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Panel 1: Stadium Finance, Naming Rights & Team Relocation

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Panel I: Stadium Finance, Naming Rights & Team Relocation

Moderator: Salvatore Galatioto[1]
Panelists: Joseph Leccese[2]
John Moag[3]
Thomas Ostertag[4]
Leonard Wasserman[5]

MS. COHEN[6]: Our first panel is entitled "Stadium Finance, Naming Rights, and Team Relocation." Before we get started, I would like to give you a brief overview of the subject.

Professional sports teams have come to the realization that a great way to maximize revenue is to have a new stadium. Whether that can be achieved through renovations, the building of a new facility, or moving to a new market, stadiums have become a necessity for the financial survival of teams. These issues have come to light in our own backyard with the recent talks on moving the New York Jets to a stadium right here in Manhattan.[7]

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7 *See* Michael R. Blood, *Jets Aiming for Stadium on West Side, Rudy Roots for Project*, N.Y. DAILY NEWS, Sept. 20, 2000, *available at* http://www.nydailynews.com/2000-09-20/News_and_Views/City_Beat/a-80807.asp (last visited Jan. 18, 2002).

Our panelists will discuss the various legal and business issues that arise from these endeavors, including private and public finance, city planning, intellectual property ownership, league involvement, municipal tax, and fundamental contract law.

This panel will be moderated by Sal Galatioto. Mr. Galatioto is the Managing Director and the Head of the Sports Advisory Group at SG Cowen. He joined SG in 1993 and became one of the founders of SG's sports finance and advisory effort. Today, he is responsible for all of their corporate and advisory functions relating to the sports industry. Before taking his current position, he was the Regional Manager of the Bank's East Coast Region.

Mr. Galatioto holds a Masters of International Management from the American Graduate School of International Management from which he graduated with distinction and high honors, and a Masters of International Relations with honors from the Fletcher School of Law and Diplomacy. He graduated *magna cum laude*, with a B.A. in History, from Hunter College.

Mr. Galatioto will leave ten to fifteen minutes at the end for questions from the audience, so please hold them until then.

Without further ado, here is our first panel.

MR. GALATIOTO: Thank you, Jessica.

I am just going to tell you a little bit about who SG Cowen is and then I am going to ask the panelists to briefly introduce themselves.

SG Cowen is a wholly-owned subsidiary of Société Générale, which is a French financial institution with about $425 billion in assets.[8] Over the last thirty months, we have completed approximately thirty sports finance and advisory transactions. We currently have active relationships with seventeen franchises.

We have also done a couple of pretty innovative financings. We stepped in and became the debtor-in-possession financier for the Pittsburgh Penguins when they went bankrupt. We allowed the team

8 *See* SG Cowen, *About the Company*, *at* http://www.sgcowen.com/sgcowen.html (last visited Jan. 18, 2002).

to stay liquid, remain in Pittsburgh and have Mario Lemieux take it over.[9]

We also led the largest sports financing in North American history. We underwrote and financed Dan Snyder and his partners' acquisition of the Washington Redskins. The total purchase price on that transaction was $800 million.[10]

I was going to start off with a lawyer joke, but I have a lawyer's story which is better than a lawyer joke, and this is a true story. I once went to a seminar where there were three lawyers talking about the Washington Redskins financing and why it was structured the way it was. My team worked on that deal for six months, and I never saw any of these guys, so as far as I can tell, they had a wonderful ability to deign what was going on during the negotiations without being there.

At any rate, I would like to ask each panelist to give a short introduction and then we can start our discussion.

MR. LECCESE: My name is Joe Leccese. I am with the Proskauer Rose firm here in New York. Among our other clients, we represent the National Basketball Association, the National Hockey League, the Association of Tennis Professionals Tour, Major League Baseball, New York Jets, Philadelphia Eagles, Montreal Expos, Arena Football, Arena Football II, the Women's National Basketball Association, Major League Soccer, and a variety of smaller sports.

I am a corporate lawyer by training, so my principal day consists of buying and selling teams, financings, arena and stadium construction, naming and television rights deals, and the like.

MR. MOAG: Hi. I am John Moag. I am a recovering lawyer, having been a partner at Patton Boggs in Washington, D.C., for about twelve years. Prior to that, I worked in the U.S. House of Representatives. I am now an investment banker at Legg Mason in

9 *See* Jonathan Berke, *The Year in Deals: The Boss as a Merger Model* (Dec. 28, 1999), *at* http://208.185.43.170/NASApp/cs/ContentServer?pagename=TheDeal/TDDArticle/StandardArticle&c=TDDArticle&cid=1003930980324 (last visited Jan. 18, 2002).

10 *See id.*

Baltimore where I run the Sports Investment Banking Group. Our business is also about buying and selling teams, private placements, the equity markets, and venue financing.

In a pro bono capacity when I was practicing law, I served as Chairman of the Maryland Stadium Authority, which owns and operates Oriole Park at Camden Yards.[11] I was involved in the effort to bring football back to Baltimore in the form of the Cleveland Browns, now the World Champion Baltimore Ravens, as well as building about three other facilities, convention facilities, throughout the state.

MR. OSTERTAG: I am Tom Ostertag, Major League Baseball. I am in charge of the legal work in the Commissioner's Office, specifically the industry-wide legal work. Except on the margins, I do not have any involvement in labor or in trademark licensing or sponsorship, but most of all other legal work comes my way. There is hardly a problem or a project, I think, that could be discussed today in which I would not have had some involvement in baseball. I have been in baseball for sixteen years and held a few different positions. I am looking forward to today's seminar.

MR. WASSERMAN: My name is Len Wasserman. I am the Chief of the Economic Development Division of the New York City Law Department. Some of you may know that as the Office of the Corporation Counsel as well. I have chief supervisory responsibility for the legal work for all of the City's negotiated business transactions, many of them of a real estate nature. My portfolio includes responsibility for new stadium construction, and for deals with the professional sports teams.

We have just concluded negotiations, as some of you may know, for two minor league stadiums with the minor league franchises for both the Mets and the Yankees. These teams will both be opening, on June 24th and June 25th, at two spanking-new minor league stadiums which are going up right now and which will be concluded

[11] *See* Maryland Stadium Authority (containing details about Oriole Park and the Maryland Stadium Authority's responsibility for its construction and operation), *at* http://www.mdstad.com (last visited Jan. 18, 2002).

by opening day.[12] The construction will be completed by opening day in Coney Island for the Mets and in Staten Island, right by the Staten Island Ferry for the Yankees. It should be a very exciting recreational opportunity for New Yorkers and for the minor league franchises.

MR. GALATIOTO: Thank you.

I am going to start throwing out some questions, and I think that is probably the best and least boring way to conduct this.

My first question would be to anyone on the panel. Do you think that the current stadium/arena construction boom is going to continue, and why?

MR. LECCESE: My view is we are entering the end of the current building cycle. I think if you look back at the Twentieth Century, there was a building cycle in the 1920s and 1930s, again at the end of the 1960s and early 1970s,[13] and so to have had the explosion of arenas and stadiums in the 1990s and around the year 2000 was just the natural end of the twenty-five or thirty-year useful life of most of these facilities.

I think where we are is at an interesting juncture, at least in the outdoor stadiums. The principal markets that are left are the major markets: New York, Philadelphia, Chicago, and San Francisco for football. Accordingly, the prices of getting these things done are much higher than they have ever been before because of the cost of land and construction within the city borders of these major metropolitan areas.[14]

[12] *See* Brooklyn Cyclones, *Team Notes (2001)* (noting that Keyspan Park field box seats were sold out for the 2001 season and total ticket sales approached 100,000 four months before opening day), *at* http://www.brooklyncyclones.com/teamnotes.shtml (last visited Jan. 18, 2002); *see also* Staten Island Yankees, *Stadium* (noting that Richmond County Bank Ballpark at St. George on Staten Island is home to the Staten Island Yankees), *at* http://www.siyanks.com (last visited Jan. 18, 2002).

[13] *See* Tim Chapin, *The Political Economy of Sports Facility Location: An End-Of-The-Century Review and Assessment*, 10 MARQ. SPORTS L.J. 361, 368-75 (2000) (discussing trends in ballpark building); *see also* Ballparks, *Baseball Teams and Ballparks*, *at* http://www.ballparks.com/baseball (last visited Jan. 18, 2002).

[14] *See* Chapin, *supra* note 13, at 378.

The politics in most of these cities are also very complicated.

MR. MOAG: I agree. I think we are at the end of the cycle.

I think the good news is these buildings are going to last a lot longer. In the 1960s and 1970s, we built a lot of junk multi-use stadiums that were designed to kill two birds with one stone, namely, putting baseball and football together.[15] You got lousy sight lines, and the stadiums were not comfortable for the fans. And the architecture today is fabulous. So again, I agree with Joe, we are at the end of the cycle.

Having said that, on the public side, with colleges and universities, you are now seeing that begin, and they are beginning to copy what the professionals have done.[16] Additionally, in the minor leagues, you've got a spurt of real activity in minor league baseball.[17]

MR. OSTERTAG: I guess I would agree, but I hope that it is not too close to the end, because in baseball we have a lot of work to do in baseball communities such as Boston, Minneapolis, south Florida and San Diego. And, of course, here in New York we are hoping for new ballparks.[18]

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[15] *See generally* Ballparks, *Ballparks Facts & Figures (2001)* (reporting that multi-use stadiums have included Three Rivers Stadium in Pittsburgh, the Kingdome in Seattle, the Astrodome in Houston, Candlestick Park (or 3Com Park) in San Francisco, and Metropolitan Stadium in Minnesota), *at* http://www.ballparks.com/baseball (last visited Jan. 18, 2002).

[16] *See, e.g.*, Stuart Smith, *SMU to Break Ground on New Stadium* (1998), *at* http://www.sfo.com/~csuppes/NCAA/WAC/SMU/newindex.htm (last visited Jan. 18, 2002); *see also* Travis Hunter, *Princeton Stadium* (1998), *at* http://www.sfo.com/~csuppes/NCAA/Ivy/Princeton/newindex.htm (last visited Jan. 18, 2002).

[17] *See* Minor League Ballparks, *Ballpark List* (reporting that new minor league ballparks built in the late 1990s include: Alexian Field (Shaumburg Flyers), Autozone Park (Memphis Redbirds), Ballpark at Harbor Yard (Bridgeport Bluefish), Lake Olmstead Stadium (Augusta GreenJackets), Southwestern Bell Bricktown Ballpark (Oklahoma RedHawks), T.R. Hughes Ballpark (River City Rascals), and Tucson Electric Park (Tucson Sidewinders)), *at* http://www.minorleagueballparks.com/stadium-list.php (last visited Jan. 18, 2002).

[18] *See* Linda Grant Williams, *Use of Securitization Techniques in Financing Sports Facilities*, 811 PLI/Comm 757, 767 (2000) (noting that former New York City Mayor Rudy Giuliani tried to build new ballparks for each of the Mets and Yankees).

We think that the record in baseball has been very successful with the new parks. No city yet has regretted building a new ballpark. We are going to have additional successes this year in Milwaukee and in Pittsburgh and one coming soon in Cincinnati.[19] We have high hopes that this will continue and various cities that have not yet decided to build a ballpark will come around and do so.

MR. WASSERMAN: As the others have noted, we may be at the end, but, as Tom observed, New York City is a venue where we will necessarily see new baseball stadium development sometime in the next decade. It is inevitable, because the two existing Major League stadiums, Shea and Yankee Stadium, are antiquated.[20] Shea probably has to be torn down and replaced, which is the vision of the Mets franchise. And Yankee Stadium went through a major renovation in the 1970s, but I suspect it is unlikely that the bones of that facility could endure simply another renovation, and it is highly likely that a new Yankee Stadium will be built somewhere.[21]

MR. GALATIOTO: It is interesting that everyone has noted that it is the major markets that are lagging. I wonder if the panel would like to comment on that, because it does seem that the Philadelphias, New Yorks and Chicagos are the last to put up the new venues.

MR. LECCESE: I think some of the smaller markets, which either were seeking expansion teams or trying to attract a relocation, needed to build facilities to obtain their teams. I think the large markets have largely taken their teams for granted, in the belief that these teams had nowhere else to go. I think over the course of the last few years, particularly in football, many municipalities have been shaken from that assumption as teams have left major markets and gone to smaller markets because of the perception of more desirable facilities.

I think also in some cities, the physical obsolescence of their facilities has become apparent. If you saw a group of Army cadets tumble out of the stands when they collapsed in Veterans Stadium in

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19 *See* Chapin, *supra* note 13, at 367.

20 *See* Rafael A. Declet, Jr., *We'll Take the Yankees: Assessing the Feasibility of a State Condemnation of Baseball's Greatest Franchise*, 8 MARQ. SPORTS L.J. 53, 59 (1997).

21 *See id.* at 59-60.

Philadelphia last year,[22] saw the collapse of a piece of Three Rivers Stadium during a Monday night game in Pittsburgh,[23] or saw a portion of the upper deck of Yankee Stadium collapse last year right before the home opener,[24] you saw some of the evidence that the deferred maintenance by the cities that run these buildings has finally reached the point where these facilities can no longer be renovated on a sensible economic basis, particularly given the shortcomings in sight lines and amenities from which some of them suffer.

MR. MOAG: Tip O'Neill said all politics is local,[25] and I think all sports is local, too. So, there are different reasons in different places. Maybe it is a coincidence that the large markets are left.

But if you look at those markets, L.A., for example, actually had a gift from the National Football League (hereinafter "NFL") that said "we will come there and put an NFL franchise into your city," which is one of the largest television markets in the world; and they fought, because they believed that the NFL needed them more than they needed the NFL; and the NFL ended up going to Houston.[26]

In Chicago, you had a problem between the ownership of the team, at least the son of the owner of the team, and Mayor Daley. Mayor Daley is boss of Chicago. There is no question about that, and he is going to call the shots, and he did.

In this City here, you have an interesting situation because the Yankees certainly do not have the financial pressure for the new stadium that the smaller, middle-market cities have. They have tremendous television revenue. They have great gate revenue, and so the importance of that luxury, meaning the new club seats and the

[22] *See* Jon Morgan, *Naval Academy Chief Says PSINet Stadium Preferred; Army-Navy Football Seeks Home After '03*, BALT. SUN, Dec. 15, 2001, at 1A, *available at* 2001 WL 6178287.

[23] *See* Michael A. Fuoco, *No Safe Haven; Steelers Fans Stand Firm at the Wall*, PITTSBURGH POST-GAZETTE, Oct. 4, 1999, at A1, *available at* 1999 WL 25693263.

[24] *See* Mike DiGiovanna, *Yankee Stadium Structural Defects Lead to Collapse Baseball*, L.A. TIMES, Apr. 14, 1998, at C1, *available at* 1998 WL 2417912.

[25] *See* George Skelton, *California and the West: The Senator Will Save You a Place at His Table*, L.A. TIMES, Dec. 27, 1999, at A3, *available at* 1999 WL 26209540.

[26] *See Teams on the Move*, PITTSBURGH POST-GAZETTE, Sept. 19, 1999, at A8.

new loges, is not quite as important as they are to a middle-market city.[27]

MR. OSTERTAG: I think the last point that John made is a good one. In baseball, the pattern may not have been as distinct as in other sports. I think the first new ballpark in baseball in this wave was in Toronto. You can call Toronto a small city or a big city, I suppose, depending on your perspective. The ballpark opened in the middle of the season in 1989, and was highly successful.[28] They passed three million fans.[29] They sold out most of their games.

And then, Chicago built an open-air park—I believe it opened in 1991.[30] And then, of course, Baltimore began the wave of sort of the retro parks, and that really caused things in baseball to take off: one in Baltimore, Cleveland, Denver, and the rest is history.[31] I guess you could view them as smaller cities, but at least you can call them cities that were struggling in baseball more than other cities.

Take Cleveland, a great example, they had a really tough time drawing in Cleveland. The ballpark was wildly antiquated. It was cavernous. They never sold out, so there was no reason to buy a ticket in advance, and their attendance reflected that problem. They built a new ballpark, and they sold out, starting I think in 1995, every year.[32] They are not sure they are going to do it this year, but they have for four or five years in a row. The joke around Cleveland was,

[27] *See* Daniel C. Glazer, *Can't Anybody Here Run This Game? The Past, Present and Future of Major League Baseball*, 9 SETON HALL J. SPORT L. 339, 409-10 (1999); *see also* Samuel R. Hill, *Symposium—Baseball in the Global Era: Economic, Legal and Cultural Perspectives: Baseball in Canada*, 8 IND. J. GLOBAL LEGAL STUD. 37, 59 (2000) (noting that Yankees television revenue in 1998 reached upwards of $140 million, while the Expos garnered less than $1 million).

[28] For background, *see* The History of the Skydome, *at* http://bluejays.mlb.com/NASApp/mlb/tor/ballpark/tor_ballpark_history.jsp (last visited Jan. 18, 2002).

[29] *See Sports Notes*, CHI. TRIB., Sept. 18, 1989 (reporting that the Toronto Blue Jays set an American League season attendance record of 3,078,413).

[30] *See* Mel Antonen & Jerry Bonkowski, *Players Sing Praises of New Comiskey*, USA TODAY, Apr. 19, 1991, at 4C, *available at* 1991 WL 6744049.

[31] *See* Chapin, *supra* note 13, at 367.

[32] *See* Rodney Fort, *Stadiums and Public and Private Interests in Seattle*, 10 MARQ. SPORTS L.J. 311, 317-18 (2000) (reporting that attendance for the Indians rose 114% annually, on average, for five years after Jacobs field was built).

"what does the director of ticket sales do all year?" because they were generally sold out by December of the year before.

So there has been that pattern in baseball, maybe not quite as distinct as some other sports.

MR. WASSERMAN: I think in New York City what we have seen is the distraction of success to some extent. The Yankees and the Mets, of course, both won their pennants last year, and we had the distraction of the Subway Series.[33] We had a highly successful season for both teams.

But, there is a limited amount of time that can go on before new stadium construction must take place. These are highly obsolescent facilities, and they simply cannot endure the distress of the fans, unless new facilities are constructed for these teams.

The real question will be when will we engage? Not whether we will engage, but when will the State and City and the other participants engage in a deal with both teams to get new facilities on-line? I expect that will take place sometime in the next few years. It is inevitable. It has to happen.

MR. GALATIOTO: I am glad to hear that, by the way.

MR. WASSERMAN: A higher level of optimism than I thought I would hear today. That is encouraging.

MR. GALATIOTO: There has been a great deal of debate in the press and in other areas about the economic impact of new stadiums on cities and a great deal of discussion as to whether or not municipalities should help finance these projects. Could we get some comments from the panel? I would certainly like to give my views on that as well.

MR. LECCESE: I think John may be the leading expert on this.

MR. MOAG: I am actually bullish on the public investment, even though I make my money on the private investment.

[33] *See* T.J. Quinn, *The Top Ten N.Y. Stories in 2000; 2000 Mets: A Happy Recap*, N.Y. DAILY NEWS, Dec. 30, 2000, at 64, *available at* 2000 WL 29597560.

An interesting thing has evolved over the last ten years, actually, not even the last ten years, probably the last five to six years in America. That is that the politicians have learned a lot more about the business of sports.[34] They have come to understand that when they build these parks that contain seventy, eighty, 100 to 150 suites in them and club seats, they are generating tremendous new cash flow for the owners.[35] In coming to that realization, they said, "Hey, you know, we ought to ask these guys to participate in the process." So, the days of building an Oriole Park totally by the public, or a park like Cleveland's, are pretty much over, and virtually everywhere in the country that you are building a stadium you are asking the owner to participate.

However, the public still, I think, in most locations in the country, realizes there is a benefit to it. We are seeing that mostly in the site selection process, where cities are saying, "Okay, we are going to make this investment. We understand it is good for the team. You are going to have to play in it, but we are going to make sure this thing is sited so that it also benefits us."[36] So it is location, location, location.

If you look at Camden Yards, that building generates tax revenue to the government all summer long, and it does that because it is within walking distance of our Inner Harbor. So there is all this ancillary economic development that occurs.[37] People come into town from out of state, from Pennsylvania, from Delaware, up from Virginia, from Washington, D.C. They go to our aquarium. They go to our museum. They spend money in our restaurants and our bars, and then they go to the game. That is a very good economic development machine.[38] It is not in all cases. If that stadium were in a parking lot out in the suburb, it would not have that kind of effect on economic development.

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34 *See* Fort, *supra* note 32, at 329-30.

35 *See* Martin J. Greenberg, *Stadium Financing and Franchise Relocation Act of 1999*, 10 MARQ. SPORTS L.J. 383, 396 (2000).

36 *See* Fort, *supra* note 32, at 321-23.

37 *See* David E. Cardwell, *Sports Facilities & Urban Redevelopment*, 10 MARQ. SPORTS L.J. 417, 421 (2000).

38 *See id.*

But, I am bullish on it. I know the numbers. I have seen it with my own eyes in our case and others, like in Denver, and certainly Cleveland. The benefits are there.[39]

We are involved in a project right now in San Diego, for which we are handling the financing, where the City basically has said to the franchise, "You know what? We will contribute to your stadium. However, you are effectively going to regenerate part of our downtown." So, if you know San Diego, they have a new convention center going up. The area across from that is where the stadium is going to be.[40] In consideration for the government contribution, John Moores, the owner of this team, is now required to build two hotels, offices, retail space, and even residential buildings.[41] So, they have taken that stadium and what it does, meaning bring people in, and turned it into a much larger development.

MR. GALATIOTO: It is interesting to me, because the debate is raised in a number of municipalities. I think that if you put the stadium in an area that needs economic redevelopment, it makes a heck of a lot of sense. For example, if you look to see what has happened in Cleveland, with the new football stadium, the new baseball stadium, and the Rock 'n Roll Hall of Fame, really, those projects have been kind of the engine for the redevelopment of downtown Cleveland.[42]

In Detroit, the same thing is being tried with the new Tigers Stadium, Comerica Park, and the new football stadium going up

[39] *See id.; see also* Marc D. Oram, *The Stadium Financing and Franchise Relocation Act of 1999*, 2 VA. J. SPORTS & L. 184, 197 (2000) (reporting that the 1995 opening of Jacobs Field in Cleveland, Ohio was accompanied by more than twenty new restaurants and retail establishments as well as 6,269 permanent jobs in the stadium's vicinity, generating $6.5 million in payroll taxes since 1994).

[40] *See* Dan Bennett, *Word on the Street*, ORANGE COUNTY REG., Sept. 8, 2000, at F12.

[41] *See* Scott A. Jensen, *Financing Professional Sports Facilities with Federal Tax Subsidies: Is It Sound Tax Policy?*, 10 MARQ. SPORTS L.J. 425, n.34 (2000); *see also* Oram, *supra* note 39, at 197.

[42] *See* Oram, *supra* note 39, at 197; *see also* Cardwell, *supra* note 37, at 421.

next-door, the Fox Theater. Those stadiums will be the focal point for redevelopment of those neighborhoods.[43]

I agree, however, that if you are talking about a suburban redevelopment or if you are putting a stadium someplace where it is not going to have a positive economic impact on an economically disadvantaged area, there is a pretty strong argument against public funding.

MR. LECCESE: I think you also have to look at a city that is trying to preserve what it has as well, which is some of what is going on in the large markets. Sometimes, doing nothing can have consequences, and I think some of the cities have begun to realize that unless they keep their teams where they are, put them in new facilities that are vibrant, the neighborhoods where the existing stadiums are will in fact deteriorate. So there is also a defensive element as well as an offensive element.

MR. GALATIOTO: I think cities have less pressure to build new facilities because with expansion there are fewer and fewer attractive places for many teams to move.

MR. LECCESE: I think that is right. I think as all of the leagues have expanded, there are fewer first-tier cities for teams to relocate to, but there are still enough, and we are about to see, I think, that in some of the sports, teams may go elsewhere.

MR. OSTERTAG: On the stadium location issue, Sal, I think there is one exception that comes to mind that might be worth mentioning, and that is Milwaukee. There, they spent years thinking about, first, whether, and then where, to put the ballpark, downtown or next to the old ballpark, which was two or three miles away from downtown. They chose the site outside the city, and the reason there was that Milwaukee has a strong tradition of tailgating at baseball in addition to other sports.[44] Based on the ticket sales so far (the stadium is not

[43] *See Double Header or Headache?*, ST. LOUIS POST-DISPATCH, Apr. 28, 2001, at 12-13, *available at* 2001 WL 4458257; *see also* Peter Schmuck, *No-Heart; Expos Set Up Alou Nicely*, BALT. SUN, June 3, 2001, at 5E, *available at* 2001 WL 6161127.

[44] *See* Chapin, *supra* note 13, at 367, 373.

open yet), it seems like the right decision. They have sold a lot of tickets there.[45] The stadium opens in about three weeks.

MR. WASSERMAN: I think in New York City, at least for Major League Baseball, the location issue is largely beside the point. Shea Stadium, when it gets rebuilt, or when the new stadium is constructed, which is what will happen, it is going to take place in the parking lot of the existing stadium. Fred Wilpon is simply going to have to work out his construction staging.[46] Probably the single biggest issue will be where will cars park during the construction, because it sits in the middle of Flushing Meadow Park, it is not in a downtown.

Yankee Stadium, if it stays in The Bronx, is likely to be built on a site near the existing Yankee Stadium.[47]

But, stadium relocation as a phenomenon in New York is interesting with respect to the minor league facilities, because both of these minor league facilities that I mentioned in my opening remarks were purposefully located in areas which, while they are prominent, have suffered from neglect and economic decline over the years: the Coney Island area, which is at the end of Brooklyn; and the Staten Island area, which is located in St. George, which, while it is the municipal hub of Staten Island, nevertheless is kind of a down-at-the-heel area. It is hoped that both of these facilities, in Coney Island and in Staten Island, will produce a secondary effect within the neighborhood and have a positive economic impact on those two neighborhoods.[48]

Coney Island actually is very interesting in this regard. I was somewhat skeptical that folks would go out to the end of Brooklyn to see a single-A short-season team, but that franchise, the Mets' minor

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[45] *See* Tom Haudricourt, *Brewers' Season Ticket Sales Go Through the Roof*, MILWAUKEE J. SENT., Jan. 9, 2001, at 1A, *available at* 2001 WL 9332272.

[46] *See* Steve Zipay, *Rudy Makes His Pitch; Seeks Agreement to Build New Stadiums for Yanks, Mets*, NEWSDAY, Dec. 6, 2001, at A93, *available at* 2001 WL 9265014.

[47] David Seifman, *Mike Blocks the Plate on New Stadium Plans*, N.Y. POST, Jan. 8, 2002, at 2, *available at* 2002 WL 4908051 (noting that the Yankees' new stadium would go up in Macombs Dam Park, next to the current facility).

[48] *See* Owen Moritz, *Batter Up in B'klyn as Cyclones Debut*, N.Y. DAILY NEWS, June 24, 2001, at 4, *available at* 2001 WL 23584103.

league franchise, the Brooklyn Cyclones, have already pre-sold 100,000 season tickets.[49] All of the field boxes are accounted for in all forty-one games. The messages on the Web page that come in are remarkably positive, considering the resistance we had in locating that facility out there. So, this minor league facility really could have a very strong economic impact in that somewhat economically distressed location in Brooklyn.

MR. GALATIOTO: A big topic of discussion here in New York is the potential for a stadium on the West Side of Manhattan. Is that a viable site, and what hurdles are we going to have to overcome to get that stadium built?

MR. LECCESE: Since I am representing the Jets in that process, I think it is a brilliant idea. I think there are a couple of factors.

The Yankees have wanted to go to the West Side for years, and there is no question that, as wonderful as the Yankees' revenue streams are now, if they had a stadium on the West Side, they would probably have revenues of unprecedented amounts for all sports.[50]

One of the biggest problems of putting a baseball stadium over on the West Side is traffic due to the number of dates and the times at which baseball is generally played.

In football, on the other hand, you often run into opposition in some communities because you only play ten dates a year. From a traffic perspective, that is in fact an asset, particularly because those ten dates tend to be Sunday afternoons, which is the lowest volume of traffic in most urban centers.

In addition, the Jets' proposal is not just for a stadium, but to have a stadium that is integrated into the Javits Center. Almost from the creation of the Javits Center in the mid-1980s, both the State and the City have wanted to expand the facility.[51] There are dozens and dozens of major conventions, the most lucrative conventions in the

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[49] *See* Neil DeMause, *2 Stdms, Ocean Vu, $110 M*, VILLAGE VOICE, June 26, 2001, at 198, *available at* 2001 WL 9089960.

[50] *See* Declet, *supra* note 20, at 59-60.

[51] *See* Michael Saul, *Mike Sacks Stadium Plan*, N.Y. DAILY NEWS, Jan. 11, 2002, at 10, *available at* 2002 WL 3163471.

country, that do not come to New York because the Javits Center is too small. First of all, it is merely an exhibition hall; it is not a convention center. You cannot have a sizable meeting in the Javits Center, and even the exhibition space, when you compare it to the spaces in Orlando, Las Vegas, Chicago, and a number of the other major cities, as well as the developments on the drawing boards in Washington and a few other cities, is rather small.[52]

It is also located in a neighborhood which even *The New York Times* has identified as the next most viable area in Manhattan for further development.

The Jets' design will create a facility that can be used for conventions and meetings 355 days of the year and then can be used for the Jets and their fans the other ten days of the year. Since this is New York, it will probably also feature the largest valet parking in history.

I think it is a viable opportunity. I think the economics, when you examine the additional convention business that could be attracted by that facility, will work. The Jets are prepared to make a contribution, the NFL is prepared to make a contribution, and I think the Mayor is very much behind the project. So I think, in contrast to most of the other ideas that have surfaced for the West Side over the years, this one actually has at least a few of the planets in alignment. We are trying to get all nine in alignment as quickly as we can.

MR. GALATIOTO: How do you get around the issue of tailgating? The NFL's tradition is people go, they park; they go hours before the game, they stay hours after the game.

MR. LECCESE: It is actually the number one fan issue we have. If you poll the season ticket subscribers, those who live in Queens and Long Island think the West Side is a great idea; those who live in New Jersey would like the team to stay in New Jersey, but tailgating is an issue for all of them.

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[52] *See* Shelia M. Poole, *GWCC Looks Ahead to Next Expansion to Stay Competitive*, ATLANTA J.-CONSTITUTION, Mar. 24, 2001, at F1, *available at* 2001 WL 3665840; *see also* Curtis L. Taylor, *West Side Stadium in Rudy's Proposal*, NEWSDAY, Dec. 13, 2001, at A13, *available at* 2001 WL 9266255.

MR. MOAG: Either that or personal injury lawyers will have a great time.

MR. LECCESE: The fan experience will have to be enhanced in other ways, I suspect.

MR. GALATIOTO: I find it interesting that you mentioned that the Jets might be willing to contribute, since they would probably increase their cash flow by 1,000 times. Is there any doubt that they would be willing to contribute to a stadium?

MR. LECCESE: No. I think Mr. Johnson has already said he is prepared to make a contribution, and I think the Commissioner has said that the NFL would regard this as a viable site for Super Bowls, which is something, again, we cannot get in New York, and would be prepared to loan the Jets some money to apply towards the development.

If it is a pure convention center deal, the City and the State are going to have to come up with all of the money. If it is a mixed-use deal, they can get some money from the team and the NFL.

MR. GALATIOTO: I would like to get everyone's view on where they think naming rights deals are going, and if they are going to continue to expand in terms of how lucrative they are.

MR. MOAG: Briefly, I think the best barometer of where naming rights go, is to talk to the people who have paid for naming rights. I think, by and large, most of them are very, very happy.

You hear these numbers thrown out of $100 million or $150 million for naming rights.[53] You get to that number if you add everything up. It is a cash outlay that is very appropriate usually for the type of recognition that they get. I think most companies are happy and will continue to pay for naming rights.

[53] The record holder is Staples, Inc. who is paying $100 million over twenty years for the building that houses the Los Angeles Lakers, Clippers, Kings and Avengers. *See* Staples Center, *The Facility* (containing the details of the record-setting naming-rights deal), *at* http://www.sfo.com/~csuppes/NBA/LosAngelesLakers/newindex.htm (last visited Jan. 18, 2002).

MR. OSTERTAG: I think one way to measure the success of naming rights deals is to look at some of the names that sounded strange when they were first appended to ballparks, and look now at how familiar those names have come to be. When 3Com Park was first named, I think the average reaction was, "what on earth is a 3Com Park?"[54] What does that mean? The same question pertained to Qualcomm Stadium.[55] There was Jack Murphy Stadium, named after the brother of the New York Mets announcer, and they changed it to Qualcomm.[56] At the time, it sounded really strange. Today, Qualcomm is extraordinarily well known, and the same goes for 3Com. Of course, their businesses had something to do with this, but I think the naming rights deal also contributed a fair amount in raising the level of awareness and familiarity of those names to the public.

MR. WASSERMAN: We certainly see the naming rights of a new facility as a principal revenue source that the municipality would share in. This is certainly true for the two deals we just concluded for the minor league stadiums, which have zippy names as well, referring to Richmond County Savings Bank Stadium on Staten Island and Keyspan Park in Coney Island.[57] But, these are highly creditworthy entities that are paying for the advertising, and the municipality is sharing in the naming rights. It is one of the few things we share in, by the way, so when we get on with the major

[54] This was formerly known as Candlestick Park, home to the San Francisco Giants and 49ers, and was renamed when the stadium needed a corporate sponsor. *See* 3Com Park Information, *at* http://www.49erswebzone.com/3com.html (last visited Jan. 18, 2002).

[55] In 1997, Jack Murphy Stadium in San Diego changed its name to Qualcomm Stadium, when Qualcomm agreed to pay $18 million to help finish the stadium project. *See* Qualcomm Stadium History, *at* http://www.sannet.gov/qualcomm/history.shtml (last visited Jan. 18, 2002).

[56] *See* Qualcomm Stadium, *at* http://www.ballparks.com/baseball/national/qualco.htm (last visited Jan. 18, 2002).

[57] Richmond County Savings Bank Ballpark at St. George, seating 6,886 people, is the home of the Staten Island Yankees which is a minor league affiliate of the New York Yankees. *See* Richmond County Bank Ballpark at St. George, *at* http://www.siyanks.com/index.cfm?npageid=3 (last visited Jan. 18, 2002). Keyspan Park is the home of the Brooklyn Cyclones, which is a minor league affiliate of the New York Mets. *See* Brooklyn Cyclones, *at* http://www.brooklyncyclones.com (last visited Jan. 18, 2002).

league facilities, we are going to be looking at the naming rights as one of the sources for return of our investment.

MR. LECCESE: I can see the negotiations have just begun. Obviously, the teams' willingness to put up money is usually contingent upon getting the revenues that warrant that investment, so I can see Len and I are in for some long nights.

As the building boom moves to larger markets like New York, the recognition and the impressions ought to go up for the naming right sponsor.

I think the other phenomenon that has happened in the last few years, just generally in the advertising market, is that it used to be that the companies that wanted to do a naming rights deal usually had a direct consumer relationship. Qualcomm wanted to get into the cell phone business and some other businesses, and so that was a great way, an immediate way, to raise their brand recognition.[58]

But, I think a number of other companies, and Cisco may be the most prominent among these, really do not sell directly to consumers. Why do they do that? I think it is really so that you will buy their stock. And so, you may have a whole range of companies that are interested in naming rights beyond the usual kind of impressions-to-consumer calculations that advertisers have used for years.

MR. GALATIOTO: An interesting phenomenon seems to be developing in places like Denver and Boston. There seems to be resistance to naming rights.[59] I know a lot of people in Denver are very upset with the naming rights deal that has been proposed for the new Mile High Stadium, or whatever they are going to call it. A lot

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[58] Qualcomm is involved in many types of businesses, including cell phones, digital technology, wireless Internet services and digital cinema. *See* Qualcomm (containing information on the diversity of Qualcomm's business interests), *at* http://qualcomm.com (last visited Jan. 18, 2002).

[59] *See, e.g.*, Peggy Lowe, *Placards to Back 'Mile High' Name; Activist Hickenlooper Plans to Distribute 50,000 Protest Signs at Monday Night Game*, DENVER ROCKY MOUNTAIN NEWS, Nov. 10, 2000, *available at* 2000 WL 6612702 (noting that in Denver, Colorado, the fans fought to persuade the stadium district to resist selling the naming rights to Denver's football stadium).

of people believe that if their tax dollars are going to subsidize these stadiums, they should be able to call them anything they want.[60] It is an interesting trend, because I do not think they realize that in some cases these funds go back to the municipality, depending on how hard the municipality negotiates.

MR. LECCESE: The taxpayers are always free to make a judgment that they are willing to put in more money than they would otherwise to have a name that is not a commercial name, but that decision comes at a considerable cost.[61]

MR. MOAG: There is an interesting exception to that in Pittsburgh, where the Rooney family has actually been criticized for leaving money off the table that the city could share in because they wanted to name the stadium after Mr. Rooney and not after a corporate sponsor.[62]

MR. WASSERMAN: We will not let that happen. Whoever remembers William A. Shea, will simply have to either remember him or look him up in the history books.[63] I doubt very much that the new stadium will be Shea Stadium.

MR. GALATIOTO: But, I think you will probably find more resistance to changing the name of Yankee Stadium to, say, General Motors Stadium.

MR. WASSERMAN: That is because of the historical resonance of Yankee Stadium.[64] We will see what develops in the future.

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[60] *Id.*

[61] *Id*. The stadium district has estimated that selling the naming rights could save taxpayers $52 million to $89 million. *Id.*

[62] Dan Rooney, pro football Hall of Fame inductee and owner of the Pittsburgh Steelers, has overseen the Steelers activities for over three decades.*See* John Wiebusch, *Nice Guys Finish First* (July 29, 2000), *at* http://www.nfl.com/news/hof/rooney.html (last visited Jan. 18, 2002).

[63] Shea Stadium is named for attorney William A. Shea, who helped expand baseball in New York after the departure of the New York Giants and the Brooklyn Dodgers. *See* Mets Online, *at* http://www.metsonline.net/shea.shtml#whoshea (last visited Jan. 18, 2002).

[64] Yankee Stadium has a storied history and helped to define baseball as the American pastime. *See Yankee Stadium History with Tony Morante*, *at* http://www.nyctourist.com/sounds/yankee/yankee_tour1.htm (last visited Jan. 18, 2002).

MR. GALATIOTO: There have been a number of discussions recently about teams relocating. It is interesting to me that most of the teams that have relocated have been from the league that is generally considered the strongest financially, the NFL; for example, the movement of the Browns to Baltimore, the Rams to St. Louis, and Oakland going back and forth from Los Angeles.[65] It seems now, that in a number of markets the situation is not viable for some of their professional sports franchises, and there will be significant relocations in the next couple of years. I wonder if you would like to comment.

MR. OSTERTAG: Baseball has not had a team relocate in twenty-nine years now.[66] Part of the reason for that, I think, and I can talk about this if anybody wants to hear about it, is our antitrust exemption.[67] I happen to believe that leagues generally ought to be exempt from the antitrust laws or treated more like a single entity than they are. But, baseball is fortunate that it has an exemption, and we have used that effectively for many years to maintain franchise stability. If it weren't for our exemption, we might very well not have a team in San Francisco, because the Giants tried to move eight or nine years ago.[68]

We have had this stability, but clearly we are in an era now where we are not so sure. Our Commissioner has said many times in recent

[65] However, the newly proposed NFL realignment will most likely dull any further threat of relocation. *See* Darren Rovell, *Threat of Relocation Loses its Edge with Realignment*, ESPN.com (May 22, 2001), *at* http://www.espn.go.com/nfl/s/2001/0522/1202966.html (last visited Jan. 18, 2002).

[66] *See, e.g.*, John Romano & Marc Topkin, *Mum's the Word from Rays, MLB*, ST. PETERSBURG TIMES, Apr. 27, 2001, *available at* http://pqasb.pqarchiver.com/sptimes/index.html?ts=1011396944 (last visited Jan. 18, 2002).

[67] The Supreme Court has held that Major League Baseball is exempt from the antitrust laws. *See* Fed. Baseball Club of Balt. v. Nat'l League of Prof'l Baseball Clubs, 259 U.S. 200 (1922) (exempting Major League Baseball from the Sherman Act, 15 U.S.C. § 1 (2001)); *see also* Flood v. Kuhn, 407 U.S. 258 (1977); Toolson v. N.Y. Yankees, Inc., 346 U.S. 356 (1953) (both cases affirming baseball's exemption from federal antitrust regulation).

[68] Roger G. Noll & Andrew Zimbalist, *Are New Stadiums Worth the Cost?*, BROOKINGS REV., Vol. 15, No. 3, 35, 39 (1997) (noting that in 1992, Major League Baseball's efforts to thwart the San Francisco Giants move to St. Petersburg, threatened to withdraw baseball's antitrust exemption), *available at* http://www.brook.edu/pub/review/summer97/noll.htm (last visited Jan. 18, 2002).

weeks and months that we are not sure how long we can maintain the stability because we have franchises that are ailing. Nothing, he has said, is off the table, including relocation.

MR. GALATIOTO: It appears that you are seeing that more in the NBA as well, with Vancouver having to move.[69] We did a very interesting study of the Montreal Expos. There are certain economic rigidities that you cannot get over, no matter how well you run your team. One of the problems Montreal has is that their season ticket base was basically English speaking Canadians who no longer live in Montreal. So the Expos' season ticket base was ravaged by the political situation in Canada, and those people are not coming back. It is very difficult to make an argument that that franchise is viable long term in that market.

You are seeing that more and more with most of the Canadian franchises. Would anyone like to comment on that?

MR. MOAG: You know, Baltimore has had it both ways. We lost a team when Bob Irsay [Colts] left because the government did not want to loan him $10 million to improve its stadium.[70] Ironically, we have now turned around and built a $750 million complex downtown and went out and got a team in a very, very difficult way, a way we did not want to do, because we did not get a team during expansion.

These owners do not want to move. It is a horrible process to move. They move because they are losing too much money. A lot of teams lose money, but they are losing too much money, and it is because their facilities do not produce enough revenue. They've got bad lease terms with no sign of relief like in the case of the Jets, or they have an under-performing market, like Vancouver with the Grizzlies.

[69] *See Grizzlies Moving to Memphis*, ASSOCIATED PRESS, July 3, 2001 (reporting that the NBA has agreed to allow the Vancouver Grizzlies, to relocate to Memphis), *available at* http://www.nba.com/news/grizzlies_010703.html (last visited Jan. 18, 2002).

[70] Colts owner Robert Irsay moved his team from Baltimore to Indianapolis in the middle of the night on March 28, 1984. *See* Colts Team History, *at* http://www.colts.com/sub.cfm?page=history (last visited Jan. 18, 2002).

And, moves are not over. They have always been part of sports history. I think they always will. Ironically, the last team before the Cleveland Browns that moved to Baltimore was also the Browns; that was the St. Louis Browns becoming the Baltimore Orioles.[71]

But in baseball, I think Tom might agree that you do have problems with Montreal, and Oakland. There are problems with the market, and I think that in the case of Florida maybe the situation improves, maybe it doesn't,[72] maybe the Twins get something worked out in Minnesota, maybe they don't.

The NFL is not done. I think the Raiders would still very much like to come back to Los Angeles.[73] New Orleans has got to work something out.[74] The Minnesota Vikings have to work something out.[75]

So do the Grizzlies in the NBA. As Sal said, hockey is in trouble, and I think this especially holds true in Canada. And if the Coyotes do not work something out in Phoenix, they may have to look elsewhere.

So these moves, I think, are going to continue for as long as we are around and after we are gone, although the situation has certainly stabilized a great deal.

MR. GALATIOTO: One of the interesting things that seems to be a driver in the baseball situation, hockey, and basketball situations, is

[71] In 1953, Major League Baseball's St. Louis Browns moved to Baltimore, Maryland and became the Baltimore Orioles. *See* Baltimore Orioles History, *at* http://orioles.mlb.com/NASApp/mlb/bal/history/bal_history_timeline.jsp (last visited Jan. 18, 2002).

[72] Major League Baseball's Florida Marlins play in Miami at Pro Player Stadium. The Marlins are having financial difficulties and are in the process of seeking to build a new stadium. *See Big Changes Coming*, *at* http://sports.espn.go.com/mlb/clubhouse?team=fla (last visited Jan. 18, 2002).

[73] The Raiders moved from Los Angeles, California, north to Oakland in 1995. *See Major League Sports Relocation History (1950-1997)*, *at* http://www.marquette.edu/law/sports/sfr/major_league_sports_relocation_h.htm (last visited Jan. 18, 2002).

[74] The New Orleans Saints and Minnesota Vikings have both used relocation as a threat to gain support for new stadiums. *See* Rovell, *supra* note 65.

[75] *Id.*

the disparity between the Canadian dollar and the U.S. dollar.[76] The bulk of the expenses these teams have are player contracts, and the standard player contract is in U.S. dollars. If you are a Canadian team and the bulk of your revenue is in Canadian dollars, you are taking a thirty-three percent discount. In addition, Canadian tax policy is much more onerous to these teams, which makes it very difficult for them to be economically viable in Canada. The NFL is not in Canada, but the other three major league sports are, and you are seeing a lot of pressure.[77]

We are the lead bank for the Grizzlies, and I can tell you that the amount of money being lost running that franchise in Canada is unbelievable.[78] And unfortunately, they are not the only Canadian franchise that is really bleeding.

In addition, if you add to that the fact that most of the Canadian metropolitan areas, with the exception of Toronto, would be middle-market or small-market cities in the United States, and some, like Edmonton, would not have a team at all, it makes it very difficult to have a financially successful team in Canada.[79]

The problem is there are a limited number of available cities to move to in the United States. You just can't move all the Canadian teams into the United States, so it is going to be a very interesting situation over the next four or five years.

MR. LECCESE: The only thing I would disagree with is the suggestion that many of them will be moving to the United States. Given the lack of availability of U.S. markets, some might be more economically viable where they are.

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[76] The Canadian dollar is worth about sixty-four United States cents, causing a reduction in ticket values and revenue. *See* Bertrand Marotte, et al., *Montreal Fans Worry as Habs Go on Block*, GLOBE & MAIL, June 29, 2000, *available at* http://www.cnn.com/2000/LOCAL/westcentral/06/29/tgm.canadiens/index.html (last visited Jan. 18, 2002) (explaining this problem in the context of the Montreal Canadiens hockey team).

[77] *Id.*

[78] The Grizzlies have now moved to Memphis, Tennessee. *See supra* note 69.

[79] The Edmonton Oilers are a professional hockey team located in Alberta, Canada. *See* Edmonton Oilers, *at* http://www.edmontonoilers.com/index.html (last visited Jan. 18, 2002).

MR. OSTERTAG: I cannot disagree. Both of you said it well. You know, you talk about Canada, and there are several different issues that make life more difficult for a franchise. But the biggest clearly is the exchange rate. When you start out thirty-three percent behind right off the bat, you are in trouble. It is just different.

MR. GALATIOTO: It is not a problem that the team can solve. You can have the best management in the world, but there is nothing you can do. If the Canadian dollar is $0.66 or $0.63, that is where your revenue streams are coming from. You can put the best product on the field, but there is a limit to what you can charge the consumer because the consumer is paying in Canadian dollars. So it is a real problem, and I do not think it is a problem that is going to go away soon.

This will cause some pressure because what I think is going to happen is that while there are some available markets, every time you look at relocating you move down the demographic scale. Markets still vacant in the United States are relatively small and the purchasing power in those cities is limited. Since luxury suites can drive a lot of the venue profitability, markets with a limited number of large corporations are not very attractive.

Therefore, you are going to be seeing teams trying to potentially enter other teams' markets. There is no reason why, I would argue, you could not have two basketball teams in Chicago, for instance, and be better off than having a basketball team in Memphis, although the Bulls might disagree with me there.

MR. LECCESE: I think it depends on who is better off.

MR. GALATIOTO: That is right, but is the league better off? I think that is the question.

MR. LECCESE: I think not. You know, absent the sort of historical accident that you have two teams in certain sports in New York and Chicago, I do not think any league that was starting up again would put two teams in those markets.[80] It does enhance the

[80] New York has two professional baseball teams (Yankees and Mets), two professional football teams (Jets and Giants), and two professional hockey teams (Rangers and

national television revenues. It does not enhance the local television revenues.

You know, the *Raiders* case[81] was decided in the early 1980s on a highly contaminated record. I think the League had the misfortune to have a record that suggested that they were trying to keep the Raiders out of Los Angeles to protect the Rams, and it was the Rams franchise that was not well managed at the time and ultimately relocated.[82]

I think the antitrust laws have evolved since then. We have not had another fully litigated relocation case since then. But I do think you will find that if there is one, the league's position is going to be substantially strengthened from what it was twenty years ago, because I do not think any of the leagues are going to allow themselves to be in a position where they have that sort of contaminated record.

I think all of the leagues have changed their relocation policies since then. For example, at that time, the NFL required a 100 percent vote to allow a relocation. Now all the leagues require a three-quarters or majority vote. They have done comparative market studies, which I think will help sustain their position, since this is clearly a rule of reason analysis under the antitrust laws.

MR. GALATIOTO: I guess what it comes down to is how big a relocation fee you are willing to pay to the existing franchise. It has been done. For example, the Devils were able to move into the New York Metropolitan Area.[83] So if you can reach an economic accommodation with whoever is already in that market, I suspect you can get it done.

Islanders). Chicago has two professional baseball teams (Cubs and White Sox). *See* Major League Baseball, *at* http://www.mlb.com, National Hockey League, *at* http://www.nhl.com, National Football League, *at* http://www.nfl.com (each site last visited Jan. 18, 2002).

[81] L.A. Mem'l Coliseum Comm'n v. Nat'l Football League, 791 F.2d 1356 (9th Cir. 1986).

[82] The L.A. Rams relocated to St. Louis.

[83] The National Hockey League's New Jersey Devils were originally the Kansas City Scouts, before relocating to New Jersey. *See* Kansas City Scouts History, *at* http://www.home.att.net/~kchockey/scouts.htm (last visited Jan. 20, 2002).

MR. LECCESE: I think the other thing the leagues have done is to allow those relocation fees to go to the league now. You do not see fees going to individual teams. I think that is another factor that enhances the leagues' position in a litigation proceeding.

MR. GALATIOTO: You have half-a-dozen teams in Canada, some of which are obviously going to have to move.[84] We have gone down the roster of U.S. cities that are available and open, and if you look at the buying power, per capita income, and the number of corporations in those secondary cities, you wonder whether any franchise would be viable in most of them.

MR. LECCESE: But again, I think it is a comparative analysis. Do you want the Grizzlies to lose $40 million in Vancouver?

MR. GALATIOTO: Or $25 million in Memphis, right? So your choice appears to be a choice between dying by electrocution or being hung.

MR. LECCESE: I think, again, it comes down to what the facility deal is. In most of these secondary cities, you have to have one built, which is not always easy if you do not have the corporate base.

MR. GALATIOTO: John will get it done. He is not volunteering very quickly.

Let me ask some other questions on another topic, and these are questions that I have broached with a number of owners and talked to them about: Is contraction a realistic option for some of these leagues? Do we have too many franchises? Have we saturated the market? Is it realistic to assume that one of the solutions would be to have fewer franchises and to have the leagues buy back some of the franchises?

MR. LECCESE: I only know of one sport that has been openly discussing that, so maybe Tom should handle that one.

[84] Canada has nine teams that play in the four major United States professional sports leagues, including: the Toronto Blue Jays and Montreal Expos in MLB; the Toronto Raptors in the NBA; and the Vancouver Canucks, Edmonton Oilers, Montreal Canadiens, Calgary Flames, Toronto Maple Leafs, and Ottawa Senators in the NHL. *See* http://www.mlb.com, http://www.nba.com, and http://www.nhl.com (each site last visited Jan. 20, 2002).

MR. OSTERTAG: There is really not much I can say other than what, again, our Commissioner has said, and that is that nothing is off the table.[85] Before I said that relocation is not off the table, and that is true. Contraction is not off the table. Will we do it? I have no idea, but it is something that has at least come into our consciousness for the first time, I believe, ever.

So, it is in our consciousness. Is it going to happen? I just do not know.

MR. GALATIOTO: It would have an interesting dynamic on the supply and demand of athletes. Let me put it this way: If you have fewer jobs, you have more available talent. In every other business, that dynamic would drive prices down. I do not know if that actually would happen in sports, but I would suspect that it would. If, say, two Major League Baseball teams went away tomorrow, you would have fifty Major League players and several hundred minor league players available. Then, you could have an expansion draft, and so I would suspect you would not have too many $2 million third-string shortstops sitting around, but that is just my conjecture.

MR. LECCESE: Yes, but I am not sure you have that many of those contracts today anyway. I think what has been putting the pressure on all of the leagues, including baseball, is the high-end contracts, not so much the third-string shortstop contracts. A-Rod got a $250 million contract, even though only a few teams were seriously bidding for him.[86] So whether you have thirty teams or twenty-six teams, A-Rod still gets that contract, and it still has an adverse market effect.

MR. GALATIOTO: I don't know. If you are a left-handed pitcher and you are forty years old, you can still pitch in the major leagues

[85] Major League Baseball has had serious talks discussing how to address its problems. These discussions have included contraction as well as relocation. *See* Jim Litke, *Selig Reveals Baseball's Dilemma*, ASSOCIATED PRESS, Dec. 6, 2001, *available at* http://www.mlb.com/NASApp/mlb/mlb/news/mlb_news_story.jsp?article_id=mlb_20011206_apcolumn_news&team_id=mlb (last visited Jan. 20, 2002).

[86] Alex Rodriguez signed a record-setting ten-year, $250 million contract with the Texas Rangers in 2000, the highest in baseball history. *Rodriguez Says Rangers Made it Easy to Walk from Mariners* (Dec. 12, 2000), *at* http://cbs.sportsline.com/u/ce/multi/0,1329,3187201_52,00.html (last visited Jan. 20, 2002).

and make over a million dollars a year. I do not think that would happen if you had fewer teams.

MR. LECCESE: That may be, but I do not think it is that contract that, at least in my view, is pushing baseball to the edge. It is the extraordinary explosion at the higher end. That is what was happening in the NBA and why a high-end limit became a central element of their collective bargaining agreement.[87]

MR. GALATIOTO: It seems to go across-the-board. The high-end players are the most visible ones, but if you look at the salaries of these teams, even the middle-level players make a lot of money.[88] It is a supply-and-demand issue. There are a lot of teams, and there is very little talent. That is one of the reasons these teams spend so much money on scouting in Korea and Taiwan. You are seeing an influx of players from the Far East, because there is too little talent and too many teams.

It is an option. I know people have discussed it. For the first time in my experience, some owners are seriously discussing that with me when I talk with them.

MR. LECCESE: It may make economic sense when you factor in the dilution of national revenues by these teams.

MR. GALATIOTO: The national television contract, for one thing.[89]

MR. LECCESE: If you took the national revenues and other shared revenues alone, you could probably obtain a loan sufficient to

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87 The NBA Collective Bargaining Agreement details a salary limit for a player, depending on the amount of years he has been in the NBA. *See* The National Basketball Association – National Basketball Players Association Collective Bargaining Agreement (Jan. 20, 1999); *see also* NBA Players Association Official Site, *Collective Bargaining Agreement*, *at* http://www.nbpa.com/cba (last visited Jan. 20, 2002).

88 The average Major League Baseball player's salary is $2.14 million. *See* Jeff Blair, *Inside: Baseball*, GLOBE & MAIL, Dec. 13, 2001, at S5, *available at* http://www.theglobeandmail.com/servlet/ArticleNews/freeheadlines/gam/20011213/SBANO/sports/Sports (last visited Jan. 20, 2002).

89 Recently, Major League Baseball signed a six-year, $2.5 billion national television contract that increases payouts to all thirty teams. *See* Chris Isidore, *Will Baseball Strike Out?* (Apr. 2, 2001), *at* http://money.cnn.com/2001/04/02/news/baseball_economic (last visited Jan. 20, 2002).

buy most of these teams back. But I think it raises a variety of other issues for the leagues.

MR. OSTERTAG: You mentioned salaries. There are probably some parts of the analysis that are easy. I think one is that you would have a greater level of national television revenue because you would have fewer people sharing in it.

But take the salaries, for instance. Who knows what the answer is? But it may not be that total salaries or average salaries or total payroll goes down, because even though you've got a greater supply and you might think that somehow therefore prices would go down, on the other hand, you might be removing just the bottom layer of players when all is said and done, and therefore the average salary may go up. If the average salary goes up, that might affect arbitration and free agency in such a way that total payroll goes up more than you expect.

Nobody has the answers at this point, but my point is only that it is not quite as simple as it may seem. There are different analyses that may yield different results.

MR. GALATIOTO: The key thing is, however, the revenue sharing amongst teams.[90] You would have fewer teams, so mathematically every team would have higher revenues. Now, if the teams choose to pass that on to the players, they are obviously free to do that, but then the economic downward spiral would continue. Notwithstanding the media's view that every owner makes money and he should continue to spend ad nauseam on players, if you look at the financials of many of these franchises, they are pretty ugly. I do not believe that over the long run any business that loses money consistently can stay in operation. I think people just get tired of writing checks. So something is going to have to happen. I do not see any other solution.

MR. WASSERMAN: This is a question for Mr. Ostertag. How do you promote competitive equilibrium within Major League Baseball,

[90] Hal Bodley, *Fewer Teams Means Less Revenue off Top*, USA TODAY, Nov. 30, 2001, *available at* http://www.usatoday.com/sports/baseball/comment/bodley/2001-11-07-bodley.htm (last visited Jan. 20, 2002).

and for the other leagues as well? Do you believe that it is promoted with more teams, spreading the franchises, expanding the franchises; or would contraction, in effect, promote competitive equilibrium within the League, because I guess that is how you can increase the interest in teams in the smaller markets, if they have a competitive team? And if you could discuss the single-entity theory as well in this context, I think it might illuminate some questions for the audience.

MR. OSTERTAG: Well, taking the first one first, Major League Baseball has expanded pretty rapidly in recent years, twice in the 1990s.[91] We have gone from twenty-six to thirty teams.[92] During the same period, our competitive balance problem has gotten worse.[93] So, has the greater number of teams caused that? I am not sure that there is causation there; it might be just a correlation.

But, one theory is that if you eliminate the weaker teams, you will have greater competitive balance, and you will improve the sport that way. But, another theory is there is always going to be somebody on the bottom, and is there that big a difference between thirty and twenty-eight or twenty-six, whatever the number is, because you will always have weak teams comparatively? We are talking about, in a sense, a zero sum game; every game has a winner and a loser. At the end of every season, there are an equal number of victories and losses. Some team is going to look bad compared to other teams, and that is going to happen every single year. So, does that improve your economics or not? I am not sure.

Another factor that is sometimes tossed out there is that if the weaker teams go away, the stronger teams will draw better because they will have opponents from bigger cities and better teams. The weaker teams draw poorly on the road. But again, you will always have the weaker teams comparatively. Does that theory hold? I do not know either.

[91] Raymond Daniel Burke, *Bloated Baseball Could Use a Trim*, BALT. SUN, Nov. 18, 2001, at 3F, *available at* 2001WL 6176000.

[92] *Id.*

[93] *See* George Vass, *Competitive Balance*, BASEBALL DIGEST, May 2000, *available at* http://www.findarticles.com/cf_dls/m0FCI/5_59/64150755/print.jhtml (last visited Jan. 20, 2002).

The single-entity theory is somewhat different also, in that, MLS was formed as a single entity,[94] and they are in litigation in Boston, and so far they have been successful in that litigation, and their structure and the single-entity nature of their structure has been upheld.[95]

Baseball is exempt from antitrust laws.[96] The other leagues have the problems of being treated by the courts under the antitrust laws,[97] at least in part, and sometimes in large part, as all different entities. Twenty-nine clubs, or thirty clubs, or thirty-two clubs that are thirty-two separate businesses. I clearly do not believe that is the way leagues ought to be treated.

Leagues are a collection of teams that compete as hard as they can compete on the field, but off the field they must cooperate. In a way, this competitive balance problem is illustrated in that. If you have a series of fifteen-to-two games, or if you have the same team winning year after year after year, and we have seen a little bit of that in baseball, but we have also had dynasties in years when we have not had such economic disparities, you are going to lose the interest of the fans. You need close, tough competition. That is what we sell.

The antitrust laws try to guarantee competition.[98] Well, competition is our product, that is what we sell, and we feel like we do that more or less, at least off the field, from one entity. So I believe that the leagues ought to be treated as single entities, at least for most purposes, if not all. And, of course, baseball is happy that we do not have to deal with that anywhere, except perhaps in the State of Florida and in the City of Philadelphia.[99]

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[94] Fraser v. Major League Soccer, L.L.C., 97 F. Supp. 2d 130, 132 (D. Mass. 2000).

[95] *Id.* (holding that MLS's single-entity structure was both legal and proper).

[96] Fed. Baseball Club of Balt. v. Nat'l League of Prof'l Baseball Clubs, 259 U.S. 200 (1922) (holding that baseball is exempt from the Sherman Act).

[97] *See, e.g.*, Eleven Line, Inc. v. N. Tex. State Soccer Ass'n, Inc., 213 F.3d 198, 206 (5th Cir. 2000) (discussing this issue in the context of soccer).

[98] 15 U.S.C. § 27(a) (2001).

[99] *See* Kyle Parks, *Florida to Join Fight against Baseball*, ST. PETERSBURG TIMES, Sept. 28, 1999, *available at* http://www.sptimes.com/News/92899/news_pf/Business/Florida_to_join_fight.shtml (last visited Jan. 20, 2002).

MR. GALATIOTO: Well, I do not think there is a competitive balance problem in baseball at all. I am a diehard Yankee fan and I think the Yankees should win every year, so I think it is perfectly fine the way it is now and we should leave it alone.

I do not have any other questions. If anyone else on the panel would like to open up any issues we have missed, I'd be happy to do that, or else we could open it up to questions.

QUESTIONER: How much did Arthur Ashe Stadium cost to build?

MR. WASSERMAN: The Arthur Ashe Stadium is actually a very interesting phenomenon in municipal stadium construction. The Arthur Ashe Stadium was built entirely at the expense of the United States Tennis Association.[100] The stadium itself, the facility itself, received not one penny of public money.[101] It received tax-exempt financing in that the financing came from the New York State Industrial Development Agency bonds, but the obligation to pay the bonds is entirely that of the USTA from revenues generated at the stadium.[102]

The total cost, I believe, was about $130 million.[103] The City did invest in infrastructure around the periphery of the site, and it invested about $14 or $15 million in the perimeter road system and some parking within Flushing Meadow Park.[104]

But I think you will find that the USTA is one of the more extraordinary illustrations of how a facility can be built without a single dime of public money.[105] The only thing that we invested, apart from the infrastructure expenses, which really went into the

[100] Dennis Duggan, *Tennis in the Apple—Leave Your Apple Home*, NEWSDAY, Sept. 8, 2001, at A4, *available at* 2001 WL 9249317.

[101] *Id.*

[102] Marc Ferris, *A Squawk In The Park: Despite Major Improvements, Some Say Poor Maintenance has Dulled Queens Jewel - Flushing Meadows - Corona Park*, NEWSDAY, Aug. 27, 2000, at G08, *available at* 2000 WL 10030544.

[103] *Id.* (reporting that the total cost to build the Arthur Ashe Stadium was $254 million).

[104] Nadine M. Post, *Tennis, Anyone? Expanded Tennis Center, and Football, Basketball and Hockey Venues are Rushed to Catch Season Play*, ENG'G NEWS-RECORD, July 28, 1997, Vol. 239, No. 4, at 28, *available at* 1997 WL 8266414.

[105] Duggan, *supra* note 100.

park itself, and the roadway system around the park, was the land.[106] Our return on our investment in the land is really a participation payment in the gross revenues of the U.S. Tennis Center.[107]

If all the stadium construction in the City could use that model, it would be a wonderful boon to municipal taxpayers. However, the USTA was able to do that because the USTA is a not-for-profit entity, so it is not structured, it does not have shareholders or partners, and so it does not have to necessarily see a return on its investment. It just has to have enough to finance its activities.

QUESTIONER: I am George Gowan, the General Counsel of the USTA. I am very pleased to hear your comments because, invariably, when I am reading in *Streets & Smith* or any sports publication on new stadiums in the country, who has built them, where they are, Arthur Ashe Stadium is never mentioned. It is unique, as Mr. Wasserman said. It was preceded by Louis Armstrong Stadium, which was also totally built by the USTA.

The actual cost was $300 million and $150 million came from industrial bonds.

Louis Armstrong Stadium was named by the New York City Council because Louis Armstrong had a house in Queens and lived there, and, needless to say, the USTA had no desire to change that name.

They made a conscious decision that they would call the stadium probably the USTA Stadium to promote its own name, and not a commercial name. But, on reflection, they decided, and they did the right thing, to name it Arthur Ashe Stadium, who not only was a leading tennis player, he lived in New York City, and of course was very instrumental with the Davis Cup and he was a national champion.[108]

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[106] *Id.*

[107] Wayne Barrett & Eileen, *50 Reasons to Loathe Your Mayor*, VILLAGE VOICE, Nov. 4, 1997, *available at* 1997 WL 11417426 (detailing the payment arrangements between the Tennis Center and the City of New York).

[108] For a brief biography of pioneering American tennis player Arthur Ashe, *see* Arthur Ashe, *at* http://www.cmgww.com/sports/ashe/print3.htm (last visited Jan. 20, 2002).

I think, in addition to spending all that money, $300 million, another thing that is unique about the stadium is that the USTA carries all maintenance costs. If you look at Yankee Stadium, or Shea Stadium, when there is a $30 million paint job, it is paid for by the City.[109] So the funding is how you keep the books. Actually, New York City probably does not make a nickel out of Yankee Stadium,[110] other than the prestige of having the Yankees there, which is very, very small.

But the other thing about the tennis stadium is that it improved an area that was going straight downhill. The City named it Louis Armstrong Stadium, had a press event with the Mayor, who I think was then Mayor Lindsey, and got his picture in the paper, and they never put another nickel in the stadium, and it was falling down.[111]

All of you are such experts in the area, and there was only one mention of the word "fan" by any of you, and that was that the fans in Denver do not like the idea of giving up the name. My question is: Shouldn't the fans be considered occasionally on these deals? Sports used to be fundamentally the most democratic activity in American society, and it was democratic both because the leading players came from a mix of backgrounds and it was democratic because the average family could go out and watch baseball games and not have to get a loan. If you have four members of a family, what percentage of the population can afford to go there? I submit it is less than ten percent.

I think the future of stadiums and construction is exactly what Mr. Wasserman said about New York, and that may be the minor league stadiums, the college stadiums, where the typical fan can go out and watch damn good sports at a modest price. So my question is, shouldn't there be more minor league stadiums and maybe less of these grandiose palaces?

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[109] Peter Botte, *Doubleday: If We Rebuild It, They Will Come to Shea*, N.Y. DAILY NEWS, Oct. 26, 2000, at 22, *available at* 2000 WL 26559867.

[110] Adam M. Zaretsky, *Should Cities Pay for Sports Facilities?*, REG'L ECONOMIST, Apr. 1, 2001, at 49, *available at* 2001 WL 14459738.

[111] Ferris, *supra* note 102.

MR. GALATIOTO: I think that there are more and more minor league stadiums being built, and the popularity, for instance, of minor league baseball has just exploded over the last few years,[112] and part of it is exactly as you stated, the economics.

I used to own a small home in the northeast corner of Pennsylvania and I would go to watch Triple-A baseball. The Scranton/Wilkes Barre Red Barons, who are an affiliate of the Philadelphia Phillies, play in a beautiful stadium, a 12,000-seat stadium.[113] It is $4.00 for box seats.[114] It is $1.00 to park. It is great baseball, Triple-A baseball. These players are terrific. They are one rung below the major leagues. You can watch players develop and the stands full of people from all different socio-economic classes. It costs less than going to a movie.

You will find that in many secondary markets in the United States minor league baseball is a great business, and even in cities as large as New Orleans and Columbus, Ohio, it is wildly popular.[115] Minor league hockey has also done well in secondary cities. Unfortunately, minor league basketball has not done well in these markets, but that may be because college basketball is very popular in many secondary cities.

I agree with you. I think that fans are being priced out in major markets. It is part of the problem. If you do not have a great team on the field and you are charging very high prices for your tickets, why is someone who will have to use a significant part of his disposable income going to use it to see a team that does not have a chance to win? This is a problem that is not easy to solve.

[112] Steve Jacobson, *NY Baseball is Minor Miracle*, NEWSDAY, July 2, 2001, at A41, *available at* 2001 WL 9239439.

[113] *See* Lackwanna County Stadium (noting that the Scranton/Wilkes-Barre Red Barons' Lackawanna County Stadium has a capacity of 10,982), *at* http://www.small-parks.com/Lackawanna.htm (last visited Jan. 20, 2002).

[114] *See* Red Barons (noting box seats now cost up to $7.50), *at* http://www.redbarons.com (last visited Jan. 20, 2002).

[115] Timothy D. May, *Minors Attracting More Fans; Attendance at Minor League Games has Doubled over the Last 20 Years as Local Towns Embrace the Small Market Teams*, AUGUSTA CHRON., Aug. 20, 2000, Sports, at C03, *available at* 2000 WL 31512900.

MR. LECCESE: I realize that is a great headline, to say the fans are getting cheated, but I do not think it is accurate. If you spend scores of hours in meetings with architects on these stadiums, every single moment of those meetings is devoted to enhancing the fan experience. Everyone of these ballparks has been designed to bring the fan closer to the action, give the fan better sight lines, more amenities, more rest rooms, better parking, better entrance, better access. At least when we have polled fans in the markets I have been involved in, they all want these things.[116] If you say to the fans, "What are the things you least like about your stadium?" it is either traffic or bathrooms. Then it is sight lines. They are all willing to pay for the upgrade. Then it is, frankly, fan behavior, which is a chronic problem around the country, which is difficult for a sports team owner to control.[117]

When you look around the country, the airports of the 1960s functioned well; you could go there and you could get on an airplane and you could fly out. You can no longer get on the airplane and fly out in the twenty-first century, but the airports themselves are beautiful. You used to be able to go to a shopping center and buy what you wanted, but the shopping centers of today have more amenities, wider concourses, better parking, and the prices reflect that.

I guess we could all use the discount pricing that is used at Arthur Ashe Stadium, but that is not available to everybody. These things have to be paid for. The U.S. Tennis Center is a beautiful facility and the fans pay for it.

MR. GALATIOTO: We have to admit that it is a problem. I agree with you, the fans all want those amenities. However, there is a large portion of the population which, unfortunately, is being priced out.

MR. MOAG: Let me agree in part and disagree in part. I want to echo what Mr. Leccese said about the involvement of the fans in the

[116] *What the Fans Want*, TIMES-PICAYUNE (New Orleans), July 31, 1993, Sports, at D4, *available at* 1993 WL 7664248.

[117] Mike Preston, *Honesty is Thrown for a Loss by Policy*, BALT. SUN, Dec. 18, 2001, Sports, at 1D, *available at* 2001 WL 6178546.

process. That was certainly the case of Baltimore, very involved in the design process, what they were looking for in the stadium, the neighbors included, how did the community fit into the whole situation.

Now, the market tends to speak for itself. These new buildings are pretty full.[118] Wherever we build a new stadium, the people tend to come. The question is, who is coming? I think that is the issue. If you look in Oriole Park, you see a sea of white faces, and I think that is very, very unfortunate because, clearly, a part of our geographic market is getting priced out.

Additionally, we are losing young people in these stadiums, which I think the sports need to deal with themselves, because they are the future fans. Especially in baseball, we are seeing that a lot in Baltimore, where you are not getting as much family activity through there as you used to because the wealthier "suits," as we call them, are tending to crowd them out.[119]

MR. OSTERTAG: To continue with our collective defense, I think there were several mentions of fans. I know that I mentioned the fans in Milwaukee with tailgating and also included them with the attendance.

As far as the pricing, on the one hand, sure, we all wish the prices were lower, but in baseball they really are still fairly reasonable. I think our average ticket price is in the high 'teens, and there are thousands and thousands of tickets for, I think, every game in every city that are in the neighborhood of what it costs to go to a movie.[120]

Sure, there are lots of expensive seats too. The ones that are real close and have waiter service and all are much more expensive,[121] but there are reasonably priced seats everywhere.

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[118] Eric Fisher, *Baseball's Economic Outlook Still Good; Selig Calls Woes 'Stunningly Bad'*, WASH. TIMES, Nov. 30, 2001, Sports, at C1, *available at* 2001 WL 4167731.

[119] Norman Birnbach, *Baseball Should Sing a New Tune*, CHI. TRIB., July 21, 2000, at 21, *available at* 2000 WL 3687870.

[120] Eric Fisher, *Baseball Ticket Prices Go Through the Dome*, INSIGHT ON THE NEWS, May 7, 2001, at 28, *available at* 2001 WL 31034896.

[121] *Id.*

And we still are a very family-oriented sport. There are kids. You go to a ballpark and you just see kids everywhere. In the summer, go to an afternoon game at Yankee or Shea stadiums and you will see just so many kids, and you see them on the weekends.

I could add that ticket prices are going up, but our games are getting so long that the fans are getting more for their money.

MR. GALATIOTO: I think, to be honest, that baseball is the best bargain. You are right, there are a lot of general admission seats.

I think the better argument would be hockey or basketball, where, frankly, if you bring four people to those games, you are going to spend over $200. There is no way to get around it. It is a problem, but it is a problem that society has with a lot of forms of entertainment. It is not just specific to sports, unfortunately.

QUESTIONER: My question is about public tax dollars going to stadiums, and really in reference to the Jets. I can understand how Cleveland gave a lot of money towards building a new stadium because it revitalized their whole downtown area.[122] You know, the Mets and the Yankees, maybe their stadiums are falling apart, and so I can understand how public tax dollars certainly can go to those.

But the Jets have a stadium that is sold out.[123] They now have grass so the playing surface is much better. I know they have a lease problem, but still that is not only the public's issue. I do not understand why the public should put almost $1 billion in taxes into a new stadium when they do not really need it. The Jets are selling out. I remember hearing the new President of the Jets say the main reason, almost the sole reason, for moving is luxury suites and also new sponsorship opportunities.[124] That sounds like just the Jets being able to make a lot more money.

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[122] Alan Achkar and Bill Lubinger, *Gateway's Scorecard Sports Complex Still Trying for Home Run, A Catalyst For Economic Renewal Series: Positioning Cleveland for the New Economy*, PLAIN DEALER (Cleveland), Sept. 10, 2000, at 1A, *available at* 2000 WL 5164975.

[123] Kelly Barbieri, *Giants Stadium Capacity Boosted*, AMUSEMENT BUS., Nov. 12, 2001, at 11, *available at* 2001 WL 30203401.

[124] *Jay Cross Replaces Steve Gutman as New York Jets President*, ASSOCIATED PRESS, Mar. 1, 2001, *available at* 2001 WL 15634150.

So based on that, shouldn't the Jets be putting in almost all the money technically, because they are basically making a profit? It is a business opportunity for them to move downtown to make a lot more money. It does not affect the public.

They do not need a new stadium, per se, beyond the fact that it is called Giants Stadium. I mean, they do not really need a new stadium. So, is the way that they justify that by saying that the Javits Center is now old and dilapidated or cannot be used for everything it needs to be used for, and to get them involved, and now you can use it for 365 days a year, and that is how the tax dollars get involved for the Jets?

MR. LECCESE: I will try to address each of the twelve questions, I think, that might have been in there.

First of all, bear in mind that the Jets are a tenant in a facility.[125] They have a lease. It is not a good lease.[126] That is the decision Mr. Hess made when he signed that lease, but that lease is expiring, so the Jets are free to go someplace else.[127]

They can stay in the Meadowlands, and I suspect the State of New Jersey will make the Jets a favorable offer to stay. Because of the Nets and the Devils relocating to Newark, which I think will be a great thing for the City of Newark, the Meadowlands is going to become a concrete mausoleum. The racetrack is losing money; attendance is down.[128] The Giants will stay, but the Giants also have a lease that entitles them to certain rights. By the time the Jets' lease expires, Giants Stadium is going to need hundreds of millions of dollars of capital upgrades.

[125] Neal Travis, *Jets Might Fly if City Won't Play Ball(park)*, N.Y. POST, May 2, 2001, at 3, *available at* 2001 WL 19769441.

[126] Gary Myers, *Woody Jets into the Action Johnson: West Side 'Realistic'*, N.Y. DAILY NEWS, July 31, 2001, at 57, *available at* 2001 WL 23587862.

[127] Gerald Eskenazi, *Cheers to the Jets, Longtime Tenants at the Meadowlands*, N.Y. TIMES ABSTRACTS, Nov. 10, 2001, at 4, *available at* 2001 WL 30060129.

[128] Mike Farrell, *A Winner Out of the Gate; Racetrack, at 25, Always Kept Ahead of the Pace*, THE RECORD (Bergen County, N.J.), Sept. 3, 2001, Sports, at 2, *available at* 2001 WL 30060129.

You need to remember that these open-air stadiums are exposed to the elements 365 days a year, so if you think your house needs a new paint job more often than you would like, if you took the roof off and left all the windows and doors open all year round, you get a sense of the kind of pounding these facilities take.

Now, Woody Johnson may well make a lot more money staying in New Jersey, and that may well be what he ends up doing, but he is a highly community-focused individual. This is a man who spends most of his time as the Chairman of the National Juvenile Diabetes Foundation and the National Lupus Foundation. He believes this is a great thing for the City.

But, recognize that right now the City of New York does not get one dollar of tax revenue from the New York Jets. They train in Hempstead.[129] They play in New Jersey. If they were to come into New York, all of those dollars would get spent in the City of New York and be subject to New York City wage tax, New York City sales tax, et cetera, et cetera.

Secondly, since 1984, every governor and every mayor, Republican and Democrat, has decided that they want to do something about the Javits Center. They have never been able to agree on anything. It took them about fourteen years to agree that they should rid the Javits Center of mob influence. So, things do not exactly move at a speedy pace.

MR. GALATIOTO: That is why it is not running as well as it used to.

MR. LECCESE: That is right. Cost is low, but service is down, which I guess goes to George's point about arenas.

This is a vehicle for the City to get something that all of its political leaders have decided that it needs, to get some private investment towards that goal, and to get a high-revenue-producing asset back into the City, and to help create a master plan on the West

[129] Shawn Courchesne, *Loss Reminiscent of Jets' Decembers*, HARTFORD COURANT, Dec. 3, 2001, Sports, at C8, *available at* 2001 WL 25335198.

Side of Manhattan that will include a new Garden and have a unique appeal around the country.

Every political official in New York is fond of saying it is the greatest city in the world. Well, this may be a world-class city, but it does not have world-class facilities. As Mr. Wasserman has said, Yankee Stadium is falling down, Shea Stadium is falling down, the Garden is in the lowest quartile of all NBA and NHL arenas in terms of its amenities for fans, you do not have a football team playing in New York City, you do not have a convention center that allows you to compete for events. You can achieve a lot of those things on the West Side and get all of the economic impact you might want in terms of more hotels and restaurants; it would be a great boom to additional expansion of the theater district and similar development.

There are a lot of people who do not like economic development in this City because they are worried that it will have an adverse impact on their particular situation. This is a country where if you get sixty percent of the vote for anything, you have a landslide. In New York City, that means you generally have four or five million opposed to almost everything.

Woody Johnson will only do this if it makes sense and if the Governor and the Mayor and the City Council and State Assembly all want to do it. He has other options.

But I think people need to take a step back, listen to the facts, see what the site plan looks like, and see whether they think it makes sense.

MR. WASSERMAN: I would point out that, from a public policy point of view, supporting the investment of tax dollars or public funds raised through municipal bond financing in a facility of this nature, it is not whether the Jets need a new facility, but whether the City wants to induce the Jets to come to New York. They are in a different jurisdiction now. If the public policy decision is made that New York City wishes to advance this particular project on the West Side, then it is certainly within their province to do so. But it is to advance the City's interest, not to advance the Jets' interest.

I think the touchstone for the new stadium on the West Side, and Mr. Leccese has alluded to it, is whether the designers, the architects, the engineers, can construct a facility that will, in effect, be a 365-day facility, that it will accommodate both a football stadium, if that is the choice, and there has also been a lot of talk about such a facility being the focus of an Olympic bid in 2012, which is not an insignificant economic generator in and of itself and would justify the public investment, but, in particular, whether such a facility could also accommodate this extension of the Javits Center. I think the jury is still out.

And, this is going to be a question largely within the province of State Government, certainly with the participation of the City. But, the State owns the Javits Center and the State owns the railyards over which this new facility will be built, the Long Island Railroad marshalling yards.[130] So, we are going to have a significant input of the State. There will be much policy-making in Albany over the decision of what the fate will be of this West Side facility.

I am not sure it really works unless this vision of an integrated convention-and-exhibition space can be constructed and also serve the needs of a major league football facility. It will be very interesting. We have to watch it. There is a lot of planning and designing to do that will determine what happens on the West Side.

MR. GALATIOTO: I was quite insular in terms of looking at sports facilities, as a New Yorker, before I got into this business. I never really left the City and assumed that the facilities we have here are pretty much standard. But, I have to support Mr. Leccese's contention.

If you go out to Nassau Coliseum, the Meadowlands, or Madison Square Garden, even after a major renovation, the baseball stadiums and the football stadiums here do not measure up. If you go to look at the facilities in other cities, you can just see that we are at the very beginning of a rebuilding cycle in New York, and I think it is going

[130] Martin Mbugua, *Green Has Javits Plan*, N.Y. DAILY NEWS, July 18, 2001, at 22, *available at* 2001 WL 23586533.

to need to get done if our teams are going to stay competitive and if the owners are going to want to stay here. It just makes sense.

MR. WASSERMAN: There is an irony that Byrne Arena[131] might become an artifact, and Byrne Arena, if you visit it, is really a facility far more sophisticated and fan-friendly than the Garden. You do not have to take an escalator up five flights to get to your seat.

MR. GALATIOTO: The problem is location. It's in the middle of a swamp.

QUESTIONER: I am interested in the naming process. There are some great new names, for example PSINet has its name on a stadium. What is the requirement to finance the naming and what happens when a company that does have the opportunity to do the naming cannot fulfill its economic requirements?

MR. MOAG: It will usually sell the asset, meaning the rights to the name, or it will revert back in some instances to the owner of the building who can then sell it again.

MR. GALATIOTO: It is interesting. The trend we are starting to see now is away from companies that are less established towards companies that have high credit ratings. This stream of payments is a very valuable asset, and in order to securitize it, and a lot of teams like to securitize it to get the up-front money, you need to have an Investment-Grade company as your counter-party so that you can get the right rating from the rating agencies.

I think franchises are being much more selective in who they choose as their naming rights partner. They are looking for companies with financial strength. This is due to the bankruptcy of some naming rights partners (Pro Player) and the problems being experienced by others (PSI Net).[132] I believe that the teams are

[131] The Brendan Byrne Arena was renamed Continental Airlines Arena. *See* Meadowlands Sports Complex (noting that the name was changed January 1, 1996), *at* http://www.meadowlands.com/arena/arena.html (last visited Jan. 20, 2002).

[132] *See NFL Log: In the Spotlight*, PITTSBURGH POST-GAZETTE, Dec. 22, 2001, Sports, at B6, *available at* 2001 WL 28683614 (noting the financial troubles of PSINet Inc. and the fact that the Ravens would like to find a more stable partner).

becoming much more selective in who they choose as their naming rights partner and are taking financial strength into account as much as the overall payment.