

# TEN YEARS LATER: MILLER PARK AND REAL ESTATE DEVELOPMENT IN THE VILLAGE OF WEST MILWAUKEE AND THE MENOMONEE VALLEY

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A Report for the Southeast Wisconsin Professional  
Baseball Park District

As Prepared By:  
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Southeast Wisconsin Professional Baseball Park District



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## ABOUT THE AUTHOR

**Martin J. Greenberg** is the managing member of the Law Office of Martin J. Greenberg, LLC, and concentrates his practice in all aspects of real estate, contract negotiations, sports facility development, league and conference formation and structure, and has acted as an expert witness in numerous sports and real estate cases. He is the former Chairman of the Wisconsin State Fair Park Board, Wisconsin Athletic Hall of Fame, Wisconsin Exposition Center, and the Wisconsin Sports Development Corporation, served as a member of the Marquette University Athletic Board, and currently serves on the Board of the Southeast Wisconsin Professional Baseball Park District.

He is an Adjunct Professor of Law at Marquette University Law School where he has taught real estate and sports law courses for well over thirty-nine years. He currently teaches courses entitled Representing Professional Athletes and Coaches Workshop, and Sports Venues: From Election Day to Game Day.

Greenberg was the founder and Director of the National Sports Law Institute (NSLI) of Marquette University Law School from November 1989 to April 1997, and is a former Chair and current member of the NSLI Board of Directors. The NSLI established the Martin J. Greenberg Award for Excellence in honor of his contributions to the Sports Law Program and the NSLI.

Marquette University Law School awarded Greenberg the Joseph O'Neill Award and the Charles W. Mentkowski Law Alumnus of the Year Award. He is also the recipient of the Milwaukee Bar Association Lawyer of the Year Legal Scholar Award, the Wisconsin Bar Foundation Donald O'Melia Local Service Award, the Wisconsin Law Journal Leaders in the Law, and is noted in the publication "Best Lawyers in America."

Greenberg has authored or co-authored several books, including *Sports Law Practice*; *SportsBiz*; *The Stadium Game*; *Real Estate Practice*; *Mortgage and Real Estate Financing*; *Wisconsin Real Estate*; and *Real Estate Tax Guide*.

Greenberg has studied the phenomena of real estate and sports facility development since the early 1990s when he presented a lecture in London, England, for the Sports Business Journal on the topic of "It Takes a Village to Build a Sports Facility." A compilation of his work was recently published in the Marquette Sports Law Review entitled "Sports.Comm: It Takes a Village to Build a Sports Facility" (Vol. 22, Fall 2011, No. 1).

## THANK YOU TO

### *SOUTHEAST WISCONSIN PROFESSIONAL BASEBALL PARK DISTRICT*

**Michael R. Duckett, P.E., R.L.S.** Duckett was born and raised in Waukesha, Wisconsin. He received his Bachelor's and Master's degrees in Civil Engineering from the University of Wisconsin - Madison in the mid-1970s. Duckett is a licensed Professional Engineer and Registered Land Surveyor in the State of Wisconsin and has been involved in planning, design, and construction projects throughout the State of Wisconsin for over thirty-five years. During his career, Duckett has worked on development projects from all perspectives. He has had the opportunity to represent owners, contractors, and designers. This varied and unique background has provided Duckett with a wide range of technical and managerial skills. Duckett was appointed to the position of Executive Director for the Southeast Wisconsin Professional Baseball Park District in October 1996 to manage and oversee the planning, design, and construction of Miller Park. Duckett continues to serve as the Executive Director of the District, and is currently responsible for facility monitoring and management at Miller Park. After starting his own firm in early 2001, Duckett has provided engineering, owner's representative, and project management services for Miller Park, Lambeau Field, Acuity Insurance, Minnesota Twins' Target Field, the Marquette Interchange, Summerfest, and several other challenging projects.

Thank you, Mike, for your outstanding leadership as the Executive Director of the Southeast Wisconsin Professional Baseball Park District, which has helped to make Miller Park the Calatrava of Major League Baseball stadiums. Your wisdom, experience, and input into this Report are greatly appreciated.

### *MARQUETTE UNIVERSITY LAW SCHOOL – NATIONAL SPORTS LAW INSTITUTE*

Thank you, Dean Joseph D. Kearney and Professor Matthew Mitten, for making the Sports Law Program at Marquette University the best among American law schools.

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A special thank you to Professor Paul Anderson, for creating and monitoring the internships that have helped make this Report a reality. Also, thank you for reviewing this Report and providing helpful comments and suggestions.

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**Kayleigh Mayer** is a second year student at Marquette University Law School. She is a member of the Marquette Sports Law Review and is on track to earn the National Sports Law Institute's Sports Law Certificate upon graduating in May 2013. She received her Bachelor of Science in Business Administration in May 2010 from Marquette University, with majors in Marketing and International Business, and a minor in Spanish for the Professions.

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## I. PURPOSE OF THE REPORT

The areas adjacent to and around stadiums usually constitute a "hubbub" area of activity. They attract people not only on game days, but on non-game days as well, and for some reason, people like to live near or adjacent to stadiums. Development occurs in the format of "concentric circles," which is normally happenstance or partially planned. However, in the future there will be pre-planned sports communities in which the sports facility is the anchor for mixed-use real estate development, hereinafter referred to as a sports.comm.

One of the residual effects of the construction of baseball facilities has been the real estate development that has accompanied stadium construction years before and after the stadium opens. Most of the baseball stadiums that have been constructed since 2000 have been in urban or near-urban areas. The physical sites on which the baseball stadiums were constructed, other than the need for parking, did not leave much room for real estate development. Thus, concentric circles is the phenomenon of real estate development occurring around constructed or renovated stadiums.

The Milwaukee Brewers, of course, have a different and unique situation. Miller Park is located adjacent to the site of the prior stadium, Milwaukee County Stadium. Miller Park is located in the center of Milwaukee County and is adjacent to the Village of West Milwaukee on the south and a major industrial center, the Menomonee Valley, on the east. Miller Park is also surrounded by a sea of roadways. Therefore, to measure Miller Park in the context of concentric circles, it is necessary to look to the real estate development that has occurred in the Village of West Milwaukee along Miller Park Way to the south, and the industrial development that has occurred in the Menomonee Valley to the east. See **Exhibit # 1** showing the proximity of Miller Park to the Village of West Milwaukee and the Menomonee Valley.

The undersigned is not an economist. This Report is not intended to be an economic and fiscal impact report, nor is it intended to enter the debate as to whether or not the public receives an economic benefit through the community investment of public dollars for sports facilities.

The purpose of this Report is to determine whether the creation of Miller Park has had any impact on the adjacent mixed-use development on South 43rd Street, now known as Miller Park Way, in the Village of West Milwaukee and the areas adjacent thereto, and the industrial development along Canal Street in the Menomonee Valley. The Report also comments on what the future might hold for the development of the property leased by the Brewers from the Southeast Wisconsin Professional Baseball Park District.

## II. INTRODUCTION

The current Major League Baseball (MLB) Commissioner, Bud Selig, acquired the Milwaukee Brewers (Brewers), originally the Seattle Pilots, through bankruptcy, and the team moved to Milwaukee in 1969 as an expansion club in the American League through, and including, the 1997 season.<sup>1</sup> In 1997, the Brewers became a National League Central Division team and played their first game in the National League during the 1998 season.<sup>2</sup> From the time of their relocation to Milwaukee in 1969 through 2000, the Brewers played their games at County Stadium.<sup>3</sup>

The 1995 Wisconsin Act 56,<sup>4</sup> now WIS. STAT. §§ 229.64–229.81,<sup>5</sup> created the Southeast Wisconsin Professional Baseball Park District (District) to oversee the design and construction of a new stadium for

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1. *Timeline*, THE OFFICIAL SITE OF THE MILWAUKEE BREWERS, <http://mlb.mlb.com/mil/history/timeline.jsp> (last visited Feb. 16, 2012).

2. *Id.*

3. *Brewers Ball Parks*, THE OFFICIAL SITE OF THE MILWAUKEE BREWERS, <http://mlb.mlb.com/mil/history/ballparks.jsp> (last visited Feb. 16, 2012).

4. See The Stadium Act, 1995 Wis. Act 56.

the Brewers.<sup>6</sup> The District is a “special district that is a local government unit, . . . a body corporate and politic, that is separate and distinct from, and independent of, the state.”<sup>7</sup> The District is comprised of Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties and is managed by an appointed Board of Directors made up of thirteen individuals representing the five-county area.<sup>8</sup> Its responsibilities include the oversight and monitoring of the planning, financing, designing, constructing, commissioning, operating, and maintenance of the new baseball stadium.<sup>9</sup>

To finance the project, the District is authorized to “impose a sales tax and a use tax . . . at a rate of no more than 0.1% of the sales price or purchase price.”<sup>10</sup>

Construction of the new stadium began on October 22, 1996 and the ceremonial groundbreaking took place on November 9, 1996.<sup>11</sup> Miller Park opened with an exhibition game on March 30, 2001, and the first actual MLB-sanctioned game occurred on April 6, 2001.<sup>12</sup> The stadium was named Miller Park pursuant to a naming rights agreement with Miller Brewery.<sup>13</sup>

Miller Park comprises 1.2 million square feet and holds a capacity of 41,900 persons.<sup>14</sup> The stadium’s features include a fan-shaped retractable roof;<sup>15</sup> 30,000 square feet of office space;<sup>16</sup> 4,500 square feet of retail space in the Brewers Team Store;<sup>17</sup> 15,000 square feet of restaurant and banquet facilities;<sup>18</sup> and a youth baseball stadium, Helfaer Field.<sup>19</sup>

To pay for Miller Park, the Wisconsin legislature passed a five-county 0.1% sales tax in 1995, and the State began levying the tax as of January 1, 1996. The following is a summary of the sales tax collected to date:

**SOUTHEAST WISCONSIN PROFESSIONAL BASEBALL PARK DISTRICT**  
**Sales Tax Summary<sup>20</sup>**

<b>Year</b>	<b>Actual Sales Tax Collected</b>	<b>Percent Change From Prior Year</b>	<b>Budgeted Sales Tax Collections</b>	<b>Variance Over / (Under)</b>	<b>Source Of Projection</b>
1996 <sup>21</sup>	\$12,965,650		\$12,250,000	\$715,650	C.H. Johnson Consulting

5. WIS. STAT. §§ 229.64–229.81 (2009–10).

6. WIS. STAT. §§ 229.66–229.68.

7. WIS. STAT. § 229.66(1).

8. See SOUTHEAST WISCONSIN PROFESSIONAL BASEBALL PARK DISTRICT, <http://www.millerparkdistrict.com/> (last visited Feb. 16, 2012).

9. *Id.*

10. WIS. STAT. § 77.705 (2009–10).

11. *Miller Park*, BALLPARKS, <http://www.ballparks.com/baseball/national/miller.htm> (last visited Feb. 16, 2012).

12. *Id.*

13. Kenneth R. Lamke, *Miller Puts a Name on Ballpark*, MILWAUKEE J. SENTINEL, Mar. 22, 1996, at 8A.

14. *Facts & Ground Rules*, THE OFFICIAL SITE OF THE MILWAUKEE BREWERS, <http://milwaukee.brewers.mlb.com/mil/ballpark/information/index.jsp?content=groundrules> (last visited Feb. 16, 2012).

15. *Id.*

16. *Miller Park Southeast Wisconsin Professional Baseball Park District*, THE SIGMA GROUP, [http://www.thesigmagroup.com/portfolio/port\\_miller.php](http://www.thesigmagroup.com/portfolio/port_miller.php) (last visited Feb. 16, 2012).

17. *Brewers Team Store*, THE OFFICIAL SITE OF THE MILWAUKEE BREWERS, <http://milwaukee.brewers.mlb.com/mil/ballpark/information/index.jsp?content=teamstore> (last visited Feb. 16, 2012).

18. *Miller Park Southeast Wisconsin Professional Baseball Park District*, *supra* note 16.

19. See *Helfaer Field*, BREWERS ENTERPRISES, [http://milwaukee.brewers.mlb.com/mil/ballpark/brewersenterprises/helfaer\\_field.jsp](http://milwaukee.brewers.mlb.com/mil/ballpark/brewersenterprises/helfaer_field.jsp) (last visited Feb. 16, 2012).

20. *Sales Tax Summary*, SOUTHEAST WISCONSIN PROFESSIONAL BASEBALL PARK DISTRICT (Nov. 15, 2011).

Year	Actual Sales Tax Collected	Percent Change From Prior Year	Budgeted Sales Tax Collections	Variance Over / (Under)	Source Of Projection
1997	\$17,389,506	n/a	\$17,269,000	\$120,506	C.H. Johnson Consulting
1998	\$19,571,081	12.55%	\$19,050,911	\$520,170	Virchow Krause & Company
1999	\$20,447,038	4.48%	\$19,722,388	\$724,650	Virchow Krause & Company
2000	\$22,251,277	8.82%	\$21,122,463	\$1,128,814	Virchow Krause & Company
2001	\$23,174,502	4.15%	\$22,369,019	\$805,483	Virchow Krause & Company
2002	\$25,360,879	9.43%	\$24,765,919	\$594,960	District & Public Financial Mgmt.
2003	\$23,440,278	-7.57%	\$26,128,045	(\$2,687,767)	District & Public Financial Mgmt.
2004	\$24,831,184	5.93%	\$28,214,071	(\$3,382,887)	District & Public Financial Mgmt.
2005	\$25,154,514	1.30%	\$27,060,750	(\$1,906,236)	District & Public Financial Mgmt.
2006	\$25,451,256	1.18%	\$28,549,091	(\$3,097,835)	District & Public Financial Mgmt.
2007	\$25,912,863	1.81%	\$25,661,000	\$251,863	District & Public Financial Mgmt.
2008	\$26,689,753	3.00%	\$26,354,000	\$335,753	District & UW Extension
2009	\$24,167,598	-9.45%	\$26,617,000	(\$2,449,402)	District & UW Extension
2010	\$24,033,665	-0.55%	\$24,900,000	(\$866,335)	District & Public Financial Mgmt.
2011	\$25,911,685	5.0%	\$24,726,000	\$509,000	District & UW Extension
2012 <sup>22</sup>			\$25,740,000		District & UW Extension
<b>TOTALS</b>	<b>\$366,752,730</b>	<b>2.86%</b>	<b>\$374,759,657</b>	<b>(\$8,683,613)</b>	

The Brewers and the District entered into a lease agreement on December 31, 1996, which has been amended and restated as of June 30, 2004 (Lease), providing for a term commencing on March 31, 2001 and expiring on December 31, 2030.<sup>23</sup> The Lease has been amended twice since June 30, 2004, once on December 1, 2004<sup>24</sup> and again on January 14, 2005.<sup>25</sup>

The State of Wisconsin owns the parcels of land on which the stadium site is situated and has land-leased the same to the District pursuant to a Ground Lease, dated October 21, 1996, between the State of Wisconsin and State Building Commission, as the Lessor, and the District, as the Lessee.<sup>26</sup> The boundaries of the property that the District leases to the Brewers are more particularly designated on **Exhibit # 2**. The only exception is that the far south parcel, designated as Area 10, has been transferred to the City of Milwaukee / Harnischfeger Property in exchange for the Water Works property, which is located just south of Area 3.<sup>27</sup> As a result, the total land leased to the Brewers is 186 acres.<sup>28</sup> The Miller Park facility itself, consisting of the ballpark and plaza, comprises about twenty acres.<sup>29</sup> The rest of the site is comprised of parking lots, access roads, the Menomonee River, and Helfaer Field.<sup>30</sup>

21. Taxes were collected for nine months during the calendar year 1996.

22. The anticipated change from the 2011 projected sales tax collections to the 2012 Budgeted Sales Tax collections is 2%.

23. Lease Agreement by and between Southeast Wisconsin Professional Baseball Park District and Milwaukee Brewers Baseball Club, Limited Partnership (June 30, 2004).

24. First Amendment to Amended and Restated Lease Agreement by and between Southeast Wisconsin Professional Baseball Park District and Milwaukee Brewers Baseball Club, Limited Partnership (Dec. 1, 2004).

25. Second Amendment to Amended and Restated Lease Agreement by and between Southeast Wisconsin Professional Baseball Park District and Milwaukee Brewers Baseball Club, Limited Partnership (Jan. 14, 2005).

26. Ground Lease by and between the State of Wisconsin and the Southeast Wisconsin Professional Baseball Park District, dated October 21, 1996, and evidenced by a Memorandum of Ground Lease dated as of Dec. 31, 1996 and recorded on July 3, 1997 in Reel 4033, Image 1395, as Document No. 7389194.

27. E-mail from Michael Duckett, Executive Director of the Southeast Wisconsin Professional Baseball Park District, to Martin J. Greenberg (Jan. 18, 2012, 12:19 CST) (on file with Martin J. Greenberg).

28. *Id.*

29. *Id.*

30. *Id.*



Pursuant to a Summary of Costs/Ownership Percentages, dated February 1, 2006,<sup>31</sup> the District owns 70.91% of the stadium site and the Brewers own the remaining 29.09%. The total cost of the stadium was approximately \$392,490,712.<sup>32</sup>

### III. CONCENTRIC CIRCLES

In the 1990s, we witnessed the redevelopment of downtown or near-downtown blighted areas with the construction of new state-of-the-art ballparks.<sup>33</sup> The new stadiums that have been built in downtown or near-downtown areas have not only increased team revenue but have contributed to the economic growth of the surrounding neighborhoods. Sports facilities provide a greater economic impact when located in an urban area, which is more likely to be in need of infrastructure improvement and attract crowds due to the concentration of people in a central business district.<sup>34</sup> These impressions have led to the use of new sports and entertainment facilities as the main centerpieces for urban redevelopment. In many communities, the construction or renovation of a sports venue has created either happenstance or planned real estate and economic development surrounding the venue. The sports facility stimulates concentric circles of development surrounding the sports venue.<sup>35</sup>

Team owners and real estate developers realize the potential benefits of constructing a new facility and from developing the surrounding land. Because of developed and redeveloped sports facilities, blighted and inner city areas have turned into attractive gathering places for tourists and local citizens alike. A sports facility is created, and over time, the area around the facility develops into a popular destination place and entertainment district. These sports facilities become a staple of economic recovery, as the new facilities represent progress in dilapidated inner cities.<sup>36</sup> The stadiums draw attention to the cities as areas of commerce and culture.<sup>37</sup> Therefore, sports facilities have become a popular tool for urban revitalization.<sup>38</sup> The concept of concentric circles starts when the only real estate that is planned is the sports facility itself. Because of the number of people that come into the area, both on a permanent and nonpermanent basis, it only makes sense to develop support-type real estate, which may include housing, service-type establishments to support the housing, offices, other types of entertainment activities such as restaurants, movies and, of course, shopping.

The concept of concentric circles works because new sports facilities attract businesses to the neighborhoods surrounding the sports facility, which creates additional jobs and consumer spending. Additionally, sports facilities bring new crowds to a district and require upgraded physical investments such as widened roads and interchanges, pedestrian pathways, and parking garages.<sup>39</sup> These factors create an incentive for new hotels, restaurants, and businesses to move to a city, which serves to revitalize a city

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31. *Summary of Costs/Ownership Percentages*, SOUTHEAST WISCONSIN PROFESSIONAL BASEBALL PARK DISTRICT (Feb. 1, 2006).

32. Stadium costs - \$309,361,846; infrastructure costs - \$50,521,477; other general costs - \$32,607,389. *Summary of Costs/Ownership Percentages*, *supra* note 31.

33. This paragraph, and the three that follow, were originally published as Martin J. Greenberg & Dennis Hughes, Jr., *Sports.comm: It Takes a Village to Build a Sports Facility*, 22 MARQ. SPORTS L. REV. 91, 101-03 (2011). Reprinted with permission from Marquette University.

34. Welch Suggs, *Suburban Fling is Ending as Arenas Return Downtown*, SPORTS BUS. DAILY (Apr. 27, 1998), <http://www.sportsbusinessdaily.com/Journal/Issues/1998/04/19980427/No-Topic-Name/Suburban-Fling-Is-Ending-As-Arenas-Return-Downtown.aspx>.

35. Martin J. Greenberg, *Sports Facility Financing and Development Trends in the United States*, 15 MARQ. SPORTS L. REV. 93, 155 (2004).

36. Tim Chapin, *Investigating District and Sports Facility Synergy*, 6 (2000) (report prepared for CMC Heartland Partners for the Shops Area Project in Milwaukee, WI).

37. *Id.*

38. *Id.*

39. *Id.* at 7.

by creating more economic activity, even out of season.<sup>40</sup> The downtown areas then generate higher hotel occupancy, restaurant patronage, retail jobs, and city revenues as the fans can walk from the stadium to restaurants and bars to celebrate.<sup>41</sup> The districts themselves have become as much of an attraction as the events and facilities in the cities.<sup>42</sup>

Some of America's deteriorating inner cities have provided the perfect testing ground. This has been especially true in cities with baseball stadiums. Three baseball stadiums in particular, opened in the 1990s, are properly considered to have spurred the trend of neighborhood economic development and revitalization through the development of a sports venue, namely Camden Yards, home of the Baltimore Orioles (now known as Oriole Park at Camden Yards), opened in 1992; Jacobs Field, Home of the Cleveland Indians (now known as Progressive Field), opened in 1994; and Coors Field, home of the Colorado Rockies, opened in 1995. The concept was extended beyond baseball stadiums in 1999 with the development of the Staples Center, home of the Los Angeles Lakers and Los Angeles Clippers NBA franchises. **Exhibit # 3**<sup>43</sup> further describes concentric circles in the context of Camden Yards - Baltimore; Progressive Field - Cleveland; Coors Field - Denver; and the Staples Center - Los Angeles.

While real estate development in the context of concentric circles usually involves an analysis of Baltimore, Cleveland, and Denver, there are other MLB stadiums that have experienced the phenomenon. **Exhibit # 4** lists additional examples of real estate development that affected areas adjacent to and surrounding MLB stadiums.

Miller Park is not located in the core of downtown or near downtown. However, for concentric circles to occur, a stadium need not be located in the core or near core of downtown. Miller Park is unique in its location in that it is located in the center of Milwaukee County. When Miller Park was planned and constructed, it was surrounded by developable areas that were blighted, underused, eyesores, and environmentally impacted. Miller Park can be analyzed utilizing the concept of concentric circles even though it is out of the core of the downtown area.

#### IV. SPORTS COMMUNITY (SPORTS.COMM)

Once again, a sports.comm is a preplanned sports community, or sports entertainment district, in which the sports facility is the anchor tenant for mixed-use real estate development. In the modern context, a sports facility is more than a place to view a sporting event.<sup>44</sup> Sports venues have become a catalyst for urban transformation or revitalization. A sports facility is a destination place, an entertainment district, a bundling stimulus, a real estate development, and a place where people can live, work, eat, watch, learn, congregate, buy, and socialize. In short, sports facility development is nothing more than real estate development. If constructed thoughtfully, a sports facility could convert the image of a league or team owner from a tax vulture into a long-term leader and visionary for a community. Moreover, a newly constructed or renovated venue can bring complete renewal and revitalization to blighted areas, environmentally hazardous sites, aged communities, or near-downtown areas. Real estate development has become a central component of sports facility development, and the results thereof—urban revitalization and transformation—may be as important as the building of the sports facility itself.

For a sports.comm to be successful, the venue, team owners, and the community must work

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40. *Id.*

41. Lawrence O. Houstoun, Jr., *Sitting Stadiums for Fun and Profit*, available at <http://lhoustoun.wordpress.com/public-spaces/stadiums/>.

42. Timothy S. Chapin, *Sports Facilities as Urban Redevelopment Catalysts*, 70 J. AM. PLANNING ASS'N 193, 201 (2004), available at [http://www.cdfa.net/cdfa/cdfaweb.nsf/ord/e9e4f2ed094eeec898825793600641064/\\$file/sportsfacilities1.pdf](http://www.cdfa.net/cdfa/cdfaweb.nsf/ord/e9e4f2ed094eeec898825793600641064/$file/sportsfacilities1.pdf).

43. See Greenberg & Hughes, Jr., *supra* note 33, at 103–14. Reprinted with permission from Marquette University.

44. See *id.* at 93. This paragraph has been reprinted with permission from Marquette University.

together beginning at the planning stages of development.<sup>45</sup> Local governments are necessary to identify the type of land uses that would be appropriate for a district, to provide the infrastructure needed to support the sports.comm, and to obtain the permits required to begin construction. A sports.comm can support an almost limitless array of retail, residential, recreational, and business facilities; therefore, each venue can be tailored to meet the specific needs of its community. Common structures include shopping centers, restaurants, sports bars, condominiums, offices, apartments, hotels, movie theaters, museums, “green space” public areas, and parking structures.

A sports.comm is essentially a joint venture between a government unit or units and a sports team in conjunction with a real estate developer or solely a real estate developer. The success of the sports.comm depends on a number of factors, including, but not limited to: the location of the development, an agreed-upon master plan acceptable to the community, market timing, financial staying power of the developer, ability to control construction costs and schedules, an absence of legal challenges, a properly marketed and targeted development, a well-conceived and sustainable financial package, effective management control, a healthy economy where expansion is occurring, an ability for all parties to compromise, and good old-fashioned luck.

A sports.comm, like any other real estate development, involves a multitude of targeted tasks to achieve the ultimate goal, which may include, but is not limited to: determining development concept; site selection; zoning approvals; meetings with local officials; neighborhood groups and planning boards; land acquisition and site assemblage; title searches; comprehensive project studies such as soil, geotechnical, and environmental and wetland testing; construction cost analysis; market report; site schematics; pro formas; the lender package; marketing and leasing strategy; compliance with land use policies; traffic issues; green issues; scheduling; and market feasibility analysis.

The basic goal of a sports.comm is to transform a sports venue that attracts millions of people, but is only used on a limited basis, into a year-round entertainment destination for an entire region. The sports.comm has been especially popular in the professional sports context because league revenue-sharing rules have made sports venues the most useful generator of non-shared revenues for team owners. Every professional sports league requires its members to share some portion of its ticket sales and media revenues with rival teams.<sup>46</sup> Therefore, modern team owners have placed a greater emphasis on generating revenues from personal seat licenses, stadium naming rights, local media contracts, luxury suites, in-stadium advertising, and sponsorships.<sup>47</sup> The stadium itself was generally considered to be a limited source of non-shared revenues based on its maximum occupancy of up to 100,000 spectators. However, the sports.comm concept has served to expand the definition of the sports venue to include an entertainment district, which has allowed team owners to capture and convert its fans’ auxiliary entertainment dollars into a new source of non-shared revenues.

Examples of successfully completed sports.comms include Patriot Place, home of the New England Patriots;<sup>48</sup> Nationwide Arena, home of the Columbus Blue Jackets;<sup>49</sup> and Ballpark Village, home of the San Diego Padres.<sup>50</sup> The sports.comm is most often associated with professional sports venues; however, the beneficial economic impact of a sports.comm can be realized on both a smaller and larger scale. Minor league venues such as Victory Field in Indianapolis attract smaller crowds but are more family-

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45. *See id.* at 115–17. This paragraph and the four that follow have been reprinted with permission from Marquette University.

46. JAMES HUMPHREY, ISSUES IN CONTEMPORARY ATHLETICS 74 (2007).

47. *Id.*

48. *See* PATRIOT PLACE, <http://www.patriot-place.com/> (last visited Feb. 16, 2012).

49. *See* NATIONWIDE ARENA, <http://www.nationwidearena.com/> (last visited Feb. 16, 2012).

50. *See About JMIR: Ballpark District*, JMI REALTY, <http://www.jmirealty.com/about/ballpark/> (last visited Feb. 16, 2012).

friendly and affordable, which allows fans to spend more at surrounding retailers.<sup>51</sup> The concept has most recently led to the creation of college sports villages with schools such as Florida Atlantic University,<sup>52</sup> the University of Nevada-Las Vegas,<sup>53</sup> the Ohio State University,<sup>54</sup> and the University of Notre Dame,<sup>55</sup> with each school applying the elements of a sports.comm to their venues. In contrast, the sports.comm has also been applied on an international scale in an attempt to form a sports and entertainment destination capable of attracting a global market, which is most recently exemplified by developments in Dubai and Qatar. Together, these successful developments demonstrate the potential of a sports.comm to serve as an economic catalyst for a community regardless of its market size or location.

In the future, governmental units, planners and developers will look at this concept as a way to give new economic meaning to the construction of a sports facility.

## V. RECEPTIVE COMMUNITIES<sup>56</sup>

If the surrounds of a sports facility are going to experience real estate and economic development, both the facility and the development must be part of a “receptive community.” A receptive community has a number of components.

First, a receptive community must have a need or desire for a new or renovated sports facility and envision the sports facility as the centerpiece for future real estate development. Preferably, the venue is located in the downtown or near downtown area, wherein the current use of the land or improvements are blighted, environmentally impacted, underdeveloped, aged, or socially impacted.

Second, a receptive community must have a political or civic leader or organization that takes center stage and advocates for either a new sports facility or a renovated sports facility as the centerpiece for real estate development and transformation of an area of that community.

Third, the area in which the new or renovated sports facility is to be located must be surrounded by properties that accommodate auxiliary development with land assemblage possibilities. In the alternative, there must be the availability of publicly owned or acquired properties that have strong site characteristics and strong potential for adjacent development and public infrastructure such as transit, roads, and parking.

Fourth, if the community does not have sufficient area to accommodate auxiliary real estate development, the community must have the financial capability and desire to exercise statutory or quick-take condemnation power in order to deliver land as part of the assemblage in an expeditious manner.

Fifth, a receptive community must have a governmental unit that has or is willing to adopt flexible zoning laws for the proposed development, which allows for multiple and mixed uses as well as increased density.

Sixth, a receptive community must also provide incentives to locate the real estate development as part of a sports facility development by providing roadway and infrastructure construction, beautification, enhancements, utilities, parking, potential leasing of the property developed, tax abatement, reduction of impact fees, expedited permitting and approval, waiver of various development requirements, and willingness, as previously stated, to assemble adjacent lands.

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51. *Victory Field Profile*, Indians, [http://www.milb.com/team1/page.jsp?ymd=20050630&content\\_id=13591&vkey=team1\\_t484&fext=.jsp&sid=t484](http://www.milb.com/team1/page.jsp?ymd=20050630&content_id=13591&vkey=team1_t484&fext=.jsp&sid=t484) (last visited Feb. 16, 2012).

52. *See About the Stadium*, FLORIDA ATLANTIC UNIVERSITY ON-CAMPUS STADIUM, <http://www.fau.edu/stadium/about.html> (last visited Feb. 16, 2012).

53. *See Sam Boyd Stadium (SBS)*, UNLV, <http://unlv.edu/maps/sbs> (last visited Feb. 16, 2012).

54. *See Ohio Stadium*, OHIO STATE, <http://www.ohiostatebuckeyes.com/facilities/ohio-stadium.html> (last visited Feb. 16, 2012).

55. *See NOTRE DAME STADIUM: PRESERVING THE TRADITIONS*, <http://stadium.nd.edu/> (last visited Feb. 16, 2012).

56. *See* Greenberg & Hughes, Jr., *supra* note 33, at 95–96. Reprinted with permission from Marquette University.

Finally, a receptive community involves governmental units that have the availability and willingness to utilize financial incentive tools and subsidies to promote real estate and economic development.

**Exhibit # 5**<sup>57</sup> discusses some of the tools that communities can use and have used as incentives for real estate and economic development.

## VI. SPECIAL ACTIVITY GENERATOR (SAG)

Cities, leagues, and teams have been very interested in the economic impact of facility construction. As a result, there have been many reports analyzing the direct and indirect economic benefits of a new facility utilizing such terms as "spin-offs," "multipliers," and "job creation." Another way to look at the economic success of a sports facility is an analysis of district development or redevelopment in the areas that surround the sports facility. One scholar provided a useful framework for assessing the catalytic abilities of sports projects by coining the phrase "Special Activity Generator" (SAG) for downtown redevelopment.<sup>58</sup>

SAG<sup>59</sup> is a strategy for downtown redevelopment centered on the idea that large facilities that generate special activity within a district can anchor redevelopment within that district by drawing visitors and suburbanites to downtown for events.<sup>60</sup> This influx of people can provide the critical mass necessary to support other commercial activities in the district. In addition, these large projects can galvanize other investments in the district by the public sector in the form of new infrastructure or urban design improvements that help to establish and sustain a revitalized district.

The SAG strategy has three central objectives: (1) to generate spillover spending benefits for the surrounding district, (2) to produce new construction within a district, and (3) to rejuvenate a blighted area. Based on these broad objectives, three indicators of successful urban redevelopment can be derived, including reuse of existing buildings or spaces, new construction within the surrounding district, and emergence of a new entertainment or sports district.

The SAG analysis is based on an identification of physical changes to the district surrounding a sports facility.<sup>61</sup> The methodology includes three steps.<sup>62</sup> The first step is to establish base-line conditions prior to any investment in the sports project.<sup>63</sup> The second step is to establish the physical conditions in the district at some date after the planning and completion of the facility.<sup>64</sup> The final step of the analysis is to determine the role of the sports complex in these changes utilizing a "but for" analysis: whether a given change to a district would have occurred without the expenditure of public funds on sports complexes.<sup>65</sup>

While the SAG methodology originally focused on downtown redevelopment, it is my belief that a similar analysis can be undertaken for a sports facility that is not located in the core or near downtown area, such as Miller Park.

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57. See Greenberg & Hughes, Jr., *supra* note 33, at 96–101. Reprinted with permission from Marquette University.

58. See generally Kent A. Robertson, *Downtown Redevelopment Strategies in the United States: An End-of-the-Century Assessment*, 61 J. AM. PLAN. ASS'N 429 (1995).

59. See Greenberg & Hughes, Jr., *supra* note 33, at 94. This paragraph and the following one have been reprinted with permission from Marquette University.

60. *Sports Facilities as Urban Redevelopment Catalysts*, *supra* note 42, at 194.

61. *Id.*

62. *Id.* at 195.

63. *Id.*

64. *Id.*

65. *Id.* For more information, an extensive analysis of Baltimore, Cleveland, and Denver using this methodology is included in this article by Chapin.

## VII. THE VILLAGE OF WEST MILWAUKEE

Only 1.04 miles long, State Trunk Highway 341 (STH-341), known today as Miller Park Way, is the “sixth shortest state trunk highway in Wisconsin.”<sup>66</sup> STH-341 begins north at the Stadium Interchange (a junction between (I-94 and US-41) adjacent to Miller Park, and runs all the way south to State Highway 59 (STH-59)/National Avenue in the Village of West Milwaukee (Village).<sup>67</sup> The Village of West Milwaukee “is a blend of residential areas, retail, commercial[,] and industry” and it considers itself “the best kept secret in Milwaukee County.”<sup>68</sup> However, the Village was “[o]nce defined by the muscular industries that shaped its landscape”<sup>69</sup> and did not have all of the development that it has today. Development took off and the Village has grown dramatically since the construction and opening of Miller Park.

### A. *The Village of West Milwaukee*

West Milwaukee became a village in Milwaukee County, Wisconsin in 1906, and was formerly a part of the Town of Wauwatosa and the Town of Greenfield.<sup>70</sup> The Village operates under an elected president and a six-member board of trustee form of government.<sup>71</sup> West Milwaukee is located in the middle of Milwaukee County, bordered by the City of Milwaukee, the City of West Allis, and the Zablocki Veterans Administration Medical Center.<sup>72</sup> According to the 2011 United States Census, West Milwaukee has a population of 4043; a medium age of 36; a medium income of \$38,829; and is approximately 1.13 square miles.<sup>73</sup>

### B. *South 43rd Street Corridor: Miller Park Way*

About half of the proposed Stadium Freeway was built in the early 1950s according to the Milwaukee County Expressway Plan, but at that time it was part of two separate freeways.<sup>74</sup> The first segment was a four-lane freeway, which was completed and opened to traffic in 1953.<sup>75</sup> It began at STH-59/National Avenue and continued north, to just east of the newly built Milwaukee County Stadium in the South 43rd Street Corridor.<sup>76</sup> The Milwaukee County Expressway Commission was created in 1954, and it incorporated the already completed portion of the freeway into another freeway that was to begin at the planned Airport Freeway in Greenfield (what is now known as Interstate 894 (I-894) and Interstate 43) and continue north through the Village of West Milwaukee.<sup>77</sup> In 1974, due to criticism, opposition, and

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66. *Highways 200 Through 399*, WISCONSIN HIGHWAYS, <http://www.wisconsinhighways.org/listings/WiscHwys200-399.html> (last visited Mar. 3, 2012).

67. *Id.*

68. *Statistics*, VILLAGE OF WEST MILWAUKEE, <http://www.westmilwaukee.org/statistics.html> (last visited Mar. 3, 2012).

69. Tom Daykin, *The Midwest*, MILWAUKEE J. SENTINEL (Sept. 26, 2004), [http://articles.chicagotribune.com/2004-09-26/business/0409250278\\_1\\_babcock-wilcox-industrial-site-metro-milwaukee-area](http://articles.chicagotribune.com/2004-09-26/business/0409250278_1_babcock-wilcox-industrial-site-metro-milwaukee-area).

70. *History: A Look at Our Past*, VILLAGE OF WEST MILWAUKEE, <http://www.westmilwaukee.org/history.html> (last visited Mar. 8, 2012).

71. *Village Government Overview*, VILLAGE OF WEST MILWAUKEE, <http://www.westmilwaukee.org/overview.html> (last visited Mar. 8, 2012).

72. *Statistics*, *supra* note 68.

73. *Id.*

74. Christopher J. Bessert, *Milwaukee Freeways: Stadium Freeway*, WISCONSIN HIGHWAYS, <http://www.wisconsinhighways.org/milwaukee/stadium.html> (last updated Jan. 31, 2009).

75. *Id.*

76. *Id.*

77. *Id.*

“evaporating funding,” construction of Stadium Freeway North (“from Lisbon Ave[nue] northerly toward Ozaukee County”) was cancelled.<sup>78</sup> However, Stadium South was “still on the books.”<sup>79</sup>

A Milwaukee County executive proposed a “gap-closure freeway” to connect the recently-cancelled Stadium Freeway North “from Lisbon Ave[nue] northerly to the end of the Fond du Lac Freeway at [North] 68th” Street.<sup>80</sup> However, this proposal was also “shelved.”<sup>81</sup> On January 3, 1977, Governor Patrick Lucey “halted all further construction” on the completion of the Stadium Freeway South from STH-59/National Avenue to the Airport Freeway interchange at I-894.<sup>82</sup> This halt made the “doubly-sub-ended Stadium Freeway” remain “as-is” for two more decades.<sup>83</sup>

A portion of the Stadium South Freeway, from I-94 to STH-59/National Avenue closed in November 1996 to aid in the construction of Miller Park.<sup>84</sup> While closed, this portion of the Stadium South Freeway was also reconstructed and moved east to bend around Miller Park.<sup>85</sup> It reopened in August 1998 and was called the “Stadium South ‘Arterial’ instead of the Stadium South Freeway until the completion of Miller Park.”<sup>86</sup> In late 1998,

US-41 was rerouted to remain with I-94 from the Milwaukee/Racine Co[unty] line through downtown to the Stadium Interchange. Previously, US-41 split from I-94 at Exit 325 and continued north[] via [South 27th Street and South Layton Boulevard], turned west[] via . . . National Avenue, then north[] along the Stadium Freeway.<sup>87</sup>

This led to the Stadium South Arterial losing its U.S. Highway designation,<sup>88</sup> and it was redesignated as STH-341 (STH-59/National Avenue to the I-94/US-41 interchange).<sup>89</sup> However, the Wisconsin Department of Transportation (DOT) left all signs pointing to the Stadium South Arterial as “Miller Park Way.”<sup>90</sup>

### *C. 43rd Street Historically*

South 43rd Street, from STH-59/National Avenue to Lincoln Avenue, was part of a smokestack community, a rustbelt area that housed much of Milwaukee County's manufacturing and industrial concerns.<sup>91</sup> Historically, South 43rd Street was "defined by the muscular industries that shaped its landscape," which included foundries at both Rexnord Corporation and Wehr Steel Corporation; General Electric's Hotpoint appliance factory; steel tubing manufacturer, Babcock and Wilcox Co.; and Kurth Malt, to name a few.<sup>92</sup> Those factories and industrial concerns were "victims of a changing global economy that placed less value on heavy manufacturing, especially in higher wage countries like the United States. That retrenchment left West Milwaukee with huge, empty buildings that cast both literal and figurative shadows on the community."<sup>93</sup>

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78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.*

82. *Id.*

83. *Id.*

84. *Id.*

85. *Id.*

86. *Id.*

87. *Highways 200 Through 399, supra* note 66.

88. Bessert, *supra* note 74.

89. *Highways 200 Through 399, supra* note 66.

90. Bessert, *supra* note 74.

91. Daykin, *The Midwest, supra* note 69.

92. *Id.*

93. *Id.*

South 43rd Street, from STH-59/National Avenue to Lincoln Avenue, as well as adjacent areas thereto, constituted blighted areas, as defined by the Wisconsin Statutes, in need of blight elimination and redevelopment projects. South 43rd Street was characterized by abandoned or vacant properties, dilapidated properties, properties that had deteriorated because of age or obsolescence, unattractive building facades, and properties that were substandard or could not be economically repaired or rehabilitated.

*D. The 1998 West Milwaukee Community Development Authority  
and The Redevelopment Plan for the South 43rd Street Corridor*

On March 16, 1987, the Village of West Milwaukee adopted an ordinance creating the Village of West Milwaukee Community Development Authority (Authority).<sup>94</sup> The Village of West Milwaukee had an extensive area within the village limits that consisted of an “abandoned freeway corridor,” which was no longer designated as a freeway by the DOT.<sup>95</sup> By virtue of said abandonment, the State of Wisconsin and Milwaukee County returned title to the “former freeway lands and remnants thereof to the Village of West Milwaukee.”<sup>96</sup> The areas so returned, plus adjacent areas, were characterized by blight factors that arrested the ability of the Village to properly grow.<sup>97</sup> As a part of the March 16, 1987 Resolution creating a Community Development Authority for the Village of West Milwaukee, a resolution was also approved depicting the boundaries of the area that “the Authority had designated as blighted and in need of blight elimination, slum clearance, and urban renewal projects” all pursuant to WIS. STAT. § 66.4325.<sup>98</sup> The properties so designated in the redevelopment district<sup>99</sup> are properties that included (1) “Vacant [or] cleared land,” (2) “Parcels containing unused or [underutilized] manufacturing facilities,” (3) “Parcels containing unused and underutilized commercial properties,” (4) “Parcels with previous use as disposal sites for non-toxic waste,” and (5) “Parcels containing industrial facilities currently in use.”<sup>100</sup> As of 1987, about twenty acres of property were contained in each of the above categories.<sup>101</sup> The proposed uses of the redevelopment district included residential, commercial, light industrial, industrial revitalization, and alternated mixed-use.<sup>102</sup> As of January 1, 1987, the assessed value of all real property within the Village of West Milwaukee was \$118,559,600, and the assessed value of all real property within the redevelopment district was \$22,604,100, “which is less than 20% of the total assessed value of all real property within the [V]illage” of West Milwaukee.<sup>103</sup> The redevelopment district, as designated, consisted of approximately 192 acres, or 27%, of the land area in the Village of West Milwaukee.<sup>104</sup>

In 1988, as previously mentioned, the Authority and the Village of West Milwaukee Board of Trustees adopted a Comprehensive Redevelopment Plan for the South 43rd Street Corridor (1988 Plan).<sup>105</sup> The 1988 Plan was subsequently amended in 2000 (2000 Plan) to include additional properties that were “contiguous to the original redevelopment plan area that had shown themselves to be blighted

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94. Village of W. Milwaukee, Milwaukee Cty., Wis., (1988). Ordinance Creating Community Development Authority, Ordinance No. 529 (Mar. 16, 1987) [hereinafter Ordinance Creating Community Development Authority]; *see also*, Village of W. Milwaukee, Milwaukee Cty., Wis., By-Laws of the Community Development Authority (Mar. 16, 1987).

95. Ordinance Creating Community Development Authority, *supra* note 94, at 1.

96. *Id.*

97. *Id.*

98. Village of W. Milwaukee, Wis., Resolution Declaring Designated Area a Blighted Area in Need of Blight Elimination, Slum Clearance and Urban Renewal Projects (Mar. 16, 1987).

99. *Id.*

100. *Existing Uses and Conditions of Property Within the Project Area*, COMPREHENSIVE PLAN OF REDEVELOPMENT, Village of W. Milwaukee, Wis., 20 (1988) [hereinafter 1988 PLAN].

101. *Id.*

102. *Proposed Uses of the Project Area*, 1988 PLAN, *supra* note 100 at 21.

103. *Present and Potential Equalized Value of Property Tax Base*, 1988 PLAN, *supra* note 100, at 23.

104. *Standards of Population Density, Land Cover and Building Intensity*, 1988 PLAN, *supra* note 100, at 22.

105. *See generally* 1988 PLAN, *supra* note 100.



and in need of blight elimination redevelopment.”<sup>106</sup> Also, the 2000 Plan amended the original 1988 Plan to reflect significant changes in the Village zoning ordinances and land use plans since 1988, which affected the areas in need of blight elimination and redevelopment projects.<sup>107</sup>

The 2000 Plan was further updated in 2005 (2005 Plan) to remove areas contained in the 2000 Plan that had been “successfully redeveloped or had shown themselves [to] no longer be in need of blight elimination and redevelopment projects.”<sup>108</sup> The 2005 Plan also added new areas that were determined to have blighted conditions and in need of blight elimination and redevelopment projects.<sup>109</sup>

The 2007 Updated and Amended Comprehensive Redevelopment Plan for South 43rd Street Corridor (2007 Plan) added contiguous properties that had blight conditions.<sup>110</sup> The 2007 Plan reflected the most current proposed land use changes within the project area, and detailed the 2007 “amended boundaries of the area included in [2007 Plan], changes in land use, and the properties within the area that have been identified as probable [for] acquisition by the Authority.”<sup>111</sup>

### *E. The Village of West Milwaukee: A Receptive Community*

West Milwaukee and the South 43rd Street Corridor were prime for development and provided a unique opportunity as they are located in the dead center of Milwaukee County. Furthermore, it is a large land base in the midst of a densely populated area (200,000 people within a three-mile radius), with high traffic volume and easy access to expressways and nearby business and commercial centers.<sup>112</sup> The Village of West Milwaukee was one of the smallest suburbs located in Milwaukee County, with respect to land area and population.<sup>113</sup> It is completely surrounded by the cities of Milwaukee and West Allis and covers an area of only about 1.13 square miles.<sup>114</sup> In 1987, the Village had an estimated population of 3,536, which was a decrease from the 1960 population of 5,043.<sup>115</sup> The acquisition of property for freeway purposes in the late 1960s attributed to the decline in population.<sup>116</sup> Much of the Village had been developed as heavy industrial and commercial areas and its population in 1987 was located within a scattered area of about one-third square mile.<sup>117</sup> Because the Village was completely surrounded by incorporated areas, when it was incorporated in 1906 it was unable to annex additional land.<sup>118</sup> In the 1988 Plan, the Village acknowledged that its “only hope for new development [was] through redevelopment of [the] blighted areas.”<sup>119</sup>

The Village owned a large tract of land that was cleared and had a refurbished infrastructure.<sup>120</sup> The goals of the 1988 Plan were simple: (1) to create a larger population base by encouraging a greater

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106. *Introduction*, UPDATED AND AMENDED COMPREHENSIVE REDEVELOPMENT PLAN FOR THE SOUTH 43RD STREET (MILLER PARKWAY [sic]) CORRIDOR OF THE VILLAGE OF WEST MILWAUKEE (WISCONSIN) – 3rd Amendment, Village of W. Milwaukee & The W. Milwaukee Comty. Dev. Auth., 2 (2007) [hereinafter 2007 PLAN].

107. *Id.*

108. *Id.*

109. *Id.*

110. *Id.*

111. *Id.*

112. Andrew Weiland, *Real Estate: Miller Park Way is a Retail Magnet*, BIZTIMES.COM (Sept. 30, 2011), <http://www.biztimes.com/news/2011/9/30/real-estate-miller-park-way-is-a-retail-magnet>.

113. *Review of Village Blight Conditions*, 1988 PLAN, *supra* note 100, at 29.

114. *Statistics*, *supra* note 68.

115. *Review of Village Blight Conditions*, *supra* note 113, at 39.

116. *Id.*

117. *Id.*

118. *Id.*

119. *Id.*

120. *Id.*

number of housing units and (2) to create a larger tax base.<sup>121</sup> Both multi-family residential construction and the creation of retail areas were a priority.<sup>122</sup> “Historically West Milwaukee [had] been a job center with a large number of foundries, machine shops, and other industries related to the metal and mechanical era. Employment opportunities in these types of industries [were] decreasing” and real estate development needed to bring service-related establishments to create greater potential for employment replacement in West Milwaukee.<sup>123</sup>

There were a number of suggested methods for development and redevelopment in the 1988 Plan. It was expected that the Authority and Village of West Milwaukee would enter into development agreements with profit and non-profit groups to accomplish that plan.<sup>124</sup>

The redevelopment toolbox included the following incentives or risk sharing provisions:

1. Acquisition of blighted properties.
2. Clearing and preparation of sites.
3. Rehabilitate the real property acquired.
4. Removal or treatment of pollution or other environmental hazards.
5. Installation of public improvements such as streets, sewers, water extensions, drainage, public parking, [and] public transportation facilities.
6. Make grants, loans, advances, or other contributions for the purpose of carrying on development, urban renewal and any other related purpose.
7. Issue Village general obligation debt, including State Trust Fund loans. Issue Village Special Assessment bonds; Revenue bonds; Industrial Development bonds; Qualified Redevelopment bonds; land contracts and other forms of contracted debt, for the purpose of financing development [or] redevelopment.
8. Apply for and receive state and federal grants.
9. Vacate streets, alleys, or parts of same.
10. Property owned by the village [or] CDA may be leased or sold at market value taking into account restrictions imposed on the use of the relevant real property.
11. Pay relocation benefits.
12. Furnish construction materials.
13. Prepare, publish and distribute brochures promoting the village for development and advertise the community in publications, upon billboards, and with radio and television.<sup>125</sup>

In addition to the suggested methods for assisting development, the Authority and West Milwaukee also utilized other development toolbox methods including a Planned Unit Development, the creation of Tax Incremental Financing Districts (TID), and utilization of state-contributed funds for contamination clean-up. TID Number Two was created in September 2001 and amended in June 2005, April 2006, and March 2008.<sup>126</sup> TID Number Four was created in August 2005 and amended in March 2008.<sup>127</sup>

West Milwaukee aggressively used incentives to draw businesses coveting a location near the center of the Metro Milwaukee area. Village President, Ronald Hayward added that “[it is] nice when you hear that people want to get into the [V]illage again.”<sup>128</sup> The credit must go to the vision of West Milwaukee and its Village Administrators, President, community redevelopment arm, and the elected officials who

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121. *See id.* at 50.

122. *Id.*

123. *Id.*

124. *Id.* at 51.

125. *Id.*

126. Information provided by Kim Egan, Village Administrator, Village of West Milwaukee to Martin J. Greenberg.

127. *Id.*

128. Daykin, *The Midwest*, *supra* note 69.

turned Miller Park Way into a mixed-use development cluster and retail hub. Attracting key anchors such as Target, Menards, and Pick 'n Save, as well as national retail chain stores, has created a retail corridor.

West Milwaukee can certainly be characterized as a receptive community. This small suburban suburb had to be recast after the failed expressway system changed its face, which was probably for the better. West Milwaukee needed redevelopment to increase its population base as well as its tax base. All ingredients for successful development were present, including (1) a large and affordable land base, (2) an improved infrastructure, (3) proximity to a densely populated area, (4) high traffic counts, (5) ease of access, (6) location - location - location, the dead center of Milwaukee County, and (7) governmental units that welcomed developers who were willing to utilize the redevelopment toolbox.

*F. Development History Since the Creation of the Authority and Adoption of the Comprehensive Redevelopment Plan As Amended<sup>129</sup>*

Development was slow to unveil after the creation of the Authority and the adoption of the 1988 Plan. West Milwaukee experienced four projects from 1988 to 2000:

- (1) In 1988, the Carnahan Corporation – Westgrand Apartments located at 1913 Miller Park Way was the first substantial development.<sup>130</sup> Its current assessed valuation is \$2,745,600.<sup>131</sup>
- (2) In 1993, Kentucky Fried Chicken (KFC) was built at 1401 Miller Park Way,<sup>132</sup> which has a current assessed valuation of \$562,300.<sup>133</sup>
- (3) In 1999, Landmark Credit Union moved to its new 6000-square-foot facility at 43rd Street and National Avenue (4501 West National Avenue).<sup>134</sup> Its current assessed valuation is \$2,450,000.<sup>135</sup>
- (4) From 1990–1993, the West Village Apartments/Ogden Development started construction on a three-phase project at 1215 South Westchester,<sup>136</sup> which has a current assessed valuation of \$1,624,900.<sup>137</sup>

As mentioned, construction of Miller Park began on October 22, 1996 with the ceremonial groundbreaking on November 9, 1996.<sup>138</sup> The stadium officially opened on April 6, 2001.<sup>139</sup> After the opening of Miller Park, there was expanded, rapid, and escalated development along Miller Park Way and the adjacent areas.

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129. Note: all current assessed valuations are from the 2011 valuation unless otherwise noted.

130. Information provided by Kim Egan, Village Administrator, Village of West Milwaukee to Martin J. Greenberg.

131. Information provided by Modesta Goodman, Inspections Assistant/Plan Commission Secretary – Zoning Administrator, Village of West Milwaukee to Timothy Granitz.

132. Information provided by Kim Egan, Village Administrator, Village of West Milwaukee to Martin J. Greenberg.

133. 2011 Real Estate Property Tax, CNL APF Partners LP – KFC, 1401 Miller Park Way.

134. Information provided by Kim Egan, Village Administrator, Village of West Milwaukee to Martin J. Greenberg.

135. 2011 Real Estate Property Tax, WESTMILW LLC, 1621–33 Miller Park Way.

136. Information provided by Kim Egan, Village Administrator, Village of West Milwaukee to Martin J. Greenberg.

137. *Id.*

138. *Miller Park*, *supra* note 11.

139. *Id.*

In July 2001, a Planned Unit Development Agreement was signed with Ogden Company for the Ogden 43rd Street Redevelopment Project.<sup>140</sup> West Milwaukee assisted financially with traffic signal improvements.<sup>141</sup> The development consisted of the following:

<b>Development<sup>142</sup></b>	<b>Address<sup>143</sup></b>	<b>Year(s) Built<sup>144</sup></b>	<b>Current Assessed Valuation</b>
IHOP	1110 Miller Park Way	2001–2002	\$1,351,600 <sup>145</sup>
McDonalds	1120 Miller Park Way	2001	\$888,700 <sup>146</sup>
Multi-Tenant Center (Current tenants include Starbucks, Hilti, Sprint, Martha's Vineyard, Smokers Hub, and Cousins Subs) <sup>147</sup>	1130–1150 Miller Park Way	2004 (improvements made in 2007)	\$1,624,900 <sup>148</sup>
Panda Express	1210 Miller Park Way	Remodeled in the spring of 2011, after the closure of a Boston Market in March 2008.	\$698,100 <sup>149</sup>

In September 2001, TID Number Two was created, and was later amended in June 2005, April 2006, and March 2008.<sup>150</sup>

In 2002, the Journal Sentinel Building at 4101 West Burnham Street opened,<sup>151</sup> whose current assessed valuation is \$22,461,100.<sup>152</sup> Additionally, in July 2002, Lakeside Manufacturing at 4900 West Electric Avenue opened and has a current assessed valuation of \$6,599,000.<sup>153</sup> Later, in November of 2002, a Developer Agreement was signed with Jeff Hall and SBCII, in the amount of \$839,500 to develop Stadium Business Center II located at 4500–4520 West Burnham Street.<sup>154</sup> The current tenants of the center include Certifit Auto Parts, Certifit Auto Parts Warehouse, Holoubek Studios, and Sherwin Williams.<sup>155</sup> The construction of Stadium Business Center II was completed in 2004;<sup>156</sup> the current assessed valuation is \$2,207,500.<sup>157</sup>

Stadium Business Center II was preceded by Stadium Business Center I, which is located at 1600–1670 Miller Park Way, and currently houses tenants Fastenal, Quality Addition Management (QAM),

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140. Information provided by Kim Egan, Village Administrator, Village of West Milwaukee to Martin J. Greenberg.

141. *Id.*

142. *Id.*

143. *Id.*

144. *Id.*

145. *Id.*

146. *Id.*

147. Information provided by Modesta Goodman, Inspections Assistant/Plan Commission Secretary – Zoning Administrator, Village of West Milwaukee to Timothy Granitz.

148. *Id.*

149. *Id.*

150. Information provided by Kim Egan, Village Administrator, Village of West Milwaukee to Martin J. Greenberg.

151. *Id.*

152. Information provided by Modesta Goodman, Inspections Assistant/Plan Commission Secretary – Zoning Administrator, Village of West Milwaukee to Timothy Granitz.

153. Information provided by Kim Egan, Village Administrator, Village of West Milwaukee to Martin J. Greenberg.

154. *Id.*

155. E-mail from Modesta Goodman, Inspections Assistant/Plan Commission Secretary – Zoning Administrator, Village of West Milwaukee, to Timothy Granitz (Feb. 23, 2012, 12:55 CST) (on file with Martin J. Greenberg).

156. *Id.*

157. 2011 Real Estate Property Tax, SBC II, 4500–4520 W. Burnham St.

Pittsburgh Paint, Reprographics, DeWalt Factory Service, and Concordia University.<sup>158</sup> Construction of Stadium Business Center I was completed in January 2002 and it has a current assessed valuation of \$3,093,600.<sup>159</sup>

West Milwaukee filed an action with the Circuit Court of Milwaukee County requiring all structures to be brought to grade at the old Kurth Malting site located at 2100 Miller Park Way.<sup>160</sup> In September 2005, an agreement was reached with International Malting Company (IMC), and Heartland Development purchased and developed the site.<sup>161</sup> The tax base at the time was \$500,000 and the site required significant investment for the demolition of the grain elevators.<sup>162</sup> West Milwaukee offered one million dollars in developer incentives.<sup>163</sup> This site is the current home to:

<b>Development<sup>164</sup></b>	<b>Address<sup>165</sup></b>	<b>Current Assessed Valuation<sup>166</sup></b>
Office Max	2100 Miller Park Way	\$2,262,500
Strip Mall (Hangers Prosthetic, Rocky Rococo, Citi Financial, U.S. Cellular, Lady Jane's Haircuts, Wingstop, and Smokie's)	2086–2094 Miller Park Way	\$1,939,000 <sup>167</sup>
Sonic	2080 Miller Park Way	\$515,000
Firestone	2090 Miller Park Way	\$1,100,000
GFS Marketplace	2064 Miller Park Way	\$435,000

In early 2003, a Redevelopment Agreement and Conditional Use Agreement was signed with Wallace Enterprises.<sup>168</sup> The following developments were later built:

<b>Development<sup>169</sup></b>	<b>Address<sup>170</sup></b>	<b>Date Built<sup>171</sup></b>	<b>Developer Incentive for Wallace Enterprises<sup>172</sup></b>	<b>Current Assessed Valuation<sup>173</sup></b>
Target	1501 Miller Park Way	July 2004	\$804,724	\$8,960,600
Arby's	1661 Miller Park Way	January 2004	\$135,987	\$724,300
Culver's	1641 Miller Park Way	March 2004	\$189,008	\$1,073,500
Chili's	1601 Miller Park Way	September 2004	\$237,530	\$1,351,300
Multi-Tenant Building (Smart Choice, National Guard, Cost Cutters, Subway, Cheng Wong, Oasis, and Game Stop) <sup>174</sup>	1621–1633 Miller Park Way	April 2005	\$242,199	\$2,450,000

158. E-mail from Modesta Goodman, Inspectors Assistant/Plan Commission Secretary – Zoning Administrator, Village of West Milwaukee, to Martin J. Greenberg (Feb. 24, 2012, 12:03 CST) (on file with Martin J. Greenberg).

159. *Id.*

160. Information provided by Kim Egan, Village Administrator, Village of West Milwaukee to Martin J. Greenberg.

161. *Id.*

162. *Id.*

163. *Id.*

164. *Id.*

165. *Id.*

166. *Id.*

167. 2011 Real Estate Property Tax, Bank Mutual, 2086–2094 Miller Park Way.

168. Information provided by Kim Egan, Village Administrator, Village of West Milwaukee to Martin J. Greenberg.

169. *Id.*

170. *Id.*

171. *Id.*

172. *Id.*

173. *Id.*

In August 2005, TID Number Four was created.<sup>175</sup> The year 2006 was the year of the "big box" with the following two businesses opening:

Development	Address	Year(s) Built	Current Assessed Valuation
Menards <sup>176</sup>	2101 Miller Park Way <sup>177</sup>	2006 <sup>178</sup>	\$11,642,700 <sup>179</sup>
Pick 'n Save <sup>180</sup>	2201 Miller Park Way <sup>181</sup>	2006 <sup>182</sup>	\$4,525,900 <sup>183</sup>

In addition, a strip center located at 2145–2159 Miller Park Way opened in 2006.<sup>184</sup> A few of the current tenants occupying the strip center include U.S. Cellular, Verizon Wireless, Snap Fitness, Bella Nails, Great Clips, and Summit Credit Union.<sup>185</sup> The current assessed valuation of the strip center is \$1,754,500.<sup>186</sup>

The Hotpoint site, located at 2205 Miller Park Way, sat with empty buildings since 1991.<sup>187</sup> But in January 2006, Boulder Venture/General Capital (BV/GC) acquired the property and renamed the location to Centennial Place.<sup>188</sup> West Milwaukee invested \$1.8 million in TID funds.<sup>189</sup> This site had extensive soil contamination, ground water contamination, infrastructure deficiencies, and required a significant demolition investment.<sup>190</sup>

The property owned by ADM Corn Milling, located at 4200 West Burnham Street, an eight-acre site that was vacant since 2004, was cleared when the existing grain elevators were demolished.<sup>191</sup> This property constitutes the remaining empty lots of Miller Park Way at Burnham Street.<sup>192</sup>

In March 2008, TID Number Four was amended to include properties north to Burnham Street, including the salvage yards.<sup>193</sup> Additionally, in March 2008, TID Number Two's Project Plan was amended to include primarily the properties north of Greenfield Avenue to National Avenue, the old 41st Street Corridor.<sup>194</sup> This included the old Sentry site, Wisconsin Steel, and Milwaukee Boiler.<sup>195</sup>

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174. E-Mail from Modesta Goodman, to Martin J. Greenberg (Feb. 24, 2012), *supra* note 284.

175. *Id.*

176. Weiland, *supra* note 112.

177. 2011 Real Estate Property Tax, Menard, Inc, 2101 Miller Park Way.

178. Information provided by Modesta Goodman, Inspections Assistant/Plan Commission Secretary – Zoning Administrator, Village of West Milwaukee to Timothy Granitz.

179. 2011 Real Estate Property Tax, Menard, Inc, *supra* note 177.

180. Weiland, *supra* note 112.

181. 2011 Real Estate Property Tax, GC/BV 1 Grocery LLC, 2201 Miller Park Way.

182. Information provided by Modesta Goodman, Inspections Assistant/Plan Commission Secretary – Zoning Administrator, Village of West Milwaukee to Timothy Granitz.

183. 2011 Real Estate Property Tax, GC/BV 1 Grocery LLC, *supra* note 181.

184. Information provided by Kim Egan, Village Administrator, Village of West Milwaukee to Martin J. Greenberg.

185. *Id.*

186. *Id.*

187. Information provided by Kim Egan, Village Administrator, Village of West Milwaukee to Martin J. Greenberg.

188. *Id.*

189. *Id.*

190. *Id.*

191. *Id.*

192. *Id.*

193. *Id.*

194. *Id.*

195. *Id.*

Furthermore, this area was targeted for redevelopment and is now the future home of Wal-Mart.<sup>196</sup> The Milwaukee Boiler property still exists at the north-end of the site.<sup>197</sup>

According to the Village of West Milwaukee's Village Administrator, Kim Egan, and various newspaper reports, future development is also planned along Miller Park Way,<sup>198</sup> including the following:

<b>Development</b>	<b>Address</b>	<b>Description of the Development and Plans</b>	<b>Expected Assessed Valuation</b>
Cermak Fresh Market <sup>199</sup>	2064 Miller Park Way (south of Target)	58,000-square-foot family-owned grocery store that focuses on fresh produce. It is expected to employ 120 full and part-time workers, and had a \$400,000 development incentive.	\$5,000,000
Dunkin' Donuts <sup>200</sup>	2068 Miller Park Way (the old Heartland site)	A 4100-square-foot building located on a .86 acre lot between GFS Marketplace and Firestone, with one additional tenant and a drive-thru. The grand opening will occur in the spring of 2012. It is expected to hire ten to fifteen employees.	\$1,500,000
Wal-Mart <sup>201</sup>	4140 West Greenfield Avenue	A 148,000-square-foot store with three potential out lots is expected. The store will create 250 to 300 new full and part-time jobs. West Milwaukee will contribute approximately \$4.2 million for infrastructure.	\$16,000,000
Aramark Site <sup>202</sup>	1200 Miller Park Way	The site is a vacant, irregular lot (2.05 acres, zoned B-2 Shopping Center Business District) restricting what can be developed on it. The zoning code states that a strip center "shall [be] a minimum of 4 acres." The current proposal is for a 13,000-square-foot multi-tenant center.	
Title Loan Building <sup>203</sup>	1403 Miller Park Way	Remodeling of the existing building to expand into a three-tenant strip center, opening in May 2012.	
Product Services <sup>204</sup>	Proposed to relocate to 4775 West Electric Avenue	There are plans for a 35,000-square-foot facility, with construction proposed for 2012.	\$4,500,000, with TIF funding proposed at 18% of increased valuation

196. *Id.*

197. *Id.*

198. See Tom Daykin, *Dollar Tree, Speedway Planned for West Milwaukee*, MILWAUKEE J. SENTINEL (Feb. 14, 2012), <http://www.jsonline.com/blogs/businesses/139235539.html>; see also Weiland, *supra* note 112; Tom Daykin, *West Milwaukee Approves Zoning for Walmart Store*, MILWAUKEE J. SENTINEL (Oct. 13, 2011), <http://www.jsonline.com/business/west-milwaukee-approves-walmart-131675863.html>.

199. Information provided by Kim Egan, Village Administrator, Village of West Milwaukee to Martin J. Greenberg.

200. *Id.*

201. *Id.*

202. *Id.*

203. *Id.*

204. *Id.*

Development	Address	Description of the Development and Plans	Expected Assessed Valuation
AutoZone <sup>205</sup>	1552 Miller Park Way	Planning to build a 20,000-square-foot facility. AutoZone Development Corp. purchased a 2.53 acre site for \$1.45 million. About 95% of this project is in the City of Milwaukee and the remaining 5% is in West Milwaukee (the southerly portion of the parking lot).	
Dollar Tree <sup>206</sup>	4421 West Greenfield Avenue (north of Target)	A 9000-square-foot store is being added on a vacant lot.	
Speedway Gas Station and Convenience Center <sup>207</sup>	4225 West Burnham Street	This development is being proposed.	

See **Exhibit # 6** attached, which tracks development on Miller Park Way and adjacent streets from 1988 to 2011. Also see **Exhibit # 7**, which contains pictures of the businesses and development on Miller Park Way and adjacent streets.

Kim Egan, the Village Administrator of the Village of West Milwaukee, said that there has been a tremendous increase in valuation since the opening of Miller Park, which can be seen on the chart below.<sup>208</sup>

TID	Base Value (\$)	Total Value 2011 (\$)	Change in Valuation (\$)
2	15,737,000	36,866,900	21,129,900
3	167,200	2,080,800	1,913,600
4	11,116,100	21,916,500	10,800,400

*G. Opinions of the Village President, Ronald Hayward, and Authority Chairman, Gregory Krog*

Preparing this report involved close work with the Village Administrator, Kim Egan, the Village President, Ronald Hayward, and the Authority Chairman, Gregory Krog, to understand the development impacting West Milwaukee. The following are three questions proposed to President Hayward and Authority Chairman Krog, including each of their responses.

1. Was the West Milwaukee Comprehensive Redevelopment Plan for South 43rd Street Corridor a result of a contemplated replacement for Milwaukee County Stadium?

**Village President, Ronald Hayward:**

When the redevelopment plan was put into place, the goal was to initiate a renaissance of businesses along Miller Park Way ([S]outh 43rd [Street]). There was hope from doing that, [that] a rebirth of the business corridor, as well as a “shot in the arm” for the whole Village would occur. After all, the Village had been decimated from the proposed plans for building a freeway through the Village (South 43rd and South 44th Streets) and in anticipation of that happening they demolished [one-third of] our then existing housing

205. Weiland, *supra* note 112.

206. Daykin, *Dollar Tree, Speedway Planned for West Milwaukee*, *supra* note 198.

207. *Id.*

208. The valuations are from the year 2010. Information provided by Kim Egan, Village Administrator, Village of West Milwaukee to Martin J. Greenberg.



stock. The redevelopment plan was to correct a freeway expansion plan that got started, but never finished.<sup>209</sup>

**Authority Chairman, Gregory Krog:**

While I did not join the WMCDA until 1990, I do not believe that the contemplated County Stadium replacement was a large factor in the West Milwaukee Redevelopment Plan. The WMCDA began planning in about 1986 and the plan was finalized in 1988. The first project was the low-income Carnahan apartments between Mitchell and Burnham. Subsequently, Ogden began building condominiums just south of National Avenue on the west side of Miller Park Way. Some condos were sold, but when it became apparent that there was little demand for these condos, the [V]illage approved Ogden's revised plans to build apartments south to Greenfield Avenue. The first breakthrough occurred around 1994 when Real Estate Recycling of Minneapolis began to redevelop the former Siever Steel property on the northeast corner of Mitchell Street and Miller Park Way. This was accomplished with a large grant from the DNR[,] which had realized that it needed to loosen its regulations regarding contaminated properties in order to have those properties redeveloped.<sup>210</sup>

2. While there was some development pre-Miller Park opening, most of the development has occurred after Miller Park's opening, in March or April 2001. Has the opening of Miller Park in any way contributed to the unbelievably rapid development in West Milwaukee along the South 43rd Street Corridor?

**Village President, Ronald Hayward:**

When we renamed South 43rd Street [to] Miller Park Way, it certainly meant to identify our close proximity to Miller Park: it is important to keep in mind that before Miller Park was built, Milwaukee County Stadium was at that same location. But in reality if we would not have done that, we found out that our location, relative to all of Milwaukee County, is what really has been the factor of our rapid development. West Milwaukee is located in the center of the county, minutes from downtown with access to the freeway from West National Avenue. So as experienced realtors say, "location, location."<sup>211</sup>

**Authority Chairman, Gregory Krog:**

I believe that the opening of Miller Park created the focus on the corridor. Prior to the opening of Miller Park, the WMCDA was having difficulty understanding why no developers were looking at the area. We felt that with West Milwaukee's centralized location, access to transportation, demographics, and large utility capacity West Milwaukee had a great deal to offer anyone willing to build in the [V]illage. West Milwaukee was kind of a hidden gem surrounded by much larger municipalities. Similar to Google's satellite views, I think that Miller Park became a reference point for developers to zoom in on and to focus on the available vacant or unused properties. The WMCDA was elated when Marcus Corporation built a KFC on the corner of Greenfield Avenue and Miller Park Way. We felt that finally major corporations were seeing what was available in the [V]illage. Unfortunately, further development lagged until the

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209. E-mail from Judy Kinzel, Administrative Assistant, Village of West Milwaukee, to Martin J. Greenberg (Feb. 9, 2012, 11:48 CST) (on file with Martin J. Greenberg).

210. E-mail from Kim Egan, Village Administrator, Village of West Milwaukee, to Martin J. Greenberg (Feb. 9, 2012, 9:37 CST) (on file with Martin J. Greenberg).

211. E-mail from Judy Kinzel, to Martin J. Greenberg (Feb. 9, 2012), *supra* note 209.

Target development came to fruition. From there the outlot spin-offs began and development continued to flow south along Miller Park Way.<sup>212</sup>

3. Do you feel Miller Park has any direct or indirect effect upon the development of Miller Park Way? The tenant mix would indicate that this particular development is highly sought after because of the demographics.

**Village President, Ronald Hayward:**

I think that the Miller Park location helps people find Miller Park Way and any businesses they are looking for on that Boulevard. With a daily count of approximately 60,000 vehicles a day using that roadway, it has become a major thoroughfare for the citizens of Milwaukee County. I believe that when Miller Park was planned and developed, it was certainly the intent by the design to have the fans come and enjoy the ball game, use one of the many food and beverage venues[,] and return home. I think for the most part, our retail establishments in West Milwaukee do get some business before and after the games.<sup>213</sup>

**Authority Chairman, Greg Krog:**

Miller Park has had an indirect effect upon the development of Miller Park Way as discussed in point [two]. West Milwaukee's ability to work with developers in an expeditious manner and to define the [V]illage's development requirements upfront are the main reasons for the corridor's success. West Milwaukee has an excellent reputation in the real estate community as a great community to work with and a staff that is fair and accommodating. The WMCD and Village trustees have been careful to make sure that any development meets the needs of the community and that negative impacts are kept to a minimum. This has created a corridor that is viable into the future. While it would not be reasonable to deny that Miller Park had any part in the success of the corridor, it is difficult to say that Miller Park was the main cause of the corridor growth. Certainly Miller Park's prominence helped attract developers and businesses to the area by, again, creating a focal point to draw attention to the assets found in the Village of West Milwaukee.<sup>214</sup>

Michael Duckett, the Executive Director of the Southeast Wisconsin Professional Baseball Park District opined,

The credit for the phenomenal growth of retail businesses, restaurants, and other businesses along Miller Park Way in West Milwaukee is fully the result of efforts spearheaded by the Village of West Milwaukee. During the construction of Miller Park, the Village adopted the mission to restore the former South 43rd Street Corridor and to attract new shops and businesses. To that end, the Village has been extremely aggressive and successful in attracting and supporting new development along the stretch of roadway immediately south of Miller Park. The renaming of the roadway to Miller Park Way and the iconic presence of Miller Park has clearly assisted the Village in its successful mission.<sup>215</sup>

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212. E-mail from Kim Egan, to Martin J. Greenberg (Feb. 9, 2012), *supra* note 210.

213. E-mail from Judy Kinzel, to Martin J. Greenberg (Feb. 9, 2012), *supra* note 209.

214. E-mail from Kim Egan, to Martin J. Greenberg (Feb. 9, 2012), *supra* note 210.

215. E-mail from Michael Duckett, Executive Director, Southeast Wisconsin Professional Baseball Park District, to Elizabeth Buehler (Jan. 27, 2012, 18:49 CST) (on file with Martin J. Greenberg).

## VIII. THE MENOMONEE VALLEY

The Menomonee Valley (Valley) is easily described as land bounded by monuments—Miller Park on the west, Potawatomi Bingo Casino in the center, and the Harley Davidson Museum on the east. Historically this area of Milwaukee was best known as "the 'Machine Shop of the World' and the Menomonee Valley was its engine."<sup>216</sup> Furthermore, "[f]arm machinery, railcars, electric motors, and cranes were made in the Valley. Clay became cream city bricks," "[w]heat was turned into flour, hogs became ham[,] and barley became beer."<sup>217</sup> Menomonee Valley was a place where "[c]attle were made into meat, leather[,] and tallow (soap and candles) with no parts wasted."<sup>218</sup> These activities provided thousands of jobs for Milwaukeeans. The Valley was also the home of the Milwaukee Road Shops, an enormous complex that made railcars for locomotives.<sup>219</sup>

With the change in manufacturing practices by the late 1900s, the Valley was "a blighted area with abandoned, contaminated land and vacant industrial buildings."<sup>220</sup> Additionally, bridges that went "into the Valley were demolished as businesses left[,] and the Valley was isolated from the surrounding city."<sup>221</sup> Menomonee Valley was "a place to pass over, but not a place to go."<sup>222</sup>

The transformation of the Valley, pursuant to a redevelopment plan in 1998, is one of the great success stories of Milwaukee—a redevelopment plan that worked, a redevelopment plan that is a model for industrial redevelopment in this country.<sup>223</sup> Brownfields were reinvigorated, land development that produced real estate taxes and assessed valuation occurred, construction created family-supporting jobs of an industrial nature, and where the environment was always first. The story of the Menomonee Valley is an absolute triumph in core redevelopment, and Milwaukee serves as a national model.

### A. *The History of the Menomonee Valley*

The Menomonee Valley, sometimes referred to as the Menomonee River Valley, is currently made up of 1200 acres, and is approximately four miles long by one-half mile wide. Menomonee Valley stretches from the meeting point of the Menomonee and Milwaukee Rivers (roughly the 6th Street Viaduct) to the site of Miller Park. The Menomonee Valley originally began as a marsh, but in the 1800s, as Milwaukee moved toward the Valley, it was filled to create land upon which the settlement could expand.<sup>224</sup> After being filled in, the Menomonee Valley became the center of Milwaukee industry. From the late 1870s until the mid-1980s, the Menomonee Valley housed a large railroad yard and provided many Milwaukeeans with jobs. However, by the late 1900s the economy changed and the Menomonee Valley became a largely abandoned area of Milwaukee, which people passed by, but rarely went to.<sup>225</sup> In 1998, there was a new planning effort undertaken by the City of Milwaukee, the Menomonee Valley Business Association (MVBA), and the Milwaukee Metropolitan Sewerage District (MMSD), which resulted in the

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216. *Menomonee Valley History*, MENOMONEE VALLEY PARTNERS, INC., <http://www.renewthevalley.org/history> (last visited Mar. 8, 2012).

217. *Id.*

218. *Id.*

219. *Id.*

220. *Id.*

221. *Id.*

222. *Id.*

223. See Market Report, Engineering, and Land Use Plan for the Menomonee Valley, *available at* <http://www.mkedcd.org/planning/plans/valley/MRV.pdf> [hereinafter Land Use Plan].

224. *Id.*

225. *Id.* Falk Corporation (now Rexnord Corporation) and then Empak Foods (formerly Peck Foods) had hundreds of workers, County Stadium was operating, and other businesses were still operating even with acres of vacant land around them. Information provided by Laura Bray, Executive Director, Menomonee Valley Partners, Inc. to Martin J. Greenberg.

creation of the Menomonee Valley Partners, Inc. (MVP) and a policy document to guide future redevelopment activities.<sup>226</sup>

### *B. Menomonee Valley Partners, Inc.*

MVP was created to focus on redevelopment of the Menomonee Valley. MVP is an IRC 501(c)(3) nonprofit organization whose aim is to make the Menomonee Valley a central part of Milwaukee, economically, ecologically, geographically, and culturally.<sup>227</sup> To accomplish this, MVP looks to develop the Menomonee Valley with strong companies that will bring jobs near workers' homes, to create healthy waterways and green space, to renew the Valley's ties to surrounding neighborhoods, and to stay rooted in the past with a role in the future as well.<sup>228</sup> MVP receives funding from individuals, governmental entities, corporations, and foundations to support program operations and implement projects to revitalize the Menomonee Valley.<sup>229</sup> MVP has a staff of five people, including Laura Bray who has served as Executive Director since 2004.<sup>230</sup> MVP also has a twenty-one person Board of Directors of which Michael Hatch is President.<sup>231</sup>

### *C. The 1998 Redevelopment Plan*

In October 1998, the City of Milwaukee, MMSD and the MVBA developed a Market Report, Engineering, and Land Use Plan (collectively hereinafter the Plan) for the Menomonee Valley.<sup>232</sup> In 1977, Mayor Henry Maier saw the potential of the Menomonee Valley and began a redevelopment project in the Valley.<sup>233</sup> This project was updated in the 1980s, but neither the original project nor the updated project had the success of the current redevelopment Plan.<sup>234</sup> The Plan laid out the area to be redeveloped as the new Menomonee Valley. Moreover, the Plan depicted the Menomonee Valley as the area "located west of Downtown Milwaukee and the Historic Third Ward."<sup>235</sup> The Plan's boundaries included the "East-West Freeway on the north, Milwaukee River on the east, Bruce Street and the Soo Line Railroad tracks on the south, and US-41 on the west."<sup>236</sup> The Plan covers an area bounded by "Wisconsin Avenue on the north, the Milwaukee River on the east, National Avenue on the south, and Hawley Road on the west."<sup>237</sup> The Plan also included Marquette University, Mitchell Park, Miller Park, the Veteran's Administration Medical Center, and portions of the residential neighborhoods bordering the Valley.<sup>238</sup> In addition to explaining the current (1998) conditions of the Menomonee Valley, the Plan also laid out the redevelopment potential of the Valley. At the time of the Plan, Miller Park was already under

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226. *Id.*

227. *About Us*, MENOMONEE VALLEY PARTNERS, INC., <http://www.renewthevalley.org/about> (last visited Mar. 8, 2012).

228. *Organization Description & History*, MENOMONEE VALLEY PARTNERS, INC., [http://www.renewthevalley.org/media/mediafile\\_attachments/03/123-ourprograms.pdf](http://www.renewthevalley.org/media/mediafile_attachments/03/123-ourprograms.pdf).

229. *Our Funders*, MENOMONEE VALLEY PARTNERS, INC., <http://www.renewthevalley.org/documents/23-our-funders> (last visited Mar. 8, 2012).

230. *Staff Directory*, MENOMONEE VALLEY PARTNERS, INC., <http://www.renewthevalley.org/documents/21-staff-directory> (last visited Mar. 8, 2012).

231. *Board of Directors*, MENOMONEE VALLEY PARTNERS, INC., <http://www.renewthevalley.org/documents/22-board-of-directors-listing> (last visited Mar. 8, 2012).

232. Land Use Plan, *supra* note 223.

233. *As Mayor, Barrett Led Efforts to Redevelop the Menomonee Valley, "Which Now Supports Nearly 4,000 Jobs in Wisconsin,"* J. SENTINEL POLITIFACT WIS. (Nov. 10, 2010), <http://www.politifact.com/wisconsin/statements/2010/nov/11/tom-barrett/tom-barrett-says-he-helped-create-4000-jobs-menomo/> [hereinafter *Barrett Led Efforts to Redevelop*].

234. Telephone conversation with David P. Miskey, Assistant Executive Director – Secretary, Redevelopment Authority of the City of Milwaukee (Feb. 13, 2012).

235. Land Use Plan, *supra* note 223, at 1-1.

236. *Id.*

237. *Id.* at 1-2.

238. *Id.*

construction. In fact, the Plan explained how CMC Heartland Partners (CMC) transferred 48.1 acres of property from the Menomonee Valley to the State of Wisconsin for the construction of Miller Park.<sup>239</sup>

The City of Milwaukee made clear that the Menomonee Valley was going to be used for light industrial development, and the Plan denoted that manufacturing would provide the largest economic gain for Milwaukee.<sup>240</sup> Furthermore, the Plan made clear that the historically industrial character of the Menomonee Valley should be maintained.<sup>241</sup> the Menomonee Valley is well positioned for industrial development with highway and rail access, located near downtown Milwaukee, the Port of Milwaukee, and Mitchell Field, and possibly most important, the City of Milwaukee and the regional area support economic development in the area.<sup>242</sup>

Overall, the main suggestions in the development Plan included the following development:

<b>Development</b>	<b>What The Development Included</b>
Industrial Development <sup>243</sup>	Light manufacturing, research and development, making up the majority of the development
Industrial Park <sup>244</sup>	A planned park, similar to the Land Bank program, would be the appropriate location for the industrial development
Retail and Service Uses <sup>245</sup>	Very limited in the Menomonee Valley, but likely could occur on the periphery of the Menomonee Valley
Specialty Retail and Support Services <sup>246</sup>	Would not occur within the Menomonee Valley
Office <sup>247</sup>	Would not occur within the Menomonee Valley
Parks and Open Space <sup>248</sup>	Includes the creation of green space, such as the Henry Aaron State Park Trail

Finally, the Plan also stated the intention to expand and extend Canal Street.<sup>249</sup> The Plan expressed the need to reconstruct and expand the roadways in order to support the redevelopment of the Menomonee Valley.<sup>250</sup>

#### *D. Menomonee Valley Redevelopment*

Anyone who has traveled through the Menomonee Valley in recent years has witnessed the successful redevelopment efforts. Infrastructure has been greatly improved with a rebuilt and extended Canal Street, as well as the creation of the Hank Aaron State Park Trail. Hundreds of acres of previously vacant land have been redeveloped through the collaborative efforts of the State of Wisconsin, City of Milwaukee, other units of government, MVP, and the business community.<sup>251</sup> The Forest County

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239. *Id.* at 3-28.

240. *Id.* at 3-31.

241. *Id.*

242. *Id.* at 3-37.

243. *Id.* at 3-47.

244. *Id.*

245. *Id.*

246. *Id.*

247. *Id.* at 3-48.

248. *Id.*

249. *Id.* at 4-4.

250. *Id.*

251. Information provided by Laura Bray, Executive Director, Menomonee Valley Partners, Inc. to Martin J. Greenberg.

Potawatomi alone have made substantial investments over the past two decades in the expanding Potawatomi Bingo Casino in the Valley.<sup>252</sup>

In 1999, the total assessed value of all taxable properties within the Menomonee Valley was \$45,837,300; in 2002, the assessed value was \$62,076,600; and the 2011 assessed value was \$156,206,982.<sup>253</sup> The increased property values were largely because formerly vacant lands now have development on them, not necessarily because the district's values went up as a whole.<sup>254</sup> Sites that previously had very little value now have great value because of the economic activity taking place.<sup>255</sup> Nevertheless, as these numbers indicate, the assessed value of the property in the Menomonee Valley has increased since Miller Park opened in 2001.

Hosts of development toolbox techniques were used in the redevelopment of the Menomonee Valley, including the creation of TIF Districts, the Wisconsin Department of Commerce Brownfield Program, Community Development Block Grants, a Transportation Economic Assistance Program, New Market Tax Credits, and development incentives provided by the Redevelopment Authority of the City of Milwaukee, among others.<sup>256</sup> In addition to these items in the development toolbox, the public sector invested in infrastructure and environmental improvements. Funds came from a range of sources including, U.S. Housing and Urban Development, U.S. Department of Transportation, U.S. EPA, Great Lakes Basin Partnership, Wisconsin Coastal Management, and the Knowles-Nelson Stewardship Program.

There has been extensive development in the Menomonee Valley since the Plan's publishing in 1998. Due to this extensive development, the International Economic Development Council (IEDC) awarded the Excellence in Economic Development Award to the City of Milwaukee and the City of Milwaukee Redevelopment Authority in 2008.<sup>257</sup> This is just one of many awards the State of Wisconsin, City of Milwaukee, MVP, and others have received for the redevelopment of the Menomonee Valley.

The Menomonee Valley has been split into seven TIF districts (TIDs) with different development plans.<sup>258</sup> Four of them will be addressed.

#### 1. TID 53<sup>259</sup>

TID 53 consists of approximately 261 acres of land zoned substantially for industrial and manufacturing use. The district is bounded on the west by the Menomonee River, on the south by the Ariline Railroad yards, on the east by the 16th Street Viaduct, and on the north by I-94.<sup>260</sup> The major focus of this project plan is the 134-acre Milwaukee Road Shops site. The plan includes approximately fifty-eight acres of business park development on the Shops site.<sup>261</sup>

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252. See *Message From the General Manager*, POTAWATOMI BINGO CASINO, <http://paysbig.com/business/about-our-business/business-overview/message-from-the-general-manager/> (last visited Mar. 18, 2012); *Casino History*, POTAWATOMI BINGO CASINO, <http://paysbig.com/business/about-our-business/casino-history/> (last visited Mar. 18, 2012); Press Release, Forest County Potawatomi Make \$10.12 Million Payment to City, County of Milwaukee (Aug. 18, 2008), available at [http://www.wispolitics.com/1006/080818\\_Potawatomi.pdf](http://www.wispolitics.com/1006/080818_Potawatomi.pdf).

253. E-mail from Corey Zetts, Associate Director, Menomonee Valley Partners, Inc., to Elizabeth Buehler (Oct. 17, 2011, 14:48 CST) (on file with Elizabeth Buehler).

254. Information provided by Laura Bray, Executive Director, Menomonee Valley Partners, Inc. to Martin J. Greenberg.

255. *Id.*

256. Land Use Plan, *supra* note 223, at 3-12.

257. *City Receives Award for Menomonee Valley Redevelopment*, GOMILWAUKEE (OCT. 31, 2008), <http://city.milwaukee.gov/CityreceivesawardMenomonee.htm>.

258. *Barrett Led Efforts to Redevelop*, *supra* note 233.

259. TID 53 – Menomonee Valley Shops Periodic Report, December 31, 2010, available at <http://city.milwaukee.gov/ImageLibrary/Groups/cityDCD/business/TIF/2010-Reports/TID53.pdf> [hereinafter TID 53].

260. *Id.*

261. *Id.*

TID 53's infrastructure was completed by July 2008, which consisted of an extension of Canal Street opening in 2006 connecting 6th Street to Miller Park's east parking lots; sewer and utility improvements completed in 2007; and the building of roads completed in July 2008.<sup>262</sup> TID Number 53 has an estimated assessed value of \$45 million.<sup>263</sup>

In September 2006, Palermo Villa, Inc. completed construction of a 135,000-square-foot facility located at 3301 West Canal Street.<sup>264</sup> In 2010, Palermo Villa completed a 120,000-square-foot addition, putting the facility at 255,000 square feet.<sup>265</sup> The Palermo Villa facility employs approximately 400 individuals and has an assessed value of \$14,564,100.<sup>266</sup> Additionally, the 2011 property taxes were \$394,142.<sup>267</sup>

On June 18, 2007, Badger Railing completed its new facility and moved in with an opening ceremony held in August 2007.<sup>268</sup> The facility is located at 3880 West Milwaukee Road and currently employs approximately thirty-two employees.<sup>269</sup> In 2011, the property's assessed value was \$1,662,100 and property taxes were \$47,264.<sup>270</sup>

In September 2007, Caleffi completed construction of a building located at 3883 West Milwaukee Road, which had an assessed value of \$2,600,000 and property taxes of \$72,711 in 2011.<sup>271</sup>

The following year, in May 2008, Taylor Dynamometer opened its facility at 3630 West Wheelhouse Road, and currently has approximately thirty-four employees.<sup>272</sup> In 2011, the property had an assessed valuation of \$3,364,400 and property taxes of \$93,301.85.<sup>273</sup>

In 2009, the Derse Corporation completed construction of a new facility and currently employs approximately 151 workers.<sup>274</sup> The facility is located at 3800 West Canal Street, had an assessed valuation of \$8,375,400 and property taxes of \$230,579 in 2011.<sup>275</sup> Also in 2009, Charter Wire constructed a 160,000-square-foot facility at 3754 West Milwaukee Road, and has approximately eighty-nine employees, a 2011 assessed valuation of \$8,375,400 and property taxes of \$230,579.21.<sup>276</sup>

In 2010, Ingeteam purchased 8.1 acres of land and constructed a new facility of 150,000 square feet at 3757 West Milwaukee Road.<sup>277</sup> There are approximately 275 employees, and in 2011, the property had an assessed valuation of \$1,800,000 and property taxes of \$51,084.21.<sup>278</sup>

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262. *Id.* 1–2.

263. *Id.* at 2.

264. *Id.*

265. *Id.*

266. *Id.*

267. *Id.*

268. *Id.*

269. *Id.*

270. *Id.*

271. *Id.*

272. *Id.*

273. *Id.*

274. *Id.*

275. *Id.*

276. Andrew Weiland, *Real Estate: The Menomonee Valley is on a Roll*, BIZTIMES.COM (Jun 25, 2010), <http://www.biztimes.com/news/2010/6/25/real-estate-the-menomonee-valley-is-on-a-roll> [hereinafter *On a Roll*].

277. *Id.*

278. *Id.*

2. TID 57<sup>279</sup>

On July 12, 2008, Harley Davidson opened a new complex consisting of a museum, archives, restaurant, and gift shop.<sup>280</sup> The Harley Davidson Museum is located at 400 West Canal Street, and had an assessed valuation of \$12,368,000 and property taxes of \$332,965.37 for the year 2011.<sup>281</sup>

3. TID 63<sup>282</sup>

Funds were granted to Rexnord Corporation, formerly Falk Corporation, for costs associated with site work and infrastructure necessitated by the Canal Street project and all construction within the TID was completed.<sup>283</sup> In 2011, the property had an assessed valuation of \$10,033,900.<sup>284</sup>

The city is repaying the funds for the construction work, \$1.5 million, which were advanced by Rexnord Corporation, from future incremental tax revenue generated in the district.<sup>285</sup> Payments will be reduced proportionately if employment at the company site declines below five hundred full-time equivalent positions.<sup>286</sup>

4. TID 73<sup>287</sup>

In 2011, the first phase of the project was completed by converting the Retort Building to 43,000 square feet of office space for Zimmerman Architectural Studios, Inc.<sup>288</sup> The property is located at 2122 West Mount Vernon Avenue and in 2011 had an assessed value of \$4,535,000 and property taxes of \$124,786.66.<sup>289</sup> Additionally, the extension of public roads to create public access from north to east, and upgrades to the sanitary sewer and storm sewer service were also completed in 2011.<sup>290</sup>

**Exhibit # 8** more particularly depicts the most recent developments in the Menomonee Valley. Additionally, **Exhibit # 9** contains pictures of the recent buildings and development in the Menomonee Valley.

In addition to the specific TIDs' milestones, there have been several other developments in the Menomonee Valley since the Plan was accepted, including the following:<sup>291</sup>

Year	Development
2000	Expansion of Potawatomi Bingo Casino <sup>292</sup>
2001	Opening of Miller Park <sup>293</sup>
2001	Completion of the 6th Street Bridge <sup>294</sup>

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279. TID 57 – Harley Davidson Museum Periodic Report, December 31, 2010, *available at* <http://city.milwaukee.gov/ImageLibrary/Groups/cityDCD/business/TIF/2010-Reports/TID57.pdf> [hereinafter TID 57].

280. *Id.*

281. *Id.*

282. TID 63 – Falk/Rexnord Periodic Report, December 31, 2010, *available at* <http://city.milwaukee.gov/ImageLibrary/Groups/cityDCD/business/TIF/2010-Reports/TID57.pdf> [hereinafter TID 63].

283. *Id.*

284. *Id.*

285. *Id.*

286. *Id.*

287. TID 73 – City Lights Periodic Report, December 31, 2010, *available at* <http://www.mkedcd.org/business/TIF/reports/TID73.pdf> [hereinafter TID 73].

288. *Id.*

289. *Id.*

290. *Id.*

291. A Decade of Transformation: A Night of Recognition, 2009.

292. *Id.*

293. *Id.*

294. *Id.*



Year	Development
2002	National Design Competition for the Redevelopment of the Milwaukee Road Shops <sup>295</sup>
2003	Launching of the Menomonee Valley Benchmarking Initiative <sup>296</sup>
2003	Commencement of the predevelopment on the Menomonee Valley Industrial Center <sup>297</sup> and Community Park <sup>298</sup>
2003	Relocation of the Sigma Group's 28,600-square-foot headquarters to the central Menomonee Valley <sup>299</sup>
2004	Completion of the Menomonee Valley Sustainable Design Guidelines <sup>300</sup>
2006	Expansion and Completion of the Canal Street reconstruction <sup>301</sup>
2006	Opening of Palermo's Pizza—the first company to open at the Menomonee Valley Industrial Center <sup>302</sup>
2008	Opening of the Harley Davidson Museum <sup>303</sup>
2008	Completion of the 146,000-square-foot Canal Street Commerce Center facility. Proven Direct is a current tenant and Helios USA is a tenant occupying 40,000 square feet. Between the two tenants, 96% is leased and it has only 5400-square-feet of leasable space. <sup>304</sup>
2009	Completion of the Friends of Hank Aaron State Trail Public Art Plan <sup>305</sup>
2010	Completion of the Hank Aaron State Trail Valley Passage and Western Extension to 94th Place <sup>306</sup>
2010	Announcement of Spanish-manufacturer Ingeteam to establish North American Headquarters at the Menomonee Valley Industrial Center <sup>307</sup>

Since the 1998 Plan was adopted, there have been many accomplishments towards the redevelopment of the Menomonee Valley,<sup>308</sup> including the following:

- Three hundred acres of brownfield land are now in a productive, usable condition<sup>309</sup>
- Twenty-six companies have moved into the Menomonee Valley and seven existing businesses have expanded<sup>310</sup>

295. See Menomonee River Valley National Design Competition, Sixteenth Street Community Health Center, March 2002, available at [http://renewthevalley.org/media/mediafile\\_attachments/02/142-nationaldesigncompetition.pdf](http://renewthevalley.org/media/mediafile_attachments/02/142-nationaldesigncompetition.pdf).

296. A Decade of Transformation, *supra* note 291.

297. The Menomonee Valley Industrial Center is a business center on sixty acres of land devoted to business development, with 9.8 acres devoted to roads and infrastructure. The sixty acres are to be divided into smaller parcels ranging from one-and-one-half to ten acres. Currently there are only 7.4 acres still available in the Menomonee Valley Industrial Center that can be developed. Menomonee Valley Industrial Center and Community Park Master Land Use Plan 11–12, available at <http://facstaff.uww.edu/zimmermj/LUP/MVIC%2520-%2520Master%2520Use%2520Plan%2520-%2520RACM%2520Adopted.pdf>.

298. A Decade of Transformation, *supra* note 291. The Community Park consists of fifty acres that will serve local, city, and regional needs. The Community Park was to include recreation amenities, storm water infrastructure, ecology, unique site resources, connections, safety, and public art and interpretation. Menomonee Valley Industrial Center and Community Park Master Land Use Plan, *supra* note 297, at 13.

299. Menomonee Valley Industrial Center and Community Park Master Land Use Plan, *supra* note 297, at 13; *Milwaukee Road Development*, available at [http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_12989.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_12989.pdf).

300. See Sustainable Design Guidelines, Menomonee Valley Partners, Inc. & The Sigma Group, 2004, available at [http://www.renewthevalley.org/media/mediafile\\_attachments/06/46-guidelinesfinalprintableversion.pdf](http://www.renewthevalley.org/media/mediafile_attachments/06/46-guidelinesfinalprintableversion.pdf).

301. A Decade of Transformation, *supra* note 291.

302. Mayor Barrett: Palermo's Building in Menomonee Valley, CITY OF MILWAUKEE (Apr. 28, 2005), <http://city.milwaukee.gov/PalermosbuildinginMenomoneeValley.htm>.

303. *Id.*

304. *Id.*; Weiland, *On a Roll*, *supra* note 276.

305. A Decade of Transformation, *supra* note 291.

306. *Hank Aaron State Trail Extension*, MENOMONEE VALLEY PARTNERS, INC., <http://renewthevalley.org/documents/46-hank-aaron-state-trail-extension> (last visited Mar. 19, 2012).

307. Larry Sandler, *Energy Firm Picks Milwaukee For Plant*, JSONLINE (Feb. 15, 2010), <http://www.jsonline.com/business/84382807.html>.

308. A Decade of Transformation, *supra* note 291, at 4.

309. *Id.*; E-mail from Corey Zetts, Associate Director, Menomonee Valley Partners, Inc., to Elizabeth Buehler (Jan. 12, 2012, 12:32 CST) (on file with Martin J. Greenberg).

310. *Id.*

- 4700 jobs have been added due to the new and expanded companies<sup>311</sup>
- Property values increased by \$84 million from 2003 to 2009<sup>312</sup> and the total assessed property value increased by \$108.7 million, or 229%, from 2003 to 2011.<sup>313</sup>
- There are 1,000,000 square feet of sustainable buildings<sup>314</sup>
- Seven miles of the Hank Aaron State Trail have been completed, part of forty-five acres of park and trails<sup>315</sup>

While there have been many accomplishments in the past ten years, several projects remain anticipated for the future,<sup>316</sup> including:

- Making Reed Street Yards a support-site for the water technology industry<sup>317</sup>
- Completing the redevelopment of the Gasworks building into the Milwaukee Light Complex to build off the anchor tenant, Zimmerman Architectural Studios, Inc.<sup>318</sup>
- Recruiting additional business into the Menomonee Valley<sup>319</sup>
- Completing the Hank Aaron State Trail and reaching residents in both Milwaukee and Waukesha counties<sup>320</sup>
- Creating connections so that everyone can access jobs and recreation in the Menomonee Valley<sup>321</sup>
- Transforming a brownfield to a twenty-four acre natural area and outdoor science classroom<sup>322</sup>
- Opening a third Urban Ecology Center at 3700 West Pierce Street<sup>323</sup>
- Creating a bridge connecting Mitchell Park Domes to the Valley<sup>324</sup>
- Improving Marquette University's Valley Fields<sup>325</sup>
- Constructing the 50,000-square-foot facility for Suzy's Cream Cheesecakes Inc. by spring 2012.<sup>326</sup> The company has approximately fifty-two employees and expects to have over one-

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311. A Decade of Transformation, *supra* note 291, at 4; E-mail from Corey Zetts, to Elizabeth Buehler (Jan. 12, 2012), *supra* note 309.

312. A Decade of Transformation, *supra* note 291, at 4.

313. Information provided by Laura Bray, Executive Director, Menomonee Valley Partners, Inc. to Martin J. Greenberg.

314. *Id.*; E-mail from Corey Zetts, to Elizabeth Buehler (Jan. 12, 2012), *supra* note 309.

315. A Decade of Transformation, *supra* note 291, at 4; E-mail from Corey Zetts, to Elizabeth Buehler (Jan. 12, 2012), *supra* note 309.

316. A Decade of Transformation, *supra* note 291, at 16.

317. *Id.*; Weiland, *supra* note 112.

318. A Decade of Transformation, *supra* note 291, at 16.

319. *Id.*

320. *Id.*, Weiland, *supra* note 112. According to Laura Bray, although this was largely completed in 2010, the final segments to Waukesha County and a few other connections still need to be completed and this is a high priority action.

321. A Decade of Transformation, *supra* note 291, at 16; Weiland, *supra* note 112.

322. A Decade of Transformation, *supra* note 291, at 16

323. *Id.*; Sean Ryan, *Menomonee Valley Has More to Develop*, REAL ESTATE ROUNDUP (Aug. 9, 2011 1:21 PM), [http://www.bizjournals.com/milwaukee/blog/real\\_estate/2011/08/menomonee-valley-has-more-to-develop.html](http://www.bizjournals.com/milwaukee/blog/real_estate/2011/08/menomonee-valley-has-more-to-develop.html).

324. Weiland, *supra* note 112.

325. *Id.*

326. Tom Daykin, *Ahern Moving to Menomonee Valley Site*, JSONLINE (AUG. 31, 2011), <http://www.jsonline.com/business/128855988.html>.

hundred employees within two years.<sup>327</sup> This property will be located at 3889 West Wheelhouse Road, but currently the company has not closed on the land.<sup>328</sup>

- Constructing a facility for J.F. Ahern Co, beginning in 2012.<sup>329</sup> The 67,000-square-foot facility will have sixty-four employees and will be located on five acres of land at the corner of West Canal Street and West Roundhouse Road.<sup>330</sup>
- Constructing a 382-room hotel adjacent to Potawatomi Bingo Casino, beginning in late spring or early summer of 2012.<sup>331</sup> The hotel is anticipating an addition of 230 employees at the hotel and 800 indirect jobs to come from the hotel's construction.<sup>332</sup> Additionally, 995 jobs will be created during the expected two-year construction.<sup>333</sup>
- Constructing and opening of new restaurant on West Canal Street between Potawatomi Bingo Casino and the Harley Davidson Museum that "will include boat slips and boat storage areas."<sup>334</sup> The Milwaukee Economic Development Corporation approved Russ Davis's plan for a \$255,000 loan for the property and to open the restaurant.<sup>335</sup>

Those involved in the redevelopment of the Menomonee Valley recognize that the location has had the biggest impact on the redevelopment's success.<sup>336</sup>

#### *E. The Impact of Miller Park on the Redevelopment of Menomonee Valley*

Looking at the development that occurred in the Menomonee Valley during the past two decades, there may be questions as to what spurred the economic development when it occurred. The dates of when development occurred within the Menomonee Valley show that the majority of the development occurred *after* the completion and opening of Miller Park. Although the development appears to have increased with the construction of Miller Park, Michael Duckett, the Executive Director of the Southeast Wisconsin Professional Baseball Park District, attributes the growth to the planning of the City of Milwaukee, the Department of City Development, the Menomonee Valley Partners, Inc., and other interested parties.<sup>337</sup> These parties implemented the plan, which has led to the development.<sup>338</sup> He thinks it seems as if the only thing that Miller Park may have attributed to the development of the Menomonee Valley was access.<sup>339</sup> Duckett stated that the infrastructure contribution to the Menomonee Valley, from the Miller Park construction, facilitated the extension of Canal Street from downtown, and helped make the western portion of the Valley more accessible and desirable.<sup>340</sup> The Miller Park construction contributed two bridges over the Menomonee River and created a connection from the Menomonee Valley to US-41.<sup>341</sup> Duckett thinks it may be easier to say that the timing of the development of the

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327. *Id.*

328. E-mail from Corey Zetts, Associate Director, Menomonee Valley Partners, Inc., to Elizabeth Buehler (Feb. 20, 2012, 12:00 CST) (on file with Martin J. Greenberg).

329. Daykin, *Ahren Moving to Menomonee Valley Site*, *supra* note 326.

330. *Id.*

331. *Potawatomi to Build \$150 Million, 382-room Hotel in Milwaukee's Menomonee Valley*, POTAWATOMI BINGO CASINO (Jan. 17, 2012), <http://paysbig.com/blog/2012/1/17/potawatomi-to-build-150-million-382-room-hotel-in-menomonee-vall/>.

332. *Id.*

333. *Id.*

334. Sean Ryan, *Menomonee Valley Restaurant to Receive \$255,000 Milwaukee Loan*, THE BUS. J. (Mar. 14, 2012), [http://www.bizjournals.com/milwaukee/blog/real\\_estate/2012/03/menomonee-valley-restaurant-to.html](http://www.bizjournals.com/milwaukee/blog/real_estate/2012/03/menomonee-valley-restaurant-to.html).

335. *Id.*

336. Weiland, *On a Roll*, *supra* note 276.

337. E-mail from Michael Duckett, to Elizabeth Buehler (Jan. 27, 2012), *supra* note 215.

338. *Id.*

339. *Id.*

340. *Id.*

341. *Id.*

Menomonee Valley coincided with the addition of infrastructure connecting the Menomonee Valley with other roads so that the Menomonee Valley was no longer secluded and land-locked.<sup>342</sup>

The following question was proposed to Tom Barrett, Mayor of the City of Milwaukee, and Laura Bray, Executive Director of Menomonee Valley Partners, Inc.: Do you feel Miller Park has had any direct or indirect effect upon the development of the Menomonee Valley? Their responses are as follows:

**Mayor Tom Barrett:**

Miller Park is a landmark – a prominent, identifiable landmark that helps define the Menomonee Valley. Businesses that built new facilities in the city’s Menomonee Valley Industrial Center, including Palermo’s, Derse, Charter Wire, Ingeteam[,] and others, valued proximity to potential employees. They appreciated the transportation infrastructure, the sustainable features of the redevelopment, and the access to recreation. It is easy to forget that the Menomonee Valley Industrial Center was once an inaccessible, abandoned, and contaminated rail facility. For the pioneering businesses that relocated to the Valley, the stadium stands as a friendly neighbor.<sup>343</sup>

**Laura Bray:**

The success in Menomonee Valley can be attributed to the collaborative and comprehensive approach taken by the many stakeholders who have become involved. The scale of impact to date is a result of many entities (State of Wisconsin, City of Milwaukee, community organizations and the business community) making substantial investments in a coordinated way and aligned with a common vision in mind. The Milwaukee Brewers have been a valuable partner throughout this redevelopment process and will continue to be in the important work ahead. In addition, Miller Park is an important amenity for existing and newly recruited companies. Directly, the development of Miller Park provided improved infrastructure to connect the western edge of the Valley to the freeway system. Indirectly, Miller Park provides an amenity and destination for businesses and their employees, as well as for users of the Hank Aaron State Trail. (Also of note, the riverbank improvements made during the construction of Miller Park improved access, aesthetics and river functioning along a once degraded stretch of the Menomonee River. This stretch is now a fishing hot spot and regarded as one of the nation’s best urban fishing spots.)<sup>344</sup>

## **IX. THE BREWERS’ DEVELOPMENT OF THE STADIUM SITE**

While Miller Park, both ballpark and plaza, comprises only about twenty acres, there are approximately 186 acres leased to the Brewers pursuant to the Lease.<sup>345</sup>

The Brewers were subject to a development moratorium that just ended in April 2011. An Agreement, dated November 20, 1997, for Exchange of Real Estate, Construction of Roadways and Access to Roadways by and between numerous parties, including the Brewers, the District, the State of Wisconsin Department of Administration, and CMC created the development moratorium.<sup>346</sup> The agreement allowed for the transfer of lands between parties and implemented a ten-year moratorium on

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342. *Id.*

343. E-mail from Jeff Fleming on behalf of Mayor Tom Barrett, DCD Communications and Media Relations, to Martin J. Greenberg (Feb. 28, 2012, 14:06 CST) (on file with Martin J. Greenberg).

344. E-mail from Laura Bray, Executive Director, Menomonee Valley Partners, Inc., to Martin J. Greenberg (Mar. 14, 2012, 9:47 CST) (on file with Martin J. Greenberg).

345. See E-mail from Michael Duckett, to Martin J. Greenberg (Jan. 18, 2012), *supra* note 27.

346. E-mail from Michael Duckett, Executive Director of the Southeast Wisconsin Professional Baseball Park District, to Martin J. Greenberg (Feb. 2, 2012, 10:03 CST) (on file with Martin J. Greenberg).

development on certain lands being leased by the Brewers.<sup>347</sup> At that time, CMC anticipated developing its remaining property with a focus on retail, restaurants, and other mixed uses, and did not want any "competition" from the Brewers.<sup>348</sup> CMC owned all of the Menomonee Valley land between the Menomonee River and the Rexnord Corporation (formerly the Falk Corporation), with the exception of approximately forty acres along the very southerly edge of the Valley.<sup>349</sup> The State of Wisconsin owned those forty acres for the possible construction of a state prison closer to Milwaukee.<sup>350</sup> The prison concept never came to fruition, leaving the State with forty land-locked acres in the Valley.<sup>351</sup> The District approached CMC and suggested a swap of the State's easterly one-half of its parcel for an equivalent size twenty acres along the Menomonee River and closer to Miller Park.<sup>352</sup> CMC agreed, as long as the District fulfilled the requirements of (1) sharing the District's new roadway access and (2) the Brewers avoided developing the land for ten years from the date that the new ballpark opened.<sup>353</sup> Because the ballpark opened in April 2001, the moratorium therefore expired in April 2011.<sup>354</sup>

In order to determine the Brewers' future real estate development plans, I met with Rick Schlesinger, Chief Operating Officer of the Brewers, on January 18, 2012. Schlesinger admitted that there is potential for future development on the Miller Park site, probably as a retail and entertainment destination.<sup>355</sup> He indicated, however, that the Brewers are not currently engaged in any planning for real estate development for the site, and a Master Development Plan would have to be undertaken first.<sup>356</sup> The land potentially available for real estate development is currently utilized for parking.<sup>357</sup> Schlesinger indicated that parking is integral to the Miller Park experience as it satisfies the fans' desire for tailgating, provides easy ingress and egress, and supplies ample parking on the stadium site.<sup>358</sup> Schlesinger also indicated that he believed the current economic climate does not favor real estate development.<sup>359</sup> He stated,

[t]he Brewers recognize the investment by our fans in building Miller Park. Our primary missions are to build a consistently competitive team and maintain Miller Park as a fan-friendly state-of-the-art [MLB] venue. Any future development of the Miller Park site will be in accordance with our primary missions, and within a framework that makes sense for the Brewers and our community.<sup>360</sup>

Currently, real estate development takes a back seat to those priorities.

Miller Park ownership is structured differently than most MLB ballparks. Pursuant to the Amended and Restated Ownership Agreement dated as of February 22, 2001,<sup>361</sup> the Milwaukee Brewers Baseball Club Limited Partnership has a 29.09% proprietary ownership in the stadium facility, while the District

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347. *Id.*

348. *Id.*

349. E-mail from Michael Duckett, Executive Director of the Southeast Wisconsin Professional Baseball Park District, to Martin J. Greenberg (Feb. 26, 2012 10:19 CST) (on file with Martin J. Greenberg).

350. *Id.*

351. *Id.*

352. *Id.*

353. *Id.*

354. See E-mail from Michael Duckett, to Martin J. Greenberg (Feb. 2, 2012), *supra* note 346.

355. Interview by Martin J. Greenberg with Rick Schlesinger, Chief Operating Officer, Milwaukee Brewers (Jan. 18, 2012).

356. *Id.*

357. *Id.*

358. *Id.*

359. *Id.*

360. *Id.*

361. Amended and Restated Ownership Agreement by and between Southeast Wisconsin Professional Baseball Park District and Milwaukee Brewers Baseball Club, Limited Partnership (Feb. 22, 2001).

owns 70.91%.<sup>362</sup> Creating a proprietary interest in the stadium site has also created a vested interest in the future of Miller Park.

As an owner, the Brewers have invested profits (beyond what is required to be invested in the segregated reserve fund) into the place in which it plays. Some of those invested dollars have enhanced the fan experience, including The Homeplate Fan Zone (2008), stadium club renovations (2008), Hot Corner Fan Zone renovations (2009), the Harvey Deck (2009), the Terrace Level Fan Zone (2010), parking lot signage (2010), a new scoreboard (the Brewers incurred all costs associated with the project that exceeded the amount budgeted in the SRF Master Plan - 2011), and Founder's Suite renovations (2011), just to name a few.<sup>363</sup> A full listing of improvements made by the Brewers is attached as **Exhibit # 10**. Taxpayers benefit from such investment by virtue of the fact that they own 70.91% of the stadium site.

Not only have the Brewers invested in the bricks, the Brewers have invested in their workforce to make them a more competitive team on the field. Mark Attanasio (Attanasio) became the primary and managing owner of the Brewers in 2005.<sup>364</sup> Before Attanasio took ownership, the payroll was approximately \$27.5 million;<sup>365</sup> in 2011, the payroll was in excess of \$85 million.<sup>366</sup> The chart below shows the Brewers' gross team payroll for five years before Attanasio became the owner and all of the years of Attanasio's ownership.

**Milwaukee Brewers Gross Team Payroll Year-by-Year**

<b>Year</b>	<b>Gross Team Payroll (\$)</b>
2000 <sup>367</sup>	35,782,833
2001 <sup>368</sup>	45,099,333
2002 <sup>369</sup>	50,287,833
2003 <sup>370</sup>	40,627,000
2004 <sup>371</sup>	27,528,500
2005 <sup>372</sup>	39,934,833
2006 <sup>373</sup>	57,568,333

362. E-mail from Michael Duckett, Executive Director of the Southeast Wisconsin Professional Baseball Park District, to Martin J. Greenberg (Dec. 20, 2011 12:45 CST) (on file with Martin J. Greenberg).

363. Information provided by the Milwaukee Brewers Baseball Club to Martin J. Greenberg.

364. *Timeline*, *supra* note 1.

365. *2004 MLB Salaries by Team*, USA TODAY, <http://content.usatoday.com/sportsdata/baseball/mlb/salaries/team/2004> (last visited Jan. 30, 2012).

366. *2011 MLB Salaries by Team*, USA TODAY, <http://content.usatoday.com/sportsdata/baseball/mlb/salaries/team> (last visited Jan. 30, 2012).

367. *2000 MLB Salaries by Team*, USA TODAY, <http://content.usatoday.com/sportsdata/baseball/mlb/salaries/team/20040> (last visited Jan. 30, 2012).

368. *2001 MLB Salaries by Team*, USA TODAY, <http://content.usatoday.com/sportsdata/baseball/mlb/salaries/team/2001> (last visited Jan. 30, 2012).

369. *2002 MLB Salaries by Team*, USA TODAY, <http://content.usatoday.com/sportsdata/baseball/mlb/salaries/team/2000> (last visited Jan. 30, 2012).

370. *2003 MLB Salaries by Team*, USA TODAY, <http://content.usatoday.com/sportsdata/baseball/mlb/salaries/team/2003> (last visited Jan. 30, 2012).

371. *2004 MLB Salaries by Team*, *supra* note 365.

372. *2005 MLB Salaries by Team*, USA TODAY, <http://content.usatoday.com/sportsdata/baseball/mlb/salaries/team/2005> (last visited Jan. 30, 2012).

373. *2006 MLB Salaries by Team*, USA TODAY, <http://content.usatoday.com/sportsdata/baseball/mlb/salaries/team/2006> (last visited Jan. 30, 2012).

<b>Year</b>	<b>Gross Team Payroll (\$)</b>
2007 <sup>374</sup>	70,986,500
2008 <sup>375</sup>	80,937,499
2009 <sup>376</sup>	80,182,502
2010 <sup>377</sup>	81,108,278
2011 <sup>378</sup>	85,497,333

Payroll for the 2012 campaign is expected to exceed \$100 million.<sup>379</sup>

In 2005, when Attanasio took over, the team posted a record of 81-81.<sup>380</sup> In 2011, the team posted a record of 96-66.<sup>381</sup> The Brewers' attendance in 2005 was 2,211,023, or an average of 27,296 per game, while attendance in 2011 was 3,071,373, or an average of 37,918 per game.<sup>382</sup> With approximately one-half of the Brewers' fans traveling to Milwaukee from outside the five-county District, the increased attendance (as seen in the chart below) has clearly benefited southeast Wisconsin.<sup>383</sup>

#### **Brewers Year-by-Year Results<sup>384</sup>**

<b>Season</b>	<b>Team</b>	<b>W</b>	<b>L</b>	<b>PCT</b>	<b>GB</b>	<b>Attendance</b>	<b>Stadium</b>
2011	Milwaukee Brewers	96	66	.593	-	3,071,373	Miller Park
2010	Milwaukee Brewers	77	85	.475	14.0	2,776,531	Miller Park
2009	Milwaukee Brewers	80	82	.494	11.0	3,037,451	Miller Park
2008	Milwaukee Brewers	90	72	.556	7.5	3,068,458	Miller Park
2007	Milwaukee Brewers	83	79	.512	2.0	2,869,144	Miller Park
2006	Milwaukee Brewers	75	87	.463	8.5	2,335,643	Miller Park
2005	Milwaukee Brewers	81	81	.500	19.0	2,211,023	Miller Park
2004	Milwaukee Brewers	67	94	.416	37.5	2,062,382	Miller Park
2003	Milwaukee Brewers	68	94	.420	20.0	1,700,354	Miller Park
2002	Milwaukee Brewers	56	106	.346	41.0	1,969,153	Miller Park

374. *2007 MLB Salaries by Team*, USA TODAY, <http://content.usatoday.com/sportsdata/baseball/mlb/salaries/team/2007> (last visited Jan. 30, 2012).

375. *2008 MLB Salaries by Team*, USA TODAY, <http://content.usatoday.com/sportsdata/baseball/mlb/salaries/team/2008> (last visited Jan. 30, 2012).

376. *2009 MLB Salaries by Team*, USA TODAY, <http://content.usatoday.com/sportsdata/baseball/mlb/salaries/team/2009> (last visited Jan. 30, 2012).

377. *2010 MLB Salaries by Team*, USA TODAY, <http://content.usatoday.com/sportsdata/baseball/mlb/salaries/team/2010> (last visited Jan. 30, 2012).

378. *2011 MLB Salaries by Team*, *supra* note 366.

379. *#22 Milwaukee Brewers*, FORBES.COM, [http://www.forbes.com/lists/2011/33/baseball-valuations-11\\_Milwaukee-Brewers\\_337147.html](http://www.forbes.com/lists/2011/33/baseball-valuations-11_Milwaukee-Brewers_337147.html) (last visited Jan. 21, 2012).

380. *Year-by-Year Results*, THE OFFICIAL SITE OF THE MILWAUKEE BREWERS, [http://milwaukee.brewers.mlb.com/mil/history/year\\_by\\_year\\_results.jsp?sortByStat=SEASON&](http://milwaukee.brewers.mlb.com/mil/history/year_by_year_results.jsp?sortByStat=SEASON&) (last visited Jan. 30, 2012).

381. *Id.*

382. *Id.*

383. Information provided by Michael Duckett, Executive Director, Southeast Wisconsin Professional Baseball Park District to Martin J. Greenberg.

384. *Year-by-Year Results*, *supra* note 380.

Season	Team	W	L	PCT	GB	Attendance	Stadium
2001	Milwaukee Brewers	68	94	.420	25.0	2,811,041	Miller Park
2000	Milwaukee Brewers	73	89	.451	22.0	1,573,601	County Stadium
1999	Milwaukee Brewers	74	87	.460	22.5	1,701,790	County Stadium
1998	Milwaukee Brewers	74	88	.457	28.0	1,811,548	County Stadium
1997	Milwaukee Brewers	78	83	.484	8.0	1,444,027	County Stadium
1996	Milwaukee Brewers	80	82	.494	19.5	1,327,155	County Stadium

Because MLB teams are private organizations, their financial information and year-end results are private and not published. Nevertheless, it is believable that Miller Park is one of the reasons for the Brewers' recent successes.

Real estate development certainly has not been a high priority for entrepreneurs during the recessionary period from 2007 to 2011. During this period, the real estate environment experienced a housing bubble and bust, vacant properties, foreclosures, depressed prices, conservative appraisals, more stringent underwriting standards for mortgage lending, rental reductions, store closings, bank failures, loss of developer net worth, developer bankruptcies, rising energy prices, tightened credit, lackluster consumer spending, unemployment, underemployment and layoffs, government tightening of spending and reorganization of priorities, tenant contraction, and more. Of course, this environment could change in the future, but certainly, the Brewers' current priorities are well-placed.

The Brewers property is surrounded by a sea of expressways, bounded by I-94 on the north and Miller Park Way on the east, but the Brewers control the land nearest to the stadium site and control their ability to develop surrounding land in the future. Normally, concentric circle examples of real estate development surrounding stadiums involves some vacant land, mostly underused or environmentally impacted or dilapidated buildings, which could make development more difficult. What the Brewers are dealing with is vacant land and a determination as to how much of that land is worth changing from parking and tailgating space into real estate improvements. It will be interesting to see which areas and what amount of land ultimately will become the subject of destination real estate development, as well as what improvements the Brewers deem worthy to heighten the baseball and stadium experience.

Schlesinger's priorities are well-placed in that he has borne witness to some concentric circles, as well as sports.comm projects, that have either been total failures or slow to develop, including Westgate City Center in Glendale, Arizona;<sup>385</sup> Ballpark Village Busch Stadium in St. Louis;<sup>386</sup> Glory Park located between Rangers Ballpark and Dallas Cowboys Stadium;<sup>387</sup> Victory Park, a development in Dallas adjacent to the American Airlines Center;<sup>388</sup> the Meadowlands and Xanadu, a mixed-use development project located near MetLife Stadium (formerly New Meadowlands Stadium) in East Rutherford, New Jersey;<sup>389</sup> and Atlantic Yards, a real estate development adjacent to the New Jersey Nets Barclays Arena in Brooklyn.<sup>390</sup> A discussion of the reasons these sports related real estate developments either were slow to develop or failed is detailed in **Exhibit # 11**.<sup>391</sup>

385. See WESTGATE CITY CENTER, <http://www.westgatecitycenter.com/> (last visited Feb. 16, 2012).

386. See About, ST. LOUIS BALLPARK VILLAGE, <http://www.stlballparkvillage.com/> (last visited Feb. 16, 2012).

387. See Jennifer Popovec, *Americans Love Sports*, RETAIL TRAFFIC (Nov. 1, 2007), [http://retailtrafficmag.com/development/newdevelopment/retail\\_football\\_baseball\\_stadiums/index.html](http://retailtrafficmag.com/development/newdevelopment/retail_football_baseball_stadiums/index.html).

388. See VICTORY PARK, <http://www.victorypark.com/> (last visited Feb. 16, 2012).

389. See MEADOWLANDS, <http://visitmeadowlands.com/index.php> (last visited Feb. 16, 2012).

390. See *Atlantic Yards (Brooklyn)*, N.Y. TIMES, [http://topics.nytimes.com/top/reference/timestopics/subjects/a/atlantic\\_yards\\_brooklyn/index.html](http://topics.nytimes.com/top/reference/timestopics/subjects/a/atlantic_yards_brooklyn/index.html) (last visited Feb. 16, 2012).

391. See Greenberg & Hughes Jr., *supra* note 33, at 153–74. Reprinted with permission from Marquette University.



## **X. CONCLUSIONS**

### General Thoughts on Sports Facility and Real Estate Development

1. Sports facility development is nothing more than another form of real estate development.
2. With the creation of Major League Baseball (MLB) stadiums in Baltimore, Denver, and Cleveland during the early and mid-1990s, a new phenomenon, referred to as "concentric circles," occurred in relation to the development of those stadiums. Concentric circles is happenstance or planned real estate development comprised of a mixed-use variety near, adjacent to, or around baseball facilities occurring before or after the construction of the stadium.
3. In the case of Cleveland, concentric circles occurred prior to the construction of the stadium. In most instances, however, concentric circles occur subsequent to the construction of a stadium.
4. The phenomenon of concentric circles has continued and has occurred in many other MLB stadiums built around the country since the 1990s.
5. Many of these stadiums are built in core urban areas that are blighted and in need of renewal projects.
6. Baseball stadiums attract people: in 2011, 73,425,667 fans attended MLB games, while 3,071,373 fans attended Brewers games.
7. People enjoy living near sports facilities, which results in the generation of residential development further creating other service and commercial needs and opportunities.
8. Baseball stadiums are, and should be, the anchor tenant for development districts.
9. Districts anchored by sports facilities should be places where people live, work, socialize, eat, become educated, shop, and congregate. Mixed-use development surrounding stadiums will normally include residential development, hotels, auxiliary entertainment development, service establishments, retail outlets, office space, and potentially some corporate headquarters.
10. In the future, sports facilities will be part of a planned community in which the sports facility is the anchor for mixed-use real estate development, a sports.comm.
11. The planned or happenstance creation of sports districts, and all the benefits associated with them, should help ameliorate the controversy surrounding taxpayer-supported sports facilities.
12. Blighted areas, environmentally impacted areas, underutilized areas, and areas with dilapidated buildings will profit most from the creation of sports districts.
13. District redevelopment that occurs where a sports facility is the catalyst for physical redevelopment of a portion of a city is another means of analyzing the justification for the public investment in sports facilities, along with direct and indirect economic benefits.
14. District redevelopment can occur in a city core area or outside the core area.
15. Sports facilities draw visitors to a sports district that help to create the critical mass necessary to support other commercial activities.
16. A Special Activity Generator (SAG) analysis is another way to look at the benefits of sports facility development by measuring spillover-spending benefits from the surrounding district, new construction within the district, and the rejuvenation of a blighted area.
17. For there to be surrounding or adjacent real estate development, the jurisdiction in which the stadium is located in, or adjoining jurisdictions, must be receptive communities. Receptive communities must open their development toolbox to stimulate development, welcome developers, provide flexibility in zoning, and be willing to create tax incremental financing districts (TIDs).

18. Because of the unique location of Miller Park in that it is surrounded by a sea of expressways, development can be currently measured only to the south on Miller Park Way in West Milwaukee, to the east on Canal Street in the Menomonee Valley, and on the property leased by the District to the Brewers.
19. The real estate development that occurred after the opening of Miller Park in April of 2001, in adjacent and surrounding areas, is an example of concentric circles occurring outside the city's core area.

#### The Village of West Milwaukee

20. Due to an aborted expressway plan, West Milwaukee was ripe for redevelopment.
21. Redevelopment does not occur without outstanding vision and leadership, an Authority, and a Resolution and Development Plan to combat blight.
22. West Milwaukee was a prime area for development because of its location, affordable land mass, density, traffic volume, and access to transportation.
23. West Milwaukee is a receptive community willing to use its development toolbox to attract commerce and incentivize development.
24. Even though an Authority was created and a Resolution created a blighted district, development along the 43rd Street Corridor was slow to progress from 1988 to 2000.
25. The first development along the 43rd Street Corridor was multi-family residential real estate.
26. From 2001 to the present, the South 43rd Street Corridor, which is comprised of Miller Park Way, Electric Avenue, Burnham Street, and Greenfield Avenue (hereinafter collectively referred to as Miller Park Way) has experienced a renaissance and has been transformed from a vacant, blighted eyesore to a center of commerce and business corridor.
27. Miller Park Way was attractive not only to big box retailers, but also to a host of national chains, indicating that Miller Park Way has the right demographics.
28. The development of Miller Park Way from National Avenue to Lincoln Avenue, with adjacent development on Electric Avenue, Burnham Street, and Greenfield Avenue, has added significant assessed valuation to the Village of West Milwaukee, which has increased its real estate tax base and population base, as well as created new jobs.
29. The employment make up of the Village has changed from factory, foundry, and industry-related jobs to service-related jobs.
30. The development of Miller Park Way is in line with the concept and phenomenon of concentric circles, wherein real estate develops near, adjacent to, or surrounding a sports facility before or after it is built.
31. Miller Park drew attention to West Milwaukee in a way that was not possible before its construction, making West Milwaukee and Miller Park Way a reference point which ultimately assisted in attracting developers and businesses to the area.
32. The construction of Miller Park created access and a flow of traffic that made development more attractive through the opening of Miller Park Way and the infrastructure that was part of the Miller Park project

#### The Menomonee Valley

33. The Menomonee Valley is one of the City of Milwaukee's great success stories—a national model for how to reclaim dirty, old industrial land and plant the seeds for a new economy. The City of

Milwaukee has taken the engine of the "machine shop" world and converted it into a model of economic development and environmental sustainability.

34. The Menomonee Valley has intrinsic advantages besides the millions of dollars of investment capital that have gone into both its east and the west ends: It is anchored by the Harley Davidson Museum on the east, Potawatomi Bingo Casino in the center, and Miller Park on the west.
35. Menomonee Valley is located off two major interstate highways and is ideally situated for commerce. Canal Street has opened up and given access to the Valley.
36. The credit goes to the Mayor of the City of Milwaukee and the Department of City Development for holding steadfast on making sure that the zoning for this area never became other than what it was intended to be, that is, industrial.
37. Menomonee Valley is a shining example of a land use plan that worked where brownfields were reinvigorated, land development produced real estate taxes, construction created family-supporting jobs, and where the environment came first.
38. While its missive was industrial regeneration, forty-five acres of native plants, seven miles of trails, a nationally recognized shared storm water treatment system, and over ten million people visiting the Valley's recreation and entertainment destinations, made this development the best of the best.
39. While the recession has dramatically hurt the development of real estate, the Menomonee Valley has remained a "hot spot" for development even through these difficult times.
40. The City of Milwaukee is an extraordinarily receptive community in that the industrial revitalization of the Menomonee Valley is so directly related to the millions of dollars spent on public improvements, cleaning polluted brownfields, site preparation, creation of seven tax incremental financing districts, and creating public-private partnerships.
41. It takes partners to develop real estate. Credit must be given to the State of Wisconsin and its agencies for its role in improving the Menomonee Valley through substantial infrastructure investment, including Canal Street, 6th Street bridges, the Hank Aaron State Trail, Miller Park improvements, and brownfield programs. Once again, all the credit must go to the State of Wisconsin, the City of Milwaukee, its Mayor, its Department of City Development, the Redevelopment Authority, and, of course, the Menomonee Valley Partners, Inc.
42. Since the opening of Miller Park, the west end of the Menomonee Valley has experienced a rapid growth in construction and development, resulting in increased assessed valuation as a result of said construction, the creation of new real estate taxes for the City of Milwaukee and, of course, the creation of industrial real estate development also creates new jobs.

#### The Milwaukee Brewers:

43. When Mark Attanasio took over ownership control of the Milwaukee Brewers, he had two primary missions: 1) to create a quality and competitive team, and 2) to enhance the already outstanding fan experience at Miller Park. In a short period of time, he has more than accomplished both of these missions.
44. The Attanasio group has invested team profits into the improvement and enhancement of Miller Park.
45. The District has leased a large parcel of land to the Brewers encompassing approximately 186 acres that fulfills its primary use: the exhibition of baseball games for a Major League Baseball franchise. Some of the land so demised does have the possibility for future development potential.

46. Real estate development has not been a priority to date for the Attanasio ownership. Certainly, the recessionary economy, which has had a chilling effect on real estate development, could have delayed any planning process.
47. Parking, tailgating, and ease of ingress and egress are crucial to the Brewers' stadium experience.
48. A prognostication: At some point in time, the Brewers' leased property will experience what the Green Bay Packers have undertaken through the development of the Titledown District. Be assured that a lot of planning and thought will go in to any development, with its primary goal being to further enhance the Brewers' stadium experience.
49. There is a trend emerging among professional team owners and government units who did not develop their sports facilities as a sports community, i.e., a sports.comm. The trend involves sports owners, as well as government units, either acquiring, leasing, or developing land that is already owned adjacent to or surrounding the stadium facility subsequent to stadium construction. I have denominated this phenomenon as a "staged sports.comm."
50. The Titledown District of the Green Bay Packers and the developed property adjoining the New Orleans Superdome are good examples of team-developed real estate, while the Bricktown District of Oklahoma City and the Platinum Triangle of Anaheim, California, are good examples of governmental unit development.
51. A further discussion of staged sports.comm, of which I believe the Brewers' property will eventually become, is more fully discussed in **Exhibit # 12**.<sup>392</sup>

#### Final Thoughts:

Miller Park was constructed in the dead center of Milwaukee County, bounded by the Village of West Milwaukee to the south, and Milwaukee industrial center, the Menomonee Valley, to the east. Much of the land in the Village and in the Valley prior to Miller Park's construction was contaminated and environmentally tainted, underutilized, created an eyesore, and was legally blighted according to the Wisconsin Statutes. The construction of Miller Park brought to the center of Milwaukee County a fan-shaped retractable roof on a state-of-the-art Calatrava Major League Baseball stadium, which created a new focus, a new identification, and a focal point for the area. Miller Park was one of the largest public improvement and public-private joint ventures in the history of the State of Wisconsin.

The surrounding areas, including the Village of West Milwaukee and the Menomonee Valley, were directly impacted and benefited from the investment by various governmental units in new infrastructure, transportation, access, and, of course, aesthetics. Miller Park Way in West Milwaukee and the west end of Canal Street in the Menomonee Valley have experienced a rebirth of a business and industrial corridor, a renaissance during this period. The creation of Miller Park and the rapid development since the construction of Miller Park of Miller Park Way and the west end of Canal Street in the Menomonee Valley is a further indication that intergovernmental cooperation can help drive real estate and economic development. The investment in Miller Park was a successful public-private partnership that shows that a financial bond between community groups, private development, and public assistance can recreate an area.

While it is recognized that Miller Park is not located in the core of downtown and its location has different geographical and demographic characteristics, the opening of Miller Park has created new life for abandoned areas. Even given its unique location, I believe that Miller Park has experienced the phenomenon of concentric circles in a non-downtown core setting. Miller Park has contributed to the recreation of a district by providing impetus to the rejuvenation of blighted areas. The numbers speak for

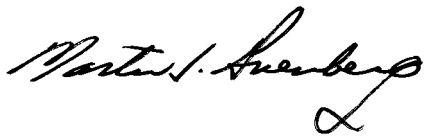
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392. See Greenberg & Hughes Jr., *supra* note 33, at 137–52. Reprinted with permission from Marquette University.

themselves: simply compare the baseline statistics pre-construction of Miller Park to the 2011 statistics relative to assessed valuation and real estate taxes.

This Report further fortifies the fact that real estate development has and is occurring in core areas near Major League Baseball facilities. Such phenomenon has now occurred outside the core of a downtown area. Construction of a sports facility as well as the public infrastructure that helps create the district in which it is surrounded creates auxiliary real estate development, whether happenstance or planned.

Respectfully submitted,

A handwritten signature in black ink, reading "Martin J. Greenberg". The signature is fluid and cursive, with a large, stylized "G" at the end.

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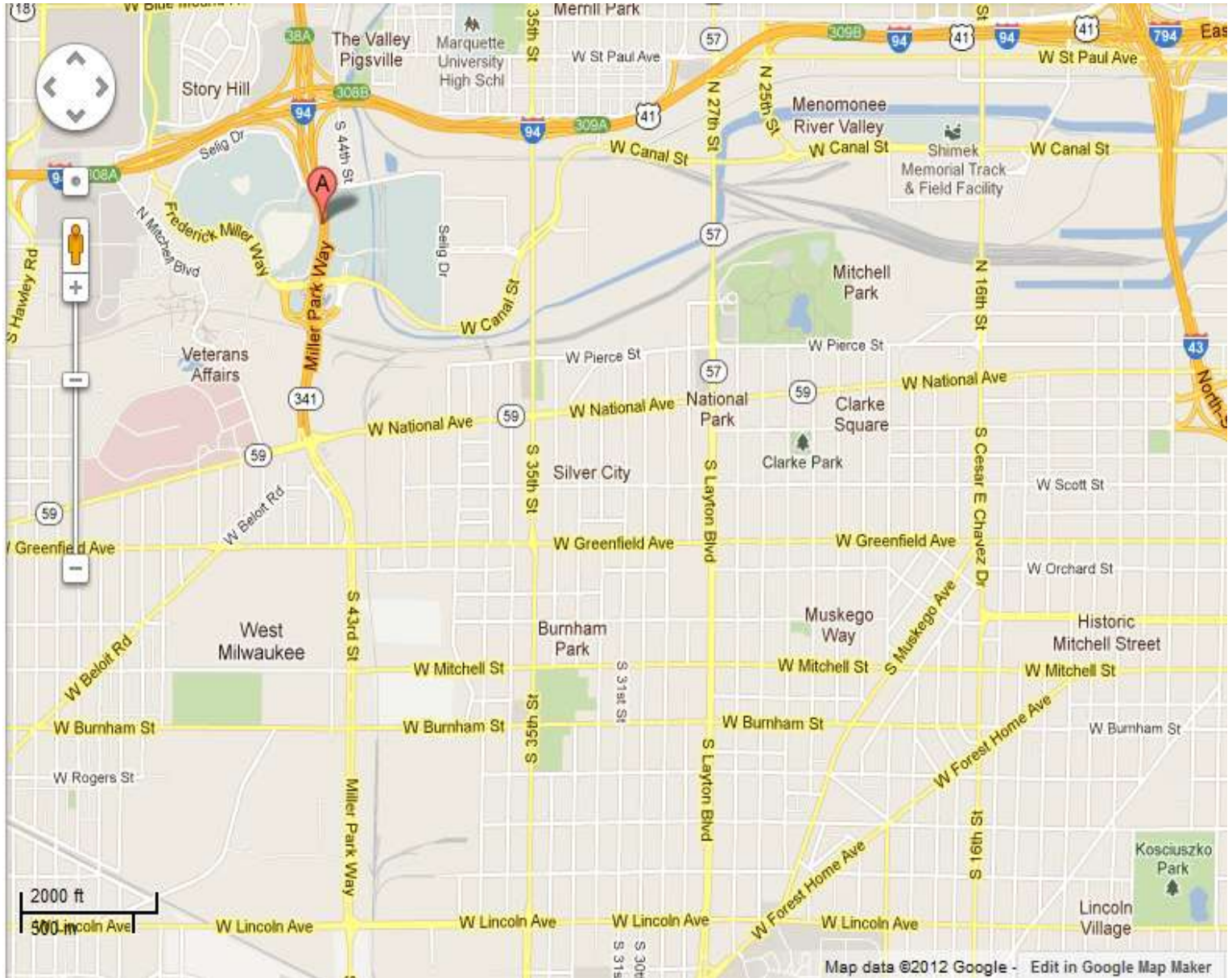
Martin J. Greenberg, Board Member  
Southeast Wisconsin Professional Baseball Park District

## EXHIBITS

EXHIBIT # 1 (© 2012 Google)

MAP SHOWING THE PROXIMITY OF MILLER PARK TO THE VILLAGE OF WEST MILWAUKEE  
AND THE MENOMONEE VALLEY<sup>393</sup>

On this map, Miller Park is designated by the red mark, “A.”



393. © 2012 Google.



EXHIBIT # 2  
MAP OF THE LAND SHOWING THE PROPERTY LEASED TO THE BREWERS FROM THE DISTRICT

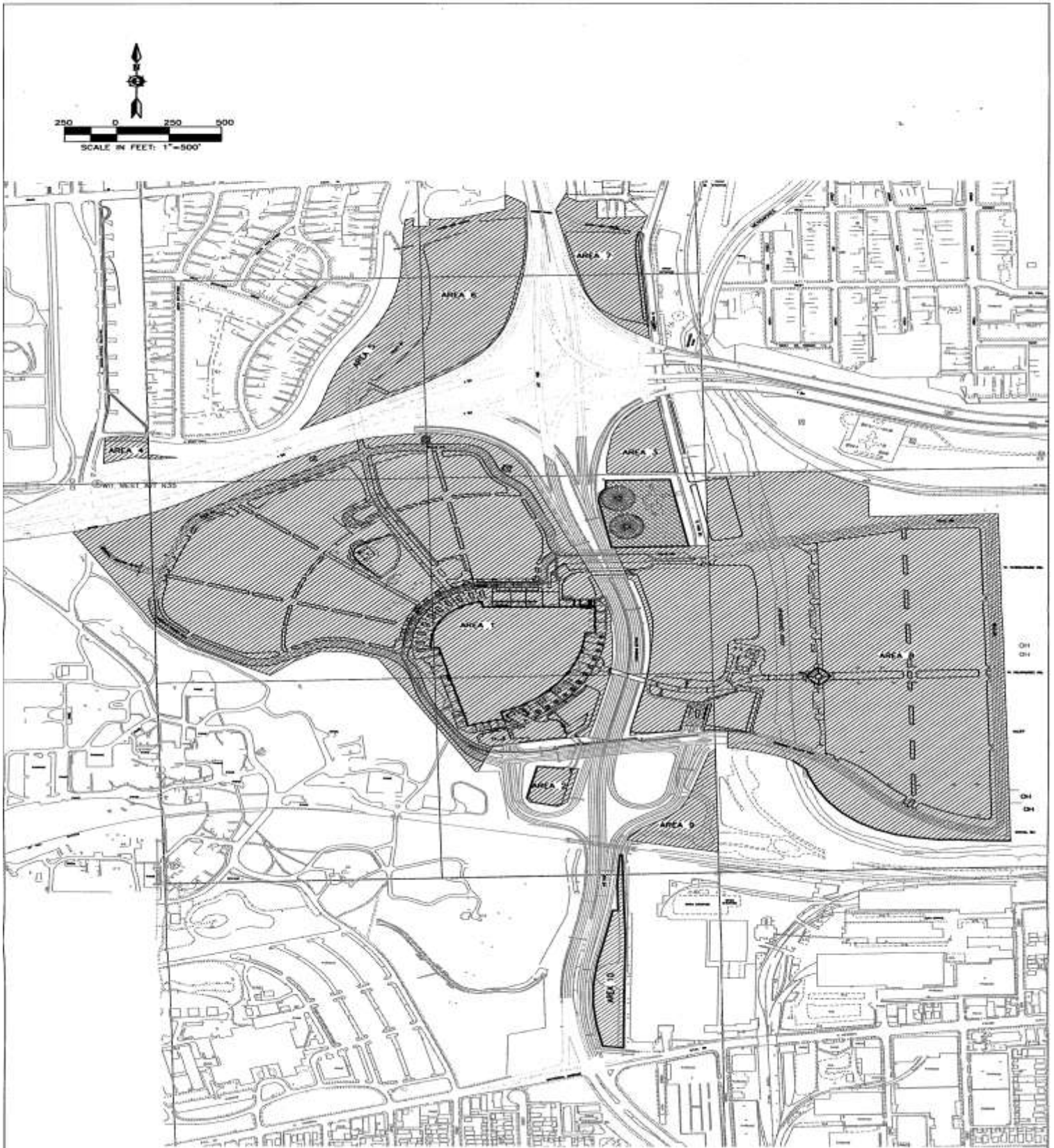


EXHIBIT # 3  
CONCENTRIC CIRCLES EXAMPLES<sup>394</sup>

A. *Camden Yards*

In the 1980s, Baltimore's downtown, located on a historic seaport, experienced a dramatic renaissance and revitalization. A new convention center, the National Aquarium, and the Maryland Science Center attracted tourists and Baltimore residents to the downtown Inner Harbor neighborhood, which resulted in property values increasing and further new development occurring.<sup>395</sup> The downtown Inner Harbor neighborhood has become an iconic Baltimore Landmark and today is the destination of not only the afore-referenced centerpieces of development, but also the American Visionary Art Museum, Baltimore Museum of Industry, Geppi's Entertainment Museum, Port Discovery Children's Museum, and First Mariner Arena, to name a few.<sup>396</sup> More recently, the Inner Harbor neighborhood has seen the development of the Legg Mason Tower, Ritz Carlton residences, and Harbor View Pier homes.<sup>397</sup>

As a result, perhaps no city has garnered more attention and acclamation for its downtown revitalization and rehabilitation efforts than Baltimore, Maryland. "Baltimore 'is the town cities unabashedly seek to copy to revive their own decaying downtowns.'"<sup>398</sup> The culmination and accumulation of these projects have helped to create a "tourist bubble" in which a well-defined perimeter separates the tourist space from the rest of the city.<sup>399</sup>

However, not all of downtown benefited from the Inner Harbor neighborhood revitalization. Much of the west side of downtown remained destitute, empty, and unsafe. Just fifteen years ago, Camden Yards was home to a warehouse district filled with a dilapidated rail yard, vacant buildings, and a few businesses.<sup>400</sup> The twin stadiums within the sports district, Camden Yards, home of the Baltimore Orioles, and M&T Bank Stadium, home of the Baltimore Ravens (formerly known as PSINet Stadium and then as Ravens Stadium), were conceived to address three primary goals: (1) to keep the Baltimore Orioles in Baltimore, Maryland; (2) to attract an NFL franchise to the city; and (3) to bring the Inner Harbor success further west to the Camden Yards area, which was considered the edge of town.<sup>401</sup>

Construction began for the baseball stadium in 1989 and finished in 1992. Construction began for the football stadium in 1996 and was completed in 1998.<sup>402</sup> The stadiums encompass approximately 115

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394. See Greenberg & Hughes, Jr., *supra* note 43.

395. *Community Development: Compatibility of Waste-to-Energy Projects*, WHEELABRATOR TECHS. INC., <http://wheelabratortechnologies.com/?LinkServID=F38DDE7B-5056-905C-36BC49EE0820D9F7&showMeta=0> (last visited Oct. 20, 2011).

396. *Baltimore's Inner Harbor: Shore Things*, ICW FACILITIES GUIDE, <http://www.icwfacilitiesguide.com/ME2/dirmod.asp?sid=C872B1F7A9AD47719F6661AFF137D958&nm=ICW+Side+Trips&type=Publishing&mod=Publications%3A%3AArticle&mid=B6194D771919466D93892A36D69B131F&tier=4&id=9C16E4322E56456E99D944CF6B3072CC> (last visited Oct. 20, 2011).

397. Edward Grunts, *Redrawing Downtown: Shift Adds Vibrancy Along Harbor, Vacancy in City Core*, BALT. SUN, July 7, 2009, at 1A.

398. *Sports Facilities as Urban Redevelopment Catalysts*, *supra* note 42, at 197 (quoting Neal Peirce, *Is Baltimore Unique?*, BALT. MAG. 69 (Oct. 2000)).

399. Nick Bailey, *The Challenge and Response to Global Tourism in the Post-Modern Era: The Commodification, Reconfiguration and Mutual Transformation of Habana Vieja, Cuba*, 45 URB. STUDIES J. 1079, 1080 (2008), available at [http://graduateinstitute.ch/webdav/site/developpement/shared/developpement/mdev/soutienauxcours0809/milbert\\_villes/Bailey%20Nick\\_08.pdf](http://graduateinstitute.ch/webdav/site/developpement/shared/developpement/mdev/soutienauxcours0809/milbert_villes/Bailey%20Nick_08.pdf).

400. *Sports Facilities as Urban Redevelopment Catalysts*, *supra* note 42, at 197.

401. *Id.*

402. *Id.* at 196.



acres and were 95% publicly funded through a sports-themed state lottery game.<sup>403</sup> Initially, the neighborhood surrounding Camden Yards saw little economic development resulting from Camden Yards construction. In an interview, Laurie Feinberg, the Division Chief of the City of Baltimore Planning Department, indicated that with the exception of the renovation of the B&O Warehouse and the Camden Train Station, which now house offices, gift shops and restaurants, the area surrounding Camden Yards “saw no changes.”<sup>404</sup>

However, by 2005, approximately thirteen years after the Baltimore Orioles Stadium opened its doors, some local development had occurred.<sup>405</sup> The Bromo Seltzer Arts Tower, a 100-year-old building, was transformed to house visual and literary artists.<sup>406</sup> The historic structure, completed in 1911, was at that time the tallest building in Baltimore and was modeled after Palazzo Vecchio in Florence, Italy.<sup>407</sup> It is now listed on the National Register of Historic Places.<sup>408</sup> The Sports Legends Museum at Camden Yards opened in 2005 and is housed in the former Camden Station.<sup>409</sup> The 22,000-square-foot museum is adjacent to the main gate of Oriole Park at Camden Yards and features exhibits profiling Maryland sports history.<sup>410</sup>

The area has also seen a surge in residential and hotel development. Ground was broken in October of 2005 for the Zenith Apartments, a 21-story building including 191 apartments and 6000 square feet of retail space at the corner of West Pratt and South Paca Streets.<sup>411</sup> Rombro Lofts, located at 22 Howard Street, contains seventeen loft condo units in a historic six-story warehouse building.<sup>412</sup> During this period, the Camden Yards area also witnessed the development of Camden Court Apartments.<sup>413</sup> The 757-room Hilton Baltimore, opened in 2008, was built on two vacant blocks that are north of Oriole Park at Camden Yards and west of the Baltimore Convention Center.<sup>414</sup> In addition, hotels in close proximity to the Ballpark at Camden Yards have been recently renovated, including the Baltimore Marriott Inn Harbor at Camden Yards renovated in 2007, Sheraton Inner Harbor Hotel renovated in 2007, Radisson Plaza Lord Baltimore renovated in 2008, and the Hyatt Regency Baltimore renovated in 2009, to name a few.<sup>415</sup>

In assessing Camden Yards in the context of concentric circles, it has “experienced some success as an urban redevelopment catalyst.”<sup>416</sup> Baltimore already had an entertainment district, the Inner Harbor, which flourished as a catalyst for redevelopment long before the two stadiums were built. “Camden Yards did not create the success that is Inner Harbor; it simply incorporated roughly 20 formerly

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403. *Id.*

404. Interview by Robert Wagener with Laurie Feinberg, Division Chief of the City of Baltimore Planning Department (Feb. 14, 2011).

405. *Id.*

406. *Id.*

407. *Bromo Seltzer Tower Marks Centennial*, CBS BALT. (June 2, 2011), <http://baltimore.cbslocal.com/2011/06/02/bromo-seltzer-tower/>.

408. *Emerson Bromo-Seltzer Tower*, NAT’L PARK SERV., <http://www.nps.gov/nr/travel/baltimore/b17.htm> (last visited Oct. 20, 2011).

409. *History of the Sports Legends Museum and Camden Station*, BABE RUTH BIRTHPLACE AND SPORTS LEGENDS MUSEUMS, <http://www.baberruthmuseum.com/history/slmacy/> (last visited Oct. 20, 2011).

410. *Id.*

411. Heather Harlan, *The Shovels Finally Show Up for \$46M Zenith*, BALT. BUS. J. (Oct. 6, 2005), <http://www.bizjournals.com/baltimore/stories/2005/10/03/daily34.html>.

412. Edward Gunts, *Rombro Building to be Converted Into Condos*, BALT. SUN, Aug. 8, 2005, at 1C.

413. *Westside Initiative*, BALT. DEV. CORP., <http://www.baltimoredevelopment.com/westside-initiative> (last updated July 6, 2010).

414. J.J. McCoy, *Baltimore’s Best*, WASH. POST, Aug. 20, 1998, at T4.

415. MARY K. TILGHMAN & ELIZABETH A. EVITTS, *INSIDERS’ GUIDE TO BALTIMORE* 82–88 (2008).

416. *Sports Facilities as Urban Redevelopment Catalysts*, *supra* note 42, at 201.

industrial blocks into the postmodern tourist economy.”<sup>417</sup>

While the public investment created two stadiums, maintained the team in town, and gave new life to the warehouse at Camden Station, the Camden yards sports complex did not in and of itself spark a drastic transformation of the western edge of downtown.<sup>418</sup> It was successful at expanding the tourist bubble to the west, but little development carried over into the neighboring areas that were in desperate need of economic stimulus.<sup>419</sup> Therefore, the economic impact of Camden Yards may be only an extension of the Inner Harbor, and Baltimore may have only enough entertainment demand to sustain one entertainment district.<sup>420</sup>

There are also demographic features about the location of the two Camden Yards stadiums that could have prevented a surge in real estate and economic development. The stadiums are located in two historic neighborhoods in west downtown that did not need or desire new development.<sup>421</sup> To the south of the stadiums is the elevated freeway, I-95, which offers easy access to the stadiums, but further separates the stadiums from the remainder of the city. Finally, the immediate vicinity of Camden Yards is filled mostly by surface parking to fill the need to sustain the entertainment nature of the two stadiums.<sup>422</sup> It should be noted that a 1997 Request for Proposal from the Maryland Stadium Authority and the City of Baltimore for an entertainment-oriented project to be sited on the parking lots between the two entertainment venues was opposed by the Baltimore Orioles.<sup>423</sup>

The Inner Harbor and West Downtown neighborhoods continue to excite the imagination. The Baltimore Grand Prix, part of the Izod Indy Car Series, debuted along a 2-mile downtown track in September 2011, drew more than 75,000 people during its inaugural weekend, and is expected to generate \$11 million in direct city tax revenue.<sup>424</sup> Baltimore Racing Development, the promoter of the Baltimore Grand Prix, signed a five-year lease at the B&O Warehouse.<sup>425</sup> In addition there are preliminary plans to expand the Baltimore Convention Center and build a new arena next to it. The cost would range between \$750 million and \$930 million and would take 6.5 to 7 years to build, i.e. one of the most expensive construction projects ever undertaken in the city of Baltimore.<sup>426</sup> The cost estimate includes a 4-level, 400,000-square-foot convention center expansion, an 18,500-seat arena with a 2-level, 500-space garage beneath it, and a 500-room Sheraton Hotel rising 23 to 25 stories.<sup>427</sup>

### B. *Jacobs Field*

The second example of concentric circles occurred in Cleveland, Ohio, with the creation of Jacobs Field (now Progressive Field), home of the Cleveland Indians, and Gund Arena (now Quicken Loans Arena), home of the Cleveland Cavaliers. The ballpark and arena were the first sport facilities in the

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417. *Id.*

418. *Id.* at 199.

419. *Id.* at 201.

420. *Id.* at 199.

421. *Id.* at 201.

422. *Id.* at 199.

423. *Id.* at 201.

424. Mike Tanier, *Amid a Large City, a Noisy Racing Village*, N.Y. TIMES, Sept. 4, 2011, at 4.

425. Ryan Sharrow, *Baltimore Racing Development Inks Lease in B&O Warehouse*, BALT. BUS. J. (Aug. 3, 2010), <http://www.bizjournals.com/baltimore/stories/2010/08/02/daily19.html>.

426. Edward Gunts, *Details of Arena Project Emerge, Combined Sports Facility and Convention Center Could Cost Nearly \$1 Billion*, BALT. SUN, Dec. 17, 2010, at 1A.

427. *Id.*

United States to be constructed simultaneously at the same general location, i.e. the Gateway District.<sup>428</sup>

The Gateway District was originally a produce and meat market known as the Central Market area from 1857 until the 1970s.<sup>429</sup> The area was dubbed the Gateway District because it was constructed just north of a confluence of interstates that provides major entrances (or gateways) into downtown Cleveland.<sup>430</sup> The Gateway area had begun to decline after World War II, and by the 1980s, many buildings were either dilapidated or torn down to make way for surface parking lots.<sup>431</sup> The Gateway District was meant to fill the gap between the city's successful theater district, Playhouse Square, and the Tower City shopping and office complex.<sup>432</sup> Jacobs Field was part of a \$467 million initiative that also included a basketball arena, office buildings, and improved district connections to a nearby train station and other activity centers.<sup>433</sup> The two sport complexes are connected to the Tower City Center and the RTA Rapid Transit System via an underground walkway.<sup>434</sup>

Construction began in 1991, finished in 1994, and involved approximately twenty-eight acres.<sup>435</sup> Seventy-five percent of the total cost was borne through public funding, which was a tax on cigarettes and liquor.<sup>436</sup> The push for redevelopment of Gateway came from Cleveland Tomorrow, a downtown development group.<sup>437</sup> Additionally a development corporation was formed, the Historic Gateway Neighborhood (originally the Gateway Economic Development Corporation), with the goal of promoting redevelopment in the Gateway District.<sup>438</sup>

The change caused by the development of the Gateway complex was drastic:

Formerly vacant buildings have been renovated as market-rate housing, bringing upper-middle-class residents to this portion of the city for the first time in decades. A total of seven residential projects, with a combined total of over 800 units, have been opened in the district since 1994, with almost an equal number of units currently in the planning stages. Included in these renovations are a number of historic and architecturally significant structures (including the old Statler Hotel and the Osborn Building). Buildings have been reused for retail spaces as well. New restaurants have been carved out of other formerly vacant properties.<sup>439</sup>

Additionally, several large new hotels have found homes in the Gateway district in historic, underutilized buildings.<sup>440</sup> New upscale hotels built in Cleveland's historic shopping arcades have helped catalyze redevelopment.<sup>441</sup> A hotel has been utilized to renovate an old warehouse adjacent to the

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428. *Quicken Loans Arena*, NBA BASKETBALL ARENAS, <http://www.nbabasketballarenas.com/Quicken-Loans-Arena.htm> (last visited Oct. 20, 2011).

429. BAY AREA ECONOMICS, NEIGHBORHOOD ECONOMIC IMPACTS OF THE PROPOSED SAN JOSE STADIUM, SAN JOSE REDEVELOPMENT AGENCY 8, Nov. 2006, *available at* <http://www.sjredevelopment.org/ballpark/SJStadiumReportfinal.pdf>.

430. *Sports Facilities as Urban Redevelopment Catalysts*, *supra* note 42, at 202.

431. *Id.*

432. *Id.*

433. BAY AREA ECONOMICS, *supra* note 429, at 8.

434. *Quicken Loans Arena*, BALLPARKS BY MUNSEY AND SUPPES, <http://basketball.ballparks.com/NBA/ClevelandCavaliers/index.htm> (last visited Oct. 20, 2011).

435. *Sports Facilities as Urban Redevelopment Catalysts*, *supra* note 42, at 196.

436. *Id.*

437. *Id.* at 202.

438. *Id.*

439. *Id.* at 203–04.

440. *Id.* at 204.

441. *Id.*

Gateway District and the historic National City Bank Building.<sup>442</sup> Moreover, the Colonial Marketplace project includes not only a hotel but also a retail and office space across seven buildings.<sup>443</sup>

Though the Gateway District is aging, new businesses continue to be developed. Recent developments include a casino proposed by Dan Gilbert, owner of the Cleveland Cavaliers.<sup>444</sup> Another is a new arcade located underneath the Hyatt Hotel downtown.<sup>445</sup> Additionally, the Med Mart Convention Center is being constructed nearby on the corner of St. Clair Avenue and Ontario Street.<sup>446</sup> Most of the other recent developments are restaurants and bars, including a House of Blues, Lola's, LaStrada, Wonder Bar, and Greenhouse Tavern.<sup>447</sup>

In 1997, the assessed value of the total downtown property of Cleveland dropped 1.7% from 1996.<sup>448</sup> However, the assessed value of properties within the three-block radius surrounding Progressive Field actually increased.<sup>449</sup> For example, twelve of the hotels in the area increased in value, one remained stagnant, and only one lost value.<sup>450</sup> Additionally, of the eight entertainment properties that existed in 1997, none of the properties lost value from the previous year, and in fact, increased an average of 68%.<sup>451</sup> Finally, the residential properties showed an increase as well. Although smaller—at 3.5%—the increase further showed the viability of the area.<sup>452</sup>

After 1997, there was a rise in assessed property value throughout downtown Cleveland.<sup>453</sup> The assessed values rose 2.3%, 3.2%, and 38.8% respectively. However, there was an even greater increase in the three-block radius surrounding Progressive Field.<sup>454</sup> In fact, the hotel properties increased an average of 206% between 1998 and 2000, and only one of the hotels decreased in assessed value, and even then it lost only 7%.<sup>455</sup> On the other hand, the entertainment properties increased an average of 413% and the residential properties averaged a 45% increase during such period.<sup>456</sup>

Conversely, the city of Cleveland faced dramatic decreases in assessed value in 2000 through 2003.<sup>457</sup> The downtown properties showed a 19.7% drop in assessed value in 2001; however, the properties around Progressive Field continued to increase.<sup>458</sup> For example, commercial business properties increased 20%, residential properties increased 55%, and hotel properties increased 91%.<sup>459</sup> The entertainment properties were the only properties to see a decrease, but this was slight at two

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442. *Id.*

443. *Id.*

444. Interview by Robert Wagener with Thomas Starinsky, Associate Director of the Historic Gateway Neighborhood Corporation (Feb. 11, 2011).

445. *Id.*

446. *Id.*

447. *Id.*

448. Interview by Doug Fuglsang with Jim Hopkins, Cleveland Assessor's Office (June 10, 2010).

449. *Id.*

450. *Id.*

451. *Id.*

452. *Id.*

453. *Id.*

454. *Id.*

455. *Id.*

456. *Id.*

457. *Id.*

458. *Id.*

459. *Id.*

percent.<sup>460</sup> However, from 2003 through 2007, the assessed value for the commercial businesses, residential properties, entertainment properties, and hotel properties all increased.<sup>461</sup> Even during the recession, Progressive Field positively impacted the area.<sup>462</sup> Although the hotel and residential properties decreased slightly, in the three-block radius surrounding the stadium, the commercial business properties increased 8.5% and the entertainment properties increased 2%.<sup>463</sup> Robert Brown, Director of the City Planning Commission of Cleveland praised the development:

A key factor in the success of Cleveland's sports facilities in helping to revive downtown is the fact that both the stadium and arena are located in heart of downtown and are not segregated in some sports island on the periphery of downtown. This location in the core of downtown, right on the downtown street grid, has helped to maximize the spin-off traffic to nearby businesses.<sup>464</sup>

Therefore, by strategically planning the development of the Gateway District, the City of Cleveland has transformed a formerly dilapidated district into a lucrative regional tourist destination and economic engine for the city.

### C. Coors Field

Coors Field, home of the Colorado Rockies, completes the trilogy of baseball stadiums that have been characteristic of the concept of concentric circles. Ground for the baseball stadium was broken in 1992 and opened on April 26, 1995.<sup>465</sup> The 50,445-seat, \$215 million stadium was located at the northern edge of the Denver central business district, commonly referred to as Denver's Lower Downtown (LoDo), a 25-square block section of downtown Denver that was designated a historic district in 1988.<sup>466</sup> However, prior to the construction of Coors Field, LoDo was described as a "double-ugly" strip of dilapidated 1930 warehouses and industrial buildings.<sup>467</sup> LoDo was considered one of the most blighted areas in the Denver downtown area.<sup>468</sup> At the time of planning the sports facility, many politicians and planners were worried that suburbanites would not venture into this part of downtown Denver.<sup>469</sup> Not only have the Rockies set attendance records, but the Cincinnati Post described the area as a "sparkling symbol of urban hipness."<sup>470</sup>

The Coors Field project was funded by a \$162 million six-county Denver Metropolitan Area ballot initiative.<sup>471</sup> In addition, money was spent to insure access and pedestrian connections to the area. "The announcement in 1991 that Coors Field would be located in LoDo gave the neighborhood another boost. Sales tax revenue in LoDo increased by 22 percent a year from 1990 to 1995, and the number of

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460. *Id.*

461. *Id.*

462. *Id.*

463. *Id.*

464. Interview by Robert Wagener with Robert Brown, Director of the City Planning Commission of Cleveland (Feb. 8, 2011).

465. *Coors Field*, BALLPARKSOFBASEBALL.COM, <http://www.ballparksofbaseball.com/nl/CoorsField.htm> (last visited Oct. 20, 2011).

466. *Id.*

467. Parke M. Chapman, *Arena-Led Urban Revivals*, NATIONAL REAL ESTATE INVESTORS (Nov. 1, 2006), [http://nreionline.com/property/mixed\\_use/real\\_estate\\_arenaled\\_urban\\_revivals/](http://nreionline.com/property/mixed_use/real_estate_arenaled_urban_revivals/).

468. *Id.*

469. *Id.*

470. BAY AREA ECONOMICS, *supra* note 429, at 10.

471. *Id.*

restaurants increased 140 percent between 1993 and 1996.”<sup>472</sup>

“However, the pace of change increased dramatically after the stadium opened” in 1995 as evidenced by the increase in LoDo residential units from 270 in 1994 to 1374 by 2000.<sup>473</sup> Similarly, “[h]otel occupancy rates rose from 66 percent in 1994 to 70 percent each subsequent year” despite the fact that room rates rose continuously.<sup>474</sup> Moreover, “the total number of rooms in downtown grew 25 percent from 1995 to 2000.”<sup>475</sup> Sales tax revenue also increased; “[i]n 1995, sales tax collections rose by 86 percent to \$4.7 million. . . . Even in the off season, few stores have closed, with new development continuing year round. While Coors Field cannot take all the credit for these recent neighborhood improvements, it does appear that the stadium has been an integral part of LoDo’s turnaround.”<sup>476</sup>

#### D. Staples Center

Concentric circles works with any sports facility, not just a baseball stadium. In fact, the Staples Center has revitalized a downtown area in Los Angeles. In the early 1990s, the area surrounding the Staples Center was filled with gangs, drugs and dilapidated buildings.<sup>477</sup> The Staples Center was opened on October 17, 1999 by the L.A. Arena Company and Anschutz Entertainment Group.<sup>478</sup> The ten-acre facility cost approximately \$375 million and was largely privately financed.<sup>479</sup> The facility is a multi-purpose sports arena that is located adjacent to the Los Angeles Convention Center. Beyond hosting two NBA teams, an NHL team, and a WNBA franchise, the Staples Center is host to approximately 250 events and nearly four million visitors a year.<sup>480</sup>

[The] Staples Center continues to distinguish itself as the host of major, high-profile events of national and international distinction, including the 2004 and 2011 NBA All-Star Game, the 2002 NHL All-Star Game, the 2000 Democratic National Convention, eleven Grammy Award shows as well as the annual X-Game competitions and PAC-10 basketball championship tournaments.<sup>481</sup>

While the Staples Center provides a shining example on how a sports facility can create momentum for urban development, L.A. Live has helped make this area of Los Angeles one of the foremost destination places for sports and entertainment. Adjacent to the Staples Center, L.A. Live is the premier entertainment complex in downtown Los Angeles. At a cost of approximately \$2.5 billion, L.A. Live was developed by Anschutz Entertainment Group, Wachovia Group, and McFarland Partners.<sup>482</sup> Its 27-acre site features 5.6 million square feet of apartments, ballrooms, bars, concerts, theaters, restaurants, movie theaters, and a 54-story hotel and condominium tower.<sup>483</sup>

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472. *Id.* at 10–11.

473. *Id.* at 11.

474. *Id.*

475. *Id.*

476. *Id.*

477. Don Muret, *Staples Becomes a Beacon for Urban Renewal*, SPORTS BUS. DAILY (Aug. 3, 2009), <http://www.sportsbusinessdaily.com/Journal/Issues/2009/08/20090803/SBJ-In-Depth/Staples-Becomes-A-Beacon-For-Urban-Renewal.aspx>.

478. *Staples Center*, BALLPARKS BY MUNSEY AND SUPPES, <http://basketball.ballparks.com/NBA/LosAngelesLakers/newindex.htm> (last visited Oct. 20, 2011).

479. *Id.*

480. *Staples Center*, AEG, <http://aegworldwide.com/facilities/arenas/staplescenter> (last visited Oct. 20, 2011).

481. *About Staples Center*, STAPLES CENTER, <http://www.staplescenter.com/doublecol.php?section=about&page=aboutstaplescenter> (last visited Oct. 20, 2011).

482. Roger Vincent, *Downtown Project to Get Really ‘Live,’* L.A. TIMES, June 1, 2007, at C1.

483. *Recreation*, L.A. LIVE, <http://www.lalivemarriott.com/LA-Live-Entertainment/Recreation-5.html> (last visited Oct. 20, 2011);

Construction of L.A. Live was conducted in three phases. The first phase opened on October 18, 2007, and included a 7,100-seat Nokia Theater, a concert and awards show venue, and Nokia Plaza, a 40,000-square-foot open space featuring six, seventy-five-foot towers with LED signage.<sup>484</sup> The second phase of L.A. Live began in 2008 and included ESPN studios, the Grammy Museum, Club Nokia (a 2,300 person club and live music venue), Lucky Strike bowling alley, the Conga Room, and thirteen eateries.<sup>485</sup> Phase three of L.A. Live included a fifty-four-story hybrid tower constructed above the parking lot directly north of Staples Center that houses the JW Marriott, Ritz-Carlton Hotel, and Ritz-Carlton Residences at L.A. Live.<sup>486</sup> Phase three also included the fourteen-screen, \$100 million Regal Entertainment Group movie complex.

Ten years after the grand opening of the Staples Center there has been \$5 billion worth of development in the four block radius of the arena, half of which was generated by L.A. Live.<sup>487</sup> Much of the economic growth can be attributed to a dramatic growth of the area's residential market. When construction of the Staples Center began, the district was home to 5,000 residents, but today the same area is home to almost 50,000 residents. Tim Leiweke, president and CEO of Anschutz Entertainment Group (AEG) explained the transformation:

Staples Center has not only been the catalyst for development, it's been the catalyst for making this a true, livable downtown community. . . . Ironically, in our industry, we always hear from the politicians and professors about how sports facilities ultimately don't create any economic rejuvenation. . . . The fact [that] there is \$5 billion worth of bricks and steel and glass proves that is not accurate.<sup>488</sup>

In October 2010, the L.A. Live complex was honored as one of five worldwide winners of the Urban Land Institute's Global Awards for Excellence competition honoring the world's finest achievements in land-use practices.<sup>489</sup>

Development of L.A. Live was also important for highlighting the necessity of ensuring that a multi-use stadium district development provide local benefits. Development of L.A. Live incorporated a Community Benefits Agreement (CBA), which were first utilized in California beginning in 1997.<sup>490</sup> A CBA is a contract usually entered into by community-based organizations, a private real estate developer, a public official, and local government agencies that defines specific benefits, amenities and mitigations, or only mitigations to the local community or neighborhood guaranteed by the developer as a result of the planned development.<sup>491</sup> In exchange for the promised benefits, the community groups who normally would oppose development subsidization agree to publicly support the project or at least not openly oppose it.<sup>492</sup> Normally, a development project involves the creation of a development agreement, which is basically an agreement between the government unit and the developer that provides for a completed development for some form of taxpayer subsidy. CBAs permit community groups to become active partners in the process at the forefront and to receive benefits and protect the community as a result of the

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*Frequently Asked Questions*, L.A. LIVE, <http://lalive.com/faq> (last visited Oct. 20, 2011).

484. L.A. Live, *Frequently Asked Questions*, *supra* note 483.

485. *Id.*

486. *Id.*

487. Muret, *supra* note 477.

488. *Id.*

489. *Anschutz's L.A. Live Complex Wins Global Urban Land Institute Honors*, BUS. JOURNALS (Oct. 19, 2010), <http://www.bizjournals.com/denver/news/2010/10/19/la-live.html>.

490. Naved Sheikh, *Community Benefits Agreements: Can Private Contracts Replace Public Responsibility?*, 18 CORNELL J. L. & PUB. POL'Y 223, 228 (2008).

491. *Id.* at 224.

492. *Id.*

agreed-upon development.

The most well-known and probably one of the most successful CBAs is that created in 2001 for the L.A. Sports and Entertainment District adjacent to Staples Center in Los Angeles, California, wherein the public subsidies were to approximate \$150 million. Some of the provisions contained in the Staples Center CBA include: \$1,000,000 for the creation or improvement of parks and recreational facilities; \$25,000 per year for a term of five years for the creation of a residential parking permit program; agreement to comply with the city's living wage ordinance and to make all reasonable efforts to reach the goal of ensuring that 70% of the jobs created by the project pay a living wage; priority hiring to persons displaced by the project and to low income individuals residing within three miles of the project; job training programs; a requirement that 20% of the residential units in the project be affordable; and an agreement to cooperate with the coalition to establish an advisory committee to assist with the implementation and enforcement of the agreement.<sup>493</sup> CBAs have recently been used in other sports developments including Yankee Stadium, Pittsburgh Penguin Arena, Atlantic Yards, the 2010 Vancouver Winter Olympics, and Ballpark Village in San Diego.

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493. LOS ANGELES SPORTS AND ENTERTAINMENT DISTRICT PROJECT COMMUNITY BENEFITS AGREEMENT, *available at* <http://www.saje.net/atf/cf/%7B493B2790-DD4E-4ED0-8F4E-C78E8F3A7561%7D/communitybenefits.pdf> (last visited Nov. 6, 2011).



**EXHIBIT # 4**  
**ADDITIONAL EXAMPLES OF REAL ESTATE DEVELOPMENT SURROUNDING BASEBALL STADIUMS**

<b>Ballpark – MLB Team</b>	<b>Year Opened</b>	<b>Development</b>
Target Field – Minnesota Twins	2010	Target Field has the Target Plaza to allow fans to spend time there before or after games. <sup>i</sup> The stadium opened during difficult economic times, but another venue—The Target Center—is also located in the Warehouse District. Over the past two years there have been more than \$70 million in building permits for improvement projects near Target Field. <sup>ii</sup> Target Field has “revitalized the downtown bar scene” and is now “potentially fueling tens of millions in additional real-estate development.” <sup>iii</sup> These developments include apartments, retail, condos, and office space. <sup>iv</sup>
Nationals Park – Washington Nationals	2008	The Capitol Riverfront, the “Front,” is a growing district within Washington DC “home to a mixed-use community.” <sup>v</sup> Two years after the stadium opened, only about 30% of the ultimate build-out took place due to economic difficulties, but there is more development to come, which is already planned, during the next twenty years. <sup>vi</sup> New residents have moved to the area, but retail is still slow. 6.5 million square feet of office space, 150,280 square feet of retail space, and 2427 residences have already been completed, with more still under construction and planned. <sup>vii</sup>
Citizens Bank Park – Philadelphia Phillies	2004	Philly Live/XFINITY Live is opening this spring and contains an outdoor theater, NBC Sports Arena, NBC Sports Field, dining options, and pubs and grills. <sup>viii</sup> The project is viewed as the ““fourth stadium experience”” to complement the Wells Fargo Center, Citizens Bank Park, and Lincoln Financial Field. <sup>ix</sup>
PETCO Park – San Diego Padres	2004	The East Village area has grown drastically. <sup>x</sup> More than \$1 billion worth of development has taken place around the area of PETCO Park and the downtown area where the park is located is assessed at \$13 billion. <sup>xi</sup> Development has provided 7000 parking spaces, 1,056,900 square feet of retail space, hotels, 2429 residential units, parks, retail, entertainment, and office developments. <sup>xii</sup> The area may even be expanding to have an “Upper East Village” consisting of three million square feet and worth one billion dollars. <sup>xiii</sup>
Great American Ball Park – Cincinnati Reds	2003	The Banks is an 18-acre mixed-use development (currently under construction) that contains residential areas, retail, restaurants, offices, and hotels. <sup>xiv</sup> It is located between Great American Ball Park and Paul Brown Stadium. <sup>xv</sup>
PNC Park – Pittsburgh Pirates	2001	North Shore has new greenways, a Great Lawn that holds outdoor events, interactive Water Steps, and a Trail that connects offices, restaurants, residences, and more. <sup>xvi</sup> Furthermore, additional developments planned—restaurants, bars, office buildings, hotels, and parking garages—in the North Shore area. <sup>xvii</sup>
Minute Maid Park – Houston Astros	2000	The Downtown District in Houston provides a list containing the details of construction projects that have taken place in downtown Houston since 1995 by year. <sup>xviii</sup> Since Minute Maid Park was built in 2000, such development has included hotels, churches, apartments, hotels, parking garages, park squares, Houston Pavilions (shopping, restaurants, bowling alley-Lucky Strike), library, promenade, and much more. <sup>xix</sup>
AT&T Park (Pacific Bell Park) – San Francisco Giants	2000	The “Mission Bay neighborhood has begun a dramatic urban transformation.” <sup>xx</sup> The development in the area will ultimately bring 6000 apartments and condominiums, 6 million square feet of office space, 40 acres of parks, and a hospital. <sup>xxi</sup> Mission Bay’s website shows residential, office, and retail space that is planned and under construction and the development that is already finished, complete with maps as to where all of the development is located. <sup>xxii</sup>
Chase Field (Bank One Ballpark) – Arizona Diamondbacks	1998	Chase Field is located in the “Warehouse District” of Downtown Phoenix. <sup>xxiii</sup> There are over thirteen places to eat near the field, and most are within walking distance. <sup>xxiv</sup>
Angel Stadium of Anaheim – Los Angeles Angels	Renovated 1998	The “Platinum Triangle” is an area in Anaheim (Angel Stadium is located inside of it), bordered by the I-5 freeway and the Santa Ana River. <sup>xxv</sup> This development will include mixed-use space, condos, lofts, townhomes, and office space. <sup>xxvi</sup> “The plan envisions a new downtown OC, where train-commuters and residents could walk to offices and shops, and sports fans, concert-goers, and theme park guests could celebrate in nearby entertainment venues.” <sup>xxvii</sup>
Safeco Field – Seattle Mariners	1999	There is a new plan for the Stadium District to further develop the area within a fifteen minute walk of the stadiums within SoDo (where Safeco Field is located), Chinatown, and International Square. <sup>xxviii</sup>
Wrigley Field – Chicago Cubs	1914	Wrigley Field has created the area of Chicago known as “Wrigleyville,” which now contains over three dozen bars and several restaurants. <sup>xxix</sup> About forty-four restaurants and fifty-five bars are within four blocks of the stadium. <sup>xxx</sup> There is not a lot of shopping, except for shops selling Cubs paraphernalia, but there are also cafes in the area with live music. <sup>xxxi</sup> There are even new projects in development for the area to include a police station, boutique hotel, and mixed-space for hotels, apartments, and retail space. <sup>xxxii</sup>

- i. David St. Peter, *More Target Plaza Details*, MLBLOGS NETWORK (Feb. 23, 2009), <http://twinsballpark.mlblogs.com/2009/02/23/more-target-plaza-details/>.
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- iv. *Id.*
- v. *Development Overview*, CAPITOL RIVERFRONT, <http://www.capitolriverfront.org/development> (last visited Feb. 17, 2012).
- vi. Liz Farmer, *Development Slow in Nationals Park Neighborhood*, THE EXAMINER (Dec. 15, 2010), <http://washingtonexaminer.com/local/dc/2010/12/development-slow-nationals-park-neighborhood/108347>.
- vii. *Id.*
- viii. Michael Klein, *Philly Live!? No, Xfinity Live!*, PHILLY.COM (Dec. 15, 2011), <http://www.philly.com/philly/blogs/the-insider/Philly-Live.html>.
- ix. *Id.*
- x. Katie Orr, *Has PETCO Park Been a Good Investment?*, KBPS SAN DIEGO (Jan. 26, 2010), <http://www.kpbs.org/news/2010/jan/26/has-petco-park-been-good-investment/>.
- xi. *Id.*
- xii. *East Village*, DOWNTOWN SAN DIEGO, <http://www.sandiegodowntown.org/residential/neighborhoods.php?districtID=3> (last visited Feb. 17, 2012).
- xiii. *East Village Plan Biggest Since Petco Park*, SAN DIEGO UNION TRIB. (Oct. 13, 2011), <http://www.utsandiego.com/news/2011/oct/13/east-village-developer-team-chosen-jeromes-furnitu/>.
- xiv. *It's Happening!*, THE BANKS, <http://thebanksinc.com/> (last visited Feb. 17, 2012).
- xv. *Id.*
- xvi. *North Shore Riverfront Park & Trail*, RIVERLIFE, <http://www.riverlifepgh.org/riverfront-projects/established/north-shore-riverfront-park-and-trail/> (last visited Feb. 17, 2012).
- xvii. *North Shore Development Could Bring End to Tailgating*, CBS PITTSBURGH (May 4, 2011), <http://pittsburgh.cbslocal.com/2011/05/04/north-shore-development-could-bring-end-to-tailgating/>.
- xviii. *See Downtown Houston*, DEVELOPMENT (Downtown District & Central Houston, Houston, TX) July 11, *available at* [http://downtownhouston.org/site\\_media/uploads/attachments/2011-07-05/Downtown\\_Development\\_July\\_2011.pdf](http://downtownhouston.org/site_media/uploads/attachments/2011-07-05/Downtown_Development_July_2011.pdf).
- xix. *Id.*
- xx. Mike Swift, *AT&T Park Shows How to Create a Boomtown*, MERCURY NEWS (Aug. 8, 2007), [http://www.mercurynews.com/giantsheadlines/ci\\_6326258](http://www.mercurynews.com/giantsheadlines/ci_6326258).
- xxi. *Id.*
- xxii. *See MISSION BAY DEVELOPMENT*, <http://www.missionbaydevelopment.com/> (last visited Feb. 17, 2012).
- xxiii. *See Phoenix Neighborhoods and Districts*, DOWNTOWN PHOENIX, <http://www.downtownphoenix.com/business/neighborhoods-and-districts> (last visited Feb. 17, 2012).
- xxiv. *Dining*, AZCENTRAL.COM, <http://www.azcentral.com/ent/dining/articles/0424baseballdining.html> (last visited Feb. 17, 2012).
- xxv. THE PLATINUM TRIANGLE IN ANAHEIM, CA (SCAG Region: Compass Blueprint Case Report, Anaheim, CA) March 2008, *available at* [http://www.compassblueprint.org/files/htai\\_platinum.pdf](http://www.compassblueprint.org/files/htai_platinum.pdf).
- xxvi. *Id.*
- xxvii. Jack Eidt, *Anaheim Platinum Triangle: Visionary Urban Village or Missed Opportunity*, WILDERUTOPIA.COM (Jan. 12, 2011), <http://www.wilderutopia.com/sustainability/land/anaheim-platinum-triangle-visionary-urban-village-missed-opportunity/>.
- xxviii. *Create Community Through Common Goals*, STADIUM DISTRICT CONCEPT PLAN (ZGF Architects LLP with AECOM, Published by Washington State Major League Baseball Stadium Public Facilities District and Washington State Public Stadium Authority, Seattle Washington) July 2011, *available at* [http://www.stadiumdistrict.org/media/11-08-10\\_stadium-concept-plan\\_web.pdf](http://www.stadiumdistrict.org/media/11-08-10_stadium-concept-plan_web.pdf).
- xxix. *Wrigleyville – A Chicago Neighborhood Guide*, CHICAGO TRAVELER, <http://www.chicagotraveler.com/neighborhoods/wrigleyville-feature.htm> (last visited Feb. 17, 2012).
- xxx. *U.S. Cellular Field and Wrigley Field Hold Nearly the Same Number of Fans, But Their Economic Impact Couldn't Be More Different*, IANMONROE.COM (Feb. 13, 2009), <http://www.ianmonroe.com/blog/2009/02/13/us-cellular-field-and-wrigley-field-hold-nearly-the-same-number-of-fans-but-their-economic-impact-couldnt-be-more-different/>.
- xxxi. *Wrigleyville – A Chicago Neighborhood Guide*, *supra* note xxix.
- xxxii. *Is Wrigleyville Having Growing Pains?*, WRIGLEYFIELDNEWS.COM (Aug. 17, 2010), <http://www.wrigleyfieldnews.com/articles/?p=427>.

EXHIBIT # 5  
RECEPTIVE COMMUNITY DEVELOPMENT TOOLS<sup>494</sup>

A. *Tax Increment Financing (TIF) Districts*

TIF districts were first utilized in California in 1952 and are now used in forty-nine states and the District of Columbia to meet each area's unique economic development needs and challenges.<sup>495</sup> Most notably, TIF has been utilized in the development of Nationwide Arena, which is discussed in detail below. TIF helps local communities attract private development and new businesses utilizing local resources that do not depend upon an increase in taxes or the reduction of other services.<sup>496</sup> The theory behind TIF is simple. TIF is a tool that utilizes projected future expansion of the overall tax base to finance current improvements that theoretically will create the gains.<sup>497</sup> In essence, a governmental unit makes expenditures to promote development that would not otherwise be likely to occur. Thereafter, the resulting development increases the tax base by attracting new business. Other taxing jurisdictions within the TIF district (such as school districts, county, technical colleges and the like) agree to forego the increase in property tax revenue so that the governmental unit can use it exclusively to repay the cost of public improvements.<sup>498</sup> If the development results in an increased tax base, the governmental unit recoups the cost of their investment, and thereafter, all taxing jurisdictions that are part of the TIF district share in the new tax base.

For example, assume that a governmental unit wants to redevelop a designated area that includes parcels that contain substandard, obsolete, and vacant or merely vacant commercial buildings. Assume that these parcels are currently paying \$90,000 per year in real estate taxes. The local government unit determines that by making an investment of \$2.5 million to rehabilitate those buildings and provide necessary infrastructure, private developers will commit an additional \$8 million, making the commercial buildings available for rental and utilization. These additional investments cause the real estate to increase in assessed valuation, and the real estate taxes paid on these parcels to increase from \$90,000 per year to \$210,000 per year. The project would then result in \$120,000 of new tax increment each year, which the governmental unit could use to offset its original investment in the property.

State-enabling legislation gives local governmental units the authority to designate TIF districts. The districts usually have legislatively mandated time periods including a maximum expiration and maximum life periods.<sup>499</sup> Most governments that utilize TIF districts must utilize a "but for" test, which mandates that the governmental unit demonstrate that the area would not have been developed or redeveloped but for the public investment provided through the TIF. TIF designated properties must be blighted, declining, underperforming, vacant, contaminated, or in need of basic development.<sup>500</sup>

Following approval, the tax base in the blighted district is frozen at the predevelopment level. Real estate taxes continue to be paid, but the real estate taxes derived from increases in the assessed value resulting from new development (the tax increment) either go into a special fund created to retire bonds issued to originate the development or leverage future growth in the TIF district. The tax freeze lasts for a defined period of time as set forth either in the redevelopment plan or by statute.<sup>501</sup> At the end of the

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494. See Greenberg & Hughes, Jr., *supra* note 56.

495. CRAIG L. JOHNSON, TAX INCREMENT FINANCING, NATIONAL ASSOCIATION OF REALTORS 1 (Nov. 2002), [http://www.realtor.org/smart\\_growth.nsf/docfiles/TIFreport.pdf/\\$FILE/TIFreport.pdf](http://www.realtor.org/smart_growth.nsf/docfiles/TIFreport.pdf/$FILE/TIFreport.pdf).

496. *Id.* at 2.

497. *Id.* at 4.

498. *Id.* at 6.

499. *Id.* at 12–13.

500. See, e.g., WIS. STAT. § 66.1105(2)(ae) (2011).

501. JOHNSON, *supra* note 495, at 7–8.

defined period, taxing jurisdictions enjoy the benefit of increased property values, and therefore, increased real estate taxes. In some instances, revenue streams other than real estate taxes are used as increments. Increases in sales and use taxes and even project-related income taxes are the most readily available revenue recapture targets.

A TIF program may also be developer-financed. With a developer-financed TIF, the governmental unit “borrows the funds for project costs not by issuing general obligation debt to be held by the public but by issuing limited obligation debt to the developer.”<sup>502</sup> The developer lends money to the governmental unit; the governmental unit uses the money to pay for the project costs to help the developer’s project; and the loan is evidenced by a debt instrument issued by the governmental unit to the developer or developer bond.<sup>503</sup> Under the developer bond, the governmental unit repays the developer out of tax increment that is generated by the district.<sup>504</sup> A governmental unit’s obligation is limited to the amount of tax increment actually generated.<sup>505</sup> A developer-financed TIF is desirable for a governmental unit because it uses none of its constitutional debt capacity and because it shifts the financial risks of the project not generating sufficient increment from the governmental unit to the developer.<sup>506</sup>

TIF may be utilized by numerous projects related to sports venue development and may be used to cover a variety of construction costs. Typical TIF projects include the creation and financing of public infrastructure improvements such as sewers, waterways, and streets; redevelopment of blighted, substandard, obsolete, or vacated buildings; demolition; land acquisition and assemblage; professional studies; and remediation of contaminated or polluted areas. Depending upon the state’s enabling legislation, some or all of the following costs may utilize TIF financing: the administration of a TIF redevelopment project; property acquisition and assemblage; rehabilitation; construction of public works and improvements; relocation; job training; financing costs; studies, surveys and plans; marketing; and professional services.

#### *B. New Market Tax Credits*

New Market Tax Credits (NMTC) were established under the Community Renewal Tax Relief Act of 2000.<sup>507</sup> The NMTC program allows taxpayers to claim a credit against federal income taxes for qualified equity investments made to acquire stock or a capital interest in designated Community Development Entities (CDE).<sup>508</sup> The most notable use of NMTC financing in the development of a sports.com was the Benson Family’s redevelopment of the Superdome, discussed below.

A CDE is the vehicle through which NMTC investments are made. A qualified CDE’s primary mission is to serve the needs of or provide investment capital to low-income communities or individuals. Once a CDE is certified by the Community Development Financial Institutions Fund (CDFI Fund), it can apply to the CDFI Fund for an allocation of NMTCs. Allocations are subject to an aggregate annual dollar limit, currently \$3.5 billion, and are made once a year.<sup>509</sup>

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502. Jesse S. Ishikawa, *Developer-Funded Tax Incremental Financing: Promoting Development Without Breaking the Bank*, 79 WIS. LAWYER 5 (May 2006), available at <http://www.wisbar.org/AM/Template.cfm?Section=Search&template=/CM/HTMLDisplay.cfm&ContentID=57609>.

503. *Id.*

504. *Id.*

505. *Id.*

506. *Id.*

507. *New Markets Tax Credit*, INTERNAL REVENUE SERVICE (May 2010), <http://www.irs.gov/businesses/article/0,,id=223578,00.html#2>.

508. *Id.*

509. *Treasury Announces 3.5 Billion in Awards for Economic Development and Community Revitalization*, STATES NEWS SERVICE, Feb. 24, 2011.

CDEs sell tax credits in exchange for investors' equity investment in the CDE referred to as a qualified equity investment.<sup>510</sup> CDEs have five years to use or sell all of their tax credits.<sup>511</sup> The investor receives a tax credit equal to five percent of the total amount paid for the capital investment or stock purchase over the first three years.<sup>512</sup> For the final four years, the value of the tax credit is six percent annually.<sup>513</sup> In essence, then, investors receive tax credits over a seven-year period, and the tax credits amount to 39% of the equity investment in the CDE.<sup>514</sup> For example, if an investor invests \$1 million in a CDE, the investor receives tax credits totaling \$390,000 over seven years.

Businesses eligible to receive NMTC financing must be active and located in low-income communities as defined by NMTC regulations. Generally, a low-income community is defined as a census tract with a poverty rate of at least 20% or with a medium income of up to 80% of the area or statewide medium, whichever is greater.<sup>515</sup> A qualified, active, low-income community business must derive at least half of its gross income from business in the eligible area and must have a substantial portion (40%) of its tangible property located in the low-income community.<sup>516</sup> Finally, the business must perform a substantial portion (40%) of its services in any low-income community.<sup>517</sup>

### C. *EB-5 Visa for Immigrant Investors Program*

Created by the Immigration Act of 1990, the EB-5 Visa for Immigrant Investors program provides a method for obtaining a green card to foreign nationals who invest money in the United States that is strategically aimed at stimulating economic activity and job growth in America.<sup>518</sup> The foreign national is required to invest \$1 million, although the amount is reduced to \$500,000 if the investment is made in a rural or high unemployment area.<sup>519</sup> Ten or more new jobs must be created by the investment.<sup>520</sup> Under the EB-5 program, a two-year visa can be converted into a green card that provides permanent U.S. residency privileges to the investor, his spouse, and children.<sup>521</sup> After holding the green card for five years, the investor and his family are eligible for citizenship.<sup>522</sup> EB-5 financing has most recently been utilized in the development of the Barclays Center in Brooklyn, New York.

Of the 10,000 EB-5 green cards available each year, 3000 are reserved for foreign nationals who invest through a Regional Center.<sup>523</sup> The EB-5 program does not require the foreign national to directly employ ten U.S. workers.<sup>524</sup> In fact, the individual receiving the visa is not required to actively manage the business in which he invested. Instead, it is enough if ten or more jobs will be created directly or

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510. *New Markets Tax Credit*, *supra* note 507.

511. *Id.*

512. *Id.*

513. *Id.*

514. *Id.*

515. *Id.*

516. *Id.*

517. *Id.*

518. *The EB-5 Investment Visa*, THE EB-5 GREEN CARD INVESTMENT VISA, <http://www.eb5green card.com/eb5visa/> (last visited Oct. 20, 2011).

519. *Id.*

520. *Id.*

521. *About EB-5*, EB-5 GREEN CARD VISA PROGRAM, <http://eb5central.com/about-eb5/> (last visited Oct. 20, 2011).

522. *Id.*

523. *Frequently Asked Questions*, EB-5 GREEN CARD VISA PROGRAM, <http://eb5central.com/eb5-faq/> (last visited Oct. 20, 2011).

524. *EB-5 Regional Center*, U.S. CITIZENSHIP AND IMMIGRATION SERVICES (May 18, 2011), <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextoid=2785a5f224a2e210VgnVCM100000082ca60aRCRD&vgnnextchannel=2785a5f224a2e210VgnVCM100000082ca60aRCRD>.

indirectly as a result of the foreign national's investment.<sup>525</sup> The EB-5 Visa program has been renewed several times and is currently due to expire September 30, 2012.<sup>526</sup>

Senators John Kerry (D-ME) and Richard Lugar (R-IN) introduced the Start Up Visa Act of 2010 in an effort to modify the existing EB-5 Visa Program.<sup>527</sup> The new Act would allow immigrant entrepreneurs who are creating new companies in the United States to secure a two-year EB-6 visa to come to the United States if investment capital is secured from a sponsoring U.S. venture capital or angel investor of at least \$250,000.<sup>528</sup> The person would become a permanent U.S. resident after two years if his or her start-up business has met one of three criteria: (1) created five full-time jobs in the United States, (2) raised an additional \$1 million from investors, or (3) achieved \$1 million in revenues.<sup>529</sup> The purpose, once again, of the EB-6 is to increase America's global competitiveness by creating a new magnet for innovations and innovators to come to the United States and create jobs.

#### *D. Other Real Estate Incentives*

Governmental units may provide other incentives, subsidies, and programs such as debt financing, debt guarantees, credit enhancements, loan insurance, seed capital tax credits, freezing property taxes at predevelopment level for a predetermined period, grants, and tax abatement to add to the toolbox to incentivize the development of real estate. Moreover, the federal government can provide extra incentives through legislation such as the recently expired American Recovery and Reinvestment Act, which provided low-cost bond financing in the form of Build America Bonds, Recovery Zone Bonds, and Recovery Zone Facility Bonds.

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525. *Id.*

526. *Id.*

527. Pei Kuo, *Interpreting the Startup Visa Act*, RIMON LAW GROUP (June 22, 2011), <http://www.rimonlaw.com/blog/2011/06/22/interpreting-the-startup-visa-act>.

528. *Id.*

529. *Id.*

EXHIBIT # 6  
DEVELOPMENT ON MILLER PARK WAY AND ADJACENT STREETS FROM 1988–2011<sup>530</sup>

Development on Miller Park Way and Adjacent Streets from 1988–2011						
Address	Tax Key	Owner/Address	Tenant	2011 Real Estate Taxes (\$)	2011 Assessed Value (\$)	Date Property Improved
<b>East MILLER PARK WAY</b>						
1110	437-1021-003	IHOP	IHOP	40,687.82	1,351,600	2001/2002
1120	437-1021-005	McDonald's Corp.	McDonald's	26,752.94	888,700	2001/2002
1130-1150*	437-1021-006	Ogden/Multi-tenant building	Starbucks	48,915.09	1,624,900	Original: 2004 Improved: 2007
1132			Hilti, Inc.			
1136			Sprint			
1142			Martha's Vineyard			
1148			Smoker's Hub			
1150			Cousins Subs			
1210	437-1021-007	Ogden Dev. Group, Inc.	Panda Express	20,023.40	698,100	2002
1310	436-1020-004	MEI Holdings	Motion Ind.	298.02	9,900	
1310	436-1021	MEI Holdings		17,384.76	577,500	Original: 1955 Improved: 1966
1310	436-1020-003	MEI Holdings		1,959.75	65,100	
1900-2027	457-1045-004	Michael L. Carnahan	Westgrand Apartments	82,652.02	2,745,600	1989
2200	473-1025	Maxcare Hardwood Floors LLC	MaxCare	6,691.99	222,300	
2172	473-1024	Deutsch & Sons	Deutsch and Sons	13,504.40	448,600	1963 (repaved)
2145-2159*	473-1040	General Elec. Co. c/o GC BV 1 Shops	U.S. Cellular	52,816.50	1,754,500	2006
2145			Verizon Wireless			
2147			Snap Fitness			
2149			VACANT			
2151			Bella Nails			
2153			Great Clips			
2155			Pho 43			
2157-2159			Summit Credit Union: Journal Branch			
2086-2094*	457-1006-005	Sara Investment Real Estate (as of Dec. 15, 2011)		58,370.59	1,939,000	2007
2086			Hangers Prosthetics			
2094			Rocky Rococo			
2088			Citi Financial			
2092			U.S. Cellular			
2086 Unit B			VACANT			

530. Chart prepared by Timothy Granitz, in conjunction with Modesta Goodman, Inspections Assistant/Plan Commission Secretary – Zoning Administrator, Village of West Milwaukee.

Address	Tax Key	Owner/address	Tenant	2011 Real Estate Taxes (\$)	2011 Assessed Value (\$)	Date Property Improved
<b>East MILLER PARK WAY</b>						
2086 Unit D			Lady Jane's Haircuts for Men			
2090			VACANT			
2086 Unit E			Wingstop			
2086 Unit C			Smokie's			
2080	457-1006-006	Land Owner: Sara Investment Real Estate (as of Dec. 15, 2011) Biz Owner: Miller Park Way Property Group LLC	Sonic	15,503.26	515,000	2008
2070	457-1006-007	ARC BFMKWKW, LLC and MP Way Limited Partnership	Firestone	32,963.29	1,095,000	2011
2068	457-1006-010	Zee Realty Group, LLC	Dunkin' Donuts	7,766.69	258,000	2011/2012
2064	457-1006-009	Miller Park Way Limited Partnership	GFS Marketplace/Gordon Food Service	13,095.00	435,000	10/2011
1600-1670*	457-1001-003	SBC, LLC. c/. Inland Co.		93,128.02	3,093,600	New Building 2002
1600			Fastenal			
1610			QAM - Quality Addiction Management			
1620			Pittsburgh Paints			
1630			Reprographic Technologies			
1650			DeWalt Factory Services			
1670			Concordia University			
1552	457-1002	Auto Zone Development Corp. (95% in Milwaukee, 5% in West Milwaukee)	Auto Zone	4,166.31	138,400	2011
2100	457-1006-003	Sara Investment Real Estate (as of Dec. 15, 2011)	Office Max	68,109.06	2,262,500	2008
<b>West MILLER PARK WAY</b>						
1401	457-0469-006	CNL APF Partners LP-KFC	KFC	16,927.18	562,300	1993
1403	457-0469-007	Wm. Retail Ltd Prtnrship	Title loan remodeled to 3-tenant	11,641.00	386,700	Original: 1994 Adding 3600 sq. ft.: 2012
1441	457-0469-010	TCF Bank	TCF Bank	33,574.36	1,115,300	2004
1621-33*	457-0469-012	West Milw. LLC		73,753.45	2,450,000	2003
1621			Smart Choice MRI			
1623			National Guard			
1625			Cost Cutters			
1627			Subway			
1629			Cheng Wong (restaurant)			
1631			Oasis Nail Spa			
1633			Game Stop			
1501	457-0469-009	Target Corp.	Target	269,744.95	8,960,600	7/2004



Address	Tax Key	Owner/address	Tenant	2011 Real Estate Taxes (\$)	2011 Assessed Value (\$)	Date Property Improved
<b>West MILLER PARK WAY</b>						
1601	457-0469-013	Wallace West Milw. LLC	Chili's	40,678.81	1,351,300	9/2004
1641	457-0469-014	MTB Real Sweet Dreams/Culvers	Culver's	32,316.04	1,073,500	3/2004
1661	457-0469-015	West Milw. LLC c/o Arby's	Arby's	21,803.92	724,300	1/2004
2101	473-1039	Menard, Inc.	Menards	350,485.42	11,642,700	2006
2201	473-1041	GC/BV 1 Grocery, LLC	Pick 'n Save and Tri-City	136,245.20	4,525,900	2006
2205		Demolished - Now a part of Menards and Pick 'n Save				
2206	473-1026	ACM Fire Group	MPW ACM Fire Protection	2, 425.11	85,000	
2230	473-1028-001	Richard Barkow	Barkow Realty	35, 674.68	1,239,700	
			Acorn Display			
4200 W. Burnham		remaining vacant lots face Miller Park Way				
1215 S. Westchester	437-1040-007	Ogden and Company, Inc.	West Village Apartments	21,132.62	702,000	1991
<b>Future Development on MILLER PARK WAY</b>						
1200	436-1019-003	1200 Miller Park Way LLC	VACANT	3,359.90	112,900	Land Only (was just re-zoned)
1403		Trey Wallace & West Milwaukee LLC	3 tenant strip in Title Loan Building			
<b>GREENFIELD AVENUE 2001</b>						
4401	457-0625-001	Bouraxis Properties, LLC	Vicki's Restaurant (Closed mid-Feb. 2012)	35,702.68	1,186,000	2001
4412	437-1057-001	Bouraxis Properties, LLC	Vicki's Parking Lot	1,631.61	54,200	2001
4140		Walmart				
1671 S. 44th	457-0611	Jennifer A. Miller		3,762.93	125,000	2001
1675 S. 44th	457-0612	Miroslav Rokvic	Park Way Pub	8,007.52	266,000	2001
1627 S. 44th	457-0605	Jon M. Majdack	Tangie's Just Like Mommy & Me (commercial daycare)	5,680.53	188,700	2001
1639 S. 44th	457-0606	James Valona		647.22	21,500	2001
1647 S. 44th	457-0607	Vojislav Tubic % Variety Auto Inc.		4,217.50	140,100	2001
1663 S. 44th	457-0609	Sec. Vet. Affairs c/ Carl		3,082.59	102,400	2001
1659 S. 44th	457-0608	Louis F. Carl		2,956.16	92,900	2001
1667 S. 44th	457-0610	Robert J. Block		3,010.35	100,000	2001
<b>BURNHAM STREET</b>						
4101 W.	457-1008-009	Journal Sentinel Inc.		676,156.59	22,461,100	
4225	457-1006-001	Krause Milling Co.		32,132.43	1,067,400	

Address	Tax Key	Owner/address	Tenant	2011 Real Estate Taxes (\$)	2011 Assessed Value (\$)	Date Property Improved
<b>BURNHAM STREET</b>						
4200	457-1005	Charles Krause Milling Co.	VACANT	41,813.67	1,389,000	
4500-4520*	436-1127-001			63,575.51	2,207,500	
			Certifit Autoparts			2004
			Certifit Autoparts Warehouse			
			Sherwin Williams			
			Holoubek Studios			
<b>ELECTRIC AVENUE</b>						
4900 W.	473-1022-004	Venturedyne Ltd. & Carnes Prairie Reserve	Lakeside Manufacturing	198,652.66	6,599,000	

EXHIBIT # 7  
PICTURES OF THE VILLAGE OF WEST MILWAUKEE

**IHOP –**  
1110 Miller Park Way



**McDonald's –**  
1120 Miller Park Way



**Multi-Tenant Building**  
(Starbucks, Hilti, Inc., Sprint,  
Martha's Vineyard, Smoker's  
Hub, and Cousins Subs) –  
1130-1150 Miller Park Way

**Panda Express –**  
1210 Miller Park Way



**Westgrand Apartments –**  
1900-2027 Miller Park Way



**Multi-Tenant Building**  
(U.S. Cellular, Verizon  
Wireless, Snap Fitness, Bella  
Nails, Great Clips, Pho 43,  
Summit Credit Union: Journal  
Branch) –  
2145-2159 Miller Park Way



**Multi-Tenant Building**  
(Hangers Prosthetics, Rocky  
Rococo, Citi Financial, U.S.  
Cellular, Lady Jane's Haircuts  
for Men, Wingstop, Smokie's) –  
2086-2094 Miller Park Way



**Sonic –**  
2080 Miller Park Way



**Firestone –**  
2070 Miller Park Way



**Dunkin' Donuts –**  
2068 Miller Park Way





**GFS Marketplace/Gordon  
Food Service –**  
2064 Miller Park Way



**Multi-Tenant Building  
(Stadium Business Center)**  
(Pittsburgh Paints, Reprographic  
Technologies, DeWalt Factory  
Services) –  
1600-1670 Miller Park Way



**Auto Zone –**  
1552 Miller Park Way



**Office Max –**  
2100 Miller Park Way



**KFC (and Miller Park) –**  
1401 Miller Park Way



**TCF Bank –**  
1441 Miller Park Way



**Multi-Tenant Building**

(Smart Choice MRI, National Guard, Cost Cutters, Subway, Cheng Wong, Oasis Nail Spa, Game Stop) –  
1621-1633 Miller Park Way



**Target –**

1501 Miller Park Way



Future location of  
**Cermak Fresh Market –**  
1541 Miller Park Way





**Chili's –**  
1601 Miller Park Way



**Culver's –**  
1641 Miller Park Way



**Arby's –**  
1661 Miller Park Way



**Menards –**  
2101 Miller Park Way



**Pick 'n Save –**  
2201 Miller Park Way



**West Village Apartments –**  
1215 South Winchester Drive



EXHIBIT # 8  
RECENT DEVELOPMENTS IN THE MENOMONEE VALLEY<sup>531</sup>

Recent Developments in the Menomonee Valley						
Address	Tax Key	Owner/Address (if different)	Tenant	2011 Real Estate Taxes (\$)	2011 Assessed Value (\$)	Date Property Improved (\$)
3880 W. Milwaukee Rd.	4230014000	Mulhaney Properties LLC,	Badger Railing	47,264.10	1,662,100	2007
3883 W. Milwaukee Rd.	4230016000	Caleffi North America Inc.,	Caleffi	72,711.89	2,600,000	2007
3630 W. Wheelhouse Rd.	4230021000-1	Valtay LLC	Taylor Dynamometer	93,301.85	3,364,400	2008
3301 W. Canal St.	4240311100	Palermos Properties, LLC	Palermo Villa, Inc.	394,142.33	14,564,100	2006
3800 W. Canal St.	4230031000	HIS Industrial I LLC,	Derse Wire	230,579.21	8,375,400	2009
3754 W. Milwaukee Rd.	4230042000-6	CAM-JWL LLC	Charter Wire	249,201.06	9,239,900	2009
3757 W. Milwaukee Rd.	4230032000-1	Ingeteam Inc.	Ingeteam	51,084.21	1,800,000	2011
126–152 N. 6th St.	3970001113-9	HD Milw LLW	Harley Davidson	332,965.37	12,368,000	2008
3001 W. Canal St.	4249998110	Rexnord Industries LLC, 4701 W. Greenfield Ave	Falk/Rexnord	272,686.71	10033900	2006
2122 W. Mt. Vernon Ave.	4000971000	Giuffre VIII LLC, 445 W Oklahoma Ave. Ste 1	Zimmerman Architectural Studios, Inc.	124,786.66	4535000	2010

531. Chart prepared by Elizabeth Buehler, in conjunction with Corey Zetts, Associate Director, Menomonee Valley Partners, Inc.

EXHIBIT # 9  
PICTURES OF THE MENOMONEE VALLEY

**Badger Railing –**  
3880 West Milwaukee Road



**Caleffi –**  
3883 West Milwaukee Road



**Taylor Dynamometer –**  
3630 West Wheelhouse Road





**Derse Wire –**  
3800 West Canal Street



**Palermo Villa, Inc. –**  
3301 West Canal Street



**Charter Wire –**  
3754 West Milwaukee Road



**Ingeteam** –  
3757 West Milwaukee Road



Future location of  
**Suzy's Cream Cheesecakes** –  
3889 West Wheelhouse Road



Future location of  
**J.F. Ahren Co.** –  
West Canal Street and  
West Roundhouse Road



**THE MACHINE SHOP OF THE WORLD**

In the early 1900s, Milwaukee was the "Machine Shop of the World" and the Milwaukee Railway was its engine. Manufacturing cars, trucks, electric motors, and more were all made in the city. The Milwaukee River and Lake Michigan provided the water power needed to run the mills. The Milwaukee River and Lake Michigan provided the water power needed to run the mills.

In the early 1900s, no company had nearly 100 of all different kinds of machines in Milwaukee. The Milwaukee River and Lake Michigan provided the water power needed to run the mills. The Milwaukee River and Lake Michigan provided the water power needed to run the mills.

**ALLEN-BUNGER** 1900

A photograph of a road intersection. In the foreground, a blue rectangular sign is mounted on a metal pole. The sign features the Hank Aaron State Trail logo at the top, which includes a circular emblem with a tree and a person. Below the logo, the text "HANK AARON STATE TRAIL" is written in white capital letters. At the bottom of the sign is a white upward-pointing arrow. To the left of the sign, a road with a concrete curb and a yellow-painted curb area leads towards a bridge in the distance. A "No Left Turn" sign is visible on the left side of the road. The sky is overcast.

**EXHIBIT # 10**  
**MILLER PARK IMPROVEMENT PROJECTS (2008–PRESENT)<sup>532</sup>**

<b>Year Completed</b>	<b>Project Title</b>	<b>Project Description</b>
2008	Homeplate Fan Zone	Project included addition of a retail store just inside the home plate gate of Miller Park on the field level concourse
2008	.300 Club Renovations	Renovations to convert the .300 Club to the Metavante Club. Improvements included removal and remodeling of the bar, remove and replace flooring, paint, furnishings, audio and television, and signage.
2008	Children's Play Area	Moved some of the attractions from the Big League Blast area to the right field corner of the field level concourse, as well as, the addition of additional interactive items.
2008	Friday's Front Row Patio Expansion	Renovation included removal of some of the glass enclosure on the lower level of the Friday's Front Row Restaurant to enable expanded outdoor seating.
2008	Gehl Club Renovation	Renovation included removal of the stadium seats from the top row of the stadium seating and replacing it with high-top tables and chairs. A higher railing was also added in this area.
2008	Homeplate Weight Room and Swimex	Renovation included expansion of the home team weight room and installation of new hot and cold therapy tubs.
2009	Wild Card Themed Party Suite	Project included the conversion of two club level suites into a Brewer Wild Card themed party suite.
2009	Club Level Suite Renovations	Project included renovation of all club level suites. Improvements included, removal and replacement of all flooring, removal of closet / TV nook, placement of new televisions, furnishings, and countertops.
2009	Hot Corner Fan Zone Renovations	Project included a complete renovation of the Hot Corner Fan Zone. The project included addition of themed sausage mascot display area, women's clothing area, new televisions, furnishings, and countertops.
2009	Harley Deck	Project included the construction of a Harley Davidson themed all-inclusive group seating area on the center field concourse above the outfield ticket windows.
2010	Baseball Operations Offices and War Room	Project included construction of Baseball Operations offices and high-tech "war room" in the right field corner of the Terrace Level.
2010	Plaza Pavilion	Project included the construction of an outdoor / open- air pavilion on the plaza adjacent to the right field gate entrances at Miller Park.
2010	Terrace Level Fan Zone	Renovations included the expansion of the Terrace Level. Fan Zone and renovation of all interior finishes and fixtures.
2010	Braves Wall of Honor	Project included the construction of a Braves Wall of Honor located on the field level concourse near the suite entrance.
2010	Batters Eye	Project included removal of the ivy in deep center field and expansion of the batter's eye.
2010	Brewers Home Clubhouse	Project included renovation of the entrance to the Home Clubhouse entrance to create a "lobby" area between the clubhouse and the media interview room.
2010	Commissioner Selig Statue	Project included the commissioning and installation of a bronze statue located at the home plate plaza.
2010	Parking Lot Signage	Project included replacement of all parking lot signage.
2010	Player Parking Lot Fencing	Project included revision of player's parking lot fencing.
2010	Left Field Wall Padding	Project included replacement of left field wall padding.
2010	Children's Play Area Renovation	Project included removal and replacement of one attraction in the children's play area on the right field concourse.

532. Information provided by the Milwaukee Brewers to Martin J. Greenberg.



<b>Year Completed</b>	<b>Project Title</b>	<b>Project Description</b>
2010	Flat Panel TVs for Press Box / Media Relations	Project included addition of flat panel TVs in Press Box and Media Relations areas.
2010	Conference Center Renovation	Project included the renovation of all left field corner meeting rooms (Club and Terrace Level) into a conference center. Renovations included removal and replacement of all finishes.
2010	Terrace Level Bar	Project included conversion of a small concession area to create a bar located on the terrace level near home plate.
2011	New Scoreboard	Project included all incremental costs associated with the removal of the existing scoreboard and control room and installation of a new HD scoreboard and controls. MBBC incurred all costs associated with the project that exceeded the amount budgeted in the SRF master plan.
2011	Founder's Suite Renovations	Project included renovation of all founder's suites and the owner's suite. Work included removal and replacement of all flooring, removal of closet / TV nook, placement of new televisions, furnishings and countertops.
2011	Media Interview Room Renovations	Project included complete renovation of the Media Interview Room including, removal and replacement of all finishes, and replacement of all technology.
2011	Field Level Interior Ticket Window	Project included minor renovations to the field level interior ticket window near the home plate entrance at Miller Park.
2012	Gehl Club Renovations	Project included color scheme change, spot floor replacement, railing replacement, and removal of stadium seats in the upper level and replacement with high top tables.
2012	Press Box Renovations	Project included carpet replacement and painting.
2012	Bernie's Chalet Addition	Project included the addition of a Bernie's Chalet-themed permanent retail space in the field level hot corner.
2012	Club Level Retain Store Expansion	Project included the construction of a new retail store near the club level home plate bar.

EXHIBIT # 11  
DISCUSSION OF DELAYED OR FAILED SPORTS.COMM<sup>533</sup>

The recessionary economy that has drastically impacted real estate development throughout the country has uniquely affected the investments of both the public and private parties involved in the creation of a sports.comm. Real estate is not only whacking Wall Street and Main Street, but also the sports industry, which has made it difficult to create successful mixed-use real estate development. From the public side, government deficits, lower bond ratings, a lack of public appetite for use of public funds to create any type of sports facilities, reluctance to create TIF districts, and priorities in spending have affected the public's ability to bring to fruition mixed-use real estate developments. From the private side, difficulty in obtaining financing, difficulty in refinancing existing projects, real estate assets that are under water as a result of the decrease in fair market value, a risk-free lending environment, and tenant contraction and liquidation have also affected the ability to bring to fruition mixed-use real estate developments. The psyche of growth, expansion, and development has also been met with resistance because of an absence or lessening of discretionary spending, frozen credit markets, availability of ready cash and depletion of reserves, loss of net worth of companies and individual guarantors, loan delinquencies, foreclosures, vacancies, bankruptcies and chapter proceedings, unemployment or underemployment, bank failures, and distressed assets.

The recession has negatively affected every sports.comm throughout the country to some degree, but a few prominent sports.comm developments have failed or have been significantly delayed. The best examples of failed or delayed sports.comms include the Westgate City Center, home of the Phoenix Coyotes; Ballpark Village in St. Louis, home of the St. Louis Cardinals; Glorypark, home of the Dallas Cowboys and Texas Rangers; Victory Park, home of the Dallas Mavericks and Dallas Stars; New Meadowlands, home of the New York Giants and New York Jets; and Atlantic Yards, the future home of the New Jersey Nets.

A. *Westgate City Center*

After their move from Winnipeg in 1996, the Phoenix Coyotes were forced to accept an unfavorable lease to share the America West Arena (AmWest, currently US Airways Arena) with the Phoenix Suns.<sup>534</sup> AmWest was not built for hockey, which meant that 4000 of the 16,000 hockey seats had obstructed views and had to be sold at a discount for every game.<sup>535</sup> Under the terms of the lease with AmWest, Suns owner Jerry Colangelo retained nearly all revenues from concessions, sponsorships, and nonhockey events.<sup>536</sup> This was especially detrimental to the Coyotes in the NHL context because the thirty teams shared only twelve percent of their revenues, which was by far the lowest percentage of all professional sports.<sup>537</sup> In 1997, without the necessary revenue streams available at AmWest to stay economically competitive in the NHL, Coyotes owner Richard Burke (Burke) began working with Steve Ellman (Ellman) to construct a new NHL arena and entertainment district in Glendale, Arizona.

In 2001, after Burke and Ellman were unable to obtain the necessary zoning permits and public financing to support a new facility, Burke decided to sell the team. In February 2001, Ellman partnered with Wayne Gretzky (Gretzky) to buy the team for \$127 million.<sup>538</sup> With a legendary new partner, Ellman was able to garner the political support necessary to rezone a 223-acre parcel in Glendale, Arizona

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533. See Greenberg & Hughes Jr., *supra* note 391.

534. Kurt Badenhausen & Michael Ozanian, *How a Small-Time Developer Leveraged a Poor Hockey Team Into a Rich Real Estate Deal*, FORBES (Dec. 23, 2002), [http://www.forbes.com/free\\_forbes/2002/1223/098.html](http://www.forbes.com/free_forbes/2002/1223/098.html).

535. *Id.*

536. *Id.*

537. *Id.*

538. *Id.*

for commercial use in order to create what is now known as the Westgate City Center. With the land and zoning permits in place, Ellman, Gretzky, and new partner Jerry Moyes (Moyes) began working with the City of Glendale to develop a new hockey arena and the Westgate City Center sports.com, which was projected to cost \$850 million.<sup>539</sup>

Unlike every other state in America, Arizona does not allow TIF financing; therefore, the ownership group and the city were forced to strike a deal without utilizing the projected revenue increases that the Jobing.com Arena and Westgate City Center would provide. Despite a limited financial toolbox, the City of Glendale unanimously approved a \$180 million arena deal with the ownership group in April of 2001.<sup>540</sup> Pursuant to the agreement, Ellman agreed to buy roughly 220 acres of vacant land, obtain loans to build a 17,500-seat hockey arena, be responsible for all arena cost overruns, and be liable for some of the arena debt in the event that he was unable to complete the sports.com surrounding the arena.<sup>541</sup> In return, the City of Glendale promised to buy the arena for a price of \$180 million.<sup>542</sup>

After years of struggling in AmWest, the Phoenix Coyotes deal with Glendale was too good to be true. In December 2003, the Coyotes moved into the new Jobing.com Arena.<sup>543</sup> The City of Glendale provided a total of \$183 million for the cost of the arena, \$155 million from municipal bonding, which was paid for through increased sales taxes and parking revenues.<sup>544</sup> The unique public-private partnership meant that Ellman owned the land, but the City of Glendale owned the arena itself.<sup>545</sup> This partnership was beneficial for Ellman because the team received all arena revenue streams, was not responsible for the arena ownership costs, and paid no rent for the first ten years in the arena.<sup>546</sup> However, in return for such economically-advantageous lease terms, the team was also required to agree to a thirty-year nonrelocation clause that required the Coyotes to stay in Glendale or to pay a \$750 million relocation fee.<sup>547</sup>

Though the Jobing.com Arena was built quickly, the bonds used to back the construction were based on projected increases in tax revenue generated by Ellman's proposed commercial developments surrounding the arena. Development was drastically delayed, which caused financing problems for the project as a whole and subjected Ellman to fines up to \$1 million for the delays.<sup>548</sup> Phase I of the Westgate City Center was scheduled to open in June of 2004, but due to an overly aggressive startup plan and the project's complexity, did not open until November of 2006. As a result of the two-year delay, Ellman was forced to pay two separate fines of \$1 million.<sup>549</sup> Meanwhile, the Coyotes alone were not sufficiently enticing to draw fans from Phoenix to the suburb of Glendale, and after three seasons in the arena the team had accumulated nearly \$65 million in debt.<sup>550</sup> In order to save the development, Moyes and Ellman reached a separation agreement that gave Moyes and Gretzky full control of the Coyotes and allowed Ellman to buy out Moyes' remaining interest in the Westgate City Center development.<sup>551</sup>

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539. *Id.*

540. Craig Harris, *Coyotes Go to Glendale: City Quickly OKs \$180 Million Arena Deal*, ARIZ. REPUBLIC, Apr. 12, 2001, at 1A.

541. *Id.*

542. *Id.*

543. *JoBing.com Arena*, BALLPARKS BY MUNSEY AND SUPPES, <http://hockey.ballparks.com/NHL/PhoenixCoyotes/newindex.htm> (last visited Oct. 16, 2011).

544. Harris, *supra* note 540.

545. *Id.*

546. *Id.*

547. Rebekah L. Sanders, *Coyotes Avoid Rent Fines*, ARIZ. REPUBLIC, Mar. 4, 2009, at 5.

548. Pat Flannery, *Ellman Pushed to Begin Development of Westgate*, ARIZ. REPUBLIC, May 25, 2004, at 1B.

549. Steve Wong, *Developer Owes Glendale a Second \$1 Million Fine*, ARIZ. REPUBLIC, July 26, 2006, at 5.

550. Craig Harris & David Vest, *Coyotes Owners Break Up*, ARIZ. REPUBLIC, Apr. 13, 2006, at 1D.

551. Ryan Gauthier, *In re Dewey Ranch Hockey*, 1 HARV. SPORTS & ENT. L.J. 1, 185 (2010).

The anchor of Phase I of the Westgate development was the AMC Westgate 20 movie theater, which features contemporary screens, seating, concessions, and ticketing.<sup>552</sup> Beyond the theater, Phase I focused on the entertainment center's infrastructure and restaurant options to satisfy the current fans drawn by the Coyotes. The infrastructure improvements included more than thirty Times Square-style media boards throughout the site, a 60,000-gallon water fountain modeled after the Bellagio in Las Vegas, and Miami-inspired green and orange color schemes throughout the facility.<sup>553</sup> The initial construction also included nearly twenty restaurants such as the popular Margaritaville Café, Gordon Biersch Brewery Restaurant, and Saddle Ranch Chop House.<sup>554</sup> Phase I also included a twelve-story Renaissance Hotel and Convention Center that was not completed until 2007.<sup>555</sup>

In retrospect, the split between Moyes and Ellman doomed the Westgate City Center development. Ellman was able to escape the economic burden of the Phoenix Coyotes franchise, which eventually led Moyes to file for Chapter 11 bankruptcy protection in 2009.<sup>556</sup> Moyes' bankruptcy court had the power to force the sale of the Coyotes and to allow the buyer to break Glendale's nonrelocation agreement, but given the city's investment in the sports.com, the court insisted that the Coyote's buyer must honor the lease or pay the \$750 million relocation fee because the city had invested a total of \$511 million into the project.<sup>557</sup> Despite escaping the Coyotes' bankruptcy, the inability to find a buyer for the Coyotes stalled the development of Westgate and ultimately led to the demise of Ellman.<sup>558</sup>

The United States recession also contributed to the failure of Westgate. Since Phases II and III of Westgate were delayed, the Phase I bars and restaurants struggled because they depended on the increased foot traffic of the retail and residential phases.<sup>559</sup> This struggle left Ellman unable to stay current on the loans used to finance the Westgate development. Ellman utilized a \$97.5 million loan from iStar Financial and multiple loans from Credit Suisse totaling \$376 million to develop the entertainment district.<sup>560</sup> In November 2008, Ellman failed to make balloon payments on many of the loans and ultimately defaulted.<sup>561</sup> An auction was scheduled for September 19, 2011, to sell the Westgate buildings that secured the iStar loan.<sup>562</sup> The land around Westgate will go to auction in the future to satisfy the Credit Suisse loan.<sup>563</sup>

Though Westgate has failed to reach its full potential, the concentric circle effect has caused the areas surrounding the sports.com to achieve enormous growth, which has provided Glendale with the necessary tax revenues that Westgate has been unable to provide. Across the street from Westgate is the new Zanjero District, which includes a Cabela's outdoor superstore, other retail outlets, condominiums, and office buildings.<sup>564</sup> The Westgate City Center is also responsible for the 2009 completion of

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552. *AMC Westgate*, WESTGATE CITY CENTER, <http://www.westgatecitycenter.com/amc-west-gate-20/> (last visited Oct. 16, 2011).

553. Scott Wong, *A New City Center; Complex Turns Empty Space Into Urban Hub*, ARIZ. REPUBLIC, Nov. 17, 2006, at 1.

554. *Id.*

555. *Hotels at Westgate City Center*, WESTGATE CITY CENTER, <http://www.westgatecitycenter.com/hotels.php> (last visited Oct. 20, 2011).

556. *In re Dewey Ranch Hockey, LLC*, 406 B.R. 30 (Bankr. D. Ariz. 2009).

557. *Id.*

558. Rebekah L. Sanders, *Westgate Changed Face of Glendale*, ARIZ. REPUBLIC, June 28, 2011, at B1.

559. Carrie Watters, *Westgate Weathering Downturn*, ARIZ. REPUBLIC, Dec. 13, 2008, at 3.

560. Sanders, *supra* note 558.

561. *Id.*

562. *Id.*

563. *Id.*

564. *Districts at Zanjero Set to Break Ground*, W. VALLEY VIEW, <http://westvalleyview.com/main.asp?SectionID=13&SubSectionID=8&ArticleID=22119&TM=84251.22> (last visited Dec. 14, 2011).

Camelback Ranch, the Los Angeles Dodgers and White Sox spring training facility.<sup>565</sup> In its first season, Camelback Ranch broke the Cactus League attendance record four times.<sup>566</sup>

As the Westgate City Center goes to auction, the NHL and the City of Glendale have been unable to find a buyer for the Coyotes, which is the key to a revitalized Westgate sports.com. Since Moyes' bankruptcy, the city has paid the NHL \$25 million per year to cover arena operating costs, but has yet to find an owner.<sup>567</sup> Recently, the city had worked out an agreement with Matthew Hulsizer to purchase the arena, who also was negotiating with the NHL to buy the team.<sup>568</sup> The deal would have required the city to pay \$100 million in bonds to cover arena operating costs in return for the rights to parking fees.<sup>569</sup> The deal was nearly completed until the Goldwater Institute threatened to sue the city for offering public subsidies to a private business in violation of Arizona law.<sup>570</sup> The Institute also convinced bond traders to stay away from the city's bond auction, which ultimately caused the deal to fall through.<sup>571</sup> There was hope that other potential buyers would emerge when the Glendale City Council reconvened in August 2011.<sup>572</sup>

The Westgate City Center development highlights the potential and risks associated with the construction of a sports.com. By accepting Ellman's proposal after Scottsdale had refused, the City of Glendale transformed itself into the mecca for professional sports in Arizona. By building an NHL arena, the city cemented itself as a receptive community and was able to convince the Arizona Cardinals to build their new revenue-generating facility, University of Phoenix Stadium in Glendale, which gave the city the national recognition it lacked prior to the development of the Westgate sports.com. Regardless of whether Westgate is able to retain the Phoenix Coyotes, the sports.com will likely remain viable based on the proximity of the Arizona Cardinals' University of Phoenix Stadium and the retail development's potential for future economic growth, which should easily attract a new tenant to be its sports anchor.<sup>573</sup>

### *B. Ballpark Village – Busch Stadium*

The St. Louis Cardinals attempted to create a sports.com with Ballpark Village, a proposed mixed-use entertainment district that was to be built on the six blocks surrounding new Busch Stadium, which opened in 2006.<sup>574</sup> Unfortunately, there is no better example of a real estate whacking than Ballpark Village. Ballpark Village was designed to be a grandiose redevelopment project of retail shops, restaurants, residential units, office space and parking. The 2009 MLB All-Star Game was supposed to be a showcase for not only the new ballpark, but also the development that was supposed to follow.<sup>575</sup> Instead, the Ballpark Village area was an open pit, which the St. Louis Cardinals were forced to temporarily dress up for the 2009 All-Star festivities.<sup>576</sup>

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565. Amy Wang, *Jobing.com Arena Created 'Synergy'*, ARIZ. REPUBLIC, Apr. 9, 2010, at 3.

566. *Id.*

567. *Coyotes to Remain in Glendale Next Year*, ESPN (May 11, 2011, 8:59 PM), <http://sports.espn.go.com/nhl/news/story?id=6524858>.

568. *Id.*

569. *Id.*

570. *Id.*

571. *Id.*

572. *Glendale Closer to Finding Coyotes Buyer*, REVENUES FROM SPORTS VENUES NEWSLETTER, June 30, 2011.

573. Cecilia Chan, *'Tea Party' Group Dissatisfied with Answers on Coyotes Deal*, ARIZ. REPUBLIC, Mar. 12, 2011, at 8.

574. *About, BALLPARK VILL.*, <http://www.stlballparkvillage.com/> (last visited Oct. 23, 2011).

575. Ray Hartmann, *Why We Aren't (Ballpark) Village People*, STLMAG.COM (July 2009), available at <http://www.stlmag.com/St-Louis-Magazine/July-2009/Why-We-Aren-039t-Ballpark-Village-People/#>.

576. *Id.*

The stadium cost a total of \$365 million, which was almost entirely privately funded except for a \$45 million loan from St. Louis County.<sup>577</sup> Ballpark Village was projected to cost another \$300 million more, but required a larger public contribution.<sup>578</sup> The initial proposal for Ballpark Village included a 1900-space parking garage; a 400-unit, 21-story residential building overlooking the stadium; 470,000 square feet worth of office space; 110,000 square feet of commercial and retail space; a 16,000-square-foot Cardinals baseball museum; and a 94,000-square-foot entertainment attraction (such as an aquarium).<sup>579</sup> The plan was approved by the City of St. Louis in 2007, which pledged \$115 million in bond financing for the project to be funded through a TIF district.<sup>580</sup>

The initial plan for the project was divided into two development phases. Phase I included the development of the southern portion of Ballpark Village, which was to commence by April 2006 and to be completed within five years.<sup>581</sup> Similarly, Phase II involved construction of the Northern Village, which was expected to begin by April 2009, and was also to be completed within five years.<sup>582</sup> In return for the city's public contribution, the Cardinals agreed to guarantee completion of Ballpark Village.<sup>583</sup> Failure to develop the first phase would have resulted in the payment of liquidated damages of up to \$100 million.<sup>584</sup> If the Cardinals failed to meet the deadlines on the second phase, a portion of the land was to be reconveyed to the city.<sup>585</sup> The Cardinals also agreed to a profit-sharing clause which forced the team to provide the city with a portion of any profits made if a significant portion of the team was sold.<sup>586</sup>

By 2008, the Cardinals had nearly \$200 million in outstanding private bond debt and another \$17 million in annual debt service from its privately funded stadium, which was to be paid utilizing the expected increase in real estate tax revenues from Ballpark Village.<sup>587</sup> Moreover, the Cardinals were also unable to find any creditors willing to extend the necessary money to complete the Ballpark Village project. Unlike other failed sports.comm developments that never began construction, the failure of Ballpark Village is symbolized by a vacant hole in the ground at the home of the demolished Old Busch Stadium. Despite the failure to develop Ballpark Village to date, the city has not exercised its option to obtain liquidated damages or to recover a portion of the Ballpark Village land.

The recession has also increased the aggressiveness of public watchdog groups opposed to public subsidies for sports facilities. Pursuant to the profit-sharing clause in the agreement between the team and the city, the Coalition against Public Funding for Stadiums alleged that the sale of thirteen percent of the Cardinals team, after multiple owners sold their shares in 2010, triggered the clause requiring the team to share its profit with the city. However, the Cardinals argued that the profit-sharing clause was only triggered if the sale was valued at over \$180 million; therefore, the profits from the sale were not shared

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577. Busch Stadium, BALLPARKS BY MUNSEY AND SUPPES, <http://www.ballparks.com/baseball/national/stlbpk.htm> (last visited Oct. 30, 2011).

578. Joel K. Goldstein, *From Blueprints to Bricks: A Survey of Current Baseball Stadium Financing Projects*, 34 URBAN L. 397, 402–03 (2002).

579. *Id.* at 402.

580. Lisa Brown, *City Greenlights Ballpark Village Project*, ST. LOUIS BUS. J. (Feb. 9, 2007), <http://www.bizjournals.com/stlouis/stories/2007/02/05/daily57.html>.

581. Goldstein, *supra* note 578, at 402.

582. *Id.*

583. *Id.* at 402–03.

584. *Id.*; see Section 12.3 *Certain Equitable or Liquidated Damages* in *Journal of the Senate*, MO. SENATE (May 3, 2002) available at <http://www.senate.mo.gov/02info/pdf-jrnl/Day65.pdf>.

585. Goldstein, *supra* note 578, at 402–03.

586. *Id.* at 402.

587. Tom Van Riper, *Where Real Estate is Whacking Sports*, FORBES (July 7, 2009), <http://www.forbes.com/2009/07/14/real-estate-pro-sports-business-sports-real-estate.html>.

by the team.<sup>588</sup> The city has not attempted to collect their portion of the sale proceeds.

The difficulty getting the Ballpark Village project moving forward cannot be attributed to a lack of fan support in St. Louis. In March 2011, the St. Louis Regional Chamber and Growth Association released a report that the 2011 Cardinals season would deliver a \$313.6 million economic boost to the St. Louis region.<sup>589</sup> Moreover, out-of-town visitors have historically constituted forty percent of Cardinals attendance.<sup>590</sup> St. Louis continues to be one of the best baseball towns in MLB. While St. Louis is the eighteenth-largest metro area, its 2010 season attendance of 3,301,218 put it at number four for attendance for all MLB teams.<sup>591</sup>

After two years of delay, the Cardinals revised their proposal and the city approved a revised financing structure on January 19, 2011.<sup>592</sup> The first phase, originally estimated to cost over \$300 million, was downsized to \$146.1 million by eliminating the residential aspect of Phase I.<sup>593</sup> However, the fully realized development is still scheduled to include a residential component and is estimated to cost up to \$555 million.<sup>594</sup> The revised Phase I plan is set to include a new fourteen-story office building, which is expected to be the premier office building in the region. To be completed in 2013, developers secured Stifel Financial Corporation, which had agreed to occupy 175,000 of the 225,000 square feet of office space as its corporate headquarters.<sup>595</sup> However, Phase I cannot begin without getting the city's public subsidies reapproved due to the drastic change in development plans.

The Cardinals completed the first hurdle in the approval process when the Missouri Downtown Economic Stimulus Authority approved their plan in January 2011. Following approval by the St. Louis Board of Aldermen, the proposal was also approved by the Board of Estimate and Apportionment, which includes the mayor.<sup>596</sup> The final approval will be in the hands of the quasi-governmental Missouri Development Finance Board.<sup>597</sup> Cardinals President Bill DeWitt III expects approval to be completed in 2011 and construction to last for twenty months, which means that Ballpark Village is tentatively scheduled to be open for business by 2013.<sup>598</sup>

### C. Glorypark

Similar to Ballpark Village, development of Glorypark, which is located between Rangers Ballpark and the Dallas Cowboys newly-constructed \$1.1 billion stadium, has been postponed as a result of the financial conditions caused by the recession. However, unlike construction of Ballpark Village, which was partially integrated with the construction of the New Busch Stadium, the Glorypark sports.comm has

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588. *City Releases Names of MLB Cardinals Owners Who Sold Shares*, SPORTS BUS. DAILY (Dec. 8, 2010), <http://www.sportsbusinessdaily.com/Daily/Issues/2010/12/Dec-8/Franchises/cards.aspx>.

589. *2011 Baseball Season Forecast to be \$313.6 Million Boost for Regional Economy, RGCA Economic Impact Analysis Concludes*, ST. LOUIS REG. CHAMBER & GROWTH ASSOC. (Mar. 30, 2011), <http://www.stlrcga.org/x4516.xml?ss=print>.

590. *Id.*

591. *Id.*

592. Tim Logan, *Ballpark Village Plan Advances*, STLTODAY.COM (Jan. 19, 2011), [http://www.stltoday.com/business/columns/building-blocks/article\\_6dd80628-23ef-11e0-9e5d-0017a4a78c22.html](http://www.stltoday.com/business/columns/building-blocks/article_6dd80628-23ef-11e0-9e5d-0017a4a78c22.html).

593. *Id.*

594. *Id.*

595. Tim Logan, *Ballpark Village to Include Stifel HQ*, ST. LOUIS POST, Jan. 15, 2011, at A1. In August of 2011, Stifel Financial Corp. announced that it plans to buy its downtown building instead of moving to Ballpark Village. REVENUES FROM SPORTS VENUES NEWSLETTER, Aug. 11, 2011, at 11.

596. *Aldermen Approve Ballpark Village*, STLTODAY.COM (Feb. 14, 2007), [http://www.stltoday.com/suburban-journals/article\\_e0aef89f-92ff-5a51-9d3e-03c28d864f81.html](http://www.stltoday.com/suburban-journals/article_e0aef89f-92ff-5a51-9d3e-03c28d864f81.html).

597. *Id.*

598. *Id.*

struggled to escape the planning stages of development. The project was led by former Rangers owner Tom Hicks of Hicks Holdings, LLC and the Steiner and Associates development firm. Plans for the development were revealed in 2004, and the first phase of the proposed \$600 million sports.comm was set to include 1.2 million square feet of retail, residential, and commercial space.<sup>599</sup> However, after four years, the project has only created a few road improvements and a single row of townhouses.<sup>600</sup>

By May 2008, attempts to finance and develop Glorypark were abandoned for a variety of reasons. The project never got off the ground largely because the development group lost a primary investor within a few months after the project was formally announced in 2006.<sup>601</sup> The setback caused a major postponement in the project as the developers were unable to find a suitable replacement investor. The delay caused further financing problems because of lenders' refusal to offer flexible financing. Hicks blamed the delay on the banks, saying "the nation's economic markets today have made it impossible to come to terms with lenders."<sup>602</sup> On May 15, 2008, the developers acknowledged that they did not exercise their option to extend a letter of commitment to underwrite bonds for the creation of roads and parking garages.<sup>603</sup> Therefore, the development process was halted due to a lack of available financing.

Resurrection of the Glorypark project was further complicated when Tom Hicks' HSG Sports Group, which owned the Rangers, filed for Chapter 11 bankruptcy protection.<sup>604</sup> The bankruptcy was a result of multiple defaults to creditors that occurred in March of 2009. Despite the pursuit of creditors, the move was ultimately an attempt to force a sale of the club to an ownership group led by Chuck Greenberg and Nolan Ryan, Rangers Baseball Express. The team's initial plan of reorganization included the sale of 154 acres of the proposed Glorypark along with the sale of Rangers Ballpark.<sup>605</sup> Creditors objected to Hicks' reorganization plan, and the court forced the sale of the team through public auction. Hicks attempted to create a side deal that would have sold the land to the Greenberg-Ryan group prior to the auction of the Texas Rangers, but the deal was cancelled in order to create a "level playing field" at the auction.<sup>606</sup> Ultimately, Rangers Baseball Express submitted the winning bid for the Rangers of \$593 million.<sup>607</sup>

However, before the sale was completed, Hicks' former partner, Steiner + Associates, sued, claiming a twenty-five percent ownership interest in Glorypark and control of forty-five acres of land adjacent to Rangers Ballpark.<sup>608</sup> In response, Hicks countersued, alleging fraud and breach of fiduciary duty.<sup>609</sup> Hicks claimed that he "trusted and relied" on Steiner's promise that he would ensure the project's success

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599. Jennifer Popovec, *Americans Love Sports*, RETAIL TRAFFIC (Nov. 1, 2007), [http://retailtrafficmag.com/development/newdevelopment/retail\\_football\\_baseball\\_stadiums/](http://retailtrafficmag.com/development/newdevelopment/retail_football_baseball_stadiums/).

600. Jeff Mosier, *So Far, Development Isn't Cropping Up Near Cowboys' New Stadium*, DALLAS MORNING NEWS, Mar. 2, 2009, at 2A.

601. Sandra Baker, *Texas Rangers Owner Tom Hicks Sues Former Partner in Failed Glorypark Development*, DALLASNEWS.COM (Apr. 2, 2010), <http://www.dallasnews.com/news/community-news/arlington/headlines/20100402-Texas-Rangers-owner-Tom-Hicks-sues-5069.ece>.

602. Jim Boardman, *Hicks Delays Glorypark Due to "Extreme Conditions"*, ANFIELD ROAD (May 15, 2008), <http://archive.anfieldroad.com/news-archive/200805153000/hicks-delays-glorypark-due-to-extreme-conditions.html/>.

603. *Id.*

604. Matthew Futterman, *Texas Rangers Make Bankruptcy Play*, WSJ.COM (May 25, 2010), <http://online.wsj.com/article/SB10001424052748704792104575264950799613356.html>.

605. Maury Brown, *Greenberg-Ryan Group Terminates Land Deal Just Before Texas Rangers Auction*, BIZ OF BASEBALL (Aug. 4, 2010), [http://www.bizofbaseball.com/index.php?option=com\\_content&view=article&id=4600:greenberg-ryan-group-terminates-land-deal-just-before-texas-rangers-auction&catid=70:mlb-club-sales&Itemid=157](http://www.bizofbaseball.com/index.php?option=com_content&view=article&id=4600:greenberg-ryan-group-terminates-land-deal-just-before-texas-rangers-auction&catid=70:mlb-club-sales&Itemid=157).

606. *Id.*

607. Barry Shlachter, *Rangers Exit Bankruptcy after Greenberg-Ryan Bid is Approved*, DALLASNEWS.COM (Aug. 6, 2010), <http://www.dallasnews.com/sports/texas-rangers/headlines/20100805-Rangers-exit-bankruptcy-after-Greenberg-Ryan-5814.ece>.

608. *Former Development Partner Sues Tom Hicks Over Land Near Rangers Ballpark*, DALLASNEWS.COM (Jan. 28, 2010), <http://www.dallasnews.com/business/headlines/20100128-Former-development-partner-sues-Tom-Hicks-467.ece>.

609. Baker, *supra* note 601.



by preleasing most of the retail spaces, which Steiner was unable to secure.<sup>610</sup> Ultimately, the lawsuit was unsuccessful, and the MLB approved the sale of the Texas Rangers to Rangers Baseball Express on August 12, 2010.<sup>611</sup>

Despite a new ownership group and two recent trips to the World Series, Nolan Ryan's group has no current plans to resume development of Glorypark. The main obstacle has been an ongoing battle between Rangers Baseball Express, Hicks Holdings, and Steiner + Associates over who must pay the remaining Glorypark creditors. Specifically, RTKL, the architecture firm initially hired to design the site, and Vratsinas Construction Company have yet to be paid. The parties filed an adversary proceeding in Hicks Holdings' Chapter 11 case, which has yet to be adjudicated, and the development of the sports.comm remains on hold.

#### *D. Victory Park*

Surprisingly, Glorypark was not Tom Hicks' only failed attempt at creating an economically viable sports.comm. Hicks' first attempt came as owner of the Dallas Stars NHL franchise. In 1998, Dallas voters approved public financing for more than half the cost of the \$140 million American Airlines Center, the current home of the Dallas Mavericks and Dallas Stars.<sup>612</sup> On top of the arena financing, the Dallas City Council offered Hicks and Ross Perot, Jr., former owner of the Dallas Mavericks, an extra \$25 million to develop the abandoned property surrounding the arena.<sup>613</sup> The area was historically blighted, but rather than simply improving the land by increasing tourism and retail foot traffic in the area, Hicks and Perot attempted to create an ultra-sophisticated sports.comm that was to become the next Times Square.<sup>614</sup>

The developers attempt to create a Times Square atmosphere was ultimately the downfall of the sports.comm because it was designed to be too upscale for the city's local market. The epitome of the developers overindulgence was the creation of two enormous super screens at AT&T Plaza, the entertainment anchor of the development. The screens were billed as the largest outdoor digital mediums in the world, but the problem for the developers was that no one was there to view them.<sup>615</sup> Their plan anticipated massive crowds, but its retail, residential, and food and beverage options only catered to high-end consumers. Between 2006 and 2008, the area added more than 400 condominiums, 380 apartments, 250 hotel rooms, 500,000 square feet of office space, and 200,000 square feet of retail.<sup>616</sup> Residential prices were listed at \$500 per square foot, which was more than double the going rate in the surrounding area.<sup>617</sup> Residential developments included the W Dallas Victory Hotel and Residences, a thirty-three-story hotel that was completed in 2006; the Terrace, a seven-story residential building; Vista Apartments, a seven-story ultra-modern apartment complex; and the House by Starck and Yoo, a luxury condominium complex. Retail options included high-end dining, like N9ne Steakhouse, Nove Italiano, Kenichi, Cirque, and Craft by celebrity chef Tom Colicchio; upscale retail, like Henry Beguelin, Haven, and Lifestyle Fashion Terminal, and upscale bars, like the Ghost Bar.

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610. *Id.*

611. Richard Durrett, *MLB Owners Approve Rangers Sale*, ESPN (Aug. 12, 2010), <http://sports.espn.go.com/dallas/mlb/news/story?id=5457793>.

612. Matt Pulle, *Dallas' Victory Park Struggles to Deliver a Win*, DALLAS OBSERVER, Jan. 29, 2009.

613. *Id.*

614. *Id.*

615. Melissa Repko, *Dallas' Victory Park Struggles to Find a Game-changer*, DALLASNEWS.COM (Nov. 12, 2010), <http://www.dallasnews.com/business/commercial-real-estate/20101111-Dallas-Victory-Park-struggles-to-7545.ece>.

616. Michael Schnurman, *Why Victory Park Was a Bust*, D MAGAZINE (Jan. 20, 2010), [http://www.dmagazine.com/Home/D\\_CEO/2010/January\\_February/Why\\_Victory\\_Park\\_Was\\_a\\_Bust.aspx](http://www.dmagazine.com/Home/D_CEO/2010/January_February/Why_Victory_Park_Was_a_Bust.aspx).

617. *Id.*

Overall, the development suffered because it did not cater to its key demographic; fans attending games at the American Airlines Center. The sports.comm generated most of its consumer traffic during the lunchtime hours, and other local entertainment options were more popular among fans of the Mavericks and Stars.<sup>618</sup> Beyond the abundance of unreasonably priced retail and restaurant options, Victory Park also suffered because it was not well-suited for foot traffic. The separation rather than integration of parking within the sports.comm allowed fans to avoid the retail elements on their way to the sports anchor.<sup>619</sup> Similarly, fans exiting the arena were unable to see the massive video screens in AT&T Plaza; therefore, only experienced fans knew where to find the sports.comm's key entertainment anchor because views of the plaza were obstructed by the W Hotel.<sup>620</sup> The sports.comm also suffered because the initial development phase only included thirty shops and restaurants upon its opening, which was insufficient to compete in the local entertainment market. As a result, fans traveled to the nearby West Village that included seventy different shops and restaurants that were also reasonably priced. While Victory Park has faltered, West Village plans to construct an additional thirty retail and restaurant options.<sup>621</sup>

The failure of Victory Park highlights the key obstacles in the creation of a viable sports.comm. First, while the development successfully encouraged residential life, it failed to promote foot traffic through the sports.comm's retail and dining elements. Second, Hicks and Perot used their \$25 million in public financing to create a district that did not cater to the local taxpayer, which caused a disconnect between the entertainment district and the local community. Lastly, the sports.comm did not cater to the consumers attracted to its sports anchor; therefore, it only generated daytime traffic, which was insufficient to sustain its retail and dining options. Thus, massive private investments allowed Victory Park to move past the planning stages of development, but, like Glorypark, the Victory Park sports.comm did not have a strong, stable plan for economic revitalization, gradually lost its retail tenants, and, ultimately, failed.

Despite the loss of retailers, Victory Park can be saved based on the strength of its sports, residential, and entertainment anchors. Recently, German real estate investors US Treuhand has taken control of most of the development from initial developer Hillwood Development, Perot's development firm, and plans to create a viable sport.comm at the site.<sup>622</sup> The firm has hired a new developer, Cousins Properties, which has already announced plans to move the shopping center to a more desirable location within the district.<sup>623</sup> Thus, despite its previous failures, the future of Victory Park remains bright.

### *E. New Meadowlands*

The most illustrative example of a failed sports.comm is the development of the Xanadu mixed-use development located near the New Meadowlands stadium (Meadowlands) in East Rutherford, New Jersey. The Meadowlands complex is just miles away from New York City; therefore, it enjoys the largest market of any sports.comm from which to generate revenues and attract tenants for large-scale retail, commercial, and recreational developments. Despite the built-in market at the Meadowlands site, private developers have failed on two separate attempts at creating a sports.comm, and a third attempt is currently in the planning stages, which will likely include public financial support in the form of a TIF

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618. Repko, *supra* note 615.

619. Amy Prince, *Victory Park*, *Dallas, TEXASMONTHLY* (Dec. 2007), <http://www.texasmonthly.com/2007-12-01/streetsmarts.php>.

620. Pulle, *supra* note 612.

621. *Id.*

622. Steve Brown, *Cousins Properties will Manage Dallas' Victory Park*, *DALLASNEWS.COM* (Dec. 3, 2010), [http://www.dallasnews.com/sharedcontent/dws/bus/stories/DN-victory\\_03bus.ART.State.Edition1.3edebbf.html](http://www.dallasnews.com/sharedcontent/dws/bus/stories/DN-victory_03bus.ART.State.Edition1.3edebbf.html).

623. *Id.*

district.

Virginia-based developer the Mills Corporation (Mills) began formulating plans for the creation of a “mega-mall” outside the Meadowlands complex as early as 1994 when they purchased a 750-acre plot of land called the “Empire Tract” just outside of the Meadowlands property that was owned by the New Jersey Sports and Exposition Authority (NJSEA).<sup>624</sup> Construction problems due to the swamp land within the Empire Tract caused the company to abandon their initial project, but Mills shifted its focus to purchasing additional NJSEA-owned land.<sup>625</sup> In 2002, the NJSEA requested proposals from developers for the creation of a retail and entertainment complex adjacent to the Meadowlands.<sup>626</sup> Six bids were submitted: two included the creation of a NASCAR track, one was submitted by the owner of the Mall of America, and another proposed a convention center.<sup>627</sup> Based on its history with the project, Mills’s bid to develop the land into a retail and recreational center was successful.<sup>628</sup> Under the terms of the original agreement, Mills agreed to pay the first fifteen years of rent up front in the amount of \$160 million.<sup>629</sup> The NJSEA’s overarching goal for the project was to avoid the use of taxpayer funding, but the initial deal with Mills included \$185 million in public financing for a new railway to connect the project to Manhattan’s Penn Station and for the repurchase of the Empire Tract for development of the railway at the cost of \$26 million of taxpayer money.<sup>630</sup>

Mills’s plans of creating a 4.8 million-square-foot mall began in 2003 with an initial price of \$1.3 billion, which was scheduled to be opened two years after breaking ground.<sup>631</sup> The development was immediately stalled in 2003 by a lawsuit filed against the NJSEA by a pair of developers, Hartz Mountain and Westfield America Trust, who had submitted bids for the project.<sup>632</sup> The lawsuit was unsuccessful, but was followed by another suit in 2005 by the New York Giants who claimed that the Xandau retail project was obstructing views of the stadium in violation of their lease.<sup>633</sup> That suit was also unsuccessful, but the delays caused by litigation caused Mills to lay-off fifteen percent of its work force by 2006.<sup>634</sup> Shortly thereafter, Mills shareholders filed suit against the company and the Securities and Exchange Commission (SEC) had begun investigating the company for questionable accounting practices.<sup>635</sup> Meanwhile, another developer involved in the development, the Simon Property Group, willfully abandoned the development after major lender Lehman Brothers collapsed due to the financial crisis, which caused other lenders to pull out as well.<sup>636</sup>

After prolonged litigation and investigation doomed Mills’s initial attempt to develop a Meadowlands sports.com, the NJSEA agreed to turn the project over to Colony Capital (Colony), a California-based real estate investment firm.<sup>637</sup> At the time of Colony’s investment, a total of \$2 billion had already been

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624. Seamus McGraw, *Whither Xanadu?*, NJMONTHLY.COM (Dec. 13, 2010), <http://njmonthly.com/articles/lifestyle/whither-xanadu.html>.

625. *Id.*

626. *Id.*

627. *Id.*

628. *Id.*

629. *Id.*

630. *Id.*

631. Marc Scribner, *New Jersey’s Not-So-Palatial Xanadu*, OPENMARKET.ORG (July 22, 2010), <http://www.openmarket.org/2010/07/22/new-jerseys-not-so-palatial-xanadu/>.

632. *Id.*

633. *Id.*

634. Laura Mansnerus, *How a Mall in the Meadowlands is Bleeding a Company*, N.Y. TIMES (Apr. 16, 2006), at 14NJ, 1.

635. Scribner, *supra* note 631.

636. Terry Pristin, *At \$2.3 Billion, This Mall Could be Too Big to Fail*, N.Y. TIMES, May 20, 2009, at 4.

637. Scribner, *supra* note 631.

invested and another \$1.5 billion was necessary to complete the project that was initially proposed for \$1.3 billion.<sup>638</sup> Colony agreed to assume \$485 million of Mills's debt in return for 4.5 million shares in the company, and also guaranteed up to \$90 million in additional construction costs.<sup>639</sup> Credit Suisse bank provided the remaining \$1 billion necessary for the project.<sup>640</sup> Mills was eventually sold to the Simon Property Group and hedge fund Farallon Capital Management in February 2007.<sup>641</sup>

At the time of Colony's investment, the project had 6 anchor tenants committed to 500,000 square feet of retail space.<sup>642</sup> The initial tenants included Cabela's; AEG Live, a live performance and concert hall; Muvico 18, an upscale movie theater; Forever 21; and Children's Place, a children's apparel retailer.<sup>643</sup> The main entertainment anchors included an indoor ski slope; the world's tallest Ferris wheel; Wannado City, a 60,000-square-foot playroom for children that allows them to learn about different career choices; and Sky Venture, indoor sky diving.<sup>644</sup> However, many of the initial design elements were eliminated including, among others, a roller coaster, a miniature NASCAR-style track, a new home of the Meadowlands YMCA, and a minor league baseball stadium.<sup>645</sup>

Unfortunately, like the first development attempt, Colony's efforts were stalled due to litigation. First, the Bergen County Cliff Hawks, the minor league baseball team initially announced as a tenant for the proposed minor league stadium, sued for breach of contract, but the case was dismissed.<sup>646</sup> More critically, the case against one of the project's initial creditors that had left the project, Xanadu Mezz Holdings, an affiliate of Lehman Brothers, was dismissed on a technicality.<sup>647</sup> Xanadu Mezz had pledged \$208 million for the project, 20% of the initial costs, but was allowed to walk away from the project without penalty.<sup>648</sup> By 2009, Colony's attempt at developing the Meadowlands sports.comm failed when it was unable to find a replacement creditor for such a significant investment, largely due to the credit crunch following the financial crisis in 2008.<sup>649</sup>

After the second failed attempt to develop the site, the State of New Jersey and their outspoken Governor Chris Christie have become greatly involved in the project. Christie identified the development problems succinctly.

There is no leasing plan making material on-site progress. The physical activities of construction are at a standstill, if not abandonment. The construction loan is out of balance. There are no monies readily available to finish construction of public areas or tenant improvements.

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638. Laura Mansnerus, *Reprieve for Troubled Xanadu Entertainment Complex in Meadowlands*, N.Y. TIMES, Aug. 23, 2006, at 5.

639. *Mills Corp. Hands Over Xanadu Development to Colony Capital*, SPORTS BUS. DAILY (Aug. 23, 2006), <http://www.sportsbusinessdaily.com/Daily/Issues/2006/08/Issue-228/Facilities-Venues/Mills-Corp-Hands-Over-Xanadu-Development-To-Colony-Capital.aspx>.

640. *Colony Capital Completes Recapitalization of Meadowlands Xanadu Project*, COLONY CAPITAL, LLC (Nov. 22, 2006), [http://www.colonyinc.com/articles/news\\_xanadu.htm](http://www.colonyinc.com/articles/news_xanadu.htm) [hereinafter *Colony Capital Completes Recapitalization*].

641. John Spence, *Simon, Farallon Team Up to Buy Mall REIT*, MARKETWATCH (Feb. 16, 2007), <http://www.marketwatch.com/story/mills-agrees-to-be-acquired-by-simon-property-hedge-fund>.

642. *Colony Capital Completes Recapitalization*, *supra* note 640.

643. *Id.*

644. *Id.*

645. Mansnerus, *supra* note 638.

646. Maura McDermott, *NJ Sports Authority Still Expects Minor League Baseball at Xanadu*, NJ.COM (Jan. 30, 2008), [http://www.nj.com/news/index.ssf/2008/01/the\\_sports\\_authority\\_still\\_exp.html](http://www.nj.com/news/index.ssf/2008/01/the_sports_authority_still_exp.html).

647. Ted Sherman, *Xanadu Developers Lose Legal Bid for Financing of Stalled \$2B Retail Complex*, NJ.COM (Sept. 21, 2009), [http://www.nj.com/news/index.ssf/2009/09/\\_the\\_developers\\_of\\_xanadu.html](http://www.nj.com/news/index.ssf/2009/09/_the_developers_of_xanadu.html).

648. *Id.*

649. *Id.*

Most, if not all, of announced major tenants have an ‘escape clause’ solely dependent on leasing—or lack thereof.<sup>650</sup>

Beyond the \$2.3 billion already invested in construction of the project by 2009, the state estimated that the project needed a minimum of \$875 million for completion.<sup>651</sup> To complete the project, Governor Christie began searching for developers to complete the project by offering more state support. In return, Christie made two demands. First, that the new developer change the project’s current checkerboard aesthetic that Christie calls, “the ugliest . . . building in New Jersey and maybe America,” and, second, that the state would receive a piece of the project’s equity in return for any public investment.<sup>652</sup> However, there has been outspoken opposition to adding public funding to a project that has failed multiple times, especially considering Christie’s movement towards austerity in all other areas of the state government. The most influential opposition has come from George Zoffinger, the former President of the NJSEA that accepted Mills’ initial bid, who argued that no public money should be used for the development because the initial goal of the project was to avoid any taxpayer involvement.<sup>653</sup>

In May of 2011, Triple Five, owner of the Edmonton Mall and the Mall of America, the country’s largest entertainment and retail complex and one of the initial bidders on the project, was granted the right to develop the sports.comm project, which they renamed American Dream Meadowlands.<sup>654</sup> Its initial bid was denied, in part, because its plans included housing on the site.<sup>655</sup> The new plan calls for the creation of an indoor water park, a second parking garage, a skating rink, and other elements that have proven successful at Triple Five’s other developments.<sup>656</sup> The company’s goal is to complete the project well before the Meadowlands hosts the 2014 Super Bowl.<sup>657</sup> Governor Christie has also promised, and the State Senate has approved, a plan to include the project in the state Economic Redevelopment and Growth Grant program, which will provide Triple Five with \$200 million potential tax breaks for the project.<sup>658</sup> Therefore, the Meadowlands sports.comm is likely to proceed.

Beyond the renovation and completion of Xanadu, the Meadowlands Regional Chamber of Commerce has submitted a proposal to redevelop the remaining land surrounding the Meadowlands. The proposal would add 2.5 million square feet of usable land at the site and would create 15,000 temporary construction jobs and 25,000 permanent jobs.<sup>659</sup> The plan calls for the creation of a 150,000-square-foot casino, a 400,000-square-foot convention center, a 125,000-square-foot conference center, six hotels with

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650. Peter Applebome, *Possible Second Life for Stalled Xanadu Project? Consider Trip to ‘Jersey Shore,’* N.Y. TIMES, Jan. 25, 2010, at 12.

651. Charles V. Bagli, *Christie Urges Rescue for Stalled Meadowlands Complex*, N.Y. TIMES, July 21, 2010, at 24.

652. Megan DeMarco, *Christie Says if N.J. Gives More Funding to Meadowlands Xanadu, Changing Exterior is a Priority*, NJ.COM (Mar. 25, 2011), [http://www.nj.com/news/index.ssf/2011/03/christie\\_says\\_if\\_nj\\_gives\\_more.html](http://www.nj.com/news/index.ssf/2011/03/christie_says_if_nj_gives_more.html).

653. Bagli, *supra* note 651.

654. Terry Pristin, *Bringing the Mall of America Magic to New Jersey*, N.Y. TIMES, May 11, 2011, at 6. Triple Five is looking for \$800 million in public assistance and is relying on tax-free bonds tied at future revenues. *Tax Breaks Approved for Xanadu Developer*, REVENUES FROM SPORTS VENUES NEWSLETTER, June 30, 2011 [hereinafter *Tax Breaks Approved*].

655. Terrence Dopp & Prashant Gopal, *New Jersey’s Xanadu to be Taken Over by Mall of America Owner Triple Five*, BLOOMBERG (Dec. 23, 2010), <http://www.bloomberg.com/news/2010-12-23/new-jersey-s-meadowlands-complex-will-be-revamped-by-mall-of-america-owner.html>.

656. Andrew Calvo, *The Meadowland’s Xanadu Getting New Name and Developer*, 4HOTELIERS (May 3, 2011), [http://www.4hoteliers.com/4hots\\_nshw.php?mwi=8567](http://www.4hoteliers.com/4hots_nshw.php?mwi=8567).

657. Dopp & Gopal, *supra* note 655.

658. *Tax Breaks Approved*, *supra* note 654.

659. E. Assata Wright, *New Vision for Meadowlands Sports Complex*, HUDSON REPORTER (Mar. 6, 2011), [http://hudsonreporter.com/view/full\\_stories\\_home/12163517/article-New-vision-for-Meadowlands-Sports-Complex-Plan-includes-convention-center--hotels--casinos--athletic-center-?instance=secaucus\\_story\\_left\\_column](http://hudsonreporter.com/view/full_stories_home/12163517/article-New-vision-for-Meadowlands-Sports-Complex-Plan-includes-convention-center--hotels--casinos--athletic-center-?instance=secaucus_story_left_column).

a total of 3200 rooms, two 3000-space parking garages, and a world-class diving and aquatics center.<sup>660</sup> However, this plan would require a change to New Jersey's current gaming laws, which only permit gambling in Atlantic City.<sup>661</sup> To counter, the state has minimized the likely opposition to a change to the gambling rules by becoming a twenty percent equity partner in Revel Casino in Atlantic City at the price of \$261 million and by instituting legislation that eliminated a \$30 million purse subsidy for the state's horse racetracks, including the Meadowlands Racetrack, which was paid by Atlantic City casinos.<sup>662</sup> Public financing for development of the land surrounding the Meadowlands is expected to be announced in the near future, and is likely to mirror the state's agreement with Revel Casino, but is dependent on Triple Five's successful completion of the Meadowlands sports.comm.<sup>663</sup>

After two failed development attempts, the Meadowlands sports.comm is a perfect example of a failed sports.comm, but also exemplifies the important economic impact a sports.comm can have on a region. Rather than downsize the project, the Meadowlands sports.comm has continued to increase in scope due to the potential profits that could ultimately be realized by a successful development. Therefore, the expansion of the project to the land directly adjacent to the Meadowlands utilizing a public investment and its ultimate completion will likely transform the Meadowlands sports.comm from a failed endeavor into one of the most prosperous retail developments in the country.

#### F. Atlantic Yards

Similar to the problems faced by other failed or delayed sports.comms, the New Jersey Nets' initial attempt at creating a sports.comm in Brooklyn, New York, was plagued by overindulgence. Proposed in 2003, the initial plan for Atlantic Yards, the sports.comm surrounding the proposed Barclays Center, was to create a \$2.5 billion entertainment district to be designed by celebrity architect Frank Gehry. By 2005, the completed proposal inflated the final price to \$4 billion. Since the completed plan was submitted in 2005, the developer, Forest City Ratner, has been in a constant struggle to obtain the necessary financing and to acquire land in order to complete the Atlantic Yards sports.comm. However, after many delays, Barclays Center seems to be on track for completion, despite being proposed during the worst economic climate since the Great Depression.

The Barclays Center is scheduled to be the focal point of Atlantic Yards, but lawsuits and financing problems have delayed construction for years. The location of the development is the Prospect Heights neighborhood in Brooklyn, New York, which was considered a blighted area. Ratner acquired twenty-two acres in Prospect Heights as a result of an agreement with former Governor George Pataki and Mayor Michael Bloomberg.<sup>664</sup> Ratner was awarded the land without a bid, and also acquired the eight-acre rail yard for \$100 million through a much-disputed bid process.<sup>665</sup> The designation of Prospect Heights as a "blighted area" gave the city more flexibility to acquire property through eminent domain; however, the first lawsuits against Ratner and Atlantic Yards claimed that the city had abused its power by allowing Ratner to choose the eminent domain condemnation zone.<sup>666</sup> After three years, the case was finally decided by the New York Court of Appeals, the state's highest court, which ruled six to one that the city's

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660. Michael Lamendola, *Concept Plan to Transform Meadowlands Includes Casinos, Convention Center, and Aquatics Center*, NORTHJERSEY.COM (Mar. 10, 2011), [http://www.northjersey.com/news/117719013\\_Meadows\\_vision\\_includes\\_casinos\\_\\_aquatics\\_and\\_convention\\_center.html](http://www.northjersey.com/news/117719013_Meadows_vision_includes_casinos__aquatics_and_convention_center.html).

661. Wright, *supra* note 659.

662. *Id.*

663. DeMarco, *supra* note 652.

664. Daniel Goldstein, *What is Atlantic Yards? A Complete Failure of Democracy*, HUFFINGTON POST (Mar. 12, 2010), [http://www.huffingtonpost.com/daniel-goldstein/what-is-atlantic-yards-a\\_b\\_497229.html](http://www.huffingtonpost.com/daniel-goldstein/what-is-atlantic-yards-a_b_497229.html).

665. *Id.*

666. Charles V. Bagli, *Ruling Lets Atlantic Yards Seize Land*, N.Y. TIMES (Nov. 24, 2009), [http://www.nytimes.com/2009/11/25/nyregion/25yards.html?\\_r=1](http://www.nytimes.com/2009/11/25/nyregion/25yards.html?_r=1).

use of eminent domain was appropriate.<sup>667</sup>

By 2006, the Atlantic Yards proposal included three buildings, the Barclays Center, an office tower, and a residential tower with fifty percent of the occupancy dedicated to low- and middle-income families. By 2009, Ratner attempted to save money on construction of the Barclays Center by reconfiguring the glass and steel arena designed by Gehry.<sup>668</sup> Gehry criticized the downsizing and was removed as architect on the project.<sup>669</sup> Ratner also attempted to save money by delaying Phase II of the development, the residential portion; however, local citizens criticized this move because it eliminated much of the “public benefits” that were promised as a result of the eminent domain taking.<sup>670</sup> Specifically, local residents were upset that a 2250-unit housing structure for middle and moderate income families has been delayed, along with 8 acres of open space.<sup>671</sup> In response, Ratner’s new architect, Ellerbe Becket and SHoP Architects, proposed a downsized arena in September of 2009 and promised to begin construction of the residential phase six months after beginning the arena.<sup>672</sup>

Following the unsuccessful eminent domain suit, Ratner’s biggest obstacle was to obtain financing for the project without further assistance from the government. The city offered to extend \$700 million in tax-exempt bonds, but refused to pledge any of the taxing power of the state to back the bond offering.<sup>673</sup> Therefore, in order to take advantage of this form of tax-exempt financing, Ratner proposed to pay the \$30 million annual debt service using future revenue streams like sponsorships, suite licenses, concessions, increased ticket prices, and ticket fees.<sup>674</sup> However, this financing was unnecessary when Ratner sold an eighty percent interest in the New Jersey Nets and forty-five percent interest in the Barclays Center to Russian billionaire Mikhail Prokhorov, while retaining his majority ownership interest in Atlantic Yards.<sup>675</sup> It has been reported that Prokhorov paid Ratner \$223 million for 80% of the Nets and 45% of the arena and agreed to pay \$60 million in team losses and assume 80% of the Nets’ \$200 million debt.<sup>676</sup> It was assumed that Prokhorov would save the project by financing the entire \$700 million bond offering, but instead he provided a \$200 million bridge loan, which gave Ratner time to find the remaining financing.<sup>677</sup>

To further fund the development, Ratner has been forced to sell a 49% stake in his 15 shopping centers scattered throughout the New York City area, which were valued at \$172 million.<sup>678</sup> Moreover, Ratner has utilized the EB-5 foreign investment program to obtain additional financing for Atlantic Yards.<sup>679</sup> Ratner claims the \$249 million in EB-5 funds that he has obtained will create 7696 new

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667. *Id.*

668. Rich Calder, *Game Over for Nets’ Atlantic Yards*, N.Y. POST, Mar. 25, 2009, at 2.

669. *Id.*; Charles V. Bagli, *Developer Drops Gehry’s Design for Brooklyn Arena*, N.Y. TIMES (June 4, 2009), <http://www.nytimes.com/2009/06/05/nyregion/05gehry.html>.

670. *Ratner’s Atlantic Yards Project Enters a Crucial Period*, DEALB%K (June 25, 2009), <http://dealbook.nytimes.com/2009/06/25/ratners-atlantic-yards-project-enters-a-crucial-period/>.

671. *Id.*

672. Bagli, *supra* note 669.

673. Eliot Brown, *When Bruce Met Mikhail: The Backstory of the Nets-Atlantic Yards Deal*, N.Y. OBSERVER (Oct. 1, 2009), <http://www.observer.com/2009/real-estate/hed?page=all#>.

674. John Brennan, *Nets Naming Rights Deal is Half of What Was Publicized*, NORTHJERSEY.COM (Dec. 3, 2009), [http://www.northjersey.com/sports/pro\\_sports/120309\\_Nets\\_naming\\_rights\\_deal\\_is\\_half\\_of\\_what\\_was\\_publicized.html](http://www.northjersey.com/sports/pro_sports/120309_Nets_naming_rights_deal_is_half_of_what_was_publicized.html).

675. Steve Politi, *Fans Should Walk Away from ‘Crazy’ NJ Nets and Possible New Owner Now*, NJ.COM (Sept. 23, 2009), [http://www.nj.com/nets/index.ssf/2009/09/politi\\_fans\\_should\\_walk\\_away\\_f.html](http://www.nj.com/nets/index.ssf/2009/09/politi_fans_should_walk_away_f.html).

676. Rich Calder, *NBA Deal is ‘Net’ Loss for B’klyn*, N.Y. POST, Apr. 4, 2011, at 5.

677. Politi, *supra* note 675.

678. Eliot Brown, *Ratner Sells Shopping-Center Stake*, WALL ST. J. (Mar. 30, 2011), [http://online.wsj.com/article/SB10001424052748704471904576231293254223456.html?mod=googlenews\\_wsj](http://online.wsj.com/article/SB10001424052748704471904576231293254223456.html?mod=googlenews_wsj).

679. Charles V. Bagli, *With Federal Case and Modular Building Plan, New Attention for Atlantic Yards Project*, N.Y. TIMES (Mar.

jobs.<sup>680</sup> However, Ratner also acknowledged that the funds would be used for the development of a new rail yard.<sup>681</sup> Therefore, since the jobs created are not necessarily tied to the proposed EB-5 financing, the financing method will likely be subject to future legal challenges.

Though the Atlantic Yards financing plan has not yet been finalized, developers broke ground on the project in March 2010, just in time to utilize the city's \$700 million bond offering.<sup>682</sup> Construction of the Barclays Center itself has finally begun, and as of April 2011, thirty percent of the facility's steel is in place. The arena is now scheduled to open sometime during the 2012–2013 season. Despite the difficulty in developing this sports.com, Ratner is already declaring the facility a success by promising that the Barclays Center will host more than two hundred events in its first year of operation.<sup>683</sup> However, the sports.com surrounding the arena continues to be stalled, and according to a recent filing by Ratner with the SEC, the project might be scrapped altogether.<sup>684</sup> Ratner warned that rising construction costs, higher financing costs, loss of arena sponsors, and an inability to meet government-mandated deadlines could cause the project to fail completely. The SEC filings further indicated that Ratner and the company could potentially lose up to \$525 million on the project. However, currently the plan is proceeding and potential tenants have not yet been discouraged as the sports.com has the newfound financial security of being implicitly backed by one of the richest people in the world, Prokhorov.

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17, 2011), <http://www.nytimes.com/2011/03/18/nyregion/18yards.html>.

680. Norman Oder, *Believable? Feds Told \$249M in Immigrant Investor (EB-5) Funds Would Create 3705 Construction Jobs, 350 in Retail, 1786 in Art/Entertainment*, ATL. YARDS REPORT (Mar. 29, 2011), <http://atlanticyardsreport.blogspot.com/2011/03/believable-feds-told-249m-in-immigrant.html>.

681. Bagli, *supra* note 679.

682. *Officials to Break Ground on Atlantic Yards Project*, NY1.COM (Mar. 10, 2010), [http://www.ny1.com/content/top\\_stories/115010/officials-to-break-ground-on-atlantic-yards-project](http://www.ny1.com/content/top_stories/115010/officials-to-break-ground-on-atlantic-yards-project).

683. John Brenan, *Nets' New Home Moving Forward*, NORTHJERSEY.COM (Mar. 28, 2011), [http://www.northjersey.com/news/Nets\\_new\\_home\\_moving\\_forward.html](http://www.northjersey.com/news/Nets_new_home_moving_forward.html).

684. Calder, *supra* note 676.



EXHIBIT # 12  
STAGED SPORTS COMMUNITY (STAGED SPORTS.COMM)<sup>685</sup>

Though sports.comms are most successful as a revenue generator when they are part of a fully-conceived development plan, team owners and local governments have begun to apply the sports.comm concept on a staged basis by upgrading a city's existing sports infrastructure. Team owners that own additional land surrounding their stadium, or are part of a receptive community that enables them to acquire that land, have begun creating multi-use entertainment districts adjacent to their sports venues in order to further enlarge their sports venues.

Most notably, league revenue-sharing rules have made the development of a sports.comm a practical necessity for owners in order to keep their teams economically viable. All professional leagues have some form of revenue sharing that generally requires teams to share their national media, licensing, and gate receipt revenues; however, other stadium revenues are generally not shared.<sup>686</sup> Therefore, team owners have sought to maximize their stadium revenues by constructing additional revenue-generating facilities around an existing professional sports anchor venue. These structures are not necessarily sports-related; rather, they are traditional retail, entertainment, and recreational elements capable of attracting large crowds to a sports venue.

The staged sports.comm concept, in addition to being utilized by team owners, has also been utilized by local governments that have attempted to transform their city into a destination place in order to better compete in the emerging global marketplace. Cities have accomplished this by both expanding their existing stadium infrastructure and by creating new sports venues in the hope of attracting a professional sports tenant to anchor its multi-use entertainment district. The effects of the recession have generally required local governments to play a larger role in the development of the modern sports.comm, which has given cities more power to control the planning of these developments, ensuring that the sports.comm will benefit the local community as well as the local sports franchise.

Examples of the staged sports.comm concept include the expansion of the New Orleans Superdome, home of the New Orleans Saints, and the creation of the Titletown District surrounding Lambeau Field, home of the Green Bay Packers. The city-driven staged sports.comm is best illustrated by the Bricktown District in Oklahoma City, home of the Oklahoma City Thunder; and the Platinum Triangle in Anaheim, home of the Los Angeles Angels of Anaheim and the Anaheim Mighty Ducks.

*A. New Orleans Superdome*

The New Orleans Superdome has long been one of the nation's preeminent indoor sports venues, but was decimated when Hurricane Katrina tragically struck Louisiana in 2005. Prior to the disaster, the Saints had been putting pressure on the State of Louisiana to finance a new stadium or to contribute to necessary large-scale Superdome improvements. Without the requisite local support to publicly finance a new stadium, the State agreed to contribute yearly state subsidies to cover the Saints' annual revenue losses.<sup>687</sup> At the time, only Indianapolis had offered to subsidize its NFL franchise's revenue losses, but the Louisiana state government realized it could not retain its NFL franchise without offering public subsidies.<sup>688</sup> The state concluded that its participation was necessary based on the fact that New Orleans ranked as the fourth smallest NFL franchise, had the third fewest television households among NFL markets, and its population had one of the lowest per capita incomes among NFL cities.<sup>689</sup> Therefore, in

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685. See Greenberg & Hughes Jr., *supra* note 392.

686. SCOTT ROSNER & KENNETH L. SHROPSHIRE, *THE BUSINESS OF SPORTS* 48 (2004).

687. Victor A. Matheson & Robert A. Baade, *NFL Governance and the Fate of the New Orleans Saints: Some Observations*, INT'L ASSOC. OF SPORTS ECONOMISTS 3 (Apr. 2007), available at [http://college.holycross.edu/RePEc/spe/BaadeMatheson\\_NFLSaints.pdf](http://college.holycross.edu/RePEc/spe/BaadeMatheson_NFLSaints.pdf).

688. John Fritze & Kevin Corcoran, *Subsidies for Colts Unforeseen*, INDIANAPOLIS STAR, Nov. 21, 2004, at 1B.

689. Stephen Stuart, *Funds & Games: Paying for the Saints*, BUREAU OF GOVERNMENTAL RES. 8 (Jan. 2005),

2001, the Saints and the State of Louisiana entered into a ten-year, \$180.5 million agreement that would initially pay the Saints \$12.5 million, with payments scheduled to gradually increase to \$23.5 million per year.<sup>690</sup>

Following Hurricane Katrina, the state's desperate bargaining position in negotiations with the Saints became much worse due to the destruction in and around the Superdome. Due to the devastation throughout the city, the Superdome became an important anchor for retail, commercial, and cultural redevelopment in New Orleans.<sup>691</sup> Therefore, out of necessity, the state and Saints owner Tom Benson (Benson) entered into a public-private partnership to create a staged sports.com around a refurbished Superdome.

The first phase of the Superdome sports.com was to reinvigorate the deteriorating Superdome with \$85 million in publicly-financed improvements.<sup>692</sup> A portion of these improvements utilized New Market Tax Credits, which were available because the construction would take place in a blighted area.<sup>693</sup> The funds were primarily directed towards stadium improvements including the addition of 3100 plaza-level seats, sixteen new luxury boxes, premium club lounges, and forty-three additional food and beverage stands throughout the Superdome.<sup>694</sup> With the exception of the increased plaza seating, all increased revenues generated from these improvements would fund nonshared NFL revenue streams.<sup>695</sup> In return for such an advantageous deal, Benson agreed to decrease the amount of annual government subsidies owed by the state to between \$6 and \$7 million per year.<sup>696</sup>

The second phase of the Superdome redevelopment has also been developed with a focus on maximizing the Saints nonshared revenues. The next step was to replace the New Orleans Centre mall and Dominion Tower government building with a lucrative alternative. The Benson family's company, Zelia, LLC (Zelia), privately purchased the 26-story Dominion Tower for a price of \$12.5 million, on the condition that the state would promise to lease at least two-thirds of the vacant office space for the first fifteen years.<sup>697</sup> Zelia also purchased the New Orleans Centre properties, including a 2000-space parking garage, for a total of \$42.1 million.<sup>698</sup> The agreement required the Louisiana Sports Entertainment District to pay the Bensons \$2.3 million annually in rent for the New Orleans Centre.<sup>699</sup> The \$10.5 million cost of demolishing the property surrounding the stadium was also paid for by the state as a credit for the remaining subsidy payments forgiven by the Saints.<sup>700</sup> The demolition made room for the creation of a 92,000-foot open-air gathering place, now known as Champions Square. Currently, the area serves as a grand entrance to the Superdome, a performance stage, and a game-day party zone for pregame events.<sup>701</sup> Another private developer is in the process of completing the renovation of the New Orleans Hyatt hotel that was destroyed during Hurricane Katrina, but had previously been a focal point of the

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<http://www.bgr.org/files/reports/FundsandGames.pdf>.

690. *Id.* at 10.

691. Robert Travis Scott, *New Orleans Saints, Superdome Game Plan is Multilayered Effort for State*, NOLA.COM (Feb. 21, 2010), [www.nola.com/business/index.ssf/2010/02/new\\_orleans\\_saints\\_complicated.html](http://www.nola.com/business/index.ssf/2010/02/new_orleans_saints_complicated.html).

692. *Id.*

693. *Id.*

694. *Id.*

695. ROSNER & SHROPSHIRE, *supra* note 686.

696. Scott, *supra* note 691.

697. *Id.*

698. *Id.*

699. *Id.*

700. *Id.*

701. Nakia Hogan, *Champions Square Will Open for New Orleans Saints' First Exhibition Game at Superdome*, NOLA.COM (Aug. 15, 2010), [http://www.nola.com/saints/index.ssf/2010/08/champions\\_square\\_set\\_to\\_open\\_f.html](http://www.nola.com/saints/index.ssf/2010/08/champions_square_set_to_open_f.html).

Superdome district.<sup>702</sup> The hotel renovation project will cost a total of \$275 million to complete and will be a key addition to the district.<sup>703</sup> The coordination of those two distinct developments will be critical to the overall functionality and success of the Superdome staged sports.comm.

The final phase of development will concern the implementation of new entrances to the Superdome and the creation of restaurants, night clubs, and entertainment venues within the entertainment district. As those developments are completed, the City of New Orleans plans to join the ranks of Patriots Park and L.A. Live as one of the nation's model sports.comm developments.<sup>704</sup> At a minimum, the sports.comm will be nationally recognized as the Superdome is scheduled to host the 2012 and 2013 Sugar Bowl; the 2012 Bowl Championship Series National Championship Game, the 2012 Men's Basketball Final Four, and Super Bowl XLVII in 2013.<sup>705</sup>

### *B. Titledown District*

Similar to New Orleans, development of the Titledown District surrounding Lambeau Field in Green Bay, Wisconsin has adopted the staged sports.comm formula for creating a regional sports and entertainment destination. However, unlike the Superdome and arguably all of the sports.comm developments previously discussed, Lambeau Field has the unique distinction of being located in a cold, rural area of the country. Therefore, the success or failure of the Titledown District will be the ultimate test of whether the staged sports.comm is a viable tool for economic development regardless of market size, climate, or location. The Titledown District could also finally conclude the seemingly endless debate over whether a sports venue creates new wealth or simply transfers wealth from other forms of entertainment within a city.

The Green Bay Packers are also in a unique position as a result of NFL revenue-sharing rules. Unlike the owners of large-market teams that seek to develop a sports.comm in order to avoid losing revenues to league revenue sharing rules, the Packers have been forced to implement a sports.comm surrounding Lambeau Field to supplement its proceeds from revenue sharing in order to remain economically viable in the NFL. The current NFL salary cap formula includes both shared and nonshared revenues; therefore, as nonshared revenues have increased, due in large part to the modern sports.comm, the salary cap has also increased.<sup>706</sup> Thus, while player costs have consistently risen as a result of increased nonshared revenues, the amount of shared revenues available to the Packers has remained the same. Meanwhile, the Packers local revenues have remained the same since 2007.<sup>707</sup> Though the exact numbers are unavailable, Packers President Mark Murphy has observed that player costs are outpacing revenue by a two-to-one rate.<sup>708</sup> As a result, the Packers and the City of Green Bay are working together to upgrade its existing infrastructure to create a staged sports.comm in order to mitigate Green Bay's size disadvantage compared to competing NFL markets.

Similar to the New Orleans Superdome, the first phase of the Titledown District required a renovation of the existing football venue. In 2002, Lambeau Field underwent a massive \$295 million renovation that

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702. *Officials Break Ground on Hyatt Regency New Orleans Redevelopment Project*, NOLA.COM (Aug. 18, 2010, 11:04 a.m.), [http://www.nola.com/business/index.ssf/2010/08/officials\\_break\\_ground\\_on\\_hyatt.html](http://www.nola.com/business/index.ssf/2010/08/officials_break_ground_on_hyatt.html).

703. *Id.*

704. *Id.*

705. Kathy Finn, *New Anchor in Town*, MYNEW ORLEANS.COM (Nov. 2010), <http://www.mynew orleans .com/New-Orleans-Magazine/November-2010/New-anchor-in-town/>.

706. Christopher Stefani, *State of the Shield: The NFL's Economic Model and Its Impact on Competitive Balance*, STATE OF THE SHIELD (Sept. 2009), [http://stateoftheshield.com/files/State\\_of\\_the\\_Shield\\_by\\_Chris\\_Stefani\\_09\\_09.pdf](http://stateoftheshield.com/files/State_of_the_Shield_by_Chris_Stefani_09_09.pdf).

707. Gregg Rosenthal, *NFLPA Responds to Packers' Financial Report*, PROFOOTBALLTALK (July 14, 2010, 5:29 PM), <http://profootballtalk.nbcsports.com/2010/07/14/nflpa-responds-to-packers-financial-report/>.

708. *Id.*

caused the stadium to more than double in size to nearly 1.7 million square feet.<sup>709</sup> The crown jewel of the development was the five-story Lambeau Field Atrium. The facility is home to the Green Bay Packers Hall of Fame, the Packers' team shop, interactive fan zones, event facilities, seven new restaurants, and multiple new outlets for concessions.<sup>710</sup> The developer of the project, Hammes Co., strategically positioned the atrium to "open up the building to the potential of bringing people to the stadium year-round."<sup>711</sup>

The one-time impact of the Lambeau renovation on Brown County included \$203 million in spending, \$79 million in wages, and \$5.8 million in tax revenues created during construction.<sup>712</sup> At the peak of construction, the development created approximately 880 jobs.<sup>713</sup> As a result of the development, use of the renovated stadium has increased the local impact of the Packers by an estimated \$107 million in new spending, 940 jobs, and \$5.6 million in tax revenue.<sup>714</sup> Based on the success of the Lambeau Field renovation, Hammes Co. has also been hired for the more challenging task of creating a proposal to make the Titledown District into a year-round regional destination.

To date, the Packers have acquired twenty-eight acres of land surrounding Lambeau Field for a price of \$27 million, which was \$10 million greater than the fair market value for the land.<sup>715</sup> Little is currently known about the Packers' plans for developing the area, but Packers' President Mark Murphy hopes the finished development will triple the total number of people that visit Lambeau Field each year, and will pay back the community's contribution towards the \$295 million Lambeau Field renovation.<sup>716</sup> However, before that investment can be repaid, the Packers must seek to extend the one-half cent Brown County sales tax used for the initial renovation, which is scheduled to end by 2015; although the last of the \$174 million in bonds issued for the renovation will be paid off by August 1, 2011.<sup>717</sup>

The next step of the Titledown development will be another renovation of Lambeau Field, this time adding up to 6600 additional seats, which will enclose the south end of the stadium to create a "wall of sound."<sup>718</sup> The additional seating, along with ticket prices that were increased by \$8 to \$11 dollars apiece last year, will allow the Packers to make a greater financial contribution to future development surrounding the stadium.<sup>719</sup> According to Jason Wied, Packers' Vice President of Administration/General Counsel, the new seats will be in vertical stacks to allow maximum visibility, and will likely include standing-room-only, loge, and premium seating options.<sup>720</sup> The new seating will have an estimated economic impact of \$2 million per game, and the Packers' plan to fund the project without a

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709. *10 Things You Gotta Know About Lambeau*, GREEN BAY PRESS-GAZETTE, Aug. 24, 2003, at 10T.

710. Karen Rauen, *Atrium is Crown Jewel of New Lambeau*, GREEN BAY PRESS-GAZETTE, Aug. 24, 2003, at 14T.

711. *Id.*

712. *Economic Impact Study of the Green Bay Packers and the Redeveloped Lambeau Field*, AECOM TECHNICAL SERVS., INC. 1, 7 (Sept. 22, 2010), available at [http://www.packers.com/assets/docs/2010economic\\_impact\\_report.pdf](http://www.packers.com/assets/docs/2010economic_impact_report.pdf).

713. *Id.*

714. *Id.*

715. Tony Walter, *Green Bay Packers Have Big Plans for Real Estate Surrounding Lambeau Field*, GREEN BAY PRESS-GAZETTE, July 26, 2010, at GPG.

716. *Everyone Has Interest in Lambeau Field Area*, GREEN BAY PRESS-GAZETTE, Aug. 1, 2010, at A13.

717. Richard Ryman, *Lambeau Field Renovation Debt to be Paid Off Aug. 1*, GREEN BAY PRESS-GAZETTE, Jan. 20, 2011, at A6.

718. Rich Rovito, *Lambeau Field Expansion May Create 'Wall of Sound'*, BUS. J. (MILWAUKEE) (July 4, 2010, 11:28 a.m.), <http://www.bizjournals.com/milwaukee/stories/2010/07/05/story6.html>; *Lambeau Field Expansion*, JSONLINE (Aug. 25, 2011), [http://www.jsonline.com/multimedia/photos/128414938.html#id\\_55302458](http://www.jsonline.com/multimedia/photos/128414938.html#id_55302458).

719. *Packers Asking Fans for Input on Potential Lambeau Field Changes*, NFL.COM (2010), <http://www.nfl.com/news/story?confirm=true&id=09000d5d81840a9a&template=with-video-with-comments>.

720. Tony Walter, *Seatbacks, Armrests Among Options on Survey Green Bay Packers Fans Get About Lambeau Field Expansion Plans*, GREEN BAY PRESS-GAZETTE, May 6, 2011, at GPG.

public contribution.<sup>721</sup> Moreover, the Packers are planning to add new scoreboards and to expand the Packers Hall of Fame by moving the Packers Pro Shop and Curly's Pub to the adjacent east parking lot. Unfortunately, the Packers have also faced some unexpected adversity in their future development plans.

To date, construction of the retail and entertainment district has been slowed. Titledown's first proposed retail anchor store, Bass Pro Shops, abruptly ended negotiations to come to Green Bay following the Wisconsin legislature's decision to reclassify an area of wetlands in order to facilitate the development.<sup>722</sup> A spokesman for Bass Pro Shops stated, "We were unaware of any wetland issue and have not and will not be in favor of doing anything to harm wetlands, wherever they might be."<sup>723</sup> The loss of Bass Pro Shops is a definite blow to the projected success of Titledown, but competing outdoor retailer, Cabela's, has already been rumored as a replacement. Other projected uses of the Titledown District include a multi-use baseball stadium, a new indoor training facility, and a new hotel adjacent to the stadium.<sup>724</sup> Regardless of the options the Packers choose to implement, the Titledown District will be the clearest example of the success of the sports.comm concept because the Packers disclose their local revenues yearly; therefore, the drastic change in revenue production should be evident.

### C. Bricktown District

The most successful utilization of the city-driven staged sports.comm model has been Oklahoma City's development of the Bricktown District, which has transformed a blighted area into a vibrant regional attraction. Once the city's warehouse district, the sports.comm has become its entertainment center through strategic public investment that has attracted private business from across the country. Today, Oklahoma City is known as the best place in America to launch a small business.<sup>725</sup>

Oklahoma City's warehouse district faced a crash in 1982 as a result of falling oil prices that led many companies to evacuate the oil-fueled downtown area.<sup>726</sup> After ten years of decay, the City instituted its now-historic MAPS program, which primarily includes a one-cent sales tax.<sup>727</sup> Beginning in 2003, its most visible success has been the creation of the Bricktown canal and river walk, but the MAPS program is responsible for most of the economic growth in downtown Oklahoma City throughout the last twenty years.<sup>728</sup>

Oklahoma City began to incorporate the sports.comm concept into its city revitalization plans on a staged basis by strategically acquiring and developing land to provide the most efficient uses for the city. The development of the sports.comm was made possible by the city's complete funding of the project, and was necessary due to the city government's need to allocate resources economically, efficiently, and fairly. The initial MAPS public investments were focused on four categories of the economy: the Traditional Economy, which focused on invigorating the depressed warehouse district economy; the Health Economy, by starting health initiatives in the area; the Culture and Recreation Economy, which focused on making the city more livable and walkable; and the Low-Socioeconomic Status Economy,

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721. Richard Ryman, *Green Bay Packers Hall of Fame May Be Expanded*, GREEN BAY PRESS-GAZETTE, May 20, 2011, at PKR.

722. Wes Johnson, *Bass Pro Shops Rejects Wetlands Site Near Lambeau Field*, GREEN BAY PRESS-GAZETTE (Jan. 28, 2011, 5:25 a.m.), <http://www.greenbaypressgazette.com/article/20110128/GPG0101/101280534/Bass-Pro-Shops-rejects-wetlands-site-near-Lambeau-Field>.

723. *Id.*

724. Tony Walter, *Green Bay Packers Look to Expand Stadium District*, GREEN BAY PRESS-GAZETTE, Apr. 17, 2011, at A-1.

725. *Best Places to Launch: 2009*, CNNMONEY, [http://money.cnn.com/smallbusiness/best\\_places\\_launch/2009/snapshot/241.html](http://money.cnn.com/smallbusiness/best_places_launch/2009/snapshot/241.html) (last visited Oct. 23, 2011).

726. *The History of Bricktown*, NEWS9.COM, <http://www.news9.com/global/story.asp?s=7690410> (Last visited Dec. 8, 2011).

727. Executive Summary, Larkin Warner, *Impact Analysis of MAPS and Other Significant Central City Investments*, prepared for GREATER OKLAHOMA CITY CHAMBER OF COMMERCE, Sept. 2003, at 2.

728. *Id.* at 20.

which focused on providing for the displaced and impoverished community in the downtown area.<sup>729</sup> By staging the development process in this way, Oklahoma City was able to limit the risk inherent in such a large-scale real estate development, to increase public support for the project, and to successfully maximize the economic potential of the sports entertainment district within the city. Therefore, the goals of the development were unique because the stadium district plan had a dual focus on economic impact and community benefits.

In 2004, the Oklahoma City Council codified its intentions for the district by instituting a Downtown Strategic Action Plan, which set goals for marketing, private investment, and area business development.<sup>730</sup> The plan called for a goal of \$350 million in private investment in Bricktown, which would match the total amount contributed by MAPS since 1993. Despite the city's unprecedented investment, the plan for the Bricktown District was also a unique public-private partnership. The government's role was to set a foundation for continued economic viability in the area by constructing the district's sports and entertainment anchor-facilities by synergizing the city's existing infrastructure. Thereafter, the city encouraged private commercial and retail investors to complete the entertainment district. By staging the development process, Oklahoma City was able to limit the risk inherent in such a large-scale real estate development, which made private investors more anxious to invest, and maximized the economic benefits of the sports.comm to the city.

The first major anchor in the Bricktown District was AT&T Bricktown Ballpark constructed in 1998. The stadium cost a total of \$34 million, but the cost was offset by a ten-year naming rights deal with AT&T that began in 2006 and has since been recouped by the stadium's overall economic impact on the district.<sup>731</sup> Development of the district's first key sports anchor occurred concurrently with the construction of the Bricktown Canal.<sup>732</sup> The canal has been an indispensable piece to the district's success by providing beauty, transportation, and a sense of cohesion to the community.<sup>733</sup> These two developments led to the district's first two commercial and retail coups when Sonic Corporation built a large corporate office and Bass Pro Shops constructed an 110,000 square-foot outdoor recreation superstore in the area.<sup>734</sup>

The second phase of the sports.comm began when voters approved an extension of the sales tax for the construction of a 500,000-square-foot Ford Center to host concerts and sporting events. The building cost taxpayers a total of \$89 million, but that price also included a new library and infrastructure projects surrounding the arena.<sup>735</sup> The Ford Center opened in 2002 with the hope of attracting a professional sports franchise, but settled for hosting concerts, minor league sports, and city-wide events during its first three years. However, in 2005, the New Orleans Hornets were forced to relocate from New Orleans to the Ford Center as a result of Hurricane Katrina, which gave the city a chance to prove itself as a regional destination.

The New Orleans Hornets were an immediate success at the Ford Center. In their first season, the Hornets ranked eleventh in the league in attendance and proved that Oklahoma City had potential as an NBA city and that the Bricktown District was capable of becoming a regional destination. After one year, the Hornets had an overall economic impact of \$66.4 million on the state and generated a total of \$4.6

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729. *Id.* at 7.

730. Brian Brus, *OKC's Downtown Makes Progress Toward Multi-Year Goals*, JOURNAL RECORD (Okla.), Oct. 24, 2007, at NEWS.

731. Brian Brus, *Home of Oklahoma RedHawks Renamed AT&T Bricktown Ballpark*, JOURNAL RECORD (Okla.), Mar. 3, 2006, at NEWS.

732. See generally Executive Summary, *supra* note 727.

733. *About Bricktown Water Taxi*, BRICKTOWN WATER TAXI, [http://www.bricktownwatertaxi.com/about\\_us](http://www.bricktownwatertaxi.com/about_us) (last visited Oct. 23, 2011).

734. Executive Summary, *supra* note 727, at 16–17.

735. Kelley Chambers, *These Walls: The Ford Center in Downtown OKC*, JOURNAL RECORD (Okla.), June 2, 2008, at NEWS.

million in tax revenues.<sup>736</sup> The excitement over the Hornets continued entering their second season at the Ford Center, despite the fact that an Oklahoma-based investment group had recently purchased the Seattle Supersonics in 2006 with the intention of relocating the team to Oklahoma City.<sup>737</sup> In the face of the excitement about the Hornets, the city's desire for a permanent team was at an all-time high. As the president of Downtown OKC, Inc. explained, "I view a pro team as an investment in the city that provides an economic impact and job growth for the entire city."<sup>738</sup>

Clay Bennett's investment group purchased the Seattle Supersonics after their previous ownership group was unable to secure a new arena for the franchise. Following a public outcry in Seattle against moving the team to Oklahoma City, the city council allowed voters to decide whether or not to extend the one-cent MAPS sales tax to create \$120 million worth of financing in order to upgrade the Ford Center for an NBA team.<sup>739</sup> With little opposition, the City passed the measure, and Oklahoma City was named the new home of the Oklahoma City Thunder.<sup>740</sup>

With an NBA tenant in the newly-named Oklahoma City Center, a successful AAA Minor League Baseball franchise at AT&T Bricktown Ballpark, and the completion of a \$63 million convention center, Oklahoma City has provided the infrastructure necessary for private residential, commercial, and retail businesses to flourish. Most importantly, to accommodate overnight guests, the Bricktown District has created a total of 1600 downtown hotel rooms and plans to include a total of 2250 units upon completion of the development.<sup>741</sup> Beyond hotels, the city council has set a goal of creating 2000 new permanent housing units in the district, of which 1400 units have been completed.<sup>742</sup> Housing units include market-priced condominiums, high-end townhomes, and low-income housing. Construction of a \$36 million, twelve-story mixed-use condominium, retail, and office space is also underway.<sup>743</sup> Most recently, the city council has approved funding for a TIF district to support the creation of the Center City Residential project, a 230 single-family unit structure set to open in 2012.<sup>744</sup>

While the housing phase was being constructed, the City focused its auxiliary developments on creating dining and nightlife options for the Bricktown District. Bricktown features many popular national bars like Coyote Ugly and Toby Keith's I Love This Bar and Grill, and high-end clubs for the districts' affluent guests.<sup>745</sup> The creation of a walkable downtown environment was also a key for connecting the district's sports venues, hotels, bars, and restaurants. To create a connected environment, the city council instituted the Downtown Streetscape Master Plan in 2006 to plan and maintain a cohesive streetscape as development expanded and changed hands from public to private investors.<sup>746</sup> The plan

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736. Jerry Shottenkirk, *A Future in the Game: NBA has Multiple Avenues for OKC*, JOURNAL RECORD (Okla.), July 20, 2006, at NEWS.

737. Jerry Shottenkirk, *Local Interest in New Orleans/OKC Hornets Hasn't Faded as Team Enters Second Season in OKC*, JOURNAL RECORD (Okla.), Oct. 4, 2006, at NEWS.

738. Darren Currin, *The Three "Ls" of Downtown OKC: Leasing, Living, and Leisure*, JOURNAL RECORD (Okla.), Feb. 14, 2008, at COMMENTARY.

739. Brian Brus, *OKC Council to Ask Citizens for Money to Accommodate NBA Team*, JOURNAL RECORD LEGIS. REP. (Okla.), Dec. 21, 2007.

740. Brian Brus, *OKC-Based Ford Center Upgrade: The Ball is in the Voters' Court*, JOURNAL RECORD (Okla.), Jan. 3, 2008, at NEWS.

741. Brian Brus, *OKC Visitors Fill Rooms, Look for More Downtown Retail Options*, JOURNAL RECORD (Okla.), June 4, 2009, at NEWS.

742. *Id.*

743. Kelley Chambers, *Bricktown Mixed-Use Project on Track*, JOURNAL RECORD (Okla.), Jan. 18, 2008, at NEWS.

744. Darren Currin, *TIF Projects Fuel Growth Throughout Oklahoma*, JOURNAL RECORD (Okla.), Nov. 11, 2010, at COMMENTARY.

745. Kelley Chambers, *Three New Nightclubs to Open in Oklahoma City's Bricktown*, JOURNAL RECORD (Okla.), Feb. 27, 2009, at NEWS.

746. Kelley Chambers, *Come Take a Walk Downtown; OKC Looks to Become Pedestrian-friendly*, JOURNAL RECORD (Okla.), Mar.

provides for uniform light polls, trash cans, and informational signage, while allowing each distinct downtown district to maintain its unique character.<sup>747</sup>

As the Bricktown District's infrastructure started to take shape, the balance between public and private investment began to equalize. Following the sports venue anchor, residential, and dining phases of development, Bricktown was in desperate need of retail and amusement options to satisfy daytime tourists.<sup>748</sup> Until 2009, Bass Pro Shops was the only retail store available to shoppers.<sup>749</sup> The retail development phase of the Bricktown District is included in the City's plans to attract over 200,000 square feet of overall downtown retail development.<sup>750</sup> Many of the confirmed outlets are eclectic, which affirms the City's desire to create a unique entertainment destination. Retailers include Red Dirt Marketplace, a 6000-square-foot clothing store and International Riders, a motorcycle rental store.<sup>751</sup> The City has also attempted to brand itself as the musical mecca of the region. As evidence, Oklahoma City is home to the Academy of Contemporary Music, the \$52 million Civic Center Music Hall, and a Banjo Museum.<sup>752</sup>

The Bricktown District's unique offerings extend to other entertainment options throughout the area. Bricktown's entertainment options begin with the Harkings Bricktown 16 cinema and numerous live music venues. The movie theater has remained a steady source of crowds since its opening night.<sup>753</sup> The district has also earned a reputation as a regional destination for gourmet foods.<sup>754</sup> In contrast to its focus on the arts, Bricktown also seeks to attract additional sports fans to cheer its recently-acquired Indoor Football League franchise.<sup>755</sup> The district also seeks to attract more adventurous visitors to one of the premier indoor climbing centers in the country, OKC Rocks Climbing Silo. Created from a refurbished grain silo, the indoor climbing walls are some of the tallest in the country.<sup>756</sup> Other attractions include an interactive 3-D amusement ride, one-of-a-kind McDonald's restaurant,<sup>757</sup> and a comedy club.<sup>758</sup> As unique retail and entertainment options began drawing larger crowds to the district, the city council initiated plans to invest in upgraded infrastructure, such as expanded sidewalks, footbridges, and potentially, street cars.<sup>759</sup>

As a staged sports.com, a true judgment of the Bricktown District's economic impact cannot be concluded until the development is complete. However, even as an incomplete entertainment district,

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13, 2009, at NEWS.

747. *Id.*

748. Kelley Chambers, *OKC's Bricktown Development on Agenda*, JOURNAL RECORD (Okla.), Apr. 16, 2009, at NEWS.

749. *OKC Visitors Fill Rooms*, *supra* note 741.

750. April Wilkerson, *Retail Refill: Planned Restaurants, Stores to Counter Downtown Oklahoma City Vacancies*, JOURNAL RECORD (Okla.), Sept. 24, 2010, at NEWS.

751. *Id.*

752. Executive Summary, *supra* note 727, at 4, 14.

753. Darren Currin, *Lot Lines: Stable Year for Cinemas*, JOURNAL RECORD (Okla.), May 1, 2009, at COMMENTARY.

754. Kelley Chambers, *Retailers Follow Oklahoma City Downtown Housing Growth; Gourmet Market to Open in Deep Deuce Area*, JOURNAL RECORD (Okla.), Mar. 31, 2009, at NEWS.

755. Brian Brus, *OKC Council Approves License for Indoor Football League Team*, JOURNAL RECORD (Okla.), Dec. 7, 2010, at NEWS.

756. Brian Brus, *Former Grain Silo in Downtown Oklahoma City Makes Wonderful Rock Climbing Gym*, JOURNAL RECORD (Okla.), Apr. 27, 2007, at NEWS.

757. Kelley Chambers, *Bricktown Tailor-Made McDonald's in OKC Moves Ahead in Approval Process*, JOURNAL RECORD (Okla.), Oct. 11, 2007, at NEWS.

758. Kelley Chambers, *Oklahoma City's Bricktown Works to Lure Uniqueness*, JOURNAL RECORD (Okla.), June 8, 2009, at NEWS.

759. Marie Price, *Central OK Transportation Officials Examine Possibility of Streetcars*, JOURNAL RECORD LEG. REP., Apr. 18, 2006.



Bricktown has revolutionized Oklahoma City.<sup>760</sup> By contributing a steady one-cent sales tax to the city's public infrastructure investment fund since 1993, taxpayers have successfully transformed a previously blighted area into the city's most popular tourist attraction. Recently, Oklahoma City was named *Forbes* sixth most livable city in 2009 and the most recession-proof city in America in 2008.<sup>761</sup> Future construction is likely to only enhance the city's reputation further as the Bricktown District will transform the Oklahoma City skyline with the future addition of the 40-story, \$400 million Devon Tower, which will be the largest building in the city.<sup>762</sup> With smart investment, strong political will, and private sector support, Oklahoma City has used the staged development of sports and entertainment venues to reinvent its national identity.

#### *D. The Platinum Triangle*

In contrast to Oklahoma City, which constructed its staged sports.com by utilizing new sports venues as anchor facilities around existing entertainment and recreational infrastructure, the City of Anaheim developed its sports.com by renovating and connecting its existing sports and entertainment facilities. The existing anchor facilities to be utilized in the Platinum Triangle staged development include: Angels Stadium, the Honda Center, and City National Grove of Anaheim, a live music and theatre venue.<sup>763</sup> This area was ideal for the development of a sports.com because there was a strong residential demand in the area, large availability of land for new housing, a need for revitalization, and a location that was at the confluence of three freeways, which made it an ideal tourist destination.<sup>764</sup> Though still under development, the 820-acre project will be funded by approximately \$260 million in bonds that will be financed through the establishment of a TIF district within the Platinum Triangle.<sup>765</sup>

The location of the Platinum Triangle is advantageous for the City of Anaheim because its proximity to existing and future railway transportation is likely to increase property values.<sup>766</sup> The city's current train station is to the north of Angel Stadium, but part of the Platinum Triangle development includes a new \$184 million Anaheim Regional Transportation Intermodal Center (ARTIC).<sup>767</sup> To accommodate future high-speed rail traffic, the city has also approved an additional \$100 million in financing from Measure M, a half-cent county sales tax used to pay for transportation projects.<sup>768</sup> Though no high-speed rail is currently scheduled to be built through Anaheim, the city hopes a bullet train will eventually connect San Francisco, Anaheim, and Las Vegas.<sup>769</sup>

The City of Anaheim sought to achieve both an economic and cultural revitalization through the development of the Platinum Triangle sports.com. The city's goal was to balance and integrate land

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760. Brian Brus, *Basketball Boom: Oklahoma City Thunder Bringing Business to Bricktown*, JOURNAL RECORD (Okla.), Apr. 27, 2010, at NEWS.

761. Ben Johnson, *Better Than OK*, NAT'L REAL ESTATE INVESTOR (July 1, 2009, 12:00 PM), <http://nreionline.com/news/areas/oklahoma-city-public-private-partnerships-0729/>.

762. Kelley Chambers, *OKC Roundtable: Devon's Plans for New Tower and Its Effect on Downtown Oklahoma City*, JOURNAL RECORD (Okla.), May 23, 2008, at NEWS.

763. *The Platinum Triangle in Anaheim, CA*, SOUTHERN CAL. ASSOC. OF GOV'TS 1, 2 (Mar. 2008), available at [http://www.compassblueprint.org/files/htai\\_platinum.pdf](http://www.compassblueprint.org/files/htai_platinum.pdf).

764. *Id.* at 7.

765. *Id.*

766. *The Platinum Triangle – Where Corporate and Residential Opportunities Meet*, CITY OF ANAHEIM, [www.anaheim.net/article.asp?id=1161](http://www.anaheim.net/article.asp?id=1161) (last visited Oct. 23, 2011).

767. Dan Weikel, *Transit Committee Backs Mega Station in Anaheim Amid Funding Questions*, L.A. TIMES (Jan. 13, 2011, 6:09 PM), <http://latimesblogs.latimes.com/lanow/2011/01/transit-committee-backs-mega-station-in-anaheim-amid-questions-about-funding-and-high-speed-rail.html>.

768. *Id.*

769. *Id.*

uses by connecting residential, retail, and industrial facilities with walkable streets, open spaces, and a consistent landscape.<sup>770</sup> It also sought to link employment and housing so that each supports and facilitates the other. This was accomplished by attaching first-floor retail shops to each condominium or apartment structure.<sup>771</sup> Such a design also promoted the goal of creating a neighborhood feel in an urban setting. Moreover, by integrating the district's residential and retail developments, the city was able to stimulate future office development because few regional urban locations offer both.<sup>772</sup>

By creating a livable and walkable attraction in downtown Anaheim, the city has been successful at increasing land values. By simply rezoning the land to allow for high-density housing, the city has increased land values within the district by up to \$5 million per acre.<sup>773</sup> The city has also adopted various "traffic calming" measures to reduce noise, decrease air pollution, and enhance pedestrian activity in the area.<sup>774</sup> Anaheim has transformed "superblocks" created by abandoned parking lots and warehouses into smaller, more useful city blocks.<sup>775</sup> It has also narrowed streets, expanded sidewalks, and beautified the district landscape with trees, urban parks, and thematic street lights to encourage pedestrian traffic. The focal point of this revitalization has been Market Street, which the city has specifically designed to mimic bustling local streets like Larchmont Boulevard in Los Angeles, Union Street in San Francisco, and Gaylord Street in Denver's Lower Downtown.<sup>776</sup>

Future development of the Platinum Triangle will focus on upgrading the Honda Center to become the future home of an NBA franchise.<sup>777</sup> To attract a team, most likely the Sacramento Kings, the Anaheim City Council voted unanimously to extend \$75 million worth of bond financing to upgrade its existing facilities and infrastructure.<sup>778</sup> However, the bonds will be funded entirely by private investment firms, to be paid back within a ten-year period; therefore, the city and taxpayers face no liability.<sup>779</sup> A total of \$25 million has currently been allocated for upgrades to the Honda Center and \$50 million has been set aside for working capital.<sup>780</sup> Despite a tentative deal with the Kings that recently fell through, the Honda Center's upgrades are likely to move forward in the hopes of luring the Kings or another NBA franchise to Anaheim in the near future.<sup>781</sup>

Criticism of Anaheim's Platinum Triangle project has been targeted at the lack of affordable housing proposed under the city's plan to create over 18,000 residential units within the district.<sup>782</sup> Through 2010, only 1600 units have been completed, and construction has slowed due to the decrease in demand caused by the recession.<sup>783</sup> Completed projects include Park Viridian Apartments, 1818 Apartments, Anavia

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770. *Introduction*, PLATINUM TRIANGLE MASTER LAND USE PLAN 11, available at <http://www.anaheim.net/departments/folders/planning/PT/Chapter1.pdf>

771. *See The Platinum Triangle Vision*, PLATINUM TRIANGLE MASTER LAND USE PLAN 12 (Aug. 21, 2007), available at <http://www.anaheim.net/citydepartments/planning/projects/Platinumtriangle/docs/TPTMLUP/Section%202%20-%20The%20Platinum%20Triangle%20Vision.pdf>.

772. *Id.*

773. Bobbi Murray, *A Tale of Two Anaheims*, BOBBI MURRAY (June 23, 2008), <http://bobbimurray.com/anaheim.html>.

774. JEFF KENWORTHY & PETER NEWMAN, *SUSTAINABLE CITIES READER* 123 (2009).

775. *The Platinum Triangle Vision*, *supra* note 771.

776. *Id.*

777. Suzanne Hurt, *Anaheim Approves \$75 Million in Bonds for Kings, Honda Center*, SACRAMENTO PRESS (Mar. 29, 2011), [http://www.sacramentopress.com/headline/48249/Anaheim\\_approves\\_75\\_million\\_in\\_bonds\\_for\\_Kings\\_Honda\\_Center](http://www.sacramentopress.com/headline/48249/Anaheim_approves_75_million_in_bonds_for_Kings_Honda_Center).

778. *Id.*

779. *Id.*

780. *Id.*

781. Arash Markazi, *Honda Center Renovation Plan Set*, ESPN LOS ANGELES (June 16, 2011), <http://sports.espn.go.com/los-angeles/nhl/news/story?id=6670740>.

782. Murray, *supra* note 773.

783. Eric Carpenter, *Massive Expansion Plans Renewed Near Angel Stadium*, ORANGE COUNTY REGISTER (Aug. 16, 2010),

Condominiums, and Avalon Angel Stadium, a mixed-use apartment and retail facility.<sup>784</sup> The Platinum Triangle's largest residential projects like Lennar's A-Town Metro, The Experience at Gene Autry Way, and Platinum Gateway are currently on hold while developers wait for a revival of the upscale apartment and condominium market.<sup>785</sup> However, there is a current demand for affordable housing to accommodate low-income workers in the district, which has put pressure on the city to approve residential projects that satisfy a broader range of income levels.

Though still under development, the Platinum Triangle is a great example of how a city can utilize the staged sports.comm concept to revitalize a city by connecting and improving its existing tourist attractions. While most sports.comms attempt to "trap" consumers in vast retail developments, Anaheim highlights the more conservative and less expensive approach to encouraging pedestrian activity by improving transportation infrastructure, promoting residential development, and beautifying a city. The Platinum Triangle also demonstrates how a staged sports.comm can be an ideal solution to satisfying the existing housing, employment, or entertainment needs of a city.

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[http://articles.ocregister.com/2010-08-16/cities/24645893\\_1\\_platinum-triangle-sheri-vander-dussen-massive-expansion-plans](http://articles.ocregister.com/2010-08-16/cities/24645893_1_platinum-triangle-sheri-vander-dussen-massive-expansion-plans).

784. *Development Update*, PLATINUM TRIANGLE MASTER LAND USE PLAN (Sept. 2011), available at <http://www.anaheim.net/departments/folders/planning/DevelopmentUpdate/PT.pdf>.

785. *Id.*