

TESTIMONY OF MARK A. WAGENBRENNER IN SUPPORT OF HB 168

Chairman Hoagland, Vice Chair Schaffer, Ranking Member O'Brien, and members of the Agriculture and Natural Resources Committee, my name is Mark Wagenbrenner and I am the President of Wagenbrenner Development here in Columbus, Ohio and am happy to offer testimony in support of HB 168. My company is the third generation of what started with my grandfather building homes, churches and schools here in Central Ohio and my father and uncles developing the stores, offices and apartments along Grandview Avenue.

In 2002, when we started Wagenbrenner Development, we purposely focused on the redevelopment of blighted and under-utilized areas that had been left behind in Central Ohio. Since that time, using tools like the Clean Ohio Fund, low interest loans from the Ohio Water Development Authority and Tax Increment Financing, we have re-developed former factories, landfills and other brownfield sites, creating more than a thousand new jobs and hundreds of new homes and apartments. Current projects include the redevelopment of the former Jeffrey Mining Company property, the former Dublin Road landfill straddling Columbus and Grandview Heights, and the former Marble Cliff Quarry.

Environmental liability for contamination can deter prospective purchasers from redeveloping brownfields. Congress recognized that this liability impeded brownfield redevelopment and, in 2002, passed the Brownfield Amendments to federal law to provide protections for innocent purchasers (i.e. buyers who did not contaminate the property), including the Bona Fide Prospective Purchaser Defense (also known as BFPD). While some states followed with their own state laws that mirrored the federal BFPD, Ohio did not. This gap in Ohio law acts as a deterrent to brownfield redevelopment in the State.

Under HB168, prospective purchasers of contaminated property can establish a defense to environmental liability, comparable to the defense already available under federal law, after completing certain due diligence steps prior to acquisition. Those steps, referred to in the federal law as the "All Appropriate Inquiry", include: 1) reviewing federal and state databases for information about potential contamination on the property; 2) interviewing those with knowledge about the property; and 3) inspecting the property by an environmental professional for signs of contamination. If this investigation indicates there is contamination present on the property, the prospective purchaser must also take reasonable steps to stop ongoing releases from the property and prevent exposure. The goal is to make the property safe for reuse and to prevent any ongoing threats to the environment. Furthermore, the BFPD is self-implementing, meaning there is no delay to obtain governmental approvals prior to qualifying for the defense.

By adding the BFPD into Ohio law, Ohio would finally be in line with many other states, such as Indiana and Michigan, which have incorporated the federal BFPD or a BFPD-like legal protection into state law. While incentives are still needed to offset the increased cost of redeveloping brownfields, HB168 addresses an important gap in Ohio law that puts Ohio at a competitive disadvantage to neighboring states, especially where it is looking to attract out of state investment for brownfield redevelopment.

In summary, House Bill 168 will close an existing gap in Ohio law and provide another tool for the redevelopment of brownfield properties. I therefore urge your support for the bill.