

# Responsive Philanthropy

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## Foundation Money on the Mound

Bradley Foundation  
Helps Brewers  
with Baseball Stadium

By Rick Cohen

Politics and philanthropy rarely intersect on a baseball diamond, but they have in Milwaukee's new ballpark.

Home to the Milwaukee Brewers, Miller Park is an impressive structure. Considered to be one of the best venues in Major League Baseball, the convertible domed baseball-only stadium with 70 luxury suites can hold some 43,000 fans.

Like many new professional baseball stadiums, Miller Park rests on a fusion of public and private financing, with the emphasis certainly on public. Baltimore's Camden Yards, for example, is 100 percent publicly financed. Although reports from the Wisconsin Legislative Audit Bureau suggest that the cost of the stadium topped \$413 million as of December 2001,<sup>1</sup> most of the official descriptions of Miller Park describe it as a \$400 million construction job. Some \$310 million is termed public, largely derived from a 10-cent sales tax levied by the Southeast Wisconsin Professional Baseball District.

The other \$90 million of the financing is "private," described as "from the Brewers owners." Unlike professional

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MILWAUKEE - APRIL 6: Major League Baseball Commissioner Bud Selig throws out the first pitch on opening day at Miller Park, The Milwaukee Brewers new \$396 million dollar stadium on April 6, 2001 in Milwaukee, Wisconsin.

# Foundation Dollars for For-Profit Venture

"Foundation Money on the Mound" (continued from page 1)

football's nearby Green Bay Packers, the Brewers are not publicly owned and do not qualify as a nonprofit. The team is owned by Major League Baseball commissioner Bud Selig (the ownership group he heads recently entered into a letter of intent to sell the ballclub), although the team is run by Wendy Selig-Prieb, his daughter.

Odd thing about the private financing. It's not really all from the Brewers owners. In the \$90 million, you won't really find a nickel from Selig or his family, but you will find \$20 million from the Lynde and Harry Bradley Foundation and another \$1 million from the Helfaer Foundation. The for-profit Milwaukee Brewers receiving grant support from nonprofit foundations? The for-profit Selig family receiving philanthropic largesse? What made Bud Selig, the Milwaukee Brewers and Miller Park an eligible charity for tax-exempt foundation grantmaking?

As owner of the Brewers and commissioner of Major League Baseball (MLB), Selig garners admiration and revulsion in almost equal proportions from baseball aficionados. MLB's, and thus Selig's, near monopolistic control over relocations<sup>2</sup> recently served to prevent a team from moving to Washington, D.C., until Major League Baseball guaranteed major profits to Peter Angelos, majority owner of the nearby Baltimore Orioles, and wrangled a massive public financing commitment from Mayor Anthony Williams and the Washington, D.C., City Council. D.C.'s politicians caved to MLB's subsidy demands, notwithstanding a scathing three-part series in the *Washington Post* on Selig's baseball leadership, highlighting Selig's manipulation of Milwaukee government and business interests to put together the public and private capital for the new Brewers ballpark—and even to quietly pay for servicing some of the Brewers' pre-existing debt.<sup>3</sup>

## Pitching for a Foundation Loan to a For-Profit Baseball Team

Required to come up with a \$90 million contribution to leverage the public investment, Selig sold the naming rights to the stadium to Miller Brewing Co. for \$40 million and got the then-Wisconsin governor, now Health and Human

Services Secretary Tommy Thompson, to push through legislation permitting the Wisconsin Housing and Economic Development Authority (WHEDA), known for low-income housing and small-business loans, to lend the Brewers \$50 million. After investigating the Brewers' finances, the head of WHEDA learned that instead of collateral, "The only thing the Brewers were going to be able to give us was a hearty handshake."<sup>4</sup> Faced with risking an uncollateralized \$50 million in public debt, with the servicing to be paid for from a diversion of \$3.85 million annually in stadium maintenance payments, WHEDA nixed the deal.

To replace the WHEDA financing, the Brewers put together \$50 million in private financing (still to be serviced by the annual stadium maintenance payments), including \$15 million from the Milwaukee Economic Development Corporation, \$14 million from the "Milwaukee business community," and the \$21 million from the two foundations.

A foundation loan is generally categorized as a "program-related investment" (PRI). A PRI is defined in the tax code as "an investment that (1) has the primary purpose of accomplishing one or more of the charitable purposes described in the Code, (2) doesn't have as a significant purpose the production of income or the appreciation of property, and (3) isn't intended to accomplish any purpose relating to legislative or political activity."<sup>5</sup> Distinguished from a foundation grant, a foundation PRI may be awarded to an entity that is not a tax-exempt organization as long as it is consistent with the charitable mission of the foundation. Many PRIs go as below-market interest loans to small businesses and to for-profit affordable housing developers, justified by the intended neighborhood improvements, job creation, and poverty reduction of the transactions.

How would the loans to the for-profit Brewers have qualified? Treasury regulations offer examples that lay out a game plan for the Bradley PRI to the Brewers: "Example (3). A loan made to a business enterprise that's of continued importance to the economic well-being of a deteriorated urban area because it employs a substantial number of low-income persons for

such area, and conventional sources of funds at reasonable interest rates are unavailable.”<sup>6</sup> With no collateral and no cash on the table, conventional banks were likely to follow WHEDA and reject financing for Miller Park. Bradley and Helfaer could have justified their PRIs as necessary funding to support Milwaukee downtown development—through a stadium—with the benefit of employing lots of low-income people.

The economic benefits of baseball stadiums are promoted by the owners, but roundly rejected by almost all of the expert research.<sup>7</sup> Observers on the left and right converge to question whether stadiums merit their public subsidies. Research by Paul Gessing of the National Taxpayer Union concluded that new stadiums show little net economic benefit: basically displacing other commercial activity, but helping team owners maintain their profit margins.”<sup>8</sup> From the Brookings Institution, Noll and Zimbalist reach similar conclusions:

“A new sports facility has an extremely small (perhaps even negative) effect on overall economic activity and employment. No recent facility appears to have earned anything approaching a reasonable return on investment. No recent facility has been self-financing in terms of its impact on net tax revenues. Regardless of whether the unit of analysis is a local neighborhood, a city or an entire metropolitan area, the economic benefits of sports facilities are de minimus.”<sup>9</sup>

#### Political Curveballs And Sliders

The Bradley Foundation 990-PFs for 1998 and 1999 list the loan as a “refundable grant,” meaning that if the loan is not repaid, it will be reclassified as a grant. The IRS filings do not describe the rationale for the foundation subsidy of the Milwaukee Brewers, but it is likely that the Bradley Foundation could have cited promised economic benefits, notwithstanding the tidal wave of expert economic analysis, plus the added city and regional concerns of maintaining Milwaukee’s prestige and retaining its baseball team (it lost the Milwaukee Braves to Atlanta in the mid-1960s).

A former Bradley Foundation executive has written of the foundation’s commitment—in fact, of conservative philanthropy’s commitment—to funding small organizations or community-based organizations, which are the mainstays of grassroots civic activism. The Bradley Foundation, he contends, “supports groups that cultivate, within local civic institu-

tions, the everyday, citizenly virtues of self-governance so essential to the nation’s flourishing.”<sup>10</sup> Within every multimillion-dollar foundation’s grantmaking are going to be grants and loans that don’t quite fit the foundation’s mission ideal. Bradley’s loan to Selig’s stadium venture, while not the Bradley ideal of supporting grassroots self-governance, could have just as easily been made by any other mainstream or liberal foundation, with the same underlying questions of the charitable purpose and benefits.

Bradley’s ideologically conservative credentials, described in detail in two NCRP reports,<sup>11</sup> factor into the Miller Park scenario in some odd ways, however. One of Selig’s most vocal boosters is the erudite syndicated conservative columnist and baseball fan George Will, who has described Selig as the “greatest” baseball commissioner ever.<sup>12</sup> The connection between Will and Selig isn’t simply the relationship of a journalist and his subject matter. In 1999, Selig named Will one of the four “independent” members of the commissioner’s Blue Ribbon Panel on Baseball Economics,<sup>13</sup> in which the free market-oriented Will became the most vocal adherent of “baseball socialism,”<sup>14</sup> which would benefit the financially weakest and perhaps most mismanaged teams, with Selig’s Brewers arguably at the top—or bottom, depending on one’s perspective—of the list.

A corollary of baseball socialism is “reverse welfare” or “corporate welfare,” as the team owners demand, and increasingly receive, public—and now philanthropic—subsidies for stadiums, else they threaten to move their franchises.<sup>15</sup> In Selig’s case, until the collapse of the WHEDA deal, Selig had recruited conservative Republican Gov. Tommy Thompson and conservative radio talk-show personality Charlie Sykes to campaign for public subsidization of the stadium, though both now apparently regret their support for “corporate welfare” for the Brewers.<sup>16</sup>

Recruiting the Bradley Foundation’s support and financing for the project also links to a political connection between conservative politicians and the Selig baseball apparatus. When Bradley’s visible and nationally respected chief executive officer, Michael Joyce, resigned from the foundation in 2001 to start a nonprofit to promote the Bush administration’s faith-based initiative, the foundation recruited former Republican National Committee counsel Michael Grebe to take over. Grebe had been on the Bradley Foundation board of trustees for the

previous five years.<sup>17</sup> As the CEO of Foley & Lardner, the Milwaukee-based law firm ranking 15th in the United States, Grebe was also counsel to the Milwaukee Brewers' board of directors at the time that the Miller Park PRI was approved, and Grebe subsequently joined the Brewers' board itself.<sup>18</sup>

While some people believe that foundation grants and loans to charities—or in this case, a for-profit with, it is hoped, charitable benefits—might be questionable where there are board or staff interrelationships, there is nothing that necessarily makes such foundation disbursements illegal as long as there is no direct personal benefit from the transaction. Grebe's reputation for personal and professional probity is a common sentiment in the widespread newspaper coverage he has received in Milwaukee and nationally as a result of his high profile in national Republican Party politics, especially in the Dole campaign, and his subsequent involvement in the Brewers' multiyear stadium financing melee. But the appearance of foundation board members linked to the recipients of their foundation grants (or loans) does little to convince struggling grassroots nonprofits that they face a fair shake when competing against more connected nonprofits—or in this case, particularly well-connected and well-heeled private sector operators like the Seligs and the Brewers.

The Bradley Foundation's connections with the Brewers weren't limited to Grebe. Bradley was a more than occasional supporter of Millers Charities Inc., the philanthropic arm of the cash-strapped Milwaukee Brewers. Brewers Charities started 2002 with \$190,000 in the bank, but ended the year with \$1.1 million, not including the \$350,000 the organization put out as grants or awards for youth- and athletics-related programs. Included in the organization's 2002 fundraising totals was a grant of \$185,000 from the Bradley Foundation for Millers Charities' 2002 Student Achiever Program. No one should have been all that surprised that the Bradley Foundation—with its long-standing civic leadership in a relatively small metropolitan area like Milwaukee, regardless of Bradley's local and national ideologically conservative politics—would step in to save the Brewers and their stadium. Many local observers have long agonized Milwaukee's second-tier metropolitan status, and notwithstanding the dubious economics of sports stadiums, it would have been unlikely that a key local institution like the Bradley Foundation, the state's largest philanthropic

entity, would rebuff filling the final financial gap to building the stadium and keeping the Brewers—even if the action served to resuscitate the economic value of the team and, thus, enhance Selig's net worth.

### Lessons For Philanthropy's Baseball Rule Book

NCRP's *Axis of Ideology* report on the public policy grantmaking strategies of 79 conservative foundations described not just the convergent values and politics of right wing foundations and their grantees, but also the frequent cases of overlapping staff and board members, much like Grebe's simultaneous service as the legal "point man"<sup>19</sup> for the Brewers' stadium negotiations and as a trustee of the Bradley Foundation during the stadium financing machinations. Even if individuals recuse themselves from decision-making on either end of a transaction, the occasions of overlapping institutional memberships make some foundation grant and PRI decisions look questionable even when they are legal. Here, it is reasonable to question a foundation's loan to the Brewers with minimal or no collateral—a below-market loan to be serviced by funds intended for stadium maintenance, saving Selig millions of dollars in interest payments compared with a conventional loan.<sup>20</sup>

Perhaps this is all "inside baseball" for people engrossed in the machinations of private foundations. But are there lessons for philanthropy and for the public in the Selig family's access to philanthropic capital?

One obvious lesson is a reaffirmation of the finding in Teresa Odendahl's 1990 research that foundation grantmaking in most cases tends to support the charities—or interests—that are connected to foundation managers and trustees.<sup>21</sup> Most foundation boards, like Bradley's, are composed of local civic elites. In Milwaukee's case, the community's civic elite had in 1998 and 1999 come together to finance and build a new stadium to keep the Milwaukee Brewers afloat. It should be no surprise that the part of the civic elite representing the state's largest foundation was part of that consensus.

A second lesson is that the scope of charitable mission and purpose to justify some foundation activities is quite large. A subsidy to the Selig family's for-profit venture under the guise of civic support, downtown economic development, job creation or whatever is still a subsidy to one of MLB's 30 team owners, none of whom can be called charities, and many of whom have

found plenty of ways of enriching themselves while crying poverty and demanding subsidies.<sup>22</sup>

Finally, there is the breadth of activity foundations can undertake that, despite their tax-exempt status, should remind the public of the need for effective scrutiny and oversight. The state government loans to Selig could not pass public muster, despite sweetheart legislation pushed through by Gov. Thompson that would have enabled a state agency—WHEDA—to finance the Brewers' stadium rather than the low-income housing of WHEDA's mission. Though the loans ultimately couldn't pass public scrutiny, they could be awarded—without public scrutiny—by a private foundation using tax-exempt money. Who was going to question the Bradley Foundation's loans for Miller Park and the dubious repayment schemes? Who could have voted the Bradley Foundation's trustees, each paid between \$22,000 and \$39,000 in fees for attending Bradley board meetings, out of office for having made the Selig loan that WHEDA wouldn't?

In Washington, D.C., the deal for the soon-to-be-renamed Montreal Expos includes a new \$400 million stadium—to all outward appearances, paid for by municipal bonds and new business taxes. But if a financing gap turns up requiring additional subsidy for yet another baseball stadium boondoggle, metro Washington's philanthropic sector should heed Yogi Berra's warning that it might be déjà vu—or Milwaukee's Miller Park—all over again. ○

#### Notes

1. *Milwaukee Brewers Stadium Costs, Report 02-8* (May 2002), <http://www.legis.state.wi.us/lab/Reports/02-8tear.htm>.
2. Selig's relocation committee includes his personal attorney (and MLB president and COO), Robert DuPuy; Selig's daughter, Wendy Selig-Prieb; Chicago White Sox owner Jerry Reinsdorf; and Texas Rangers owner Tom Hicks.
3. Steve Fainaru, "Selig Plays Hardball on Stadium Deals," *Washington Post* (June 27, 2004).
4. Fritz Ruf quoted in "Selig Plays Hardball."
5. Cf. generally Treasury Regulation section 53.4944-3.
6. Milton Cerny, "Creative Uses of Program Related Investments" (International Center for Not-for-Profit Law, 1999, revised May 14, 2001).
7. Andrew Zimbalist, *May the Best Team Win: Baseball Economics and Public Policy* (Washington, D.C.: Brookings Institution Press, 2003). In Bruce Murphy, "Our Million-Dollar Baby," *Milwaukee Magazine* (April 2001), University of Wisconsin-Milwaukee professor Marc Levine is quoted as saying, "There's overwhelming evidence that there is no economic impact. ...This conclusion has almost reached the truism of the Surgeon General's warning that cigarettes are hazardous to your health."
8. Paul Gessing, *Public Funding of Sports Stadiums: Ballpark Boondoggle*, NTUF Policy Paper 133 (National Taxpayers Union Foundation, Feb. 28, 2001).
9. Roger G. Noll and Andrew Zimbalist, "Sports, Jobs, & Taxes: Are New Stadiums Worth the Cost?" in *The Brookings Review* (Summer 1997, Vol. 15, No. 3).
10. William A. Schambra, "The Vision Thing: Conservative Philanthropy's 'Vision' Is to Make Grants with the American Grain—Not Against It," *Philanthropy Magazine* (May/June, 2004), <http://www.philanthropy-roundtable.org/magazines/2004/mayjune/thevisionthing-text.html>.
11. Cites for *Moving a Public Policy Agenda and Axis of Ideology*.
12. George Will, "You Just Can't Kill Off Baseball," *Bergen Record* (April 5, 2004); Kathleen Arenz, "Will Holds Forth on Selig, Takes Five," *Milwaukee Journal Sentinel* (June 15, 2004).
13. Cf. Richard C. Levin, George J. Mitchell, Paul A. Volcker, and George F. Will, *The Report of the Independent Members of the Commissioner's Blue Ribbon Panel on Baseball Economics* (Major League Baseball, July 2000).
14. Cf. Michael Lewis, *Moneyball* (W.W. Norton & Co., 2003).
15. D. Stanley Eitzen, "Public Teams, Private Profits: How Pro Sports Owners Run Up the Score on Fans and Taxpayers," *Dollars & Sense* (March-April 2000).
16. Fainaru, op. cit.
17. Alan J. Borsuk and Avram D. Lank, "Grebe to Head Bradley Foundation," *Milwaukee Journal Sentinel* (Nov. 20, 2001) <http://www.jsonline.com/bym/News/nov01/grebe21112001a.asp>.
18. Grebe has also served as president of the University of Wisconsin Board of Regents, chairman of West Point's board of visitors,

and trustee of Stanford University's Hoover Institution. *Milwaukee Magazine* listed Grebe among the 10 most powerful men in Milwaukee (April 2002), and the *National Law Journal* ranked him among the 100 most influential lawyers in the nation (April 28, 1997).

19. Thomas W. Still, "Wisconsin's Grebe Manages the Managers," *Wisconsin State Journal* (Aug. 11, 1996).
20. In 1998, the Southeast Wisconsin Professional Baseball Park District was assigned the Milwaukee Economic Development Corporation's loan, and in 2002, the district purchased the Bradley Foundation and Helfaer Foundation notes and immediately negotiated the cancellation of the debt, saving Selig's Brewers over \$41 million in financing costs. Cf. the state of Wisconsin Legislative Audit Bureau's

"limited scope review" of the Milwaukee Brewers finances (<http://www.legis.state.wi.us/lab/reports/04-Brewers.pdf>, May 6, 2004). As a consequence, the foundations were repaid their recoverable grants in full, but the district's cancellation of the assumed debt means that the public paid the Seligs' loan in the end.

21. Teresa Odendahl, *Charity Begins at Home: Generosity and Self-Interest Among the Philanthropic Elite* (New York: Basic Books, 1990).
22. Eitzen, op. cit, provides numerous examples, one of the most outrageous being the \$25 million fee for negotiating the team's cable TV contract that the New York Yankees' George Steinbrenner paid himself in the early 1980s.

## Nonprofits and Philanthropy in New Mexico (Continued from page 16.)

divide that exists for New Mexico nonprofits by providing technologies and training that enable the effective use of online communications.

### Profile of the State

Because of its unique demographics, landscape, history and cultures, New Mexico is probably not a model that can be easily emulated. Nonetheless, it has some qualities that should be exported: intercultural respect, a general tolerance for difference, a passionate and sizable core of environmental activists, a willingness to try new ideas—such as alternative energy resources—and a very active engagement and fluency with aesthetic values. Most New Mexicans can talk to a tiresome extent about art, and some of the state's most extreme and heated debates have revolved around public sculpture.

But New Mexico can also serve as a warning. We've got problems. Our unbridled tourism and the subsequent immigration of money that spawns McMansions all over the landscape are a disaster waiting to happen, simply because no one wants to talk about water. The disparity between the haves and the have-nots is getting wider, and the resentment is getting uglier. Our reputation as a place to retire but not to engage is hurting public education and the necessary commitment that a citizenry must have for its civic and social infrastructure.

Other states wanting to boost their tourism have come here to learn. But be careful what you wish for. We're a poor state with a heavy dollop of *nouveau riche*, and in some quarters, you can't find a middle class. We're a very old place, with permanent settlements continually inhabited since 1000 A.D., but we still have to fight hard to protect the old things and the old ways, because it's often cheaper and easier to go with the new.

But quality of life is a big deal here. We love our difference, and we love the creativity that surrounds us. It is possible that we even love our problems. Maybe the most telling thing is that those of us who come here never leave. And those of us who leave always return. ☺

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