

A Major League Mistake

The long-ago stadium referendum seemed like a win-win-win—shiny new stadiums, money for the schools, lower property taxes. But 15 years later, with the stadium fund teetering on the edge of ruin, and with Mike Brown seeming more stubborn than ever, it's worth asking: Where did things go bad? And is there any chance they'll be fixed?

Early this summer, on one of those sweltering Cincinnati afternoons, Mike Brown walked into a meeting. The Bengals' owner, along with a troupe of lawyers and staff, needed to review the new agreement that would finally bring some stability to Hamilton County's beleaguered stadium fund. Every year, that fund, and the half-cent sales tax that sustained it, paid off a little more of the Bengals' Paul Brown Stadium and the Reds' Great American Ballpark. But the fund paid for a lot more besides, and, after years of patches and accounting tricks, the county was now facing an annual shortfall of around \$30 million.

So Brown stepped into a private downtown board room—a neutral site—and to find even more lawyers, along with the one county commissioner Ohio's Sunshine Laws would permit. Air-conditioning coursed through the room, but no one seemed very comfortable. After all, the years since the Bengals had signed their lease had been filled with bad blood and bad football. Brown cleared his throat. "Look, I may know a thing or two about bad management," he said to some nervous chuckles. "You guys—well, previous administrations—made too many promises. And this economy's not helping any of us. But that doesn't mean the Bengals can't help our community."

The lawyers sat down and began going through the agreement, which called for annual cuts from each part of the stadium fund. The biggest one came from taxpayers, who would see their property-tax rollback drop by two thirds—that saved \$12 million right there. The Cincinnati Public Schools would reduce their pay out by 15 percent, freeing up \$1.5 million. The Reds and the Bengals would add a 6 percent surcharge to their ticket prices, creating another \$3 million. And the Bengals would pay \$4 million in rent for each of the next four years—still less than half of PBS's maintenance and operations, which the county would continue to cover, but enough to keep the fund solvent until Cincinnati's casino started chipping in \$8 million per year.

There were other concessions: the county would return its private suite and its share of PBS's naming rights to the Bengals; the Bengals would forgo the controversial "reverse rent" payments at the end of the lease, saving the county some money and the team another nasty lawsuit. Both sides also agreed that they wanted a PR flourish for the deal's announcement. At the last meeting, the county had suggested the Bengals might pay for half of the stadium's new \$8 million, high definition scoreboard. Here, the lawyers paused and looked at Mike Brown. Brown nodded.

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If you've turned on a TV or picked up the *Enquirer* lately, you know that nothing in the previous section actually happened. It's fiction. Instead, the Bengals and Hamilton County have continued squabbling—and the stadium fund has continued hurtling toward financial disaster.

One reason for this is the economy. Since 1996, when voters agreed to increase the sales tax and build two new stadiums, Hamilton County has seen a lot of shops (and a lot of shoppers) move to the suburbs. Tax revenues haven't met projections, and each year the stadium fund has fallen further behind. Another reason is the Bengals' lease, which requires the county to pay for everything from that new scoreboard to the stadium's electric bill. Forget the Bengals' losing record—it's their lease that earns national derision. In 2009, *The New York Times* devoted a long story to PBS's "particularly lopsided lease." This year, *The Wall Street Journal* devoted an even longer story to "one of the worst professional sports deals ever struck by a local government."

This certainly wasn't what the team or the county had in mind when they signed the lease. Obviously, there's no way to change the past. But the truly puzzling question is why, with all the bad press—and with all the budget crises—the two sides haven't found a way to work together. Both parties would benefit from a compromise. So why do such compromises occur only in the realm of fiction? To answer that question, I reviewed more than a decade's worth of media coverage and legal documents (and there have been *a lot* of lawsuits). I talked with current and former commissioners, county employees, judges, lawyers, journalists—everyone, in short, but Mike Brown and the Bengals, who declined to be interviewed for this story.

You can almost understand the team's reticence. At the stadium's groundbreaking, Brown said it deserved "a winning team. That's what we plan to do." Well, they haven't, even as Brown has continued to turn enormous profits and to manhandle Hamilton County through a mix of business savvy and litigious bullying. But the county deserves some blame, too—and not just the previous administrations. "One of the challenges we've inherited was created prior to my arrival," says Greg Hartmann, who became commissioner in 2009, "and that's that the leases have been in court twice." Hartmann's taking a shot here at Todd Portune, who became commissioner in 2001 and sued the Bengals shortly thereafter. But Hartmann's also indulging in one of his profession's pet excuses. Ask Portune why the stadium fund hasn't been fixed and he'll say: "I think you're going to have to ask the other commissioners." Even the new guy, Chris Monzel, knows the drill: "You'd have to ask some former commissioners."

And this sums up the state of the stadium fund. The local media love to trumpet the county's long-term projections—a \$700 million deficit by 2032!—but that doesn't make sense when the fund includes so many moving parts. Instead, we're facing something far worse: a bruising annual argument where the county looks bad, the Bengals look worse, and everyone wastes a lot of time and money. Christian Sigman, Hamilton County's administrator, says he spends 40 percent of his time dealing with the stadium fund. "Would you rather get kicked in the shins 50 times, or take one shot to the jaw?" Sigman asks. "We've been kicking ourselves in the shins for ten years."

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Actually, the shin-kicking started much earlier. In 1970, the Bengals signed a 30-year lease at Riverfront Stadium, then spent 15 of the next 23 years suing Cincinnati over its maintenance and revenues. By 1993, Brown was making the first of several public threats about his desperate need for a new stadium—and his willingness to move in order to get one. The city quickly agreed to renegotiate the team’s lease, handing Brown an extra \$2.75 million per year and promising him a new home by 2000.

That’s the first thing to remember about the original stadium debate: the Bengals played rough from the beginning. The second is that the debate was always driven by a small and incestuous group. Here’s one example: when Brown made that first threat in 1993, John Williams, the president of the Greater Cincinnati Chamber of Commerce, backed him up. “To even think of it as a bluff would be naïve,” Williams said at the time. Well, Williams also happened to be the nephew of one of the Bengals’ major shareholders—and a former partner at Taft Stettinius & Hollister, the downtown firm that represented the team in its various lawsuits.

In 1995, Brown threatened more legal action. The city, he announced, had been a couple days late with a payment of \$167,000. That meant they’d broken their generously renegotiated lease—and that, according to Brown, he was now free to leave. City and county officials panicked. While Brown began flirting with the city of Baltimore, Bob Bedinghaus, a new Hamilton County commissioner (and a good friend of Stuart Dornette, the Bengals’ lawyer at Taft), unveiled his plan for two new stadiums paid for by a sales tax increase.

Polls from this period show that between 70 and 80 percent of local residents opposed the new tax. In fact, when Bedinghaus and another commissioner passed the plan—by this point, Cincinnati had turned the stadium mess over to Hamilton County—voters collected enough signatures to force a referendum. Still, the Bengals and their allies reacted calmly. Dornette formed “Citizens for a Major League Future,” a pseudo-grass roots organization that held fundraisers at local sports bars—but truthfully relied on the smarts and financial muscle of P&G, PNC, Fifth Third, and the Cincinnati chamber. With the help of an ad agency and a D.C. pollster, the Citizens capitalized on fears that, without its sports teams, Cincinnati would backslide to the level of a Dayton or a Louisville. “Keep Cincinnati a Major League City” sprang up on T-shirts. The *Enquirer*’s opinion page ran pro-stadium stories at a ratio of 19-to-1. And Bedinghaus kept adding incentives to his plan: money for schools, a property tax rollback, the promise of a revitalized riverfront.

All told, Citizens for a Major League Future spent more than a million dollars on yard signs and TV commercials. That’s one of the ironies here: the same banks and Fortune 500 companies that make Cincinnati a real “major league city” leveraged this concept to get the what they wanted. Another irony is that Baltimore did end up helping the Bengals by poaching the Cleveland Browns just before Hamilton County’s vote. On March 19, 1996, the referendum passed with 61 percent in favor. Two weeks later, the sales tax jumped half a percent. Everyone agreed this would easily pay for two stadiums—the Bengals’ would cost \$170 million, the Reds’ \$160 million—in 20 years’ time.¹

1 Here’s a fair question: Why spend 5,000 words on the stadium fund and barely mention the second stadium? After all, Great American Ball Park ended up costing \$349 million. But the Reds and GABP present a far different situation than the Bengals and PBS. First, the Reds make for much cheaper

We all know how that turned out. Paul Brown Stadium cost \$455 million. Dornette and the Bengals wrangled a lease so lopsided it left the county responsible not only for maintenance costs, but also for a wildly open-ended “state of the art” guarantee that mandated future improvements—two provisions that never made it into Baltimore’s offer to the Bengals. “Shoot Me, I Voted for the Stadium Tax” sprang up on T-shirts. By the time the stadium opened, in 2000, even Bob Bedinghaus sounded worn down by the whole process—and by his tough reelection campaign. “They’re an organization that’s run by lawyers, and they look for every penny,” Bedinghaus said of the Bengals. “It’s going to be a difficult relationship going forward for the next 30 years.”

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Bedinghaus’s opponent in 2000 was Cincinnati councilman Todd Portune. Portune had developed a special interest in the stadium—he kept a large file of stadium-specific articles and academic studies in his office—and he smartly turned it into the campaign’s defining issue. Bedinghaus got help from some wealthy friends, notably through a last-ditch TV ad that painted the “Liberal Portune” as an advocate for gay marriage and wanton condom distribution. Still, even after \$200,000 worth of ads—and almost half that cash came from Brown’s family—Bedinghaus lost. Portune became Hamilton County’s first Democrat commissioner since Lyndon Johnson’s presidency. Bedinghaus became the Bengals’ newest employee, eventually rising to Director of Stadium Development. And those ugly TV ads became a portent for the nastiness that would define Paul Brown Stadium’s second era.

In their first two years at the stadium, and Portune’s first two years as commissioner, the Bengals played (and drew) miserably. So Portune asked them to consider renegotiating the lease. “They never showed a recognition that this was a deal that had to work for the benefit of both parties,” he remembers. “It was all about them.”

Then, in the spring of 2001, a lawsuit between the NFL and another owner led to the leaking of the league’s closely-guarded financials. It turned out that the whole time Brown had been begging for a new stadium, he’d also been pocketing millions of dollars in profit. Again, Portune asked the Bengals to renegotiate their lease. When that went nowhere, and when the other commissioners showed no desire to join his cause, Portune decided to sue.

Before turning to that lawsuit, it’s worth laying out just how much money Brown made in the mid 1990s. During their push for a new stadium, the Bengals focused on their dwindling “revenues.” And, on this count, they were right: Cincinnati remained one of the NFL’s smallest markets; Riverfront Stadium came with only 20 luxury boxes; and, according to the leaked financials, the Bengals’ revenues consistently ranked near the bottom of the league. And yet, in 1996, to take one example, the team turned an operating profit (or, roughly, a profit before taxes and interest) of \$10.8 million, which made them the eighth most profitable team in the NFL.

tenants. This year, for example, their lease required the county to pay only \$900,000 in stadium operations. (The Bengals’ lease required \$8.5 million.) Second, the Reds play baseball, a sport in which small-market teams don’t earn nearly as much cash as their football counterparts. Third—and this is the big one—the Reds actually seem to care about their community. Last year, the team bought its own new \$10 million scoreboard—even though their lease required the county to cover it.

How did the Bengals make this kind of money year after year after year? By sponging up the NFL's TV revenues—and by cutting costs. Bengals fans love swapping stories about Mike Brown's stinginess: he flies free agents in on coach; he employs four ticket reps for every one scout; he won't fix the whirlpools. Now, fans could see what this looked like in a spreadsheet. The NFL financials broke expenses down by categories, and the Bengals often ranked lowest in the league—and sometimes absurdly low. When it came to “team expenses”—or football costs not related to player salaries: things like coaches, trainers, and scouts—the Bengals spent millions less than many teams.

The one thing the Bengals didn't skimp on was salaries for Mike Brown and his family. While the rest of the NFL was becoming more corporate, and more complex, Brown employed his brother Peter, his son Paul, his daughter Katie, and her husband Troy Blackburn. Thanks to yet another lawsuit, we know that from 1994 to 2000—again, the very period in which Brown was leaning on taxpayers for help—his family earned more than \$50 million in salaries and dividends, including a yearly “general manager” bonus for Brown himself. And none of this accounts for the team's appreciation, which is how sports owners make their real money. In fact, the Bengals' value has soared from \$8 million, when Paul Brown founded the team in 1967, to \$875 million today.

Despite those profits, the Bengals boasted the NFL's lowest win total and second lowest payroll in the 1990s. That's one reason Todd Portune filed lawsuits against them in state and federal court. The state case went nowhere, but the federal one reached the court of Arthur Spiegel, a prominent Ohio judge who'd heard cases on everything from Pete Rose's back taxes to Cincinnati's race riots. Portune argued that the Bengals, along with the NFL, had violated antitrust laws and “extorted” their stadium (and their lease) from the people of Hamilton County. The lawsuit gained popularity—the *Enquirer* endorsed it in an editorial—and eventually the county joined Portune as a plaintiff. The Bengals, meanwhile, resumed their practice of making threats. “It's going to get ugly,” Troy Blackburn said. “It's going to get expensive.”

He was right. The county suffered from infighting and confusion. (At one point, the county prosecutor sued the county commissioners to stop them from suing the Bengals.) The Bengals also counter-sued, suddenly claiming their new stadium needed \$15 million in repairs. As the case stretched on—and as the legal fees compounded—things got only worse. In the 2004 election, Brown again funneled thousands of dollars to Portune's opponent. In 2005, he trotted out Marvin Lewis to talk about how the lawsuit was “a cloud over our heads.”

That same year, Judge Spiegel ordered the team and the county to try mediation. The two sides talked for several days, and, according to then-commissioner Pat DeWine, the Bengals offered a deal that would have been “a much better result for the county.” Instead of taking it, though, Portune pressed on, only to lose on a statutes of limitation ruling. “I still believe we had a strong case,” says Stan Chesley, who represented the county. But by almost every account, including the Bengals', the lawsuit turned a ugly relationship into an acrimonious one.

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Paul Brown Stadium's third era began when the lawsuit ended—but, for the first few years, that era barely involved the Bengals. With the team-county relationship at its lowest point, the commissioners turned to a series of stop-gaps to compensate for the under-performing sales tax. They raided the stadium fund's "rainy day" reserves. They refinanced the bond payments. After the county settled its lawsuit against PBS's architects, they dumped that \$12 million straight into the stadium fund. They got the school system to delay its payouts in exchange for more money down the road. They raised the parking rates.

"Prior commissions kept punting and punting," says former commissioner David Pepper. "The 2009 commission caught the punt."

Actually, the commission caught the punt, then fumbled. The county approached the Bengals about a new compromise, but, when the team replied with a nine-point letter outlining their demands, the county took nine months to reply. "We were trying to formulate some sort of response," says then-county administrator Patrick Thompson. Meanwhile, the commissioners were considering a reduction in the property tax rollback. Each year, the rollback sent 30 percent of the stadium fund back to Hamilton County home owners, cutting the average property tax bill by around \$110. Reducing that number meant breaking a promise to voters, but it also meant balancing the stadium fund. Still, Pepper found himself the only one voting for the plan. "Each one was hoping the other one would vote with me," he says of Portune and Hartmann. "They had no plan." (Portune continues to oppose reducing the rollback. Hartmann says, "I had just joined the commission, and I was in the minority.")

Portune and Hartmann ended up working together, for once, scrounging up one last short-term fix. That set up 2010 as a make-or-break year for the stadium fund. The county reached out to the Bengals again—and thus began the strangest (and saddest) episode in the stadium fund's ignominious history.

Throughout the summer of 2010, the county continued negotiating with the Bengals. Thompson says Bob Bedinghaus was his "main contact"—and that the discussions were difficult. "We had to go through their laundry list of items they wanted," he says. Still, the county was out of options. Then, at the start of training camp, Mike Brown held his annual media luncheon—in many years, the only time he talks to the press—and decided to unload on the county. "We made a deal with the county," Brown said. "We've lived up to it and we expect them to live up to their end of it. They are going to have to figure out some other way."

It was the latest example of the Brown's bizarrely contradictory behavior. Two weeks before his comment, Hartmann had enjoyed a productive meeting with team officials. Three weeks after, the Bengals agreed to help the county pay for a new \$890,000 system of cash registers. Both sides called it a gesture of good will, and the negotiations continued. On December 1, the commissioners finally agreed to reduce the property tax rollback—and announced they'd reached a small but meaningful deal with the Bengals. In exchange for a few concessions and promises, the Bengals agreed to pay about \$8 million in rent over the next five years. The commissioners could put an optimistic spin on their property tax vote; the stadium fund could stabilize for 2011 and 2012; and the Bengals could bask in some positive PR. The team even

released a statement: “The Bengals hope that today’s steps will serve the public interest by helping to stabilize the county’s financial picture.”

Then something surreal happened. The Bengals called the county and said they didn’t really have a deal—and that the team wanted a 10-year extension on its lease. That meant 10 more years of maintenance; 10 more years of “state of the art” upgrades; and a total taxpayer cost, to take a conservative estimate, of well over \$100 million.

Several weeks went by before news of the non-deal broke. The Bengals accused the county of renegeing on the 10-year extension, though they never did explain why the county would have agreed to the extension in exchange for a few million in rent. In fact, the commissioners denied that the extension had ever been on the table. “I still can’t for the life of me explain what happened on the Bengals’ side,” Pepper says. One story I heard from several people is that the Bengals’ officials did agree to the deal—only to see Mike Brown decide after the fact that what he really wanted was the extension.

Either way, the deal fell through. When Chris Monzel joined the commissioners in January of this year, Hartmann became the board’s president. One of his first moves was firing Thompson, and, while Hartmann says the move had nothing to do with the Bengals negotiations, it did highlight the tension between him and Portune. “I’ve already begun this year having been lied to directly by Greg,” Portune wrote in an email to Christian Sigman, Thompson’s eventual replacement.

A few months later, Portune tried (and failed) to get a stadium ticket tax on the ballot as a private citizen. Meanwhile, Hartmann also explored other solutions to the stadium fund, even floating the idea of eventually raising the sales tax. While Portune had championed increasing the sales tax as recently as last year, the two commissioners still couldn’t find common ground.

“Commissioner Hartmann didn’t make a proposal,” Portune says. “When he makes a proposal, I’ll react to that.”

Why hasn’t Portune approached Hartmann to learn more about his idea?

“Because I’m in the middle of other things right now.”

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Early this summer, on one of those sweltering Cincinnati afternoons, Mike Brown walked into a press conference. It was his annual media luncheon, and he took questions on the NFL lockout, and his new quarterback, Andy Dalton. Then someone asked about his old quarterback, Carson Palmer, who had recently announced he’d rather retire than return the Bengals. “Carson signed a contract, he made a commitment,” Brown said, a growl edging into his voice. “If he is going to walk away from his commitment we aren’t going to reward him for doing it.”

That answer tells you everything you need to know about Brown. Palmer was one of best (and nicest) players in Bengals history. Instead of helping him out—and netting the team some draft

picks—Brown took a baffling stand that underscored how, for the Bengals, loyalty and commitment are qualities other people owe *them*. At that luncheon, someone also asked about *The Wall Street Journal's* savaging of the stadium lease. “If you’re interested in ancient history,” Brown said, resuming his professorial drone, “it’s very simple.” Brown blamed the schools, the riverfront, and Fort Washington Way, distorting the financial record—the county secured grants for many of these extras—and neglecting to mention that, without those extras, most of which appeared in even the earliest stadium proposals, his referendum would never have passed.

We could spend hours picking apart Brown’s shady arguments. (Here’s a favorite example: While he loves comparing PBS’s cost to that of stadiums in Jacksonville and Cleveland, Brown never mentions that owners in both cities have helpfully renegotiated their leases.) Instead, though, let’s note how weird it is that these arguments even exist. Why is an NFL owner picking fights with his city? It’s not classy. It creates tons of bad press. And it all happens while Brown is earning crazy amounts of money in a stadium paid for by county taxpayers.

The county, for its part, seems to be trying a new strategy. This summer, the Bengals asked for another upgrade: a \$307,000 K2 Dyno Replay System. While the team didn’t offer to help—instead, they again brought up their hurt feelings about the 2010 deal—the county quietly paid for the system. Portune still protested, but the other commissioners admitted they had no choice. “I’d rather pick up \$300,000 for that than a million or more for something else,” Chris Monzel says. For the first time, it’s actually pretty hard to get a county official to bash the Bengals, though they remain happy to criticize each other. All Hartmann will say about the 2010 deal is that “there were miscommunications on both sides” and that “there were too many different people negotiating.” There are even rumblings of a new comprehensive agreement—of a chance at a fourth era for Paul Brown Stadium—and the county wants to avoid old mistakes. “We’ve got one negotiator,” Hartmann says, “and all the discussions are running through that one person.”

And yet that one person will still need to deal with Mike Brown. Brown remains as cheap as ever. (When the Bengals recently did HBO’s *Hard Knocks*, one scene showed a player’s shock that he had to pay for a TV in his training camp dorm.) Brown makes more money than ever. (According to *Forbes’* estimates—and Bengals’ have cited *Forbes* while arguing with their critics—in 2010 the team ranked fifth in football with an operating income of \$45 million.) And Brown continues to field terrible teams. (Without Palmer, the Bengals are mired in another rebuilding process, which means fans are staying home—and, thanks to the NFL’s blackout policy, local viewers aren’t enjoying the new K2 replay system they paid for.)

One of Brown’s favorite ways to duck criticisms—in fact, he used it at this year’s media luncheon—is to claim that once the team starts winning, the complaining will stop. But the stadium fund stopped being about football a long time ago. Instead, it’s about hoary old concepts like citizenship and community. Brown has never acknowledged that, if the Bengals rank near the bottom of the NFL in revenues, then Hamilton County must rank near the bottom of NFL cities, as well. He’s never acknowledged how the stadium fund’s other beneficiaries—the schools, the taxpayers—have made sacrifices. Instead, he’s convinced himself that *we’re* out to get *him*—that as someone who inherited a billion-dollar, taxpayer-subsidized business, he’s the victim in all of this. Does Mike Brown want to win? That’s nowhere near the most important

question. Does Mike Brown care about the community that's supported and subsidized him? Or how about: Does Mike Brown care about anyone other than himself?