BUILD IT AND THEY WILL COME: DO TAXPAYER-FINANCED SPORTS STADIUMS, CONVENTION CENTERS AND HOTELS DELIVER AS PROMISED FOR AMERICA'S CITIES?

HEARING

BEFORE THE

SUBCOMMITTEE ON DOMESTIC POLICY

OF THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

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CONTENTS

	Page
Hearing held on March 29, 2007	1
Statement of:	
Demause, Neil, author, Brooklyn, NY; Heywood Sanders, professor, Department of Public Administration, University of Texas, San Antonio, TX; and Michael Decker, senior managing director, research and public policy, the Securities Industry and Financial Markets Association, Washington, DC	131
Decker, Michael	165
Demause, Neil	131
Sanders, Heywood	144
Hogi, Joyce, Bronx, NY; Frank Rashid, Marygrove College, Detroit, MI; and Nick Licata, president, Seattle City Council, Seattle, WA	13
Hogi, Joyce	13
Licata, Nick	47
Rashid, Frank	35
Humphreys, Dr. Brad, economist, University of Illinois, Urbana-Champaign, Champaign, IL; and Dennis Zimmerman, director of projects, American Tax Policy Institute, Falls Church, VA	67
Humphreys, Dr. Brad	67
Zimmerman, Dennis	75
Korb, Donald, Chief Counsel, Internal Revenue Service, Washington, DC	96
Murphy, Bob, president, Dayton Dragons, Dayton, OH	116
Letters, statements, etc., submitted for the record by:	
Braley, Hon. Bruce L., a Representative in Congress from the State of Iowa, prepared statement of	178
Davis, Hon. Danny K., a Representative in Congress from the State of Illinois, prepared statement of	62
Decker, Michael, senior managing director, research and public policy, the Securities Industry and Financial Markets Association, Washington, DC, prepared statement of	167
Demause, Neil, author, Brooklyn, NY, prepared statement of	134
Hogi, Joyce, Bronx, NY, prepared statement of	17
Humphreys, Dr. Brad, economist, University of Illinois, Urbana-Champaign, Champaign, IL, prepared statement of	69
Issa, Hon. Darrell E., a Representative in Congress from the State of California, prepared statement of	55
Korb, Donald, Chief Counsel, Internal Revenue Service, Washington, DC, prepared statement of	100
Kucinich, Hon. Dennis J., a Representative in Congress from the State of Ohio, prepared statement of	4
Licata, Nick, president, Seattle City Council, Seattle, WA, prepared statement of	49
Rashid, Frank, Marygrove College, Detroit, MI, prepared statement of	38
Sanders, Heywood, professor, Department of Public Administration, University of Texas, San Antonio, TX, prepared statement of	146
Turner, Hon. Michael R., a Representative in Congress from the State of Ohio, prepared statement of	92
Zimmerman, Dennis, director of projects, American Tax Policy Institute, Falls Church, VA, prepared statement of	77

BUILD IT AND THEY WILL COME: DO TAXPAYER-FINANCED SPORTS STADIUMS, CONVENTION CENTERS AND HOTELS DELIVER AS PROMISED FOR AMERICA'S CITIES?

THURSDAY, MARCH 29, 2007

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DOMESTIC POLICY,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:30 a.m., in room 2154, Rayburn House Office Building, Hon. Dennis J. Kucinich (chairman of the subcommittee) presiding.

Present: Representatives Cummings, Kucinich, Davis of Illinois, Tierney, Watson, Braley, Souder, Turner, and Issa.

Staff present: Jaron Bourke, staff director; Noura Erakat, counsel; Jean Gosa, clerk; Nidia Salazar, staff assistant; Amy Vossbrinck, scheduler, Office of Congressman Dennis J. Kucinich; Erin Holloway, legislative assistant, Office of Congressman Dennis J. Kucinich; Leneal Scott, information systems manager; Jay O'Callaghan and Kristina Husar, minority professional staff members; John Cuaderes, minority senior investigator and policy advisor; Benjamin Chance, minority clerk; and Meredith Liberty, minority staff assistant and correspondence coordinator.

Mr. KUCINICH. The Subcommittee on Domestic Policy of the Committee on Oversight and Government Reform will now come to order.

Without objection, the Chair and the ranking member will have 5 minutes to make opening statements followed by opening statements not to exceed 3 minutes by any other Member who seeks recognition.

Without objection, Members and witnesses will have 5 legislative days to submit a written statement or extraneous materials for the record.

Good morning and welcome.

This is the second hearing in a series of hearings on the state of urban America. The series intends to take a closer look at American cities, their progress, their problems and their future. Today's hearing will examine the use of taxpayer-financed debt for the construction of sports stadiums, convention centers and hotels as well as recent regulatory changes by the IRS that could significantly increase the use of tax-exempt bonds for historically private activities.

Last week, our hearing looked at the subprime mortgage industry and the problem of foreclosure, the payday lending industry and the enforcement of the Community Reinvestment Act. In the coming weeks, we will also take a look at the retail and grocery store industries as well as access to health care in the heart of urban America.

Today, we are taking a look at the use of tax-exempt financed debt for the construction of sports stadiums, convention centers and hotels. My own city of Cleveland has had experience in this regard.

In 1990, the Central Market Gateway Project was formed to develop new stadiums for the Cleveland Indians and the Cleveland Cavaliers. Developers mounted a ballot initiative known as Issue 2 and made claims in their paid advertising that will sound familiar to our witnesses: "Who wins with Issue 2? We all do; 28,000 jobs for the jobless, neighborhood housing for the homeless, $15 million a year for schools for our children, revenues for city and county clinics and hospitals for the sick, energy assistance for the elderly."

The public relations campaign was coupled with hardball threats from Major League Baseball to relocate the Cleveland Indians. The initiative passed by a narrow margin and by 1996, the total cost was up to $462 million, two-thirds of which came from the public, and by 1997, that cost was still rising.

By the way, for the record, we did invite Major League Baseball to testify today. They declined.

Cleveland had a municipal football stadium and an intensely loyal fan base, affectionately known as the "Dawg Pound." But that wasn't enough and the Cleveland Browns left Cleveland for a new stadium built with taxpayer subsidies in Baltimore. NFL officials insisted that a new stadium and not renovations would be necessary to get a replacement-football team. Cleveland replaced its stadium with a football only structure paid for primarily with tax money.

After spending hundreds of millions of taxpayer dollars to subsidize stadiums for professional baseball, basketball and football, Cleveland's economy does not show the appropriate progress. We have among the highest poverty rates in the Nation and one of the highest foreclosure rates. This month marks the 132nd month or exactly 11 years in which Ohio's job growth is below the national average. This figure is unprecedented nationally.

Whereas Ohio is growing slower than the rest of the country, Cleveland is growing slower than the rest of Ohio. During the 2000 recession, Cuyahoga County lost 75,733 jobs or 9.3 percent of all of its jobs.

The Gateway Project, which promised to generate tens of thousands of new jobs ushered in a period of net jobs lost since its construction. The Gateway Project neighborhood is particularly striking because the neighborhood is even more vacant and has even fewer jobs after the construction of the Gateway Project than before.

Nationally, sports stadium construction is not effective at boosting the local economy and revitalizing urban neighborhoods. Academic research shows that on all counts, sports stadiums add no benefit, no substantial economic benefit to the cities in which they are built, no new jobs, new additional revenue for schools, no new business, no additional value.

In a review of the academic literature, economist Andrew Zimbalist concluded, “Few fields of empirical economic research offer virtual unanimity of findings. Yet, independent work on the economic impact of stadiums and arenas has uniformly found there is no statistically positive correlation between sports facility construction and economic development.”

While taxpayer-financed stadiums do not seem to add to the wealth of the public who pay for them, they do add to the wealth of team owners. Consider the Detroit Tigers and the Detroit Lions. We will hear about them and their stadiums from one of our witnesses today. The value of the Detroit Tigers rose from $83 million in 1995 to $290 million in 2001, the year after the team moved into their new stadium. The Lions’ increase in value is even more dramatic, rising from $150 million in 1996 to $839 million in 2006.

Economic benefit to the team owners was certainly the case for George Bush, who in 1989 spent about $600,000 to buy a small stake in the Texas Rangers baseball team. During his ownership, Mr. Bush and his co-investors were able to get voters to approve a sales tax increase to pay more than two-thirds of the cost of a new $191 million stadium for the Rangers as well as surrounding development. Mr. Bush and his partners also received a loan from the public authority charged with financing the stadium to cover their private share of the construction costs.

By 1994, the Rangers, in their new publicly financed stadium, were sold for $250 million, a threefold increase in value in merely 5 years and one that was largely attributable to a new taxpayer subsidized stadium. Mr. Bush personally came away with a profit of $14.9 million. In this case, the tax-exempt financing indisputably benefited the owners of the Texas Rangers.

Public financing of sports benefits the team owners but not, according to academic consensus, the public. So is tax-exempt financing of stadium construction an appropriate use of taxpayer funds?

Well, the law on this matter is the 1986 Tax Reform Act. As our witnesses will testify, the 1986 act removed sports stadiums from the list of eligible private activities that could be financed with tax-exempt private activity bonds. That was the state of affairs until last year when the IRS issued three rulings.

Two of them were private letter rulings favorable to the Yankees and the Mets, allowing them to use previously prohibited private payments for debt service on tax-exempt bonds. Thus, the new Yankees and Mets stadiums can be built at taxpayer expense. The third was a proposed rulemaking that generalized the Yankees and Mets rulings. The effect of these three rulings would seem to subvert the intent of the 1986 Tax Reform Act as regards to public financing of sports stadium construction.

Today, we will have the opportunity to hear from experts from around the country as well as from the Chief Counsel of the IRS on these questions.

[The prepared statement of Hon. Dennis J. Kucinich follows:]

Opening statement
Rep. Dennis J. Kucinich, Chairman
Domestic Policy Subcommittee
Oversight and Government Reform Committee

'Build It and They Will Come': Do Taxpayer-financed Sports Stadiums, Convention Centers and Hotels deliver as promised for America's Cities?

March 29, 2007

Good morning and welcome. The Subcommittee on Domestic Policy of the Committee on Oversight and Government Reform will come to order.

This is the second hearing in a series of hearings on the State of Urban America. The series intends to take a closer look at American cities, their progress, their problems, and their future. Today's hearing will examine the use of taxpayer-financed debt for the construction of sports stadiums, convention centers, and hotels, as well as recent regulatory changes by the IRS that could significantly increase the use of tax exempt bonds for historically private activities. Last week, our hearing looked at the subprime mortgage industry and the problem of foreclosure, the pay day lending industry and the enforcement of the Community Reinvestment Act. In the coming weeks we will also take a look at the retail and grocery store industries as well as access to health care in the heart of urban America.

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In 1990 the Central Market Gateway Project was formed to develop new stadiums for the Cleveland Indians and the

Cleveland Cavaliers. They mounted a ballot initiative, known as Issue 2, and made claims in their paid advertising that will sound familiar to our witnesses: "Who wins with Issue 2? We all do! 28,000 jobs for the jobless; neighborhood housing for the homeless; $15 million a year for schools for our children; revenues for City and County clinics and hospitals for the sick; energy assistance for the elderly." The public relations campaign was coupled with hardball threats from Major League Baseball to relocate the Indians. The initiative passed by a narrow margin and by 1996, the total cost was up to $462 million, two-thirds of which came from the public, and by 1997 that cost was still rising.

Cleveland had a municipal football stadium and an intensely loyal fan base, affectionately known as the

"Dawg Pound." But that wasn't enough, and the Cleveland Browns left Cleveland for a new stadium built with taxpayer subsidies in Baltimore. NFL officials insisted that a new stadium and not renovations would be necessary to get a replacement football team. Cleveland replaced its stadium with a football-only structure paid for primarily with tax money.

After spending hundreds of millions of taxpayer dollars to subsidize stadiums for professional baseball, basketball and football, Cleveland's economy does not have much to show for it. We have among the highest poverty rates in the nation, and one of the highest foreclosure rates. This month marks the 132nd month, or exactly eleven years, in which Ohio's job growth is below the national average. This figure is an unprecedented figure nationally. And whereas Ohio is growing slower than the rest of the country, Cleveland is growing slower than the rest of Ohio. During the 2000 recession, Cuyahoga County lost 75,733 jobs or 9.3% of all of its jobs. The Gateway Project, which promised to generate tens of thousands of new jobs, ushered in a period of net jobs lost since its construction. The Gateway Project neighborhood is particularly striking because the neighborhood is even more vacant and has even fewer jobs after the construction of the Gateway Project than before.

Nationally, sports stadium construction is not effective at boosting the local economy and revitalizing urban neighborhoods. Academic research shows that on all counts, sports stadiums add no benefit to the cities in which they are built—no new jobs, no additional revenue for schools, no new business, no additional value.

In a review of the academic literature, economist Andrew Zimbalist concluded, "Few fields of empirical economic research offer virtual unanimity of findings. Yet, independent work on the economic impact of stadiums and arenas has uniformly found that there is no statistically significant positive correlation between sports facility construction and economic development."

While taxpayer financed stadiums do not seem to add to the wealth of the public who pay for them, they do add wealth to team owners. Consider the Detroit Tigers and the Detroit Lions. We will hear about them and their stadiums from one of our witnesses today. The value of the Detroit Tigers rose from $83 million in 1995 to $290 million in 2001, the year after the team moved into their new stadium. The Lions' increase in value is even more dramatic, rising from $150 million in 1996 to $839 million in 2006.

Economic benefit to the team owners was certainly the case for President George W. Bush who, in 1989 spent about $600,000 to buy a small stake in the Texas Rangers baseball team. During his ownership, Mr. Bush and his co-investors were able to get voters to approve a sales tax increase to pay more than two-thirds of the cost of a new $191 million stadium for the Rangers as well as surrounding development. Mr. Bush and his partners also received a loan from the public authority charged with financing the stadium to cover their private share of the construction costs.

By 1994, the Rangers, in their new, publicly financed stadium, were sold for $250 million—a three-fold increase in value in merely five years and one that was in largely attributable to the new taxpayer subsidized stadium. Mr. Bush personally came away with a profit of $14.9 million. In this case, the tax-exempt financing indisputably benefited the owners of the Texas Rangers.

Public financing of sports stadiums benefits the team owners but not, according to the academic consensus, the public. So is tax exempt financing of stadium construction an appropriate use of taxpayer funds?

Well, the law on this matter is the 1986 Tax Reform Act. As our witnesses will testify, the '86 Act removed sports stadiums from the list of eligible private activities that could be financed with tax exempt private activity bonds. That was the state of affairs until last year, when the IRS issued three rulings. Two of them were private letter rulings favorable to the Yankees and Mets, allowing them to use previously prohibited private payments for debt service on tax exempt bonds. Thus, the new Yankees and Mets stadiums can be built at taxpayer expense. The third was a proposed rulemaking that generalized the Yankees and Mets rulings. The effect of these three rulings would seem to subvert the intent of the '86 Tax Reform Act, as regards the public financing of sports stadium construction.

Today, we will have the opportunity to hear from experts from around the country, as well as from the Chief Counsel of the IRS, on these questions.

Mr. KUCINICH. At this point, I would ask the witnesses to stand.

[Witnesses sworn.]

Mr. KUCINICH. Let the record show that the witnesses answered in the affirmative.

I would like to introduce Ms. Joyce Hogi. Ms. Hogi has lived in the Bronx, NY, for the past 30 years. Her apartment used to look out onto the largest public park in the South Bronx. That is Macomb's Dam Park, right?

She now looks onto a constructionsite for a planned parking garage for the new Yankee Stadium.

She has been a community leader in the unsuccessful effort to save public park land in her community from destruction to make room for a new Yankee Stadium.

Why don't you begin with your testimony, and then I will introduce the individual witnesses as we go along?

STATEMENTS OF JOYCE HOGI, BRONX, NY; FRANK RASHID, MARYGROVE COLLEGE, DETROIT, MI; AND NICK LICATA, PRESIDENT, SEATTLE CITY COUNCIL, SEATTLE, WA

STATEMENT OF JOYCE HOGI

Ms. HOGI. Good morning. My name is Joyce Hogi. I am a 63 year old widow who has lived in the Bronx for the past 30 years, specifically the South Bronx area surrounding Yankee Stadium. Thank you so much for this opportunity to submit testimony concerning the community's reaction to the alienation of our public park land for private use by the Yankee Stadium organization.

This morning, I will tell you the sad story of how 22 acres of park land primarily known as Macomb's Dam and the southern portion of John Mullaly Parks were taken from our community, how the shameful consequences of the construction of the new stadium is on the destruction of our parks.

I have laid out my testimony in three sections.

The importance of the parks to the community: Macomb's Dam was opened in 1899. It immediately drew neighborhood children and aspiring athletes to its extensive recreational facilities. The quarter mile track was a favorite for local and European runners. The track was named Joseph Yancey Track and Field in honor of the co-founder of the New York Pioneers Track and Field Club, an interracial team that developed many Olympic athletes.

These parks are located in the poorest congressional district in the United States but were essentially our Central Park. It was one of the few linear parks in New York City. These parks continued to be used for sports activities for both adults and youth after all these years. They were invaluable to us. They contained a soccer field, a running track, two baseball and softball fields, handball and 16 tennis courts.

The process that set in motion the demolition of our parks had no standard and was arbitrary and capricious.

The overall view from the New York City Department of Parks and Recreation stated that it proposed to allow for the redevelopment of a new Yankee stadium by the Yankees on portions of those parks adjacent to the existing stadium site. This new open air stadium with a capacity for 54,000 spectators, which I might add is

4,000 less than the current facility seats, would replace the existing 82 year old stadium which can effectively accommodate a modern baseball team and provide greatly improved spectator and parking facilities. This project proposes to construct four new parking garages.

This statement sounded the death knell for the parks and for the thousands of residents and school children in an area deficient of parks, exacerbating other problems already experienced by us. After our initial shock, we came together as a community.

Our New York State legislators, on a day at the end of the legislative session when hundreds of bills were passed, removed the protections ensuring that our beloved parks would remain undeveloped in perpetuity. They decided it was in our best interest to offer a parcel of land that is 40 percent bigger than that of the World Trade Center, not for a public good but to enrich a private business.

We at SaveOurParks! obtained the transcript from the assembly and were just stunned to see how casually the vote to relinquish our beloved park land in such an impoverished community was conducted. Despite the fact that no efforts were made to inform the community of the impending park alienation, the assembly member who introduced the bill proclaimed no community opposition to the project. We were shunned by our elected officials, and we were accused of bringing in professional protesters by Randy Levine, president of the Yankees Organization, as if the community could not discern when it was getting a bad deal.

The media mostly was enamored and was not able to understand the community's point of view as the Yankees had hired Howard Rubenstein Associates, a major well connected public relations firm in New York City to provide a steady stream of material to all the media outlet, selling their projects.

While some newspapers would print an occasional account of the proceedings, Patrick Arden of Metro New York got it and he stayed on the case. He understood the injustices. He showed up at all our hearings. He wrote about it every chance he could get.

SaveOurParks!, supported by other organizations seeking alternative transportation, believed that everything should be done to encourage mass transportation to alleviate the need for the garages. We are in a highly affected asthma community.

We argued for improved subways, the building of a Metro-North station at Yankee Stadium and for the rehabilitation of the neighborhood's Melrose train station on the Harlem and New Haven lines. We argued for train tickets tied to game tickets as an incentive to use mass transit. We have a congressional appropriation for $2.4 million to upgrade the Metro-North stations in the Bronx and to construct a stadium at Yankee Stadium. Everything seemed to be lined up for a station, but the project did not address it.

Economic development for the community will occur as a result of this new stadium, we were told by the supporters. We contend that economic development will occur as a result of our changing times, not by a stadium. The New York Yankees have been our neighbors for over 80 years. Given the poverty and unemployment rates in the South Bronx, it would seem that no economic benefits have been realized of having the legendary Yankees in our community.

We were told at a contentious community board meeting by parks officials that we are getting bigger and better parks that we would not get if the Yankees weren't building a new stadium. We already had funds allocated to refurbish those parks, and the waterfront parks that we were promised were already included in the plan by the city to build pathways along the entire Harlem River. So it did not need to be a part of this project.

Additionally, the replacement parks we are promised are scheduled to be built atop concrete parking garages and are subject to closure on game days for security reasons.

Macomb's Dam Park was renovated in the 1980's with Federal funds. To gain approval to convert this park to a non-park or private use required that the following criteria be met: that the review must look at practical alternatives for the project, that new park land must be of the same market value and that new park land must be of equivalent usefulness and location. None of these applied.

The plan states that the Bronx does not have enough quality park land in the first place. It also says that new park land is supposed to be easier for people with disabilities to get to. The parks on top of parking garages are not easier.

The consequences for Macomb's Dam and portion of John Mullaly Parks caused by the construction of the new Yankee Stadium, in a word, shameful. Imagine living across the street from a major development, 100 feet or so, with trucks lining up outside as early as 4 a.m., idling for up to an hour or longer.

Imagine dust coming into your apartment that cannot be controlled regardless of how tightly your windows are closed. Imagine mud and water ponding on the streets in front of you.

Imagine, if you will, the noise from jackhammers going nonstop. I have had residents tell me they leave home during the day because they cannot stand the noise.

Imagine water from your taps running brown from who knows what.

Imagine trying to cross a busy street with children or as an elderly person dodging traffic because drivers are losing patience with trying to maneuver around all the truck traffic.

Imagine the tennis center vendor who lost nine of his courts to the construction but was told he could operate until the end of April 2007. He received a letter from DPR, the Department of Parks and Recreation, a week before he had to close the remainder of the courts on February 28th because construction was ahead of schedule and storage equipment would now occupy that space.

Imagine the drone of helicopters flying over the construction area up to 7 days a week.

Our parks and over 400 trees were sacrificed to make room for the new stadium and four new parking garages. The stadium will sit in a residential area 100 feet from several fully occupied apartment houses. Residents of these buildings will face a monolithic 14-story wall enclosing the stadium isolating residents, even the numerous Yankee fans, from the neighborhood. Imagine the trees you are used to seeing outside your front window.

There has been a total lack of accountability during the construction.

Finally, around midnight, Sunday, August 13, 2006, the Parks Department staff came into our community, closed off this lovely tree-lined 167th Street, put up fencing around Macomb's Dam Park, posted security guards and trucked what was later determined to be very high quality mulch to put around the trees as a backdrop for the groundbreaking of the new stadium scheduled for a couple of days later.

When residents arrived on Monday morning for their walks, jogs on the track, they were told this is private property and they weren't let in.

The day after the groundbreaking, the trees were cut down.

We had counted on the National Park Service to protect us. We found later on they were complicit with the city, the State and the Yankees prior to our learning about the project to hand over those federally funded parks to the Yankees.

Thank you very much.

[The prepared statement of Ms. Hogi follows:]

Testimony

Before the United State House of Representatives
Committee on Oversight and Government Reform
Subcommittee on Domestic Policy

March 29, 2007
Regarding the Alienation of Public Park Land for a New Yankee Stadium

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Testimony of Joyce Hogi before the United House of Representatives
Committee on Oversight and Government Reform, Subcommittee on Domestic Policy, March 29, 2007

My name is Joyce Hogi. I am a 63-year-old widow who has lived in the Bronx, New York for the past 30 years, specifically the South Bronx area surrounding Yankee Stadium. Thank you for the opportunity to submit testimony concerning the community's reaction to the alienation of our public parkland for private use by the Yankee organization to build a new stadium.

This morning, I will tell you the sad story of how 22 acres of parkland, primarily known as Macomb's Dam and the southern portion of John Mullaly Parks, were taken from our community. How the shameful consequences of the construction of the new Yankee Stadium is the destruction of our parks; how the process to demolish our parks was "arbitrary and capricious" and just how important parks are to our community.

I. Importance of the parks to the community:

Macombs Dam Park was opened in 1899. It immediately drew neighborhood children and aspiring athletes to its extensive recreational facilities. The quarter-mile track was a favorite for local and European runners. Hannes Kohlesmainen used the track during his training for the 1912 Olympic games in Stockholm, where he won three gold medals. The track was named "Joseph Yancey Track and Field" in honor of the co-founder of The New York Pioneers Track and Field Club, an interracial team that developed many Olympic athletes.

Macomb's Dam Park and John Mullaly Park, located in the poorest Congressional district in the United States, were, essentially the Central Park of the South Bronx. This was one of the few linear parks in New York City. The parks lined up active, passive and recreational functions in the same space, providing centralized and easy access for all. Macombs Dam and the southern portion of John Mullaly Parks contained a soccer field, running track, 2 baseball / softball fields, handball and 16 tennis courts. Although in dire need of repair, these parks served the community's residents and the 20 public and private schools in the two zip codes surrounding them. Teams from other parts of the city were frequent users of the track and soccer fields.

These parks continued to be used for organized sports activities for both adults and youth after all these years. These spaces were valuable to this neighborhood in that it provided an outlet for organized senior citizens' walking clubs, track practice facilities for schools' teams, just to name a few. In an age when walking and exercise are encouraged as health benefits, this community used the parks from sunrise to sunset.

By the New York City Department of Parks and Recreation's own admission, these parks were heavily used and they issued hundreds of permits each year to groups to utilize the playing fields. A private vendor operated the tennis courts but dedicated courts were set-aside for the NY Junior Tennis League[1] to use from spring to late summer each year.

[1] New York Junior Tennis League is a non-profit 501(c)3 organization dedicated to transforming young lives through tennis. Their mission is to develop the character of young people through tennis, emphasizing the ideals and life of Arthur Ashe in the following ways: reaching out to young people who otherwise would not have the opportunity to learn and play tennis; instilling the values of humanitarianism, leadership and academic excellence; and introducing the opportunity to fully develop their tennis skills and competitive potential for a lifetime of enjoyment. (http://www.nyjtl.org/about/index.html)

Over 400 large oak trees, more than 50 years old provided a buffer zone and cooling area for the residents surrounding the park and the streets. The trees formed a canopy on the streets, one of which has been demapped for this project, subsequently the trees have been cut down. Relief in the summertime could be had for dwellers of hot, cramped apartments who wanted to meet and entertain family and friends and to provide outlets for their children. These parks were the social fabric of our community.

Our South Bronx community is well known as one of the epicenters of asthma affliction in the country. As a result, it is imperative that no important decisions go forward with projects if there is a chance that it makes the asthma conditions worse. That does not make it okay to create more automobile congestion. There are real human lives at stake here. We challenged the Yankees and the City to do a public health analysis where they quantify the monetary value of human lives and do a cost-benefit analysis with proposed mitigation measures to improve air quality in the area. The Draft Environmental Impact Statement (DEIS) dismisses the seriousness of the matter with the remark, "The causes of asthma and its increase over the last two decades are not certain, and the triggers for its exacerbation are only partially understood".

A study commissioned by **New Yorkers for Parks**[2] and conducted by Ernst & Young, concluded the following: "*Every New Yorker knows how important parks are to our quality of life. They are our front yards and backyards, giving us opportunities for recreation and relaxation, providing positive and educational activities for our children and contributing to the health of our communities...* ".

"*Parks are the city's lungs, essential components of its health and quality of life – cleaning the air, breaking the heat, breathing life into a neighborhood....*" [3] This certainly personifies the effect of the parks on our community.

II. The process that set in motion the demolition of Macombs Dam and a portion of John Mullaly Parks had no standard, and was arbitrary and capricious:

The Yankee Stadium Redevelopment Project ~ Overview (NYC Dept of Parks & Recreation)
"*The New York City Department of Parks and Recreation (DPR) propose to allow for the redevelopment of a new Yankee Stadium by the New York Yankees on portions of Macomb's Dam and John Mullaly Parks adjacent to the existing stadium site, located at East 161st Street and River Avenue in The Bronx. The new, open-air stadium with a capacity for 54,000 spectators (53,000 seats and 1,000 standing spaces) would replace the existing, approximately 57,000-seat outdated 82-year old stadium, which can effectively accommodate a modern baseball team and provide greatly improved spectator and parking facilities. The proposed project also includes the construction of four new parking garages containing approximately 4,735 spaces and the development of new and replacement park facilities within the vicinity of the proposed stadium.*

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[2] A not for profit group (aka the Parks' Council), New Yorkers for Parks (NY4P) is the only independent watchdog for all the City's 28,800 acres of parkland: parks, beaches and playgrounds. They are the City's oldest and leading independent expert on park conditions, efficiency and funding.
[3] New York Times, 2001

The proposed stadium, all four proposed garages, and almost all of the proposed parkland would be completed by 2009. The full development of the project would be completed by 2010."[4]

This statement sounded the "death knell" for the parks and for the thousands of residents and school children in an area deficient in parks, exacerbating other problems already experienced.[5] After our initial shock over this announcement (the shock never wore off), the community tried to garner some support. We were not aware that many of our elected officials had already negotiated in private with the Yankees to support this project for control of future perks. When it became apparent that we were in an "every person for themselves" situation, neighbors organized to fight the project. We have since learned that not even local Community Board 4 was made fully aware of this project until a press conference was held.[6] We were astonished to watch how fast this project developed.[7] I have attached a "timeline" created by **Good Jobs New York** illustrating how our precious parks were taken in eight days.[8]

Our New York state legislators, on a day at the end of the legislative session when hundreds of bills were passed, removed the protections ensuring that our beloved parks would remain undeveloped in perpetuity. They decided it was in our best interest to offer a parcel of land that is 40% bigger than that of the World Trade Center, not for a public good, but to enrich a private business. We at SaveOurParks! obtained the transcript from the Assembly and were just stunned to see how casually the vote to relinquish our beloved parkland in such an impoverished community was conducted. Despite the fact that no efforts were made to inform the community of the impending park alienation, the Assembly Member who introduced the Bill proclaimed "no community opposition" to the project. Not being informed does not mean no community opposition, except in New York City where Mayor Michael Bloomberg's administration and our Borough President Carrión are making this stadium project their calling card. The community didn't know there was a vote[9] – there was no opportunity to lobby or object! As I'm sure you are aware, the National Environmental Policy Act (NEPA), the State Environmental Quality Review (SEQR) and the City Environmental Quality Review (CEQR) require that the public become informed as early as possible in cases like these. In this case, it was not the public that was informed early, it was the elected officials, the NYC Department of Parks and Recreation, and even the federal agency designed to protect our national parks -- the National Park Service.

A group of concerned citizens met in a local senior citizens' center, chose the name **"SaveOurParks,"** drafted petitions and hit the streets. Mind you, most of us were working fulltime jobs, raising families, and then meeting every evening, going door-to-door to get

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[4] http://www.nycgovparks.org/sub_your_park/nyy_stadium/html/nyy_redevelopment.html
[5] Data released by the US Census Bureau in September 2006 shows the Bronx has a 29.2 % poverty rate, the third highest in the nation. This area is located within the corridor that has the highest asthma rate in the city.
[6] Enclosed is a copy of the letter sent to the Yankee organization from Community Board 4.
[7] In NYC reports abound complaining about the length of time it takes from a City Planning application to shovel in the ground. In the case of the Yankees, what was once *years* turned out to be *months*.
[8] See Good Jobs New York timeline and report, "Loot, Loot, Loot for the Home Team: How a Proposal to Subsidize a New Yankee Stadium would leave Residents and Taxpayers Behind.
http://www.goodjobsny.org/yankeestadium_news.htm
[9] This was only the second alienation of parkland in NYC in recent years. The debate in the first one at Van Cortland Park for the Croton Water Treatment Plant lasted from 1998 to 2004. Located in the North Bronx, the Home Rule message was requested after the SEQR was completed. Moreover, that parkland was to be returned in full to the community as the facility is being built underground.

signatures in an effort to spread the word and organize our neighborhood. When the 1st Town Hall meeting, sponsored by the Borough President was held, approximately 500 people attended. Tensions ran high, to say the least.

We were shunned by our elected officials and we were accused of bringing in "professional protestors" by Randy Levine, President of the Yankees organization, as if the community could not discern when it was getting a bad deal. We continued to protest, holding rallies, meeting with and writing our elected officials. Unfortunately, even the few who were willing to meet with us and/or answer our letters were totally enamored by the Yankees' project and not willing to take a stand with the very constituency that elected them to office. The media mostly was enamored as well and was not able to understand the community's point of view as they and all the elected officials were "rounded up" on one side – that of the Yankees. The Yankees had hired Howard Rubenstein Associates, a major well-connected public relations firm in NYC to provide a steady stream of material to all the media outlets selling the project for their client. While some newspapers would print an occasional account of the proceedings, Patrick Arden of Metro NY "got it" and stayed on the case. He understood the injustices being heaped on this community. He showed up at all of our hearings. He wrote about it every chance he could.

The community reached out to other boroughs of the city, because as we understood it, the subsidies that were being given for this project would affect us all and also to alert everyone that this was a "precedent setting" action. Your park will be next!

A handful of public hearings were held, but they were a sham since the parks had already been alienated. No other project in any NYC community has been short shrifted in this way! There has been an extensive, two-year debate in Greenwich Village over moving the fountain in Washington Square Park 22 feet over. Meanwhile the South Bronx lost 22 acres of parkland overnight without any public discussion! Community residents were not given sufficient opportunity to become familiar with the plan to adequately address land-use issues and the impacts to our neighborhood. The manipulation of those who were chosen to speak was blatant. Meetings were scheduled for two hours and presentations by the Yankees and Parks Department routinely took about half that time. Building trade representatives were bused in prior to meeting times, filled most of the seats and chanted their mantra: "we want jobs".

A town hall meeting held by the Borough President was scheduled to begin at 6 p.m. The doors were locked at about 5:50 and residents (over 150) were left out in sub-freezing weather with children, chanting: "Let us in!" Meanwhile if you came to the door and showed what appeared to be a union card, you were let in. The following day, a reporter covering the hearing for the New York Post, who himself was locked out until he showed his press pass, wrote an account of the public hearing but made no mention of the locked out residents. I e-mailed this reporter and asked why didn't he write about the locked out residents; he said he had to make a choice of what to write about and he made his choice. I requested that he give the community equal time. I never heard from him again. The community was being hit from all sides.

Despite intense pressure from the Bronx Borough President Carrión, our local Community Board[15] voted against the Yankee project, which was at last, a victory for the community! Since that time, all members who voted "nay" and whose terms were up for renewal were not renewed. If a member chaired a committee and the term was not up, that chair was taken away. The Board Chair, who voted for the project was thrown off. We surmise it was because he didn't "deliver" the vote the Borough President wanted. The Borough President has defended his actions, stating that he wants a board that supports his vision. What's so insane about all of this is that the board's vote is only advisory!

The integrity of the purported public participation as outlined in the New York City's Uniform Land Use Review (ULURP), the State Environmental Quality Review (SEQR) and the City Environmental Quality Review (CEQR) just leaves the community shaking their heads and wondering, "what ever happened to community involvement?"[16] This is poor planning; top-down development that any self-respecting urban planner knows is the exact wrong way to plan a project. This development is detrimental to our community. It destroys parkland, which will burden our already clogged roads, diminish air quality and negatively affect the quality of life for a large community.

SaveOurParks!, supported by other organizations seeking alternative transportation, believed that everything should be done to encourage mass transportation. We argued for improved subways, the building of a Metro-North station at Yankee Stadium,[17] and for the rehabilitation of the neighborhood's Melrose train station on the Harlem and New Haven lines. [18] We argued for train tickets tied to game tickets as an incentive to use mass transit. We have a Congressional appropriation (SAFETEA-LU; Earmark No 2289) for $2.4 million to upgrade Metro-North stations in the Bronx and construct a station at Yankee Stadium. Everything seemed to be lined

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[15] Community Board members are appointed by the Borough President to a two-year term. This board is designed by the City Charter to represent the interests of the (sic) community. City Council Members can recommend a portion of the members.

[16] In New York City, the sale, rent, lease of city-owned land, or as in this case, the taking of public land for a private use, invokes a process in place called; Uniform Land Use Review Procedure (ULURP).[16] Because they knew early that the project would have a great environmental impact, and to qualify for the Federal National Park Service (NPS) Environmental Assessment (EA), the Lead Agency, the NYC Department of Parks and Recreation, decided on a complete CEQR review as well. All of the steps were taken, concurrently, quickly, and with no intent on asking the public what it wanted, only taking comments.

[17] Metro-North Hudson is a commuter train line that currently runs past the stadium. A temporary Metro North Station went up within days during our recent subway strike.

[18] Metro-North Harlem & New Haven commuter trains; a short walk to the stadium or a convenient bus stop at this location.

up for a station, but the project did not address it. Yankee Stadium is in an excellent location to take advantage of transit options, sitting in the fork of these three commuter rail lines and two subway train lines and several buses. With rising gas prices and the "induced demand" that is created when more garages are built, this made perfect sense to the community.

We who opposed the destruction of our parkland do not oppose development in the South Bronx; on the contrary, we welcome it! We recognize the powerful and positive impact responsible urban development can have, particularly in impoverished communities like mine. We do, however, oppose insensitive, irresponsible, top-down development that favors developers and ignores local residents. The Yankee Stadium project is a classic example of such irresponsible development. There were numerous options that the community would have gladly supported. For example, renovating on its current site as several other stadiums are doing; the Los Angeles Angels and the Boston Red Sox come to mind. Or they could have cooperated with former Borough President Fernando Ferrer's "Safe at Home" plan and built a new stadium just south of the existing one that would not have encroached on a residential community. For 20 years, the Yankees talked up the inadequacies of the stadium and the Bronx and talked numerous times about moving to Manhattan or New Jersey. Now their lease is up and they have no place to go. Instead of working with them to ensure the best deal for everyone, our legislators gave the Yankees everything they wanted, to the detriment of my neighbors and me. As for the Yankees threat to move out of the Bronx – there has not been a realistic alternative location presented. The New York Yankees are the most successful sports franchise in the United States, in part due to their location in the Bronx with access to the best media. They issued the empty threat of "if we don't get the parks, we will have to go elsewhere" to the city officials and to the judges who presided over the community's lawsuits. First of all, the organization knows, as we all do, that they have no where else to go that would give them the kind of economic bonanza, including cable deals, marketing of its logo and legacy, and the attendance they reap from being located in the Bronx. The team has become a billion-dollar team by playing in the South Bronx. The Yankees and The Bronx are inextricably linked.

"Economic Development for the community will occur as a consequence of this new stadium," we are told by the supporters. Economic development will occur as a result of our changing times, not a stadium. The New York Yankees have been our neighbors for over 80 years. Given the poverty and unemployment rates in the South Bronx, it would seem that no economic benefits have been realized as a result of having the legendary Yankee Stadium in our community. There have been many lost opportunities for better investment on behalf of the team. Numerous studies support how publicly subsidizing stadiums doesn't yield large returns for the taxpayer. Indeed, the stadium will represent an economic dead zone in the middle of the neighborhood for the entire off-season.

We were told in a contentious community board meeting by parks officials that we are getting better and bigger parks, that we would not get if the Yankees weren't building a new stadium. There were funds allocated to refurbish these parks and the waterfront parks we are being promised was already included in the plan by the City to build pathways along the entire Harlem River, so it did not need to be a part of this project. Additionally, the replacement parks, scheduled to be built atop concrete parking garages are subject to closure on game days for "security reasons". When the stadium was renovated in the 1970's Mr. Steinbrenner promised to renovate Macombs Dam & Mullaly Parks in exchange for New York City giving him the lots for parking and a municipal garage that the community is not allowed to use. Those promises were never fulfilled. Now there will be four new parking garages that are designated for spectators and we are being told by the City it will not generate more traffic. Taking of public parkland in any situation for vehicular parking is disturbing, but particularly so when it is done in an "Environmental Justice Community". There is no analysis in the EIS, (which is required as part of the City's land use procedure) of the impacts – ecologically, socially or economically – of destroying the contiguous swath of park and open space that had served the community for all these years. There is no specific reference or analysis of the relationship of park use, its location to schools[19] and residences and the social organization fabric of the community.

No consideration has been given to the negative environmental consequences of building this stadium and garages. It is very clear from reading the EIS that:

- ✓ The proposed stadium will decrease the value of adjacent properties.
- ✓ There will be an increase of pollution, both the kind that causes asthma as well as light pollution from night games.
- ✓ These represent a cost the citizen must bear without compensation.

Macombs Dam Park was improved in the early 1980's using funds from the Land and Water Conservation Fund Act of 1965 (LWCF). To gain approval to convert this park to a non-park or private use required that the following criteria be met:

1. **The Review must look at practical alternatives for the project.** The Yankees only spoke of one plan.
2. **New parkland must be of same "market value" as old parkland.** Details of how much each park is worth were never given to the community, so how do we know its value?
3. **New parkland must be of equivalent usefulness and location.** The new parks have different types of activities, will they more used more than the old parks? They will be further away so access for the elderly, especially would be limited.

Parkland swap must comply with Statewide Comprehensive Outdoor Recreation Plan (SCORP). It does not. The plan states that the Bronx does not have enough quality parkland in the 1st place. It also says that new parkland is supposed to be easier for people with disabilities to get to.
This is where we had our greatest hope! After the project gained approvals in all the agencies as per the ULURP, we were certain that the National Parks Service (NPS) would protect us, especially given the assurances we were getting that they would thoroughly and fairly review the application and that sometimes those approvals take up to a year. All correspondence and promises to the contrary were, as we were to find out, just an exercise. The approval from the National Parks Service was handed to the Yankees within a 2-week time frame during which a long Independence Day weekend occurred. Little did we know that NPS was complicit with the City, the State and The Yankees prior to the community hearing about this project.[20] The Yankees had hired high-powered lobbyists Michael Rosetti and Bill Paxon of the law firm, Akin, Gump, Strauss, Haur and Feld to lobby the federal agencies to push their project through.

[19] See enclosed map of schools.
[20] See enclosed article: Metro New York, "Teamwork key to victory", Patrick Arden; Thursday, August 31, 2006

Before the renovation started, our children were kicked off the ball fields in Macombs Dam Park on 18 game days to allow for spectator parking and revenue was collected by a private vendor. After the Federal monies were used to improve the park, the City let it deteriorate over the years until it looked like the open space you would see used for recreation in a poor third world country. Regrettably, time does allow me to give you an item-by-item account of this project, but I have prepared for each of you a packet with additional information that could not be included here. If a picture is, indeed worth a thousand words, then these speak volumes.

The Yankees argue that by any measure of a modern ballpark other than seating capacity, the existing stadium is too small and functionally inadequate. Although its seating capacity is sufficient, there is not enough space to support the fans and players or to offer appropriate food and other services. The argument is made that there is only one weight room that must be shared with the visiting teams. For this, an entire community gets thrown into chaos!

INTERIM RECREATION AREAS: ~NYC Department of Parks and Recreation

"To provide the community with replacement facilities during construction of the Yankee Stadium Redevelopment Project, the following interim areas will be created":

- *A fitness path surrounding Mullaly Park, just to the north of the stadium project. This path offers a measured distance for the community residents who wish to continue jogging or walking in the park vicinity.* (This caused an "uproar" among residents as a path was stenciled on the sidewalk surrounding a nearby park, with messages as to your progress and how many feet, etc you had walked or jogged)
- *By Spring of 2007, DPR will have completed construction of a temporary park on the site of what is now Lot 1, at the corner of Jerome Avenue and East 161st Street. This park will offer a synthetic turf baseball field as well as a surrounding track.* (A groundbreaking was finally held on December 14, 2006. Surface work and fencing are done, but we are told that the weather has to warm up before the artificial turf can be glued down. We anticipate that a late Spring deadline will be met.)
- *At the request of the Bronx Delegation of City Council, Parks will construct temporary baseball fields on the site of the future tennis courts on the Harlem River. These synthetic turf fields have an estimated completion date of Summer 2007 and will be available for use until the permanent baseball fields in Heritage Field (the current stadium) are available to the public.* (We have since learned that the ball fields cannot be erected because of contamination on the site – see attached article)

Visioning and public involvement are necessary for development to any community. The residents of the South Bronx were denied the opportunity,

III. Consequences for Macombs Dam and a portion of John Mullaly Parks caused by the construction of the new Yankee Stadium:

In a word; "Shameful!"

- Imagine living across the street from a major development project (100 ft or so) with trucks lining up outside as early as 4 A.M., idling for up to an hour or longer.

- Imagine dust coming into your apartment that cannot be controlled regardless of how tightly your windows are closed or how many curtains you hang.
- Imagine mud and water ponding on the streets.
- Imagine, if you will, the noise from jackhammers going non-stop. I have had residents tell me they leave home during the day because they can't stand the noise.
- Imagine water from the taps running brown from who knows what?
- Imagine trying to cross a busy street with children or as an elderly person, dodging traffic because drivers are losing patience with trying to maneuver around all the truck traffic and just run lights.
- Imagine the tennis center vendor ~ who had lost 9 of his courts to the construction, but was told he could operate until the end of April 2007 ~ receiving a letter from DPR a week before he had to close the remainder of the courts on February 28th because construction was ahead of schedule and storage of equipment would occupy that space.
- Imagine the drone of helicopters flying over the construction area up to seven days a week

Our parks and over 400 trees have been sacrificed to make room for the new stadium and four new parking garages. This exchange of trees for parking spaces will further affect our air quality, negatively impacting already high asthma rates in the neighborhood. In addition, an 800-car garage and large loading docks will be built adjacent to a skateboard park, basketball courts, wading pool, gymnasium and picnic areas, directly affecting the health of our children and residents. According to the Draft Environmental Impact Statement (DEIS), several loading docks for food delivery, team & other deliveries, trash and storage pickup and space for 10 large mobile media trucks with hookups. The New York City Department of Parks and Recreation argues to the contrary, but common sense dictates otherwise, that because of its close proximity to the stadium, these facilities are in danger of being closed on game days.

The new stadium will sit in a residential area about 100 feet from several fully-occupied apartment houses. Residents of these buildings on the street adjacent to the stadium will face a monolithic 14-story wall enclosing the stadium, isolating residents, even the numerous Yankee fans from the neighborhood. Imagine the trees you are used to seeing outside your front window where your children and neighbors socialized now replaced by this wall, further damaging the community. Plans include a host of retail establishments within the stadium. How will this plan impact local businesses if fans are encouraged to remain within the stadium walls to shop and eat at the restaurants there?

The demoralization of community residents is acutely felt. Because the city was an advocate of this project, city employees effectively had their hands tied. Schoolteachers, health care workers, Parks employees etc; all who knew the negative effects to the community could not protest openly for fear of retribution (read community board excerpt – community board members are volunteers). We ran into numerous city employees in the court house who did not want to put their names on a petition.

Residents who fought together now feel betrayed not just by their officials but also by each other. It's a crazy thing but many residents are unable to look back and see how we did not stand a fighting chance against this "speed-bullet" process of taking our parks and giving the Yankees exactly what they wanted. Every organization in the approval process, save the community board voted for this project regardless of the testimonies we gave or the documents we submitted. We were struggling to raise funds for our court challenges and the Yankees had unlimited funds to counter our claims.

With the loss of the parks, schools are hard-pressed to find adequate spaces for what had been their home games. Teams must travel great distances to play; if they can get the permits. The New York City Department of Parks and Recreation is trying to accommodate the community, but they issue numerous permits, not just to schools, but little leagues, nonprofit groups, etc. Many schools do not have recreational facilities on site so the parks were the natural outlets. Competition for space in the remaining parks is fierce.

There has been a total lack of accountability during the construction.

- We provided an analysis of and lobbied for a Stormwater Management Plan. This was never done.
- Borough President Carrión was the cheerleader for this project and should appoint a community liaison to monitor conditions at the site.
- The EIS provided for a full time health professional during construction. No such person has been introduced to the community.

Finally, around midnight, Sunday August 13, 2006, the parks department staff came into our community; closed off this lovely tree-lined 162nd Street, put up fencing around Macombs Dam Park, posted security guards and trucked in what was later determined to be a very high-quality mulch to put around the trees as the backdrop for the groundbreaking of the new stadium, scheduled for August 16. When residents arrived on Monday morning for their walks, jogs on the track they were told, "this is private property" and they weren't let in. The day after the groundbreaking, the trees were cut down! What a sad day for the community! Now we will get park features made of artificial turf placed atop parking garages. This turf is the new darling of the parks department, but it presents a whole new set of problems. Studies have shown that this stuff is dangerously toxic! These parks, however, are not scheduled to be built for another 3 – 5 years, after the new stadium is completed and the garages built.

Thank you for the opportunity to make this presentation.

Metro Thursday, August 31, 2006

Teamwork key to victory

Feds advised city, state, Yanks on stadium plan, documents show

METRO EXCLUSIVE

PATRICK ARDEN
patrick.arden@metro.us

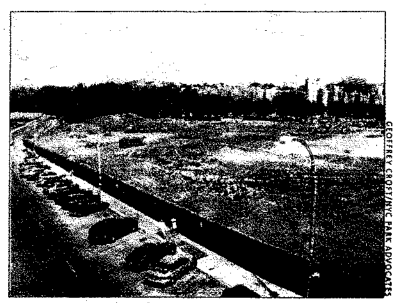
SOUTH BRONX More than a year before ground was broken for a new Yankee Stadium on Bronx parkland, a red flag was raised at the National Park Service.

The federal agency had paid $422,650 for improvements to an 11.2-acre portion of Macombs Dam Park in 1979, giving it a final say over the project's use of parkland. By law, any park receiving money under the Land and Water Conservation Fund must remain a park, unless it is replaced with parkland of equal or greater value, "usefulness and location." Proposed projects must also consider "all practical alternatives" before parks are seized.

Quoting a letter from the city, NPS agent Jean Sokolowski shot off an e-mail to state officials.

"I'm a little concerned," she wrote in the May 9, 2005, note, which was obtained by Metro through a Freedom of Information Act request. "'Develop recreational facilities atop two of the garages' is a questionable LWCF option."

GEOFFREY CROFT/NYC PARK ADVOCATES



GEOFFREY CROFT/NYC PARK ADVOCATES

WHAT A DIFFERENCE four days makes. Top, Macombs Dam Park is lined by trees on Aug. 18. Below, on Aug. 22, the trees are gone, making way for the new Yankee Stadium in the South Bronx.

Team players

But whatever concerns the NPS may have had about the replacement park plan soon evaporated, and it waved a white flag instead.

A month later, before the public had learned of the Yankees' plan, Sokolowski and two other NPS executives traveled to Macombs Dam Park, where they met with representatives from the city, the state and the Yankees. A June 7, 2005, e-mail from the city's Parks Dept. thanks the NPS officials not only for coming but for their "willingness to work together." The memo — and most subsequent correspondence — is copied to an attorney for the Yankees.

In an internal e-mail following that meeting, LWCF manager Jack Howard writes the three NPS agents walked away "confident that they will be able to work with the city and the state to ensure that the [federal park-replacement approval] process has been satisfied without it preventing the proposed project from being developed."

A done deal

As early as March, 18, 2005, NPS official Pat Gillespie appeared to drop all pretense of independent analysis. In an e-mail to colleagues, she suggested, "Maybe they can sell pieces of [the old stadium] to build the replacement park!" Three months before the Bronx neighborhood found out about the plan, she added, "There seems to be community support for this project."

But a July 19, 2005, memo from state parks official Thomas Lyons painted a different picture, with details of the first public meeting at the Bronx Museum of Arts. "Most of the comments centered around community concerns," he wrote, noting the "particular interests represented by Community Board 4," which would overwhelmingly reject the plan four months later.

By that time, though, the NPS had already become an active partner in pushing the plan forward, though it had not seen any environmental reviews or land appraisals. After consulting with Gillespie, Lyons advised the city to include "a specific section within the EIS entitled Conversion of Parkland." Later the coaching gets more specific, such as when the city is told to jazz up the use of Rupert Plaza as park acreage rather than describing its utilitarian function as a walkway: "Replace 'pedestrian promenade' with 'passive park.'"

Taking their word

Early on the NPS decided to forego its own assessment under the National Environmental Policy Act, relying instead on the city's Environmental Impact Statement. After that, the NPS agreed to an April 2006 Memorandum of Agreement with the state, the city, the Yankees and Bronx County.

But at that time, Howard had told Metro the city's plan to break ground in the coming months was unrealistic. He was still waiting to see the state's proposal, he said, noting that "public controversy" could "adversely impact that proposed action."

"Some conversions are simple, others can take a year to garner final approval," he said. "We are aware of what's going on, but there are no shortcuts. We have a responsibility to follow the law."

The state's parkland conversion proposal was finally received by Howard on June 7, but he "would be out of the office," he wrote in an e-mail. He approved the conversion 10 days later.

The City of New York
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ADE A. RASUL
Chairperson

DAVID MOJICA
District Manager

June 29, 2005

Mr. Randy Levine
President
The New York Yankees
Yankee Stadium
Bronx New York 10451

Dear Mr. Levine:

The following letter is to voice our disappointment for not being invited to a press conference you organized announcing the plans to develop a new Yankee Stadium. At the June 28, 2005 General Board Meeting, after some discussion ensued related to the board's disappointment for being excluded in this press announcement, the Board Members voted unanimously to send you a letter in this regard.

We are particularly concerned that you did not include us in your list of invitees, given that we are the local governmental agency that will review the ULURP Applications attached to this new development. In addition, as the legal entity responsible for advocating on behalf of the resident's interest in Community District Four, we are left with no answers when community residents question us on the details of this press conference.

We would hope that you will keep us informed of any new developments as it relates to the new Yankee Stadium and that we can foster a closer relationship based on mutual respect and understanding.

Letter to Randy Levine
New York Yankees page -2-

We would appreciate if you contact our board office to schedule a meeting where we can voice our concerns related to this project and to open a line of communication with your organization.

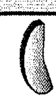
Please contact David Mojica, District Manager, at 718-299-0800, to schedule a meeting between your organization and Community Board Four or for any other matter.

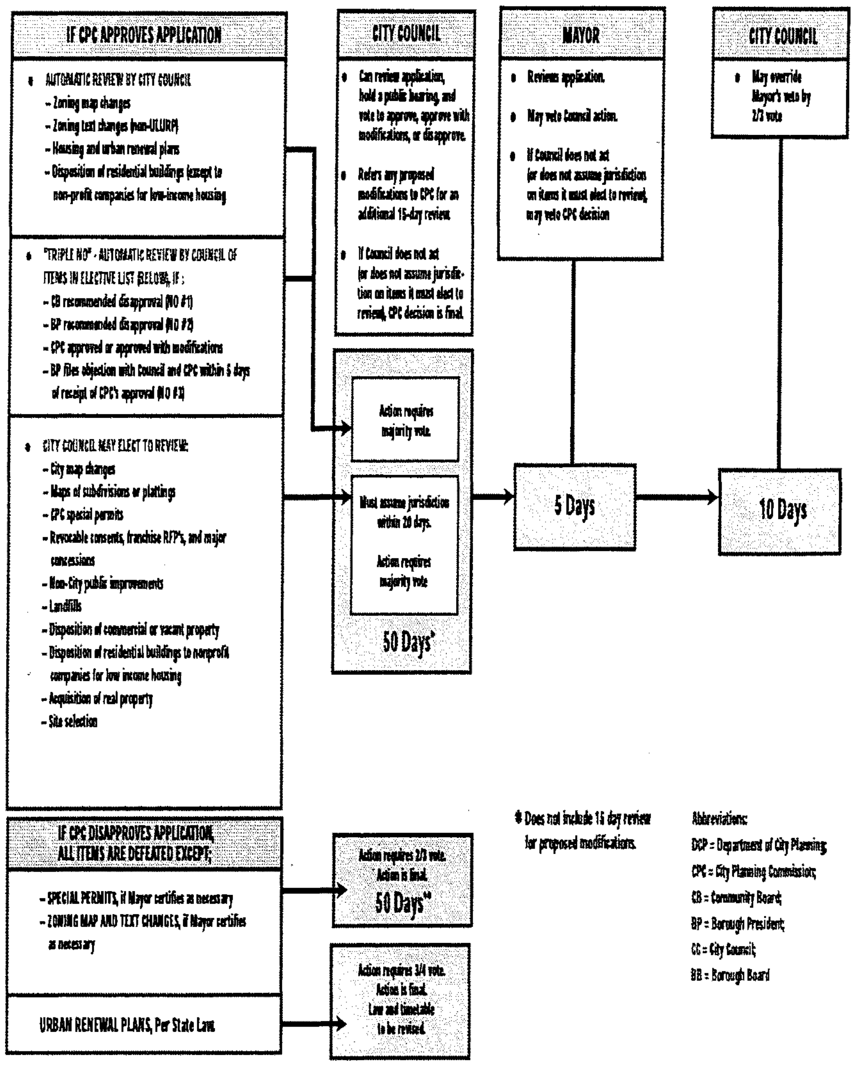
Sincerely,

Ade A. Rasul
Chair

cc: Bronx Borough President Adolfo Carrion, Jr.
Congressman Jose E. Serrano, 16th District
Senator Ruth Hassell-Thompson, 36th District
Senator Jose Marco Serrano, 28th District
Assemblywoman Carmen Arroyo, 84th District
Assemblyman Michael Benjamin, 79th District
Assemblywoman Aurelia Greene, 77th District
Councilwoman Maria Baez, 14th District
Councilwoman Helen Diane Foster, 16th District
Councilwoman Maria Del Carmen Arroyo, 17th District

UNIFORM LAND USE REVIEW PROCEDURE

	DEPARTMENT OF CITY PLANNING Application and Pre-Certification	COMMUNITY BOARD	BOROUGH PRESIDENT (and BOROUGH BOARD)	CITY PLANNING COMMISSION	
• CITY MAP CHANGES • MAPS OF SUBDIVISIONS PLATTINGS • ZONING MAP CHANGES • CPC SPECIAL PERMITS • REVOCABLE CONSENTS FRANCHISE RFPS MAJOR CONCESSIONS • NON-CITY PUBLIC IMPROVEMENTS • HOUSING AND URBAN RENEWAL PLANS • LANDFILLS • DISPOSITION OF REAL PROPERTY • ACQUISITION OF REAL PROPERTY • SITE SELECTION	• Receives application and related documents. • Forwards application and documents within 5 days to CB, BP, and CC (and BB - if project affects more than one CB). • Certifies application as complete	• Notifies public • Holds public hearing • Submits recommendation to CPC, BP (and BB). • Can waive rights on franchise RFP's and leases.	• BP submits recommendation to CPC or waives right to do so. • BB (if project affects more than one CB) may hold a public hearing and submit recommendation to CPC or waive right to do so.	• Holds public hearing • Approves, modifies or disapproves application. • Files approvals and approvals with modifications with City Council. • Disapprovals are final, except for zoning map changes, special permits, and urban renewal plans.	SEE CHART BELOW FOR THE PROCESS FOR CITY COUNCIL AND MAYORAL REVIEW (Charter Section 197-d)
PROCESS TAKES	No Specified Time Limit (after 6 months, applicant or BP in some cases, may appeal to CPC for certification).	60 Days	30 Days	60 Days	
Clock = 1 Year					
TOTAL DAYS...		60 Days	90 Days	150 Days	



Abbreviations: DCP = Department of City Planning; CPC = City Planning Commission; CB = Community Board; BP = Borough President; CC = City Council; BB = Borough Board

Back to Yankee Stadium subsidy page

GJNY's Legislative Timeline of Parkland Grab: June 15–June 23, 2005

June 15, 2005: An Agreement is Made

A Memorandum of Understanding (MOU available on www.goodjobsny.org) was signed by the Empire State Development Corporation (ESDC), the city and its Economic Development Corporation, and the Yankees. In the MOU:

- The city and ESDC agree to make a "collaborative effort to seek State legislation as quickly as possible" authorizing the construction of the new stadium and parking garages on public parklands;
- The city, ESDC, and the Yankees agree to cooperate in preparing draft legislation in seeking a Home Rule message from the New York City Council*, and the Yankees "have the primary responsibility for gathering" the support of local elected officials.

June 18, 2005–June 19, 2005 (Saturday and Sunday): The State Legislature Takes Action

Over the course of this weekend, two bills were introduced in the state legislature to authorize the use of public parkland for a stadium and parking garages.

- A Senate bill (S5818), sponsored by Queens State Senator Frank Padavan, was referred to the Senate Rules Committee;
- The following day, an Assembly bill (A8932), sponsored by Assembly Member Carmen E. Arroyo and cosponsored by other members of the Bronx delegation, was initially referred to the Cities Committee.

June 20, 2005: City Council Grants Approval

A Home Rule message cosponsored by Bronx Council Members Joel Rivera (Chair of the committee) and Helen Foster**, was introduced before the New York City Council Committee on State and Federal Legislation authorizing the state to move forward.

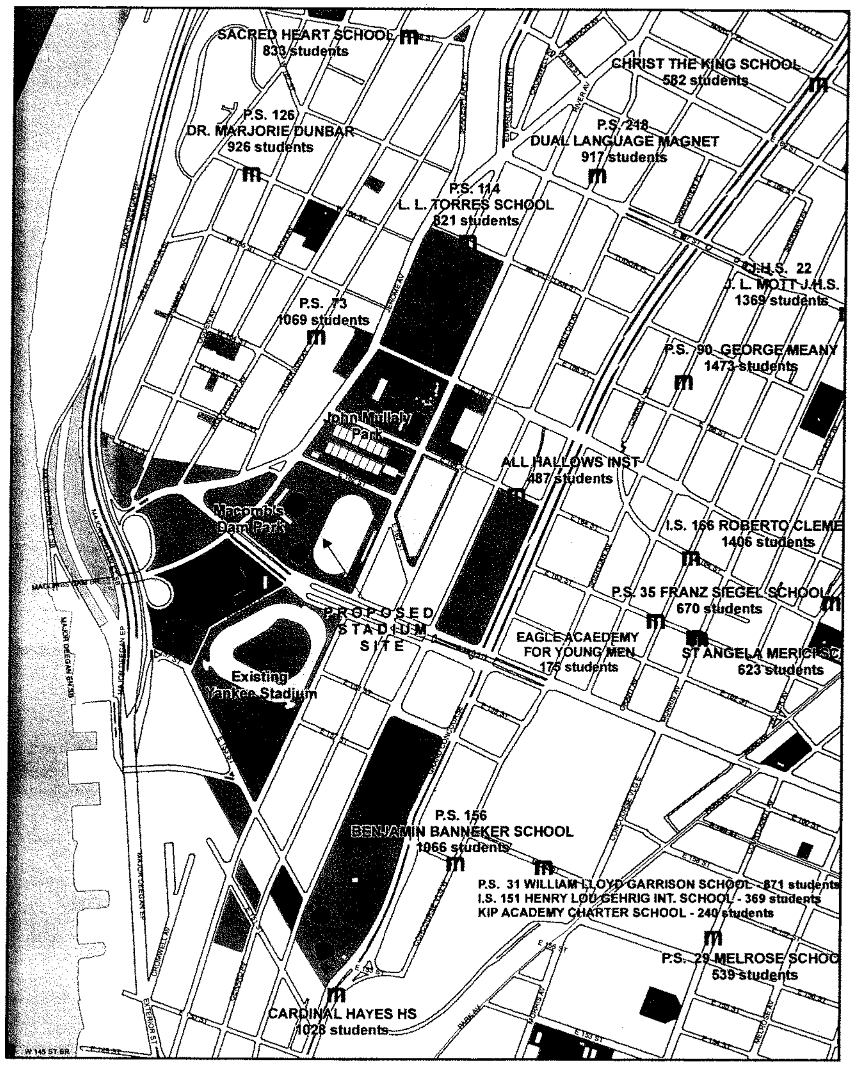
- The accompanying Fiscal Impact Statement indicated that there would be no costs;
- Minutes from the committee meeting indicate that the Home Rule message was not discussed;
- Minutes from the Stated Council meeting that afternoon indicate that the Home Rule message was "coupled on the General Order Calendar" to be voted on with about a dozen other items;
- The bill passed unanimously with one abstention.

June 23, 2005: Final Approval from the State

A day after the bill was passed in the Senate, the Assembly voted unanimously for the bill, which was signed into law by Governor Pataki on July 19, 2005.

* A City Council "Home Rule message" is a formal request for specific state legislation. Parks may not be taken from the public without authorization from the state.

** Council Member Foster has since voiced her opposition to the project.



Schools in the Vicinity of Yankee Stadium
Sources: The New York City Department of Education, 2005, & The New York City Department of City Planning, 2005.

Mr. KUCINICH. I want to thank the witness, Ms. Hogi, for her participation in this.

Before I introduce the next witness, I want to ask the witnesses to endeavor to keep their testimony to 5 minutes, and your entire testimony will be included in the record of the proceedings.

At the end of this first panel, our ranking member, Mr. Issa, will be making a statement, and all other Members who wish to have their statements put in the record will be so ordered.

At this point, I would like to introduce Mr. Frank Rashid. Is that the right pronunciation?

Mr. RASHID. Correct.

Mr. KUCINICH. Mr. Rashid is a professor of english literature and the English Department Chair at Marygrove College.

He has lived in Detroit, MI, his entire life and was a founding member of the Tiger Stadium Fan Club. The fan club engaged in a successful decade-long battle to block public stadium subsidies in Detroit.

Mr. Rashid is on the advisory board of Wayne State University Press' Michigan Writers Series and serves as vice president of the Michigan Association of Departments of English.

Welcome to this committee. We look forward to your testimony.

STATEMENT OF FRANK RASHID

Mr. RASHID. Thank you very much.

Good morning. I thank the Members of this honorable body for inviting me to testify about my experiences in fighting against public subsidies for stadiums.

Mr. KUCINICH. Would you like to start over and keep that mic close?

Mr. RASHID. Sure.

Mr. KUCINICH. I would ask all witnesses to keep the mic relatively close. Thank you.

Mr. RASHID. Thank you for inviting me to testify about my experiences in fighting against public subsidies for stadiums.

In 1987, four friends and I formed a group intended to save Tiger Stadium, the home of the Detroit Tigers. We began our efforts by highlighting the stadium's distinctive history and its role as common ground for generations of Detroiters. We discovered, however, that the most compelling reason to save the stadium was to save public money, and we committed to a fight to prevent public stadium subsidies. That fight lasted nearly 10 years.

We used every legal method to block public stadium financing, but we finally ran out of options and money. The Tigers moved into Comerica Park in 2000. Two years later, the Detroit Lions, who in 1975 had moved to a publicly financed suburban stadium, returned to Detroit again helped by public subsidies. Downtown Detroit now has two new stadiums absorbing hundreds of millions of dollars in direct public financing.

Local officials promised that these stadiums would bring new jobs, economic spinoff, contracts for minority firms and increased city revenues for more police and city services. Not one of these promises has been fulfilled. In the last 2 years, the city has hosted the All-Star Game, the Super Bowl and the World Series, but city residents have seen no benefits from these events. Detroit faces a financial crisis and has to cut police and fire protection, library hours and trash pickup.

Comerica Park and Ford Field have operated for six and four seasons, respectively, but the blessings of major league sports have yet to rain down upon us. Franchise value and ticket prices, however, have increased dramatically. In effect, we gave hundreds of millions of dollars to two billionaires so they could increase their wealth and raise their prices.

Detroit's two stadiums suck up resources that could go to schools, police, libraries, parks and proven development strategies. The Michigan Strategic Fund was established in 1984 to promote economic development and create jobs. Wise stewardship of this fund could have helped to address Michigan's economic crisis. Instead, we wasted much of it on a stadium that employs the same number of people as the one it replaced.

Replacement stadiums like Comerica Park and the proposed New York stadium absorb ancillary revenue-generating activity for the team owner, eliminating small businesses, parking lots, souvenir stands, bars and restaurants that contribute more to a local economy than one large recipient of abatements and subsidies.

Detroit must close 30 public schools, but we have two new stadiums. We have shut down several public library branches and restricted hours in those that remain. We have few organized Little Leagues, and we can't maintain parks and playgrounds for children, but we have two stadiums for the big leagues and their millionaire athletes.

Detroiters have to report accidents and crimes at police precincts, and we must travel further now to do so since the police department has replaced 15 neighborhood precincts with six centralized districts. Our mayor proposes days off without pay for city workers including fire and emergency responders and curtails trash pickups, but the two new stadiums receive plenty of police protection and their trash always gets collected.

We call animal control and get no answer. We report a dangerous building and get placed on hold. We call 911 and get a busy signal. We pay the highest millage rate of any municipality in southeast Michigan. We can't afford enough emergency workers and phone lines, but we have two new stadiums.

Detroit needs solutions that would come from a comprehensive urban policy that equitably distributes resources and opportunities. We can list strategies that would strengthen our city and improve our quality of life. Two new stadiums are not on this list.

But stadiums offer politicians the appearance of accomplishment. With limited available funds, Detroit officials focused on stadiums because their powerful beneficiaries—major league sports, team owners, developers, bond attorneys, construction firms, building and trade unions—would support the campaign to make them happen. Our local leaders persuaded voters that stadiums would solve myriad social problems. They pushed the projects through approval quickly with as little legislative oversight as possible, then sold the stadiums to the public and then dispensed the funds.

At first, we were incredibly naive about all this. We assumed that leaders of cash-strapped cities and counties wanted to save money. Our self-financing stadium renovation plan received praise from architects, stadium experts and baseball historians, but most politicians dismissed it.

Finally, a sympathetic development consultant explained to us that its budget was too small and it required no public money. We should have made the project bigger, he said. How could we expect politicians to be interested when we gave them no role?

I now understand why so many wasteful schemes receive funding while proven strategies get no support. Publicly funded stadiums are distractions from purposeful solutions to the urban crises.

As a lifelong Detroit resident, I am grateful to the members of this committee for holding hearings on the state of urban America and especially grateful for allowing me to participate.

[The prepared statement of Mr. Rashid follows:]

Testimony Prepared for the Subcommittee on Domestic Policy,
Committee on Oversight and Government Reform[1]

March 29, 2007

Frank D. Rashid

I thank the members of this honorable body for the giving me opportunity to testify about my experiences as an activist who fought against the use of public subsidies for stadiums in Detroit.

In 1987, four friends and I formed a group intended to try to prevent the replacement of Tiger Stadium, the historic home of the Detroit Tigers. Although each of us had considerable experience in other social and political causes, what brought us together was our love of baseball, our home team, and our ball park, and we at first intended to keep the tone of this campaign light. We named our group the Tiger Stadium Fan Club (TSFC), emphasizing the link between our love of this historic ballpark and the groups often formed to honor professional athletes, and we began our efforts with activities and demonstrations intended to highlight the stadium's irreplaceable qualities, its distinctive place in baseball history, and its role as common ground for generations of Detroiters.

We soon discovered, however, that this issue had a serious side that we could not ignore. The longer we fought against replacing Tiger Stadium, the more we realized that the most compelling reason to save it was to prevent a huge waste of public resources and civic energy. The significance of the building and its history were undeniable, but for me the most important reason to save it was that it was already paid for. My friends and I were lifetime Detroiters and had seen many other big projects—both publicly and privately financed—that were supposed to reverse the decades of decline brought on by deindustrialization, loss of population, and diminished public resources. None of these projects lived up to the promises of their promoters. We therefore viewed with skepticism new stadium boosters' grand claims about the benefits of stadium development, and we committed to a fight not only to save Tiger Stadium but to prevent public stadium financing. That fight lasted nearly ten years.

During that time, we brought the stadium issue to the center of local attention with a public awareness campaign featuring two "hugs" of the ballpark; we passed out hundreds of thousands of leaflets; we published newsletters, position papers, and fact sheets; we sold merchandise and held fundraisers; we kept an office, built an organization, maintained a mailing list and a data base; we gave plenty of interviews, put

[1] Portions of this testimony are adapted from two previously published articles, "Against the Empire: The Lost Struggle to Save Tiger Stadium," The Elysian Fields Quarterly 16.1 (1999): 6-8; and "Baseball, Scholarship, and the 'Duty to Justice,'" Baseball/Culture 2002-2003: Selected Papers (Jefferson, NC: McFarland, 2004) 93-105.

out press releases, held press conferences, sponsored information sessions, engaged in debates on television and radio and in print; we attracted thousands of members and hundreds of volunteers including attorneys, architects, artists, writers, teachers, urban planners, preservationists, community organizers, neighborhood representatives, business owners, developers, nuns, priests, and a bishop; we secured for the stadium a listing on the National Register of Historic Places; we developed our own professional renovation plan; we lobbied city, county, state, and federal legislative bodies; we met with corporate and political leaders and members of the media; we filed suit to prevent the use of public money for a new stadium; we twice collected signatures and brought the issue to the Detroit ballot.

And finally we lost.

We had succeeded in our 1992 ballot initiative, in which, by a 63-37 percent margin, Detroit voters rejected public stadium financing. But in 1995—when the Detroit City Council decided to rescind our initiative and we again collected signatures to put the issue on the ballot—we could raise only about $25,000 to wage a campaign against a powerful, well-financed political juggernaut, and, in the March 19, 1996 election, we were slaughtered. In the meantime, we had sued to preventGovernor John Engler's unconstitutional appropriation of Indian gaming revenues from the Michigan Strategic Fund for eventual use in the stadium project. We appealed two lower court rulings to the Michigan Supreme Court, which, in a curious decision, denied our claim while upholding our principle, refusing to allow such an appropriation to become precedent, but allowing this one-time-only allocation to take place. That was it. We had used every legal method to block public financing of a new stadium. We had staved off the new stadium forces for a few years, but finally we ran out of options and money. The Tigers moved into Comerica Park in 2000.[2] Making our defeat even more bitter, the Detroit Lions football team, which had left Detroit in 1975 for a partially publicly financed stadium in the suburbs, decided to return to the city if public monies were available, and, again, the city, state, and county complied. Ford Field went into operation in 2002. Downtown Detroit now has two new stadiums absorbing a huge portion of downtown real estate and $200-300 million in public financing.

In selling these projects to the public, local officials made plenty of promises about the benefits they would bring: new jobs, economic spin-off from stadium-related activities, contracts for minority firms, increased city revenues for more police and city services. *Not one* of these promises has been fulfilled. In the last two years, the city has hosted major league baseball's All-Star Game, the Super Bowl, and the World Series, but city residents have seen no lasting benefits from these highly touted events. The city faces a financial crisis, with two consecutive years of deficit and has had to cut police and

[2] For fuller examinations of the Tiger Stadium Fan Club's efforts, see Michael Betzold and Ethan Casey, Queen of Diamonds: The Tiger Stadium Story (West Bloomfield, MI: A& M, 1992) 107-310; Richard Bak, A Place for Summer: A Narrative History of Tiger Stadium (Detroit: Wayne State UP, 1998) 350-395; and Joanna Cagan and Neil deMause, Field of Schemes: How the Great Stadium Swindle Turns Public Money into Private Profit (Monroe, ME: Common Courage, 1998): 84-103. The stadium issue is also examined in a 2006 documentary, Stranded at the Corner: The Battle to Save Historic Tiger Stadium, written by Bak and produced by Gary Glaser.

fire protection, library hours, and trash pickup among other city services. Comerica Park and Ford Field have been in operation for six and four seasons respectively, but the blessings of major league sports have yet to rain down upon the people of Detroit. The owners of the two teams, on the other hand, have been blessed with dramatically increased franchise value.[3] They have also taken advantage of the opportunity afforded by the new stadiums to raise ticket prices.[4] In effect, we gave hundreds of millions of dollars to two billionaires so they could charge higher prices and become even wealthier. This is called urban development.

Economists who have studied stadium financing explain why public investment in stadiums does not serve the public interest. On the surface it's absurd to expect a part-time business (eighty-one home dates for baseball and with the possibility of a few post-season dates and, at most, twelve home dates for football, including pre and post-season) to create the kind of "synergy" that stadium boosters promise. Roger Noll and Andrew Zimbalist have written, "The effect of stadiums on the cash flow of teams and cities suggests that new facilities rarely, if ever, are worthwhile. Sometimes, they can be financially catastrophic"[5] No serious academic economist advocates stadium development as a way to bring economic vitality to a city or region. *New* stadiums for new professional teams do not bring benefits commensurate with their expenses. *Replacement* stadiums do not create permanent new jobs; they do not stimulate significant new economic spin-off; they do not add to the tax base. Stadiums inevitably cost more and do less than promised. Nevertheless, in recent decades, professional sports teams have raided public coffers for billions of dollars.

The public costs of stadium development go beyond the dollars spent, and the peculiar nature of stadium financing often disguises the true public expenditure. For Detroit's Comerica Park, for example, most observers believe that the public and private contributions were split about evenly.[6] Several quid pro quo arrangements ensure that the

[3] The value of the Detroit Tigers has risen from \$83M 1995, the year before their victory in the election insured that a new stadium would be built, to \$290M in 2001, the year after the team moved into Comerica Park. After declining in intervening years, the team has regained value after winning the American League pennant in 2006, now standing at \$292M. The Lions' increase in value is even more dramatic, rising from \$150M in 1996 to \$839M in 2006. See Rodney Fort's Sports Business Data Pages at http://www.rodneyfort.com/SportsData/BizFrame.htm.

[4] Average ticket price increases are also dramatic: The Tigers' average ticket prices more than doubled between 1999, Tiger Stadium's final year, and 2000, Comerica Park's first year, from \$12.23 to \$24.83, before the team's mediocre record forced management to lower prices to an average of \$17.90 in 2003. The average price of a Lions ticket in the last year of the Pontiac Silverdome (2001) was \$39.05; this increased to \$50.23 in 2003. See Fort.

[5] Roger G. Noll and Andrew Zimbalist, "Build the Stadium--Create the Jobs!" Sports, Jobs and Taxes: The Economic Impact of Sports Teams and Stadiums. Eds. Noll and Zimbalist (Washington, DC: Brookings Institution, 1997) 30.

[6] Variances between different reports illustrate the difficulty of tracking stadium financing once the project is underway. Estimates of Comerica Park's final price tag range from \$290 million to \$395 million. Mr. Ilitch supposedly contributed \$145 million to the project. Although some sources say that the public contributed less than 50% of the stadium's cost, this is unlikely given the range of expenses published in

city compensates Tigers owner Michael Ilitch for his part of the financing: As part of the deal, the city gave Ilitch "the exclusive option to purchase more than 20 blocks of property west of his Woodward Avenue entertainment complex after nine years" and handed over parking revenues, which he then was free to use as partial collateral for the loan he secured to cover his part of the stadium costs.[7] As is common in these arrangements, he sold the naming rights, even though the stadium is nominally publicly owned, and public ownership became a selling point when the project was promoted.[8] Moreover, a consortium in which Ilitch's wife, Marian Ilitch, one-time co-owner of the Tigers, now holds a majority interest, was given the rights to one of Detroit's three gambling casinos.[9] On paper, it appears that Ilitch contributed more to this stadium project than have many other owners, but, in reality, the people of Detroit, the nation's fourth poorest city, have subsidized the team owner's contribution and ensured that he will take all profits from the stadium, while the city incurs the risk.

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the same sources. See Marquette University Law School's Sorts Facilities Reports 7 (2007): http://law.marquette.edu/cgi-bin/site.pl?2130&pageID=2629; League of Fans' "Summary of Total Cost and Public Subsidy for MLB Stadiums Constructed or Significantly Renovated Since 1990," http://www.leagueoffans.org/mlbstadiums1990.html; Judith Grant Long, Ph.D., "Research MLB2," Edward J. Bloustein School of Planning and Public Policy, Rutgers University: http://policy.rutgers.edu/faculty/long.html.

[7] Curt Guyette, "Render unto Caesar: The Devil's in the Details and Pizza Man Mike Ilitch Got One Hell of a Deal,"Metro Times Detroit (23 April 1997): http://www.metrotimes.com/news. I was present at the Detroit City Council hearing in which, under questioning, the co-chair of the Detroit-Wayne County Stadium Authority admitted that "a portion:" of these revenues could be used for collateral for this loan.

[8] Campaign literature promoted public ownership of the stadium as one of the benefits of the financing package. In fact, the people of Detroit get very little out of "ownership" of the stadium, which is primarily a way to ensure that the Tigers take all of the profits while the public absorbs most of the risks. The description of the naming rights deal on Comerica's Website describes this private deal done with this nominally public property: "In the fall of 1998, [former Comerica Chairman Gene] Miller began discussions with Tigers Owner Mike Ilitich [sic] about naming the new park. Miller, who retired as Comerica's chairman Oct. 1, 2002, saw a naming-rights agreement with the Tigers as a 'once-in-a-30-year opportunity.' That an agreement was reached quickly attests to the strong, enduring relationship the two business leaders continue to have with one another as well as their sharing of a positive vision for Detroit's future."

"'We are pleased by Comerica's confidence in the Tigers and continued support of the Detroit community,' said Ilitich" [sic].

Earlier this month, Comerica announced that it is moving its headquarters out of Detroit. The Bank will presumably continue to pay $2.2M annually to the Tigers for naming rights on a stadium belonging to the City of Detroit.

See "Comerica Park," About Comerica: Community Involvement: http://www.comerica.com.

[9] When Michael Ilitch bought the Tigers in 1992, he and Marian Ilitch were listed as co-owners, but when the opportunity presented itself to gain an interest in a casino, Ms. Ilitch cut her formal ties to the team. Major League Baseball, which has long sought to avoid any connection with the gambling world, is looking the other way about this and about the very likely use of casino revenues to service the debt.

Dollars constitute only part of the stadium damage. Stadium projects also cost heavily in missed opportunities.[10] In Detroit, which has limited funds and opportunities to stimulate revitalization efforts, stadium projects suck up resources that could be used for schools, police, libraries, parks, and development with potential to produce lasting benefits. Detroit needs to encourage downtown residential development. However, when interest in loft and condominium development was growing in other cities, the new stadiums used up the Downtown Detroit Development funds that could have helped spur earlier development of residential lofts in the central city.[11]

More profound is the loss of a significant portion of the Michigan Strategic Fund, which was established by Governor James Blanchard in 1984 "to promote economic development and create jobs."[12] Wise stewardship of this money could have helped to address the effects of the economic crisis in which Detroit and Michigan now find themselves. Instead, we wasted much of it on a stadium that employs the same number of people employed by the stadium it replaced.

Detroit must close thirty public schools, but we have two new stadiums. We've already shut down several public library branches and restricted hours of operation in those that remain, which have few computers for inner city kids to use for homework after school. Because of budget cuts, the city has had to close the oldest municipal aquarium in the world. We have few organized little leagues, and we can't maintain parks and playgrounds for our children, but we have two new stadiums for the major leagues and their millionaire athletes. Detroiters can't expect the police to come for a traffic accident report or even a robbery. We have to go to the precinct and make the report, and we have to travel further to do so, since police department reorganization has replaced sixteen neighborhood precincts with six centralized districts. In his budget, the Mayor proposed Days Off Without Pay (DOWOP) for city workers—including fire and emergency responders— and took away bulk trash pickups, but we have two new stadiums where the trash gets picked up and there's plenty of police protection. Try calling animal control and getting no answer; try to report a dangerous building and getting placed on hold; try calling 9-11 and getting a busy signal. There simply aren't enough phone lines and workers. For this, we pay the highest millage rate of any municipality in southeast Michigan. And we have two new stadiums.

Detroiters are not to blame for this situation. In the years since World War II, this city has suffered from unprecedented disinvestment by the very forces that built it up

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[10] See the analyses of stadium financing and impact in Noll and Zimbalist's Sports, Jobs, and Taxes: The Economic Impact of Sports Teams and Stadiums, James Quirk and Rodney Fort's Hard Ball: The Abuse of Power in Pro Team Sports, and Joanna Cagan and Neil DeMause's Field of Schemes: How the Great Stadium Swindle Turns Public Money into Private Profit.

[11] Kristin Palm,"Lofty Words: Bringing Residents Downtown the Slow Way," Metro Times Detroit (17 Feb. 1999): http://www.metrotimes.com/19/20/Features/newLofty.html. Despite the late start, loft and condominium development is now very healthy in Detroit.

[12] "Michigan Strategic Fund Board," Michigan.Org: Michigan's Official Economic Development and Travel Site: http://www.michigan.org/medc/ttc/21stCentury/MSFboard/.

only to abandon it, leaving it with vastly diminished resources. For decades the federal government subsidized the flight of its middle class with FHA loans and paved their way out of town with billions for highway development while refusing to fund effective mass transit in the city and fostering policies designed primarily to reform or punish the people who by necessity or choice remain in urban neighborhoods.[13] We need the solutions that would come from a comprehensive urban policy that equitably distributes resources and opportunities to everyone in our society. The situation is not hopeless. We can list the strategies that would strengthen our city and improve quality of life for our people. Two new stadiums are not on this list.

Taxes added for stadiums contribute to tax wariness on the part of voters asked to approve school millage or taxes for schools, libraries, parks, and other public purposes. Replacement stadiums, like Comerica Park, designed to absorb all ancillary revenue-generating activity for the team owner, also eliminate small businesses—independent parking lots, souvenir stands, bars, and restaurants—which contribute more to a local economy than one large recipient of abatements and direct subsidies. Massive projects like stadiums absorb energy as well as resources, limiting options and channeling an urban vision to expensive strategies with no track record of achieving what they promise. Proven redevelopment strategies are ignored while the powerful stadium lobby, possessed of limitless resources, directs the visions of politicians and the general public to stadiums as the solution to a vast array of social and economic problems. According to urban development scholars Roberta Brandes Gratz and Norman Mintz, after a city surrenders to a team's demands, "projects that could directly benefit the city and add momentum to genuine city rebuilding are either ignored or given crumbs." Such "small investments," they argue, "mean real economic development, real entrepreneur generation, real community building, real people building."[14] But projects like stadiums effectively block them.

Although new stadiums contribute little or nothing to the quality of life of the taxpayers who fund them, and although their hidden costs amount to much more than the actual dollars expended on them, they have become a cynical way for politicians to appear to do something for a community, while ignoring its real needs. An official from the office of Michigan Governor John Engler admitted as much to three Tiger Stadium Fan Club representatives, myself among them. He said that out-state Republicans would not stand for doing what really needed to be done for the City of Detroit, but that supporting a stadium was a way for the administration to placate critics with the appearance of responsiveness to the city's needs. Detroit leaders, who have limited available funds for redevelopment, focus on stadiums as one kind of project that can happen, not because they will do any good, but because of the vast array of powerful

[13] For a comprehensive history of postwar Detroit, see Thomas J. Sugrue's Origins of the Urban Crisis: Race and Inequality in Postwar Detroit (Princeton: Princeton UP, 1996). For analyses of the ways in which federal policies and programs have encouraged suburbanization and injured central cities, see Kevin M. Kruse and Thomas J. Sugrue, eds., The New Suburban History (Chicago: U of Chicago P, 2006).
[14] Roberta Brandes Gratz and Norman Mintz, Cities Back from the Edge: New Life for Downtown (New York: Wiley, 1998) 336.

interests—the professional sports leagues, the team owners, real estate developers, bond attorneys, construction firms, building and trade unions—that benefit from them and will support any campaign to make them happen. Of course, such projects include a built-in incentive for mayors and county executives themselves, since the availability of public funds gives them power to satisfy the demands of and dispense lucrative contracts to wealthy potential campaign contributors.

This means that the job of the local politician is to get the deal done, to make all sorts of exaggerated claims about the benefits a stadium will bring, to exploit the desperation of residents by persuading them that stadiums are a quick fix to myriad social problems.[15] Rather than safeguard public resources and ensure that they are put to the best possible uses, mayors and county executives become the agents of powerful corporate interests. The job of municipal CEOs is to push the project through any approval process as quickly and with as little oversight from legislative bodies as possible, to sell the stadium project to the public, and then to dispense the funds to the powerful interests. In the early 1990s, the Detroit Tigers gave the City of Detroit and the County of Wayne six months to come up with a plan to finance a new baseball stadium, or else.... Later, the deputy county executive bragged that the deadline was his idea, that, in effect, he had told the Tigers to blackmail him as a way to generate public support for the project.

Such collusion is common in stadium deals. After voters approved city funds for the stadium in 1996, the county wanted in on the project and sought to restore a previously-established, but long-dormant stadium authority that would be less subject to federal restrictions imposed in intervening years to close tax loopholes. The Wayne County Commission held a public hearing which colleague and I attended after we had been assured that there would be opportunity for public comment.[16] The same deputy county executive controlled the meeting—pressuring the commissioners with an artificial, self-imposed deadline—to agree to the proposal during the meeting. When members of the Board complained that he had given them no time to review the hundreds of pages in the proposal, the deputy told them that he was prepared to stay all night and answer any questions, but that it was absolutely necessary to approve the proposal during that session. I asked the staff when public comments would be heard, and I was handed an agenda on which public comments appeared *after* the vote. The only member of the "public" allowed to speak prior to the vote was the daughter of the Detroit Tigers' owner, who, of course, testified glowingly of the benefits that would spread from this public-private partnership to all involved.

At first, we TSFC members were incredibly naïve about all this. We had assumed that the leaders of cash-strapped cities and counties would want to save money. In 1989,

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[15] Pro-stadium campaign literature from the 1996 referendum proclaimed that the stadium would bring "New Jobs," "New Business," "More Police and City Services," and "Restored Spirit & Pride." "Blight would be "eliminated" in the area of the new stadium.

[16] We learned about this hearing the day before it was to be held. When we called to find out the details, we were told it would begin at noon. When we arrived, after spending a night preparing our statement, we found out that it had begun at 9 a.m. See Cagan and deMause, 118.

therefore, we asked our volunteer architects to develop a renovation plan that would pay for itself and not use any public money. The resulting design, the Cochrane Plan, was much praised by architecture critics, stadium experts, and baseball historians, but state and local politicians never took it seriously. Several years later, a sympathetic development consultant told us the reason: The budget was too small, and it did not require any public money. We had to make it a bigger project if we expected it to go anywhere. How could we expect the politicians to be interested in anything that took them out of the project?

My disheartening experience in the stadium wars helped me to understand why so few projects that would actually rejuvenate cities and improve quality of life for their residents receive support, and why so many projects that do absolutely no good absorb so much public money. Since our defeat in 1996, I have thought much about what is wrong with the present system that pours so much local, state, and federal money into sports while so many pressing needs—for education, housing, city services, and youth programs—go unmet. These recommendations might help to ensure that stadiums assume their rightful place among the many priorities now facing America's cities:

1. No stadium proposal should be considered that does not include a full cost-benefit analysis performed by experts and citizens with no financial interest in the project. The experts should include urban planners, economists, architects, developers, community leaders, and residents. It should include a full assessment of the proposed financing plan and examination of other possible uses for the resources proposed for the project. In other words, the public should know what kinds of projects, services, and other activities would not be funded because of the public financing of a stadium.

2. If public funds are to be used to replace a stadium, complete plans for the older stadium should be required as part of the agreement. Renovation and/or demolition and proposed sources of funding should be added to the project's total cost.

3. In any locality whose funds would be used on the project, all proposed stadium projects should require a public vote.

4. All documents related to the proposal and its financing should be available to the public for a designated period prior to any vote. Any agreements between the city and the team owner made after the agreement should be part of the public record.

5. No one with a financial stake in the project should be allowed to contribute to the campaign preceding the vote, and no contributors to such a campaign should be eligible for any contracts arising from the project if the voters approve it.

6. Safeguards should be imposed that remove incentives to raise the project's cost at the public expense.

7. Financing formulas must ensure that the public is safeguarded from losses associated with the project and the public must be granted a portion of the revenues associated

with the enterprise, either through ancillary activities (i.e., parking), naming rights, rent, and/or taxes.

8. All agreements between the public bodies and the team owner should be scrutinized to bring to light any quid pro quo arrangements.

9. The granting of public funds for a new stadium should be tied to high standards of operation. That is, the team owners and their contractors should not be tied to any enterprise (i.e., gambling) that compromises the integrity of the game.

10. Any publicly funded stadium project should be closely monitored to insure accountability and to aid in planning for other projects.

America has neglected its cities. In place of intelligent urban policy, federal, state, and local governments have supported projects like stadiums that distract us from purposeful solutions to the urban crisis and ultimately do much more harm than good. As a lifelong Detroit resident and a student of urban policy, I am grateful to the members of this committee for holding these hearings on the state of urban America, and especially grateful for allowing me to provide this testimony.

Mr. KUCINICH. Thank you very much, Mr. Rashid.

I want to note my gratitude for the presence of my colleagues, Mr. Davis, Mr. Tierney, Mr. Braley, Mr. Turner and, of course, Mr. Issa.

I would like to introduce our next witness, Mr. Nick Licata. Nick Licata is the president of the Seattle City Council in Seattle, WA.

Mr. Licata has a history of civic activity and community involvement. Among his list of activities, he was Co-Chair of Citizens for More Important Things. The group opposed excessive public funding for professional sports stadiums.

Welcome, Mr. Licata, and you may proceed.

STATEMENT OF NICK LICATA

Mr. LICATA. Thank you. Thank you, Chairman Kucinich and Ranking Member Issa and members of the Subcommittee on the Domestic Policy for asking me to speak to you today.

I am Nick Licata, as was pointed out, a Seattle City Council Member and for the past 12 years have been at the heart of Seattle's debate about the use of public funding for professional sports stadiums.

In 1995 before I was elected to the City Council, I did indeed co-found the Citizens for More Important Things along with Chris Van Dyk and Mark Baerwaldt, two other businessmen. This group fought the use of taxes to construct three stadiums for professional sports organizations over the past dozen years, and appendix 1 that you have provides a chronology of the efforts to secure public funding for these facilities in Seattle. It is a pattern that has been repeated across the Nation where perfectly useable facilities are declared too shabby for the home team.

Seattle rebuilt our Seattle Coliseum in 1995 to the specifications of Seattle's professional basketball team.

Mr. KUCINICH. You can hold on for a minute until we get these buzzes.

Don't believe the 15 minutes. You will have your time.

Mr. LICATA. OK, great, this will be shorter than 15 minutes.

I would like to outline three experiences, the first with our professional basketball team. In 1995, Seattle rebuilt our Seattle Coliseum to the specifications of this professional basketball team, the Supersonics, and we created the state-of-the-art NBA Key Arena at a public cost of $75 million. The sale of luxury boxes was to pay for the construction of those bonds. When the team could not sell enough luxury boxes, basically, the city had to pick up the tab. Nine years later after the city has paid millions annually, over $6 million a year annually and over half the public debt still outstanding, the team said they wanted a new facility because it was outdated.

What happened then was that when they got the cold shoulder from the politicians and the public, the Sonics were sold for an estimated $80 million profit for the new owner who now wants the public to contribute $400 million for an even bigger facility.

In the case of our baseball team, in 1995 while the city was remodeling the Coliseum for the Supersonics, our professional baseball team, the Mariners, declared that their venue, the 18 year old Kingdome, was obsolete for baseball and threatened to leave Seattle if they were not provided with a new stadium with a retractable roof at the cost to the public of over $300 million. The previous year, the county had spent $73 million repairing the Kingdome's leaky room where they played, and a few weeks after local voters rejected a sales tax to pay for the new Mariners stadium, the State legislature met in emergency session to approve a tax package that eventually built it despite voters' wishes.

In the case of our professional football team, the Seattle Seahawks, seeing how successful the Mariners were, demanded they too wanted significant remodeling of the Kingdome and they threatened to move to California if they did not get it. Before they could move, Microsoft founder Paul Allen purchased the team, subject to public approval of a $300 million public funding package. He spent $7 million on the election, outspent the opposition at least 1 to 20 if not 1 to 40, and won the election by 00.2 percent. The Kingdome then was imploded with still $100 million debt unpaid.

Now what does this pattern reveal? It says just what our city staff discovered when reviewing the life of professional sport facilities around the Nation. When public money is used, professional sport facilities are remodeled every 6 years.

Why? Because public money is readily available and free to the teams.

Where does this money come from? Proponents have argued that these taxes are insignificant since they are on restaurant meals, hotel rooms, car rentals and other retail purchases. This mixture of revenue streams does mount up. If pending State legislation in our State passes for the new Sonics basketball arena and a speedway for NASCAR as they are also requesting public funding, our city, county and State governments will have contributed $2.3 billion over the past two dozen years for new professional sport venues.

Our own Seattle experience has shown that the cost continue to go up. Appendix 2 that you have shows that certain crimes increased around the two new stadiums from what they had previously been in the same neighborhood, contributing to increased public costs.

In ending, let me say that our economy, the Seattle economy, had a downturn. There was a National downturn, but our stadiums in no way contributed to lessening that downturn and, in fact, took money away from Seattle that we could have spent in providing basic services to our citizens.

[The prepared statement of Mr. Licata follows:]

Witness:	**Nick Licata, Councilmember, City of Seattle, Washington State**
Committee:	Subcommittee on Domestic Policy, Committee on Oversight and Government Reform
HEARING:	State of Urban America
DATE & TIME:	Thursday, March 29, 2007 @ 10:00AM

Thank you, Chairman Kucinich, Ranking Member Issa, and members of the Domestic Policy Subcommittee for the opportunity to speak with you today. I am Nick Licata, a Seattle City Councilmember. For the past 12 years, I have been at the heart of Seattle's debate about the use of public financing for professional sport stadiums.

In 1995, before I was elected to the City Council, and while I was still an insurance broker, I co-founded Citizens for More Important Things, along with two other businessmen, Chris Van Dyk and Mark Baerwaldt. This group fought the use of taxes to construct three stadiums for professional sports organizations over the past dozen years. Since becoming a City Councilmember I have continued to be involved in this issue.

Appendix I provides a chronology of the efforts to secure public funding for these facilities in Seattle. It is a pattern that has been repeated across the nation, where perfectly useable facilities are declared too shabby for the home team. If they are not replaced with a more expensive facility, it's adios amigo to the home fans. Consider our experience with three different professional sport teams.

Seattle rebuilt our Seattle Coliseum in 1995 to the specifications of Seattle's professional basketball team, the Supersonics, creating the state-of-the-art NBA Key Arena at a cost of $75 million in public money. The sale of luxury boxes was to pay off the construction bonds. When the team could not sell enough of them, the city had to pick up the tab. Nine years later, after the City had paid millions annually and with over half the public debt still outstanding, the team said that the facility was outdated and it could not be profitable unless the public invested over $200 million for a new facility. When thy got the cold shoulder from political leaders and the public, the Sonics were sold for an estimated $80 million profit to a new owner, who now wants the public to contribute more than $400 million for an even bigger facility, this time in a suburban area.

In 1995, while the City was remodeling our Coliseum for the Supersonics, our professional baseball team, the Mariners, declared that their venue, the 18 year old Kingdome, was obsolete for baseball, and threatened to leave Seattle, if they were not provided with a new stadium with a retractable roof, at a cost to the public of over $300 million. The previous year the County had spent $73 million repairing the Kingdome's leaky roof. A few weeks after local voters rejected a sales tax increase to pay for the new Mariners stadium, the State legislature met in an emergency session, to approve a tax package that eventually built it, despite voter's wishes.

The Seattle Seahawks, seeing how successful the Mariners were, demanded significant remodeling of the Kingdome for football in 1997, threatening to move to California if they did not get it. Before they could move, Microsoft Co-founder Paul Allen purchased the team, subject to public approval of a $300 million public funding package. He spent $7 million on the election, outspending opposition 21 to 1, and won by approximately 00.2 percent. The Kingdome was then imploded, with about $100 million in debt still unpaid.

What does this pattern reveal? It says just what our City Staff discovered when reviewing the life of professional sport facilities around the nation. "When public money is used, professional sport facilities are remodeled every six years." Why, because public money is readily available and free to the teams. They have little reason to conserve it.

Where does this money come from? Proponents have argued that these taxes are insignificant since they are on restaurant meals, hotel rooms, car rentals, and other retail purchases. This mixture of revenue streams does mount up. If pending state legislation passes for the new Sonics basketball arena, and a speedway that NASCAR has requested, our City, County and State governments will have contributed a breathtaking $2.3 billion over the past dozen years for new professional sports venues.

This money could have gone to provide public benefits or public facilities with a broader, more important use. For instance, City admission taxes used to fund such services as police and social services; there are County service taxes which could go to hundreds of local community groups to support economic development; and finally there are State retail sales taxes that normally fund education throughout the state. And while our state does not have an income tax, there are 45 states that do, and issuing tax exempt bonds for building professional sport facilities deprives those states and the federal government revenue to provide these same basic services.

What about the benefits from these facilities? I'm no economist, but what I have seen in Seattle, and in other cities that I have visited in my capacity as a member of the National League of Cities, has not revealed any lasting advantage of subsidizing huge stadiums or arenas. While some retail businesses do more business on game nights, overall there is meager visible evidence that new stadiums improve urban living or increase retail shopping in their vicinity. Our own Seattle experience, as evidenced in Appendix 2, shows that certain crimes increased around the two new stadiums from what they had been previously in that same neighborhood, contributing to increased public safety costs.

Our city had an economic down-turn after the two new stadiums were built. This was a national recession, but there was no sign that the stadiums softened its impact. If anything, they denied us revenue that could have avoided cutting city services.

Municipalities need to provide more important pubic services than building half-billion dollar multi-hundred sports venues whose primary purpose is not the enjoyment of sports games but producing profits for team owners and huge salaries for players. The Federal Government can stop this trend by using its regulatory authority. I urge you to do so.

Witness: **Nick Licata, Councilmember, City of Seattle, Washington State**

Committee: United States House of Representatives
Subcommittee on Domestic Policy,
Committee on Oversight and Government Reform

HEARING: State of Urban America
DATE & TIME: Thursday, March 29, 2007 @ 10:00AM
LOCATION: Rayburn House Office Building, Room 2247

Appendix I– Seattle's History with financing stadiums

1994 The Seattle Coliseum is rebuilt to the specifications of the Seattle Supersonics, at a cost of approximately $100 million, and is specifically designed to exclude hockey. Naming rights are sold, and the facility becomes "KeyArena". Bonds are to be paid from revenue generated from luxury box leases. (As of 2003, luxury box proceeds no longer cover bond payments. Approximately $7 million annually is now paid by the City of Seattle. Outstanding debt is about $44 million.)

1994 The Kingdome, built for about $52 million, gets a leaky roof. $73 million is spent repairing it. One reason for extraordinary cost is an accelerated schedule, to minimize Seahawks' having to play outdoors at Husky Stadium.

1995 The Seattle Mariners declare the 18 year old Kingdome obsolete for baseball, and threaten to leave Seattle, if they are not provided with a new stadium with a retractable roof, largely at public expense. Voters reject a sales tax increase by 1,065 votes, out of approximately 350,000 cast. Proponents spend $1 million, opponents about $20,000. Shortly after, concurrent with the Mariners being in the playoffs for the first time in their seventeen year history, a special session of the Washington State Legislature is convened. Taxes on restaurants, hotels/motels, rental cars and a general sales tax credit are implemented to fund a Public Facilities District, for the sole purpose of constructing a stadium for the Mariners, despite Washington State constitutional prohibitions against the lending of public credit for private purposes.

1996 Legal challenges to Mariners funding on constitutional and other grounds are filed.

1997 Citizens for More Important Things files King County Initiative 16, which would have prohibited the issuance of the Mariners stadium bonds without another public vote. The Courts throw it out, along with all other legal challenges to stadium funding.

1997 The Seattle Seahawks demand significant remodeling of the Kingdome for football. When demands are not met, they move to Southern California. Microsoft Co-founder Paul Allen is persuaded by local lawmakers to purchase the team. He does, subject to public approval of a $400 million outdoor football stadium, with $300 million in public funding and $100 million in private funding. A special statewide vote is held at his expense. Voters narrowly approve, by about 34,000 out of 2.5 million votes cast. Paul Allen spends $7 million promoting; opponents $350,000.

2000 The Kingdome is imploded with approximately $100 million in debt outstanding.

2004 The Seattle Sonics declare KeyArena obsolete for basketball, and demand $200 million for a significant remodeling.

2005 The Washington State Legislature declines to act on Sonics request.

2006 The Washington State Legislature, a second time, declines to act on Sonics request despite Sonics threat to leave town.

2006 Starbucks Coffee Chairman Howard Schultz sells the Sonics to a group from Oklahoma City led by media and entertainment investment magnate Clayton Bennett.

2006 Seattle voters in November approve Initiative 91, sponsored by Citizens for More Important Things, and largely underwritten by SEIU Local 775, with 75%, effectively barring the City of Seattle from subsidizing or being a conduit to subsidize professional sports organizations.

2006 NASCAR requests $135 million in tax subsidy for speedway construction in suburban Kitsap County, Washington.

2006 Peter Hart poll shows 80% public opposition in Washington State to NASCAR and 77% opposition to Sonics tax subsidies.

2007 Sonics declare intent to move to Renton, a suburb of Seattle, demanding $300 million in state & King County subsidies, and $100 million from the City of Renton, and threaten again to leave for Oklahoma if denied. The new facility is also promoted as, unlike KeyArena, able to host the National Hockey League.

The Sonics & NASCAR tax subsidy bills are pending before the Washington State Legislature.

Appendix II - Select Seattle Police Department Crime Statistics 'Before' and 'After' Stadiums Open

Stadium	*Before*	*After*	*% Change*
Safeco Field	**7/1/98-6/30/99**	**7/1/99-6/30/00**	
Auto theft	49	87	+ 77%
Detox	46	71	+ 54%
Prowler, Trespass	29	40	+ 38%
Qwest Field	**8/1/00-7/31/02**	**8/1/02-7/30/04**	
Auto theft	466	497	+ 7%
Detox	407	1,267	+ 311%
Prowler, Trespass	177	222	+ 25%

Mr. KUCINICH. Thank you, Mr. Licata, president of the Seattle City Council, for your testimony.

We are now going to have the statement of the ranking member, Mr. Issa, and at the conclusion of that, we will take a short recess to go vote.

Mr. Issa, you may proceed.

Mr. ISSA. Thank you, Mr. Chairman.

I am particularly happy that we are having this hearing today because I believe Mr. Chairman and I think former Mayor Michael Turner who is also going to be participating here today would agree that there are right ways and wrong ways to do it.

I think it is very insightful for us, even though we don't have prime jurisdiction, through our granting of tax-exempt status for these projects, federally tax-exempt status, to evaluate whether they should be done under the conditions they presently are. We have individuals from the IRS and other bond officials that will be testifying later.

I think that very much it is going to cause us to look at the good, the bad and, as I heard today, in many cases what you would say would be the ugly.

I have the privilege, though, of representing the city of San Diego, and I have firsthand knowledge of the economic boom that resulted from our newly built baseball park, PETCO Park, which is the home of the National League West Champions, the San Diego Padres. Our story was different than the ones I have heard in your cities. In November 1998, over 60 percent of San Diego's voters approved Proposition C. The MOU between the Padres and the city of San Diego and the City Center Development was the only legislative action required for the baseball park.

We went through more than 5 years, though, of litigation by one after another individual, some of them particularly notable being landowners of a warehouse district, a district that didn't have individuals living there and by most people's standards, even though it was a downtown distance within walking distance of our finest oceanfront area, was in fact blighted. The owners did not say they didn't want to sell. They simply said they wanted to be made a lot more for warehouse districts. They were paid a lot more than would be based on the tax rolls in that district, a lot more.

After the successful condemnation and 5 years of litigation, PETCO Park was built in what had once been a blighted warehouse district.

Today, we have 7,385 residential units in that district. These are units of choice. These are expensive units. These are units that range up into the multimillion dollar range, and these are units that were 100 percent sold because San Diego became revitalized around this project. This project was not squeezed in. It was designed from the ground up.

We also have added 747 new hotel rooms, again over 90 percent filled.

The direct documentable economic value is $3.73 billion of property tax evaluation increase. Now, in California, you just take 1 percent of that or $37 million and you would get the direct property tax revenue increases. Needless to say, we are talking in multiples of that when you look at our revenues from sales tax and others.

Quite candidly, if baseball players were required to be residents of the State of their home team, it wouldn't help you in Washington, but in California that would add roughly 10 percent of their often high salaries to the economic revenue.

I am proud to say that John Moore, the owner of the Padres, does contribute heavily to local baseball and softball. He has built every single year a new, at his cost, baseball facility for the youth around the city and the county and continues to give back and give heavily.

We were fortunate. We had a multi-billionaire who moved to San Diego and bought a team that was in trouble and has invested net in it and in the redevelopment, from day one, said that he wanted that to be a redevelopment that was a positive for the city.

It is an unusual story to tell, but I wanted it told because as I hear with more than little bit of dismay how cities can go wrong, I also want all of us to realize that it can be done right and hopefully will be done right in the future perhaps because of tax policies that we work on here today.

Mr. Chairman, I thank you and yield back.

[The prepared statement of Hon. Darrell E. Issa follows:]

Opening Statement of Ranking Member Darrell Issa

Oversight and Government Reform Subcommittee on Domestic Policy

Hearing on

"Taxpayer-financed Sports Stadium, Convention Center and Hotel Construction"

March 29, 2007

Mr. Chairman, I want to thank you for holding this hearing. I would also like to thank you for again allowing my colleague, Michael Turner, the opportunity to participate in today's hearing. As a successful two-term Mayor of Dayton, Ohio, Mike Turner is very well qualified to discuss urban issues, and I am pleased to have him join me at this hearing.

I have the privilege of representing a portion of the City of San Diego. I have seen, first-hand, the economic boom that has resulted from our newly built ballpark, PETCO Park, which is home to the National League West Champion San Diego Padres.

In November of 1998, over 60% of San Diego voters approved Proposition C, the Memorandum of Understanding (MOU) between the Padres, the City of San Diego, and the Centre City Development Corporation (CCDC). It was the only legislative action required for the Ballpark and Redevelopment Project.

Both those on the far left and the far right sued the City to try to stop the new ballpark from being built. City officials and the Padres navigated through the legal problems that delayed construction and the ballpark project was ultimately completed in time for Opening Day in 2004.

San Diego and its professional sports teams, the Padres and the Chargers, are part of the pride and the success of the City. The benefits that the new, downtown ballpark have brought the City are immeasurable.

The ballpark was ready for business on Opening Day in April, 2004 - little more than 5 years after voters approved Prop C. Now, as the Padres gear up to start the 2007 season next week, it is widely acknowledged that PETCO Park is responsible for reinventing the once-blighted warehouse district known as the East Village area of downtown San Diego.

The positive economic impact that the ballpark has had on the City of San Diego is undeniable. Here are just a few figures: 7,385 residential units were produced, and 747 new hotel rooms were added. The total residential and commercial value of the area is now $3.73 billion. The population and employment of the East Village (where PETCO Park is located) have both increased, as has game attendance and Trolley ridership.

In 1998, the whole East Village generated only $2 million in property tax revenue; and it consumed far more than that in public services. As a result of redevelopment, that tax revenue is expected to be more than $300 million over the next decade. Under California redevelopment law, all of the property tax increment stays in the local area, and 20% is set aside for affordable housing.

The City of San Diego, along with John Moores and the Padres, has shown that municipal capitalism does work and that a sports facility can be a development catalyst and bolster the surrounding economy. The construction of San Diego's PETCO Park and associated redevelopment should be a model for other cities looking to retain their professional sports franchises, build civic pride and realize economic gain.

Mr. KUCINICH. I thank the gentleman.

This committee will take a 15 minute recess, at which time we will return to question the witnesses. Thank you.

[Recess.]

Mr. KUCINICH. This is a hearing of the Domestic Policy Subcommittee. I am Congressman Dennis Kucinich from Cleveland, OH, the chairman of the subcommittee.

The title of our hearing today is, "Build It and They Will Come: Do Taxpayer-Financed Sports Stadiums, Convention Centers and Hotels Deliver as Promised for America's Cities?"

We have heard from our first panel, and now we are going to have questions. I am going to have at least one question for every witness, and I would like to ask each of you the same question, and I ask for a brief response. We will start with Ms. Hogi.

Does building a new sports stadium bring growth, revitalization or prosperity to the city and neighborhoods?

Ms. HOGI. I would answer no, not in the way that it was done to Yankee Stadium. Were there more involvement with the community who had great suggestions of how to fashion this new stadium, it would have involved a big infusion of economic growth to the area.

Mr. KUCINICH. Mr. Rashid.

Mr. RASHID. I would say that even in cases where it appears that a stadium hasn't done any harm, it is rare that if you really look at the numbers, it could do any good. There are so many more important things that we can do as cities and as a society to serve our people with public money, that there really is very little excuse for wasting hundreds of millions of dollars on publicly funded stadiums.

Mr. KUCINICH. Council President Licata.

Mr. LICATA. I have not seen any visible evidence that the neighborhoods that the stadiums have been located in have benefited in any significant or even marginal way, and as I pointed out in our appendix 2, we do know that our public safety costs have gone up.

Mr. KUCINICH. I have another question. I would like to ask each of you to answer, and I would ask again for you to make your response brief.

What, in your opinion, motivates team owners to seek public financing for new stadium construction? Ms. Hogi.

Ms. HOGI. In a word, greed.

Mr. KUCINICH. Mr. Rashid.

Mr. RASHID. I would say that it is a tremendous opportunity for private business to increase its profits and the value of its business by shifting the costs of its physical plant onto the public, and then basically they charge. The public incurs the risks, and the private owner takes all the benefits.

Mr. KUCINICH. Mr. Licata.

Mr. LICATA. Basically, they see the opportunity to shift the risk to the public sector. So, therefore, their profit margin is protected, and they have a better opportunity for running a more profitable team.

Mr. KUCINICH. OK, I want to thank this panel for its participation.

I want to ask does Ms. Watson have any questions of this panel.

Ms. WATSON. Thank you all for coming.

I just want to add a comment. I think this is a very significant question at this point. How do we benefit in our cities?

I am from Los Angeles and represent Los Angeles, Hollywood as well, and I just want to say that we have been trying to get a football team in our coliseum. Well, all of them want the proceeds from parking. I just want to know if that is the case as well. The proceeds from parking go to support the School of Science and Math that we have built in that complex. And so, we have, not for years, had a team. I find that they want everything within the surrounding area.

We are just lucky in that area because we have the University of Southern California that is well endowed and receives a lot of grants for research. We are trying to really build the heart of South Central, and that is where it is.

In New York, are all of you New York? Oh, well, in your cities, are you finding same thing? If they do come in, it will benefit them and they pay tremendous wages to their players and all, but it doesn't necessarily build a community. I would like to have a comment from you.

Mr. LICATA. Well, I can kick off and say that specifically regarding parking in both instances, the stadiums and now basketball arena, the parking revenue used to go to the city which we use for general funds which is basically for everything. When they move in, they want the revenue from the parking, so that is a pattern we have seen in our city.

Mr. RASHID. I would say that overall what happens when a new stadium is built in Detroit in particular, the whole idea, part of the plan of building the stadium was so that the owner could absorb revenue-generating activities that were formerly controlled by smaller independent business people as well as churches and programs that did it for fundraising, used parking revenues and other revenues for fundraising as ways of supplementing their funds. These were programs, for example, for young women in trouble or for churches that were running soup kitchens.

So, basically, what happened when we moved to a new stadium was that now the owner controls all of that parking. And those activities don't have that same advantage. It is a net loss.

Ms. HOGI. My colleague on the next panel, Mr. deMause, would be more proficient in that area than I. I can say that the parking garages are operated by private vendors in New York. Other than the regular business tax, I don't see how it benefits the area.

The one big parking garage right now is closed to the community on non-game days. So, essentially, it sits fallow. The four new garages that are scheduled to be built are being built for the fans, the spectators, not for the community. So it is not even a year-round revenue. As a matter of fact, they have not found a private developer yet to build those parks.

Mr. KUCINICH. The gentlelady's time is expired.

Ms. WATSON. Thank you, Mr. Chairman.

Ms. HOGI. OK.

Mr. KUCINICH. I thank the witness for her testimony.

We now are going to have questions from Mr. Souder.

Before we get to Mr. Souder, I just want to say that, without objection, at the conclusion of panel one in deference to the inevitable time constraints of the IRS, we are going to have a change in panel two. We are going to be hearing from Dennis Zimmerman, Brad Humphreys and then the IRS in panel three. In deference to the minority, we are going to move up the order of testimony on panel four to hear from the witness from Dayton. Without objection, so ordered.

Mr. Souder.

Mr. SOUDER. Thank you. I am sorry I missed the testimony. I was scrambling through here to try to catch up a little bit. I just had a couple of basic questions and let me put a couple together and then I would be interested to hear your responses.

Do you believe that it is always a bad idea or do you believe that bad deals were cut?

In other words, in St. Louis, my understanding is when they did the redevelopment there, they worked because some of it had public housing in it. They worked some agreements with the public housing groups, and they had some of the low income housing restored which they would have not been able to do had they not done the stadiums.

So I am wondering even like in the case of Seattle and Detroit or, for that matter, New York, a second question rises, and that is this intangible because I share your concerns that it seems like the owners of the teams particularly when they resell and make horrendous amounts of money and they sell lots of food in the stadium, control some of it. I share a lot of those concerns.

At the same time, there are some intangibles in downtown development like core city image. Detroit, for example, had the Tigers. It is one thing to say keep the historic structure. It is another thing what if they had moved up to Pontiac or out to the suburbs. What if, in Seattle, they had gone out into the suburbs? What about if, in New York, they went out even further into Long Island?

In fact, one of the intangibles that you get here is that suburbanites will come into the urban center. It helps the image of the city.

Then last with this same kind of intangible question, the fact that some cities didn't get the return that they thought, is that related to other things that weren't in control and was it, in fact, a zero sum game that the money wasn't put in crime, the money wasn't put in downtown development?

Or, for example, in downtown Detroit, is the problem so systemic that no matter what is done? From what I can tell there has been some change. The casinos may, unfortunately be more a part of it than the sports. I would be interested in some comments.

Mr. LICATA. Why don't we just go down the row? Regarding the question, could some projects be more successful than others depending on what the mixture, you would have to investigate that city by city and process by process.

I can say that in our situation with the professional basketball team, the citizens voted over 70 percent to say that yes, we will put money in. We just want a fair rate of return, looking at, say, a percent of what we earn on Federal bonds, pretty meager, and the public turned it down. So I think the public wants something very visible, and they want a good fair return.

On the image, that is almost immeasurable. But I can say that in Seattle's case vis-a-vis the city of Vancouver, BC, who we compete with on a image-Pacific-international basis, they do not have the kind of professional teams we have. We are fighting for them every day for business, so it doesn't seem to give us any advantage over them.

Mr. RASHID. I think that this is a false dilemma. We are not really, if you really want to look at what a project will do, at the beginning of a project, you have an opportunity to examine, do a full independent cost-benefit analysis. If we are going to spend this money, is this the best possible use? That is an opportunity for a community to really look at what is the best possibility.

From an independent analysis, if that happens and if stadiums come up there at the top of the list, then fine, make sure that happens. Make sure that works.

But you know there are all kinds of wonderful places in the United States to live that don't have professional sports. It is not like my life as a Detroiter is really directly hit by professional sports. If it were, we have had the World Series, the All-Star Game and the Super Bowl in the last 2 years, and we have terrible budget deficits. Nothing has happened to touch the people of Detroit as a result of having professional sports.

We have had the top events and all of the television exposure. Is your image of Detroit really significantly improved by having those kinds of events and that kind of exposure? You can't eat image.

Mr. SOUDER. Winning the World Series might.

Ms. HOGI. I believe Mr. Rashid in that, and New York is unique. Yankee Stadium is only used for Yankees games. During off season, it is an economic dead zone not just to the community, but nothing happens there. Nothing happens. We are just looking at closed garages and an empty stadium.

Mr. KUCINICH. The gentleman's time is expired.

Mr. Davis.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Chairman. I want to thank you for calling this important hearing.

In my congressional district, I live in Chicago. We have actually built three complexes in the last several years, all in my district. In the 1980's, what is now Cellular Field, Sox Park, the home of the Bulls, the stadium where the championships were won and a new McCormick Place.

In each instance, there were proposals that community residents and civic groups were not in favor of. For example, the first one at Sox Stadium or Cellular Field, there was great fear that Wentworth Gardens, a public housing development, would be totally wiped out. However, as a result of community interaction and action and protest and demonstration and negotiation, Wentworth was left intact. Lots of negotiation took place around the building of the stadium and concessions were made.

My question is how impactful have community protests or community positions been in each one of the instances in which you have been involved?

Ms. HOGI. I would like to go first on this one because in our case, we have a time line that shows how quickly our parks were alienated before the community knew about it. There was no community involvement. Our previous borough president had a plan for a Yankee Village that included a new or renovated stadium, numerous business ventures that no one even looked at. So had we had the chance to interact, we could have provided a lot of good input that would have minimized the opposition to that project.

Mr. DAVIS OF ILLINOIS. Yes.

Mr. RASHID. We appeared to have some success in delaying a stadium project over time, and in fact the mayor of Detroit once said that we had helped by not getting a bad stadium project built. However, in retrospect, I think that no matter how much we did, the fact that we now have two stadiums in downtown Detroit absorbing huge amounts of public revenue or public resources shows that we really didn't have tremendous effect and that when the powerful interests wanted to collaborate on a stadium project got together, it really didn't matter how much the citizens could do.

The citizens really, in our final campaign, we had about $25,000 to run against a $600,000 or more public relations campaign. There was no way we could effectively get our word out against that.

Mr. LICATA. To the extent that communities can get involved, then the stadiums or arenas that are built will probably include some amenities to the immediate communities in that vicinity of those institutions, but they will not, in the long run, be able to forestall or stop the stadiums or arenas from being built.

Generally, what I have seen is that those in favor of those construction projects cherry-pick the leaders of what they want to represent the various communities. So it is I don't want to say a stacked deck, but it is definitely marked.

Mr. DAVIS OF ILLINOIS. Let me just ask finally, are you opposed to public financing in part or do you think that there is room for public-private partnerships in the building of these kinds of facilities?

Ms. HOGI. Public-private partnerships, definitely.

Mr. RASHID. I think that each project has to be looked at very carefully and really independently analyzed, and that is the problem. Right now, there is no independent analysis. I think if there were, we would see considerably fewer publicly funded stadiums and a lot more money from the private sector in those projects.

What happens now is there is a real interest. There is a whole set of powerful interests that can control the debate. What really needs to happen and where I think Federal enforcement would be very valuable is in establishing requirements that there be real solid and verifiable analysis for each project, and that is not done.

Mr. KUCINICH. The gentleman's time is expired.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Chairman.

Mr. KUCINICH. Thanks, Mr. Davis.

[The prepared statement of Hon. Danny K. Davis follows:]

OPENING STATEMENT
CONGRESSMAN DANNY K. DAVIS
DOMESTIC POLICY SUBCOMMITTEE
OVERSIGHT AND GOVERNMENT REFORM COMMITTEE
"BUILD IT AND THEY WILL COME: DO TAXPAYER-FINANCED SPORTS STADIUMS, CONVENTION CENTERS AND HOTELS DELIVER AS PROMISED FOR AMERICA'S CITIES?"

THURSDAY, MARCH 29, 2007

2154 RAYBURN HOB- 10:30 A.M.

First, I want to thank the Chairman Kucinich and Ranking Member Issa for holding this hearing. Today's hearing on the financing of sports stadiums, convention centers and hotel construction affects metropolises like Chicago stadiums like Wrigley, Soldiers, and U.S. Cellular Fields are home to Cubs, Chicago Bears and White Sox franchises. In addition to great sports arena, Chicago is home to the redeveloped McCormick Place and the soon to be Trump Towers. These developments were subsidized by state, local and federal taxpayers.

While proponents argue the aforementioned developments brought economic benefits to neighboring communities, economic analysis suggests this is not the case. "One study found that a new stadium had no discernible impact on economic development in 27 of 30 metropolitan areas, and had a negative impact in the other three areas."

When plans for the White Sox stadium were announced in the late 1980's, it threatened to consume Wentworth Gardens, a public housing project just south of the stadium where low-income African-Americans have lived since just after World War II. Fortunately, the stadium was built and Wentworth Gardens went untouched because the people in the community rallied support and protested displaced development. However, dozens of private homes and many businesses were razed and it was estimated that "up to 300 jobs were lost." While some public housing residents gain "day of game" janitorial work inside U.S. Cellular Field, there is no coordinated job –outreach program in the neighborhood. (Chicago Tribune; 10/3/05) Stadium owners have been amendable, however there's room for improvement.

Stadiums have become "hot spots" for development and have changed the "rules of the game". For the past five years there's been a growing trend where development and "public dollars are being tied to what's happening around the stadium." (Chicago Tribune; 8/20/06)

Case in point:

- Currently, leaders from neighborhoods directly west of the Loop are developing "retail plan . . .for Madison Street between the United Center and the Garfield Park Conservatory. (Chicago Weekend; 2/14/07)
- Older Bridgeport bungalows are being quickly snapped up for $350,000 to $400,000 and 1,300 mixed-income apartments and town homes are rising from the rubble of the former Stateway Gardens public housing. (Chicago Tribune; 2/20/06)

- The traditionally working-class **neighborhoods** surrounding U.S. Cellular Field are undergoing a sharp increase in home values as younger, more **affluent** Chicagoans move in. The trend is similar to the recent housing boom in North Side Communities. (Ron Grossman, Tribune staff reporter 10/23/05)

These trends are occurring around the country and reflect economic tradeoffs associated with federal subsidies. Significantly, these findings suggest the change in treatment of tax-exempt bonds for stadiums made by the Tax Reform Act of 1986 has generated problems. It is my hope that today's guest panelist can provide further insight and recommendations

Mr. KUCINICH. Mr. Issa.

Mr. ISSA. Thank you, Mr. Chairman.

In my opening statements, I think I made it clear that San Diego views itself as an exception, not an exception to lawsuits that tried to delay, perhaps an exception in that many of the people who were involved in the suit simply wanted more money for a warehouse than they had paid for it a few years earlier which sounds like many of your opening statements and the chairman's opening statements about professional sports teams. So I think when there is an opportunity, there is no question. There are people who are opportunists.

But for this committee, even though we don't have the prime jurisdiction over taxes to say the least, a lot of what we have in Congress is tax authority, the ability to evaluate and to tighten up the standards or, candidly, loosen the standards on what gets tax-exempt bonds which, as you all know, makes a big difference in whether a city will go forward. If we don't grant a tax-exempt bond for a new sewer system, it increases the price of the sewer system. If we do provide tax-exempt status for a baseball park, it reduces the cost through a Federal subsidy.

For each of you who have both obviously the public participation at the city level but the Federal Government contributed to these projects, what conditions would you say we should look at insisting on before we grant the tax-exempt category which is our primary authority here in Congress for these projects?

In other words, when we say to a city, county or State, yes or no, we will grant, what should these projects have to do in your opinions?

Mr. LICATA. I will kick off.

I think the bottom line is that the public wants to be put in the same position as the business investors. They want a fair rate of return. If there is some way that the Federal Government can say that in order to get tax-exempt status on these bonds, we have to see a definable, measurable benefit to the public.

I am not sure how you go about doing that, but I think that would certainly go a long way to solving this problem.

Mr. ISSA. Would the first step be a positive tax revenue to at least a combination of city, State and Federal Government?

Mr. LICATA. That would be a good first step.

Mr. ISSA. Mr. Rashid.

Mr. RASHID. I am not certainly an expert in this.

Mr. ISSA. Nor are we; we just got elected to do it. [Laughter.]

Mr. RASHID. I do believe that every project has to be absolutely independently verified. What happens in projects, the way they are sold both to local politicians and to the public is by creating studies that ignore most of the information that is relevant to the project. I would insist that in doing, in creating these studies and providing this analysis, that it be done independently, that it be verified independently and that alternative uses for moneys for these projects be a part of whatever study is done, and that is not done.

I also think that the campaigns that are used to sell these projects have to be looked at carefully. There is almost a need for some kind of campaign finance reform at the local level in the way that those projects and those campaigns are funded.

Mr. KUCINICH. Would the gentleman yield?

Mr. ISSA. I would be happy to yield to the chairman.

Mr. KUCINICH. The witness raised a point which I think may be worth the committee looking at as a followup, and that is the campaigns to pass these issues. What do they promise? It might be interesting to collect information from all the cities we are hearing from plus others to see how the promises correspond to the reality.

I thank the gentleman.

Mr. ISSA. That is excellent.

I might mention that we do have two other pieces of jurisdiction for the final answers before my time expires. One is we do have campaign finance. We could consider that if it lobbies for what would ultimately be tax-exempt bonds, that we could put it under the Federal limit of $2,300 rather than, in some States, unlimited, and that would be our jurisdiction.

Last but not least, you might remember that we, in the previous Congress, had professional sports up here to talk about steroids. We do have the jurisdiction, and perhaps the chairman would consider having as a followup to this, professional sports teams talking about this growing competition that makes these projects so expensive because I think you have victimized in your local cities in many of the things you have said.

But we also have the concern that there is a race to go higher and higher. Are we racing to where your cities will lose what you have unless, as you said, ante up another $800 million?

I want to leave time for you to answer on any other ideas that would help us here on the dais.

Ms. HOGI. The project should benefit all. As I said, Yankee Stadium is an economic dead zone during off season. So I don't think my taxes should go to supplement this team that can't benefit me year-round.

Mr. ISSA. Thank you.

Thank you, Mr. Chairman.

Mr. KUCINICH. I thank the gentleman. It may be, Mr. Issa, that tax-exempt financing for these sports projects may be a financial equivalent of steroids.

So, let us continue. Mr. Tierney, do you have any questions?

Mr. TIERNEY. No, I have no questions, Mr. Chairman. I thank the witnesses for testifying and yield back.

Mr. KUCINICH. I thank Mr. Tierney.

We will all thank the witnesses for their appearances. You are now excused, and we will call the second panel forward consisting of Brad Humphreys and Dennis Zimmerman.

[Witnesses sworn.]

Mr. KUCINICH. Let the record show that the witnesses answered in the affirmative.

Dr. Brad Humphreys is an economist who teaches at the University of Illinois, Urbana-Champaign. His research interests in sports economics include the economic impact of professional sports on urban economics. His most recent research on the economic impact of professional sports teams is entitled, "Caught Stealing: Debunking the Economic Case for D.C. Baseball," and this was published by the Cato Institute.

Mr. Dennis Zimmerman is the director of projects at the American Tax Policy Institute. The American Tax Policy Institute's primary purpose is to promote and facilitate non-partisan scholarly research analysis and discussion of U.S. Federal, State and local tax policy issues. Formerly, Mr. Zimmerman was an analyst with the CRS for 21 years and with the CBO, Congressional Budget Office, for 7 years.

Mr. Zimmerman's published work includes, "Private Use of Tax-Exempt Bonds: Controlling Public Subsidy of Private Activity."

I want to thank the gentlemen for being here.

Mr. Humphreys, you may proceed with your testimony.

I would ask the witnesses to limit your testimony to 5 minutes. Anything that is not spoken will, of course, be included in the complete record of the committee. Thank you.

STATEMENTS OF DR. BRAD HUMPHREYS, ECONOMIST, UNIVERSITY OF ILLINOIS, URBANA-CHAMPAIGN, CHAMPAIGN, IL; AND DENNIS ZIMMERMAN, DIRECTOR OF PROJECTS, AMERICAN TAX POLICY INSTITUTE, FALLS CHURCH, VA

STATEMENT OF DR. BRAD HUMPHREYS

Mr. HUMPHREYS. Thank you very much for the opportunity to testify here, Chairman Kucinich and other committee members.

I am an economist who does research on the economic impact of professional sports teams and facilities on the local economy. I have, in my own research, gone back and looked at the economic performance of every city in the United States that had a professional football, basketball or baseball franchise from 1970 until the present, looking for evidence that professional sports are somehow engines of economic development in cities, and I have not found any evidence whatsoever suggesting that professional sports stadiums create jobs, raise income or raise local tax revenues.

There is no doubt in my mind that professional sports stadiums concentrate economic activity in the area approximate to those facilities, but we need to look at the entire economy of cities and not just what is going on within 2 miles of a professional sports stadium. When we look at the entire cities' economies, there is just no evidence supporting the idea that professional sports facilities are engines of economic growth.

So, over the last 15 years, we have subsidized construction only of professional sports facilities by about $15 billion in inflation adjusted terms.

Why do we continue to subsidize that construction with Government money? Well, it is undeniable that professional sports provide some non-economic benefits to communities: a sense of community, world class city status, these sorts of things. We hear this all the time, and that is important. It might be that could justify our subsidies, but I want to point out that the evidence of economic benefit is just not there.

There is a second reason that we might still continue to subsidize professional sports facility construction, and that is the subsidies are the product of a long negotiation between a number of people: taxpayers, local politicians, the teams, people like that. We have the Congress, by extending special anti-trust status to professional sports leagues, has given the team owners the upper hand in that process. A team owner can always threaten to leave for another market which is there because sports leagues have this anti-trust protection that you, the Congress, have given them.

I urge you to think about and consider carefully whether or not we should extend this anti-trust protection to sports leagues so that they can extract these subsidies from local governments because I think this is a root cause of a lot of these problems of subsidizing sports facilities that don't provide economic benefits.

I also want to point out for people who are trying to decide on these subsidies, that there are two types of evidence that we have about what the economic impact of professional sports facilities are. One are these promotional studies or economic impact studies that are generates by proponents of these subsidies, and they typically find huge economic benefits. This other type of evidence that we have is scholarly, peer-reviewed academic research, the kind that I do.

Often in the court of public opinion, these two types of evidence are treated equally, and I would argue that is a very bad public policy idea, to treat them equally.

One of the previous panelists said that we need to have independent oversight to see if these benefits ever turn up. That is what peer-reviewed academic research is. It goes through the peer review process.

We don't make policy about drugs and things like that just based on what pharmaceutical companies say. We have research that is peer-reviewed, that tells us about those things. We should have the same sort of standards when we are considering whether or not there is economic benefit to be gained from professional sports.

[The prepared statement of Mr. Humphreys follows:]

Testimony of
Brad R. Humphreys
Associate Professor
University of Illinois at Urbana-Champaign

on

Public Financing for Construction and Operation of Sports Stadiums and Economic Revitalization and Development in Urban America

before the
One Hundred Tenth Congress of the United States
House of Representatives, Committee on Oversight and Government Reform
Subcommittee on Domestic Policy

Thursday, March 29th 2007

Chairman Waxman, Chairman Kucinich, and other members of the committee: thank you for giving me the opportunity to testify on the issue of public financing for the construction and operation of professional sports stadiums, and the impact of sports stadiums on revitalization and development in American Cities. I am an economist and professor at the University of Illinois at Urbana-Champaign. One of my areas of specialization is the economic impact of professional sports on urban economies.

Local, state, and federal government has historically provided large subsidies for the construction and operation of professional sports facilities in the United States. These subsidies take the form of direct monetary support for land acquisition and physical plant construction, direct monetary support for physical plant operation and maintenance, in-kind donations of land, construction of infrastructure like roads, sewerage, and public transportation facilities, indirect subsidies in the form of special tax treatment for property, operating income, special tax treatment for bonds used to finance facility construction and other subsidies. Since 1990, the total value of the subsidies for construction of sports facilities alone in the United States has been about fifteen billion dollars in inflation adjusted terms. There are currently a large number of proposed new sports facilities in the planning phase around the country. The most common justification for these subsidies is that professional sports facilities and franchises generate significant, tangible economic benefits in the form of higher income, earnings, employment and tax revenues, for the local economy thus contributing to the revitalization of American cities.

Do Professional Sports Generate Tangible Economic Benefits in American Cities?

It is often said that economists cannot reach a consensus on matters of economic policy. While this might be accurate in areas like tax policy or international trade policy, it is clearly not the case when assessing the economic impact of professional sports facilities. There currently exists a large body of evidence published in peer-reviewed academic journals concluding that professional sports facilities and franchises have no positive tangible economic impact on income, earnings, employment, and tax revenues in American cities. This literature has examined regular season and postseason sporting events in all of the major North American professional sports leagues, as well as special events like All-star games and the Super Bowl.

The research supporting this consensus examined economic performance in every U.S. city that hosted a professional sports team over the past thirty years. This research uses economic and statistical modeling to explain the overall performance of local economies, in terms of income, employment, and other economic indicators in metropolitan areas. The basic approach assesses how much of the variation in local income and employment, as well as earnings and employment in specific sectors of the local economy like hotels, restaurants and bars, can be explained by variation in sports-related variables as well as by variation in other factors that economic theory predicts help determine the state of the local economy.

Again, the consensus from this substantial, carefully conducted, peer-reviewed body of academic research strongly supports the conclusion that professional sports facilities and franchises do not produce tangible economic benefits in the surrounding local economy. Based on the economic performance in every U.S. city with a professional sports team over the past thirty years, professional sports facilities and franchises were not associated with higher levels of local income; they were not associated with greater employment in any sector of the local economy except the small sector containing sports enterprises; they were not associated with higher tax revenues; they were not associated with faster growth rates of local income or employment. Professional sports facilities and franchises cannot be used to revitalize the economy in American cities. Subsidies for the construction and operation of professional sports facilities cannot be viewed as a viable economic revitalization strategy for our cities. Dozens of papers published in peer-reviewed academic journals support this consensus conclusion.

Some astute observers might question this conclusion. After all, millions of Americans attend professional sporting events each year, and there is clearly a great deal of economic activity going on in and around sports facilities. Bars and restaurants near ballparks, stadiums, and arenas are packed on game day. Parking lots near these facilities are full. Vendors outside and inside the facilities do a brisk business and many facilities operate at or near capacity. Any person attending a sporting event can see this with her own eyes. Clearly, this economic activity must have some affect on the local economy.

And it does, of course. But the economy in an American city is much larger, more varied, and more complex, than a spectator at a sporting event can observe. The economic activity that takes place in and around a modern professional sports venue does not translate into additional new economic activity in cities because most of the spectators are residents of the metropolitan area and all consumers face a limited budget to spend on necessities like food, clothing, and shelter as well as on other factors like entertainment. All household spending, including spending on entertainment like professional sporting events, is constrained by available household income.

Money spent on tickets, parking, and concessions in and around a sports facility represents money not spent on other entertainment activities elsewhere in the metropolitan area. Nearly all the economic activity observed taking place in and around professional sports facilities would have taken place somewhere else in the metropolitan area at some other point in time.

Professional sporting events concentrate economic activity at a specific location at a particular point in time. This fact is easily observable to the casual observer attending a sporting event. But sporting events only concentrate spending, they can not generate new spending. The casual observer taking in a ball game does not observe economic activity that might take place in other parts of the city at other times. And the economic activity that takes place in and around a stadium represents lost revenues to other entertainment industry businesses located in other parts of metropolitan areas. The casual observer cannot observe the transactions that do not take place because of the presence of a professional sport team, but the existence of household budget constraints strongly implies that this occurs.

Economic research on the impact of professional sport on the local economy does not count attendance at sporting events or survey consumer spending at these events. Economic theory predicts that money spent at a sporting event would alternatively be spent somewhere else in the local economy, at some other point in time, even if the city did not use taxpayer money to build a new sports facility. A substantial body of research carried out over decades supports this prediction.

Clearly, to the extent that a professional sports facility and franchise attracts out of town visitors to a city for the express purpose of attending a sporting event, the local economy will benefit from the spending by these visitors, and this spending will ripple throughout the local economy creating additional economic benefits. But most spectators at professional sporting events are residents of the metropolitan area. From a national perspective there can be no net economic benefit from this spending, because a hundred dollars spent on baseball in Baltimore and a hundred dollars spent on baseball in Washington DC make an identical contribution to the nation's Gross Domestic Product. Why should billions of tax dollars subsidize an activity that reallocates a small amount of consumer spending from one city to another?

Categories of Evidence on Economic Impact and the Importance of the Peer Review Process

Evidence about the economic impact of professional sports comes from two sources: academic research, and "promotional" economic impact studies sponsored by professional sports teams, leagues, and other entities interested in obtaining government subsidies for professional sports. These two categories of evidence use widely different methodologies, undergo different levels of scrutiny, and reach strikingly different conclusions.

"Promotional" studies, primarily carried out by consultants hired by professional sports teams or their boosters, always conclude that building a new sports facility will add substantial sums to local income, often hundreds of millions of dollars each year, and will create many new jobs in the local economy. Sometimes the forecasted jobs created run into the thousands. Of course, all this additional income and employment is forecasted to substantially raise state and local tax revenues. Academic research on the economic impact of professional sports concludes that new facilities and franchises have either no measurable impact on local income and employment, or in some cases a small but negative impact on the local economy.

"Promotional" studies are economic forecasts. They predict how much local income or employment will rise in the future, after a new facility is built, and perhaps a new team attracted to the city. These studies forecast the number of spectators that will attend games in the new facility, and use multipliers to further estimate the wider impact of spectator's spending on the local economy. In economic jargon, they make use of "input-output" models to predict the total economic impact flowing from a sporting event. Put simply, they apply a multiplier – a scaling factor greater than one – to increase the forecasted direct economic activity associated with a sporting event to a larger number reflecting the forecasted total effect on the entire metropolitan economy. Since "promotional" economic impact studies are forecasts, they have the same inherent weaknesses as any other economic forecast, like a forecast of the growth rate of GDP over the next five years. But "promotional" economic impact studies always project a high degree of precision. Rather than being stated in terms of a predicted value plus or minus some margin of error, the forecasts in these studies are always a single number, implying a higher degree of precision than other economic forecasts, even though there is no evidence that they are more precise.

Academic research on the economic impact of professional sports is retrospective. Researchers begin with the historic performance of metropolitan economies, in terms of economic indicators like income, earnings, and employment, and use statistical methods to understand why the local economy performed the way that it did. Although this approach is not experimental in nature, there has been a tremendous amount of variation in the professional sports environment in metropolitan areas over the past thirty years which resembles the variation that an experiment might generate. Franchises moved; old facilities were torn down and new ones built; labor disputes resulted in the cancellation of large numbers of games, or even entire seasons in professional sports leagues. Academic research exploits this variation in the sports environment over time to understand the overall economic impact of professional sports on metropolitan economies.

Unlike sports team owners and others with a vested interest in the sports industry, academic researchers do not stand to benefit financially from research on the economic impact of professional sports. The owner of a professional sports team could see the value of his franchise increase by hundreds of millions of dollars if the local government builds him a new facility using public funds. Local businesses near the new facility will see increases in their business. Local media companies may see increases in revenues due to increased interest in the new team in town. Local financial institutions that underwrite the bond issue used to finance construction earn millions in fees. All stand to profit from a new publicly financed sports facility and all are interested in justifying these subsidies on the grounds of the tangible economic benefits created by sport. In contrast, journals that publish academic research on the economic impact of professional sports *charge* researchers submission fees to consider their papers for publication. They do not pay royalties to research who write the papers they publish. A researcher in this area has no personal financial stake in the outcome of the research.

The most important difference between evidence from academic research and evidence from "promotional" economic impact studies is the degree of scrutiny they undergo. "Promotional" studies are typically carried out by consultants. They are released with great fanfare in the local media, and typically get widespread coverage for a brief time. The press releases and sound bites associated with these studies are typically short on details and long on large round numbers. Very few people ever read the entire reports. The vast majority of these "promotional" studies disappear within a few days of their release. The methodology used in "promotional" studies, and the results, are not reviewed or evaluated in any way. I do not know of a single instance where the predicted outcomes from a "promotional" economic impact study have been systematically evaluated for accuracy after a sports facility was completed.

In stark contrast, academic research on the economic impact of professional sport published in scholarly journals goes through a rigorous peer review process. In this process, the papers are distributed to other experts in the field, often stripped of identifying information about authorship, who are asked to anonymously evaluate the quality of the research. Academic economic impact studies judged as flawed or incompetently executed are not published. In some instances flaws judged as serious are removed from the paper or revised to correct the deficiency. The peer-review process provides important oversight for research in this area, as other experts in the field have examined the methodology, data, and results in detail and found it to be credible.

It is imperative that those who make decisions on sports subsidies understand this important difference in the evidence about the economic impact of professional sports. Results that have been through the peer-review process should be given much more credence by decision makers than "promotional" economic impact studies. We do not make health policy decisions based solely on the claims of pharmaceutical companies, and we should not make decisions on subsidies for professional sports based solely on the claims made by professional sports team owners and others proponents of these subsidies.

The consensus conclusion that emerges from peer reviewed research on the economic impact of professional sports facilities and franchises on the urban economy is clear: professional sports are not an engine of economic growth. The contribution of professional sports to the economic wellbeing of American cities is negligible. Using sports subsidies to revitalize the economy in urban America is not sound economic policy. When cities decide to spend hundreds of millions of dollars of taxpayer's money to build new sports facilities for billionaire sports team owners and millionaire professional athletes, they are making poor economic policy decisions. This money would be better spent on activities with a higher overall return, like education, public health and safety, or infrastructure.

However, professional sports clearly provide important non-economic benefits to urban America. The presence of a professional sports team is often said to bestow "big league" status on a metropolitan area. The residents of American cities derive a great deal of civic pride and sense of community from the presence of home town professional sports teams. Rooting for the local team provides an important touchstone to the residents of American cities and brings together society in ways that few other civic institutions can. These factors are all important to American cities. To the extent that civic pride, "big league" status, and sense of community are important and valuable to the residents of American cities, the large public subsidies for the construction and operation of professional sports facilities may be justified.

Although professional sports cannot revitalize the economies in American cities, they may be able to revitalize the residents of American cities, and improve the quality of life in urban America. However, valuing "big league" status and professional sports' contribution to the sense of community in urban America is difficult to value, in monetary terms. The limited amount of existing academic research on valuing the non-monetary benefits generated by professional sports suggests that the value placed on these intangibles by the residents of American cities is not as large as the subsidies, but more research is clearly needed in this area.

Professional sports facilities and franchises may generate one specific type of non-traded economic benefit. Evidence from recent economic research, some of it not yet peer-reviewed, suggests that residential property values may be higher in cities with professional sports teams. If this turns out to be the case – and at this point the evidence is both mixed and preliminary – then some subsidies for the construction and operation of professional sports facilities may be justified on economic ground. However, the overall effect of higher residential property values on social welfare, particularly on the social welfare of lower income groups, is unclear, even if sports facilities can raise property tax revenues.

The process of determining how much to subsidize the construction and operation of professional sports facilities involves a complex negotiation between many different groups: team owners, state and local politicians, local businesses, and taxpayers, including team fans. Sometimes the process includes one or more referendums on these subsidies, but the referendum process is not a perfect vehicle for the determination of subsidies.

No matter how they are determined, cities have shown a willingness to provide these subsidies in the past, and continue to provide them today. Why does this continue to happen? Cities may continue to subsidize sports facility construction because the non-pecuniary benefits outweigh the costs in taxpayers' minds. They may continue because proponents of these subsidies are more successful in publicizing the results of their "promotional" economic impact studies than academics are in publicizing their research, leading taxpayers and other decision makers to make ill-informed choices. Local politicians and other elites may derive more private benefits from professional sports than the cost to taxpayers and take action to force them on unwilling taxpayers.

Whatever the reason, it is important to realize that government policies, including government economic policies, have an important impact on the relative amount of influence that each of these groups is able to bring to bear during the negotiation over subsidies for sports facility construction and operation. In particular, the anti-trust protection that this Congress has extended to professional sports leagues provides the owners of professional sports teams with a clear upper hand in these negotiations, and clearly increases the size of the subsidies that professional sports are able to extract from state and local government.

The anti-trust protection extended to professional sports leagues by the Congress allows sports leagues to operate as effective monopolies, or cartels in economic terms. Sports leagues behave exactly like economic theory predicts that cartels will behave: they restrict output in order to earn profits above the level that would prevail if there were competition in the market for professional sports franchises. Restricting the number of franchises means that cities that could support a professional sports team cannot have one. It also implies a loss of social welfare for the residents of cities that want a professional sports team but cannot get one because of leagues' monopoly power. This explains why Los Angeles has been without a National Football League team for over a decade. It also explains why the London, England metropolitan area, with a population of 7.5 million in 2005, can support nine professional soccer teams at the top level, and scores more professional soccer teams at lower levels of competition, while the metropolitan New York area, population 18.7 million in 2005, is home to only nine top-level North American professional sports teams. Professional soccer in the U.K. operates under a promotion and relegation system that allows freedom of entry into the professional sports team market.

American professional sports leagues do not. Professional sports leagues in the U.S. operate as cartels, thanks to the special anti-trust protection provided to these leagues by Congress. The artificial scarcity of professional sports teams generated by this anti-trust protection means that the owner of any professional sports team will always have a viable alternative city to threaten to move to when negotiating for a new publicly financed stadium or arena. The possibility of a team moving to another city provides sports team owners with a huge advantage when negotiating for sports facility construction subsidies, and allows team owners to continue to extract subsidies, even though they are not justified on the basis of tangible economic returns to the taxpayers who provide them.

Mr. KUCINICH. Thank you very much, Mr. Humphreys.
Mr. Zimmerman.

STATEMENT OF DENNIS ZIMMERMAN

Mr. ZIMMERMAN. Mr. Chairman, ranking member and members, thank you for this opportunity to appear before the committee. I have submitted written testimony for the record.

Professional sports stadiums have been subjected to three different sets of tax-exempt bond rules since 1968. Until 1968, most stadiums were financed with tax-exempt industrial development bonds, with debt service paid primarily from stadium related revenue even though they also could be financed with governmental bonds whose debt service was paid by local taxpayers.

In 1986, stadiums were removed from the list of private activities that could use industrial development bonds which the 1986 act renamed private activity bonds. Since local taxpayers were expected to be reluctant to use general obligation debt to pay for stadium debt service, stadium bonds would wither. Unfortunately, that expectation was overwhelmed by the combination of the monopoly power of professional sports leagues that maintains excess demand for franchises and stadium proponents' use of pseudo-economic studies showing that stadiums pay for themselves.

Then in 2006, the Internal Revenue Service issued a letter ruling that effectively restores private activity bond financing of stadiums. It reclassified stadium-related revenue as general taxes called payments in lieu of taxes, PILOTs, converting private activity bonds into governmental bonds.

Whether the PILOT ruling is good or bad policy depends on the policy goal one is trying to achieve. If the goal is to eliminate Federal subsidy of professional sports stadiums, it is poor policy. Local taxpayer resistance to publicly financed stadiums is reduced because PILOTs substitute stadium-related revenue for general taxes paid by local taxpayers.

Even worse, renaming business-related revenue as PILOTs might open the door for widespread tax-exempt governmental bond financing of private investment projects not currently eligible for private activity bond financing. It invites local elected officials to become commercial bankers.

Senator Daniel Moynihan tried to eliminate tax-exempt stadium financing more directly in 1996 with the Stop Tax-Exempt Arena Debt Issuance Act [STADIA]. If the 10 percent security interest test for stadiums is eliminated, in other words, wiped off the books, professional sports stadiums would always be classified as taxable private activity bonds because they use more than 10 percent of the bond proceeds. Such a prohibition is also good economic policy because the Federal taxpayer receives no benefit from a bond-financed stadium.

The budget's effect on jobs and tax revenue is determined by the budget resolution. What that money is spent on makes little difference unless it is for a spending program that reduces the natural rate of unemployment such as job training. These taxes and bonds do not accomplish that objective.

In contrast to eliminating the Federal subsidy, one's objective might be to implement the benefit principle of taxation that requires those who receive the benefit to pay its cost. PILOTs might be beneficial. PILOTs would allow stadium-related revenue to be used to be pay debt service and would reduce the pressure to finance stadiums with general revenue. Stadium-related revenue is generally paid by those receiving direct benefits from the stadiums where as general taxes such as income, property and sales taxes are poorly related to stadium usage and receipt of benefits. The costs and benefits of the dominant political coalition that promotes the stadium would be better balanced, thereby rationalizing prices and reducing over-investment.

But the PILOT policy has a problem. As mentioned above, it might lead to a significant conversion of taxable private activity bonds and to tax-exempt Government bonds, therefore increasing revenue loss.

A three step compromise is available that could advance both policy objectives.

First, add stadiums to the list of private activities eligible for tax-exempt financing. That would encourage local governments to use the benefit principle of taxation to finance the stadiums.

Second, subject stadium bonds to the private activity bond volume cap. That would require stadium projects to compete for scarce volume cap with other eligible private activities such as mortgage revenue bonds and would minimize the Federal revenue loss.

Third, wipe the PILOT precedent off the books. That would prevent its indiscriminate application to a broad range of private activities and control elected officials' role of commercial banker.

Thank you.

[The prepared statement of Mr. Zimmerman follows:]

Tax–exempt Bonds, Professional Sports Stadiums, and Economic Policy

Dennis Zimmerman
American Tax Policy Institute

Testimony prepared for hearings on March 29, 2007 before
Subcommittee on Domestic Policy
Committee on Oversight and Government Reform
House of Representatives

The views expressed are the sole responsibility of the author and do not represent the views of the American Tax Policy Institute

The most important characteristic of tax-exempt bonds is their exemption from federal income taxation which lowers the interest rate below the rate on taxable bonds of equivalent risk and maturity. In effect, federal taxpayers pay a share of the interest costs through lower tax collections. That lower interest rate makes the bonds attractive to the private sector, which expends considerable effort to induce public officials to borrow and use the bond proceeds to finance private investments. Owners of professional sports teams are important participants in those efforts.

Since 1968, three different sets of tax rules have governed the use of tax-exempt bonds for financing professional sports stadiums. Those rules provide differing incentives and economic effects. I provide a brief history of the bond rules and discuss how those rules might be changed to achieve two commonly stated policy objectives: the elimination of federal financial support for professional sports stadiums; and the encouragement of local government stadium financing packages structured to implement the benefit principle of taxation so that those who benefit pay the cost.

Bond Rules and Stadium Finance over Time

1968 to 1986. Professional sports stadiums could be financed with tax-exempt bonds in two ways. Governmental debt had to satisfy one of two criteria: no more than 25 percent of the bond proceeds could be used by a nongovernmental entity; no more than 25 percent of debt service payments could arise from private business activity. In general, most of the financing costs of a stadium financed with governmental bonds rested with local taxpayers because at least 75 percent of the principal and interest on the bonds would be paid from general tax revenue, not stadium-related cash flow. Those receiving most of the benefits from the stadium (owners, players, fans, and some related businesses) did not pay a proportionate share of the cost.

Bond issues that violated both 25 percent rules were industrial development bonds and were taxable. However, stadiums were among the list of activities exempt from the 25 percent rules. In general, most of the financing costs of a stadium financed with industrial development bonds rested with those receiving benefits from the stadium because most of the debt service would be paid from such sources as ticket taxes at the stadium (payments that arise from private business activity and, absent the exemption, would count against the 25 percent rule that would make the bonds taxable). In effect, the cash flow from the stadium was used to pay principal and interest on the bonds.

1986 to 2005. The Tax Reform Act of 1986 made significant changes. The 25 percent rules were reduced to 10 percent, and the name industrial development bonds was changed to private-activity bonds, terminology that better reflected the diverse list of activities eligible to use tax-exempt financing. However, stadiums were removed from the list of activities eligible to use tax-exempt private-activity bonds. The expectation was that local governments would be reluctant to use the other option, governmental debt, to finance stadiums, and the use of tax-exempt debt for financing stadiums would wither.

Two forces operated to frustrate that expectation. First, those who benefit most from stadiums (owners of teams, players, fans, some related businesses) learned how to utilize pseudo-economic studies to argue that the economic benefits from stadiums generated sufficient additional tax revenue to pay for the public subsidy, a proposition that runs counter to an extensive economics literature ably summarized at this hearing by Mr. Humphreys and Mr. Sanders. Second, the monopolistic structure of professional sports leagues maintains excess demand for franchises, forcing cities to compete for a limited number of franchises with offerings of stadium subsidies. As a result, many stadiums were built for which local taxpayers, who receive limited benefits, paid at least 90 percent of the debt service on the bonds.

2006. Stadium proponents have continually sought creative ways to reduce the requirement that local taxpayers must pay for 90 percent or more of tax-exempt debt service. In 2006, the Internal Revenue Service approved one of those creative efforts when it issued a letter ruling for the financing of New York City stadiums that said, in effect, stadium-related revenue could be used to pay the debt service on governmental debt. Since 1986, payment of more than 10 percent of debt service with stadium-related revenue would make the bonds taxable private-activity bonds. But IRS ruled that stadium-related revenue is actually payments in lieu of taxes (PILOTs) and qualifies as generally applicable taxes, not as revenue arising from private business activity. Suddenly, private-activity bonds, as they have been understood since 1986, can be used to finance stadiums because the 10 percent debt service rule has been eviscerated and private-activity bonds are now governmental bonds.

Policy Discussion

Whether the IRS ruling and the current state of tax-exempt stadium financing is desirable or undesirable depends upon whether one's goal is to eliminate federal subsidy of professional sports stadiums or to promote economic efficiency by making stadium financing more closely approximate the benefit principle of taxation.

PILOTs as poor policy. If one's goal is to eliminate federal subsidy of stadiums, the PILOT ruling is undesirable. It reduces the burden on local taxpayers because cash flow from the stadium substitutes for general taxes in the financing of debt service and reduces the need to raise general taxes. That is likely to reduce local taxpayer resistance to public financing of stadiums. Even worse, renaming business-related revenue as PILOTs might open the door for widespread tax-exempt governmental bond financing of private investment projects not currently on the list of activities exempt from the private-activity bond 10 percent rules. It raises the prospect of making elected officials into commercial bankers in charge of allocating ever-larger portions of the nation's scarce supply of savings, a role that the 1986 tax act was designed to curb.

A straightforward way to eliminate federal subsidy of professional sports stadiums would be to add a prohibition against the use of tax-exempt governmental bonds for stadiums to the existing prohibition against use of private-activity bonds. Former Senator Daniel Moynihan championed that approach when he introduced STADIA (Stop Tax-exempt Arena Debt Issuance Act) in 1996. Prohibition could be implemented by eliminating the

10 percent security interest test for stadiums; a professional sports stadium would always fail the 10 percent private use test and be classified as a taxable private-activity bond.

Such outright prohibition of state and local use of tax-exempt financing for governmental debt is rare. I can think only of two instances: a prohibition against its use to finance public takeover of investor owned utilities; and a prohibition against its use to finance the acquisition of rental properties outside the boundaries of the jurisdiction issuing the bonds. But if one's object is to eliminate the federal subsidy of professional sports stadiums, outright prohibition is clearly the most effective tool.

Outright prohibition is consistent with the view that federal taxpayers receive no economic benefit. Even if a stadium generated positive economic benefits for a local government, which testimony given here suggests is not the case; the benefits for federal taxpayers are zero. The fiscal impact of the federal budget, such as creating jobs, is determined when the budget resolution is passed. How the money is divided up is irrelevant; all activities on which it can be spent create jobs. The only exceptions are those federal activities that are specifically directed toward altering the structural elements of the economy that affect the natural rate of unemployment, such as job training, better information about job availability, or net increases in human capital and research. Tax-exempt bonds do not accomplish that objective.

PILOTS as good policy. If one's objective is to implement the benefit principle of taxation that would require those who receive benefits from the stadium to pay its costs, the PILOT ruling might be beneficial. Some argue that society overinvests in stadiums because the dominant political coalition that pushes for stadiums receives most of the benefit while others in society pay most of the cost. The IRS PILOT ruling promotes the benefit principle. In effect, it would allow stadium-related revenue to be used to pay debt service and would reduce the pressure to finance stadiums with general tax revenue. Stadium-related revenue is generally paid by those receiving direct benefits from the stadium, whereas generally applicable taxes such as income, property, and sales taxes are poorly related to stadium usage and the receipt of benefits. It would be efficient because it would bring the dominant political coalition's benefits and costs into better balance, thereby rationalizing prices.

However, one must balance that improvement in economic efficiency against the danger that the PILOT precedent will lead to its general application across the spectrum of private business activity, as discussed in the previous section.

An Alternative Policy. A three-step compromise is available that could advance both policy objectives: add stadiums to the list of private activities eligible for tax-exempt financing; subject stadium bonds to the private-activity bond volume cap; and wipe the PILOT precedent off the books. Private-activity bond financing would encourage use of the benefit principle of taxation. Requiring stadium projects to compete for scarce private-activity bond volume cap with other eligible private activities such as mortgage revenue bonds, small-issue industrial development bonds, and student loan bonds would minimize the federal subsidy. And eliminating the PILOT precedent would prevent its indiscriminate application to a broad range of private activities and would control elected officials' role of commercial bankers.

Mr. KUCINICH. I thank Mr. Zimmerman.

We are going to go to questions in the second, and at the conclusion of that, we will go to the third panel of the Internal Revenue Service.

Dennis Zimmerman, you are a former Congressional Research Service and CBO analyst, is that correct?

Mr. ZIMMERMAN. Correct.

Mr. KUCINICH. In your opinion, what is the public purpose fulfilled by tax-exempt financing of the construction of Yankee Stadium?

Mr. ZIMMERMAN. Well, if you go by the structure of the bond rules prior to the PILOT, it would not have been allowed. In general, since these things provide no Federal benefit, no benefit to Federal taxpayers, it is not clear why one would want to subsidize these things.

Mr. KUCINICH. So are you saying then that it is inconsistent with the law's treatment of public financing for sports stadiums?

Mr. ZIMMERMAN. Yes, prior to the PILOTs act, they would have been classified as private activity bonds which would have been taxable.

Mr. KUCINICH. Mr. Zimmerman, has the IRS in its rulings for the Yankees and the Mets adhered to the meaning and intent of the law?

Mr. ZIMMERMAN. The meaning and intent of the law is sort of in the eye of the beholder frequently. As I read the law, prior to the PILOTs ruling, it is not consistent. These would have been counted as stadium-related revenues, they would have violated the 10 percent rule, and they would have not have been eligible for tax-exempt status.

Mr. KUCINICH. Now in your testimony, you assert that the IRS proposed rulemaking, which will be discussed in our next panel, creates a way around the restriction on tax-exempt private activity bonds for use in sports stadium construction, is that right?

Mr. ZIMMERMAN. Correct.

Mr. KUCINICH. So, in your opinion, how would you characterize the impact of the IRS rulemaking on the 1986 law with respect to public financing of sports stadium construction?

Mr. ZIMMERMAN. It circumvents what the 1986 tax act rules say because it reclassifies stadium-related revenue which clearly should be counted against the 10 percent security interest test. It reclassified it as generally applicable taxes and converted these things from private activity bonds which are taxable into governmental bonds which are tax-exempt.

Mr. KUCINICH. I thank Mr. Zimmerman.

Mr. Issa.

Mr. ISSA. Thank you, Mr. Chairman.

I would like to followup on each of your opening statements.

Dr. Humphreys, I am a little confused on one thing. Your testimony was that this is sort of a zero sum game, that if it wasn't spent in the downtown area in San Diego, Washington, Detroit, Chicago, wherever, it would be spent in the suburbs. Isn't that the nature of redevelopment though? Isn't that what center city projects do?

I am a Clevelander, the same as the chairman. Isn't it, in fact, the problem in Cleveland is my brother in Shaker Heights, he is doing a little better, and by the time you get to Beechwood, they are doing just fine while Cleveland itself, a great city, has a constant problem of converting from the river and lakefront of the steel and coal era into a desirable place?

Why in the world, economically, wouldn't you consider that shifting from, if you will, the place where there is plenty of money to the place where there isn't enough money and as a result not enough money to run the Cleveland City Schools as an economic benefit and give full credit to that, not saying that it changes your model in any way except how can you not give credit for that shift?

Mr. HUMPHREYS. Well, I don't understand why we should spend hundreds of millions of dollars to subsidize a downtown business to attract entertainment spending. Why is it that a business owner somewhere in the suburbs, who is losing customers, shouldn't be extremely upset at us using public dollars to subsidize a competitor for him to move that business elsewhere?

I mean I think that long run economic growth is related to fundamental factors like worker productivity and education and things like that.

Mr. ISSA. OK, I get it. You like the macro, and I like the micro. It is tomato-tomato. I guess I have a difference of opinion, having been to Jacobs Field, having been to the Rock and Roll Hall of Fame and so on, that it is worth for the overall benefit of the city not to have a blighted area, crime-ridden, with kids who don't have enough money to go to school, but maybe I am wrong on some of these counts.

Mr. Zimmerman, coming over to you.

Mr. ZIMMERMAN. Could I comment on the question?

Mr. ISSA. Please, in my limited time, I would love to hear.

Mr. ZIMMERMAN. OK, the one other aspect of this, of the question is I can see why one can conceive of that as being a benefit for the local and maybe the State taxpayers. It is not clear to me why that is a benefit to the Federal taxpayers.

Mr. ISSA. No, no. I understand.

Mr. ZIMMERMAN. And therefore why the interest in subsidies.

Mr. ISSA. Thank you, and that follows up on what I was going to ask you.

You have held this opinion since at least 1986 when you testified before Congress. So this opinion that you gave us here today is not new. This has been consistent since when you testified in 1986 when Congress removed stadiums from the list of activities, and that is good because it is nice once in a while to have people who don't change their opinions from one election to another, not that this would happen in this town.

But I have to get back to in your opinion, spreading it beyond baseball, I figured we would take on apple pie, baseball and mother. We should shift to a broader arena. Museums or how about the Cleveland Symphony, should it enjoy any tax benefits such as the fact that contributions to the symphony are tax-exempt or tax free? They are donations.

Now that is where rich people go, right, normally to the symphony and the opera and so on?

Mr. ZIMMERMAN. That is right.

Mr. ISSA. Isn't there, in fact, to a certain extent, when you look at the economic hierarchy, if you are going to take away stadiums—and I use stadiums as a euphemism for baseball or football or sports in general—then don't you have to treat equally by taking away the symphony, the museums, the opera?

Is one culture more valuable to another and isn't your stand against stadiums, which are necessary if you are going to have professional baseball, inconsistent unless you are also calling on elimination of similar treatment for any and all redevelopments but particularly if they involve the other alternatives to what people would like to do with maybe less limited resources?

Mr. ZIMMERMAN. All these things, of course, have some value in terms of intangible benefits. But, no, I don't think they are comparable, and they are not comparable because these stadiums are private, privately owned business operations.——

Mr. ISSA. OK, well, I want to followup. I am on a yellow. I am on a yellow light.

Mr. ZIMMERMAN [continuing]. Whereas museums and cultural opportunities are non-profit organizations.

Mr. ISSA. Well, no. Let me go back again.

What if a city wants to build a stadium and own it like they build a symphony facility and they build museums and own them? Now, first of all, a lot of symphonies and museums are not publicly owned, but notwithstanding that, is your point public ownership versus private or, in fact, when we build facilities for other cultural and athletic and other activities, don't they all fit into the same gambit?

If we are going to take on baseball, motherhood and apple pie, and I am happy to do it, don't we have to take on all levels of these kinds of activities?

Mr. ZIMMERMAN. No. Again, I think the distinction is in the instance where these things are privately owned, then essentially what is happening is you are providing windfall gains to the owners. That is the example of the Texas Rangers stadium. Most of the benefits of the Federal tax subsidy ended up increasing the capital value and went into the pockets of the owners whereas whether it is a publicly owned symphony or a non-profit owned symphony, there are non-distribution constraints and unless there is corruption present, the value of these Federal tax benefits are not being absorbed into a higher rate of return for the private owners.

Mr. ISSA. I guess I missed something at the Who concert the other day, but please, Mr. Chairman.

Mr. KUCINICH. The gentleman's time is expired.

I would just like to interject here, and that is that I appreciate the gentleman's interest in the city of Cleveland, his home city—we miss you—and that the economy of San Diego may be a little bit different than the economy of the city of Cleveland where we have the highest poverty level despite spending close to $1 billion for these tax supported facilities.

Mr. Tierney.

Mr. TIERNEY. Thank you. I was a little amused to listen to my colleague, Mr. Issa, make a great argument for the redistribution of wealth from the suburb into the urban area which was sort of interesting.

Mr. ISSA. Would the gentleman join in that with me? You know we could work on this together. You just have to take on the big structures everywhere on this.

Mr. KUCINICH. You can address your remarks through the Chair. Continue.

Mr. TIERNEY. Reclaiming my time, I am glad you made the distinctions in some of your remarks about the nature of public policy for non-profit institutions versus those that are going to get private gain from a tax break on the Federal Government. Whether or not the city holds the stadium or not, the individual that is running the ball teams in there is still going to make a considerable profit because it was built. I don't know whether that is what we want our public policy to lean toward.

Can I concentrate back? There are two things I want to do. I want to talk a little bit about the 10 percent rule. Mr. Zimmerman, will you explain that to those that might not fully understand every little bit, every little detail?

Mr. ZIMMERMAN. Right, bonds are taxable or tax-exempt depending upon two tests. One is whether more than 10 percent of the bond proceeds are used by a private business, and the second is whether more than 10 percent of the debt service is secured by property used in the trade and business.

Mr. TIERNEY. Either one of those things would exclude you being able to be exempt?

Mr. ZIMMERMAN. Right, you have to fail. You have to exceed the 10 percent for both of those. So for a stadium, obviously more than 10 percent of the bond proceeds are being used by a private entity.

So the question when they cannot be used with private activity bonds is can you structure the deal so that no more than 10 percent of the debt service is paid for by stadium-related revenue? That is the property being used in the trade or business.

The 1986 act basically said if you don't satisfy that 10 percent security interest test, then the only way, then you can't issue a stadium bond. So it would have to essentially be a governmental bond which forces you to finance it with general tax revenues.

Mr. TIERNEY. My question, I guess, would be the IRS rulemaking letter, was that an interpretation or a change in law?

Mr. ZIMMERMAN. Well, I am not a lawyer. I can only tell you what the effect was.

Mr. TIERNEY. The effect was to do the reverse of what we thought the statute did.

Mr. ZIMMERMAN. The effect was it converted what, absent the PILOTs ruling, would have been considered stadium-related revenue, and——

Mr. TIERNEY. I don't want to cut into you, but it just sounds to me like it was created out of thin air.

Mr. ZIMMERMAN [continuing]. Therefore would have classified it as a taxable private activity bond. It would not have been eligible for tax-exempt financing.

Mr. TIERNEY. Thank you.

Would each of you expound a little bit on the monopoly issue here, how that affects the situation because both of you mentioned it in the course of your remarks?

What I think is important to note is what about the anti-trust issue on this, how would that change things? Do you think it is wise to continue the anti-trust exemptions and how might we change them and what would be the effect if we did?

Mr. HUMPHREYS. Well, the effect of the anti-trust ruling is that leagues restrict the number of franchises that there are. I mean ask Ms. Watson why there is no NFL franchise in Los Angeles. The reason is that they are operating as a monopoly or a cartel and they want to keep that market open so that if another team wants to threaten to move if they don't get a new stadium built, then they have that option to move. So that is restriction.

Why are they allowed to do that? Well, because they enjoy some anti-trust protection.

If that was removed, there would be an NFL franchise in Los Angeles instantaneously almost because it is clearly going to support an NFL franchise. So this just gives. As team owners and local politicians bargain over subsidies, it gives the owners the ultimate threat and the ultimate power in the process, and that is how they get the subsidies as I see it. So I don't know.

Mr. ZIMMERMAN. Effectively, when you have a monopoly, you maintain excess demand, and it is that excess demand which creates the need for local governments to compete to get franchises.

Mr. TIERNEY. Can either of you make a case?

Mr. ZIMMERMAN. And how do they compete? They compete with larger and larger subsidies of the capital costs of the franchises.

Mr. TIERNEY. Can either of you make a case for continuing the anti-trust exemptions?

OK, I yield back, Mr. Chairman.

Mr. KUCINICH. I thank Mr. Tierney.

Mr. Turner.

Mr. TURNER. Thank you. Thank you, Mr. Chairman, for holding this hearing. I greatly appreciate your look into this issue, having shared with you the background of having been a former mayor and having been a mayor at a time when our city undertook the construction of a Minor League Baseball stadium which had a huge effect on transforming out downtown.

Mr. Chairman, as you know, so many times because of our background, we agree upon the issues that are identified but not necessarily on the specific resolution of those issues.

I want to thank you for panel one because the most important thing that we have in local government are people who get involved and who are activists to hold Government accountable and to look at where their taxpayer funds are going and what the direction and the vision of the community should be. It is not always that we will all agree, but if we don't have people at the table who are willing to dive into the facts and the details and hold the community accountable for what they are undertaking, you can get bad deals.

What is interesting in the information that we have today is clearly there are some bad deals in stadiums—I have seen them in our State—and there are also some really good deals.

We had a really good deal in our community because we capped our exposure and liability so the taxpayers had a limit at the amount that they were investing in the stadium. Cost overruns were to the team. Management of the construction was to the team. When we entered into it as a community, we knew exactly what the subsidy was going to be and what we expected the result of economic development in the area would also be.

Now, on the second panel, there are a couple of things that you have said that I find very interesting. One is your description of a monopoly with respect to anti-trust laws because what have you just stated is actually what I believe is backward from the economic model is in monopoly. You say that we should get rid of the anti-trust exemption because they are maintaining excess demand and making local governments compete.

Well, the reality is if we took off the anti-trust exemption, you wouldn't have less stadiums. You would have more stadiums and more teams and more communities endeavoring to do it. So it would have the exact reverse impact of what you are arguing. You would have more communities having access to teams and seeking to undertake construction of teams for their communities.

Second, the issue of looking at the stadiums as an amenity and the statement that has been made of a consensory conclusion that has emerged from peer-reviewed literature, except for the fact that the externalities that are not currently qualified and that appears that residential property values may be higher in cities with sports teams, but the conclusion starts with there is a consensus that they are not an engine of economic growth.

There is a significant amount of peer literature that does show that the amenities that a community has significantly impact economic development. Richard Florida, who, as you know, is the author of The Creative Class, goes into an incredible analysis. In one article entitled, "The Economic Geography of Talent," he actually correlates a community's success based upon their ability to attract a highly educated, highly skilled, highly qualified, competitive work force to the amenities in the community and indicates that the success level of a community is based upon the amenities that are provided and being able to attract people who have degrees and young folk.

Interestingly enough, he has a little graph here that says Coolness Index, and it says Pittsburgh, Seattle, Atlanta, Denver, San Francisco, Boston, Chicago, Los Angeles, all of which, I think we could all in this room name their teams.

As an indication, it goes on to say that median housing values are higher in those communities that have these amenities where there is a coolness associated with attracting new talent, an item that Dr. Humphreys, you indicated that it appears that residential properties values may be higher in cities with sports teams.

I think it is very important that we distinguish a broad policy such as do we provide a tax benefit to stadium construction? Do we provide it, as Mr. Issa said, to other amenities and activities of a community as a holistic approach to regional economic development?

It is not suburbs versus urban because the reality is the stadium is an economic engine for suburbs also. You have no suburbs that exist without an urban core. It doesn't happen. So you have to have a regional approach to what are the amenities you are going to have in a community, how you are going to use public funds for those, and that is a local government discussion and a local government distinction.

My question for both of you is to go back to the issue that Mr. Issa had raised of if you are going to say that stadiums.

Mr. KUCINICH. The gentleman's time is expired.

Mr. TURNER. Can I finish my question, Mr. Chairman? It is a quick question.

Mr. KUCINICH. I will agree to that, but your time is expired. Go ahead.

Mr. TURNER. Thank you.

If you are going to have a policy where you look at stadiums only as being subsidized by the taxpayers, don't you have to put on the board all of the amenities that are used by other for profits such as rock concerts and other types of venues that are considered amenities that tend to attract that type of spirit or life that a city points to for its identity?

Mr. KUCINICH. You can make your answers very brief.

Mr. HUMPHREYS. I don't understand the question very well actually. We should consider? We should consider rock concerts as amenities and subsidization?

Mr. TURNER. You have to have a venue, and certainly you are not saying that the music community must sustain construction of its own venue and/or they should not come into a community and host an event.

Mr. HUMPHREYS. And where does it end? So we have to have restaurants too. Do we need to subsidize what restaurant construction and other amenities like that? I mean some of those things are privately provided goods. If we are talking about subsidies, why is it that we should, you know, I don't know where that list of things ends.

Apparently, you are in favor of subsidization of all sorts of construction projects.

Mr. TURNER. My point is should we include them all if we are going to pick on one?

Mr. HUMPHREYS. No.

Mr. KUCINICH. The gentleman's time is expired.

[The prepared statement of Hon. Michael R. Turner follows:]

Opening Statement of Michael R. Turner
Oversight and Government Reform Subcommittee on Domestic Policy
Hearing on
"Build it and They Will Come: Do Taxpayer-financed Sports Stadiums, Convention Centers, and Hotels deliver as promised for America's Cities?"

March 29, 2007

Mr. Chairman, I want to thank you for holding this hearing. As the title indicates, the purpose of this hearing is to find out if public financing of sports stadiums, convention centers and hotels deliver as promised for America's cities.

Mr. Chairman this hearing today is very personal too me – like you, I served as the Mayor of a typical Middle-America city. When I was Mayor, Dayton was a city that can best be described as one where many commuted in from the suburbs to work and left again at the end of the day. Because of this, a major goal was to return downtown Dayton to something that it once was - a center of activity – a place not just to work, but a place that families could stay to eat, enjoy the arts or catch a ballgame.

Revitalizing a city requires many partners. In Dayton, the partnership included public employees, private citizens, business leaders and other elected officials. I am proud to say that together we mapped and then implemented a plan to transform Dayton from a workday city to one that is alive before and after work and during the weekends.

Our plan to revitalize downtown Dayton consisted of three major building projects: a new downtown baseball stadium; a new multipurpose arts center; and the Riverscape park, which takes advantage of the scenery of the Great Miami River by offering outdoor activities such as free concerts, outdoor ice skating and organized nature walks.

Mr. Chairman, I don't think it is a secret that I do not follow baseball or really any particular sport, but building a new baseball stadium in downtown Dayton was a highlight of my Mayoral career. The ballpark, known as Fifth Third field, draws record crowds each year and sits on land that was once a brownfield site. But now, instead of a vacant, unwanted field, people come from all around the region come to enjoy America's pastime, baseball. The Dayton Dragons are the first and only minor league team to sell out an entire season before it began. In fact the Dayton Dragons have sold-out seven consecutive seasons! Instead of staying in the suburbs, people now come downtown to enjoy a game, the arts or to walk along the Riverscape. Now instead of spending their money solely in the suburbs, people spend it downtown. That, in turn, generates much needed tax revenues for the city to address other pressing issues.

Mr. Chairman, I understand that the use of municipal bonds to pay for stadiums, hotels and convention centers is not without controversy. When Dayton dealt with this issue, I made sure that any stadium deal included clauses that protected taxpayers from cost overruns: our stadium was built on time and on budget. Indeed, any deal that involves taxpayer financing, especially ones that we are talking about today, should be examined seriously and with caution. If one is to use municipal bonds to fund a project then there must be a clear benefit to the city, and taxpayers must be protected. In Dayton we were able to accomplish that goal.

What about other cities? Each city is different and each has unique circumstances. For example, will the same structure work for Washington, D.C. and the new baseball stadium, which is within walking distance of this hearing room?

I have tremendous respect for what former Mayor Anthony Williams did for this city and I believe, like him, that the new Nationals baseball stadium will contribute to the amazing revitalization of our Nation's Capitol. Was spending taxpayer money on the stadium a good idea? I can't answer that specific question, but if the results are the same as what we are experiencing in Dayton, then I believe the citizens of this town will embrace the stadium as they have their team.

Mr. KUCINICH. I want to thank this panel for their testimony.

We are going to move to the third panel, the IRS. Testifying will be Donald Korb, the Chief Counsel of the Internal Revenue Service.

This is kind of a Cleveland reunion because Mr. Korb is a former Cleveland area resident, a graduate of Brush High. We are very proud of your success and your presence here.

But let us move quickly. I would ask, Mr. Korb, if you would remain standing.

[Witness sworn.]

Mr. KUCINICH. Let the record show that the witness responded in the affirmative.

Mr. Korb, you may proceed.

STATEMENT OF DONALD KORB, CHIEF COUNSEL, INTERNAL REVENUE SERVICE, WASHINGTON, DC

Mr. KORB. Thank you, Mr. Chairman, Ranking Member Issa, other members of the subcommittee.

I would suggest we had this hearing in the wrong place. We probably should have held this hearing in Cleveland, so next time we get together.

Mr. KUCINICH. We may have a followup, but for now we are in Washington, and we are so happy to have you here.

Mr. KORB. Mr. Chairman, I appreciate the courtesy of letting me speak now and also the conversation we had the other day on the timing.

Mr. KUCINICH. We understand your time constraints. You may proceed.

Mr. KORB. I very much appreciate it.

I am the Chief Counsel for the Internal Revenue Service, and the Chief Counsel is the legal advisor to the Commissioner of the IRS on all matters pertaining to the interpretation, administration and enforcement of the tax law.

Before discussing some of the specific issues that are the focus of this hearing, it is important for me to emphasize that although the Office of Chief Counsel assists and advises the IRS in administering our Nation's tax system, neither our office nor the IRS itself develops proposals on tax policy or takes a position as part of the legislative process. Questions on tax policy issues are better addressed to the Secretary of the Treasury or the Assistant Secretary for Tax Policy in the Treasury Department.

In the tax policy area, our role is limited to advising on administrative issues that may arise from proposed tax legislation.

Now, let me turn to the subject of this hearing. The Internal Revenue Code provides an exclusion from income for interest paid on bonds issued by the State and local governments. Tax-exempt bond financing plays an important role as a source of financing to State and local governments for public infrastructure and other significant public projects. In essence, the interest income exclusion provides a Federal subsidy to enable State and local governments to obtain low cost financing for traditional governmental functions such as schools, roads, libraries and firehouses.

In addition to these types of projects, the Tax Code also permits State and local governments to use tax-exempt financing to subsidize certain activities of private businesses. Here again, the State and local government may have a valid governmental purpose for providing this subsidy. However, over time, Congress has put limits on State and local governments subsidizing private business activities with tax-exempt bonds.

Currently, a bond that subsidizes a private business may not benefit from the tax-exemption unless the proceeds of the bond are used for certain specified purposes, and if you look on page 3 and 4 of my written testimony, you will see the list there.

As we have discussed this morning, there are two basic types of tax-exempt bonds, what we call governmental bonds and what are called private activity bonds. Bonds are classified as governmental bonds if the proceeds are used to carry out governmental purposes and the bonds are repaid from governmental funds. On the other hand, bonds are classified as private activity bonds if, for example, the bond-financed facility is to be used entirely by private parties and the debt service on the bonds is paid from private sources.

The current private activity bond regime was enacted as part of the tax reform of 1986 as discussed earlier and was designed to limit the ability of State and local governments to act as conduit issuers in financing projects for the use and benefit of private businesses.

Now, prior to the tax reform of 1986, as you know, stadiums and convention centers were listed as eligible facilities that could be financed with tax-exempt private activity bonds. In 1986, however, Congress eliminated these projects from the list and, at the same time, tightened the private activity bond tests across the board. This means, as discussed this morning, under current law, bonds that finance stadiums and convention centers now must be governmental bonds to be tax-exempt.

Consequently, if a State and local government wants to issue tax-exempt governmental bonds to finance a stadium that a professional sports team would use, it can do so provided that the issuer, the State or local government, receives no private payments from the team or other private parties for use of the stadium that in the aggregate exceeds generally 10 percent of the bonds, of the debt service on the bonds.

Therefore, even if the bonds finance a project that is 100 percent used for private business use, that private business use will not cause the bonds to be private activity bonds so long as the issuer pays the debt service on the bonds with either its general governmental funds or generally applicable taxes, both of which are not treated as private payments.

So now, let us talk about what we mean by the concept of generally applicable taxes. Congress indicated in the legislative history of the Tax Reform Act of 1986 that revenues from generally applicable taxes should not be treated as private payments for the purpose of the private payments test.

In 1997, the Clinton Treasury Department provided regulatory guidance on the definition of what are generally applicable taxes for purposes of these tax-exempt bond provisions including guidance which treats certain payments in lieu of taxes [PILOTs], as, in substance, general taxes. These 1997 Treasury regulations were based on longstanding general Federal income tax principles dating back to the 1970's dealing with the deductibility of taxes.

Those 1997 regulations generally define generally applicable taxes as an enforced contribution imposed under the taxing power that is imposed and collected for the purpose of raising revenue to be used for a governmental purpose. It must have a uniform tax rate that is applied equally to everyone in the same class subject to the tax and which has a generally applicable manner of determination and collection.

Although taxes must be determined and collected in a generally applicable manner, the 1997 Treasury regulations permit certain agreements to be made with respect to those taxes. An agreement to reduce or limit the amount of taxes collected to further a bona fide governmental purpose is such a permissible agreement.

In addition, the 1997 regulations treat PILOTs in the same manner as generally applicable taxes. Under the 1997 regulations, a PILOT is treated as a generally applicable tax if the payment is "commensurate with and not greater than the amounts imposed by a statute for a tax of general application." For example, if the payment is in lieu of a property tax on the bond-financed facility, it may not be greater in any given year than what the actual property tax would be on the property.

As I previously mentioned, the Tax Reform Act of 1986 eliminated the ability to finance stadiums and convention centers among other facilities with tax-exempt private activity bonds. As a result, State and local governments seeking to finance stadiums must now issue tax-exempt governmental bonds and must subsidize repayment of those bonds from governmental sources including the generally applicable taxes. So, in layman's terms, this means that a State or local government may only issue tax-exempt governmental bonds to finance a stadium if it does not require the professional sports team to pay for the use of the stadium.

Very difficult interpretive issues arise, however, when a payment purporting to be a generally applicable tax is imposed in a customized fashion on a private business use that finances bond-financed property. In these cases, the Office of Chief Counsel must decide whether a payment is a generally applicable tax within the exception from the private payments test or instead is more like a lease or other payment which would be an impermissible private payment.

This past July, the Office of Chief Counsel issued two favorable Private Letter Rulings for tax-exempt governmental bond financings for two stadiums. The facts in these rulings involved professional teams that were going to use the stadiums, so the private business use was met. The question presented in the rulings was whether the payments to be made by the teams and to be used for the debt service on the bonds would constitute PILOTs treated as generally applicable taxes or instead would be treated as private payments.

Although we had serious concerns about whether the PILOTs in those two rulings sufficiently resembled generally applicable taxes, we nevertheless concluded that the 1997 Clinton Treasury Department regulations led to a favorable response to the taxpayer. Basically, we felt the 1997 Treasury regulations compelled the result.

But, more importantly, the two Private Letter Rulings served to focus our attention on how broadly the 1997 Treasury regulations could be interpreted to permit PILOTs to be used to pay debt service on tax-exempt bonds in situation where PILOTs did not bear an insufficient link to an otherwise generally applicable tax.

To address these concerns, we promptly published proposed regulations to provide new rules explaining when PILOTs would be considered to be commensurate with generally applicable taxes. The basic purpose of these proposed regulations was to tighten the standards for PILOTs as generally applicable taxes to assure a closer relationship between the eligible PILOT payments and the generally applicable taxes. In other words, we spotted a flaw in the 1997 Treasury regulations, and we moved expeditiously to fix it.

I want to thank you for the opportunity to appear this morning and try to clear up the mis-impression and confusion that sounds like it has surrounded this issue. Thank you, Mr. Chairman.

Mr. KUCINICH. I want to thank Mr. Korb. Of course, because of the complexity of this, we have given you close to 10 minutes to testify.

Mr. KORB. And I appreciate that.

Mr. KUCINICH. You are welcome.

When we come back, we will go to rounds of questions, without objection, of 10 minutes each so each member of the panel here will have the opportunity to indulge in that complexity as well.

[The prepared statement of Mr. Korb follows:]

WRITTEN TESTIMONY OF DONALD L. KORB CHIEF COUNSEL INTERNAL REVENUE SERVICE BEFORE HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM SUBCOMMITTEE ON DOMESTIC POLICY HEARING ON THE STATE OF URBAN AMERICA AND THE USE OF TAX-EXEMPT BONDS

MARCH 29, 2007

Good morning Chairman Kucinich, Ranking Member Issa and Members of the Subcommittee. Thank you for the opportunity to be here this morning to discuss some of the uses of tax-exempt bonds by State and local governments.

My name is Don Korb and I am Chief Counsel for the Internal Revenue Service. The Chief Counsel is appointed by the President of the United States with the advice and consent of the U.S. Senate. My position and that of the Commissioner of Internal Revenue are the only two positions at the Internal Revenue Service that are so appointed.

The Chief Counsel is the legal advisor to the IRS Commissioner on all matters pertaining to the interpretation, administration and enforcement of the Internal Revenue laws, as well as all other legal matters. My office also provides legal guidance and interpretative advice to the IRS, Treasury and to the taxpaying public in general.

Before discussing the specific issues that are the focus of this hearing, it is important to emphasize that the Office of Chief Counsel assists and advises the IRS in its mission of overseeing our nation's tax administration system; neither our Office nor the IRS itself develops tax policy proposals or takes a position on them as part of the legislative process. Questions on tax policy issues are better addressed to Secretary of the Treasury or the Assistant Secretary for Tax Policy in the Treasury Department. In the tax policy area, the role of the IRS and the Chief Counsel's Office is limited to advising on the administrative issues that might arise from proposed tax legislation.

Tax-exempt bond financing plays an important role as a source of financing to State and local governments for public infrastructure projects and other significant public purpose activities. The Office of Chief Counsel and the IRS recognize the importance of interpreting and administering the law with respect to this significant Federal subsidy in a fair and equitable manner to ensure appropriate targeting of this subsidy consistent with the relevant Internal Revenue Code provisions and the Congressional intent in enacting those provisions of the Code.

Background

The Internal Revenue Code provides an exclusion from income for interest paid on State and local bonds. In essence, this exclusion provides a Federal subsidy to enable State and local governments to finance needed public infrastructure and other State and local governmental activities at lower interest costs. For example, State and local governments issue tax-exempt bonds to obtain low-cost financing for traditional governmental functions, such as roads, schools, libraries and firehouses. In some cases, State and local governments find it necessary or efficient to involve private parties in a particular governmental project. For example, a State may need to hire experts to design and build its roads, or a food service company to manage a lunchroom in its courthouse.

The Code also permits State and local governments to use tax-exempt financing to subsidize certain activities of private business. Here again, a State and local government may have valid governmental reasons for providing this subsidy. For example, a State and local government might pass the subsidy of tax-exempt bonds on to a private business to encourage that business to build a power plant that will provide energy to the community.

But, over time, Congress has put limits on State and local governments subsidizing private business activities with tax-exempt bonds. Currently, a bond that subsidizes a private business may not benefit from the tax exemption unless the proceeds of that bond are used for certain specified purposes.

In general, there are two basic types of tax-exempt bonds: "governmental bonds" and "qualified private activity bonds." Bonds generally are classified as governmental bonds if the proceeds are used to carry out governmental purposes and the bonds are repaid from governmental funds. Bonds generally are classified as private activity bonds if they meet the definition of a private activity bond in the Code based on specified levels of private business involvement, as I will further discuss. The interest on a private activity bond is taxable unless the bond is a "qualified private activity bond," which is a permitted type of financing for certain Congressionally-specified projects and programs.

Governmental Bonds

State and local governments issue governmental bonds to finance a wide range of public infrastructure projects. The Code does not provide a specific definition of "governmental bonds." Bonds basically are treated as governmental bonds if they avoid classification as private activity bonds, as defined in the Code, by limiting private business use and private business sources of payment or security, and also by limiting private loans.

In order for the interest on all State and local bonds, including governmental bonds, to be excluded from gross income (i.e., not taxed), a number of general eligibility requirements must be met. Requirements generally applicable to all tax-exempt bonds include arbitrage restrictions, bond registration and information reporting requirements, a general prohibition on Federal guarantees, advance refunding limitations, restrictions on unduly long spending periods and pooled bond limitations.

Private Activity Bonds

In General

Under section 141 of the Code, bonds are classified as "private activity bonds" if more than 10% of the bond proceeds are both: (1) used for private business use (the "private business use test"); and (2) payable or secured from private business sources (the "private payments test") (together, the "private business tests"). Bonds also are treated as private activity bonds if more than the lesser of $5 million or 5% of the bond proceeds are used to finance private loans, including business and consumer loans. The permitted private business thresholds are reduced from 10% to 5% for certain unrelated or disproportionate private business uses. These tests are intended to identify arrangements that have the potential to transfer the benefits of tax-exempt financing to nongovernmental persons.

Under the private activity bond definition, bonds are not classified as private activity bonds unless the bonds meet both prongs of the private business tests (i.e., both the private business use test and the private payments test). Thus, even if bonds finance a project that is 100%-used for private business use, that private business use will not cause the bonds to be treated as private activity bonds absent sufficient private payments or security to meet the private payments test. For example, a State or local government may issue tax-exempt governmental bonds (which are not classified as impermissible private activity bonds) to finance a stadium that a private professional sports team uses, provided that the issuer receives no private payments from the team or other payments that in the aggregate exceed the private payments test (i.e., 10%). Instead, in these circumstances, the issuer may subsidize this financing by paying the debt service on the bonds with its general governmental funds or generally applicable taxes, which are not treated as private payments.

Private activity bonds may be issued on a tax-exempt basis only if they meet the requirements for "qualified private activity bonds," including targeting requirements that limit such financing to specifically defined facilities and programs. Qualified private activity bonds may be used to finance eligible projects and activities, including the following: (1) airports, (2) docks and wharves, (3) mass commuting facilities, (4) facilities for the furnishing of water, (5) sewage facilities, (6) solid waste disposal facilities, (7) qualified low-income residential rental multifamily housing projects, (8) facilities for the local furnishing of electric energy or gas, (9) local district heating or cooling facilities, (10) qualified hazardous waste facilities, (11) high-speed intercity rail facilities, (12) environmental enhancements of hydroelectric generating facilities, (13) qualified public educational facilities, (14) qualified green buildings and sustainable design projects, (15) qualified highway or surface freight transfer facilities, (16) qualified mortgage bonds or qualified veterans mortgage bonds for certain single-family housing facilities, (17) qualified small issue bonds for certain manufacturing facilities, (18) qualified student loan bonds, (18) qualified redevelopment bonds, (19) qualified

501(c)(3) bonds for the exempt charitable and educational activities of Section 501(c)(3) nonprofit organizations, (20) certain projects in the New York Liberty Zone, and (21) certain projects in the Gulf Opportunity Zone.

Qualified private activity bonds are subject to the same general rules applicable to governmental bonds, including the arbitrage investment limitations, registration and information reporting requirements, the Federal guarantee prohibition, restrictions on unduly long spending periods and pooled bond limitations. Most qualified private activity bonds are also subject to a number of additional rules and limitations, including the volume cap limitation under section 146 of the Code.

Unlike the tax exemption for governmental bonds, the tax exemption for interest on most qualified private activity bonds is generally treated as an alternative minimum tax ("AMT") preference item, meaning that the tax preference, or benefit, for these bonds can be taken away by the AMT.

The current private activity bond regime was enacted as part of the Tax Reform Act of 1986 and was designed to limit the ability of State and local governments to act as conduit issuers in financing projects for the use and benefit of private businesses and other private borrowers. Prior to enactment of this regime, States and municipalities were subject to the rules for "industrial development bonds," which had more liberal rules as to when tax-exempt bonds could be used for the benefit of private parties. The list of eligible projects and programs for qualified private activity bonds has changed over time and has become more restrictive in certain cases. Prior to the Tax Reform Act of 1986, stadiums and convention centers were on the list of eligible facilities that could be financed with tax-exempt private activity bonds. In 1986, Congress eliminated these projects from the list and at the same time tightened the private activity bond tests.

The Private Business Use Test

The private business use test is met if a private business uses more than 10% of the proceeds of an issue. Private business use generally arises when a private business has legal rights to use the bond-financed property. These legal rights to use bond-financed property that trigger private business use include cases in which a private business owns, leases, manages, enters into an output contract, or enters into certain research agreements or other comparable arrangements that convey special legal entitlements to the financed property.

There are a number of exceptions and safe harbors with respect to the private business use test that allow limited private business use of bond-financed property in prescribed circumstances. For example, certain short-term contracts do not result in private business use. In addition, safe harbors are available under which management contracts or research agreements that meet certain requirements will not give rise to private business use. This means that, by meeting these safe harbors, a State or local government may hire a private business to manage its courthouse restaurant without causing private business use.

The Private Payments Test

The private payments test considers the source of payment on, or nature of the security for, the debt service on a bond issue. In particular, the private payment portion of the test takes into account the payment of debt service that is directly or indirectly derived from payments with respect to property used by a private business. For example, if a private business pays rent for its use of the bond-financed property, the rent payments can give rise to private payments. Just like the private business use test, there are exceptions to the private payments test.

The Generally Applicable Taxes Exception to the Private Payments Test

One exception to the private payments test applies to payments from generally applicable taxes. Congress indicated in the legislative history of the Tax Reform Act of 1986 that revenues from generally applicable taxes should not be treated as private payments for purposes of the private payments test.

Treasury Regulations define a generally applicable tax as an enforced contribution imposed under the taxing power that is imposed and collected for the purpose of raising revenue to be used for a governmental purpose. A generally applicable tax must have a uniform tax rate that is applied equally to everyone in the same class subject to the tax and which has a generally applicable manner of determination and collection.

A payment for a special privilege granted or service rendered is not considered a generally applicable tax. Special assessments imposed on property owners who benefit from financed improvements are also not considered generally applicable taxes. For example, a tax that is limited to the property or persons benefiting from an improvement is not considered a generally applicable tax.

Although taxes must be determined and collected in a generally applicable manner, the Treasury Regulations permit certain agreements to be made with respect to those taxes. An agreement to reduce or limit the amount of taxes collected to further a bona fide governmental purpose is such a permissible agreement. For example, an agreement to abate taxes to encourage a property owner to rehabilitate property in a distressed area is a permissible agreement.

In addition, under an exception to the private payments test, the Treasury Regulations treat certain "payments in lieu of taxes" and other tax equivalency payments ("PILOTs") that closely resemble generally applicable taxes in the same manner as generally applicable taxes. Under the current Treasury Regulations, a PILOT is treated as a generally applicable tax if the payment is "commensurate with and not greater than the amounts imposed by a statute for a tax of general application." For example, if the payment is in lieu of property tax on the bond-financed facility, it may not be greater in any given year than what the actual property tax would be on the property.

In addition, to avoid being a private payment, a payment must be designated for a public purpose and not be a special charge. Under this rule, a PILOT paid for the use of bond-financed property is treated as a special charge.

Stadium and Similar Financings

As I previously mentioned, the Tax Reform Act of 1986 eliminated the ability to finance stadiums and convention centers, among other facilities, with tax-exempt private activity bonds. As a result, and recognizing that use of stadiums or arenas by a professional sports franchises generally will result in private business use outside any of the safe harbors, State and local governments seeking to finance stadiums intended for such private business use are constrained to issue tax-exempt *governmental* bonds and to subsidize the repayment of those bonds from governmental sources of funds, including generally applicable taxes, in order to fail the private payments test and thereby qualify the bonds as tax-exempt. In layman's terms, this generally means that, for a facility that will be used for private business use, such as a stadium, a State or local government may only issue tax-exempt governmental bonds to finance that facility if it funds the use of the facility with governmental revenues and does not require the private business user, such as a professional sports team, to pay for the use of the facility. The result is that State and local governments now must finance stadiums and similar facilities to be used for private business use by paying debt service on the bonds from governmental sources of payment, including generally applicable taxes. For example, a city could pledge revenues from a city-wide sales tax, hotel tax, car tax, property tax or other broadly-based general tax to pay debt service on tax-exempt governmental bonds to finance a stadium, and thus enable the bond issue to avoid being a private activity bond. This is the case even though a professional sports team uses the stadium for its contests.

Similar financing structures may be used for hotels and convention centers that involve otherwise impermissible private business use of bond proceeds. As with stadiums, in these cases, if the State or local government uses governmental sources of funds such as generally applicable taxes to pay the debt service on the governmental bonds used to finance the project, the interest on the bonds will be exempt from tax.

Recent Private Letter Rulings and Proposed Regulations

Difficult interpretative issues arise when a payment purporting to be a generally applicable tax is imposed in a customized fashion on a private business that uses bond-financed property. In these cases, the Office of Chief Counsel must decide whether a payment is a generally applicable tax within the exception from the private payments test, or is instead more like a lease, rent or other payment that Congress intended us to treat as an impermissible private payment under the private payments test. This line becomes particularly difficult to draw when the tax is abated through negotiations or is a PILOT that is specifically crafted for the transaction and essentially results in debt service being fully paid by the private business.

This past July, the Office of Chief Counsel issued two favorable Private Letter Rulings on tax-exempt governmental bond financings for stadiums. The facts in these rulings involved professional teams that were going to use the stadiums, so the private business use test was met. The question presented in the rulings was whether payments to be made by the teams and to be used for debt service on the bonds would constitute PILOTs treated as generally applicable taxes or private payments.

The payments were structured to qualify as PILOTs under State and local law but were set at a fixed amount by agreement between the team and the local government. The fixed amount was expected to exceed the debt service on the bonds, but was not permitted to exceed the amount of property taxes that would be imposed upon the stadium if the stadium were subject to tax. Although we had a concern about whether the PILOTs at issue sufficiently resembled generally applicable taxes, we nevertheless concluded that the existing Treasury Regulations supported a favorable response to the taxpayers. These private letter rulings served to focus our attention on how broadly the existing regulations could be interpreted to permit PILOTs to be used to pay debt service on tax-exempt bonds in situations where the PILOTs bear an insufficient link to the otherwise generally applicable tax, and in fact closely resemble the expected debt service on the bonds.

To address these concerns, in October 2006 the Treasury and the IRS published Proposed Regulations to provide rules explaining when PILOTs would be considered to be commensurate with generally applicable taxes. The basic purpose of these Proposed Regulations was to modify the standards for the treatment of PILOTs as generally applicable taxes to better assure a reasonably close relationship between eligible PILOT payments and generally applicable taxes.

Under the Proposed Regulations, a payment is commensurate only if the amount of the payment represents a fixed percentage of, or a fixed adjustment to, the amount of generally applicable taxes that otherwise would apply to the property in each year if the property were subject to tax. For example, a payment is commensurate with generally applicable taxes if it is equal to the amount of generally applicable taxes in each year, less a fixed dollar amount or a fixed adjustment determined by reference to characteristics of the property, such as size or employment. The Proposed Regulations permit the level of fixed percentage or adjustment to change one time following completion of development of the property.

The Proposed Regulations also provide that eligible PILOT payments must be based on the current assessed value of the property for property taxes for each year in which the PILOTS are paid, and the assessed value must be determined in the same manner and with the same frequency as property subject to generally applicable taxes. A payment is not commensurate if it is based in any way on debt service on an issue or is otherwise set at a fixed dollar amount that cannot vary with the assessed value of the property. The Office of Chief Counsel and Treasury are in the process of reviewing the public comments on the Proposed Regulations regarding the treatment of PILOTs.

Certain Eligible Issuers of Tax-Exempt Bonds on Behalf of State and Local Governments

Generally, tax-exempt bonds are issued by a State or local government, or any political subdivision thereof. A political subdivision is a division of any state or local government, which is a municipal corporation or which has been delegated the right to exercise part of the sovereign power of the unit (generally police, eminent domain and/or taxing powers) (e.g., a city or county).

In addition, other eligible issuers of tax-exempt bonds include entities that issue bonds "on behalf of" a State or local governments or political subdivisions. There are two types of "on behalf of" entities--a constituted authority and a so-called "63-20 corporation." The requirements for both of these entities are very similar.

A constituted authority is a public governmental-type entity formed under state law to issue bonds for a governmental unit for a public purpose. For example, the IRS issued a revenue ruling under which an industrial development board was authorized by state law to promote industry and develop trade. In furtherance of these purposes, the board was authorized to issue bonds. The ruling concludes that the board issued bonds on behalf of a political subdivision, based on the following criteria:

1) The issuance of the bonds was authorized by a specific state statute;
2) The bond issuance had a public purpose;
3) The board was controlled by the political subdivision;
4) The board had the power to acquire, lease, and sell the property and issue bonds in furtherance of this purpose;
5) Earnings of the board could not inure to the benefit of private persons; and
6) Upon dissolution, title to the bond-financed property reverted to the political subdivision.

The criteria in this ruling have generally been looked to for determining whether other entities are considered to be constituted authorities.

A 63-20 corporation is a private non-profit corporation formed under general state nonprofit law that also issues bonds on behalf of a governmental unit. These entities are referred to as "63-20 corporations" after Revenue Ruling 63-20. A valid 63-20 corporation must meet the following requirements:

1) It must engage in activities that are essentially public in nature;
2) It must be organized under the general nonprofit laws of the state;
3) It cannot have any income that benefits or inures to any private person;
4) A governmental unit must have a beneficial interest in the corporation while the bonds are outstanding and must obtain full legal title to the facility when the debt is retired; and
5) The corporation and the specific obligations to be issued must be approved by the government.

We have checked rulings issued recently and believe that there is no instance where we in the Office of Chief Counsel have ruled favorably that tax-exempt bonds can be issued by a 63-20 corporation for the funding of a hotel. Having said that, we can make no representation regarding the existence or scope of any such transactions that may have been consummated without rulings from us.

Summary

Mr. Chairman, I hope my testimony this morning illuminates the IRS role in the issuance of tax-exempt bonds by State and local governments. The issues that I have discussed this morning are particularly complex.

It is important to remember that our role is to administer the tax laws and not to create or advocate policy. We do our very best to apply the laws the Congress passes in a fair and equitable manner consistent with Congressional intent. We recognize the importance of administering the tax law in this area in a manner to ensure appropriate targeting of this significant subsidy consistent with the statute and Congressional intent.

Thank you again for the opportunity to appear this morning and I look forward to answering any questions that you may have.

Mr. KUCINICH. This committee will be in recess for 10 minutes, and then we will return. Thank you.

[Recess.]

Mr. KUCINICH. The committee will come to order.

Just an announcement and that is that the full committee will require the use of this room, and we will therefore go into recess at a quarter after 1. We will come back in at 3. This is something that in the flow of business here, we have to go with the flow.

So, again, a quarter after 1, we recess; at 3, we come back to this room. I appreciate the cooperation of all the witnesses, and I ask that all the witnesses be back here at 3 including the IRS.

I am going to question Donald Korb, without objection.

Mr. ISSA. Mr. Chairman, a point of inquiry, the IRS is going to have to leave around 1:15. At least, Mr. Korb will. When you said IRS, you mean back-up personnel?

You have to leave right after this?

Mr. KORB. Unfortunately, I have a meeting that was scheduled beginning at 1. I have sent a message back now to move it backward. I will do whatever you want, but it will be a problem for me.

Mr. ISSA. Mr. Chairman, if we do 10 minutes a side, would that be sufficient to conclude with this witness and then pick up the new panel at 3?

Mr. KUCINICH. No, it would not.

Mr. ISSA. OK.

Mr. KUCINICH. I think it is important that the gentleman remain, and I think as we get into the questions, you will understand why it is important from your perspective. I think you will want to stay.

Mr. KORB. OK, whatever you want.

Mr. KUCINICH. I appreciate the gentleman's cooperation.

I would like to first turn to the subject of Private Letter Rulings for the New York Yankees and Mets. The regulations existing at the time in 2006 were very specific, that payments in lieu of taxes [PILOTs], "made in consideration for the use of property financed with tax-exempt bonds " were "special charges." Special charges are not equivalent to generally applicable taxes.

The Yankees wanted to make these payments in lieu of taxes for the use of property, the new Yankee Stadium, which would be financed with tax-exempt bonds. As such, in the case of the Yankees deal, were the Yankees right to be concerned with tax-exempt financing of their stadium?

Were they concerned that the tax-exempt financing of their stadium would not be allowed, Mr. Korb?

Mr. KORB. Excuse me?

Mr. KUCINICH. Were the Yankees right to be concerned that the tax-exempt financing of their new stadium would not be allowed?

Mr. KORB. Well, the Yankees—remember, I didn't personally work on the ruling. If you use generally applicable taxes, as I testified, right, governmental funds, under the law that was passed in 1986, the Yankees, the city—the city owns the stadium, I think—could use governmental bonds.

Mr. KUCINICH. If the IRS had not granted the Private Letter Ruling, then would the Yankees and the city of New York have been compelled to do things significantly differently? Their bonds would have to be private activity bonds, isn't that right?

Mr. KORB. Mr. Chairman, you are absolutely right, and that is why we moved very quickly to eliminate the loophole created in 1987. That is exact. You are exactly right.

Mr. KUCINICH. So if taxable bonds would have been used, what would that of done to the cost of building the new stadium?

Mr. KORB. They could have used taxable bonds—you are right—and I assume the interest. I am not a municipal bond expert, but I assume the interest would have been higher, yes.

Mr. KUCINICH. But let us review what this Private Letter Ruling did. One, it allowed the Yankee Stadium project to avoid issuing taxable bonds and, two, it entitled the Yankees to a reduced interest rate for construction of a stadium and thereby reduced the cost to the Yankees for building a new stadium, isn't that right?

Mr. KORB. Yes. We were following the law as it was written in the regulations that were enacted in 1997. We feel compelled to follow the rules, and that is why we moved to change them.

Mr. KUCINICH. Is it logical that the Yankees wanted to use tax-exempt bonds to retain a greater share of the profits for Yankee ownership and that the Private Letter Ruling enables the Yankee ownership to keep a greater share of the revenues which the Yankees will earn in the new stadium?

Mr. KORB. Well, you know, I am really not an expert on baseball law, so I can't answer that question.

Mr. KUCINICH. In other cases, as our previous witnesses have testified, building a new stadium increased the value of a team franchise. What does the building of a new stadium do to the value of the Yankees and would this not make the owner in a more profitable condition?

Mr. KORB. Again, Mr. Chairman, I am not a baseball economist. I am just a tax lawyer, so I don't really feel qualified to answer that question.

Mr. KUCINICH. OK, fine. Well, let us go back to the Private Letter Ruling which you issued for the Yankees.

Mr. KORB. Yes.

Mr. KUCINICH. Can you tell the committee the circumstances in which you came to learn about the facts of this case?

Mr. KORB. Well, let us be a little careful here. You will notice.

Mr. KUCINICH. Excuse me?

Mr. KORB. No. I am just going to say I have to be a little careful with the answers I give here because I am constrained by the law. I don't want to be carted off and go to jail here. There is a code section called 6103.

Mr. KUCINICH. Well, you are under oath.

Mr. KORB. I understand. I understand.

Mr. KUCINICH. OK, continue.

Mr. KORB. But I am trying to explain to you. There is a code section called 6103 which prevents me from discussing specific taxpayer matters. So I have to be very careful. You would not want me to go out on the street and talk about your tax affairs with somebody out there. That is why that law exists.

So I will have to be, you will have to bear with me. In other words, I can't acknowledge that it is the Yankees.

So if you could restate the question and let me try to answer with those legal restrictions in mind.

Mr. KUCINICH. Can you tell this committee if the parties in the case met with you or your staff at the IRS?

Mr. KORB. No one met with me. I do not know about the staff.

Mr. KUCINICH. Can you tell whether or not? Do you have anybody here from staff to say if there was a meeting?

Mr. KORB. No, but we could answer questions for the record on those kind of details.

Mr. KUCINICH. Do you know if any certain representations were made by the Yankees in regards to this?

Mr. KORB. Well, again, well, the way the Private Letter Ruling process works, it is not an examination, OK. The way it works is somebody comes in with a transaction and tries to get, wants to get the IRS to approve it before it is done, OK. You don't send out revenue agents to check out the facts. What you rely on are the representations under oath, under penalties of perjury, by the taxpayers.

So I am sure in this case there were representations made that then our lawyers relied on in giving the Private Letter Rulings. That is the way it is done.

Mr. KUCINICH. Is this a form of lobbying?

Mr. KORB. No, no, no. This is, no.

Mr. KUCINICH. I mean there is no lobbying of the IRS going on?

Mr. KORB. No.

Mr. KUCINICH. No one lobbied you?

Mr. KORB. No. This is the way the process works.

Mr. KUCINICH. Since the parties felt that they needed a Private Letter Ruling, they obviously felt they were doing something that was, in some sense, unprecedented, isn't that right?

Mr. KORB. No, that is not true at all. A lot of people come in on very routine transactions. It is just when you do a major transaction, you want to make sure that you have crossed all the Ts and dotted all the Is. So it is very, very common for even in the most mundane to fix a problem for us. Because of our limited budget resources, we often times try to figure out ways where people want to come in.

Also, keep in mind, the issuer submits a ruling request for the bonds. It is not private party. So, in other words, it would have been the issuer of the bonds that actually came in for the ruling.

Mr. KUCINICH. But they were trying to enable a private revenue source to pay debt service on governmental bond in excess of the legal limits, isn't that right?

Mr. KORB. That is exactly why we moved to close, to change the regulation.

Mr. KUCINICH. So, in your mind, weren't they asking for special treatment from you and you gave them that special treatment?

Mr. KORB. No, no, that is not true at all.

I took an oath of office when I came here, and everyone who works for me did the same thing, but we swear to follow the laws, OK, and the laws are the statutes that you guys pass, the regulations. The fact is when you come into office, you are bound by the regulations of your predecessors, and we were just fortunate, to be honest with you, that this came up so we could correct the regs.

Mr. KUCINICH. Could you tell us what is the connection between the Private Letter Rulings the IRS did for the Yankees and the city of New York in July 2006, and this proposed rulemaking that you spoke of published in October?

Mr. KORB. Oh yes, yes, yes. The timing is they came in, the issuer. Remember, I can't talk about specific taxpayers, but the issuer came in and sought a Private Letter Ruling on the bonds. We, our lawyers dealt with that, felt compelled by the regulations that had been enacted in 1997 to give the ruling.

We immediately decided that we had to take a look at that and try to fix it, and so we did. We put out proposed regulations that deal with the problem that you are talking about here.

Mr. KUCINICH. Mr. Korb, it was the testimony of Mr. Dennis Zimmerman that IRS Private Letter Rulings for the Yankees and the Mets and its proposed rulemaking pertaining to PILOTs violate the intent of the 1986 Tax Reform Act. Now, Mr. Zimmerman has some authority in this area. He is the author of numerous studies and articles, even a book on tax-exempt financing including a legislative history.

What I want to know for the record is that is your testimony today that your Private Letter Rulings for the Yankees and the Mets and the subsequent proposed rulemaking are consistent with the prohibition on tax-exempt financing for sports stadiums?

Mr. KORB. We felt at the time we issued this ruling, based on the regulations that were left behind by the last administration, that we had to issue this ruling. We moved expeditiously to change that result.

Mr. TIERNEY. Would the gentleman yield?

Mr. KUCINICH. Yes, I will yield.

Mr. TIERNEY. I am not going to be able to stay around much longer, but I would like one clarification if I could, sir.

It seems that the issue that we might have a question about would be the regulation that came out in 1997 or the interpretation of that.

Mr. KORB. You are right.

Mr. TIERNEY. I know from your testimony that came during the Clinton administration because I heard you say it 74 times, and I thought that was interesting because I don't really care if it came under the Eisenhower administration and I suspect that nobody up here does.

So that is where I think we want to focus. That regulatory issue right there, you felt or your people felt it required them to come to the conclusion that was reached.

Mr. KORB. We felt compelled. We felt our hands were tied.

Mr. TIERNEY. Can I just ask in your legal interpretation, was there any prospect that there was room for interpretation of that regulation?

Mr. KORB. We wouldn't be sitting here today. We felt constrained.

Mr. TIERNEY. OK.

Mr. KUCINICH. Reclaiming my time, Mr. Korb, the committee has received a memo this morning from the Congressional Research Service on the public purpose of sports stadiums for purpose of the private activity bond security test. I would like to direct committee staff to distribute the memo to the members of this committee and give a copy of the memo to Mr. Korb and his staff.

As they are distributing it, I would like to read from this memo, Mr. Korb, starting on page 3: "To satisfy part (ii), the requirement that PILOTs are designated for public purpose, the PLRs"—which you issued for the Yankees and the Mets—"rely on the stated purpose that the payments are for 'economic development and recreational opportunities in the City' that would be generated by using these PILOTs to retire the bonds used to build professional sports stadiums."

"Aside from the extensive academic literature maintaining that stadiums do not generate economic development, commentors might challenge the implicit expansion of 'public purpose' to include not only the facility itself but any activity indirectly associated with the facility. An argument might be made that the conclusions in the PLRs are at odds with the intent of Congress to rein in the expanding use of tax-exempt bonds for private activities."

"Enacted tax-exempt bond legislation culminating in the 1986 Act, have sought to curb the use of federally subsidized public debt for what would otherwise be considered private activity."

Now, let me remind you, Mr. Korb, that building sports stadiums was specifically removed from the list of eligible activities.

A little bit further on page 3, CRS makes the additional point that taxpayer bond financing for sports stadiums and private parking garages to serve those sports stadiums represent what economists call an opportunity cost meaning that the money could have been used for alternative purposes that are of greater public benefit.

What this says is "The inefficient allocation of capital contention arises from the economic finding that additional investment in tax-favored private activities"—I might add, such as building a sports stadium and parking garages—"will necessarily come from investment in other public projects. For example, if bonds issued for mass commuting facilities did not receive special tax treatment, the bond funds could be used for other government projects such as schools or other public infrastructure."

Mr. Korb, I think that this memo raises questions as to whether the IRS complied with the intent of the 1986 Tax Reform Act in awarding tax-exempt bonds for sports stadium construction and whether the IRS has, through this decision, frustrated other public purposes from being achieved, namely school construction and other public infrastructure.

Mr. KORB. Is that a question?

Mr. KUCINICH. Yes. Do you have any comment?

Mr. KORB. Oh, the comment would be that I don't see the regulations cited in here in what you just read.

There was a very interesting question, I think Congressman Tierney asked that I thought was very perceptive. Is this an interpretation of the law or is it the law itself? That goes to what the chairman, you, just talked about. There could be varying interpretations.

Our lawyers who are well meaning, public spirited people, who serve us at a great personal sacrifice in terms of compensation, reached that conclusion, OK.

Mr. KUCINICH. My time is expired. I am going to go to the gentlemen.

Mr. Issa.

Mr. ISSA. I am going to pick right up on the same subject. I think it is a good one.

Private Letters are simply insurance policies that your interpretation and their interpretation is the same thing? Is that roughly right?

Mr. KORB. Yes, because it avoids a controversy later on down the road.

Mr. ISSA. Right. It is only different in that it is a legal opinion from a Government agency rather than your accountants or lawyers telling you this is OK but then saying we can't guarantee the IRS. This brings the IRS in.

Mr. KORB. That is right.

Mr. ISSA. When you are dealing with hundreds of millions of dollars of the people's money in the case of New York City, this is prudent on both sides, right?

Mr. KORB. Yes.

Mr. ISSA. Who owns, who will own the new New York Yankee Stadium when it is completed?

Mr. KORB. You know, I don't know if I answered. The city of New York will.

Mr. ISSA. OK, the city of New York is going to sell off their old stadium. They are buying a new stadium. You inherited, from a combination of Reagan and Clinton, a rather bizarre set of laws that says if you pay for the whole thing out of the city's coffers, it is OK. It is only if you want to collect revenue from that entity, that it is a problem because of this 10 percent rule.

The fact is they could build a stadium; collect nothing and just let somebody play in it—one day, a Minor League team; 1 day, a high school team; and the next day, the New York Yankees—and they could pay for everything and it would be OK under Federal law, right?

Mr. KORB. That is exact. That is exactly what they did in 1986.

Mr. ISSA. So, in 1986, and I always think of President Reagan fondly because he lowered taxes but did revenue enhancement. This law was intended to be a revenue enhancement. It tended to tighten up a little bit.

Mr. KORB. The 1986 law took a series of project off the list. You are exactly right.

Mr. ISSA. Revenue enhancement; now, without a new act of Congress, in 1997, the Clinton administration, and this is a partisan body so I will use it more freely than you would. The Clinton administration, which had done the largest tax increase in American history, passed through a ruling which I understand had public hearings. They passed something that loosened this or at least created the opportunity for smart lawyers and accountants to take advantage of this loosening, is that correct, roughly?

Mr. KORB. Well, you are right. It is an interesting story because in 1994 when the regulation was proposed is very similar to now what we are proposing to do. So, in other words, it was originally proposed as a tough rule. For whatever reason, in 1997, they made it a lenient rule, and now we are trying to bring it back where we believe it belongs.

Mr. ISSA. Mistakes get made, and I appreciate the fact that you have acted quickly when you discovered it.

But I want to go back because the chairman's effort here, rightfully so, is we are looking at cities, decaying cities, problems in getting people to cities and the wealth and education and capability of cities.

Let me run through some quick questions for you, and I realize that you are not the economist that we had up here earlier, but the fact is that if that stadium had been built with post-tax rather than pre-tax money, so to speak, it would have cost more to do. The city would have ended up with a higher total cost if they chose to build it anyway.

Mr. KORB. Well, again, I am not a sports economist or a municipal bond expert, but I think I did respond to a question from the chairman that probably would be true.

Mr. ISSA. Right, so the city who is the owner——

Mr. KORB. Right.

Mr. ISSA [continuing]. Ultimately takes advantage of a lower cost of ownership on the replacement for a stadium which was built before anyone on the days was born. Babe Ruth may have built it, but he built it a long time ago.

OK, so this is a loophole somewhat created in 1997, not intentionally perhaps but created that in your rulemaking, you are trying to close it again, but the bottom line is it did save the city of New York money. It serves that purpose.

We can all have an argument about whether baseball or museums or anything else are good, but the law as it was written in 1986 and not changed in 1997 allows cities to do something like the Big Dig. You can spend as much money as you want, and if you are just using general revenue, you can keep spending until you run out of money, and it is all bond tax deductible, right?

Mr. KORB. That is exactly right.

Mr. ISSA. We are trying to understand the flaws in the system, and that seems to be one of the flaws, that if it is a revenue bond, as we used to know them, then it is limited in its tax deduction, but if it is going to just be the Big Dig, so to speak, it is OK.

Mr. KUCINICH. Excuse me, Mr. Issa. I apologize for interrupting you. I have just been notified by the chairman of the committee that they are requesting the use of this room now.

Mr. ISSA. Our rent is not paid in full yet.

Mr. KUCINICH. I don't know. We probably would have benefited from a tax-exempt approach, but I will stay this.

Mr. ISSA. Wouldn't we all?

Mr. KUCINICH. Excuse me, Mr. Korb.

So what I would like to do is to continue at 3 with your questioning and to provide you with an additional minute for this exchange here.

Mr. ISSA. Thank you, Mr. Chairman.

Mr. KUCINICH. This committee is in recess until 3, and thank you very much.

[Recess.]

Mr. KUCINICH. The committee will come to order.

Before we begin, I want to thank all the witnesses who have been very patient with their time. The Congress is in kind of a wind-up session here before break, so it is required that we go to the floor for votes.

Now that we are back here, we have had some intervening matters that I want to call to the attention of the committee, and I am going to ask Mr. Korb if he would be so patient as to indulge us one more time.

At the request of Mr. Turner, we ask unanimous consent that Mr. Murphy be permitted to speak out of order for a period of 5 minutes and 5 minutes only, at which time we would revert immediately back to Mr. Korb. If I have the concurrence of the members of the committee, then at Mr. Turner's request we will proceed.

Mr. Korb, thank you for your patience.

Mr. Murphy, if you would like to come forward? I would ask you to be sworn.

[Witness sworn.]

Mr. KUCINICH. Let the record show that the witness has answered in the affirmative.

I would ask, Mr. Turner, do you want to introduce Mr. Murphy briefly?

Mr. TURNER. Mr. Chairman, I greatly appreciate that.

Mr. KUCINICH. He could go into this 5 minute testimony.

Mr. TURNER. Thank you.

Mr. Murphy has a plane to catch, and that is why I appreciate the chairman's accommodation here.

As the chairman is aware, in Dayton where I was mayor, we built a Minor League Baseball stadium. Mandalay Entertainment, of which Bob is the president for the Dayton Dragons, has been a great experience for us. We know certainly some communities have had difficulty. We have had a good experience, and Bob is going to tell us something about that experience and what we have seen in our community from the transaction that we put together which was a regional package.

So, with that, it is my privilege to introduce Mr. Murphy.

Mr. KUCINICH. Thank you very much, Mr. Turner.

Mr. Murphy, you may proceed, and it would be very important for you to draw that mic a little bit closer so we can hear you.

STATEMENT OF BOB MURPHY, PRESIDENT, DAYTON DRAGONS, DAYTON, OH

Mr. MURPHY. Thank you very much.

Thank you very much for this opportunity to be here today to share with you the story about a partnership that has been and continues to be an amazing success. This partnership exists between a Single A baseball team, the Dayton Dragons, and the city of Dayton. This amazing success story demonstrates that a city with the proper tools and an engaged partner and with the right economic deal can create something that can not only be a benefit to a community. It can be a force that can change the community forever.

Our Congressman, Mike Turner, was mayor at the time and was very involved in this entire project.

In 1998–1999, the city of Dayton was at a crossroads. The city was in decline. There was an overwhelming public perception that downtown was dead and that the hub of the region was no longer a viable city. The prevailing opinion of the entire region was that people would not come downtown and, in fact, had not been downtown for 20 years and that there was nothing that would get them to do so.

People believed crime was everywhere. Streets were impossible to navigate. Parking was an impossible situation. That was the view of downtown. That view got worse when you looked to the future site of Fifth Third Field, the home of the Dayton Dragons—deserted lots, deserted buildings, knocked down factories, graffiti and garbage everyone. It was a classic brownfield situation.

The city made a decision to fight. They believed that Minor League Baseball would make a difference. They also believed that Mandalay Sports Entertainment was the partner that they needed to succeed.

The city of Dayton under the leadership of then Mayor Mike Turner and Mandalay Sports Entertainment reached an agreement that the cost to the city for this project would be capped. There would be no risk for the city on construction costs. Mandalay would contribute $4 million to the project. Mandalay would also capitalized the stadium to a minimum of $1.5 million, having an equity stake of $5.5 million.

Mandalay would assume all construction cost overruns. Mandalay would be responsible for repair and maintenance and utilities for the entire 20 year term of this agreement. In summary, the city would make a known investment with no risk of exceeding the agreed upon level of investment.

What has the city of Dayton accomplished? The Dayton Dragons have created jobs in the city of Dayton. Other companies benefit economically from Dayton baseball including cleaning companies, electrical companies, transportation companies, hotels, printing companies, office suppliers, food suppliers and a whole host of others. Since 2001, the number of market rate housing units almost doubled from 485 units to 929.

Dayton baseball has had the intended impact of being a stimulant for economic development in and around the area. Bars, restaurants, markets and building renovations have all occurred. WorkflowOne, a $1 billion company with 500 employees, located its headquarters adjacent to the baseball stadium due to the excitement of Dayton baseball. The CareSource Management Group is building a $55 million office building near the stadium. The city of Dayton is moving forward on Tech Town, a $25 million project created in the early stages of the baseball project to target technology companies.

Other amenities have been successful due to the changed perception of downtown including the $120 million Schuster Performing Arts Center and the $32 million recreational development along the Miami River known as RiverScape. Each year, more than 500,000 come to downtown to enjoy the Dayton Dragons, also enjoying downtown's offerings of restaurants and entertainment options.

Buildings have been renovated to include apartments, condos and loft living. Additional condos are being planned in and around the stadium. Minor League Baseball attracts fans throughout the region, helping to dispel those negative perceptions of downtown. Now, the Ballpark District, a $230 million major mixed use development is being proposed around Fifth Third Field, capitalizing on the success of baseball.

What have the Dayton Dragons accomplished? They have set the all-time Single A attendance record on three occasions. They have averaged over 580,000 fans each year. They have sold every single seat before the season's first pitch for 8 consecutive years. That has never been done in over 100 years of Minor League Baseball history once. They have a sellout streak totaling 496 games which will grow to 566 games this year, our eighth season.

Dayton has been in the top 10 in attendance in all classes of Minor League Baseball which includes 160 teams. Fifth Third Field has been selected as one of the top 10 ballparks, and the team has received sports industry awards recognizing the franchise as the best in minor league sports.

So did the city achieve its goal? Did the team achieve its goal? The answer to both of these questions is yes.

Baseball has an effect on people too. Non-profit organizations work at the stadium and have raised well over $2 million for youth organizations. The Dragon's Hometown Heroes Program is designed to thank and take care of families of deployed personnel at the Wright Patterson Air Force Base.

Also, the Dragons have introduced a program known as the Dragons MVP Program, a tool for teachers. This program is an incentive and award system for fourth and fifth graders. This program will be in 850 classrooms and will impact 25,000 students in our area.

Just finally, if I may, the city of Dayton and the Dayton Dragons are proud of what has been accomplished and believe that the proper foundation has been built for future growth, economic development and have truly created a city that has the quality of life that will allow the city to compete for people, companies and economically well into the future.

Thank you very much, Mr. Chairman.

Mr. KUCINICH. I thank the gentleman. By agreement, the gentleman is free to go right now, and we are going to move on to Mr. Issa's 6 minutes of questioning of Mr. Korb.

I want to thank the gentleman for traveling here from Dayton and thank Mr. Turner for making sure his testimony was available.

Thank you, Mr. Turner.

Mr. TURNER. Mr. Chairman, I greatly appreciate your allowing him to testify.

Mr. KUCINICH. Absolutely.

We will continue with Mr. Korb's testimony. Again, Mr. Korb, thank you very much for your generous agreement to remain here so that you can answer the questions. Also, we will look forward to joining our next panel momentarily.

Mr. Issa, please proceed.

Mr. ISSA. Thank you.

Mr. KORB. Yes, I do want to extend my appreciation to you for permitting me to testify.

Mr. KUCINICH. Thank you very much, Mr. Korb.

OK, Mr. Issa.

Mr. ISSA. Thank you, Mr. Chairman.

Can we put up the paragraph from the memo we were handed earlier today? Is that as large as it can be?

Mr. Korb, do you have a copy of this memo? Were you given it?

Mr. KORB. Yes, I do.

Mr. ISSA. My understanding, having read it, is that on the first page, the major paragraph which is actually the third paragraph makes it clear, as I see it, that in fact what you did was consistent with the public law and the precedent, and that is really what this says, notwithstanding page 3. Have you had a chance to read that?

Mr. KORB. Yes, I agree with you.

Mr. ISSA. That is good that CRS, current CRS agrees that notwithstanding what might be right or wrong in a given city, that you made the ruling that was the only ruling you could make under the current IRS, non-changed.

Let me go back through just one more thing because I want to understand. You have really done your work to be an expert on the history of this, but I want us to understand it too. In 1971, the revenue ruling made it clear, if I understand, that the PILOTs were considered general revenue.

Mr. KORB. Yes, I alluded to that in my opening statement.

Mr. ISSA. The bottom line is if you do a PILOT right, under current law, you are turning private money through this process into general revenue just like it was anything, and when it is spent, it is spent under the current congressional guidance to you and IRS rulings. You are turning it into general ruling for the city as though the city paid the whole thing directly.

Mr. KORB. That is exactly right.

Mr. ISSA. It may be a loophole, but 1971 makes it a pretty old loophole.

More importantly, not only is this specific and allowed, but it appears as though in 1986 when the House and the Senate each passed competing versions of the legislation that, in fact, governs today, that the House saw much closer to what Mr. Kucinich's first witnesses said, the majority witnesses said. They passed and said you shouldn't be able to have stadiums financed with these revenues, period, while the Senate allowed for the continuation of what you are faced with today. Is that your understanding?

Mr. KORB. Yes. It is interesting; the last time I served, did public service with the IRS was 20 years ago, and I actually worked on the 1986 Tax Reform Act as the Assistant to the Commissioner, and you are exactly right.

Mr. ISSA. Faced with our decision from the House in 1986, our decision appears to be similar today, but it wasn't what prevailed in conference.

When it comes to changing what you can change which you have now noticed, do you believe that you should be successful in at least going back to a pre-1997 standard?

Mr. KORB. Yes, as I said earlier, the proposed reg in 1994 is very similar to what the standard we used in our proposed regulation.

Mr. ISSA. If this body wants to explicitly stop the financing of stadiums, not stadiums and other things like it, museums, etc., but specifically stadiums, will we have to give you new legislation in order for you to explicitly stop that?

Mr. KORB. Oh, absolutely, yes.

Mr. ISSA. OK, well, that is what I wanted to achieve more than anything else is an understanding of your hands are tied as I understand. Beyond what you are trying to do through rulemaking, your hands are tied unless both the House and the Senate this time agree on a change, and that change would have to name stadiums in some way that would make them different than other public service entities that have a public-private performance.

Mr. KORB. Yes, that is right.

Mr. ISSA. I guess we have been unfair with our time in many ways for you. Are there things that we should know beyond that here today, things that you think we haven't made clear in understanding what your limits are and how you have to treat these and equities that maybe we could change that exist in the law?

Mr. KORB. Again, remember, we administer the Tax Law at the Internal Revenue Service. We do not establish the policy. That is up to the Treasury Department to recommend changes and for you all to enact that.

As you just said, the law is very clear that if a city or State wants to use governmental funds, it is perfectly free to do so under the law, and we are obligated in following the law when we act. We found this flaw in the regulation. We moved quickly to correct it. We cannot go any further than that.

Mr. ISSA. OK.

Mr. KORB. At this point forward, that is all we can do.

Mr. ISSA. Good. I know you are not going to be able to give us an exact number, but when we talk about all the stadiums and ballpark expenses as a percentage of the moneys which cities spend, cities, counties, States spend and invest in various public works projects and as a percentage even of what private philanthropy gets a similar tax exclusion for, aren't we talking today at a fraction of a fraction of 1 percent?

Mr. KORB. I would think so. I don't have any personal knowledge. It just makes common sense that is probably true.

Mr. ISSA. That is, as one member, what I would say. Although it is important to look at every issue, I would hope that we look with the same vigor at the 2, 5 and 10 percent of budget areas of cities, States and even private philanthropy as well as we look at this small part that I, as somebody who enjoys a baseball game, Major and Minor—and I have Minor League in my district proper—hope that we continue to find ways to make these things happen.

Mr. Chairman, I appreciate your understanding in bringing this and your indulgence in the extended questions, and I yield back.

Mr. KUCINICH. I thank you very much.

Pursuant to the earlier order, we now return to the 5-minute rule.

Mr. Korb, there seems to be a confusion about the 1986 law. Isn't it true that the 1986 Act, that under that, sports stadiums were removed from the list of eligible activities for tax-exempt private activity bonds that exceeded 10 percent security interest test? Wasn't that the law?

Mr. KORB. What happened, Congressman, as I said earlier, they were removed as private activities.

Mr. KUCINICH. Yes or no? I mean I just need that in order to understand this.

Mr. KORB. You can still finance stadiums from general tax revenue even under the 1986 Act. That is the law.

Mr. KUCINICH. So you are saying that was the law?

Mr. KORB. That is the law as of 1986.

Mr. KUCINICH. Was it the law for private revenue, and PILOTs are private, right?

Mr. KORB. PILOTs are a substitute for taxes.

Mr. KUCINICH. Payment in lieu of taxes.

Mr. KORB. Payments in lieu of taxes are substitutes for taxes. That is the whole idea.

Mr. KUCINICH. But that is the change that you made. That wasn't the way it was before you made the change, right?

Mr. KORB. No, no. PILOTs, as Congressman Issa said, go back to 1971. The IRS, when you and I were both in school still, the IRS indicated that PILOTs are general.

Mr. KUCINICH. Here is what I don't understand then if that is true.

Mr. KORB. This is very confusing. I can understand you are confused.

Mr. KUCINICH. Wait. No, I am not confused about this. What I am wondering is if that is true, why did the Yankees need a Private Letter? If what you say is true and Mr. Issa pointed out back to 1971, help me understand then what circumstances arose that required that the Yankees have a Private Letter?

Mr. KORB. Well, these have to be governmental bonds, so they only can be paid out of generally applicable taxes. So the Yankees wanted the IRS to confirm under the 1997 regulations that these payments are going to be treated as generally applicable taxes.

Mr. KUCINICH. Have you done this before or did you have to make a special ruling that changed the nature of payment in lieu of taxes for this particular case?

Mr. KORB. No. This is the law from the 1997 regulations.

Mr. ISSA. Mr. Chairman, I would ask unanimous consent that the 1971 ruling that makes this the case be entered into the record. I think it may help clarify.

Mr. KUCINICH. So ordered.

Mr. ISSA. Thank you.

Mr. KUCINICH. We will put this in the record.

Mr. Korb, if an applicant seeks a Private Letter Ruling, must the IRS give it or does the IRS have discretion?

Mr. KORB. To give a Private Letter Ruling? Unless it is a no ruling area, we generally give the Private Letter Rulings.

Mr. KUCINICH. In your earlier testimony, you stated that while attorneys you work with at the IRS interpreted the law in the 1997 regulation in one way, other attorneys may have interpreted it differently. Now a central element of the Private Letter Ruling you granted the Yankees was tax-exempt bonds to finance the new Yankee Stadium would fulfill a public purpose.

I want to quote from your Private Letter Ruling. “Here, the payments in lieu of taxes are designated for a public purpose. The PILOTs, or payments in lieu of taxes, are being used to pay the debt service on the bonds which were issued specifically for the purpose of financing the stadium to promote and encourage economic development and recreational opportunities in the city.”

That is from your Private Letter Ruling.

Now, as you have heard, there is a consensus among the economists that stadium construction does not lead to economic growth. So my question to you is did the IRS simply accept at face value the claims of stadium financing applicants that the stadium would achieve economic development or did you try to verify the representations?

Does the IRS consult academic literature? How do you come to that frame of mind that says, OK, we are going to have a Private Letter Ruling here, and this is the way it is going to go?

Mr. KORB. Well, that is a good question. Let me point out the law here because we always need to follow the law here. Under the 1997 regulations, the PILOTs are treated as generally applicable taxes if the payment is, one, commensurate with and not greater than the amounts imposed by tax of general application and, two—I am waiting for him to finish.

Mr. KUCINICH. Go ahead. I am listening.

Mr. KORB. And, two, designated for a public purpose and not a special charge.

And so, as our lawyers look at the law, we have to apply the law as it is set forth in the 1997 regulations. The PILOTs were based on generally applicable tax. It was a real property tax, and the stadium was for a public purpose.

Mr. KUCINICH. How do you determine that the financing would fulfill a public purpose? What did you describe as that public purpose?

Mr. KORB. Well, it is kind of interesting there because the regulations specifically contemplate a stadium being financed with the generally applicable ticket tax. I would have your assistant look at example 11 in the regulations there and ask himself the question, how can we treat a stadium different for purposes of the public purpose standard and the PILOT rules? It is a law that was written by the Clinton Treasury and had an example in there that said that a stadium qualified.

We have to follow the law. We have no choice.

Mr. KUCINICH. And no discretion?

Mr. KORB. On that point, no, we really don’t.

Mr. KUCINICH. Mr. Souder.

Mr. SOUDER. Mr. Chairman, I want to ask a question about the process. Doesn’t Mr. Issa get a regular five now as well?

Mr. KUCINICH. Yes. I am sorry. Of course.

Mr. Issa.

Mr. SOUDER. I appreciate going to me first, but I have a slightly different angle, but if Mr. Issa would like to take his five.

Mr. ISSA. OK, then I will take my first.

Following up, I heard the economist-settled question, but it wasn’t settled in my mind.

Your standard for whether it benefited a region was determined by the people of New York and particularly the area surrounding the baseball park. They felt, the city of New York in granting all the eminent domain and everything else, they felt that this was a qualified redevelopment. They felt that this would benefit the economy of their city.

So when we heard earlier from an economist, we heard that on a macro sense the world was not better off because moneys were spent in New York. It didn't help people in Kabul or Islamabad or, for that matter, perhaps in California. But that was a macro statement. There was no statement that it didn't help the local areas. Just the opposite, I believe I heard that it may help a local economy, but it had no net effect, and that was what was being given to us.

Is that what you heard and is that the basis that you have to go on of an economic benefit? The city thought there was an economic benefit for that region, right?

Mr. KORB. Well, we have an easier time of it because we just look at regulation and our past rulings, and we have to follow the precedent. That is what we have to do, and the law was laid out very clearly.

There was a 1972 ruling that permitted deductions for amounts paid by sponsors of a steeplechase race to promote tourism, and they said that money was expended by a State, and promoting tourism in the State is for exclusively a public purpose.

We just can't make it up as we go along as much as you might want to do that. We really have to follow the law as it is written, and that is one of the reasons, Mr. Chairman, we decided that it made sense here to propose a change in the law so that our successors in this job, the job I have right now, will be able to apply that rule.

Mr. ISSA. Excellent.

Mr. Chairman, I would also like to put into the record an economist's study from the Robert A. Woods professor of economics at Smith College in Massachusetts. It is from May 1, 2004, and it specifically deals with Atlantic Yards, estimating that the total of $2.93 billion over 30 years or a net present value of $1.08 billion would be the advantage for that operation. Although it may not be the one that is going to carry the day, it certainly seems that independent bodies such as a university economist very much believe that there can be a net economic benefit, and I ask that be placed in the record.

Mr. KUCINICH. Without objection, so ordered.

Mr. ISSA. Thank you.

As we wind this thing down, first of all, I want to thank you for being here and for representing so well the obligations of the IRS. As I understand it, you are one of the least stocked with political appointee bodies there is.

Mr. KORB. There is only two of us, the commissioner and me. That is it.

Mr. ISSA. Right, you and the Commissioner.

Unlike other organizations, and we oversight a lot of these in which we hope that administrative appointees get in there and beat up the bureaucracy, you essentially work for an organization that is the most apolitical organization that there is, from what I can see.

Mr. KORB. And the organization is very proud of that.

Mr. ISSA. We are proud, too, to know that what we pay to the IRS stays at the IRS, so to speak, and they do a great job of revenue collection. I think that is my closing question. Essentially, isn't it your job and your organization's job, every person at the IRS, to collect every possible nickel on behalf of the American people that public law allows?

I don't mean to twist and turn, but I mean that given a bias, your bias is toward revenue collection, isn't that true?

Mr. KORB. People don't like to hear this, but one of our important jobs is to protect the fisc. That is exactly right.

Mr. ISSA. In a sense, if we had given you some ability and if that ability would allow you to say, no, please go issue those bonds but we want our cut of it, you would have done that.

Mr. KORB. Exactly.

Mr. ISSA. And you would have done it in 1971, in 1986, in 1997 and in this millennium. So over Republican and Democratic Congresses, Republican and Democratic administrations, your body has been tied by two things: one, the law and, two, the continued will of the Congress not to change that law. Even when we overhauled in 1986, we ultimately did and then undid the guidance because of the very nature of what these stadiums represent to communities and to our cultures, isn't that right?

Mr. KORB. That is correct. That was a bipartisan effort at that time too. People forget that, but the other body was Republican in those days.

Mr. ISSA. Thank you and thank you for your being here today. Thank you, Mr. Chairman.

Mr. KUCINICH. I thank the gentleman.

Mr. Souder.

Mr. SOUDER. Thank you, Mr. Chairman.

I wanted to make a few general comments because I haven't had much opportunity to participate in the hearing for a variety of reasons, not the least being chopped up with votes on the floor and then a committee markup.

I have a couple of frustrations. I know that the chairman is generally very fair person, but I was very concerned that there really hasn't been debate in the panels and had you not so generously allowed the gentleman from Dayton to come up here, we would have never heard debate during this.

I came in more receptive to your position, and as I listened to the earlier panels and then read the testimony, I am less convinced now of the problem than I was when I came in because when you only hear witnesses stacked one direction, and most of the last panel is, you wonder what they are hiding. I felt that there were a number of appalling gaps in the presentations in the first and second panel. For example, what would have happened had a stadium not been in downtown Detroit, Seattle or in New York?

If you take an undervalued property in a brownfield in an urban center and then instead of doing it there, go out to the suburbs at an interstate exit, the displaced property values. In other words, part of the reason there are public incentives on downtown properties is because in these brownfields, for a variety of reasons—environmental, crime, transportation systems—the private sector isn't investing in those.

But if we put the stadiums out and made it a pure profit venture, they would go out and displace because the basic assumption in these financial analyses that we heard beforehand is that there is a lost dollar value to the community.

But if you put a less return property that doesn't generate—if indeed you accept the premise that they don't generate a lot of other revenue around them—in an area that is a high value value-added to the area, for example, at interstate exits and others, you would have to have a whole different financial calculation. In other words, there are huge gaps in just trying to present this as an almost anticapitalist venture because if the capitalists did a pure market, they would have a different pattern. There is a secondary agenda, and that is to revitalize certain areas.

Also, and this disturbs me because, under oath, one of the witnesses said that all of these sports areas had failed to achieve their community goals. That is a very broad sweep, and it was under oath. In particular, what I think is important to ask, and I have to head to the airport like the other members and maybe it will come up in the last panel or hopefully if any of the witnesses want to respond in writing to the hearing record.

Is this true of Minor League Baseball? What about Dayton? That was a very compelling case. Minor League Baseball teams have a different challenge than many of these major urban areas and the question of have some of them worked, some of them not worked.

Can you make a uniform statement and what kind of responses are there to Dayton, to other areas that have had more mid size and smaller size city efforts? This is a debate going on in my hometown of Fort Wayne, IN. It is a debate that goes on in smaller and mid size cities all over the country, and the challenges of many of our really hard hit urban centers are substantially different than the challenges, similar, may rhyme but substantially different than the challenges faced in small town America or mid size city America.

By having a hearing that implies that any public bonding of any type of sports franchise always fails and lets that stand undebated until mid to late afternoon and when most of the press corps has left is just, I believe, not fair. We should have had this debate on the first panel, and I hope in the future the chairman realizes that his own cause can be furthered by letting members, who may start receptive, hear some cross-correlation and debate in the panels.

I yield back.

Mr. KUCINICH. To my good friend, Mr. Souder, our majority staff had worked with the minority staff and offered them the opportunity to choose witnesses. They chose two witnesses for this hearing. One was the gentleman from the Dayton Dragons, Mr. Murphy, who asked to testify earlier, and the other one is Michael Decker who is the senior managing editor of the research and public policy of the Securities Industry and Financial Markets Association.

In addition to that, we made an effort to have Major League Baseball come and testify. They have refused.

The representative of the IRS, Mr. Korb, certainly represents a point of view that is, I would say, vastly different than some of the witnesses that we asked to come forward.

So I think that anyone who was watching this would feel that they have been able to get both sides of the question because there are two sides, and I want to make sure that they are presented here.

I thank the gentleman for expressing his concerns.

We are going to go to just a final round of questions for Mr. Korb, and then we are going to go to the fourth panel. I appreciate continuing appreciation for your presence.

I want to address the issue of the decision to cancel a public hearing and begin by asking you what is the status of the rule change now?

Mr. KORB. That is a good question. I meant to cover that in my opening statement. Where we are right now is we are in the process of reviewing the public comments on the proposed regs, and we anticipate receiving more, and we will be making a decision as to whether to finalized the proposed regulation in the form proposed hopefully before the end of the summer.

I don't have the facts on this particular hearing. We could follow-up for the record. Often times, nobody requests to come in, and so if nobody requests to come in, then we will cancel the hearing. I don't know the facts of this particular one, and we can submit that for you later. I can tell you exactly what happened here.

Mr. KUCINICH. Well, are you aware? You are saying that rule, it still is in the proposal level and that it is has not gone into effect?

Mr. KORB. Oh, right, it is still proposed, absolutely.

Mr. KUCINICH. In your Notice of Proposed Rulemaking, you notice a public hearing on this proposed rule change. It was set to occur on February 13, 2007. Did this public hearing occur?

Mr. KORB. No one asked to attend.

Mr. KUCINICH. That was the reason for the cancelation?

Mr. KORB. Right. We don't, we have to pay for the room, so if nobody is going to attend, we are not going to hold the hearing.

Mr. KUCINICH. Are you aware that you did, in fact, receive a comment from a Mr. Daniel Steinberg of an organization known as Good Jobs New York? In it, he presents an argument based in large part on testimony given by the New York City's Department of Finance that payments in lieu of taxes are not equivalent to generally applicable taxes.

I want to quote from a copy of a letter that was sent, I believe, to your office on April 25, 2005: "New York City's Corporate Counsel, Michael Cardozo argued that PILOTs, payments in lieu of taxes, are not the same as taxes."

This is in inner quotes: "Contractual rights to receive payments in lieu of taxes in the future directed by the mayor pursuant to economic development agreements are not revenues of the city. They are, instead, contract rights that can be transferred or otherwise disposed of by the mayor."

It goes on to say: "And they are therefore not subject to payment into the general fund and subsequent appropriation."

Do you think that Mr. Cardozo, who was representing the city of New York at a public hearing of a committee of the New York

City Council, made a valid point about the distinction between tax revenue and payments in lieu of taxes, if you could answer that question?

Mr. KORB. Sure. At this point in time, since we have a notice and comment process, I don't want to prejudge where we are going to come out in this regulation, and so when I testify at hearings like that, that is the answer I give. We are in the middle of a process. It is best to wait until all the comments are in.

When did you say we received this?

Mr. KUCINICH. The staff could make a copy of this for you.

Mr. KORB. I am just wanting the date.

Mr. KUCINICH. January 16, 2007, and that was the closing day.

Mr. KORB. So it is one of the comments. All right, fine, that will be taken into account, clearly, as part of this process. Our people review all the comments. I think there were just a handful, a couple. This is a thoughtful process. We take our responsibilities very seriously.

Mr. KUCINICH. Are you familiar with those comments when they come in?

Mr. KORB. No, no, no, I do not, no. Remember, we have hundreds of regulations projects going on at any on time.

Mr. KUCINICH. In reading your proposed rulemaking, I am looking for evidence that you made a distinction between tax revenue and payments in lieu of taxes. Have you made that distinction?

Mr. KORB. In the proposed regulation?

Mr. KUCINICH. I am just saying from my reading of the proposed rulemaking, there is no evidence.

Mr. KORB. I have it right here. The thing that we put in the Federal Register on October 19, 2006, that defines the commensurate standard. Is that what you are looking at?

There is a Section 1.141–4, Private Security Payment Test, E5, Payments in Lieu of Taxes. Is that what you are referring to?

Mr. KUCINICH. Right.

Mr. KORB. What is the question?

Mr. KUCINICH. The question is where is the evidence that you considered the distinction between tax revenue and payments in lieu of taxes?

Mr. KORB. Well, when you look at the rule here, remember, what we are trying to define here is the first part of that test. Remember, I talked about that two-part test, the commensurate, we will call it the commensurate with generally only applicable taxes. The way this rule, what we do is we have a series of rules here, and again there is a real misunderstanding of what we did, OK, and maybe you ought to have your guys go back and look at it.

Mr. KUCINICH. Actually, you and I are looking at it right now, sir.

Mr. KORB. OK, but what we have done here is we have tied payments in lieu of taxes in a way so they tie into taxes. What are generally applicable taxes? The 1997 regs were much looser.

So now, if you look at the rules we have set out here, basically, the way you would comply with this is you would value the property.

You should know, Mr. Chairman, Ohio, we have a very unusual situation based on a 1948 case dealing with the Cleveland Municipal Stadium. Even though that was a city-owned property, that was a taxable property on the real estate rolls. I don't know if you knew that or not. McBride, the guy who owned the Browns, lost the case where he claimed that since the city owned it, he didn't have to pay real estate taxes, OK.

So the way this would work—if you think about this, it makes sense—is that you would value the property——

Mr. KUCINICH. You can continue, really. I can walk and chew gum at the same time, and you can continue.

Mr. KORB. All right, that is fine.

You value the property as you would any other commercial property. You have an assessment rate, and you apply the tax rate. So they are trying to equate. That is the way you would want to do this, it seems to me, if you want to figure out what is a generally applicable tax, and that is what these rules do.

Mr. KUCINICH. Well, as the flow of this hearing goes and I saw this letter from Steinberg, I was wondering if there was just a coincidence that he provided comment to the IRS on a proposed rulemaking, and IRS canceled its public hearing.

Mr. KORB. He wasn't the only one who commented. We had other comments as well.

Mr. KUCINICH. So then why wasn't there an effort?

Mr. KORB. He must not have asked for a hearing. If he had asked for a hearing, we would have had a hearing.

Mr. KUCINICH. We have this correspondence that shows that he was making a distinction between the tax revenue and payments in lieu of taxes, and what I am wondering is as he was making that distinction that seemed to run a little bit contrary to the IRS' rulemaking on this. So what I am asking you is after hearing this discussion in this committee today, do you have any interest in a public hearing?

Mr. KORB. We will go back and take a look at it. I mean I don't know why not, but I will go back and look. We would have to go through I don't know what the legal process is.

Mr. KUCINICH. Do you have the discretion to?

Mr. KORB. I don't know. I would assume I would. I am the Chief Counsel, right. So we will figure it out. We will figure it out.

And let me tell you it is not uncommon. I have had experience in the past when I was here before where Members of Congress have actually come and testified at the hearing. So we would welcome that. This is an open process, OK. This is a very open process, and so we welcome comments. We want to know this from all sides. We welcome that.

And I think you would want me. I will be one of the two decisionmakers here basically along with the Assistant Secretary. You would want me to have an open mind at this point until all is said and done, I would hope.

Mr. KUCINICH. I appreciate you describing it as an open process, but I would guess that until we have had this open discussion, there have been elements of this process that have been lacking in transparency. Private Letter Rulings are, by their nature, as you indicated at one point, limited in how much is able to be disclosed when you are talking, and I understand that.

Mr. KORB. There is a reason for that. Remember the tax law, yes.

Mr. KUCINICH. I understand that much. On the other hand, when you get from tax policy that goes from an individual taxpayer following the tax laws of this country to an applicant for a particular privilege where they transit from private to a public interest, it puts it in realm that is somewhat unique.

Therefore, the purpose of this hearing, which is to delve deeply into issues of the circumstances under which tax-exempt financing is offered, has its relevancy in raising the questions, not only about transparency but as Chief Counsel how do you make these distinctions. If that is not very clear coming out of this hearing, then the public may still have some lingering questions as to whether or not some people received some benefits that maybe under the circumstances they shouldn't have received.

Mr. KORB. Can I respond to that?

Mr. KUCINICH. Yes, sir.

Mr. KORB. All right, three things: No. 1, as part of our comment process, when we put out the final reg, we detail comments. We discuss the comments, and we explain why we don't adopt comments or why we would adopt the comments, totally transparent. You can send one of your aides down to our reading room right now and get a copy of every single letter that is filed on comments for our regulations, totally open.

I just want to reiterate again. You make it sound like we somehow closed this guy out. No one requested a hearing, and we do not hold hearings if they don't, people don't request them. If somebody had requested a hearing.

Mr. KUCINICH. If I may, that is an interesting point. I mean you are saying under no circumstances would you ever hold a hearing unless somebody requested it, no matter what the level of public policy was involved.

Mr. KORB. What would be the purpose of the hearing if nobody showed up?

Mr. KUCINICH. It seems to me, going back to my days in city council, that there are certain requirements in the public interest for even a zoning matter, that people receive a notice, on a liquor permit, that people receive a notice so that they have an opportunity to be able to testify. Some of these hearings took place whether people showed up or not.

The question is, as a matter of public policy, do you see any reason to go forth and hold public hearings and demonstrate in good faith, bringing out these issues in a transparent way?

Mr. KORB. I am not an expert in administrative law, but I would be quite concerned if we are not following the administrative procedure act or whatever it is. We will take a look. We will take a look. We could have a hearing.

Mr. KUCINICH. Well, I think this hearing would prove to you there is an interest in payments in lieu of taxes as a matter of policy.

Mr. KORB. Well, it may now with this publicity. Sure, that is possible. But I am saying nobody asked. I am being honest with you. Like you, I am a guy from the Middle West here. I am telling you, nobody requested a hearing, OK. Nobody requested a hearing.

If somebody had requested a hearing, we would have had a hearing.

Mr. KUCINICH. On matters of tax policy like this, the general public may not have access to the policy implications of the kind of rulemaking that you are talking about, and as a result of publicity related to this, it seems to me there may be a higher degree of interest.

Mr. KORB. All right, there might be. Don't get me wrong; we have hearings all the time. All the time, we have hearings. We have hundreds of regulations that we are working on at any one point in time.

I will tell you, though, it is not uncommon either for nobody to request a hearing. It is expensive to come to Washington, all sorts of things. That is why I think the APA uses the public.

You know anybody can write in, and I will tell you from my experience, our people, the people at Treasury take that very seriously. They compile a list of all the comments that come in. They go through and digest them. It is amazing, the effort that goes into this, and that is what you would want, you would expect, you would demand, and that is done.

Mr. KUCINICH. Again, transparency has symmetry if you have a transparent process where you are able to determine the distinction between tax revenues and payments in lieu of taxes on the one hand and whether you are holding public hearings or not. This committee is interested in how the process that you are involved is able to be determined by the public so that in the event that people want to participate.

I am interested in how you arrive at reaching out to the public to let them know what you are doing because we are not just talking about an ordinary tax matter here as you well understand which is one of the reasons why we needed to hear from you at length, and you testified as to the complexity of this.

Mr. KORB. It is very complicated.

Mr. KUCINICH. But at the same time, the complexity of it would seem to put a higher standard upon the IRS to reach out and let the public know about the implications of this. You make a lot of efforts, gratefully, to simplify tax forms. It would seem to be in the public interest for you to make an effort to simplify a discussion of a complex tax matter as a matter of public policy.

I want to thank the gentleman for his presence here, for his being with this committee process for the better part of this day. You have absolutely made a good faith effort to describe the policy, to communicate your position to this committee, and the committee is grateful for that, and I thank you.

Mr. KORB. Thank you. I appreciate it.

Mr. KUCINICH. I am going to call the final panel now.

Will the witnesses rise, please?

[Witnesses sworn.]

Mr. KUCINICH. Let the record show that the witnesses answered in the affirmative.

We are fortunate to have an outstanding group of witnesses on this panel.

We have Mr. Neil deMause, a native New Yorker who has written for the Village Voice sports section, New York Newsday, Sports Jones, and the Guardian Newsweekly. He is a regular contributor to several progressive publications including Z Magazine. His book, Field of Schemes: How the Great Stadium Swindle Turns Public Money into Private Profit, casts a critical eye on the use of public funds to build new sports stadiums.

The next witness, Dr. Heywood Sanders, is a professor in the Department of Public Administration at the University of Texas, San Antonio. Dr. Sanders is among the best known independent critics of publicly financed convention centers. He served as a Senior Program Analyst at the Office of Evaluation, Community Planning and Development of the U.S. Department of Housing and Development. His publications include Convention Myths and Markets: A Critical Review of Convention Center Feasibility Studies and Challenging conventional Wisdom: Hard Facts about the Proposed Boston Convention Center.

Finally, the third witness, Michael Decker is a senior managing director of research and public policy for the Securities Industry and Financial Markets Association which promotes policies and practices designed to expand and perfect markets, foster development of new products and services and create efficiencies for member firms. The Industry and Financial Markets Association seeks to preserve the public's trust and confidence in markets and industry and was created as a result of the 2006 merger of the Bond Market Association and the Security Industries Association.

Gentlemen, thank you for your presence.

Mr. deMause, you may proceed with your testimony.

STATEMENTS OF NEIL DEMAUSE, AUTHOR, BROOKLYN, NY; HEYWOOD SANDERS, PROFESSOR, DEPARTMENT OF PUBLIC ADMINISTRATION, UNIVERSITY OF TEXAS, SAN ANTONIO, TX; AND MICHAEL DECKER, SENIOR MANAGING DIRECTOR, RESEARCH AND PUBLIC POLICY, THE SECURITIES INDUSTRY AND FINANCIAL MARKETS ASSOCIATION, WASHINGTON, DC

STATEMENT OF NEIL DEMAUSE

Mr. DEMAUSE. Good afternoon. I would like to thank Chairman Kucinich and the other members of the committee for holding this important hearing.

My name is Neil deMause. I am co-author of the book, Field of Schemes, as well as a business of baseball writer for Baseball Prospectus and other publications.

In the nearly 12 years I have been researching this topic, sports stadiums and arena deals have cost local, State and Federal Governments more than $10 billion in taxpayer money, and this is on the rise with government spending on sports facilities now costing more than $2 billion every year. Advocates of these subsidies insist they are a good use of public money even as schools, transportation and other public necessities go underfunded.

Let us examine the arguments. First, stadium boosters claim they provide a shot in the arm to local economies. I have yet to find any independent economists who see any significant positive impact from stadiums. It is not just the people testifying here today. Studies with cities with new stadiums have found no sign of increased per capita income. In terms of job creation, they typically cost as much as $250,000 per each new job which is simply a terrible bang for the buck.

While stadiums are often built to take advantage of already rebounding districts like Baltimore's Inner Harbor, there is no sign they can create new development by themselves. As Chairman Kucinich is no doubt aware, a block or two away from Jacobs Field in Cleveland, you see the same shuttered stores as before.

Team owners often claim they will move if their demands are not met, but most often they are just crying wolf to shake loose a few more taxpayer dollars. Both the Chicago White Sox threatened to move to Tampa Bay and the Minnesota Twins to North Carolina. It turned out to have been ideas hatched in Governors' offices to scare locals into coughing up funds for new stadiums at home. White Sox owner, Jerry Reinsdorf, later admitted he would never leave the Nation's third largest media market for one of the smallest, but he explained "A savvy negotiator creates leverage."

Yet, even when there is no viable move threat, we still see cities bidding against themselves. Washington, DC's $611 million gift to the Nationals was even more incredible considering no other city made a viable offer to build a stadium.

Team owners say their current homes are economically obsolete. In other words, they can make more money with a new one so long as they didn't have to pay for it. As places to watch sporting events, though, new facilities are often worse than the old buildings they replaced. Cheap seats are fewer and farther from the action thanks to layers of corporate seats pushing upper decks skywards, and fans can expect to pay more for the privilege. Baseball teams moving into new parks raised ticket prices by an average of 41 percent their first year alone.

The latest edition to the stadium playbook is hidden subsidies such as free rent, tax breaks and infrastructure expenses. New York City Mayor Michael Bloomberg promised new Yankees and Mets stadiums would cost taxpayers nothing. In fact, as you will see in my written testimony, after tax and rent kickbacks, the public share was almost $800 million, more than the teams themselves end up spending.

Harvard researcher, Judith Grant Long, has found that once hidden subsidies are accounted for, the average stadium now costs 40 percent more than publicly reported, and that figure is on the rise.

As someone who writes critically about public spending on sports facilities, I am often asked, do you hate all stadium deals? Now, certainly there is a price deal where it would make sense for cities to contribute a small share for stadiums, but in reality there are very, very few examples of good deals for the public. I think if we grant the argument that Dayton's stadium is a good one, for every Dayton, there are a hundred Aberdeens where we are seeing the State of Maryland being asked to bail out a money-losing stadium.

This points to the sports industry's dirty little secret. New stadiums don't make money. While teams are quick to paint new buildings as cash cows, the new revenues are almost never enough to pay for all the land and construction costs.

This is important. Teams don't want new stadiums because they make money. Teams want new stadiums because of the public subsidies that come with them.

Now, there are several ways that Congress can act to stop wasteful spending on sports facilities. First, close the loophole we have been talking about today that allows sports teams to use Federal tax-exempt bonds. Kansas City Royals fans would no doubt not be pleased to learn that their tax dollars are going to help make the New York Yankees and Mets even richer, and I think no one would be pleased to learn that the New York Yankees and Mets were able to go before the New York City Council and argue that these were stadiums being built entirely with private funds and then go to the IRS and say, no, no, no, all this money is actually tax dollars.

Second, drastically restrict the business retainment deduction for luxury box and club seat purchases. Take away tax subsidies for businesses to buy tickets to sporting events, and you will reduce the demand for new stadiums and leave more tickets for the average fan who can't take a tax deduction on spending a day at the ballpark.

Finally, put the brakes on for all industries holding cities hostage for tax subsidies with legislation such as that proposed by your former colleague, David Minge, which would have taxed all direct and indirect subsidies to corporations as income. A team owner asking for $500 million stadium subsidy might think twice if he was going to face a $150 million IRS bill as a result.

In the rush to build new sports stadiums, we have lost historic ballparks such as Tiger Stadium and soon Yankee Stadium. We have seen public parks destroyed and thriving neighborhoods disrupted. We have hastened the transformation of sports fandom from an experience that brought together people from all walks of life into one that is affordable only to the well heeled, and we have cost local, State and Federal Governments billions of dollars.

In polls and referendums, voters across the political spectrum are consistently opposed to spending sorely needed tax dollars just to make rich sports teams even richer. To our elected officials, I say the ball is now in your court. Thank you.

Mr. KUCINICH. Thank you, sir.

[The prepared statement of Mr. deMause follows:]

TESTIMONY OF NEIL DEMAUSE

Subcommittee on Domestic Policy,

Committee on Oversight and Government Reform

March 29, 2007

Good morning. My name is Neil deMause, and I am co-author of the book *Field of Schemes: How the Great Stadium Swindle Turns Public Money Into Private Profit* (Common Courage Press, 1998; new edition by University of Nebraska Press, 2008), as well as a business of baseball writer for Baseball Prospectus, which publishes both a website and a series of books evaluating the baseball industry. I also run the stadium news website fieldofschemes.com.
I would like to thank Chairman Kucinich and the other members of this committee for holding these important hearings, and for inviting me and the rest of these panels to testify.

I have been researching and writing about sports stadium and arena deals for nearly 12 years now. In that time, local, state, and federal governments have spent more than $10 billion in taxpayer money subsidizing more than 50 new major-league stadiums and countless minor-league facilities. And this trend is only accelerating: Government spending on sports facilities now soaks up more than $2 billion a year, with a single project such as the new Nationals stadium here in D.C. costing taxpayers a once-unthinkable $600 million or more.

Advocates of sports stadium subsidies say that there are valid reasons why they're a good use of public money, even as schools, transportation, and other public necessities go underfunded. Let's run through the proponents' arguments, one at a time:

ECONOMIC BENEFITS

Stadium boosters claim that publicly subsidized facilities are worth spending taxpayer money on because they provide a shot in the arm to local economies. In my time researching this issue, I have yet to find any independent economists—that is, ones not on the payroll of pro sports teams—who believe there is any significant positive impact to local economies from sports stadiums and arenas. One study, by Lake Forest College economist Robert Baade, looked at 30 cities that had built new stadiums and arenas over a 30-year period, and found that in 27 cases, there was no measurable effect on the per-capita income; in the other three cities, the stadium appeared to have hurt the local economy.[1] And in terms of job creation, where good job-development programs can cost about $10,000 for each new job created, sports facilities typically come in at as much as $250,000 in public cost for each new job—a worse ratio than some of the most infamous corporate giveaways in history.

As for revitalizing urban neighborhoods, this is likewise a myth: While stadiums are often built to take advantage of already-rebounding districts like Denver's LoDo or Baltimore's Inner Harbor, there is no evidence that they can create significant new development by themselves—as chairman Kucinich is no doubt aware, walk a block or two away from Jacobs Field in Cleveland and you will find the same shuttered stores that were there before the sports complex. This is especially true for baseball and football stadiums, which can't be used year-round like arenas can—no self-respecting businessperson is going to open a restaurant around the corner from a building that is dark most of the year.

If sports fans spend more money at new stadiums, how is it possible that there is no impact on the local economy? There are several reasons, but two of the most important are *substitution* and *leakage*. The *substitution effect* measures how much spending is simply cannibalized from elsewhere in town, as fans spend their disposable income on stadium hot dogs instead of at the local pizzeria. While it's hard to measure substitution directly, we fortunately have a perfect experiment: work stoppages from strikes and lockouts. During the 1994 baseball strike, economist John Zipp found "retail trade appeared to be almost completely unaffected by the strike,"[2] while the Canadian Broadcasting Corporation reported "a grand slam" for businesses such as comedy clubs and video rentals while the Blue Jays were on hiatus. The obvious conclusion: Without sports, people spend the same money, just on different things.

Leakage, meanwhile, is a measure of the degree to which stadium spending is taken out of the local economy before it can be recirculated. Sports facilities are terrible for leakage, because so much of the revenue goes to team owners and players who live (and spend) out of state: Whereas your local pizzeria owner will likely spend much of his income at local stores, George Steinbrenner and Derek Jeter are unlikely to take their windfall and buy cans of tunafish at Bronx bodegas.

There are undoubtedly some stadium deals that have more economic benefit than others, but the comparison is between slim and none. As University of Chicago economist Allen Sanderson summed up the situation: "If you want to inject money into the local economy, it would be better to drop it from a helicopter than [to] invest in a new ballpark."[3]

MOVE THREATS

Sports team owners almost always threaten that they will move their team out of town if their stadium demands are not met. But while teams do sometimes move, far more often owners are just crying wolf to shake a few more dollars loose from local governments. Most recently, we saw how during talks over a new Pittsburgh Penguins arena, the team's owners would jet off to Kansas City or Las Vegas every time negotiations seemed to be bogging down; in the end, the team got millions of dollars worth of concessions from the state as a result of their veiled threats. And both the Chicago White Sox' threatened move to St. Petersburg, Florida in the 1980s and the Minnesota Twins' threatened move to North Carolina in the 1990s turned out to have been ideas hatched in the Illinois and Minnesota governors' offices, to scare locals into coughing up funds for new stadiums at home. As White Sox owner Jerry

Reinsdorf later explained, he had no intention of abandoning the nation's third-largest media market for one of the smallest, but "a savvy negotiator creates leverage."

This problem is only made worse by cities that build sports facilities "on spec," with no team to play in them. The White Sox were one of seven baseball teams that hinted at moving to St. Petersburg after that city built its domed stadium in the 1980s; all stayed put, usually after using the threat of a move to extract stadium subsidies from their current homes, and it took a threatened antitrust suit by the state of Florida to get Major League Baseball to grant the city of Tampa Bay the Devil Rays as an expansion team. More recently, after Oklahoma City built an arena without any idea of who would play in it, the city ended up giving the New Orleans Hornets an incredible sweetheart lease—with free rent and guaranteed profits—just to play in their new building temporarily for two years during repair operations following Hurricane Katrina.

Remarkably, though, even without a viable move threat, we still see cities bidding against themselves for the right to throw money at their local sports franchise. One argument the New York Yankees made for the city to approve a new stadium was that they would be forced to leave town otherwise—even though the entire value of the franchise is wrapped up in the fact that it plays in the nation's number-one media market. Here in Washington, D.C., meanwhile, the city's offer of $440 million to the Montreal Expos to move here and become the Nationals—an offer ultimately raised to $611 million once the inevitable cost overruns were tallied—was even more incredible considering that no other city had made a viable offer to build a stadium for the team.

OBSOLESCENCE

Team owners continue to say that their current homes are "obsolete" and in need of replacement. When pressed, they will admit that it's not that their current homes are in danger of falling down, but rather because they are "economically obsolete"—in other words, the team could make more money with a new one, so long as they didn't have to pay to build it. We now see buildings as young as 10 or 15 years old declared "obsolete" because they have too few ad boards or the club seats aren't cushy enough. In proposing a new stadium for the New York Yankees the same year that the team was setting attendance records, Mayor Michael Bloomberg explained that the problem with the House That Ruth Built was that it "fail[ed] to reflect the glamour of the club."

New stadiums are certainly glamorous: They feature state-of-the-art scoreboards, massive food courts, and other amenities that are as dazzling as they are lucrative to the teams that run them. As places to watch sporting events, though, they're often worse than the old "obsolete" buildings that they replaced. Contrary to claims of "intimacy," cheap seats are both fewer and farther from the action, thanks to all those corporate seats pushing upper decks skywards—the New York Mets' new stadium may have elements modeled after Ebbets Field, but it will be twice as tall and take up double the acreage of that genuine old-time ballpark. And fans can expect to pay more for the privilege of watching from the rafters: Baseball teams moving into new parks raised ticket prices by an average of 41% in their first year in their new homes, with some teams as much as doubling prices.

These are the standards of the stadium playbook, but new tactics are being added all the time as citizens and their elected representatives grow increasingly leery of handing over tax money to sports franchises. "State-of-the-art" lease clauses require cities to spend more and more to make sure that their stadiums keep up with those down the block; the Cincinnati Bengals' lease specified such necessary items as "smart seats," "stadium self-cleaning machines," and a "holographic replay system." Building "ballpark villages" of housing and retail development alongside stadiums muddies the economic waters, allowing boosters to counter charges that stadiums are bad investments by saying, "it's not just a stadium." Sports teams are also increasingly looking to avail themselves of "tax increment financing," or TIFs, where instead of paying property taxes like other landholders, they get them kicked back to pay their own construction costs.

Perhaps the most widespread trend is for complicated financing plans involving free rent, tax breaks, "infrastructure" expenses, and other hidden subsidies. Two summers ago, New York City Mayor Michael Bloomberg declared that a new Yankees stadium could be built with "the state helping the way, but George footing the bill—it doesn't get any better than that." Added Yankee executive Steve Swindel, George Steinbrenner's son-in-law: "There will be no public subsidies."

In fact, research by myself and by other journalists and city budget watchdogs, most notably Good Jobs New York, found that after all the hidden subsidies, the city would be subsidizing the new Yankees stadium to the tune of about $280 million, with an additional $100 million from the state and $44 million from the federal government; nearly another $400 million would go to subsidize a similar stadium for the Mets. (See Table I.) In each case, the public subsidy was actually *more* than the teams would end up spending on these "privately financed" stadiums. The teams, meanwhile, will reap all the revenues from the new facilities: The Mets, for example, will be able to recoup most of their expense via a $400 million naming-rights deal with CitiGroup—none of which will go to city taxpayers, even though the city will own the building.

This split—the public pays the costs, the teams get all the revenues—is a relatively new phenomenon. When the city of Minneapolis spent $84 million to build the Metrodome in 1982, the Twins and Vikings agreed to pay rent and share ticket, concessions, and ad revenues with the city, enabling taxpayers to recoup their investment. In the new Twins stadium being planned, by contrast, taxpayers will put up almost $400 million—and receive no rent or stadium revenues. Harvard researcher Judith Grant Long, who has laboriously investigated every lease agreement covering the four major sports, has found that once hidden tax breaks and lease kickbacks are accounted for, the average stadium costs 40% more than is publicly reported—and that figure is on the rise.

As someone who writes critically about public spending on sports facilities, I'm often asked, "Do you hate *all* stadium deals? Aren't there any that you think worked out well for the public?"

There are certainly a few that come to mind—the new Giants' ballpark, which currently bears the name of whatever the Bay Area's telephone company is called this week, is one, where the team put up most of the funds for construction, though public tax breaks and land subsidies did cover about 14% of the costs. That is a rare exception, however, one made possible by the fact that the booming tech economy of the 1990s allowed the Giants to defray their private costs by raising large sums of money from the sale of high-priced seat licenses, something not available to most other teams.

This is, in fact, the sports industry's dirty little secret: *New stadiums don't make money.* While teams are quick to paint new buildings as cash cows, in the vast majority of cases, the new revenues from a stadium or arena simply aren't enough to pay for all of the land and construction costs without subsidies. Teams don't want new stadiums because they make money; they want new stadiums because of the public subsidies that come with them.

WHAT CONGRESS CAN DO

The battle over sports subsidies has now touched most every city and town in the nation, as even sports like soccer and minor-league baseball and hockey teams seek their share of the boodle. It's a trend, of course, that is not limited to the sports industry. The $2 billion a year that taxpayers spend on stadiums is just a small slice of the hundreds of billions that go to subsidize other industries, in what Minneapolis Federal Reserve vice-president Arthur Rolnick has called the new "War Between the States." But sports facilities are, on a dollar for dollar basis, among the worst investments that cities and states can make, as well as being high-profile, as debates over a new computer-chip plant seldom make it onto the front page. And since local governments have proven unwilling to unilaterally call an end to the hostilities, Congress is in the best position to end the worst of these giveaways.

Some of the most immediate ways that Congress can act:

First off, close the loophole that allows teams to use federally subsidized tax-exempt bonds for private sports stadiums. In 1986, Congress tried to bar the use of tax-exempt bonds for "private activities," but teams have been finding ways around this restriction ever since. Most recently, the New York Mets and Yankees blew a hole in the limitations by disguising their private stadium expenses as public "payments in lieu of taxes" in order to use tax-exempt bonds. Kansas City Royals fans would no doubt not be pleased to learn that their tax dollars are going to help make the New York Yankees and Mets even richer.

Second, drastically restrict the business-entertainment deduction for luxury box and club seat purchases, which would reduce team owners' incentive to shake down cities for new buildings. Much of the reason why existing stadiums are considered "obsolete" is because they lack enough high-priced corporate seating; take away the tax subsidies for businesses to buy tickets to sporting events, and you'll reduce the demand for new stadiums—and, as a side benefit, leave more tickets available for the average fan who can't take a tax deduction on spending a day at the ballpark.

Finally, Congress has the power, if it so chooses, to put on the brakes for not just sports teams, but all industries, holding cities hostage for tax subsidies. The simplest solution presented so far was the Distorting Subsidies Limitation Act proposed by your former colleague David Minge, which would have taxes all direct and indirect subsidies to corporations, including land and infrastructure, as income. A team owner asking for a $500 million stadium subsidy might think twice if he was going to face a $150 million IRS bill as a result.

The rush to build new sports stadiums has had many casualties: We have lost historic ballparks such as Tiger Stadium and, soon, Yankee Stadium; we have seen public parks destroyed and thriving neighborhoods disrupted; we have hastened the transformation of sports fandom from an experience that brought together people of all walks of life into one that is affordable only to the well-heeled; and we have cost local, state, and federal governments billions of dollars. In both polls and referendums, voters across the political spectrum are consistently opposed to spending sorely needed tax dollars just to make rich sports team owners even richer. All that's needed is for our elected officials to step up to the plate and say "the bucks stop here."

Thank you.

[1] Robert A. Baade, "Stadiums, Professional Sports, and Economic Development: Assessing the Reality." A Heartland Policy Study, April 4, 1994.
[2] John F. Zipp, "The Economic Impact of the Baseball Strike of 1994," Urban Affairs Review, vol. 32 (November 1996).
[3] Michael O'Keeffe and T.J. Quinn, "The house that you built: Owners, pols play games with billions of taxpayer dollars," New York Daily News, October 12, 2002.

Table I. Cost Breakdown of New York City's New Baseball Stadiums

YANKEES STADIUM COSTS (all figures in millions, present value in 2006 dollars at 6% discount rate)

	CITY	STATE	FEDERAL	TEAM	MLB	PRIVATE DEVELOPER
Bond payments				$675.76		
Land/infrastructure	$173.60					
Additional capital funds	$11.16					
Maintenance funds	$6.40	$4.70		-$11.10		
Rent rebates	$13.49			-$13.49		
Garages		$70.00				$250.00
Net garage ground rent	-$43.00					
Forgone future property taxes	$83.80			-$83.80		
Forgone construction sales tax	$10.50	$11.40				
Forgone mortgage recording tax	$11.00	$11.00				
Memorabilia sales	-$10.00					
Tax-exempt bond subsidies	$2.20	$4.10	$44.00			
Revenue-sharing savings				-$136.00	$136.00	
Forgone rent credits	$21.00			-$21.00		
TOTAL	$280.15	$101.20	$44.00	$410.37	$136.00	$250.00
TOTAL PROJECT COST	$1,221.72					
PUBLIC TOTAL	$425.35					
TEAM TOTAL	$410.37					

METS STADIUM COSTS (all figures in millions, present value in 2006 dollars at 6% discount rate)

	CITY	STATE	FEDERAL	TEAM	MLB
Bond payments				$577.15	
Land/infrastructure	$98.40	$72.70			
Maintenance funds	$6.40	$4.70		-$11.10	
Rent rebates	$13.49			-$13.49	
Future maintenance savings	-$31.00				
Forgone parking revenues	$57.40			-$57.40	
Forgone future property taxes	$72.00			-$72.00	
Forgone construction sales tax	$8.70	$9.50			
Tax-exempt bond subsidies	$1.60	$2.90	$32.00		
Revenue-sharing savings				-$92.00	$92.00
Forgone rent credits	$25.00			-$25.00	
TOTAL	$251.99	$89.80	$32.00	$306.16	$92.00
TOTAL PROJECT COST	$771.95				
PUBLIC TOTAL	$373.79				
TEAM TOTAL	$306.16				
PUBLIC TOTAL FOR BOTH STADIUMS	$799.14				
TEAM TOTAL FOR BOTH STADIUMS	$716.53				

Mr. KUCINICH. Dr. Sanders.

STATEMENT OF HEYWOOD SANDERS

Mr. SANDERS. Thank you, Mr. Kucinich. It is a pleasure to join you and your committee colleagues here this afternoon.

If we look at the title of this hearing, it is really quite striking. I get to be the Tail End Charlie in dealing with convention centers and publicly financed hotels. The title poses the question, do these facilities deliver as promised? To that, we can give a fairly clear answer. With only the rarest of exceptions, absolutely no.

Why? Why are convention centers such a modestly productive public investment? In part, because so many cities have chosen to invest in these same facilities in recent decades. From about 32.5 million square feet of exhibit hall space in 1986, the best count we have is now in excess of 66 million. We have more than doubled the stock of exhibit hall space in this country, adding new convention centers and expanded ones in cities across the country. I note, however, Cleveland is an intriguing exception as is Dayton, as I understand it.

With this incredible development of convention centers at public expense has come a situation of over-supply and increased competition with relatively modest growth in the demand for convention facilities. Out of town visitors that cities expect and anticipate, the visitors that are forecast to come to these convention centers, come in far more modest numbers than expected and in recent years in even fewer numbers as the years go on.

The result is a situation where from one end of the country to the other, cities of all sizes are offering a variety of incentives and discounts and giveaways in order to try and lure convention events and their attendees to their communities. I note that St. Louis offers folks their convention center rent-free this year if you feel like going to St. Louis with some of your friends and colleagues.

The promises inherent in these forecast are equally intriguing. I recall the case that you actually alluded to in a study I did in 1997, the proposed Boston convention center. I was quite struck that the consultant for the Commonwealth of Massachusetts forecast that with a new convention center, Boston would add in excess of 750,000 hotel room nights. That is one room in a hotel occupied for one night each year, a total that would grow and remain fairly stable.

I was rather more pessimistic, given my assessment of the market. I concluded that their hotel room night generation would be rather on the order of half that figure. It turned out that for last year, it came to about 340,000, a bit shy of the 770,000 anticipated.

It is also presumed that every convention and trade show attendee will spend in excess of $1,000 in a city and stay 3½ days, and we have a great deal of evidence including the Boston case but a great many others, that simply doesn't occur.

The expectation of a convention center, that at the very least it will bring visitors from out of town and yield a great deal of new private investment, precisely the kind of private investment and development Mr. Murphy was talking about in the Dayton case, we should see that were we to look. Private investors should flock to build hotels adjacent or nearby new and expanded convention centers.

Instead, we see a rather different pattern in recent years. Increasingly, cities are going into the convention center hotel business, using tax-exempt municipal bonds to build hotels that are fully publicly owned. In two cases, St. Louis and my own community of San Antonio, cities have made use of Federal empowerment zone bonds in a similar fashion to build and finance hotel development.

Publicly owned hotels in Austin and Houston, TX, Omaha, Bay City and even one being discussed as a potential for Cleveland present us with an intriguing case. Cities are trading, going into a business where private investors have simply perceived far too great a risk and uncertainty. At the same time, these publicly owned hotels are directly competing with privately owned and privately financed hotels directly across the street in some cases, hotels that do not have the advantage of tax-exempt municipal bond financing and lower interest rates.

The result has often been to seriously impact the local hotel market, reduce rates, reduce returns and intriguingly, in the case of Houston, force a Hyatt Hotel in the downtown area to foreclosure.

So we, in essence, have a situation where having made an investment that has proven remarkably modest in terms of its economic impact and productivity, cities now pour even more money into the hotels that were supposed to be generated privately.

Thank you.

Mr. KUCINICH. Thank you very much, Dr. Sanders.

[The prepared statement of Mr. Sanders follows:]

TESTIMONY ON CONVENTION CENTERS AND LOCAL ECONOMIC DEVELOMENT

HOUSE OF REPRESENTATIVES
DOMESTIC POLICY SUBCOMMITTEE

MARCH 2007

HEYWOOD T. SANDERS
UNIVERSITY OF TEXAS AT SAN ANTONIO

Over the last two decades, American communities have sustained a remarkable level of public investment in new and expanded convention facilities. In 1986, there were 193 convention centers offering at least 25,000 square feet of exhibit space, amounting to a total of 32.5 million square feet. By 1996, that sum had reached 254. For 2006, there were 322 such convention centers, with a total of 66.8 million square feet.

There has thus been a 105 percent increase in available convention center exhibit space since 1986.

Just since 1993, state and local governments have invested a total of $23.2 billion in convention facilities, compared to a total investment of $34.7 billion in amateur and professional sports facilities or $32.2 billion in mass transit.

At the apex of the growth of convention centers are the largest facilities, which have expanded consistently over recent decades. Chicago's McCormick Place offered 1.9 million square feet of exhibit space in 1986, reached 2.2 million in 1996, and is currently completing an expansion that will bring it to 2.7 million square feet in July 2007. The Las Vegas Convention Center has more than doubled in size since 1986 to two million square feet today, with another expansion underway. Orlando's Orange County Convention Center has also expanded to a total of two million square feet.

The convention center development boom has also encompassed an array of smaller urban and suburban communities. Schaumburg, Illinois recently opened its new center, and new convention centers are under development in Erie, Pennsylvania; Raleigh, North Carolina; Jackson, Mississippi; Branson, Missouri, and Santa Fe, New

Mexico. Expansion efforts are currently underway in Philadelphia, New York City, Indianapolis, Phoenix, Las Vegas, Peoria, and Daytona.

This boom in public convention center development has been sustained by two parallel shifts in center financing and politics over recent decades. Where the convention and civic centers of the 1950s and 1960s were commonly paid for with local general obligation debt, cities and local governments have turned increasingly to revenue debt. These revenue bonds are often backed by taxes levied largely on visitors, such as hotel occupancy or use taxes, car rental taxes, or taxes on taxicabs and tour vehicles. Visitor-linked revenue sources provide broad, relatively predictable streams of revenue that are not related to the performance of a local convention center. Particularly for major resort or leisure tourism destinations, a large stock of area hotel rooms provides the basis for a substantial and growing revenue stream, and the capacity to continue to invest in center expansion and related marketing.

The shift to revenue debt also has the advantage in the vast majority of states of avoiding the need for direct voter approval of center debt. Historically, many cities have seen convention center bond proposals defeated at the polls. This outcome has been the case in recent years in San Jose, Portland, Pittsburgh, and Columbus, among other cities.

The shift to revenue debt has been paralleled by a change in the locus of fiscal responsibility. Where cities and occasionally counties commonly built and owned convention and civic centers, that responsibility is now often vested in an independent public authority or a state government. Atlanta's Georgia World Congress Center is owned by a state-created authority, for example, with its development and expansion financed by state bonds. The New Orleans convention center is owned by the

Morial/New Orleans Exhibition Hall Authority, both Boston centers are owned by the Massachusetts Convention Center Authority, and the Washington Convention Center is owned by the Washington Convention Center Authority.

The expanded role of state governments in financing and developing convention facilities has also encouraged further expansion of supply. The legislation authorizing expansion of Louisville's Kentucky International Convention Center also financed the development of an entirely new center in northern Kentucky, and the 1997 Massachusetts legislation committing $700 million for a new Boston convention and exhibition center also provided financial support for a new center in Springfield, expansion of the Centrum in Worcester, and a number of other local economic development efforts.

The expansion of convention center supply, coupled with changes in demand and convention attendance since the late 1990s, has resulted in a highly competitive market. A great many cities have seen significant decreases in their annual convention and tradeshow attendance in recent years, and have come to rely on a variety of financial incentives. St. Louis now advertises for 2007 "Groups that will use more than 800 hotel sleeping rooms on their peak night are guaranteed free rental at the convention complex…." Charlotte advertises that groups will "receive up to $5 per [hotel] room night [used] toward your convention center expenses" for events through 2009, and the Greater Columbus Convention Center offers "enticing rates for bookings for 2008."

The increased competition for convention business has two direct implications for communities that have invested in new or expanded centers. First, discounts and incentives reduce the operating revenues of a center, increasing annual operating losses and the public subsidies required for convention center operation. Second, the volume of annual convention attendees has become increasingly uncertain, as groups and organizers face a growing roster of medium to large size centers seeking to gain new business.

PROMISES AND FORECASTS

In July 1998, Dr. Andrew Brimmer of the District of Columbia's Financial Management Authority called on the Congress to approve the financing for a new Washington Convention Center with a pricetag of some $800 million. Brimmer contended "The District will benefit enormously from a new Convention Center, and we look forward to the many new jobs for City residents that will be produced by this project… This Center promises to be a major boon to economic development in the District…."

Speaking at a June 2001 Brookings Institution conference on core area of the Washington region, city council chair Linda Cropp noted that the new convention center would "continue to boost the city's employment over the next three years… it is our expectation that it will help our economy significantly."

These assessments of the impact of a new convention center were based in large part on the forecasts and reports of consultants. A 1997 study by Coopers and Lybrand told District of Columbia officials and residents that a new convention center would more than double the economic impact of the existing facility, yielding $521.8 million in direct spending by visitors to the District and supporting 9,750 jobs by 2006. Those figures were reported with seeming certitude—there were no "worst case" projections, nor any indication that the long-term convention and tradeshow market would demonstrate anything other than "sustained growth marked by occasional periods of lower growth in response to downswings in the nation's economy."

The new Washington Convention Center opened in 2003. In 1994, as a new structure was being debated, the Census Bureau's annual *County Business Patterns* reported a total of 14,473 hotel jobs in the District. For the most recent year, 2004, the *County Business Patterns* report showed 14,632 hotel jobs.

Forecasts of thousands of new convention attendees boosting local economies with millions of dollars in new spending, yielding thousands of new jobs are the common currency of local convention center development proposals and related consultant market studies.

A December 2006 consultant market study for a proposed convention and events center in Bemidji, Minnesota noted:

> The ability of an event facility (particularly for convention centers or facilities with significant convention space) to generate new spending and associated economic and tax impacts in a community is often one of the primary determinants regarding a decision to investment in the development and operation of such facilities. Beyond generating new visitation and associated spending in local communities, event facilities also benefit a community in other important ways, such as providing a venue for events and activities attended by community members.

The study noted the overall history of convention and tradeshow demand:

> Over the past 25 years, statistics point to stable year-to-year growth within the convention industry. The only periods in which key demand measurements did not experience growth was in the early 1990s during the first Gulf War and related economic recession and for a recent two to three-year period following the events of 9/11 and subsequent economic downturn. The most recent industry data suggests that the nationwide convention, tradeshow and meetings industry is in the midst of a renewed expansion, with demand levels generally recovering to pre-9/11 levels.

It concluded that a new Bemidji center "is estimated to generate between $7.2 million and $13.2 million in total output (total direct, indirect and induced spending) in the area," along with 119 to 220 full and part-time jobs.

In a similar vein, a February 2007 study of a proposed convention center in Midland, Texas noted:

> The ability of a convention center to generate new spending and associated economic and tax impacts in a community is often one of the primary determinants regarding a decision to investment in the development and operation of such facilities. Beyond generating new visitation and associated spending in local communities, convention centers also benefit a community in other important ways, such as providing a venue for events and activities produced and attended by community members.

The Midland study noted the overall history of convention and tradeshow demand:

> Over the past 25 years, statistics point to stable year-to-year growth within the convention industry. The only periods in which key demand measurements did not experience growth was in the early 1990s during the first Gulf War and related economic recession and for a recent two to three-year period following the events of 9/11 and subsequent economic downturn. The most recent industry data suggests that the nationwide convention, tradeshow and meetings industry is in the midst of a renewed expansion, with demand levels generally recovering to pre-9/11 levels.

It concluded that a new Midland center "is estimated to generate approximately $18.6 million in annual total output (total direct, indirect and induced spending) in the area," along with 237 full and part-time jobs."

Forecasts of spending impact and job creation such as these commonly rely on quite simple models to estimate the economic products of a proposed convention center, and are thus more "craft" than "science." They begin with estimates of future convention and tradeshow attendance that most often assume that a center will "ramp up" to a substantial annual event attendance level, and then continue to attract attendees well into the future. Yet the history of convention center development and expansion suggests that new convention center space will continue to be developed across a range of cities, increasing the competitive pressures on any individual facility.

The consultant forecasts then multiply the projected attendance figures by an estimate of average length of stay and daily spending. The most common spending and stay estimates come from the Destination Management Association International, which currently estimates the average convention delegate stay at 3.56 days with average spending of $290 per day. The largest portion of that delegate spending—47 percent—is devoted to lodging. With additional estimated spending from convention exhibitors and organizers, this calculation yields an annual total for "direct spending." The addition of a multiplier generates a larger total for indirect spending, and that figure in turn can be employed to calculate the job creation resulting from anticipated convention spending.

Each individual element of this overall calculation is subject to a great many caveats and questions. If fewer conventions and their attendees actually use a center, the spending and job creation figures could easily be cut to one-half or one-third. The assumed 3.56 average stay is also questionable, based on the available empirical evidence. A stay in excess of three days should result in three hotel "room nights" per attendee, or perhaps slightly fewer in order to account for more than one attendee per hotel room. Yet data from a number of local convention center studies and convention bureau statistics suggests a far more modest relationship between convention attendees and actual hotel demand.

In an early 2002 study of the new Boston Convention and Exhibition Center, PriceWaterhouseCoopers reported that

> The results of these three methods provided consistent results suggesting that 1.7 room nights are generated for every convention/trade show attendee. The ratio of 1.7 is

further supported by information provided by the [Greater Boston Convention and Visitors Bureau] and other CVBs and convention centers such as the Philadelphia Convention Center, San Diego Convention Center, Baltimore Convention Center, Georgia World Congress Center in Atlanta, and others. These destinations realize from 1.2 to 2.3 room nights per convention/trade show delegate with an average of 1.7. Based on this ratio, total room nights generated by BCEC conventions and trade shows are estimated to range from 612,000 to 697,000 annually.

Actual data on the performance of the Boston Convention and Exhibition Center indicates an even more modest relationship between convention attendance and hotel room night activity. For 2006, the new Boston center hosted 370,000 attendees and generated 367,000 room nights—a ratio of 0.99. The center's bookings for 2007 include about 400,000 attendees and some 355,000 room nights. Not only are the recent hotel room night totals well below the more than 600,000 anticipated by PriceWaterhouseCoopers, they represent far fewer than what would be generated by the assumed 3.5 day average stay.

Much of the same pattern of a relatively modest yield of hotel stays relative to convention and tradeshow attendance appears in other cities. For 2006, the San Diego Convention Center reported 511,881 out-of-town attendees accounted for 646,184 room nights, or a ratio of 1.26. The Washington Convention Center generated room night ratios for 2004 through 2006 of 0.83 to 1.44, for an average of 1.15.

The underlying reason for this relatively modest "return" in the form of overnight hotel stays is that many convention and tradeshow events draw area or regional residents, who simply attend for the day. One of the major annual events at the Washington Convention Center is FOSE, the former Federal Office Systems Expo. In March 2006, FOSE drew 14,664 attendees to the center. But fully 95 percent were from the South Atlantic region, including 13,709—93 percent of the total—from Maryland, Virginia, or the District of Columbia. In similar fashion, the January 2007 Macworld event in San Francisco drew 40,791 attendees, with 34,511 from California. It is likely that many of those in-state attendees lived in the Bay area including Silicon Valley, and did not stay overnight in San Francisco.

With a much smaller generation of hotel demand than an assumed 3.5 day convention stay, the spending from convention attendees is consequently far smaller than the assumed $1,036 total. The actual spending impact is further attenuated by the variety of hotel alternatives in a major metropolitan area. Washington Convention Center attendees may choose to stay at a designated "headquarters hotel" or one close to the center. But in search of less expensive accommodations, they may also choose to stay in suburban Maryland or Virginia and make use of a private vehicle or the Metro system. The spending impact and consequent job creation can thus be spread over the entire metropolitan area, rather than the immediate vicinity of the convention center or the center city.

CENTER PERFORMANCE AND ECONOMIC DEVELOPMENT

Chicago has long sought to maintain a major role as a convention destination in large measure through regular expansion and improvements to McCormick Place, the nation's largest convention center. The center's public authority owner, the Metropolitan Fair and Exposition Authority, began planning for a substantial expansion in the early 1980s. The authority's analysis argued that expansion was necessary, in part because of growth in the tradeshow and convention industry's use of space—an annual average of over six percent—and in response to the "aggressive plans for expansion" by other cities "attempting to challenge the preeminence that McCormick Place enjoys among exhibition facilities in the United States." During 1980, McCormick Place hosted 23 of the "Tradeshow 150" –the largest convention and tradeshows each year, with total attendance of 626,750. A subsequent report on the impact of the planned expansion credited McCormick Place with 24 "150" events in 1982, with attendance of 638,974. The total convention and tradeshow business at McCormick attracted 1,000,000 attendees in 1983.

The expansion plan would add an entirely new building with 550,000 square feet of exhibit space. It was projected to bring between 500,000 and 650,000 additional attendees to Chicago with a direct spending impact of $275 million and in turn create 5,000 new jobs.

The new McCormick Place North building opened in 1986, but its impact in terms of new major conventions and tradeshows was relatively limited. From some 24 major events in 1982, the total of the now "Tradeshow 200" events was just 21 in 1994 and 24 in 1995. In 1991, the renamed Metropolitan Pier and Exposition Authority moved ahead with a $987 million expansion and renovation effort intended to "preserve and enhance McCormick Place's preeminence."

The new McCormick Place South expansion added 840,000 square feet of exhibit hall space to the complex, financed with new taxes on hotel rooms, restaurant meals, car rentals, and airport departures. Even as it was under construction, MPEA officials moved ahead on a $127 million tax exempt bond issue to finance a new 800 room headquarters hotel for McCormick Place, to be managed by Hyatt. The consultant study for the hotel project forecast that the new lodging would boost the annual count of "Tradeshow 200" events from 23 to 26 by 2002 and yield an additional nine new conventions or tradeshows. The publicly-financed Hyatt opened in 1998.

The combination of a major expansion and new hotel proved rather less productive than forecast. The total of "200" events came to 21 in 2000 with attendance of 960,149, followed by 20 events with 639,567 attendees in 2001. For the latest year for which data are available, 2005, the "200" event count was just 15 with 532,144 attendees. The total convention and tradeshow attendance for McCormick Place totaled 876,165 for 2005 and 1.19 million for 2006.

Over some 25 years, McCormick Place has seen public investment on the order of $1.5 billion supporting a series of major expansions and the addition of a hotel, with yet another expansion due for completion in mid-2007. Yet in the face of sustained competition from other communities and larger external forces, its count of major events has fallen, and both major event attendance and total convention attendance now hover at or below the levels of the early 1980s. It could be argued that the focus on McCormick Place and the related public investment served a defensive purpose, preventing even greater loss of convention business to Chicago. But each expansion and development effort was forecast to boost the center's business by 50 percent or more.

Philadelphia presents a similar case of overly optimistic consultant forecasts and lagging convention center performance. The new Pennsylvania Convention Center opened in July 1993, supplanting the Civic Center as the city's prime convention venue. The penultimate market and feasibility analysis for the center was completed in May 1988. That analysis stressed the capacity of the planned center to bring new convention and tradeshow events and attendees to Philadelphia. It projected that the center would be an economic boon to the city, generating a total of 4,252 new jobs and yielding 664,800 hotel room nights to the city by 2001.

The new jobs are difficult to find, but the Pennsylvania Convention Center Authority has reported on the hotel room nights associated with center events. They hit a peak of 519,793 in fiscal year 2001, boosted by the Republican National Convention. By fiscal 2004 the room night total had fallen to 363,954. For fiscal 2005 it hit 297,180. The center is thus currently generating less than half the forecast hotel demand. At the same time, the 1998 consultant study predicted that the center would incur an annual operating loss of about $2.2 million. The center's actual operating loss for fiscal 2005 came to $14.8 million,

The Commonwealth of Pennsylvania and Philadephia are now undertaking a $700 million expansion of the center that will add 260,000 square feet of exhibit space. Consultant studies project that the expansion will add more than $140 million in spending impact, by filling a total of 650,000 hotel room nights each year. That figure, post-expansion, is less than the 664,000 room nights promised in 1988 and never achieved.

Houston also demonstrates the common pattern of over-promised convention center performance and quite limited results. The 1981 feasibility study for what became the George R. Brown Convention Center forecast that it would attract over 700,000 new convention attendees to the city, yielding at least one million annual hotel room nights. By 2000, a subsequent consultant study concluded that the center had generated 141,950 hotel room nights in 1997 and 156,348 in 1998, totals far below what had been projected prior to the center's opening. In the intervening years, city and convention bureau officials had sought a private developer for a major hotel of 1,000 to 1,200 rooms to serve the center. After those private efforts failed despite a host of city subsidy arrangements, the city undertook development of the hotel directly.

A $626 million Houston bond issue in 2001 provided for both a major expansion of the George R. Brown Convention Center (adding 420,000 square feet of exhibit hall space) and the construction of a 1,200 room hotel to be managed by Hilton. The consultant market study that justified the expansion project forecast that the larger convention facility would generate 597,915 hotel room nights in 2005 and 625,908 in 2006, yielding the city $245 million in added visitor spending each year.

A September 2006 audit by the Houston City Controller examined both the performance of the Greater Houston Convention and Visitors Bureau and the convention center. It found that the expanded convention center generated just 225,706 room nights in fiscal 2004-05. Subtracting room nights from public and sports events like the Houston Marathon that were not really housed at the center gives a 2004-05 total of 206,656. The similarly-adjusted room night total for fiscal 2005-06 came to 200,647. The public investment in both a major center expansion and a new hotel are generating at best some 50,000 annual hotel room nights for the city, far too little to support the city-owned Hilton Americas hotel.

For Chicago, Philadelphia, and Houston and a host of other communities across the country, public convention center investment has proven far less productive in terms of overnight visitor business and economic impact than forecast and anticipated. In the context of overall hotel demand, the business generated by a convention center itself is generally quite modest. In New York City, for example, a 2004 consultant study estimated that the Jacob K. Javits Convention Center generated a total of 668,000 hotel room nights of demand. Total hotel demand (occupied room nights) for the city as a whole in 2003 came to 19.48 million. The Javits Center was thus directly responsible for only 3.4 percent of annual hotel room use in New York.

In the case of Philadelphia, the 297,180 room nights generated by the Pennsylvania Convention Center comprised 11 percent of the overall center city hotel demand for 2005. For the District of Columbia, the 455,000 hotel room nights produced by the new Washington Convention Center made up about 6.6 percent of total hotel demand in 2006. For these cities and a great many others, the convention center's generation of overnight visitors and hotel stays is both far less than forecast and relatively limited in comparison with the overall demand for hotel rooms from business, leisure, and other group meeting activity.

The relatively modest yield of visitor activity by these centers can also be seen in terms of the changes in local hotel employment. As noted earlier, the construction of the new Washington Convention Center appears to have done little to boost the city's hotel employment by 2004. The employment impact of Philadelphia's new convention center was also quite modest in the wake of its mid-1993 completion. From city hotel employment of 4,886 in March 1993, total hotel employment reached 7,023 in 1999 and 7,165 in 2004. Much of that growth of 2,279 jobs was the product of Mayor Ed Rendell's effort to develop "2,000 new hotel rooms by the year 2000" to serve the Republican National Convention. Almost all of that growth was supported by additional public subsidies.

If convention centers succeeded in generating the visitor volumes often described and the corollary spending impacts, they should have spurred substantial new development of adjacent hotels. For most cities, that has simply not happened. New York's Jacob Javits Center has yielded effectively no new nearby hotel development since its 1986 opening. An array of other cities struggled for years to induce new private hotel development adjacent to their new or expanded convention center, only to find private investors unwilling to finance such development. In the wake of failed private development efforts in places like Sacramento, Chicago, St. Louis, Houston, Omaha, San Antonio, and Baltimore, local officials have increasingly come to rely on public financing for new hotels.

PUBLICLY-FINANCED HOTEL DEVELOPMENT

Cities have historically sought to enhance tourism and visitor-related economic impact through indirect investment in convention and conference centers, sports facilities, arts and cultural centers, and historic sites. With federal aid under the Urban Development Action Grant program in the late 1970s and 1980s, a number of cities provided public subsidies for private hotel development, by subsidizing land costs, providing mortgage write-downs, or developing supporting infrastructure. UDAG funding supported hotel construction in a broad array of communities, including Boston, New York City, San Antonio, Baltimore, St. Louis, Buffalo, Minneapolis, St. Paul, Flint, and Long Beach.

While some of these hotels performed at reasonable levels, others failed to meet anticipated levels of occupancy and average rate, and went through a process of foreclosure, sale, and re-branding, often emerging in rather different form. Hotel market analysts generally concluded that the availability of public subsidies helped sustain a level of hotel development that resulted in an overbuilt market by the end of the 1980s. As a result, investors and developers often proved quite reluctant to support the development of expensive, full service hotels on costly downtown sites.

Industry consultants consistently recommended that the only way that a city could achieve optimal performance at a convention center was with a large, adjacent headquarters hotel. Faced with an inability to gain a major hotel through a traditional subsidy or public-private partnership approach, some communities used tax-exempt municipal bonds to build a hotel, most often through a non-profit corporate ownership arrangement. These hotels bear the name of a major national brand under a long term management agreement, but the equity investment and ownership risk is largely or entirely public.

The current spate of publicly-financed and owned hotels began with the $127 million bond issue for the 800 room Hyatt-branded hotel at Chicago's McCormick Place in 1996. Subsequent tax exempt public bond issues include a 500 room Sheraton-branded hotel in Sacramento, a $98 million federal empowerment zone bond issue for the 1,081 room St. Louis Renaissance Grand hotel, the 1,200 room Houston Hilton Americas, the 800 room Austin Hilton a 402 room Sheraton hotel in Myrtle Beach, the 450 room Omaha Hilton, and an 1,100 room Hyatt in Denver. Projects currently under construction include a 1,000 room Sheraton-branded hotel in Phoenix, a 1,000 room

Hyatt in San Antonio (funded with empowerment zone bonds), and a 750 room Hilton hotel in Baltimore.

Smaller communities have also made use of tax exempt bond for hotel development, including Bay City, Michigan; Trenton, New Jersey; Erie, Pennsylvania; Schaumburg, Illinois; Overland Park, Kansas; Lombard, Illinois; and Vancouver, Washington.

These cases of public hotel development and ownership present an intriguing case of public projects, making use of the low interest rates available with tax exempt bonds directly competing against privately-owned and operated competitors, often directly across the street. While consultant market and feasibility studies for these hotel projects indicate little public risk, with hotel operation forecast to generate sufficient net income to pay for debt service, those forecasts have almost invariably proven incorrect. In the case of the empowerment zone bond-financed St. Louis Renaissance Grand, the hotel has consistently failed to generate sufficient revenues to pay its debt service since opening in early 2003. Although the city of St. Louis has no direct financial exposure to the empowerment zone debt, it does hold additional debt including a HUD Section 108 loan.

Consultants and city tourism officials had forecast that the addition of the Renaissance Grand would boost the local group meeting business from some 414,000 hotel room nights in 1998 to 800,000 by 2005. In actuality, the city only garnered 429,763 room nights in 2005. With no real increase in convention center-related business, the Renaissance Grand has had the effect of limiting occupancy and rates in the overall downtown hotel market. Other publicly-owned hotels, including those in Myrtle Beach, Overland Park, and Omaha have required direct financial support from city revenues, having failed to generate sufficient income for debt service from their own operations.

Mr. KUCINICH. Mr. Decker, thank you. Proceed.

STATEMENT OF MICHAEL DECKER

Mr. DECKER. Thank you, Chairman Kucinich. I appreciate the opportunity to be here today.

The Securities Industry and Financial Markets Association represents securities firms, banks and asset managers active in the global securities markets. Our members include all major dealers in State and local government bonds issued to finance a wide variety of public infrastructure. In short, SIFMA's members serve as the conduits between State and local governments and the capital markets. We take an active interest in Federal policy that affects the ability to States and localities to tap the capital markets to finance new investment.

The Federal tax exemption on the interest earned by investors on most municipal bonds gives State and local governments that borrow in the capital markets a significant break on their interest rates. In fact, the tax exemption is one of the most important sources of Federal aid to States and localities. It saves State and local governments tens of billions of dollars a year. It requires very little Federal bureaucracy to oversee and allows State and local communities to make their own decisions about competing priorities for capital investment.

The tax exemption represents an ideal Federal-State-local financial partnership.

Local communities have a long history of using bonds to finance stadiums and arenas for professional sports teams as well as convention centers and other projects designed to jump start economic development and enhance the quality of life including the 1930 Cleveland voters' approval of $2.5 million of city bonds to build Cleveland Municipal Stadium which became the longtime home of the Indians and Browns.

Before 1986, many bonds sold to finance stadiums were backed directly or indirectly by the professional teams that used the stadiums as we have learned throughout the day today. With the enactment of the Tax Reform Act of 1986, Congress prohibited these kinds of bonds known as private activity bonds from being used for stadiums and arenas, convention centers and hotels. At the same time, Congress left the door open for communities to commit public resources to finance stadiums and the like.

Since 1986, if a local government wants to use tax-exempt bonds to finance a stadium, that community has to pledge some public source of funds such as taxes or other dedicated revenue to back the bonds. The tax code includes a two-part test for determining whether a bond issued by a State or local government is for a public purpose or private activity. Basically, a bond is a private activity bond if the facility being financed is used mainly by a private business and the repayment of principle and interest on the bond is secured by a private business. If a bond meets those tests, it cannot be federally tax-exempt unless it meets an explicit exception which does not include stadiums.

However, if a tax-exempt bond for a stadium or any other project is backed by a public source of funds, that fund is deemed to be a public purpose bond. In that case, there are relatively few tax code restrictions on what the bond may be used for.

In devising a two-part test for private activity, Congress clearly foresaw that local communities may want to commit public resources to finance facilities used principally by businesses like sports teams. The two-part test wisely recognizes that decisions on where and how direct public resources are best made by local communities themselves, not Congress or the Federal Government, and local communities shouldn't lose the ability to use tax-exempt financing for projects that might benefit a private business in addition to the community overall.

I point out a couple of observations regarding the use of tax-exempt bonds for sports stadiums in particular. The tax exemption is important, and it reduces the cost of developing a sports stadium but only by a little bit compared to the overall cost of the project. If you take a $400 million stadium deal, the tax exemption doesn't reduce the $400 million construction cost of the project at all, and it doesn't eliminate the requirement to pay interest on the bonds.

It does reduce the interest rate on the bonds and would save the public developer of the project millions of dollars, but there still would be a considerable demand on public resources regardless of whether the stadium were financed with taxable or tax-exempt bonds.

In addition, if you eliminated the tax exemption on public purpose bonds used to finance stadiums, you wouldn't reduce the pressure that sports team owners sometimes place on public officials to build stadiums using public resources. You would raise the cost to local governments and actually put a great demand on resources that local governments would have to meet in order to finance stadiums and meet team owners' demands.

The debate over whether the economic benefits of stadiums, arenas, convention centers and hotels justifies the use of public resources is a controversial one. There is evidence on both sides of the debate.

SIFMA believes strongly that the decision can only be made efficiently at the State and local level by the citizens and policymakers closest to the issues involved. We also believe that Congress should not disrupt a decades old statute defining which types of governmental projects should quality for tax-exempt financing.

Thank you for the opportunity to be here today. I look forward to your questions.

Mr. KUCINICH. I thank the gentleman. We are pleased that you are here as we are pleased that all the witnesses are here.

[The prepared statement of Mr. Decker follows:]

SIFMA
Securities Industry and
Financial Markets Association

Statement of Michael Decker
Senior Managing Director, Research and Public Policy
The Securities Industry and Financial Markets Association

Subcommittee on Domestic Policy
Committee on Oversight and Government Reform
United States House of Representatives

March 29, 2007

Good morning Chairman Kucinich, Ranking Member Issa and Subcommittee members. Thank you for the opportunity to be here today to discuss issues related to public financing for the construction of stadiums, convention centers and hotels.

The Securities Industry and Financial Markets Association (SIFMA) brings together the shared interests of more than 650 securities firms, banks and asset managers. SIFMA's mission is to promote policies and practices that work to expand and perfect markets, foster the development of new products and services and create efficiencies for member firms, while preserving and enhancing the public's trust and confidence in the markets and the industry. SIFMA works to represent its members' interests locally and globally. We have offices in New York, Washington, and London, and our associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong.

Our membership includes all major U.S. dealers in state and local bonds issued to finance a wide variety of public infrastructure including schools, roads, airports, water and sewer facilities, mass transit systems, and parks and public buildings, among many others. Our members serve as conduits between state and local governments and the capital markets for investments that create jobs, enhance productivity and improve living standards. As such, we take an active interest in federal policies that affect the ability of states and localities to access the capital markets.

Tax-exempt Bonds and Public Investment

One of the most important tools available to state and local governments to finance public investment is the $2.4 trillion tax-exempt bond market. The interest on most municipal bonds is exempt from federal income tax for most taxpayers. As a result, the interest rates paid to investors by state and local governments on their bonds are approximately two percentage points lower than they would be otherwise. These lower interest rates save states and localities tens of billions of dollars a year in interest costs and make it possible to finance more investment. The tax-exemption for municipal bonds has its origins in the very first income tax laws enacted by Congress after the adoption of the 16th Amendment to the Constitution in 1913 and is one of the most important forms of aid the federal government provides to states and localities.

Because the federal government foregoes significant tax revenue as a result of the tax exemption, Congress is and should be concerned about how the tax exemption is used. In fact, the Internal Revenue Code (IRC) includes some very restrictive and sometimes complex provisions governing the use of tax-exempt bonds. These cover areas such as arbitrage bonds and the use of tax-exempt financing by states and localities acting as conduits for private companies.

Tax-Exempt versus Taxable Debt

Tax-exempt financing reduces the interest rates paid by borrowers in relation to what they would pay if they issued comparable taxable bonds. Tax-exempt bonds are priced—interest rates are set—based on investors' expectations for after-tax returns. Because there is no federal income tax on interest income earned by investors on qualified tax-exempt bonds, investors buy the bonds at lower interest rates than they would if interest on the bonds were taxable. However, because there is no tax liability on the interest, after-tax returns earned by investors on tax-exempt bonds is the same as the nominal, pre-tax interest rate paid by borrowers.

If bond issuers—borrowers—had to issue taxable bonds, the interest rates on the bonds would be set based on investors' after tax returns. Assume investors sought an after-tax return of, say, six percent and were in a 25 percent marginal income tax bracket. Issuers would have to pay an interest rate of eight percent on bonds they sold to satisfy investors' demand for a six-percent after-tax return. However, if the same borrower issued tax-exempt bonds, the bonds could be sold with an interest rate of six percent to satisfy investors' demand for a six-percent after-tax return. The issuer would save two percent on their annual borrowing cost. That two percent represents the benefit that accrues to issuers as a result of the federal tax-exemption.

Private Use of Tax-Exempt Bonds

Tax-exempt, private-activity bonds are those that are nominally issued by a state or local government but whose proceeds benefit a private party and where the bonds' repayment is secured by a private party. Generally, the IRC prohibits the use of private-activity tax-exempt bonds unless the project being financed meets certain targeted uses such as water and sewer systems, airports, low-income rental housing or low- and medium-income mortgage finance, among others. Even then, significant restrictions, such as an annual per-state cap on the overall volume of private-activity bonds, apply. There are relatively few IRC restrictions on the use of non-private-activity—governmental or public purpose—tax-exempt bonds.

The IRC defines private-activity bonds as those where more than 10 percent of bond proceeds are used to finance a private business and more than 10 percent of the repayment of principal and interest is derived from or supported by a private business. These are known as the "private-use" and "private payment" tests. Issues must satisfy both tests in order to be considered private-activity bonds. (An alternative test designates bonds from which more than 5 percent of proceeds are lent to a private party as private activity as well.) In other words, a state or local government bond is a private-activity bond only if the facility being financed is used principally by a private business *and* the repayment of the bonds is secured by a private business. If a bond is repaid from a public, governmental source of funds, it is not a private-activity bond, regardless of the private use of the facility.

Before 1986 it was common for states and localities to issue bonds for sports stadiums, convention centers and hotels. Generally, those bonds were structured so that repayment of the debt service was secured by the sports team leasing the stadium, companies that used the convention center, or hotel companies that leased or managed the hotel. Indeed, before the enactment of the Tax Reform Act of 1986 (TRA), sports stadiums, convention centers and hotels were allowed uses of private-activity bonds. In the TRA, however, Congress specifically prohibited private-activity bond financing for stadiums, convention centers and hotels. Under current law, if a bond falls under the definition of private-activity bond, it may not be tax exempt unless it meets one of the specific exemptions laid out in the IRC. Those exemptions do not include stadiums, convention centers or hotels. As a result, tax-exempt bonds for stadiums and similar projects cannot be tax exempt if the debt service is secured or paid by private businesses.

The Debate Over Stadium Financing

There is a long history of public bond financing of local, professional sports facilities. Cleveland Municipal Stadium, built in 1931 and home of the Cleveland Indians for 60 years and the Cleveland Browns for 50, was financed with $2.5 million bonds approved by voters in a referendum and issued by the city of Cleveland. Jacobs Field, the Cleveland Browns Stadium and Quicken Loans Arena were also financed with bonds approved under voter referenda. The Rock and Roll Hall of Fame was also built with tax-exempt bonds, but because the Hall of Fame is a 501(c)(3) nonprofit corporation, it was not required to use city-supported financing. Both Qualcomm Stadium, completed in 1967 and home of the San Diego Chargers, and Petco Park, opened in 2004 as the home of the San Diego Padres, were financed with tax-exempt bonds approved under voter referenda.

Despite the prohibition on *private-activity* bond financing for stadiums, arenas, convention centers and hotels, state and local governments still sometimes issue tax-exempt bonds for these uses. These bonds are structured so that debt repayment is secured not by revenues derived from businesses that use the facilities but by public revenue sources such as taxes, lottery revenue or other sources. As a result, these bonds are not private-activity bonds and their use for financing stadiums or similar projects is not restricted under the IRC. However, because they are supported by public resources, these bonds are often subject to a more rigorous public approval process than private-activity bonds, including in some cases referenda or approval by a legislative body. It is as a result of Congress' 1986 prohibition on private-activity bond financing for professional sports facilities, convention centers and hotels that the only option states and localities have under current law to use tax-exempt financing for stadiums and similar projects is to commit public resources to the bonds' repayment. Also, even in years where the level of financing for sports facilities, convention centers and similar facilities has been relatively high, these facilities comprise a small portion of the overall municipal bond market. For example, total "new money" tax-exempt financing for sports facilities and convention centers in 2006—the highest-volume year for these facilities in the last decade—was less than one percent of total municipal debt issued.

Table. Issuance of "New Money"[1] Tax-exempt Bonds for Stadiums, Sports Complexes and Civic and Convention Centers ($ millions)[2]

	Stadiums and Sports Complexes	Civic and Convention Centers
1997	1,013.4	114.3
1998	829.8	557.7
1999	579.5	35.7
2000	614.6	459.0
2001	1,029.2	557.9
2002	396.8	315.1
2003	364.2	64.9
2004	274.9	91.9
2005	1,006.9	248.8
2006	2,541.6	1,051.6

Since the enactment of the TRA, some federal policy-makers have proposed restricting the use of all tax-exempt bonds, private activity and public purpose, for financing stadiums, arenas, civic and convention centers and hotels.[3] However, these proposed restrictions would supersede a long-standing and well established policy for federal financial support of state and local decision-making regarding new investment and the commitment of public resources.

In the TRA, Congress established a two-part test of private activity specifically to allow states and localities to finance with public sources of funds projects dedicated predominantly to private use. Congress wisely established this definition of private-activity bonds to allow states and localities the flexibility to dedicate public debt capacity to otherwise private projects to meet local demands and still retain the tax-exemption for bond financing. Even though Congress eliminated *private* tax-exempt financing of stadiums in 1986, in establishing a two-part test of private activity, Congress also arguably foresaw projects where state or local governments' desire to dedicate public resources and retain tax-exempt financing, such as with stadiums as they are currently financed.

Some have argued that Congress' intent with the TRA was to eliminate *all* tax-exempt financing for professional sports stadiums, not simply private-activity bonds. Congress, in fact, did not create a legal barrier to municipal stadium financing using public resources. In a private-activity bond transaction, the municipality acts only as the nominal issuer. The bond offering does not pledge any public source of funds as the source of repayment for the bond.

[1] "New Money" municipal bonds are distinct from "refunding" bonds. New money bonds are issued to finance new investment projects. Refunding bonds are issued to refinance outstanding debt for projects already constructed.
[2] These totals may include bonds issued for projects other than professional sports facilities. Sports stadiums and arenas for most colleges and universities, for example, may be financed with tax-exempt bonds not supported by public resources and not used by professional teams. Source: Thomson Financial SDC Platinum
[3] See, for example, Staff of the Joint Committee on Taxation, *Options to Improve Tax Compliance and Reform Tax Expenditures*, January 27, 2005, pages 353-358.

Investors who purchase private-activity bonds understand the security does not legally represent an obligation of the municipality but of the entity generating the revenue pledged as the bond's source or repayment. The choice on the part of a state and local government to use its debt capacity to finance sports stadiums and similar projects was not addressed by Congress in the TRA. Restricting the public use of tax-exempt financing for stadiums and similar projects would effectively usurp the tax-exempt financing authority of state and local governments provided in the IRC. Under current law, state and local governments are free to issue tax-exempt bonds whose repayment is secured by a public source of funds and allow the proceeds to be used to finance the construction of stadiums, convention centers and hotels.

Some have also claimed that stadiums deserve unique treatment under the tax-exempt bond rules because the scarcity of professional sports teams allows team owners to pressure state or local government to provide an economic benefit to the team. However, this is the type of decision that is appropriately made by the governing entities whose bonding capacity is being utilized. Judgments about who benefits most in municipal stadium financing transactions are subjective. Sports teams can generate employment and other economic development whose benefits can multiply throughout a city or region in ways that cannot be easily quantified. Ultimately, it is the role of local—not federal—government to decide whether the benefit of public, not private, stadium financing is worth the associated cost.

Summary

Decades of legislative refinement of federal laws governing tax-exempt bond financing and state and local decision making have resulted in rules whereby the federal government, through the tax exemption, provides financial support for capital investment by states and localities. The decision of whether and how to finance and build projects such as stadiums, arenas, convention centers and hotels is a decision best made at the local level. Local citizens and lawmakers are best positioned to evaluate the potential economic benefits of particular projects and determine whether projects are deserving of local public resources. Congress should not tamper with the federal-state-local partnership embodied in the rules governing public-purpose tax-exempt financing.

Mr. KUCINICH. Mr. deMause, you said something in your testimony. Among the things you said that caught my attention, you said that in New York the city government would have a case presented to it that said that the project involves private money, and then the same project would go to the IRS and it would be said that this is a publicly financed project. Could you go over that again?

Mr. DEMAUSE. Sure. I was present at the New York City Council Finance Committee hearing where the Yankees testified repeatedly that the City Council should approve this project because all construction was being paid for with private money. This is the exact same money that they then called PILOTs and said were generated.

Mr. KUCINICH. Payments in lieu of taxes.

Mr. DEMAUSE. Payments in lieu of taxes and told the IRS in their request for Private Letter Ruling were substituting for generally applicable taxes.

Mr. KUCINICH. And the implications of that? That led to what?

Mr. DEMAUSE. The implications are that they got the Private Letter Ruling and that they were able to get, to sell the bonds, and they are now building the stadiums right now.

Mr. KUCINICH. Explain this for someone who may have just come into this discussion, what this implications of this are. Let us try to take this more into layman's terms.

Mr. DEMAUSE. Sure, sure, absolutely. What happened here was that the Yankees and the Mets decided that it was not politically feasible to ask for public money for the stadium construction. They asked for a lot of public money for land and infrastructure. They asked for tax breaks. They asked for other things.

But they were building these stadiums that were in one case about $600 million and in the other case about $1 billion, and they decided that it was not politically feasible to go to the City Council and say, we want public money. So they said we are building it all with private money.

However, they did not want to have to use taxable bonds because those are expensive. So they said, we have this tax deal worked out. We think it is going to fly with the IRS where we can use tax-exempt bonds, lower our costs by passing off some of the costs to Federal taxpayers by calling these private payments. We are not going to call them rent because if we call them rent, we are going to trip the private activity trigger and we are not going to be able to use tax-exempt bonds. We are going to call them PILOTs, and therefore the IRS will say OK.

Mr. KUCINICH. Have you quantified what that means in terms of how much Federal tax dollars end up going to subsidize this project?

Mr. DEMAUSE. The numbers—I believe these are city numbers which I think are a little bit low, but this is the best numbers that we have—are that the Yankees stadium is subsidized by $44 million by the Federal Government in foregone taxes that otherwise they would get from bond holders, and the Mets stadium, about $32 million.

Mr. KUCINICH. It is presented as privately financed, but the taxpayer subsidy ends up being somewhat hidden because of these private letters.

Mr. DEMAUSE. That is just the Federal tax subsidy, mind you. That is the amount that their costs are reduced by using this Private Letter Ruling. There are, again, other tax breaks and other subsidies that raise the public, the State and city costs.

Mr. KUCINICH. Mr. deMause and Dr. Sanders, would you comment on the concept of public purpose? What does that mean to you?

It is obviously a euphemism. How does it work out?

Mr. DEMAUSE. Yes, to me, a public purpose is something that has a broad public benefit. You know the primary beneficiary of the new Yankee Stadium—let us just take that as an example—are the New York Yankees. They are going to be reaping all the revenue from it, and the public will get to go to games there, but they will be paying at the box office for that.

There was a lot of discussion on the previous panels about comparing stadiums and, for example, you know, orchestras or museums, and my feeling is that if the Yankees were owned by a nonprofit corporation and tickets were free on Wednesdays to the public, there would be a much stronger case for a public purpose here.

But these are fundamentally private buildings. The lease with the Yankees and the Mets says they get all the revenues from the buildings. The city will not have access to them to use them for other purposes. So they will be owned by the public in name, but the public will have no use of it other than being able to buy a ticket and go in.

Mr. KUCINICH. Dr. Sanders.

Mr. SANDERS. Yankee Stadium is very clearly what it says it is. It is a baseball stadium that serves the purposes and whose financial rewards return to the New York Yankees Baseball Club. That is a private entity. It is a mechanism for allowing that private entity to make rather more money.

If the city of New York chooses to build a multipurpose facility and operate that facility as a true multipurpose facility, making it available for a variety of tenants and a variety of activities, then we could see a case where that might be that we would be talking about a multipurpose facility. We are not here. We are talking about a baseball stadium.

The issue raised in the material from the New York Corporation Council goes immediately to the point of whether a payment in lieu of tax is, in fact, a general purpose tax revenue or amounts to a short term arrangement, particularly given the way PILOT payment are defined contractually in New York City.

Mr. KUCINICH. Thank you. Thank you, Dr. Sanders.

Mr. Turner.

Mr. TURNER. Thank you, Mr. Chairman.

Mr. deMause, Dr. Sanders, I want to state what I said in the beginning concerning the chairman's interest in this and his holding this hearing.

I greatly appreciate your issue identification and what you are saying as a framework from which communities should look to in making these decisions. I mean what you are highlighting, which

I think is incredibly important, is that there are many communities that undertake these types of projects that do so with inflated expectations and structures and deals that do not deliver, and they should be very cautious in undertaking them.

When the city of Dayton undertook building the stadium which we have built, they had first considered a deal for building a stadium that I was opposed to and voted against. Ultimately, the deal did unwind that would have been a blank check by the community and would have resulted in a stadium that there would have been speculative performance and the community could have gotten stuck.

The stadium that we did build, it was a different deal as you heard Bob Murphy talk about. He spoke about the cap that we put on the expenses to the city. In other words, the team took the risk, not the community. The community had sources and uses on a regional basis that they agreed to.

The community does have access to the stadium. The city has a certain amount of days in which they have access to the stadium. When John Kerry came campaigning for President of the United States, he campaigned at the stadium, and the community came in and assembled in the stadium.

I tell you the story about the first deal to let you know I am not a fan of these, and when I served as mayor, I was not a fan of the convention center. But there is an aspect which we miss if we look at them solely as a subsidy for the team. There is a much broader impact on the community in having these amenities that it is very difficult to capture. I notice in both of your testimonies and reviews, you don't have.

One of the symbols for Rome when we look at tourist posters is the Coliseum, and there is a reason. It is because it is a view of the spirit and the way that people came together in Rome in a very public way.

Mr. deMause, you say that this is just a substitution effect in economics, that you are cannibalizing from elsewhere in town entertainment dollars. Clearly, we don't have any studies that would show in towns where there are stadiums and sports facilities, that there is any displacement spending, that their movie theaters somehow sell less or the performing arts centers or the others somehow have less.

What was important for my community was we did not have any sports facility. We did not have any place for the community to congregate. There was no cannibalization because people were actually taking those dollars and leaving town. They were going to Columbus. They were going to Cincinnati. They were going to Chicago. They were going to other places that had an entertainment sports option.

So the one thing I would just like to challenge you with is that looking beyond just as you said, Mr. deMause, of there is no broad public benefit. I mean you just blanketly stated that. That really is not true, and it is not the experience of every community.

Your warnings of what communities should be concerned about are important, but to go to the next step without real data that can establish that none of the benefits that communities say they have are there or that the down sides, as you have characterized them, are only present really sells the whole thing short as we look to a Federal policy. Mr. Decker was saying certainly if you look to communities and what their needs are and the ability to make these decisions, that is really where we need to look.

So if you can speak on that, I would really appreciate it.

Mr. DEMAUSE. OK, there are several questions there. Again, it is a hearing.

As to whether there are studies on the substitution effect, it is obviously difficult to measure because there is a lot of noise in the data. There have been many attempts to do so, and I am happy to.

Mr. TURNER. Which is hard to just to say that it exists.

Mr. DEMAUSE. I am sorry?

Mr. TURNER. Which is hard then to conclude that it just exists.

Mr. DEMAUSE. We can definitely conclude that the substitution effect exists because there is a finite amount of money.

Mr. TURNER. You can conclude it is something to be concerned about, but you cannot conclude its impact.

Mr. DEMAUSE. I am sorry?

Mr. TURNER. You cannot conclude that it has an impact.

Mr. DEMAUSE. You can measure its impact, yes.

Mr. TURNER. I thought you just said that it was not measurable.

Mr. DEMAUSE. No, I did not say it was not measurable.

Mr. TURNER. Well, what did you say?

Mr. DEMAUSE. I said it was difficult to measure, but there have been attempts to measure it.

Mr. TURNER. Attempts does not mean that it has been.

Mr. DEMAUSE. There have been attempts. I am not going to tell you how to decide how successful they have been, but I will give you an example if you will allow me.

Mr. TURNER. Please.

Mr. DEMAUSE. OK, in Toronto in 1994, when there was a baseball strike, all of a sudden people were not spending money on baseball games. There was an absolute rush in other industries such as video rentals, comedy clubs. Everyone else reported enormous increases in their business.

Mr. TURNER. Wait a minute. That is when something is closed. You can't show by that, that it would have been sustained or that it had been taking moneys from those venues previously.

Mr. DEMAUSE. The assumption is that if people, when given a choice to spend money on baseball are spending it on baseball and when they are not given a choice to spend money on baseball, they are spending it on something else. The assumption is, and it seems a valid assumption to me.

Mr. TURNER. When it reopened, did it go down?

Mr. DEMAUSE. May I finish?

Mr. TURNER. Did it go down when it reopened?

Mr. DEMAUSE. May I finish?

Mr. TURNER. Please.

Mr. DEMAUSE. The assumption is yes, it did go down when it reopened to my knowledge.

Mr. KUCINICH. I didn't hear that. The assumption is what?

Mr. DEMAUSE. I am sorry. The assumption is that people are choosing to spend their money in one of two places, and I am happy to send you studies. I don't have them on me, but I have them at home. I am happy to send you studies looking at the substitution effect.

I will absolutely agree with you that it is different in a city like Dayton than it is in a city like Toronto or a city like Washington, DC or New York. If you can cannibalize spending from somewhere else, then that is good for you and it is bad for Columbus. I am not sure that is a public interest from the Federal perspective, but it might be good for Dayton.

However, I would caution you and other cities that the impact is dramatically less than is claimed. So the quote by Allen Sanderson, the University of Chicago economist who has looked at this, is that you could do better by taking the money, the same amount of money up in a helicopter and throwing it out the window over your city, and I think that is a point well made. Not that you would be going up in a helicopter, but that what else could you could you be doing with this money and what else could you be doing to improve Dayton and could you get a better bang for your buck?

Mr. TURNER. Mr. Chairman, I know it is just the two of us if you could humor me for just a moment.

The difference, in effect, as you heard in the testimony, is there is a $250 million development that is planned around the baseball stadium in an area where there was nothing in addition to two corporate headquarters that have moved in where there was nothing. Even if you took the amount of money that was spent on the baseball stadium and the amount of public money that was spent on the baseball stadium and offered that as a subsidy to all the businesses and to the development that is there, you would not have attracted this development.

The people are coming to this development not because of the subsidy that could have been offered to them instead of the stadium but because of the people that are coming down, the hundreds of thousands of people who were not there in this area before that are now foot traffic and are there.

Mr. DEMAUSE. If that is true and if you are really leveraging the money to create this other development, I think that is a great deal. But I think that baseball stadiums and football stadiums in particular are terrible catalysts for these purposes because of what Joyce Hogi mentioned in her testimony earlier. They are dark most of the year.

So if you were to take the money and put it into something, even an arena which can at least be used 365 days a year if you have to do something sports, that is generally a better investment, if not something else like, you know, new street lights or better schools or something else that can be used all 365 days a year.

Mr. TURNER. Mr. Chairman, as I was saying before to both of them and to you, I agree with everything that they say as to why we should be concerned and how these deals can be a problem and, to some extent, not deliver.

My concern is in trying to making the points with them, and I appreciate, Mr. deMause, your concession of that. It is not necessarily true of every deal of every community. There really are some, and Dayton could have done a bad deal and it could have resulted in a bad community. There are communities that do it. There are those who do well.

Taking a broad brush and then trying to do Federal policy is the problem because some are good and some are bad.

Thank you, Mr. Chairman.

Mr. KUCINICH. In the interest of providing as much time for both sides, I have provided my friend with an extra 5 minutes because I think that he has a point of view that needs to be heard.

Mr. TURNER. Thank you.

Mr. KUCINICH. I want to thank the gentlemen for being here to answer these questions.

I think that what we have done today is we have opened up a broad discussion of public policy with respect to taxpayer-financed sports stadiums, convention centers and hotels.

I think it would be useful for this committee to have some follow-up work that would quantify city by city, project by project, the amount of money the project involved, how much was taxpayer-financed, how much private financing was in it, what the measurable economic benefit was in the community in terms of jobs created. Perhaps rank it by the local economies, starting with the dates that the projects started and ending the construction phase with a general commercial phase afterwards.

I think it would be helpful if we could start to really look at some numbers down the road. I know perhaps some of you have already done that. We will gather the information and take it to a second step.

Then Mr. Issa, I believe, had raised the issue about the campaigns that are presented to the public which assert that there will be certain benefits if the public will agree to support the plan. So I am interested in acquiring that information as well.

This has been a hearing of the Domestic Policy Subcommittee entitled, "Build It and They Will Come: Do Taxpayer-Financed Sports Stadiums, Convention Centers and Hotels Deliver as Promised for American Cities?"

I want to thank Mr. Turner for his presentation.

Mr. TURNER. Mr. Chairman, with your consent, I would like my opening statement to be included in the record.

Mr. KUCINICH. Without objection, Mr. Turner's opening statement will be included in the record.

I think that we have had a good discussion here, and we will continue.

Gentlemen, thank you and thanks to everyone who has participated in this hearing. The committee is adjourned.

[Whereupon, at 5:10 p.m., the subcommittee was adjourned.]

[The prepared statement of Hon. Bruce L. Braley and additional information submitted for the hearing record follows:]

Opening Statement
Congressman Bruce Braley
Domestic Policy Subcommittee
Oversight and Government Reform Committee

"Build It and They Will Come: Do Taxpayer-financed Sports Stadiums, Convention Centers and Hotels deliver as promised for America's Cities?"

March 29, 2007

2154 Rayburn HOB – 10:30 A.M.

I would like to thank the Domestic Policy Subcommittee Chairman Kucinich and Ranking Member Issa for holding this hearing today to examine whether taxpayer-funded sports stadiums, convention centers, and hotels are benefiting American cities.

As members of the Domestic Policy of the Oversight Committee, it is our job to ensure that the hard-earned money of American taxpayers is being spent responsibly, and in a way that is beneficial to the public. The issue of publicly financing sports stadiums, convention centers, and hotels is incredibly important given the enormous taxpayer cost involved in these ventures.

With the promise that sports stadiums, convention centers, and hotels will benefit communities by bringing jobs and consumers to downtown areas, the construction of these facilities is often underwritten by American cities at the expense of American taxpayers. Most stadiums that house the three major sports in the United States have been built with public funds, and the construction of sports stadiums has cost Americans an estimated total of $10 billion. Similarly, the construction of convention centers is costing taxpayers billions of dollars per year, and is growing. In fact, the expenditure of taxpayer funds on convention centers doubled from $1.2 billion in 1993 to an average of $2.4 billion per year a decade later.

While studies that are sponsored by the developers of these facilities, and which are often conducted by large consulting firms, make positive projections about the impact these facilities will have on American communities, independent academic research has come to the opposite conclusion: that these facilities do not in fact create an increase in economic development or lead to urban revitalization. This is a suspect disparity that deserves closer examination.

Given the independent evidence to the contrary, I am glad we are having this hearing to examine whether these billions of taxpayer dollars are actually paying off as promised for American cities. This is money that could be used to finance schools, libraries, hospitals, and other facilities and services that have proven benefits for the public. This is money that could be used to fund programs and projects that will have *real* economic benefits for American cities and the American public.

I look forward to the testimony of the witnesses, and to further examining this important issue today.

Congressional Research Service

Memorandum March 29, 2007

TO: House Oversight and Government Reform Committee
Attention: Jaron Bourke

FROM: Steven Maguire
Analyst in Public Finance
Government and Finance Division

SUBJECT: Public Purpose of Sports Stadiums for Purposes of the Private Activity Bond Security Test

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This memorandum responds to your request for a discussion of two private letter rulings (PLRs) issued by the Internal Revenue Service in 2006.[1] The PLRs were requested by two professional sports teams regarding the use of payments in lieu of taxes (PILOTs) that would be used to repay bonds issued by a governmental agency. The bond proceeds would be used to construct a stadium for professional sports teams. The PLRs issued by the IRS ruled that the PILOTs

> ...are being used to pay the debt service on the Bonds which were issued specifically for the purpose of financing the stadium to promote and encourage economic development and recreational opportunities in the City.

In our phone conversation, you requested that I compare this ruling to the language in the explanation of the Tax Reform Act of 1986 (P.L. 99-514, the 1986 Act). This memorandum discusses whether the PLRs' conclusions are consistent with the policy expressed in the explanation and does not provide a legal analysis as to whether they are permissible interpretations of the law as written. The 1986 Act was intended, in part, to further restrict the issuance of tax-exempt bonds for private purposes. This assessment suggests that some commentors will maintain that the PLRs are at odds with the what JCT identified as a rationale behind the tax-exempt provisions included in the 1986 Act. Specifically, the JCT stated in the "Reasons for Change" section that:

> Congress was concerned that, under prior law, a significant amount of bond proceeds from governmental issues was being used *to finance private activities* [emphasis added] not specifically authorized to receive tax-exempt financing. Abuses were noted whereby governmental bond issues were structured intentionally to maximize private use without

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[1] All references to PLRs in this memo are to the following two PLRs: P.L.R. 200640001 (July 11, 2006) and P.L.R. 200641002 (July 19, 2006).

violating the 25-percent private use limit of prior law. Other bond issues *were intentionally structured to "fail" the prior-law IDB security interest test* [emphasis added], when the bonds otherwise would be considered IDBs or would not qualify for tax-exemption.[2]

A full discussion requires a brief description of the somewhat complicated rules governing tax-exempt bonds used for private activities. For this case in particular, the critical element of current law appears to be the application of the "two-part" test, which the 1986 Act made more restrictive. Following is a brief description of the "two-part" test and how it was interpreted in the two PLRs at issue.

The two professional sports teams, reportedly the New York Yankees and the New York Metropolitans, asked for the ruling because bonds issued for private activities, such as sports stadiums, are taxable if they "pass" both elements two-part test. Bonds are *private activity bonds* and **not** tax-exempt if both of the following conditions are met:[3]

- [use test] more than 10% of the proceeds of the issue are to be used for any *private business use*,... [and]

- [security test] if the payment on the principal of, or the interest on, more than 10% of the proceeds of such issue is (under the terms of such issue or any underlying arrangement) directly or indirectly secured by any interest in (1) property used or to be used for a private business use, or (2) payments in respect to such property. Or [if the payment is] to be derived from payments (whether or not to the issuer) in respect of property, or borrowed money, used or to be used for a private business use.

Professional sports stadiums would likely pass the use test as the primary use is professional sporting events. The teams conceded that the project passed the first test and were concerned that the PILOTs used to retire the bonds could be held to violate the security test, thus making the bonds taxable. According to the PLRs, however, PILOTs would be acceptable (meaning they would *not* be considered secured by the property) under existing Treasury regulations if they simply substituted for "generally applicable taxes," e.g., property taxes.[4] Specifically, the PLRs state that current Treasury regulations provide that PILOTs could be considered generally applicable taxes if

> (i) they are commensurate with and not greater than the amounts imposed by a statute for a tax of general application and (ii) they *are designated for a public purpose* [emphasis added] and do not constitute a special charge.

To satisfy part (i), the PLRs interpret "commensurate" such that the structure of the PILOTs are acceptable. Some could and will likely argue that the PILOTs are not "commensurate" with existing property taxes on all other City property.

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[2] U.S. Congress, Joint Committee on Taxation, General Explanation of the Tax Reform Act of 1986, 100th Cong., 1st sess. (Washington: GPO, 1987), p. 1152.

[3] 26 U.S.C. 141(b)

[4] 26 C.F.R. 1.141-4(e)(5).

To satisfy part (ii), the requirement that PILOTs are designated for *public purpose,* the PLRs rely on the stated purpose that the payments are for "economic development and recreational opportunities in the City" that would be generated by using the PILOTs to retire the bonds used to build professional sports stadiums. Aside from the extensive academic literature maintaining that stadiums do not generate economic development, commentors might challenge the implicit expansion of "public purpose" to include not only the facility itself, but any activity indirectly associated with the facility.[5] An argument might be made that the conclusions in the PLRs are at odds with the intent of Congress to reign in the expanding use of tax-exempt bonds for private activities. Enacted tax-exempt bond legislation, beginning with the Revenue and Expenditure Control Act of 1968 (P.L. 90-364) and culminating in the 1986 Act, have sought to curb the use of federally subsidized public debt for what would otherwise be considered private activity.

The JCT identified the following specific concerns about tax-exempt bonds issued for private activities:[6]

- the bonds represent "an inefficient allocation of capital";
- the bonds "increase the cost of financing traditional governmental activities";
- the bonds allow "higher-income persons to avoid taxes by means of tax-exempt investments"; and
- the bonds contribute to "mounting [federal] revenue losses."

The inefficient allocation of capital contention arises from the economic finding that additional investment in tax-favored private activities will necessarily come from investment in other public projects. For example, if bonds issued for mass commuting facilities did not receive special tax treatment, the bond funds could be used for other government projects such as schools or other public infrastructure.

The greater volume of tax-exempt private activity bonds then leads to the second Joint Committee on Taxation concern, a higher cost of financing traditional government activities. Investors have limited resources, thus, when the supply of tax-exempt bond investments increases, issuers must raise interest rates to lure them into investing in competing government activities. In economic terms, issuers raising interest rates to attract investors is analogous to a retailer lowering prices to attract customers.

The final two points are less important from an economic efficiency perspective but do cause some to question the efficacy of using tax-exempt bonds to deliver a federal subsidy. Tax-exempt interest is worth more to taxpayers in higher brackets, thus, the tax benefit flows to higher income taxpayers, which leads to a less progressive income tax regime.

The revenue loss generated by tax-exempt bonds also expands the deficit (or shrinks the surplus). A persistent budget deficit ultimately leads to higher interest rates as the

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[5] For one review of the literature surrounding the debate over the economic development spurred by professional sports stadiums, see Roger G. Noll and Andrew Zimbalist, *Sports, Jobs and Taxes: The Economic Impact of Sports Teams and Stadiums* (Washington D.C: Brookings Institutions Press, 1997).

[6] U.S. Congress, Joint Committee on Taxation, General Explanation of the Tax Reform Act of 1986, 100th Cong., 1st sess. (Washington: GPO, 1987), p. 1151.

government competes with private entities for scarce investment dollars. Higher interest rates further increase the cost of all debt financed state and local government projects.

Supporters of tax-exempt bonds for private activities counter that the benefit from tax-exempt bonds exceeds both the explicit (the revenue loss) and implicit (the inefficient allocation of capital) costs of the tax-exemption.

If you have any questions about this memorandum or tax-exempt bonds more generally, please call me on extension 7-7841 or e-mail me at smaguire@crs.loc.gov.

GJNY

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January 16, 2007

CC: PA:LPD:PR (Reg-136806-06)
Internal Revenue Service
PO Box 7604
Ben Franklin Station
Washington, DC 20044

Re: Written Comments of Good Jobs New York on the Proposed Regulations of the Internal Revenue Service regarding the Treatment of Payments in Lieu of Taxes under Section 141 of the Internal Revenue Code.

My name is Dan Steinberg, Research Analyst for Good Jobs New York, a joint project of the Fiscal Policy Institute, with offices in Albany and New York City, and Good Jobs First, based in Washington, DC. Good Jobs New York promotes accountability to taxpayers in the use of economic development subsidies.

Good Jobs New York is concerned that the proposal to set guidelines for the treatment of payments-in-lieu of taxes (PILOTs) as generally applicable taxes is beyond the scope of a regulatory action.

The explicit legislative intent of the 1986 Tax Reform Act was to repeal the use of tax-exempt bonds for sports facilities except when debt is paid off with tax dollars.[1] If the proposed modifications are adopted, it could result in more and more municipalities using tax-exempt financing for sports facilities by servicing bond debt with funds that bear only a superficial resemblance to generally applicable taxes.

Indeed, the current regulations are not clear on the issue of whether PILOTs collected from tax-exempt facilities qualify as generally applicable taxes. The IRS is therefore proposing to eliminate the following sentence from section 1.141-4(e)(5)(ii) of the Internal Revenue Code:

> For example, a payment in lieu of taxes made in consideration for the use of property financed with tax-exempt bonds is treated as a special charge.

The meaning of this sentence is hardly ambiguous since it clearly states that PILOT revenue from a project financed with tax-exempt bonds in consideration for the use of that property is a special charge. The elimination of this sentence serves to make the regulations more rather than less ambiguous.

Furthermore, in specifying how the structure of a PILOT arrangement must resemble generally applicable taxes, the IRS proposal does not address the fundamental issue of how PILOTs are collected, held and expended. For instance, in New York City, where the IRS approved the use of PILOTs to service debt for over $1.4 billion in tax-exempt bonds for two baseball stadiums, PILOT payments are deposited by the New York City Department of Finance into an account maintained by the Bank of New York (BONY). BONY may disburse the PILOT funds only at the request of the New York City Economic Development Corporation as directed by the New York City Office of Management and Budget. In effect, the Mayor has the ability to disburse PILOT funds at his discretion, requiring only an authorizing resolution from the City Council.

Thus, the protocol for collecting and spending PILOT funds is clearly outside of New York City's generally applicable manner of treating real property taxes, and those PILOT funds are not allocated for governmental purposes in the same manner as the property taxes to which they are being compared. In fact, during public hearings before the New York City Council Finance Committee on April 25, 2005, New York City's Corporation Counsel Michael Cardozo argued that PILOTs are not the same as taxes:

> Contractual rights to receive PILOTs in the future, directed by the Mayor pursuant to economic development agreements, are not 'revenues of the city.' They are instead contract rights that can be transferred or otherwise disposed of by the Mayor...and they are therefore not subject to payment into the general fund and subsequent appropriation.

The IRS' proposal to modify its regulations has far-reaching implications. Good Jobs New York is concerned that the proposed regulations, if adopted, would make it relatively easy for municipalities to dress up private payments as generally applicable taxes. This, in turn, could lead to a proliferation of tax-exempt bonds being issued by local governments to finance private purpose sports facilities in violation of the legislative intent of the 1986 Tax Reform Act. Since such a development could adversely affect state governments with income taxes in a material way, we believe that this is a significant regulatory action pursuant to Executive Order 12866 and that a regulatory assessment is therefore required.

We also object to the determination that section 553(b) of the Administrative Procedures Act does not apply to these regulations. Such a determination is inconsistent with the letter and the purpose of the act.

Please do not hesitate to contact me with any questions you may have.

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[1] Tax Reform Act of 1986, Conference Report to Accompany H.R. 3838, Volume II of 2 Volumes, September 18, 1986, U.S. Government Printing Office, Washington, p. II-700.

Estimated Fiscal Impact of the Atlantic Yards Project on the New York City and New York State Treasuries

by

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May 1, 2004

I. Introduction

This report offers an analysis of the likely fiscal impact on the budgets of the City of New York and State of New York from the Forest City Ratner Companies (FCRC) arena, commercial and community development project at Atlantic Yards in Brooklyn. To perform this analysis I use a similar approach to the one that I and other academic economists have used to evaluate the economic and fiscal impact of other sports facility projects.

The general conclusion that has come out of the academic literature on this subject is that a city, county or state should not anticipate a positive economic or fiscal impact from a new sports facility. That is, a new sports facility by itself should not be expected to raise employment or per capita income levels in a community. The primary reasons for this outcome are fourfold.

First, despite their large cultural presence, sports teams are modestly-sized businesses. In 2002-03, for instance, the average NBA team generated approximately $85 million in revenue. This equals less than 0.02 percent of the disposable income of New York City.

Second, most families have a relatively fixed budget for leisure activities. If a family spends $250 going to a basketball game, it is $250 it does not have to spend at local theaters, bowling alleys or restaurants. Thus, a good share of money spent at sporting contests is money that is not spent elsewhere in the local economy – one form of entertainment expenditure substitutes for another.

Third, there are generally larger leakages out of the local economy associated with the professional sports dollar. For instance, NBA players earn about 60 percent of league revenue. The average NBA player earns around $4.5 million in salary. His nominal, federal marginal tax rate is close to 40 percent and he normally has a high savings rate. Less than one-third of NBA players make their permanent residence in the same city in which they play.[1] Federal taxes, of course, go to Washington and leave the local economy. Savings enter the world's money market, and, generally, also leave the local economy. A significant share of a player's income finds its way back to his hometown. Thus, a higher share of the money spent at entertainment venues other than professional sports stadiums and arenas stays in the city.

Fourth, in the vast majority of cases, arena and stadium projects create a budgetary gap. This is because over the last fifteen years approximately 80 percent of the development costs for the average professional sports facility has been publicly funded and the typical lease

[1] John Siegfried and Andrew Zimbalist, "A Note on the Local Impact of Sports Expenditures," *The Journal of Sports Economics*, vol. 3, no. 4 (December 2002).

has shared little facility revenue with local government.[2] When sports facilities create a budgetary gap, this gap must be compensated for by either higher taxes or a reduction of services – either of which puts a drag on the local economy.

As a result of this general analysis, over the years I have advised citizen groups, political representatives and government officials that it made little sense to support a stand-alone arena or stadium project with public funds as an economic investment. Supporters of sports facilities invariably have produced reports from hired guns that claim handsome economic benefits. In my view, these reports are performed with a faulty methodology and make unrealistic assumptions.

The FCRC project at Brooklyn's Atlantic Yards, I believe, distinguishes itself from the standard sports facility project in at least two

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[2] Quantifying the public share in facility construction is complex for a number of reasons, including whether or not the estimate includes land, infrastructure, environmental remediation, maintenance, property and fiscal subsidies, and so on. The most careful, comprehensive and current source of stadium and arena financing is Judith Grant Long, "Full Count: The Real Cost of Public Funding for Major League Sports Facilities and Why Some Cities Pay More to Play," Ph.D. dissertation, Harvard University, Department of Urban Planning, April 2002, especially Chapter Four. The 80 percent share refers to total development costs and to all of the 65 professional stadiums and arenas built since 1990.

important ways. First, New York City and New York State will benefit from a recapture of tax revenues presently generated in New Jersey. According to my estimates, which I discuss in detail below, this recapture from the team and the arena will be worth approximately $12.7 million to the public coffers in 2008 and $730.4 million in aggregate revenues over thirty years. The present value in 2005 of this recapture over thirty years equals $257.5 million.[3]

Second, the FCRC project is not a standalone arena, rather it encompasses a 21-plus acre mixed-income residential and commercial community. Among other things, the project will add at least 4500 net new residential units. Given the housing shortage in New York City, it seems reasonable to assume that close to 4500 new households will reside in the city when the project is fully built out. Along with the new households, taxable income and sales will grow and make a fiscal contribution. When all these units are built, I estimate that they will add additional gross tax receipts to New York City and New York State equal

[3] Throughout this report I calculate present values back to 2005 based on 30 years of revenues and a 5.5 percent discount rate. Since the construction period for the arena and infrastructural projects lies between 2005 and 2008, one could make a case for calculating the present value for a midway date (between 2006 and 2007). Thus, my decision to take the present values back to 2005 is conservative and puts a downward bias in my estimate.

to $62.0 million annually and the present value in 2005 of this tax revenue stream over the subsequent thirty years equals $869.6 million. As I shall elaborate, several other sources of new tax revenue will also be created by the project.

II. New Sales and Income Tax Revenue from the Arena Project

In a typical case, a community builds a facility either to retain an existing team or attract a new team to the area. In either case the lion's share of the money spent at the new arena or stadium is diverted from existing local expenditures, i.e., it does not constitute additional consumer spending. In a broad sense, the same is true with the proposed Nets arena in Brooklyn; the difference in this instance is that while the spending in the larger media market is mostly reshuffled within the area, it is relocated from one tax jurisdiction to another. Tax collections that presently go to New Jersey (and used to go to New York during the Nets early years) will now go to New York City and New York State.

In particular, incomes of Nets players, executives and staff will be taxed in New York State and partially in New York City (if the individual lives in one of the five boroughs). Further, part of the spending at Nets games and other events at the Atlantic Yards arena will be new to New York City and New York State and sales taxes collected from this spending will be net increments to the public coffers.

The issue is not whether or not there will be new tax revenues for New York, but how large these incremental revenues will be. To make a reasonable estimate of this increment, it is necessary to make a variety of assumptions. Since the Atlantic Yards arena is projected to be completed for the 2007-08 season, the first assumption involves the payroll for the Nets in that year. Based upon the team's existing payroll commitments and roughly a 5 percent growth in average salaries, it is estimated that the Nets payroll in 2007-08 will be $65.5 million.[4] I assume that 30 percent of the Nets players will live in the five boroughs. These players will pay New York City as well as New York State income tax. The remaining 70 percent will pay only New York State tax. At the players' high income levels, based on the existing effective rates, I project an effective income tax rate of 4.04 percent for New York City and of 6.46 percent for New York State.

[4] Many of the numbers used in this report concerning Nets attendance, ticket prices, construction costs and other items come from projections done by or for FCRC. I have discussed these estimates with FCRC and they seem reasonable to me. FCRC projects that the arena will not host an NHL team and that it will host 224 events during the year (assuming the eventual closing of CAA, no new arena in Newark, no NHL and no minor league hockey events at the Atlantic Yards arena.) FCRC projects out three scenarios over time based on aggressive, moderate and conservative assumptions. I use the estimates from their moderate scenario.

Players spend approximately 75 percent of their active season (including both playing and practice time) in New York State and, hence, pay taxes on only 75 percent of their salary in New York. The rest they pay to the states where they play their road games. Compensating for this in part, visiting team players must pay an income tax in New York State for that share of their income that is earned in the state. Thus, I take 25 percent of the projected average NBA team payroll in 2007-08 to estimate state taxes paid by visiting team players.

Similarly, I then make assumptions about the salary levels and residence for Nets executives and staff in order to estimate the income taxes they pay to New York City and New York State.[5] Finally, I estimate the income taxes paid by the arena workers at the Atlantic Yards arena.[6] To estimate the latter, I only include that share of the arena workers taxes that I consider to be based on new spending in New York.[7]

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[5] Following FCRC projections, I assume that executive salaries in 2007-08 will total $9.9 million and that 20% of executives will live in New York City. I also assume that staff salaries in 2007-08 will total $5.6 million and that 50 percent of the staff will live in New York City.

[6] I assume that the arena worker salaries will be $7.06 million and that 75 percent of the arena workers will live in the city.

[7] This share is the estimated portion of spending at the arena that is new to New York. As is explained below, this portion is different for spending at Nets games than it is for spending at other arena events. Thus, I take the

Table One below summarizes the estimated income tax collections from the FCRC project in 2008 as well as the present value (PV) in 2005 of all collections during the thirty-year period between 2008 and 2037. To estimate these values during 2008-2037, a variety of different assumptions are made about annual growth rates.[8] A more detailed explanation is provided in the spreadsheet that is attached in the appendix to this report.

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share of new spending for Nets games and multiply it by the share of total arena ticket revenue generated by the Nets as opposed to other events at the arena. The resulting share is 48 percent. Thus, 48 percent of the arena workers' taxes are considered to be based on new spending in New York.

[8] Assumed annual growth rates are as follows: salaries of players, executives and staff, 4.7 percent; salaries of arena workers, 3 percent. Effective tax rates in the city and the state are also assumed to be constant.

Table One

Estimated New Income Tax Revenue

(millions of dollars)

	Players	Executives	Staff	Arena	Total
2008	4.88	0.71	0.36	0.38	6.33
PV [9]	110.91	12.37	6.09	6.67	136.04
Annuity[10]	7.63	0.85	0.42	0.46	9.36

The second part of new tax collections for New York from the Atlantic Yards arena will come from sales taxes. The key to estimating this value lies in identifying what expenditures at the arena are new to New York and what part are diverted from expenditures at other entertainment venues in New York.

The first step is to estimate how many fans on average who presently attend games at the Continental Airlines Arena (CAA) will also attend games at the Atlantic Yards Arena. The average attendance for the first 32 Nets home games at CAA for the 2003-04 season is available. It is

[9] This represents the present value in 2005 of the revenues generated from 2008 through 2037, using a weighted average cost of capital (WACC) of 5.5 percent.

[10] Annuitized value, using a WACC of 5.5 percent.

14,538. The average attendance at CAA for the first 32 games last season was 14,992. For the past two years, then, the average is 14,765.

Of this number, how many will attend games at the new Brooklyn arena? I have figures for the state of residence of current Nets season-ticket holders. On an adjusted full-season basis, 67.9 percent of these holders reside in New Jersey. The large majority of the remaining holders live in New York, with a small proportion living in Connecticut and even smaller share in Pennsylvania. I do not have Nets data on the state of residence for the fans who are not season-ticket holders, but I do have data on the state of residence of fans who attend New York Jets games at the Meadowlands.[11] I use these proportions for the balance of Nets fans.

Many Nets fans who live in New Jersey will not make the trip to Brooklyn to see the team. Out of interest in and loyalty to the team, however, others will attend games in Brooklyn. Some fans from New Jersey who live south of the Goethals Bridge or Outer Bridge Crossing may even find it as easy to travel to Brooklyn as to the Meadowlands. There are no available surveys which estimate the share of New Jersey

[11] These proportions are; 51 percent from New Jersey, 44.7 percent from New York and 4.3 percent from Connecticut.

fans who intend to attend games in Brooklyn.[12] Thus, I have to estimate this proportion.

My base assumption is that 30 percent of New Jersey fans of the Nets will also attend games in Brooklyn.[13] Because this figure may either be too low or too high, I also did a sensitivity analysis for different proportions.

For current Nets fans from Connecticut and New York, I assume that if they are willing to attend games in New Jersey, they will also be willing to attend games in New York. To be sure, even if some New York fans of the Nets do not follow the team to Brooklyn, there will still be roughly the same new tax revenues for the state and city. Such New Yorkers will now have the entertainment funds previously spent at CAA to spend in New York. The only other assumption I make is that of the 27 current season-ticket holders from Pennsylvania, none of them will buy season tickets or otherwise travel to Brooklyn to watch the Nets.

With these assumptions, then, of 8,936 New Jerseyans who attend a typical Nets game at CAA, 2,681 will attend a typical game in Brooklyn.

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[12] Even if such surveys existed at present, their reliability would be suspect because many New Jersey fans are likely to have an initial negative emotional reaction to the move.

[13] It will be recalled that 32.1 percent of Nets season-ticket holders are from outside of New Jersey.

Of the 5,829 current Nets attendees from outside New Jersey, 5,802 will attend a typical Nets game in Brooklyn.

FCRC projects that over the first five years of the Atlantic Yards arena, the average attendance will be 17,191 (or 90.48 percent of the arena's 19,000 capacity for basketball games.) From the above estimate, 49.3 percent of these fans will come from among those who attended games at CAA. These fans will be bringing new revenue to the New York economy.

Table Two

Composition of Attendees at Atlantic Yards

Average Nets Attendance In New Jersey			Average Nets Attendance In Brooklyn			
	From			From		
Total	NJ	Outside NJ	Total	NJ	Outside NJ	New NY Fans
14,765	8,936	5,829	17,191	2,681	5,802	8,708

The balance of the 17,191 attendees at the Atlantic Yards arena, or 8,708 people (50.7 percent), will be New Yorkers who previously did not attend games at CAA. The money they spend at the new Brooklyn arena will be largely recirculated within the New York economy, and for the most part will not represent new revenues.

However, some of these expenditures will be new either to the New York City or the New York State economy or both. The sources of this new money are the following. First, some people from out of state (principally from New Jersey and Connecticut) will be new Nets fans. They will be attracted either to the new Frank Gehry-designed arena, to new players on the team or to the team itself. Second, other attendees will attend Nets games as an add-on to their leisure expenditures. Primarily, these individuals will be from upper income brackets who do not need to reduce other leisure-time expenditures in order to be able to afford Nets games. Third, others may attend Nets games and reduce out-of-town leisure spending. Fourth, some corporations may purchase premium seating and catering services as an add-on to their entertainment budgets. Fifth, some of the spending at the Atlantic Yards arena will come from fans in Nassau County, Suffolk County, or Westchester County who did not attend games at CAA. Together these three counties have a population of 3.74 million. When these fans spend money at the new Atlantic Yards arena on tickets, concessions, or novelties, it will bring new sales tax revenue to New York City (though not to New York State.)[14]

Overall, for the New Yorkers attending Nets games in Brooklyn who did not previously attend the team's games at CAA, I estimate that 20 percent of the spending will be new to the New York economy. Thus, I

[14] I leave parking out of my analysis because the plans for constructing and managing arena parking are not yet finalized.

add 20 percent of the estimated 50.7 percent new Nets fans from New York (or 10.1 percentage points) to the 49.3 percent to arrive at a 59.4 percent share of spending at the Atlantic Yards arena being new to the New York economy. I then multiply all sales tax revenue derived from Nets games at the arena by .594 to estimate the net increment in sales tax collections provided to the city and state treasuries. Next, I use the same 20 percent to estimate the share of non-Nets arena spending that is new to New York. That is, all sales taxes derived from estimated spending at concerts, family shows and other sporting events at the arena are multiplied by 0.2. New sales taxes derived from the Nets and non-Nets events are then added together. These calculations are summarized in Table Three below.

Table Three

Estimated New Sales Tax Revenue

(millions of dollars)

	Admissions	Concessions	Novelties	Total
2008	5.2	0.93	0.28	6.43
PV [15]	100.5	16.2	4.8	121.5
Annuity[16]	6.9	1.1	0.33	8.33

When I alter the assumption that 30 percent of current Nets attendees from New Jersey also attend games at the Atlantic Yards arena, the following results obtain. When the share is lowered to 25 percent, new sales tax revenues fall from $6.43 million in 2008 to $6.26 million, or a decrease of 2.6 percent. When the assumed share is raised to 35, the sales tax revenues grow to $6.62 million in 2008, or an increase of 2.9 percent.[17]

[15] This represents the present value in 2005 of the revenues generated from 2008 through 2037, using a WACC of 5.5 percent.

[16] Annuitized value, using a WACC of 5.5 percent.

[17] If we assume that only 20 percent of Nets fans from New Jersey come to Brooklyn, the projected 2008 sales tax revenues fall to $6.08 million. In contrast, if 40 percent come, the 2008 revenues rise to $6.80 million.

III. New Sales and Income Tax Revenue from the Housing Project

The FCRC Atlantic Yards project will eventually create between 4500 and 4800 net new household residential units.[18] Given the housing shortage in New York City, I assume that these new units will allow the number of the city's residential units to also grow by the same amount. While it is true that some of the new residents in the Atlantic Yards community will have relocated from elsewhere in the city, it is also true that the vacated units will now be available for other occupants. If the vacated units are dilapidated and earmarked for condemnation, then presumably they would have been condemned with or without the additional units at Atlantic Yards.

It might also be objected that the new units will simply attract relocated New Yorkers and that their previous residences will lie vacant. To the extent that this occurs in the short run, it will put downward pressure on city rents which eventually will cause the number of residents to rise.

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[18] These figures are net of the approximately 150 units that are projected to be condemned and relocated. Because the number of units and residents to be relocated will not be known with certainty until ESDC is named the lead agency and an official survey is conducted, I choose to be conservative and use the lower end (4500) of projected net units.

Based on the mixed-income specifications of the project and the combination of low income (20 percent of the rental units), middle income (30 percent of the units) and market (50 percent of the rental units) and condominiums, in 2004 dollars I project that the average annual income of households in the new community will be between $80,000 and $90,000.[19] Using the conservative estimates of 4500 new housing units and $80,000 income per household unit, the total amount of income earned in the community would be $360 million a year, once the community is fully built out.

This income is subject to both New York City and State taxes (with average effective rates of 3.3 percent and 5.2 percent respectively at this income level). Further, based on research by AKRF[20], for households with before-tax income of $80,000, roughly one-third of their before-tax income will be spent on taxable, local items.

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[19] The current income upper limit for a family of three to qualify as "low income" is $28,250 and to qualify as "middle income" is approximately $142,000. Assuming the average low income household in the project has an income of $20,000, the average middle income household has an income of $75,000 and the average market household has an income of $120,000, the average income of project households would be $86,500.

[20] AKRF is an economic consulting firm in New York City that has done modeling and tax estimates in connection with this project.

Since these units are new to the New York City housing stock, most of this income is new to New York City and New York State. The share that is not new to New York State will be the share of households that have relocated to Atlantic Yards from elsewhere in the state. In the base case, I assume this share to be 40 percent.[21] I also assume that 10 percent of the workforce from among the Atlantic Yards households will work outside of New York City and, hence, not be responsible for paying New York City income taxes. Apartment buildings and condominium buildings will be added at a rate of approximately two per year between 2006 and 2009, and one per year between 2010 and 2013.

Because new income is generated, there is also a multiplier effect on the New York economy. That is, the new income yields new consumer spending at new and existing retail outlets. This spending yields new income for the retailers and their local suppliers, which, in turn, engenders more local spending. And so on.

Assuming a combined marginal tax rate of .30, a marginal propensity to save of .05 and a marginal rate of import into the New York economy of .50,[22] I estimate a local multiplier of 1.5.

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[21] I also conducted a sensitivity analysis on this assumption. Results are reported below.

[22] A local marginal propensity to import of .50 is used in the academic literature on the economic impact of sports facilities. In this case, it is conservative both because of the larger size of New York City than the

Based on these parameters, I estimate the new annual tax revenue from the 4500 housing units as follows.

Income = $360 million

Gross State Income Tax = ($360 million) x (.0522) = $18.79 million

Net State Income Tax = ($18.79 million) x (.6) = $11.28 million

After Multiplier, ($11.28 million) x (1.5) = $16.91 million

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typical city and because I am using the same import propensity (and, hence, multiplier) for New York State. The import propensity is likely to be lower and the multiplier higher for the state. Hence, the procedure in the text is likely to underestimate the fiscal income tax capture. The estimate is also conservative because it does not include the positive income impact on the city's and state's economy from the net new revenue flowing into the public treasuries. Assuming these revenues are spent, they would raise area income and, thereby, also raise subsequent tax capture. To a smaller extent, there is also a modest overestimate built into my method; when New Yorkers divert some of their leisure spending from non-professional sport activities to the Nets, they will be shifting to activities with a larger leakage out of the local economy. This latter effect is certain to be smaller than the two previously mentioned factors.

City Income Tax = ($360 million) x (.0332) = **$11.95 million**

Net City Income Tax = ($11.95 million) x (.9) = **$10.76 million**

After multiplier, ($10.76 million) x (1.5) = **$16.14 million**

Thus, when fully built out, the housing project will provide an estimated annual flow of $16.91 million in new income tax revenues to the state and of $16.14 million in new income tax revenues to the city.

In addition, using the AKRF estimate that approximately one-third of before-tax income will be spent on taxable goods in New York City, I can estimate that $120 million will be spent on such goods from residents in the housing development once the project is fully built out. The combined state sales tax rate (including the MTA tax) is 4.5 percent. Since I am assuming that 60 percent of the project's residents are new to New York State, new sales tax revenues for the state will be $3.24 million annually in the first round and $4.86 million annually after all the rounds (including the effect of the multiplier) once the project is fully built out. The similar computation for New York City yields $7.43 million annually. (These figures are all in 2004 dollars.)

To be realistic, however, the foregoing estimates must be adjusted downward since the new housing units will be built gradually over time. In each year between 2006 and 2010, the plan is to build approximately 14.22 percent of the total units; and, for each year between 2011 and 2014, the plan is to build an additional 7.22 percent of the units. Thus, in 2006, the total new income tax revenue to the city and state would be $4.70 million (or 14.22 percent of the $33.05 million fully built-out figure); and the total new sales tax revenue to the city and the state would be $1.75 million (or 14.22 percent of the $12.27 million fully built-out figure.)

Assuming that household income will grow by 4 percent in nominal terms over time and that the city's and state's weighted average cost of capital (discount rate) is 5.5 percent, I then calculate the present value of the new tax revenues for the city and state. The present value (in 2005) of these tax revenues is $869.6 million.[23]

If one assumes that 50 percent of Atlantic Yards households previously lived in New York State, then the incremental tax revenues

[23] For this estimate there is no difference between sales or income generated on the 21-plus acres of the Atlantic Yards project and that generated elsewhere in New York City. To be sure, some of the new retail activity in the project area will simply replace presently existing activity.

would equal $800.0 million.[24]

IV. New Sales and Income Tax Revenue from the Commercial Buildings

The FCRC Atlantic Yards project will eventually create 1.9 million square feet of first-class office space. Since 1988, downtown Brooklyn has absorbed an average of 600,000 square feet of new office space per year. As of early April 2004, the vacancy rate of class A office space built in Brooklyn since 1985 was less than one percent.[25]

While some of the new office space from this project will likely substitute for older or more expensive office space in Manhattan, a significant share of it will enable New York City to accommodate

[24] In contrast, if 30 percent of the households previously lived in New York State, then the tax revenues would be $939.2 million. A sensitivity analysis of the percent of households previously living in New York State is presented in the table below.

Percent of Households Previously Residing in New York State	Present Value of Income and Sales Tax Revenues from Housing Units ($ in millions)
20%	$1,008.9
30%	$939.2
40%	$896.6
50%	$800.0
60%	$730.4
70%	$660.8

[25] The precise vacancy rate was 0.61 percent.

additional businesses. The increased supply of office space at Atlantic Yards will also put downward pressure on commercial rents in the NYC market.

To the extent that the new office space brings new businesses and workers to New York City and/or New York State, there will be additional income generated in the local economy.[26] This income, in turn, will generate additional tax revenue. It will also engender new local sales that will raise public collections via the sales tax. Below I estimate these fiscal gains.

The construction plans call for the 1.9 million square feet of office space to be added in equal increments of 633,333 square feet respectively in 2007, 2009 and 2011. Using a standard ratio of one employee per 250 square feet, there would be 2533 employees added at Atlantic Yards in 2007, 2533 in 2009 and 2533 in 2011.

I make the following assumptions. First, for the base case I assume that only 30 percent of the businesses are new to New York City

[26] Naturally, to the extent that workers in the commercial space at Atlantic Yards also reside in the new housing development, there will be an overlap in the new income that I estimate. My estimate below adjusts for this possibility.

and New York State.[27] Second, of the new businesses' employees, I assume in the base case that 60 percent are new to the workforce in New York State[28], 100 percent live in New York State, 60 percent live in New

[27] I subsume those who possibly overlap by both living and working in Atlantic Yards within the 70 percent of businesses not considered to be new to the city and state.

I suspect 30 percent is a low estimate of the percent of Atlantic Yards businesses that are new to New York. If I assume that the percent of Atlantic Yards businesses that are new to New York is 40 percent (rather than 30 percent), the estimated new income tax revenues to the city and state rises to $199.5 million. If I assume 50 percent are new, the estimate increases to $249.3 million. At 20 percent, the estimate would be $99.7 million.

[28] The assumption that 60 percent of the Atlantic Yards office employees are new to the New York economy also is conservative. There are five options for these employees: one, they moved into the area, in which case they are new workers; two, they were previously unemployed in the area, in which case they are new; three, they were previously employed in the area and they are replaced in by another worker in the job they vacate, in which they case they constitute a net addition to the NYC labor force; four, they were previously employed in the area and they are not replaced in their former job which was slated for near-term elimination, in which case their Atlantic Yards job is a net addition to the NYC economy; five,

York City, and 30 percent of this group lived previously in New York City. I assume that the average salary of Atlantic Yards employees is $66,000. My method implicitly assumes that all the employees were previously employed at the same average salary. To the extent that some of the employees were previously unemployed or working at a lower salary (which is likely since something attracted them to work at Atlantic Yards), my estimate of tax revenues will be too low. Further assuming that the average salary will grow at 3 percent annually and that the multiplier, as above, is 1.5, the present value in 2005 of the income tax revenues to the city and state over 30 years is $149.6 million.

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they are not replaced because their prior job was slated for elimination by attrition. It is only in the latter case that the Atlantic Yards employment is not a direct net addition to the local labor force and even in this case it is productivity enhancing in the short run and job creating in the long run. Thus, 60 percent appears to be a very conservative proportion. A sensitivity analysis (in present value of tax revenues) of the percent of employees that are new to the workforce is presented below.

Percent of Employees That Are New to the State Workforce	Income Tax (millions)	Sales Tax (millions)	Total (millions)
40%	$115.3	$51.3	$166.6
50%	$132.4	$57.8	$190.3
70%	$166.8	$70.9	$237.7
80%	$183.9	$77.4	$261.4

Retaining the same assumptions from the base case, AKRF estimates that the average individual with a $66,000 income will spend 40.6 percent of that in New York City. Following the same procedures to estimate the new sales tax collections as above, I estimate the 2005 present value of new sales tax collections resulting from the commercial office employees at Atlantic Yards to be $64.38 million.

V. Property Tax from Improvements and Ground Rent

Under New York's Industrial and Commercial Incentive Program (ICIP), the commercial buildings at Atlantic yards will qualify for tax abatement. During the first sixteen years, there will be no property tax due on the improved value of the real estate. During the next nine years, the tax is phased in. Thereafter, the full property tax is levied. Setting the improved value at 10 percent above the current average value for class A office space in downtown Brooklyn, I use $55 per square foot. This value is "inflation protected" under ICIP through year 13. Thereafter, I increase the $55 per square foot improved value by 2.5 percent annually, which is the overall growth rate in real estate taxes over time. To this, I apply the property tax rate of 12.5 percent and derive the 2005 present value of the taxes collected through 2034. This present value estimate is $47.2 million.

Further, the project will pay ground rent to the public sector equal to the site's fair market value, estimated initially at $1.70 per square foot.[29] This rate is projected to increase to $2.04 after 15 years and by an additional 7.5 percent every five years thereafter. The present value in 2005 of these projected ground rent payments through 2034 is $114.8 million.

In addition to the estimated tax revenues from the arena, the residential and commercial developments, the property taxes on improvements and the ground rent, the project will generate the following tax revenues that are not included in my estimate: (a) property taxes collected on the residential buildings at Atlantic Yards; (b) increased property taxes from the increase in property values in the surrounding neighborhood;[30] (c) to the extent that FCRC purchases private land and buildings on the site, the city and state will receive a 3.25 percent transfer tax and, for buildings of over $1 million in value, a 1 percent mansion tax as well; (d) increased taxes from the increased economic activity resulting

[29] $1.70 per square foot is the amount FCRC is paying to the MTA for the Bank of New York building, opening in May 2004, that is directly across the street from the Atlantic Yards project site.

[30] One recent study ("Ring Around the Rose Bowl: The Spatial Economic Impact of Stadiums and Arenas," 2003) by Brad Humphreys and Dennis Coates, using data from the 1990 U.S. Census, estimated that property values within one-quarter mile of a basketball arena were 68 percent higher than the average values within a 2.5 mile radius of the facility. This estimate is statistically significant at the .01 level.

from the privately-financed (and part of the publicly-financed) portion of the construction at Atlantic Yards;[31] (e) income taxes from the Nets profits (which pass through to the owners' individual income taxes) and the other businesses which will locate within the commercial and retail portion of the project;[32] and, (f) sales taxes on the expenditures of visiting teams and acts on city hotels, restaurants and transportation. Even though they are

[31] The amount of the increased activity will be a function in part of the degree to which the local construction industry is operating at capacity. If the local construction industry is at full employment, then the Atlantic Yards project will only generate new income to the extent that it encourages new, local workers or new capital to enter the sector. To the extent that Atlantic Yards construction is financed out of new tax revenue generated by the project, it increases the level of local economic activity. However, whether the city or state spends the extra revenue on helping to build a basketball arena in Brooklyn or on repairing the FDR Drive makes little, if any, difference to the city's economy. Of course, the increased tax revenues from the project lead to higher government outlays which also generate increased activity, and, subsequently, more tax revenues.

[32] This number, of course, would have to net out the reduced taxes from the lost income of the condemned businesses if they were not relocated elsewhere in New York City.

not estimated, these additional sources of tax revenue are likely to be quite substantial.

Considering only the new revenue sources that I was able to estimate, over thirty years the total addition to the city's and state's tax revenues from the Atlantic Yards project amount to $4.1 billion. The annuitized value of these new revenues is $103.5 million and their present value is $1.5 billion. Table Four below summarizes the present value of tax generation from these different sources.

Table Four

Estimated Present Value in 2005 of Tax Revenue Generation by Source [33]

Millions of Dollars

	Present Value	**Annuity**	**30-Year Aggregate Tax Revenues**
Team/Arena:			
Income	136.0	9.4	396.9
Sales	121.5	8.4	333.5
Residential:			
Income	634.1	43.6	1735.0
Sales	235.5	16.2	644.3
Commercial:			
Income	149.6	10.3	383.9
Sales	64.4	4.4	165.2
Property Tax on Improvements	47.2	3.3	179.4
Ground Rent	114.8	7.9	267.3
Other	not estimated	not estimated	not estimated
TOTAL	1503.1 plus	103.5 plus	4105.5 plus

[33] Again, the present value is based on revenue flows over 30 years. Both the present value and annuity assume a WACC of 5.5 percent.

VI. Projected Contributions to the Project from NYC and NYS

According to public information, the city and state will each contribute $9 million per year toward the debt service of the arena bonds. This payment will continue at the same level for the life of the bonds (thirty years). Part of the payment is for use rights for public events at the arena. Further, the needed infrastructural work (including the platform over the rail yards and utilities upgrade/relocation) and eminent domain takings are estimated to cost $162.73 million. To be cautious, I add $25 million in contingency funds, yielding $187.73 million. Using a 5.5 percent discount rate, the present value of these combined costs to the city and state treasuries is $449.34 million.

In addition to the direct financial contributions to the Atlantic Yards project, it is to be anticipated that the city will incur certain ongoing costs connected to infrastructural maintenance, sanitation and security. Further, city services, such as public schools and fire protection, will also be extended to cover more citizens. As a general rule, the provision of these services involves large fixed costs and relatively small variable costs. That is, as the population grows the incremental costs are minor relative to the large investment expenditures in the initial infrastructure and plant. Tax collections, in contrast, are at the same level as those for other citizens at the same level of income.

FCRC has made an initial estimate of the city's operating expenses at Atlantic Yards. Based on conversations with former budget officials, FCRC concludes that the increment in fire and police budgets would be negligible. Commercial sanitation services are paid directly by the affected businesses. Residential sanitation for the projected Atlantic Yards population is estimated based on the per capita sanitation budget of the city. The present value of these costs (over thirty years at a 5.5 percent discount rate) is $5.4 million. The incremental schooling costs are estimated based on a per capita educational allocation from the city budget. The present value of these costs over thirty years is $213.8 million.[34] The present value of the total estimated operating costs, then, is $219.2 million. To be conservative, I augment this figure by 10 percent to

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[34] This is based on the share of the NYC population in public schools and an average variable cost of $11,000 per student per year. As suggested above, marginal costs are likely to be below average costs. For instance, if a classroom with a capacity of 25 students has only 18 students enrolled, then 7 students can be absorbed without adding a teacher. The estimate here is based on average cost and, therefore, is likely to overstate the actual incremental costs. The educational district for Atlantic Yards is presently at 60 percent of physical capacity and the five-year projections do not call for this to change. Hence, it does not seem that the Atlantic Yards development will necessitate the construction of any new school buildings.

arrive at my estimated present value of incremental public operating expenses due to the FCRC Atlantic Yards project of $241.1 million.

VII. Net Fiscal Impact from the Atlantic Yards Project

The present value in 2005 of the estimated new tax revenues over a 30-year period to the city and state from the Atlantic Yards project is at least $1.503 billion.[35] On the cost side, the present value of direct fiscal contributions is estimated to be $449.34 million, while the present value of the other operating costs associated with the project are estimated at $241.1 million. The estimated present value of all public sector costs, then, is $690.44 million.

By these estimates, there is a net positive fiscal impact with a present value of $812.7 million. (Alternatively, the estimated aggregate tax revenues over the thirty years are $4.1055 billion, while the estimated aggregate public costs are $1.2865 billion, yielding a net aggregate tax gain in current dollars of $2.819 billion over the thirty years.) This is the

[35] This result is based on the assumption that 40 percent of the households in Atlantic Yards previously lived in New York State. If we assume that 50 percent previously lived in the state, the estimate falls to $1.43 billion. If we assume that 60 percent previously lived in the state, the estimate becomes $1.36 billion. At 30 percent, the estimate rises to $1.57 billion.

base case estimate, and, as indicated above, does not include several sources of additional tax revenue to the city and state. Further, more fiscal revenues for the city and state will result in more government spending, which, in turn, will increase the level of economic activity and, consequently, lead to additional tax revenues. Even under the least favorable assumptions in my sensitivity analyses, then, the fiscal impact of the Atlantic Yards project is a significant plus for the New York City and New York State treasuries.

Appendix I

Spreadsheet Detailing Fiscal Impact of Nets and Arena

$ in thousands	Annuity	2005 NPV	Aggregate
ADMISSIONS SALES TAX			
Non-Premium Ticket Sales Tax	$3,812	$55,406	$152,309
Premium Ticket Sales Tax	$2,494	$36,249	$99,647
Suite Sales Tax	$609	$8,856	$24,345
Total Admissions Sales Tax	$6,916	$100,510	$276,300
CONCESSIONS SALES TAX			
Non-Premium Concessions Sales Tax	$785	$11,403	$31,046
Premium Concessions Sales Tax	$331	$4,806	$13,084
Total Concessions Sales Tax	$1,115	$16,209	$44,130
NOVELTY SALES TAX			
Non-Premium Novelty Sales Tax	$289	$4,201	$11,436
Premium Novelty Sales Tax	$42	$608	$1,654
Total Novelty Sales Tax	$331	$4,808	$13,091
TOTAL CITY & STATE SALES TAX	$8,362	$121,528	$333,522
NETS WAGE TAXES			
Player Salaries	$7,631	$110,907	$326,159
GM, Coaches, and Scouts	$851	$12,372	$33,207
Team Staff Salaries	$419	$6,091	$16,246
Total Nets Wage Taxes	$8,901	$129,369	$378,765
ARENA WAGE TAXES	$459	$6,672	$18,165
TOTAL WAGE TAXES	$9,360	$136,041	$396,930
EVENT PARKING TAXES	$0	$0	$0
TOTAL CITY AND STATE TAXES GENERATED	$17,722	$257,570	$730,452

$ in thousands	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2
ADMISSIONS SALES TAX														
Non-Premium Ticket Sales Tax	$2,885	$3,020	$3,161	$3,309	$3,465	$3,627	$3,798	$3,976	$4,096	$4,219	$4,345	$4,475	$4,610	$4,
Premium Ticket Sales Tax	$1,888	$1,976	$2,068	$2,165	$2,267	$2,373	$2,485	$2,601	$2,680	$2,760	$2,843	$2,928	$3,016	$3,
Suite Sales Tax	$461	$483	$505	$529	$554	$580	$607	$636	$655	$674	$694	$715	$737	$
Total Admissions Sales Tax	$5,234	$5,479	$5,735	$6,003	$6,285	$6,580	$6,889	$7,213	$7,430	$7,653	$7,882	$8,119	$8,362	$8,
CONCESSIONS SALES TAX														
Non-Premium Concessions Sales Tax	$653	$672	$692	$713	$734	$757	$779	$803	$827	$851	$877	$903	$930	$
Premium Concessions Sales Tax	$275	$283	$292	$301	$310	$319	$328	$338	$348	$359	$370	$381	$392	$
Total Concessions Sales Tax	$928	$955	$984	$1,014	$1,044	$1,075	$1,108	$1,141	$1,175	$1,210	$1,247	$1,284	$1,323	$1,
NOVELTY SALES TAX														
Non-Premium Novelty Sales Tax	$240	$248	$255	$263	$271	$279	$287	$296	$305	$314	$323	$333	$343	$
Premium Novelty Sales Tax	$35	$36	$37	$38	$39	$40	$42	$43	$44	$45	$47	$48	$50	[illegible]
Total Novelty Sales Tax	$275	$283	$292	$301	$310	$319	$329	$338	$349	$359	$370	$381	$392	$
TOTAL CITY & STATE SALES TAX	$6,437	$6,717	$7,011	$7,318	$7,639	$7,975	$8,326	$8,693	$8,953	$9,222	$9,499	$9,784	$10,077	$10,
NETS WAGE TAXES														
Player Salaries	$4,884	$5,115	$5,357	$5,659	$5,925	$6,203	$6,495	$6,800	$7,265	$7,628	$8,009	$8,410	$8,830	$9,
GM, Coaches, and Scouts	$709	$742	$778	$821	$860	$900	$943	$987	867	893	919	947	975	1,
Team Staff Salaries	$358	$374	$392	$414	$434	$454	$475	$498	421	433	446	460	473	[illegible]
Total Nets Wage Taxes	$5,951	$6,232	$6,526	$6,895	$7,218	$7,557	$7,913	$8,285	$8,675	$9,084	$9,511	$9,959	$10,428	$10,
ARENA WAGE TAXES	$382	$393	$405	$417	$430	$443	$456	$470	$484	$498	$513	$529	$544	$
TOTAL WAGE TAXES	$6,333	$6,625	$6,932	$7,312	$7,648	$8,000	$8,369	$8,755	$9,159	$9,582	$10,024	$10,487	$10,972	$11,
EVENT PARKING TAXES	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	
TOTAL CITY AND STATE TAXES GENERATED	$12,769	$13,342	$13,942	$14,630	$15,287	$15,975	$16,694	$17,448	$18,112	$18,804	$19,523	$20,271	$21,049	$21,

$ in thousands	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	203
ADMISSIONS SALES TAX													
Non-Premium Ticket Sales Tax	$5,037	$5,188	$5,344	$5,504	$5,669	$5,839	$6,015	$6,195	$6,381	$6,572	$6,769	$6,973	$7,1
Premium Ticket Sales Tax	$3,295	$3,394	$3,496	$3,601	$3,709	$3,820	$3,935	$4,053	$4,175	$4,300	$4,429	$4,562	$4,65
Suite Sales Tax	$805	$829	$854	$880	$906	$933	$961	$990	$1,020	$1,050	$1,082	$1,114	$1,14
Total Admissions Sales Tax	$9,138	$9,412	$9,694	$9,985	$10,285	$10,593	$10,911	$11,238	$11,575	$11,923	$12,280	$12,649	$13,0
CONCESSIONS SALES TAX													
Non-Premium Concessions Sales Tax	$1,017	$1,047	$1,079	$1,111	$1,144	$1,179	$1,214	$1,250	$1,288	$1,327	$1,366	$1,407	$1,4
Premium Concessions Sales Tax	$428	$441	$455	$468	$482	$497	$512	$527	$543	$559	$576	$593	$61
Total Concessions Sales Tax	$1,445	$1,488	$1,533	$1,579	$1,627	$1,675	$1,726	$1,777	$1,831	$1,886	$1,942	$2,000	$2,0
NOVELTY SALES TAX													
Non-Premium Novelty Sales Tax	$375	$386	$397	$409	$422	$434	$447	$461	$474	$489	$503	$518	$5
Premium Novelty Sales Tax	$54	$56	$57	$59	$61	$63	$65	$67	$69	$71	$73	$75	$7
Total Novelty Sales Tax	$429	$442	$455	$468	$482	$497	$512	$527	$543	$559	$576	$593	$61

TOTAL CITY & STATE SALES TAX	$11,012	$11,342	$11,682	$12,033	$12,394	$12,765	$13,148	$13,543	$13,949	$14,368	$14,799	$15,243	$15,7
NETS WAGE TAXES													
Player Salaries	$10,222	$10,733	$11,270	$11,833	$12,425	$13,046	$13,698	$14,383	$15,102	$15,858	$16,650	$17,483	$18,3
GM, Coaches, and Scouts	1,066	1,098	1,131	1,165	1,200	1,236	1,273	1,311	1,350	1,391	1,433	1,476	1,5
Team Staff Salaries	517	533	549	565	582	600	618	636	655	675	695	716	7
Total Nets Wage Taxes	$11,970	$12,534	$13,124	$13,741	$14,388	$15,065	$15,775	$16,517	$17,295	$18,109	$18,961	$19,853	$20,61
ARENA WAGE TAXES	$595	$613	$631	$650	$670	$690	$710	$732	$754	$776	$799	$823	$84
TOTAL WAGE TAXES	$12,565	$13,146	$13,755	$14,391	$15,058	$15,755	$16,485	$17,249	$18,048	$18,885	$19,760	$20,677	$21,4
EVENT PARKING TAXES	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$
TOTAL CITY AND STATE TAXES GENERATED	$23,577	$24,488	$25,437	$26,424	$27,451	$28,520	$29,633	$30,791	$31,997	$33,252	$34,559	$35,919	$37,1

Appendix II

Spreadsheet Detailing Fiscal Impact of Residential Units

$ in thousands

	Annuity	2005 NPV	Aggregate
INCOME TAX			
State	$17,121	$248,825	$632,369
City	$16,333	$237,385	$603,294
Total Income Tax	$33,454	$486,210	$1,235,663
After Application of Multiplier	$50,181	$729,315	$1,853,495
Adjustment for Real Units Built	$43,632	$634,132	$1,734,972
SALES TAX			
NY State Sales Tax	$4,642	$67,462	$171,448
MTA Sales Tax	$273	$3,968	$10,085
NY City Sales Tax	$7,509	$109,129	$277,343
Total Sales Tax	$12,423	$180,559	$458,876
After Application of Multiplier	$18,635	$270,839	$688,314
Adjustment for Real Units Built	$16,203	$235,491	$644,300
TOTAL REVENUES FROM INCOME AND SALES TAX	$59,835	$869,623	$2,379,272

$ in thousands

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
INCOME TAX															
State	$11,275	$11,726	$12,195	$12,683	$13,190	$13,718	$14,267	$14,837	$15,431	$16,048	$16,690	$17,358	$18,052	$18,774	$19,525
City	$10,757	$11,187	$11,635	$12,100	$12,584	$13,087	$13,611	$14,155	$14,721	$15,310	$15,923	$16,560	$17,222	$17,911	$18,627
Total Income Tax	$22,032	$22,913	$23,830	$24,783	$25,774	$26,805	$27,878	$28,993	$30,152	$31,358	$32,613	$33,917	$35,274	$36,685	$38,152
After Application of Multiplier	$33,048	$34,370	$35,745	$37,175	$38,661	$40,208	$41,816	$43,489	$45,228	$47,038	$48,919	$50,876	$52,911	$55,027	$57,228
Adjustment for Real Units Built	$4,700	$9,776	$15,251	$21,148	$27,493	$31,496	$35,776	$40,348	$45,228	$47,038	$48,919	$50,876	$52,911	$55,027	$57,228
SALES TAX															
NY State Sales Tax	$3,057	$3,179	$3,306	$3,439	$3,576	$3,719	$3,868	$4,023	$4,184	$4,351	$4,525	$4,706	$4,894	$5,090	$5,294
MTA Sales Tax	$180	$187	$194	$202	$210	$219	$228	$237	$246	$256	$266	$277	$288	$299	$311
NY City Sales Tax	$4,945	$5,143	$5,349	$5,563	$5,785	$6,016	$6,257	$6,507	$6,768	$7,038	$7,320	$7,613	$7,917	$8,234	$8,563
Total Sales Tax	$8,182	$8,509	$8,849	$9,203	$9,572	$9,954	$10,353	$10,767	$11,197	$11,645	$12,111	$12,596	$13,099	$13,623	$14,168
After Application of Multiplier	$12,273	$12,764	$13,274	$13,805	$14,357	$14,932	$15,529	$16,150	$16,796	$17,468	$18,167	$18,893	$19,649	$20,435	$21,252
Adjustment for Real Units Built	$1,745	$3,631	$5,664	$7,854	$10,210	$11,696	$13,286	$14,984	$16,796	$17,468	$18,167	$18,893	$19,649	$20,435	$21,252
TOTAL REVENUES FROM INCOME AND SALES TAX	$6,446	$13,407	$20,915	$29,002	$37,702	$43,193	$49,062	$55,332	$62,025	$64,506	$67,086	$69,769	$72,560	$75,462	$78,481

$ in thousands

	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
INCOME TAX															
State	$20,306	$21,118	$21,963	$22,841	$23,755	$24,705	$25,694	$26,721	$27,790	$28,902	$30,058	$31,260	$32,511	$33,811	$35,163
City	$19,372	$20,147	$20,953	$21,791	$22,663	$23,569	$24,512	$25,493	$26,512	$27,573	$28,676	$29,823	$31,016	$32,256	$33,547
Total Income Tax	$39,678	$41,266	$42,916	$44,633	$46,418	$48,275	$50,206	$52,214	$54,303	$56,475	$58,734	$61,083	$63,526	$66,067	$68,710
After Application of Multiplier	$59,518	$61,898	$64,374	$66,949	$69,627	$72,412	$75,309	$78,321	$81,454	$84,712	$88,101	$91,625	$95,290	$99,101	$103,065
Adjustment for Real Units Built	$59,518	$61,898	$64,374	$66,949	$69,627	$72,412	$75,309	$78,321	$81,454	$84,712	$88,101	$91,625	$95,290	$99,101	$103,065
SALES TAX															
NY State Sales Tax	$5,505	$5,726	$5,955	$6,193	$6,441	$6,698	$6,966	$7,245	$7,534	$7,836	$8,149	$8,475	$8,814	$9,167	$9,534
MTA Sales Tax	$324	$337	$350	$364	$379	$394	$410	$426	$443	$461	$479	$499	$518	$539	$561
NY City Sales Tax	$8,906	$9,262	$9,632	$10,018	$10,418	$10,835	$11,269	$11,719	$12,188	$12,676	$13,183	$13,710	$14,258	$14,829	$15,422
Total Sales Tax	$14,735	$15,324	$15,937	$16,575	$17,238	$17,927	$18,644	$19,390	$20,166	$20,972	$21,811	$22,684	$23,591	$24,535	$25,516
After Application of Multiplier	$22,102	$22,987	$23,906	$24,862	$25,857	$26,891	$27,967	$29,085	$30,249	$31,459	$32,717	$34,026	$35,387	$36,802	$38,274
Adjustment for Real Units Built	$22,102	$22,987	$23,906	$24,862	$25,857	$26,891	$27,967	$29,085	$30,249	$31,459	$32,717	$34,026	$35,387	$36,802	$38,274
TOTAL REVENUES FROM INCOME AND SALES TAX	$81,620	$84,885	$88,280	$91,811	$95,484	$99,303	$103,275	$107,406	$111,703	$116,171	$120,818	$125,650	$130,676	$135,903	$141,340

Appendix III

Spreadsheet Detailing Fiscal Impact of the Commercial Buildings

$ in thousands

	Annuity	2005 NPV	Aggregate
INCOME TAX			
State	$4,726	$68,683	$176,252
City	$2,136	$31,050	$79,680
Total Income Tax	$6,862	$99,733	$255,932
After Application of Multiplier	$10,293	$149,600	$383,898
SALES TAX			
NY State Sales Tax	$1,699	$24,690	$63,359
MTA Sales Tax	$100	$1,452	$3,727
NY City Sales Tax	$1,154	$16,775	$43,047
Total Sales Tax	$2,953	$42,917	$110,132
After Application of Multiplier	$4,429	$64,376	$165,199
TOTAL REVENUES FROM INCOME AND SALES TAXES	$14,723	$213,976	$549,096

$ in thousands

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
INCOME TAX															
State	$0	$0	$1,445	$1,488	$3,063	$3,154	$4,854	$4,999	$5,149	$5,304	$5,463	$5,627	$5,796	$5,970	$6,149
City	$0	$0	$653	$673	$1,385	$1,426	$2,194	$2,260	$2,328	$2,398	$2,470	$2,544	$2,620	$2,699	$2,780
Total Income Tax	$0	$0	$2,098	$2,161	$4,447	$4,581	$7,048	$7,260	$7,477	$7,702	$7,933	$8,171	$8,416	$8,668	$8,928
After Application of Multiplier	$0	$0	$3,147	$3,241	$6,671	$6,871	$10,572	$10,890	$11,216	$11,553	$11,899	$12,256	$12,624	$13,003	$13,393
SALES TAX															
NY State Sales Tax	$0	$0	$519	$535	$1,101	$1,134	$1,745	$1,797	$1,851	$1,907	$1,964	$2,023	$2,083	$2,146	$2,210
MTA Sales Tax	$0	$0	$31	$31	$65	$67	$103	$106	$109	$112	$116	$119	$123	$126	$130
NY City Sales Tax	$0	$0	$353	$363	$748	$770	$1,185	$1,221	$1,258	$1,295	$1,334	$1,374	$1,416	$1,458	$1,502
Total Sales Tax	$0	$0	$903	$930	$1,914	$1,971	$3,033	$3,124	$3,218	$3,314	$3,414	$3,516	$3,622	$3,730	$3,842
After Application of Multiplier	$0	$0	$1,354	$1,395	$2,871	$2,957	$4,549	$4,686	$4,827	$4,971	$5,120	$5,274	$5,432	$5,595	$5,763
TOTAL REVENUES FROM INCOME AND SALES TAXES	$0	$0	$4,501	$4,636	$9,541	$9,827	$15,122	$15,576	$16,043	$16,524	$17,020	$17,530	$18,056	$18,598	$19,156

$ in thousands

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
INCOME TAX															
State	$6,333	$6,523	$6,719	$6,920	$7,128	$7,342	$7,562	$7,789	$8,023	$8,263	$8,511	$8,767	$9,030	$9,301	$9,580
City	$2,863	$2,949	$3,038	$3,129	$3,222	$3,319	$3,419	$3,521	$3,627	$3,736	$3,848	$3,963	$4,082	$4,205	$4,331
Total Income Tax	$9,196	$9,472	$9,756	$10,049	$10,351	$10,661	$10,981	$11,310	$11,650	$11,999	$12,359	$12,730	$13,112	$13,505	$13,910
After Application of Multiplier	$13,795	$14,208	$14,635	$15,074	$15,526	$15,992	$16,471	$16,966	$17,474	$17,999	$18,539	$19,095	$19,668	$20,258	$20,865
SALES TAX															
NY State Sales Tax	$2,277	$2,345	$2,415	$2,488	$2,562	$2,639	$2,718	$2,800	$2,884	$2,971	$3,060	$3,151	$3,246	$3,343	$3,444
MTA Sales Tax	$134	$138	$142	$146	$151	$155	$160	$165	$170	$175	$180	$185	$191	$197	$203
NY City Sales Tax	$1,547	$1,593	$1,641	$1,690	$1,741	$1,793	$1,847	$1,902	$1,959	$2,018	$2,079	$2,141	$2,205	$2,272	$2,340
Total Sales Tax	$3,957	$4,076	$4,198	$4,324	$4,454	$4,588	$4,725	$4,867	$5,013	$5,163	$5,318	$5,478	$5,642	$5,812	$5,986
After Application of Multiplier	$5,936	$6,114	$6,298	$6,486	$6,681	$6,882	$7,088	$7,301	$7,520	$7,745	$7,978	$8,217	$8,463	$8,717	$8,979
TOTAL REVENUES FROM INCOME AND SALES TAXES	$19,731	$20,322	$20,932	$21,560	$22,207	$22,873	$23,559	$24,266	$24,994	$25,744	$26,516	$27,312	$28,131	$28,975	$29,844

Executive Summary

This report offers an analysis of the likely fiscal impact on the budgets of the City of New York and State of New York from the Forest City Ratner Companies (FCRC) arena, commercial and community development project at Atlantic Yards in Brooklyn.

The FCRC project at Brooklyn's Atlantic Yards distinguishes itself from the standard sports facility project in at least two important ways. First, New York City and New York State will benefit from a recapture of tax revenues presently generated in New Jersey. Second, the FCRC project is not a standalone arena, rather it encompasses a 21-plus acre mixed-income residential and commercial community. Among other things, the project will add at least 4500 net new residential units (with 20 percent for low-income and 30 percent for middle-income families) and 1.9 million square feet of class A office space.

In a typical case, a community builds a sports facility either to retain an existing team or attract a new team to the area. In either case, the lion's share of the money spent at the new arena or stadium is diverted from existing local expenditures, i.e., it does not constitute additional consumer spending. In a broad sense, the same is true with the proposed Nets arena in Brooklyn; the difference in this instance is that while the spending in the larger media market is mostly reshuffled within the area, it is relocated from one tax jurisdiction to another. Tax collections that presently go to New Jersey will now go to New York City and New York State.

In particular, incomes of Nets players, executives and staff will be taxed in New York State and partially in New York City (if the individual lives in one of the five boroughs). Further, part of the spending at Nets games and other events at the Atlantic Yards arena will be new to New York City and New York State and sales taxes collected from this new spending will constitute net increments to the public coffers. Taking care to omit recirculated revenue, this study estimates that over thirty years the aggregate revenue generated for the city and state from the team and arena will be $730.4 million, with a present value of $257.5 million (using a 5.5 percent discount rate.)

Given the housing and commercial office space shortage in Brooklyn and New York City, the Atlantic Yards development will permit increments to the number of people living in and businesses working in New York. These increments will bring new income and sales, and, consequently, new tax revenues, to the city and state. This additional tax revenue from the residential and commercial developments at Atlantic Yards is estimated to total $2.93 billion over thirty years, or a present value of $1.08 billion.

The study also estimates the property tax on improvements (after the abatement program) and ground rent. The thirty-year aggregate revenue on these two taxes comes to $446.7 million, or a present value of $162 million. Several sources of additional tax revenue from the project are not estimated. The total estimated increment to city and state tax revenues from the project comes to $4.1055 billion over thirty years, or a present value of $1.503 billion. The total construction and operating costs to the city and state from the project are estimated at $1.2865 billion over thirty years, or a present value of $690.4 million. Thus, the net fiscal benefit to the city and state from the Altantic Yards project is estimated to be at least $2.819 billion over thirty years, or a present value of at least $812.6 million.