates that the BTC pays for itself and is a highly beneficial credit that, if discontinued, would have significant deleterious impacts.



More Opportunity From Cleaning Up to Higher Environmental Standards

The Massachusetts program for remediation of properties contaminated by oil and hazardous materials is a privatized one. Licensed Site Professionals (LSPs - our members), are required to attest that a site has been remediated to the Commonwealth's cleanup standards, which include unrestricted and restricted uses. Under the tax credit program, the Commonwealth gives preference to sites that are cleaned up to an unrestricted use; that is, they have no activity and use limitations and are suitable for residential development.

A 50% credit is offered for unrestricted cleanup, compared with a 25% credit for sites that do not achieve this high cleanup standard. Therefore, there is significant financial incentive to conduct an unrestricted cleanup. And indeed the October 2012 report confirms that the vast majority of sites cleaned up, or in the process of being brought into compliance, will have unrestricted uses. This is a good thing – offering communities more opportunities and flexibility for productive re-use of land. Contaminated sites that once posed dangers to the public are being brought into compliance and now, rather than eroding our limited resources, are serving to expand our economy and tax base.

Real Projects with Real Impacts

There are many brownfields projects now awaiting an outcome to your deliberations. Our members are unable to tell their clients (property owners and developers) whether or not these tax credits will be in place beyond this coming year. Provided below are two examples of projects that our members have worked on which demonstrate the effectiveness of the Brownfields Tax Credit:

- A family trust whose property was contaminated, through no fault of their own, had contamination spread to 2 abutting properties; they remediated all 3 properties. The remediation resulted in the construction of a large ice-skating facility that is now a well-utilized public amenity. Proceeds from the Brownfields Tax Credit were needed to complete the remediation of all three properties. Without the credit, the family would not have been able to begin the cleanup and the neighborhood would still have 3 undeveloped, contaminated properties.

- A developer constructing a building to be leased out to a single tenant needed to remediate contamination on the site, the cost of which amounted to several million dollars. In order to attract the tenant and move forward on the development, which will spur a wholesale redevelopment of a very important part of Boston with apartments, restaurants, stores, and smaller offices, the developer needed the Brownfields Tax Credit to help finance improvements demanded by the tenant. Without the tax credit, a development such as this, which is important to the state's economy, would not move forward.

Clean Energy and Energy-Efficient Development

Under Governor Patrick, the Commonwealth has led the nation in developing laws and financial incentives to boost clean energy and, according to the Administration, more effort is needed to ensure that such projects are actually permitted and constructed. The Clean Energy Results Program (CERP) of the Massachusetts Department of Environmental Protection (MassDEP) was established specifically to strengthen the "environment-energy nexus by increasing and formalizing MassDEP's efforts to reduce regulatory and other barriers to clean- and energy-efficient development across the state."



Letting the Brownfields Tax Credit expire would provide a significant roadblock to the Commonwealth's CERP program. Electric utility officials have told us that the barriers to siting a photovoltaic (PV) project on a Brownfield site are significantly greater than to siting one on a Greenfields site; specifically, the approval process is at least two to four times longer (6 months to a year for Brownfields, compared to perhaps 90 days for Greenfields). If the Commonwealth is serious about siting PVs on Brownfields sites, incentives need to be increased, not decreased.

The same is true for MassDEP's nascent Green Remediation program whereby the parties responsible for a site are incentivized to use more energy-efficient, "green" remediation approaches.

The Commonwealth Needs More Time

Planning for and securing project financing is complex. Development of these properties, in many cases, turns on the availability of the Brownfields Tax Credit to make the economics of the project work. And, assessment and remediation of a contaminated property typically takes several years. LSPs, property owners, and developers need time to do their work.

A tax credit through 2018, as proposed in H. 2515 "An Act Relative to Brownfields Tax Credits," would provide the timeframes most beneficial to supporting more thorough remediation, resulting in unrestricted land uses, and maximizing project financing opportunities. A tax credit program extending through 2018 would result in more stability and predictability for all stakeholders. The Commonwealth will realize the benefits. The LSPA urges the committee to support and act on H. 2515.

While not as desirable as supporting H. 2515, extending the tax credit at least through 2015 is preferable to letting the program lapse. H.2755 "An Act Extending the Brownfields Tax Credit Program" does just this.

Currently, our members and their clients are uneasy about the future of the Brownfields Tax Credit. This uncertainty is affecting project planning and important environmental and economic investments in our cities and towns. We strongly urge the committee to support and report favorably on H. 2515 so that the Brownfields Tax Credit can be extended through 2018.

We appreciate your consideration and, at your request, are happy to provide additional information.

Sincerely,



Cole E. Worthy, III, LSP
President, LSP Association



Wendy Rundle
Executive Director, LSP Association

cc:
Kenneth L. Kimmell, Commissioner, Massachusetts Department of Environmental Protection