



A Defense of Public Financing in a Time of Economic Hardship, Social Unrest, and Athlete Advocacy

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TABLE OF CONTENTS

INTRODUCTION	321
I. WHY IT MATTERS	322
II. SIZE AND SCOPE OF STADIUM DEVELOPMENT	324
III. ECONOMICS OF STADIUM DEVELOPMENT	328
A. <i>Public Financing Explained</i>	328
B. <i>Economic Effectiveness of Public Financing</i>	332
C. <i>Improving Economic Effectiveness of Public Assistance Going Forward</i>	336
IV. NON-ECONOMIC VALUE ADDED	339
A. <i>Evaluating and Incorporating Public Sentiment</i>	339
B. <i>Athletes and Athletics as a Local Force for Good</i>	343
C. <i>Greater Social Impact</i>	346
CONCLUSION	351

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ABSTRACT

This article offers a critical look at the ever-expanding area of public financing for sports stadium development as a means of economic and cultural development in the United States. Public financing can take many forms, such as tax breaks, municipal bonds, or cash contributions; the term is used expansively to encompass these forms of assistance as well as others that result in some effect on tax revenues and expenditures. This article evaluates the merits of public financing provided to aid in stadium construction in an effort to recruit or retain a sports franchise. It discusses the issue's importance, scope, and merits based on both economic and non-economic factors. Overall, the article articulates a defense of the continued public financing of sports stadiums as a means of community development both economically and culturally, while acknowledging the need of local state governments to do so more responsibly.

INTRODUCTION

This article proposes a two-prong framework which politicians, policy-makers, and academics should utilize in assessing both the viability and the benefits of public financing. First, one should consider whether there is a deal to be had with a private, for-profit enterprise that allows for a reasonable return on investment to justify this use of taxpayer dollars. Second, one should evaluate whether this financing produces a certain amount of cultural value to the community independent of whether an investment is a private, for-profit enterprise and independent of return on investment. Evaluating the cultural value added, regardless of other independent considerations, is consistent with the way in which other public works are conceptualized, such as museums.

Part I gives a brief overview of the ongoing importance of the public financing debate, provides examples of the potential financial and legal consequences an area may face when considering public financing, and connects those consequences to the effects they have on individuals in a community.

Part II looks to establish the economic might of the American sports industry and illustrate that the debate over public financing is likely to increase, especially given the short-term economic impact of the coronavirus. With the increasing value of sports franchises, television deals, and national and international fan bases, teams and leagues will likely only amplify the pressure on governments to make competitive public financing plans to keep or lure away a team. The pandemic may only exacerbate this trend as teams face large short-term cash crunches, while simultaneously expecting lucrative medium and long-term television and endorsement deals. They may look to public financing to bridge the gap.

Part III discusses the history of public financing for stadium development, concluding that as a purely economic matter it has, more often than not, been a bad investment. While sports stadiums do create some economic activity, the independent consensus is that sports stadiums have been an inefficient return on investment. This section presents both the prospective economic arguments used in favor of public financing as well as contemporary and retrospective economic analysis as to its actual economic impact. Furthermore, this section looks to recognize past shortcomings and formulate solutions. Given the reality of increased sports expansion and relocation, combined with increased financial uncertainty wrought by the pandemic, it is important to evaluate past forms of public financing for stadium development and the resulting economic consequences. Understanding what previous public financing deals have done well or poorly can illuminate a path

forward for better deals in the future. Lastly, this part will examine an emerging new approach to public financing and its early results.

Finally, Part IV looks at a myriad of non-economic justifications for public financing. Given the difficulty in quantifying such factors and their subjective nature, they are evaluated as policy considerations in conjunction with economic outcomes. This includes looking at the popularity of public financing of for-profit companies generally; potential community value added, similar to a museum or art exhibit; and potential community consequences of failures to recruit or retain a sports franchise. In particular, this part will highlight recent social and cultural contributions of sports teams, in areas such as voting and racial justice, that would have been impossible without stadium development and highly improbable without a public partnership. The result is that policymakers supporting such subsidies have done so either as advocates for economic gain, the public interest, or both and have generally helped their communities by using public financing as an investment.

I. WHY IT MATTERS

Before addressing what public financing of stadiums is and whether it should continue, a brief discussion on how it affects people and why it matters is necessary. The first reason is legal and economical. Public financing of stadiums can tie a city or state to a team for decades¹ and tie them to debt for decades as well.² The second reason is personal. Many Americans simply just love sports, to a near irrational level.³

¹ See John Breech, *Raiders Get Lease Done in Vegas, New Stadium Just Needs to Clear One More Hurdle*, CBS SPORTS (May 18, 2017, 6:39 PM), <https://www.cbsports.com/nfl/news/raiders-get-lease-done-in-vegas-new-stadium-just-needs-to-clear-one-more-hurdle/> [<https://perma.cc/ZKS2-QZMN>] (stating the Raiders received a 30-year lease term, which is longer than any previous amount of time the Raiders have spent in one city and highlighting options to renew which could extend to a maximum of 50 years).

² See Richard N. Velotta, *All Bonds for Las Vegas Raiders Stadium Sold in 90 Minutes*, LAS VEGAS REVIEW-JOURNAL (Apr. 11, 2018, 5:58 PM), <https://www.reviewjournal.com/business/stadium/all-bonds-for-las-vegas-raiders-stadium-sold-in-90-minutes/> [<https://perma.cc/UY7M-FUK5>] (noting the bonds used to help publicly finance had a 30-year maturation period).

³ See generally Christine Emba, *Why Do We Care About Sports So Much?*, WASH. POST (Mar. 14, 2016, 7:27 AM), <https://www.washingtonpost.com/news/in-theory/wp/2016/03/14/why-do-we-care-about-sports-so-much/> [<https://perma.cc/A5XW-HZMC>] (scrutinizing the personal and cultural connection people feel to their sports' teams).

Ideally a team will never want to leave a city, and debts can and will always be paid by the responsible party. However, disputes can and do arise between localities and their sports teams.⁴ These disputes are more than just technical matters, they are significant legal controversies with consequences worth hundreds of millions of dollars.⁵ If not done properly, a public financing deal leaves governments not only losing money while a team remains local, but also facing massive obligations if a team leaves as well.⁶ In most cases public financing may not be the cause of financial hardship, but the legal obligations appear quite onerous when, in a time of otherwise austerity, people realize just how inescapable they actually are.⁷ In some instances, the public financing deal is the direct cause of unseemly financial consequences.⁸

⁴ See Dave Vest, *Coyotes Taking Legal Action Against Glendale for Ending Lease Agreement*, NHL.COM (June 11, 2015), <https://www.nhl.com/coyotes/news/coyotes-taking-legal-action-against-glendale-for-ending-lease-agreement/c-770561> [<https://perma.cc/T3RY-64R7>] (seeking \$200 million in damages when the city of Glendale voted to cancel its lease with the Arizona Coyotes); Dave Simpson, *Golden State Warriors Must Pay Coliseum Debt Despite Move*, LAW360 (Aug. 18, 2020, 10:19 PM), <https://www-law360-com.eresources.law.harvard.edu/articles/1302444/golden-state-warriors-must-pay-coliseum-debt-despite-move>.

⁵ See Simpson, *supra* note 4 (asserting the remaining debt payments of \$140 million will be paid by the taxpayer if the Warriors are not compelled to pay); see also Helen Christophi, *Oakland Files Federal Lawsuit Against NFL, Raiders*, COURTHOUSE NEWS SERVICES, (Dec. 11, 2018), <https://www.courthousenews.com/oakland-files-federal-lawsuit-against-nfl-raiders/> [<https://perma.cc/4R98-9RFX>] (stating the city of Oakland was seeking treble damages over an “illegal” move to Las Vegas and noting the NFL received \$370 million in relocation fees for the move).

⁶ See Robin Respaut, *With NFL Rams Gone, St. Louis Still Stuck with Stadium Debt*, REUTERS, (Feb. 5, 2016, 5:29 AM), <https://www.reuters.com/article/us-sports-nfl-stadiums-insight/with-nfl-rams-gone-st-louis-still-stuck-with-stadium-debt-idUSKCN0VCOEP> [<https://perma.cc/QY9Y-GCB8>] (detailing an uncommon maintenance clause that allowed the Rams to leave early and leave the county, city, and state facing millions in debt payments with no revenue to help offset costs).

⁷ See generally Darrell Preston & Aaron Kuriloff, *Oakland Pays \$14 Million for NFL Raiders as Cops Fired*, BLOOMBERG (Jan. 28, 2013, 11:11 AM), <https://www.bloomberg.com/news/articles/2012-12-20/oakland-pays-17-million-for-nfl-raiders-as-cops-get-cut> [<https://perma.cc/U292-R96N>]; David Sirota, *Detroit, Other Cash-Strapped US Cities, States Slashing Pension Benefits While Subsidizing Professional Sports Stadiums*, IBTIMES (Jul. 22, 2014 1:09 PM), <https://www.ibtimes.com/detroit-other-cash-strapped-us-cities-states-slashing-pension-benefits-while-1635660> [<https://perma.cc/4B8H-ZUGF>].

⁸ See Barry Petchesky, *Glendale May Sell City Hall to Pay for the Coyotes*, DEADSPIN (Jun. 25, 2013 3:21 PM), <https://deadspin.com/glendale-may-sell-city-hall-to-pay-for-the-coyotes-575360615> [<https://perma.cc/PE4T-KKRQ>].

These real-world consequences take the discussion of public financing from academic debate over economic theory to practical policy questions. The first question most concern themselves with is typically one of taxes. To maintain the tax-exempt status of their municipal bonds, governments often look to publicly acceptable tax increases.⁹ Additionally, at least one local government has attempted to adopt an ordinance to ensure public support for public financing, which has resulted in legal battles.¹⁰ These initiatives by local governments reflect an increasing awareness of both the impact on and importance to the public of public financing for sports stadiums.

II. SIZE AND SCOPE OF STADIUM DEVELOPMENT

In normal times, the American sports industry is almost an economy unto itself. In recent years, the collective annual revenue of the NFL, MLB, NBA, NHL, and NCAA has totaled approximately thirty-nine billion dollars.¹¹ These five organizations are not the only major sports organizations,

⁹ See Skip Sauer, *Cowboys Stadium Financing*, SPORTS ECONOMIST (Aug. 29, 2019) <https://thesportseconomist.com/cowboys-stadium-financing/> [<https://perma.cc/CR7G-NU8F>] (detailing that the public share of bond obligations is paid through a sales-tax increase, hotel-motel tax increase, and car rental tax increase); Richard N. Velotta, *Revenue from Las Vegas Room Taxes Surges in January*, LAS VEGAS REV.-J. (Mar. 19, 2018, 12:12 PM), <https://www.reviewjournal.com/business/tourism/revenue-from-las-vegas-room-taxes-surges-in-january/> [<https://perma.cc/DR33-3D4C>].

¹⁰ See *Construction of St. Louis Stadium Will Not Need Vote to Use City Tax Dollars*, SPORTS ILLUSTRATED (Aug. 3, 2015), <https://www.si.com/nfl/2015/08/03/st-louis-rams-new-stadium-plan-construction-city-tax-dollars> [<https://perma.cc/7QL5-9LMB>] (invalidating city ordinance requiring voter approval of public subsidies for stadium financing).

¹¹ This represents cumulative annual revenue across 2018 and 2019 based on each organization's most recently available data at the time of first writing, to show, by way of example, the economic might of organized sports in America. See generally Maury Brown, *MLB Sees Record Revenue of \$10.3 Billion for 2018*, FORBES (Jan 7, 2019 3:31 PM), <https://www.forbes.com/sites/maurybrown/2019/01/07/mlb-sees-record-revenues-of-10-3-billion-for-2018/#7c6936f65bea> [<https://perma.cc/B63P-U2FV>]; Kurt Badenhausen & Mike Ozanian, *NBA Team Values 2019: Knicks on Top at \$4 billion*, FORBES (Feb. 6, 2019, 9:00 AM), <https://www.forbes.com/sites/kurtbadenhausen/2019/02/06/nba-team-values-2019-knicks-on-top-at-4-billion/#47e6f0f9e667> [<https://perma.cc/8J3Z-HWBL>] (annual revenue of NBA approximately \$8 billion); Scott Soshnick & Eben Novy-Williams, *The NFL Nears \$25 Billion Revenue Goal Ahead of Super Bowl*, CHICAGO TRIBUNE (Jan. 28, 2019, 8:40 AM), <https://www.chicagotribune.com/sports/ct-spt-nfl-revenue-super-bowl-20190128-story.html> [<https://perma.cc/H627-F3WY>]; Dan Rosen, *NHL Revenues, Salary Cap Projected to Rise*, NHL (Dec. 8, 2017), <https://www.nhl.com/news/nhl-revenues-salary-cap-projected-to-rise-in-2018-19/c-293815570> [<https://perma.cc/>]

but they represent five of the largest and most recognizable sports organizations in the country. World Bank data indicates that this collective annual revenue represents economic output greater than that of over ninety countries.¹² Moreover, while these organizations are the biggest sports organizations, they are by no means the only ones. Other professional football leagues, baseball leagues, and hockey leagues exist,¹³ as well as professional leagues of other sports such as golf, soccer, and tennis, which generate billions of dollars.¹⁴ Simply put, the economic interests of professional sports are quite significant, and as a result so are the demands for stadiums and public financing.

A necessary consequence of the major economic might of sports in America is the constant demand for stadium and arena construction. This demand is demonstrated by the explosion of stadium and arena development in America in recent decades.¹⁵ The NFL recently crystallized this trend

BJ62-YA7D]; Scooby Axson, *NCAA Reports \$1.1 Billion in Revenues*, SPORTS ILLUSTRATED (Mar. 7, 2018), <https://www.si.com/college-basketball/2018/03/07/ncaa-1-billion-revenue> [<https://perma.cc/J4UR-T6WC>] (annual revenue of NCAA sports over \$1 billion).

¹² See WORLD BANK, https://data.worldbank.org/indicator/NY.GDP.MKTP.KD?most_recent_value_desc=false&view=map [<https://perma.cc/BC5J-V6TT>] (last visited Dec. 23, 2019).

¹³ This includes the American Arena League (AAL) https://en.wikipedia.org/wiki/American_Arena_League [<https://perma.cc/WLJ6-5MQS>], Indoor Football League (IFL) https://en.wikipedia.org/wiki/Indoor_Football_League [<https://perma.cc/4D3T-XDAV>], six major independent baseball leagues (comprising 53 teams) <https://tft.fangraphs.com/independent-league-to-affiliated-baseball-who-makes-the-move/> [<https://perma.cc/63T5-S37U>], and the American Hockey League (AHL) https://en.wikipedia.org/wiki/American_Hockey_League [<https://perma.cc/7CEU-XWQM>].

¹⁴ The PGA TOUR alone generates \$1.28 billion. *PGA Tour*, NAT'L GOLF FOUND. <https://www.thengfq.com/company/pga-tour> [<https://perma.cc/9CBZ-QY4B>]. Major League Soccer (MLS) is becoming an increasingly valuable sports organization. Chris Smith, *Major League Soccer's Most Valuable Teams 2019: Atlanta Stays on Top as Expansion Fees, Sale Prices Surge*, FORBES (Nov. 4, 2019, 9:40 AM), <https://www.forbes.com/sites/chris-smith/2019/11/04/major-league-soccers-most-valuable-teams-2019-atlanta-stays-on-top-as-expansion-fees-sale-prices-surge/#1ad8625351b5> [<https://perma.cc/Y5XS-HAXH>]. And there is the additional presence of Major Arena Soccer League (MASL). See MAJOR ARENA SOCCER LEAGUE, <https://www.maslsoccer.com/> (last visited Mar. 25, 2021). Major tennis events can generate hundreds of millions of dollars. See Christopher Clarey, *In Tennis, Men and Women Are United in Looming Prize-Money Fight*, N.Y. TIMES (Oct. 11, 2019), <https://www.nytimes.com/2019/10/11/sports/tennis/grand-slam-prize-money.html> [<https://perma.cc/UY3P-57XQ>].

¹⁵ Analysis of stadiums and arenas with major sports tenants reveals that since 1990, over 90 stadiums and over 110 indoor arenas have been constructed as of Fall

toward more development when it replaced ten stadiums in a twelve-year span, and the median lifespan of the replaced stadiums dropped from nearly fifty years to only thirty-one years.¹⁶

This inescapable reality of increased demand for stadium development, driven by industry growth and fast stadium turnover, presents a major and growing problem in the short and long term for local governments. The short-term problem for any local government is the threat of a team that wants a new stadium leaving and the economic and political fallout for government officials. The long-term problem is that local governments are in an ever-increasing competition with each other to recruit businesses and as a result need to offer increasingly generous economic and tax incentives to entice development.

This dilemma is compounded by not only the increasing frequency of stadium development but also the increasing costs of construction. In the 1950s, when public financing for stadium development first began, the average cost to construct a facility was under four million dollars.¹⁷ From 1990 through 1998 the average cost of stadium construction was over two-hundred million dollars, representing a fifty-fold increase in the average cost.¹⁸ This problem does not show any signs of abetting as stadium costs continue to skyrocket, the most prominent example being the Raiders' newly developed stadium in Las Vegas. The Raiders' new facility has a total cost nearing two billion dollars, including an expected seven-hundred-fifty million dollars in the form of public financing.¹⁹ Despite this large price tag, the amount of public financing for the Raiders' stadium actually represents a lower percentage of the total cost than the average amount of public financing typically provided.²⁰ This illustrates that even when state and local governments can effectively negotiate a lower percentage of costs covered by

2020. *List of U.S. Stadiums by Capacity*, WIKIPEDIA https://en.wikipedia.org/wiki/List_of_U.S._stadiums_by_capacity [<https://perma.cc/6GXH-FQHY>] (last visited Mar. 25, 2021); *List of Indoor Arenas in the United States*, WIKIPEDIA https://en.wikipedia.org/wiki/List_of_indoor_arenas_in_the_United_States [<https://perma.cc/SW69-NSU5>] (last visited Mar. 25, 2021).

¹⁶ See Chris Isidore, *The Short Life of an NFL Stadium*, CNN (Sept. 8, 2014, 12:20 PM), <https://money.cnn.com/2014/09/08/news/companies/nfl-stadiums/index.html>

¹⁷ John Siegfried & Andrew Zimbalist, *The Economics of Sports Facilities and Their Communities*, 14 J. ECON. PERSP. 95, 97 (2000).

¹⁸ *Id.*

¹⁹ Mick Akers, *AEG Sees No Problem Filling 46 Events at Las Vegas Stadium*, LAS VEGAS REV.-J. (July 18, 2018, 6:04 PM) (<https://www.reviewjournal.com/business/stadium/aeg-sees-no-problem-filling-46-events-at-las-vegas-stadium-1790538/>).

²⁰ Siegfried & Zimbalist, *supra* note 17, at 108 (stating public contributions have averaged seventy percent of construction costs through 1998).

public financing, rapidly rising costs still result in significant financial commitments, raising the importance of negotiating a beneficial deal.

This dilemma for state and local governments is not limited by geography, sport, team success, or any other factors aside from economic calculation. While iconic teams such as the Yankees, Cubs, and Cowboys are likely to never leave their cities, they are more the exception than the rule, and even then they cannot be taken for granted.²¹ In the NFL, three teams simultaneously tried to relocate to Los Angeles in 2016,²² and one of which, after failing to relocate to Los Angeles, successfully negotiated a relocation to Las Vegas.²³ In the NBA, after a run of success followed by on-court struggles, the Seattle SuperSonics relocated to Oklahoma City.²⁴ There have been multiple attempts to relocate the Sacramento Kings to Seattle,²⁵ and even the wildly successful Golden State Warriors decided to move across the San Francisco Bay from the storied Oracle Arena in Oakland to the new Chase Center in San Francisco.²⁶ In the NHL, the league recently expanded to include the Vegas Golden Knights²⁷ and is expanding even further with the addition of the new Seattle Kraken.²⁸ The Islanders infamously moved to Brooklyn after years of negotiations with Nassau County regarding renova-

²¹ See Richard Sandomir, *Yankees Say They Would Have Left Bronx if Pushed*, N.Y. TIMES (Oct. 24, 2008), <https://www.nytimes.com/2008/10/25/sports/baseball/25yankees.html> [<https://perma.cc/K99K-EH6Y>].

²² Dan Hanzus, *Rams to Relocate to L.A.; Chargers First Option to Join*, NFL (Jan. 12, 2016, 8:13 PM), <http://www.nfl.com/news/story/0ap3000000621645/article/rams-to-relocate-to-la-chargers-first-option-to-join> [<https://perma.cc/LAL7-LN7L>].

²³ Gregg Rosenthal, *NFL Owners Approve Raiders' Move to Las Vegas*, NFL (Mar. 27, 2017, 7:07 AM), <https://www.nfl.com/news/nfl-owners-approve-raiders-move-to-las-vegas-0ap3000000795413> [<https://perma.cc/H784-R4XP>].

²⁴ *NBA Sonics Seek Arbitration to Escape Seattle Lease*, AFP (Sept. 21, 2007), <https://web.archive.org/web/20080622133358/http://afp.google.com/article/ALeqM5h9SX5Xx0dG5OJUP1gkLSlwzf-5ag> [<https://perma.cc/U3KU-4YTK>].

²⁵ See, e.g., Eric Freeman, *NBA relocation committee unanimously recommends the Kings stay in Sacramento*, Yahoo! Sports (Apr. 29, 2013), <https://sports.yahoo.com/nba-relocation-committee-unanimously-recommends-kings-stay-sacramento-225501313.html?a20=1> [<https://perma.cc/3LU9-D8DZ>].

²⁶ See Devin Gordon, *The Warriors Gamble Their Soul as They Swap Oakland for San Francisco*, THE GUARDIAN (Apr. 8, 2019, 9:30 AM), <https://www.theguardian.com/sport/2019/apr/08/goden-state-warriors-oracle-arena-move-oakland-san-francisco-nba> [<https://perma.cc/LC9S-YGWW>].

²⁷ Steve Carp, *Las Vegas Awarded NHL Expansion Team*, LAS VEGAS REV.-J. (June 22, 2016, 11:48 PM), <https://www.reviewjournal.com/sports/golden-knights-nhl/las-vegas-awarded-nhl-expansion-team/> [<https://perma.cc/9SVD-4A47>].

²⁸ KIRO7 News Staff, *Report: Seattle NHL Team Name Could Come Soon*, KIRO7 (Nov. 3, 2019, 8:51 AM), <https://www.kiro7.com/news/local/seattle-nhl-team-name-to-come-soon/1004496089> [<https://perma.cc/Y85T-3WCW>].

tions to their longtime home.²⁹ MLB, long considered the most reserved sport, has seen a spat of moves and new stadiums. The Yankees, potentially under threat of relocation, received a new stadium in 2009.³⁰ The Florida Marlins quickly won two World Series as an expansion team, and, almost as quickly, built a new stadium and rebranded as the Miami Marlins.³¹ The Tampa Bay Rays have received permission to research a potential two-stadium franchise playing in both Montreal and Tampa Bay,³² possibly as a way to leverage increased public financing and improvements to their current stadium.³³ All of this shows that regardless of city, sport, or success, sooner or later the question of public financing reaches far and wide with little to no signs of slowing down.

III. ECONOMICS OF STADIUM DEVELOPMENT

A. Public Financing Explained

The examples of teams relocating, renovating, or constructing new stadiums described in Part II are just a small sampling of the overall trend and are meant to illustrate the fact that teams, good and bad, across the country and across all sports are a part of it. No matter the situation, the driving forces behind these decisions are economic. The Golden State Warriors are the perfect example. Despite positive fan and player attitudes towards Oracle Arena³⁴ and significant success in recent years,³⁵ the Warriors moved because it would maximize profits.³⁶ Regularly, the economics of a new stadium or arena are not reliably profitable without some form of public financing, often in the form of public subsidies or tax relief. While stadiums

²⁹ Brian Croce & Andrew Hackmack, *Islanders Are Moving to Brooklyn*, LONG ISLAND HERALD (Oct. 24, 2012) http://liherald.com/stories/Islanders-expected-to-move-to-Brooklyn,44047?page=2&content_source=& [https://perma.cc/3GLD-LYTF].

³⁰ Sandomir, *supra* note 21.

³¹ Kevin Reichard, *It's Marlins Ballpark for 2012*, BALLPARK DIGEST (Jan. 27, 2012), <https://ballparkdigest.com/201201274441/major-league-baseball/news/its-marlins-ballpark-for-2012> [https://perma.cc/VE62-5YEK].

³² James Wagner, *Rays to Explore Making Montreal a Part-Time Home*, N.Y. TIMES (June 20, 2019), <https://www.nytimes.com/2019/06/20/sports/tampa-bay-rays-montreal.html> [https://perma.cc/77YA-JJWA].

³³ *Id.*

³⁴ See Gordon, *supra* note 26.

³⁵ See *id.*

³⁶ See *id.*

are occasionally entirely privately financed,³⁷ those situations are the exception, not the norm. This section endeavors to look at the merits of the arguments in favor of and arguments against publicly financed sports stadium construction, how local governments have adapted in the face of such arguments, and whether continued public assistance is optimal, justifiable, or should be abandoned altogether. The section ultimately concludes that while in many instances public assistance has been sub-optimal, it remains economically justifiable, and state and local governments should work harder to negotiate more economically viable arrangements with sports teams.

As mentioned above, stadium construction often relies upon some form of public financing to be financially feasible. Given that stadiums are constructed all across the country, and the most significant forms of public financing come from state and local governments, there is no uniform package of public financing to measure or analyze. To the contrary, often times different cities and states are viewed as “bidding” against one another as to which one can offer the best public assistance package to entice a sports franchise.³⁸

Public financing can come in many different forms, the first being indirectly through federal tax exemptions. Specifically, the federal government allows for interest earned on some municipal bonds offered by state and local governments to be tax exempt for federal income tax purposes.³⁹ Even though these bonds typically must predominantly fund a public entity or use, the federal government had specifically excepted bonds for stadium construction from this requirement up until 1986, thereby continuing the income tax exemption.⁴⁰ Even after the federal government attempted to remove this exception, a loophole in financing structure remains open that can continue to provide indirect federal subsidies to financing stadium construction.⁴¹ This tax exemption on interest income from bonds makes the public debt financing a more enticing investment. Given the rising costs of stadiums and potentially billions of dollars in new public financing sought

³⁷ See *MGM & AEG Building a 20,000-Seat Arena on the Las Vegas Strip*, BILLBOARD (June 19, 2013), <https://www.billboard.com/articles/business/1567353/mgm-aeg-building-a-20000-seat-arena-on-the-las-vegas-strip> [<https://perma.cc/EF2V-L6AN>].

³⁸ See Andrew Zimbalist and Roger G. Noll, *Sports, Jobs, & Taxes: Are New Stadiums Worth the Cost?*, BROOKINGS (June 1, 1997) <https://www.brookings.edu/articles/sports-jobs-taxes-are-new-stadiums-worth-the-cost/> [<https://perma.cc/6J7H-R9AA>].

³⁹ Austin J. Drukker et al., *Tax-Exempt Municipal Bonds and the Financing of Professional Sports Stadiums*, 73 NAT'L TAX J. 157, 160-61 (2020).

⁴⁰ *Id.* at 162.

⁴¹ *Id.* at 163.

by sports organizations, this form of public financing can result in the federal government foregoing significant tax revenue to make a stadium's development financially feasible.⁴²

While this form of public financing is at the federal level, the decision is distinctly a local economic decision. The loophole that allows the federal tax exemption of interest income requires state and local governments to assume responsibility for ninety percent or more of the debt issued.⁴³ This loophole also requires, that the state or local government service the debt through tax revenues unrelated to the stadium or a team's activities.⁴⁴ These de facto requirements mean that while the federal government will see a relative marginal decrease in revenues, it is the state or local government that has the discretion to issue bonds in a tax-exempt manner or not, and the local taxpayers will be solely responsible for the debt incurred.

State and local governments also provide more direct forms of public financing for sports stadium development. The primary mode of public financing provided by state and local governments is use of public subsidies to lower the actual costs incurred by the team and its owners.⁴⁵ These subsidies are typically financed through the issuance of the tax-exempt municipal bonds on the theory that new stadium developments—and often, the professional sports teams that come with them—provide a net benefit to the local economy.⁴⁶ This economic benefit would come from a variety of sources including: a significant short-term increase in construction jobs, increased consumer spending on leisure and entertainment, additional development due to increased interest in the area, and a resulting increase in tax revenues from the increased economic activity, offsetting the costs of the subsidy.⁴⁷ This view of using stadium development as a means of economic development has faced a sustained amount of criticism in recent years that has called into question the economic benefits of such public financing plans and the validity of the plans more generally.

While no uniform package of quantifiable public financing exists, what does exist is a general economic theory upon which this assistance is predicated. The theory is that stadium construction, and by extension recruitment of a major sports team, is an economic boon for the community which

⁴² *Id.* at 160-161.

⁴³ *Id.* at 162.

⁴⁴ *Id.* at 163.

⁴⁵ Scott A. Wolla, *The Economics of Subsidizing Sports Stadiums*, PAGE ONE ECON. (May 2017), <https://research.stlouisfed.org/publications/page1-econ/2017-05-01/the-economics-of-subsidizing-sports-stadiums/> [<https://perma.cc/E9WJ-NUGN>].

⁴⁶ *See id.*

⁴⁷ *Id.* at 1-2.

succeeds in recruiting or retaining a team. A strong enough grant of public assistance will, the thinking goes, generate hundreds, if not thousands, of construction jobs over multiple years, increase consumer spending, and create greater tourism of the area, along with a host of other economic benefits that will trickle down and encourage development. The hope is that this increased economic activity will lead to a stadium that is “self-financing”.

The theory that stadium construction and the related sports franchise increase economic activity in an area is not without some support.⁴⁸ However, it also comes with a fair amount of criticism, and closer scrutiny reveals notable failures and shortcomings of this theory of development.⁴⁹ Those shortcomings often come where actual economic benefits fail to meet projections and the stadium becomes an economic drain or at best has a neutral effect in the long-term. Additionally, critics highlight the equally important opportunity cost of construction of a sports stadium, including opportunities for other possible uses of tax dollars or alternative construction projects which could be more economically productive and efficient.⁵⁰

The rise in public financing of private, for-profit sports stadiums is largely traced back to 1953, when the Boston Braves relocated and became the Milwaukee Braves.⁵¹ Prior to this move, public financing of this sort was relatively unheard of, but as travel became easier and the sport expanded across the country, public financing as a means of luring and retaining sports teams began.⁵² This marked a new era, prior to which sports stadiums were almost exclusively privately financed.⁵³ The subsequent rising costs of stadium construction combined with governments’ willingness to provide public financing has created the aforementioned bidding war where different local governments offer increasingly attractive, if not always financially wise, incentives to sports teams.⁵⁴ For communities, stadium construction and a related professional sports team is often an all-or-nothing proposition. If a community fails to successfully recruit a team with sufficient financial incentives for stadium construction, typically there is not a second team waiting to negotiate or accept such an offer, giving sports teams significant bargaining power.⁵⁵

⁴⁸ See generally Wolla, *supra* note 45

⁴⁹ See generally Siegfried & Zimbalist, *supra* note 17.

⁵⁰ See *id.* at 108-09.

⁵¹ *Id.* at 96.

⁵² *Id.* at 97.

⁵³ *Id.* at 96.

⁵⁴ *Id.* at 97-98.

⁵⁵ *Id.* at 98.

This inequality in bargaining power has often resulted in much maligned public financing deals for stadiums. Some of the more drastic recent public criticism includes tying stadium financing to negative outcomes such as police force reductions,⁵⁶ local governments cutting pension benefits,⁵⁷ and the need to sell city hall,⁵⁸ among many other issues linked to stadium construction.⁵⁹ While these criticisms are not always entirely accurate or representative due to more fundamental financial mismanagement by local governments, the sentiment underlying these critiques is the notion of millionaire and billionaire-supported for-profit sport enterprises receiving government assistance as both unfair and unnecessary.

The important question to ask in response to this criticism is whether public financing becomes a worthwhile long-term investment, or whether it serves as nothing more than an economic transfer to wealthy owners and sports franchises. The overwhelming economic consensus indicates that, from a purely economic standpoint, this is not a worthwhile investment for local governments.⁶⁰ Historically, as demonstrated above, these stadium development projects have proven to be unsound investments for taxpayers.

B. Economic Effectiveness of Public Financing

The significant scrutiny surrounding public financing for private stadium development naturally stems from the significant increase in public financing provided for stadium development in recent decades. The thrust of the criticism surrounding public financing is that the economic projections used to justify public financing have been overly optimistic, leading to significant financial consequences. One economist concluded “the idea that sports is a catalyst for economic development just doesn’t hold water.”⁶¹ Further, a variety of research indicates that the actual economic benefits of

⁵⁶ See Preston & Kuriloff, *supra* note 7.

⁵⁷ See Sirota, *supra* note 7.

⁵⁸ See Petchesky, *supra* note 8.

⁵⁹ See Aaron Gordon, *America Has a Stadium Problem*, PAC. STANDARD, (June 14, 2017), <https://psmag.com/economics/america-has-a-stadium-problem-62665> [<https://perma.cc/6V3H-CXFQ>].

⁶⁰ *University of Chicago Sports Stadium Survey*, (Jan. 31, 2017), <http://www.igmchicago.org/surveys/sports-stadiums> [<https://perma.cc/KTF4-5A8R>] (indicating 57% of economists agree that cost to taxpayers is more than economic benefits generated, while only 2% disagreed)

⁶¹ Wolla, *supra* note 45 (quoting Robert Baade).

stadium development plans have been only marginally positive, if not outright negative.⁶²

As touched on above, there are some particularly egregious examples of negative economic consequences to local communities related to, or caused by, public financing. A poorly structured financing arrangement in Arizona led to an attempt to sell Glendale's City Hall and lease it back to secure enough cash to service the debt for the Phoenix Coyotes arena.⁶³ These types of debt commitments can come due at unideal times, such as when Oakland decreased the police force or when Detroit was on the verge of bankruptcy.⁶⁴ The economic criticism of such deals goes beyond these headline-grabbing and politically inconvenient examples. The criticism stems from the perceived failure to accurately capture or portray the economic effects of stadium development. Critics charge that economically interested groups such as developers, labor unions, and stadium owners utilize economic projections based on quite favorable assumptions that accentuate positive possibilities and ignore very real risks or even real negative consequences that take place after development.⁶⁵

The first key criticism of the argument that stadium development promotes economic development is rooted in the economic concept of opportunity cost. Public financing involves a distribution of finite resources (cash, land, and debt capacity), and the dedication of those resources to one opportunity, in this case a sports stadium, necessarily results in foregoing an alternative opportunity. This is considered the "unseen" and unaccounted for cost of stadium development.⁶⁶ The heart of this criticism is that a sports stadium is likely a less productive or efficient use of resources than other uses, given the often large amount of public financing provided for stadiums.⁶⁷ A more economically productive use of funds could increase societal productivity in a greater way than the current investment, (the sports stadium), such as investments in airports, highways, bridges, or education.⁶⁸ Failure to use these funds for more economically productive investments is an opportunity cost of public financing. Second, there is an opportunity cost

⁶² See generally Wolla, *supra* note 45; Siegfried and Zimbalist, *supra* note 17; *University of Chicago Sports Stadium Survey*, (Jan. 31, 2017), <http://www.igmchicago.org/surveys/sports-stadiums> [https://perma.cc/KTF4-5A8R]

⁶³ Petchesky, *supra* note 8.

⁶⁴ See Preston & Kuriloff, *supra* note 7; see also Sirota, *supra* note 7.

⁶⁵ See Siegfried & Zimbalist, *supra* note 17, at 100, 103; see also Andrew Zimbalist *Circus Maximus*, BROOKINGS INST., 37-38, 43-44 (2015)

⁶⁶ Wolla, *supra* note 45.

⁶⁷ See *id.*

⁶⁸ See *id.*

of providing the land, or facilitating the acquisition of land, for sports stadiums. This opportunity cost arises if the land dedicated to the sports stadium could result in greater economic outcomes such as job and wage growth.⁶⁹ Critics contend that when considering the costs of a stadium without considering these opportunity costs significantly understates the costs of stadium development.

In addition, a criticism of stadium development as a means of economic development is the failure by those in favor of the development to consider the substitution effect of development.⁷⁰ The core of this criticism is, essentially, that considering absolute spending at stadiums, rather than the relative spending at stadiums and its overall impact on entertainment spending in the economy, results in overstating the benefits provided to the local economy. Most studies have concluded that a majority of consumers have a relatively inflexible amount of discretionary income for leisure or entertainment activities.⁷¹ This likely means that most money spent on or at a sporting event would have otherwise been spent on a different leisure activity, and if this is the case, then the net effect on consumer spending in the economy is near zero.⁷² By simply analyzing the money spent on or at sporting events, rather than the money spent on or at sporting events above what expected spending would be on such activities absent a sports stadium, critics contend that the economic activity reasonably attributable to a sports stadium is being overstated.

This potential overstatement of effects on spending is to some degree mitigated by out-of-town spending.⁷³ When people from outside of the state or community that finances and houses a stadium travel for the purpose of attending the game, all of that new spending would otherwise not benefit the local economy. The extent of this outsider effect on the local economy is uncertain, difficult to quantify, and varies greatly depending on the stadium.⁷⁴ While it is difficult to ascertain the extent of this effect, a more accurate economic analysis necessitates evaluating the relative spending effects of sports rather than just the absolute spending effect. It is essential to account for all factors that may affect such analysis. Such a comprehensive

⁶⁹ See Drukker et al., *supra* note 39, at 107.

⁷⁰ See generally Siegfried & Zimbalist, *supra* note 17, at 105; Dennis Coates & Brad R. Humphreys, *The Effect of Professional Sports on Earnings and Employment in the Services and Retail Sectors in US Cities*, REG'L SCI. & URB. ECON. 175, 176 (2003); Drukker et al., *supra* note 39, at 5; Wolla, *supra* note 45.

⁷¹ See Siegfried & Zimbalist, *supra* note 17, at 105.

⁷² See *id.*

⁷³ See *id.*

⁷⁴ See *id.* at 105-06.

analysis is beyond the scope of this paper, but its absence serves to mitigate some of the economic criticism directed against public financing for sports stadiums.

Another frequent criticism of sports stadium development relates to its effects on the fiscal and budgetary health of local and state governments. This criticism is closely related to the above criticism that the economic stimulation from sports stadiums is often overstated. Sports stadiums are often described by their proponents as “paying for themselves” due to the increased economic activity they are projected to create. The criticism arises when this projected economic stimulation falls short, and the local and state governments ultimately suffer from the shortfall. This phenomenon helps explain the problems discussed above in Phoenix, Oakland, and Detroit. One study examined twenty stadiums constructed over a fourteen-year period and found an average cost of seven million dollars in operating subsidies, and no stadium provided a positive net operating income to their host communities.⁷⁵ While the study did qualify this finding with the fact that when determining the budgetary impact of stadium development it is necessary to know the particular terms of financing and public assistance, it concluded that if a financing burden falls primarily on the public, it will likely result in a significant budget shortfall for the responsible state or local government.⁷⁶

The final major criticism of stadium development concerns its effects on employment and wages. The first part of this criticism covers an issue known as “leakage,” when certain economic benefits “leak” out of the originating local economy. Leakage deprives the local economy of any benefits from the wealth and activity that leak out to other areas. In the context of sports stadiums, there are a variety of causes of leakage. The first is that the vast majority of team revenue goes to either players or owners.⁷⁷ Both players and owners have relatively high income levels resulting in substantial federal taxes, which is the first form of leakage.⁷⁸ In addition to the high tax rates, the wealth of both players and owners, and the nature of professional sports, often lead to players and team owners owning homes and spending time and money outside of the local community, causing those economic benefits to leak out as well.⁷⁹ Additionally, players are considered to have a transient source of income resulting in a disproportionate amount of savings when compared to other types of workers in the leisure and en-

⁷⁵ *Id.* at 108.

⁷⁶ *See id.*

⁷⁷ *See id.* at 106.

⁷⁸ *See id.*

⁷⁹ *See id.*

ertainment industry.⁸⁰ This increased propensity for saving directly decreases the propensity to consume, lowering the multiplier effect of the wages paid to players.⁸¹

Additionally, this criticism of stadium development's effects on wages and employment culminates in the argument that stadium development does not have the purported benefits on employment and wages that supporters of public financing purport. In fact, one key study concluded that development of sports stadiums may actually result in a net decrease in wages for hourly employees across multiple sectors and a net decrease overall.⁸² This decrease is believed to stem from too much spending going toward sports stadiums, which often employ low-wage labor, which negatively affects those industries closely related to sports where the money would otherwise be spent.⁸³

Overall, this scrutiny results in the unified criticism that stadium development as a means of economic development as currently executed often overpromises and underdelivers on economic benefits. In fact, many critics go further and argue that the way stadium development is currently financed not only fails to deliver the promised economic benefits, but also is often overly generous and actually detrimental to the local economy. These criticisms are buttressed by a significant amount of support indicating that consumer spending, employment, wage growth, and tax revenue do not typically grow as anticipated, and as a result the local government is unable to service the significant debt it took on to finance the stadium. These criticisms are valid and should be incorporated by any state and local governments considering public financing. By incorporating these criticisms, state and local governments can better evaluate public financing proposals, avoid historical pitfalls and financial missteps, and craft better deals for their constituents if they decide to move forward.

C. *Improving Economic Effectiveness of Public Assistance Going Forward*

One important caveat to these economic criticisms is that the analysis is somewhat outdated. While *ex ante* analysis has often been criticized for the assumptions it makes and the "optimistic" economic projections for a development, *ex post* analysis suffers from the opposite flaw. When local governments begin to adjust their economic development strategies in response to such criticisms or economic shortcomings, it is unlikely that the

⁸⁰ *See id.*

⁸¹ *See id.*

⁸² Coates & Humphreys, *supra* note 70, at 197.

⁸³ *See id.* at 190.

results of these adjustments can be accounted for in ex post analysis. Short-term trends of the most recent updates are unlikely to be analyzed in a historical analysis, and even if they are the sample may be too small or volatile to provide an accurate assessment of the changes. Long-term consequences are impossible to quantify, as they realistically do not exist yet. Most critical analyses of public financing for stadiums were conducted and published in the 1990s and early 2000s, and as a result, adjustments to such criticism can only be made after that time period. Given stadium financing can often come in the form of twenty- and thirty-year debt commitments, the long-term fiscal benefits or consequences of any changes in trends simply have not manifested yet.

This flaw in ex post analysis is critical to acknowledge as local governments potentially demonstrate an increased awareness of past economic development issues and at least anecdotal signs of more successful economic development plans. A 2018 *New York Times* article looked at this adjustment by local governments attempting to yield better and more direct economic gains by changing their stadium development strategies.⁸⁴ Specifically, the article noted the shift from stadiums being located in suburban settings with the expectation of self-generating economic growth to a more urban-centric model where the stadium is a synergistic part of a larger urban planning scheme.⁸⁵ This is a significant change, considering a primary critique of the economic development strategy is the inefficient development of land in the suburbs for stadiums resulting in both direct and indirect economic growth being less than expected.

The article highlights a variety of different developments with promising economic signs not only for general economic growth, but also for broader economic benefits across the community.⁸⁶ Beginning in Sacramento, the article details what currently appears to be a resounding economic success. Since the opening of a new arena for the Sacramento Kings, along with a surrounding commons area, the number of jobs in the community has purportedly increased thirty-eight percent.⁸⁷ Additionally, over a roughly one-year period, twenty-seven stores opened in the area and another twenty-three were projected to open within a year at the time of writing.⁸⁸

⁸⁴ Keith Schneider, *Welcome to the Neighborhood: America's Sports Stadiums Are Moving Downtown*, N.Y. TIMES (Jan. 19, 2018), <https://www.nytimes.com/2018/01/19/business/sports-arena-development.html> [<https://perma.cc/D6NP-GMM9>].

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

The area grew so rapidly that the city had to employ dozens of additional employees to handle the permitting process.⁸⁹

Sacramento is not the only area to seemingly benefit economically from better urban planning. In San Francisco, at the time of writing, a new mixed-use development was being prepared which would have provided new housing for one-thousand six hundred residents as well as nearly one million square feet for retail and office space, similar to that of Sacramento.⁹⁰ In Columbus, Ohio, another mixed-use district was being developed around an NHL arena providing one thousand and thirty apartments as well two million square feet of commercial space.⁹¹ These examples are just some of the many new mixed-use districts that are being developed, including in other areas such as Detroit, Michigan; Inglewood, California; and Cincinnati, Ohio.⁹² These mixed-use districts based around stadiums and arenas are not only developing across the country; they are also developing across all of the major sports.⁹³

The *New York Times* article specifically ties these new developments to criticisms of the “old model” of development, along with increased input from urban planners.⁹⁴ It is also important to note the broad applicability of the mixed-use model, as it started in Kansas City for a partially publicly financed Sprint Centre, which does not even have a professional sports team as a permanent tenant but does host college basketball games.⁹⁵ This model is credited both for revitalizing the Kansas City downtown area as well as changing the approach to public financing of sports stadiums.⁹⁶

As discussed above, this evidence is still anecdotal as it is largely not accounted for in any ex post analysis. There is still a fair amount of uncertainty as to the definitive economic benefits derived from the mixed-use model as well as the strength of a potential causal relationship. This uncertainty as to the contours of the economic gains and how much is caused by the mixed-use model is touched on in the article, but so is the significant, but not yet empirically analyzed, economic growth of the downtown area in terms of jobs and tax revenue.⁹⁷ While this uncertainty cannot be ignored and the effects of this model need further in-depth empirical analysis to

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

ascertain the long-term economic benefits or consequences, the early returns seem to strongly indicate that with better urban planning by local governments, the negative economic consequences associated with public financing for stadium development can be mitigated and the public benefits amplified.

IV. NON-ECONOMIC VALUE ADDED

A. *Evaluating and Incorporating Public Sentiment*

The widespread proliferation of stadium subsidies and assistance has led to considerable study of, and opposition to, public financial support.⁹⁸ When Boston attempted to make a bid for the 2024 Olympic Games⁹⁹ a concerted effort emerged to oppose the city's bid, primarily in the form of a group known as "No Boston Olympics" (NBO).¹⁰⁰ While NBO's criticisms were rooted in the economic consequences of providing public financing to constructing Olympic stadiums, a myriad of other important factors emerged as well.¹⁰¹ These additional externalities combined with the likely economic drawbacks ultimately caused support for the project to wither and Boston to lose the bid.¹⁰²

This type of public feedback is valuable for policymakers to incorporate into their decision-making process for public financing. Before proceeding to the analysis, it is important to note some key distinctions between effects of sports stadiums and the externalities that were associated with Olympic arenas. First and foremost, Olympic arenas tend to be one-time use arenas, leaving a city struggling to put it to productive use after the Olympics conclude,¹⁰³ whereas public sports stadiums secure long-term leases from teams and often can be used for other entertainment events in the off-

⁹⁸ See generally Andrew Zimbalist, *Boston Takes a Pass on the Olympic Torch*, 40 REG. 28 (2017).

⁹⁹ While the size, scale, and unique nature of the Olympics compared to less onerous and longer-term commitments of professional sports franchise limits their comparison value of substantive economic effect and other externalities, the public debate and all-inclusive analysis as to the effects of and support for public financing demonstrates what is recommended in this paper.

¹⁰⁰ See Zimbalist, *supra* note 98, at 30.

¹⁰¹ See *id.* at 30-33 (discussing issues of space, public access, and infrastructure in addition to the likely negative economic consequences of significantly subsidizing the cost of a stadium).

¹⁰² See *id.* at 33.

¹⁰³ See *id.* at 32.

season.¹⁰⁴ Second, due to the size and scale of the Olympics, they may require significant development projects which could make large swaths of public space inaccessible.¹⁰⁵ Contrast this with a traditional sports stadium which, due to its long-term use and smaller size, can be a central feature that augments other public spaces or can be planned around to have externalities minimized.¹⁰⁶ Finally, Olympic games are granted by the International Olympic Committee (IOC) and progress on a strict timeline which bidding governments have no control over, which can lead to rushed efforts and significant avoidable externalities such as massive displacement of lower income or impoverished people.¹⁰⁷ While this phenomenon may occur with a standard sports stadium, the government having a mutually beneficial and working relationship with the sports team at issue likely would provide more flexibility to avoid such issues.¹⁰⁸

The other externalities posed by the Olympic arena are quite real, though to a much smaller scale, when contemplating stadium construction. Issues such as traffic congestion, infrastructure issues, and displacement, in addition to the economic considerations, should be considered by policy-makers in making their decisions.¹⁰⁹ These factors combined with economic evaluations should help inform the debate about what is best for the community, and an open and transparent process should enable alignment between what a community wants and what is best for a community, as reflected by things such as local papers, public polling, vocal support or opposition from the community, etc.

A point of clarification at the outset: Despite sometimes forceful opposition as demonstrated in Boston's Olympic bid, as a general principle the public is not always against public financing for the sake of private development. A much-publicized recent example of general public financing for private development was Amazon's "HQ2" which, through the promise of

¹⁰⁴ See *Stadium and Rent Details for All 32 NFL Teams*, LAS VEGAS REV.-J. (Mar. 6, 2017, 12:50 AM), <https://www.reviewjournal.com/sports/raiders-nfl/stadium-and-rent-details-for-all-32-nfl-teams/> [<https://perma.cc/495R-V2T6>]; see also *Partners in Patriotism*, GILLETTE STADIUM (March 4, 2018) https://www.gillettestadium.com/wp-content/uploads/2018/12/Partners-in-Patriotism-Q3-2018-Newsletter_FINAL.pdf [<https://perma.cc/G25L-2FD7>].

¹⁰⁵ See Zimbalist, *supra* note 98, at 30.

¹⁰⁶ See generally Schneider, *supra* note 84.

¹⁰⁷ See Zimbalist, *supra* note 98, at 32 (discussing Chinese government evicting over one million people for 2008 Olympics and Brazilian government evicting over seventy-seven thousand "shanty town" residents for 2016 games).

¹⁰⁸ Thomas A. Musil, *The Sleeping Giant: Community Benefit Agreements and Urban Development*, 44 URB. LAW. 827 (2012).

¹⁰⁹ See e.g., Zimbalist, *supra* note 98, at 32.

public financing, was intended for New York City.¹¹⁰ Amazon and New York State suffered withering criticism because of the deal,¹¹¹ and ultimately the agreement was withdrawn due to the public pushback.¹¹² Concerns about gentrification, housing costs, and transparency about the process quickly motivated a significant and successful opposition.¹¹³ However, further scrutiny of the situation reveals that while the criticism of the public financing Amazon HQ2 would receive was intense, it was not as widespread as that intensity may indicate. In fact, given the national attention the Amazon HQ2 deal received, there was sufficient public polling to indicate that the deal was overall viewed quite favorably. A poll conducted just over a week before the Amazon HQ2 deal fell through found that, by a twenty-point margin, New Yorkers supported the deal granting approximately three billion dollars in state and city assistance to the company.¹¹⁴ Furthermore, a poll of exclusively New York City voters conducted approximately two weeks before the deal was cancelled found more people approved of Amazon HQ2 coming to New York City than disapproved the move by a fifty point margin.¹¹⁵ Approval was even higher among the communities more directly affected by the deal with Queens and State Senate District 12

¹¹⁰ See Laura Stevens et al., *Amazon Picks New York City, Northern Virginia for Its HQ2 Locations*, WALL STREET J. (Nov. 13, 2018, 12:16 AM), <https://www.wsj.com/articles/amazon-chooses-new-york-city-and-northern-virginia-for-additional-head-quarters-1542075336> [<https://perma.cc/2LT7-7EQ6>].

¹¹¹ See Taylor Telford, *Amazon's HQ2 Split Between New York and Virginia Sparks Backlash from Locals, Politicians*, WASH. POST (Nov. 13, 2018, 11:28 AM), <https://www.washingtonpost.com/business/2018/11/13/amazons-hq-split-between-ny-carlington-sparks-backlash-locals-politicians/> [<https://perma.cc/WC2Q-SDJ3>].

¹¹² See J. David Goodman, *Amazon Pulls Out of Planned New York City Headquarters*, N.Y. TIMES (Feb. 14, 2019), <https://www.nytimes.com/2019/02/14/nyregion/amazon-hq2-queens.html> [<https://perma.cc/Y6CC-KPMB>].

¹¹³ See generally Gaby Del Valle, *Amazon HQ2: The Many Layers of Backlash Against the Company's Expansion, Explained*, VOX (Nov. 13, 2018, 1:09 PM), <https://www.vox.com/the-goods/2018/11/6/18065666/amazon-hq2-backlash> [<https://perma.cc/6BE5-N49R>].

¹¹⁴ *Majority Support NYS Deal with Amazon*, SIENA COLL. RSCH. INST. (Feb. 12, 2019), <https://scri.siena.edu/2019/02/12/majority-support-nys-deal-with-amazon/> [<https://perma.cc/EM4F-CVXX>] (finding 56% of New Yorkers in favor and 36% opposed).

¹¹⁵ *New Poll Shows Overwhelming Support Among New Yorkers and Queens Residents for Amazon's New Headquarters*, HARRISX, <https://blog.harrisx.com/blog/2019/02/new-poll-shows-overwhelming-support-among-new-yorkers-and-queens-residents-for-amazons-new-headquarters> [<https://perma.cc/9BUS-Y5UB>] (finding 69% of New York City voters approve of Amazon HQ2 in New York City and 19% disapprove).

approving of the deal by sixty-four and fifty-eight point margins, respectively.¹¹⁶

Key to this discussion is the poll of New York City voters. This poll also asked about people's perceptions of having Amazon HQ2, which helped better understand the reasons for either supporting or opposing the move. Large majorities of voters believed Amazon HQ2 would bring good-paying jobs; improve the economy; increase property values; make New York City a "tech hub"; increase tax revenues for education, transportation, and other "vital services"; and provide new opportunities for local and small businesses.¹¹⁷ However, it was not viewed as only having positive effects. A majority of those polled also believed having Amazon HQ2 in New York City would come with externalities such as increased housing costs and problems with public transit and transportation.¹¹⁸ Given that a majority of those polled believed that Amazon HQ2 brought both positive and negative contributions, and an overwhelming majority still supported the move, this suggests that the communities most directly involved in and affected by the move considered both the benefits and burdens and came to the informed conclusion that having Amazon HQ2 built in New York City was a net gain for the community. Such sentiment should not be taken lightly by elected officials meant to represent the community.

While the events surrounding Amazon HQ2 and the Olympics garnered significant public attention and focus distinct from the recurring drawn out processes of sports stadium development, they provide guidance going forward. They both suggest that there are non-economic factors that the community cares about and that are important enough to be non-trivial in the decision-making process. They do not, however, illustrate precisely what those factors may be or instruct exactly how people may feel in a particular circumstance.

Sports stadiums meant for long-term use in a community potentially offer additional benefits to a community. These benefits can include community pride, increased prestige, and cultural enrichment, among others.¹¹⁹ When deliberating on whether or not to offer public assistance to a sports stadium, public officials should account for these benefits and how the public may value them. Thinking beyond just the economic effects of a stadium can better capture how the community views and values a stadium. Providing sports stadiums, particularly ones that will be used by college sports

¹¹⁶ *Id.* (finding 80% of voters in Queen approve and 16% disapprove, and 77% of voters in State Senate District 12 approve and 19% disapprove).

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ See Wolla, *supra* note 45.

teams, has drawn comparisons to funding other initiatives such as the arts.¹²⁰ Public officials also focus on the benefits that a sports team can contribute to youth development.¹²¹ Other times public officials and members of the community may view having a premiere stadium, and the team that comes with it, as essential to increasing the prominence and prestige of a city.¹²² These general benefits are just some of the values that can be contributed to a community through successful sports stadium development.

B. *Athletes and Athletics as a Local Force for Good*

These general abstract benefits can be augmented by specific benefits and contributions a team or players may provide to a community. Starting with community and cultural identity, sports can be a key part of an individual's identity and sense of community. Local sports teams can help bring a sense of identity and common belonging across a community.¹²³ This sense of belonging can have positive effects on self-esteem, feeling of acceptance among peers, and communication.¹²⁴ This helps to demonstrate the intensely social and personal impact sports teams can have on a community, down to the individual level.

The degree to which an individual feels connected to and is affected by a sports team should not be underappreciated. Examining the psychological effects of a team on individuals has found that a team's performance and outlook can affect both a fan's mood and their self-esteem.¹²⁵ In fact, a fan's identity can be so intertwined with a team that their team's performance can affect their perception of their personal ability to accomplish certain tasks.¹²⁶ These types of effects are difficult, if not impossible, to project when con-

¹²⁰ See *City Council Approves Stadium Lease Extension for Aztecs*, FOX 5 (Aug. 6, 2018, 4:52 PM), <https://fox5sandiego.com/2018/08/06/city-council-to-consider-2-year-stadium-lease-for-aztecs-football/> [<https://perma.cc/VF9R-8VY8>].

¹²¹ See Jack Flagler, *Austin City Council Postpones Vote on Major League Soccer Stadium Agreement*, CMTY. IMPACT (Aug. 10, 2018), <https://communityimpact.com/austin/northwest-austin/editors-pick/2018/08/09/austin-city-council-postpones-vote-on-major-league-soccer-stadium-agreement/> [<https://perma.cc/U7WK-95P3>].

¹²² See Joe Nocera, *N.F.L. Stadium in Las Vegas May Be an Ego Boost, but Not an Economic One*, N.Y. TIMES (Oct. 21, 2016), <https://www.nytimes.com/2016/10/22/sports/football/las-vegas-raiders-nfl-stadium.html> [<https://perma.cc/CGQ7-KNS5>].

¹²³ Shirley Wang, *Sports Complex: The Science Behind Fanatic Behavior*, ASS'N FOR PSYCHOL. SCI. (May 2006).

¹²⁴ See *id.*

¹²⁵ See Edward R. Hirt et al., *Costs and Benefits of Allegiance: Changes in Fans' Self-Ascribed Competencies After Team Victory Versus Defeat*, 63 J. PERSONALITY & SOC. PSYCHOL. 723, 735 (1992).

¹²⁶ See *id.*

templating whether to provide public assistance to stadium development. However, they make it quite clear that having a local sports team can have an immense impact on not just economic conditions, but can have an immense impact on personal conditions as well.

Additional benefits, particularly to smaller communities, can flow from having the celebrity and star power brought by a major sports team and its athletes. Athlete philanthropy is becoming increasingly common and can benefit communities in need. Two notable examples are Kevin Durant and JJ Watt, two of the most successful athletes in the world, who do extensive work for their local communities.¹²⁷ Kevin Durant grew up in Maryland and went to school in Texas, but he does significant philanthropic work in Oklahoma City, where he played for a large part of his career.¹²⁸ Durant started his career in Seattle, and after one season the team was lured to Oklahoma City with a new arena.¹²⁹ Had that move not happened, it is likely all of the philanthropic and community work Durant does for Oklahoma City would not have happened either. Durant's efforts focus on impoverished communities: improving their schools, providing gifts during the holidays, and even running a summer camp,¹³⁰ all of which are actions that may be traditionally expected of the local government. Importantly, this work by Durant and his charitable foundation has continued in Oklahoma City even after Durant left for a different team.¹³¹

JJ Watt, a member of the Houston Texans and grew up in Wisconsin, is President of the Justin J. Watt Foundation Board of Directors, an organi-

¹²⁷ See generally See Rhiannon Walker, *Warriors Forward Kevin Durant Still Doing Charitable Work in Oklahoma City*, THE UNDEFEATED (Dec. 14, 2016), <https://theundefeated.com/features/warriors-forward-kevin-durant-still-doing-charitable-work-in-oklahoma-city/> [perma.cc/X5MN-YFHM]; Kevin Patra, *J.J. Watt: \$41.6M in Hurricane Harvey Relief Shared*, NFL, (Aug. 27, 2018, 9:50 AM), <http://www.nfl.com/news/story/0ap3000000951756/article/jj-watt-416m-in-hurricane-harvey-relief-shared> [perma.cc/F3YR-NAD4]

¹²⁸ See Walker, *supra* note 127

¹²⁹ See Angela Galloway and Phuong Cat, *Sonics sold to ownership group from Oklahoma City*, SEATTLE PI <https://www.seattlepi.com/news/article/Sonics-sold-to-ownership-group-from-Oklahoma-City-1209167.php> (stating the team was sold after failing to receive public subsidies) [perma.cc/235V-T8FN] (July 17, 2006, updated Mar. 19 2011); see also *Sonics, Oklahoma City reach preliminary deal on arena*, USA TODAY http://usatoday30.usatoday.com/sports/basketball/nba/sonics/2008-03-14-relocation-agreement_N.htm [perma.cc/KJ4W-R46X] (last visited Apr. 30, 2021)

¹³⁰ *Id.*

¹³¹ *Id.*

zation committed to providing after school opportunities to children.¹³² This foundation garnered particular attention in the aftermath of Hurricane Harvey's strike on the greater Houston area. Seeing disaster and tragedy unfold in his community, Watt decided to try and raise two-hundred-thousand dollars through his foundation to help with hurricane relief efforts.¹³³ Through his foundation's efforts Watt was able to raise over forty-one million dollars for hurricane relief efforts for the Houston area.¹³⁴

These are just two notable instances in a long line of athletes helping their communities.¹³⁵ This is important to understand because when a state or local government is considering developing a sports stadium, it is more than just an infrastructure project and an economic impact; it is a team that can have a substantial impact on the community. A community not only begins to identify with its team, but also the players begin to identify as a part of the community and work to help it. In this way stadium construction can attract high income individuals such as athletes, who use their wealth in positive and redistributive ways through philanthropy, to help the community and even raise awareness for important issues.

¹³² See generally *The Foundation*, JUSTIN J. WATT FOUNDATION, <http://jjwfoundation.org/the-foundation/> [perma.cc/7FWD-3SJA] (last visited Mar. 5, 2021); see also *Board of Directors*, JUSTIN J. WATT FOUNDATION, <http://jjwfoundation.org/the-foundation/board-of-directors/> [perma.cc/4U87-WLSQ] (last visited Mar. 5, 2021).

¹³³ See Patra, *supra* note 127

¹³⁴ *Id.*

¹³⁵ See e.g., Jessica Golden, *Athletes Team Up to Raise Money for People Affected by Coronavirus*, CNBC (Mar. 16, 2020), <https://www.cnbc.com/2020/03/16/athletes-team-up-to-raise-money-for-people-affected-by-coronavirus.html> [perma.cc/4QVM-G9RG]; Ira Winderman, *Dwyane Wade Receives NBA 'Community Assist Award' for Parkland Efforts*, SUN SENTINEL (Apr. 9, 2018), <https://www.sun-sentinel.com/sports/miami-heat/fl-sp-miami-heat-dwtyane-wade-s20180409-story.html> [perma.cc/HXX3-3HH5]; Laura Scheffler, *New Laker Anthony Davis Is California Championship Dreamin'*, HAUTE LIVING (Nov. 6, 2019), <https://hauteliving.com/2019/11/anthony-davis-haute-living-los-angeles-cover-story/675194/> [perma.cc/S6NW-UFPB] (describing Anthony Davis' extensive charitable efforts for children in need while in New Orleans); Tania Ganguli, *Andre Johnson Plays Santa Claus, Buys \$16,266.26 Worth of Toys for Local Kids*, ESPN: NFL NATION (Dec. 2, 2014), https://www.espn.com/blog/nflnation/post/_/id/152359/andre-johnson-plays-santa-claus-buys-16266-26-worth-of-toys-for-local-kids [perma.cc/49W5-TTYD]; Drew Brees, **AACSB**, <https://www.aacsb.edu/influential-leaders/honorees/2019/drew-brees> [perma.cc/DJS3-UTN7] (last visited Jan. 10, 2021) (detailing Drew Brees's efforts to help "rebuild" New Orleans post-Hurricane Katrina).

C. Greater Social Impact

Additionally, at a time when sports no longer pretend to operate in an apolitical world separate and apart from the day-to-day struggles of society,¹³⁶ it is also time to recognize the impact local sports teams have on social and political issues. In fact, this greater social impact and connection has long existed is often implicit in the way we view and discuss sports in this country. In the midst of Joe DiMaggio's hitting streak during World War II and the Great Depression,¹³⁷ Jackie Robinson's breaking of the color barrier,¹³⁸ the return of sports following the tragic events of 9/11,¹³⁹ and now during a time of global panic from the coronavirus and unrest due to racial injustice, we are reminded of the greater cultural impact of sports. The conversation, at least at times, has been framed as a "return to normalcy"¹⁴⁰ and whether or not there is an "obligation" to return to play.¹⁴¹ These historical moments and contemporary conversations go beyond the impact of any individual player and their efforts; they demonstrate how deeply intertwined our culture is with sports. This section proceeds to highlight the contemporary cultural impact of sports on pressing social issues as a means of demonstrating another non-economic justification for public financing of sports stadiums.

¹³⁶ Bill Shea, *'Stick to Sports' Rings Hollow as Athlete Labor Flexes Muscles Against Racism*, THE ATHLETIC (Sept. 4, 2020), https://theathletic.com/2045292/2020/09/04/stick-to-sports-rings-hollow-as-athlete-labor-flexes-muscles-against-racism/?article_source=search&search_query=stick%20to%20sports [perma.cc/8WNP-NJJ8] (discussing increase in athlete advocacy around racial injustice).

¹³⁷ Joe Posnanski, *The Baseball 100: No. 56, Joe DiMaggio*, THE ATHLETIC, (Jan. 31, 2020), <https://theathletic.com/1546447/2020/01/31/the-baseball-100-no-56-joe-dimaggio/> [perma.cc/SG7G-9TDM].

¹³⁸ Joon Lee, *Mookie Betts, Andrew McCutchen and More Mark Jackie Robinson Day*, ESPN, (Aug. 28, 2020), https://www.espn.com/mlb/story/_/id/29762373/mookie-betts-andrew-mccutchen-more-mark-jackie-robinson-day [perma.cc/6HZH-J9T5].

¹³⁹ David Schoenfield, *Viewers Guide: Mike Piazza, Mets Help New York Heal Post-9/11*, ESPN (Mar. 31, 2020), https://www.espn.com/mlb/story/_/id/28971919/viewers-guide-mike-piazza-mets-help-new-york-heal-post-9-11 [perma.cc/3Q9G-KKGD].

¹⁴⁰ Allen Kim, *It May Be a Year Before Sports Return to Normalcy in the US, Fauci Warns*, CNN (Apr. 29, 2020), <https://www.cnn.com/2020/04/29/us/sports-coronavirus-return-spt-trnd/index.html> [perma.cc/BQU8-BHTQ] ("A return for sports would be a return to some semblance of normalcy.").

¹⁴¹ See Jack Maloney, *NBA Commissioner Adam Silver Says Returning to Play is not About 'Dollars and Cents'*, CBS SPORTS (July 1, 2020), <https://www.cbssports.com/nba/news/nba-commissioner-adam-silver-says-returning-to-play-is-not-about-dollars-and-cents/> [perma.cc/3LDG-834N].

In light of a once-in-a-generation pandemic and ensuing economic hardship, one may logically conclude that now is the perfect time to re-evaluate state and local governments' willingness to provide vast public financing to wealthy private entities. While this article supports the continuous re-evaluation by state and local governments to ensure they are getting a good deal, it also argues that now is precisely the time when local sports teams have demonstrated their immense social value and should continue receiving support.

The most prominent example in recent history is the Milwaukee Bucks. The Milwaukee Bucks rocked the sports world this past fall, and most of the world more generally, with their unannounced boycott of an NBA playoff game to protest the police shooting of Jacob Blake, an unarmed Black man.¹⁴² This Bucks team was great with rare championship potential, an eagerness to play after months off due to the global pandemic, and the potential to lose their best player if they did not win. However, the issue of racial injustice was of greater import to the team. As a local team the Bucks had a platform to give a voice to their community, and they used it. The Bucks' protest set off a wave of protests not just in the NBA,¹⁴³ but across the sports world,¹⁴⁴ and brought attention to protests across commu-

¹⁴² See Shams Charania & Joe Vardon, *Bucks Stage Walkout, All of Wednesday NBA Playoff Games Postponed*, THE ATHLETIC (Aug. 26, 2020), <https://theathletic.com/2025253/2020/08/26/sources-bucks-players-in-serious-talks-about-sitting-out-game-5-vs-orlando/> [perma.cc/AUW8-DLPV]; Tim Bontemps & Malika Andrews, *Three Game 5s Set for Wednesday Postponed After Bucks' Decision to Not Take Floor*, ESPN (Aug. 26, 2020), https://www.espn.com/nba/story/_/id/29747523/three-game-5s-set-wednesday-postponed-bucks-decision-boycott [perma.cc/G5VV-FQTG].

¹⁴³ Jerry Brewer, *NBA Players Set a New Standard of Civil Disobedience. Now There's No Going Back.*, WASH. POST (Aug. 27, 2020), <https://www.washingtonpost.com/sports/2020/08/27/nba-protests-power/> [perma.cc/K2R5-KPZ6].

¹⁴⁴ See Mike Axisa & Dayn Perry, *Seven MLB Games Called off over Protests to Jacob Blake Shooting in Kenosha, Wisconsin*, CBS (Aug. 28, 2020), <https://www.cbssports.com/mlb/news/seven-mlb-games-called-off-over-protests-to-jacob-blake-shooting-in-kenosha-wisconsin/> [perma.cc/2XBZ-NXQX]; see also Jacob Knutson, *NHL Postpones 4 Playoff Games in Protest of Jacob Blake Shooting*, AXIOS (Aug. 27, 2020), <https://www.axios.com/nhl-postpone-playoff-games-jacob-blake-bd5edcb2-aa5e-41de-bcc0-5b71bc581651.html> [perma.cc/L279-KF8B].

ities.¹⁴⁵ This issue hit close to home for the Bucks players, and it reverberated throughout the world and brought greater attention to a major issue.¹⁴⁶

One can only wonder if these events and the conversations that followed would have ensued if the Bucks did not reside in Milwaukee. Would they have protested, would they have even been in the position as championship contenders to protest a playoff game, and would it have resonated to the extent it did if they were not the hometown community struck by this awful act? These possibilities of no protests and no community support are not as remote as they might seem.¹⁴⁷ It was not long ago that the Bucks faced a serious possibility of relocation due to the financial stress of a new arena.¹⁴⁸ At the time, the Bucks received withering criticism for their request for public financing and the possibility of relocation.¹⁴⁹ Many publicly questioned the wisdom of providing funding to a private entity while other public entities faced disrepair.¹⁵⁰

The public financing ultimately did come to fruition and has been a major success. As a result of the public financing contract agreed to by the team and the government, the Milwaukee Bucks had to meet certain hiring requirements that benefit underemployed and unemployed city residents, local small businesses, and minority-run businesses.¹⁵¹ The Milwaukee

¹⁴⁵ Ethan Sacks, *NBA-led Walkout over Jacob Blake's Shooting Marks Evolution of Protest in Pro Sports*, NBC NEWS (Aug. 28, 2020), <https://www.nbcnews.com/news/sports/nba-led-walkout-over-jacob-blake-s-shooting-marks-evolution-n1238544> [https://perma.cc/C2MT-A2L3].

¹⁴⁶ Jack Hamilton, *The NBA Strike Will Reverberate for Years to Come*, SLATE (Aug. 27, 2020), <https://slate.com/culture/2020/08/nba-strike-milwaukee-bucks-significance-jacob-blake.html> [https://perma.cc/GL8J-V7AF].

¹⁴⁷ Dan Devine, *Bucks Prez Repeats Relocation Threat, Invokes Seattle, Vegas if Arena Funding Not Approved*, YAHOO! SPORTS (July 7, 2015), <https://sports.yahoo.com/bucks-prez-repeats-relocation-threat—invokes-seattle—vegas-if-arena-funding-not-approved-154026419.html?y20=1> [perma.cc/SUV4-F3KQ].

¹⁴⁸ Dan Devine, *Deadlines, \$50M-\$100M Funding Gap, Relocation Threat Create Tension in Bucks Arena Deal*, YAHOO! SPORTS (Apr. 22, 2015), <https://sports.yahoo.com/deadlines—50m—100m-funding-gap—relocation-threat-create-tension-in-bucks-arena-deal-180843523.html?y20=1> [perma.cc/JGV7-GWMR].

¹⁴⁹ See Michael Powell, *An Arena Fairy Tale with Blurred Morals*, N.Y. TIMES (Oct. 16, 2014), <https://www.nytimes.com/2014/10/17/sports/basketball/milwaukee-bucks-seek-financing-for-arena-as-other-city-centers-face-money-problems.html> [https://perma.cc/AMA8-PR8E]; see also Bruce Murphy, *Dispute over Bucks' Arena Goes National*, URBAN MILWAUKEE (Oct. 23, 2014), <https://urbanmilwaukee.com/2014/10/23/murphys-law-dispute-over-bucks-arena-goes-national/> [https://perma.cc/9G2F-B8FM].

¹⁵⁰ See Powell, *supra* note 149.

¹⁵¹ See Jeramey Jannene, *Fiserv Forum Workers to Get \$15/Hour*, URB. MILWAUKEE (Jan. 29, 2020), <https://urbanmilwaukee.com/2020/01/29/eyes-on-milwaukee->

Bucks exceeded all community benchmarks in this regard.¹⁵² The city of Milwaukee now has a championship-contending basketball team¹⁵³ and a top-of-the-line stadium,¹⁵⁴ and they achieved that in a way that helps city residents who need it most.¹⁵⁵ In addition, the city of Milwaukee received an opportunity to speak out and make a difference on racial injustice through the Milwaukee Bucks; because the Bucks had a relationship with the city and were invested in the community, they took this opportunity.¹⁵⁶

The Milwaukee Bucks are but one prominent and recent example of a greater social impact that local sports teams may have both on their community and throughout the nation. From speaking out on important social issues to taking an affirmative role in their communities, athletes and sports teams have become increasingly important advocates and catalysts for change. One particular issue of great importance is voting. In recent years, literal physical access to the ballot box has become a key voting rights is-

fiserv-forum-workers-to-get-15-hour/ [https://perma.cc/436A-KPHW]; see also Jeramey Jannene, *Bucks Beat Hiring Targets on Fiserv Forum*, URB. MILWAUKEE (Nov. 20, 2019), <https://urbanmilwaukee.com/2019/11/20/eyes-on-milwaukee-bucks-beat-hiring-targets-on-fiserv-forum/> [https://perma.cc/GH78-JQWC] [hereinafter *Bucks Beat Hiring Targets*].

¹⁵² *Bucks Beat Hiring Targets*, *supra* note 151; see also *Milwaukee Bucks Successfully Exceed Inclusionary Hiring Goals for the Construction of Fiserv Forum*, NBA (Nov. 19, 2019), <https://www.nba.com/bucks/news/milwaukee-bucks-successfully-exceed-inclusionary-hiring-goals-construction-fiserv-forum> [https://perma.cc/V8PK-MTCA].

¹⁵³ See *2019-20 NBA Predictions*, FIVETHIRTYEIGHT (last visited Jan. 12, 2021), <https://projects.fivethirtyeight.com/2020-nba-predictions/> (projecting the Milwaukee Bucks as the third most likely team to win the 2019-20 NBA Championship entering the regular season); see also *2019-20 NBA Predictions*, FIVETHIRTYEIGHT (last visited Jan. 12, 2021), https://projects.fivethirtyeight.com/2021-nba-predictions/?ex_cid=RRpromo (projecting the Milwaukee Bucks as the second most likely team to win the 2020-21 NBA Championship as of January 12, 2021).

¹⁵⁴ Dan Devine, *Why the Milwaukee Bucks' New Arena is the NBA's Most Impressive*, YAHOO! SPORTS (Aug. 21, 2018), <https://sports.yahoo.com/milwaukee-bucks-new-arena-nbas-impressive-192841224.html> [https://perma.cc/ACJ4-WKMW].

¹⁵⁵ *Milwaukee Bucks Successfully Exceed Inclusionary Hiring Goals for the Construction of Fiserv Forum*, NBA (Nov. 19, 2019), <https://www.nba.com/bucks/news/milwaukee-bucks-successfully-exceed-inclusionary-hiring-goals-construction-fiserv-forum> [https://perma.cc/P268-P6BJ].

¹⁵⁶ See Ben Cohen, *Milwaukee Bucks' Protest of Jacob Blake Shooting Stops Sports World*, WALL STREET J. (Aug. 26, 2020), <https://www.wsj.com/articles/milwaukee-bucks-boycott-playoff-game-to-protest-kenosha-police-shooting-11598474937> [https://perma.cc/9NYR-3VDA]; see also @Bucks, TWITTER (Aug. 26, 2020, 7:26 PM), <https://twitter.com/Bucks/status/1298763794986995718> [https://perma.cc/RW8T-UXDB].

sue.¹⁵⁷ This issue has become even more acute the coronavirus pandemic and the potential danger of large in-person gatherings such as voting.¹⁵⁸ While of great national impact, the actual process of voting is an intensely local endeavor and again it has been local sports teams taking the lead to step up for their communities in a time of difficulty.

The most notable effort to help solve this major ballot access problem was a partnership by LeBron James and the Los Angeles Dodgers to use Dodger Stadium as a polling site for the 2020 election.¹⁵⁹ The Dodgers were not alone in their efforts to help improve access to the ballot box, and in fact were far from it.¹⁶⁰ While Dodger Stadium is famously privately financed,¹⁶¹ the Dodgers (and Los Angeles teams generally) are an outlier in terms of market size, private wealth, and stadium financing. The vast majority of teams, at the time of this writing, who have reached deals to help with voting efforts received some form of public financing, typically to develop the stadium in the first place and in some cases to help with renovations to

¹⁵⁷ See generally Andy Sullivan, *Southern U.S. States Have Closed 1,200 Polling Places in Recent Years: Rights Group*, REUTERS (Sept. 10, 2019), <https://www.reuters.com/article/us-usa-election-locations/southern-u-s-states-have-closed-1200-polling-places-in-recent-years-rights-group-idUSKCN1VV09J>.

¹⁵⁸ *Polling Locations and Voters*, CDC (last updated Jan. 4, 2021) <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html> [<https://perma.cc/A2KB-922C>] (stating that “[e]lections with only in-person voting on a single day are higher risk for COVID-19 spread because there will be larger crowds and longer wait times” and describing the need for additional spacing and layout changes to safely accommodate voters amidst the pandemic).

¹⁵⁹ Christopher Brito, *LeBron James and Los Angeles Dodgers Team Up to Make Dodger Stadium a Polling Site, for 2020 Election*, CBS NEWS (Aug. 14, 2020), <https://www.cbsnews.com/news/2020-election-lebron-james-dodger-stadium-voting-polling-site/> [<https://perma.cc/SN77-XSQS>].

¹⁶⁰ See *id.*; see also Allan Smith, *Welcoming Voters, Not Fans: Sports Teams Push for Stadiums to Become Polling Sites*, NBC NEWS (Sept. 8, 2020), <https://www.nbcnews.com/politics/2020-election/welcoming-voters-not-fans-sports-teams-push-stadiums-become-polling-n1239459> [<https://perma.cc/VN5A-QCQK>] (highlighting NBA and NFL arenas also used for voting efforts); *Vote NBA Arenas & Facilities Being Used for 2020 Election*, NBA (Sept. 3, 2020), <https://www.nba.com/nba-arenas-polling-place-voting-center-2020-election> (Last visited Sept. 22 2020 11:13) [hereinafter *Vote NBA Arenas*] (listing 21 NBA team facilities used for some form of voting or election process).

¹⁶¹ See generally Jerald Podair, *Op-Ed: Why Dodger Stadium Should be the Model for all Sports Venue Deals*, LA TIMES (Apr. 3, 2017), <https://www.latimes.com/opinion/op-ed/la-oe-podair-dodger-stadium-financing-20170403-story.html> [<https://perma.cc/DSK7-NZ8N>].

maintain team location and revitalize the local community.¹⁶² In the leadup to the election, supporters of this effort hoped these stadiums could cumulatively process millions of votes while also making it easier and safer to vote during the pandemic and potentially increasing youth turnout.¹⁶³ It goes without saying, using stadiums for voting is quite literally impossible without the presence of a physical stadium. Furthermore, the geographic diversity of sports teams across big and small markets, facilitated by public financing, ensures these efforts reach voters across the country. Unlike other philanthropic and social efforts that can be boosted largely by national attention, the intensely local nature of voting makes this problem uniquely require a local presence, which sports stadiums provide.

CONCLUSION

This paper has examined the growing demand for new sports stadiums and their increasing costs. As a direct consequence of that growing demand there has been unimpeded growth in demand for public assistance at ever increasing costs. This increase in demand for public financing, combined with the artificially limited number of sports teams in each league, gives significant bargaining power to sports leagues and has resulted in significant grants of public assistance to private stadium development.

After examining the reasons driving this growth in public assistance, this paper studied the direct and indirect forms of public assistance provided for private stadium development. It then looked at the ensuing criticism of the economic justifications for stadium and concluded that a significant number of previous stadium development projects were not materially beneficial to the economy. However, the paper concluded this portion of analysis by recognizing these problems may not be inherent to stadium development deals and that local governments have worked to adjust future deals in light

¹⁶² See *Vote NBA Arenas*, *supra* note 160; Karen Farkas, *Taxpayers Built the Q. See Who Pays for Other NBA Arenas, and Upgrades*, CLEVELAND.COM (May 19, 2019), https://www.cleveland.com/metro/2016/12/the_q_is_one_of_the_oldest_and.html [<https://perma.cc/ETM7-XX7P>]; *Bank of America Stadium*, BALLPARKS.COM (Nov. 3, 2011), <http://football.ballparks.com/NFL/CarolinaPanthers/index.htm> [<https://perma.cc/6E4L-Q37S>] (noting that physical structure was privately financed but approximately \$50 million in public funds were provided for land acquisition and relocation).

¹⁶³ Smith, *supra* note 160 (stating the co-chair of the project believes each stadium can process up to 40,000 votes and the goal of signing up 50 to 100 stadiums and quoting Houston County Clerk on the potential health and logistical benefits of stadiums being used for voting).

of the criticism they have received which may be significantly more beneficial economically.

Lastly, this paper examined the potential for significant but non-economic benefits to a community by having a sports stadium and the related team. It found that sports can bring a myriad of positive effects on a community. These include effects on one's identity and psychology, the perception of one's city and community on a national stage, and the benefit of attracting higher-income, notable individuals such as athletes who will likely be willing to invest their time and wealth in as well as be a part of the community.

In conclusion, this paper finds that a lot of grants of public assistance in the past have been ill-advised and not economically beneficial to the community. It also concludes that this is not a necessary consequence of stadium development and alone may not be a dispositive reason to forego public assistance for stadium development. Through more stringent negotiating, more realistic economic analysis, and better urban planning, local governments can obtain better economic outcomes for the communities they represent. In addition, non-economic effects of sports on communities are both real and substantial and should be examined alongside economic considerations. As a result, when assessing stadium development through the paradigm of "is this a valuable use of taxpayer dollars?", local governments should use a two-prong analysis and weigh the results of both prongs: 1) as a private for-profit enterprise, is there a deal to be had that allows for a reasonable return on investment to justify this use of taxpayer dollars, and 2) does this produce a certain amount of cultural value to the community, such as a museum would, independent of the fact this is a private for-profit enterprise and independent of any consideration of return on investment, to justify the use of taxpayer dollars? Using this two-prong approach, most local governments will likely still grant such public assistance, but this approach will allow for a more deliberative and transparent process, honest debates on the merits of such a project both economic and non-economic, and more prudent decision making.