

**IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO**

**STATE OF OHIO ex rel.
OHIO ATTORNEY GENERAL
MIKE DeWINE**
30 East Broad Street—17th Floor
Columbus, Ohio 43215

and

CITY OF COLUMBUS
90 West Broad Street
Columbus, Ohio 43215

Plaintiffs

v.

**PRECOURT SPORTS VENTURES
LLC C/O CORPORATION
SERVICE COMPANY**
50 West Broad Street, Suite 1330
Columbus, Ohio 43215

and

**MAJOR LEAGUE SOCCER, LLC
C/O THE PRENTICE-HALL
CORPORATION SYSTEM, INC.**
50 West Broad Street, Suite 1330
Columbus, Ohio 43215

and

**TEAM COLUMBUS SOCCER, LLC
C/O CORPORATION SERVICE
COMPANY**
50 West Broad Street, Suite 1330
Columbus, Ohio 43215

and

Case No. 18 CV 001864

Judge Jeffrey M. Brown

**FIRST AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT AND
PRELIMINARY AND PERMANENT
INJUNCTIVE RELIEF**

**CREW SOCCER STADIUM LLC
C/O CORPORATION SERVICE
COMPANY**

50 West Broad Street, Suite 1330
Columbus, Ohio 43215

Defendants

Overview

1. Anthony Precourt and Don Garber are attempting to move Columbus Crew SC (“the Crew”) to Austin, Texas. Mr. Precourt is the chief executive officer of Precourt Sports Ventures LLC (“PSV”), the Crew’s “operator/investor.” Mr. Garber is the commissioner of Major League Soccer, LLC (“MLS”), the nation’s Division I soccer league and the owner of the 23 clubs that compete in that league, including the Crew.

2. In October 2017, Mr. Precourt announced his intention to move the Crew from Columbus if the city or private investors cannot guarantee him that a downtown stadium will be built for the team. Mr. Garber endorsed the proposed move in his December 2017 “State of the League” address. He also acknowledged that a so-called “Austin clause”—in which MLS agreed that the Crew could move to that city—appears in the operator/investor agreement PSV and MLS signed in 2013, and he acknowledged that MLS and PSV had intentionally not made that fact public.

3. On December 8, 2017, Ohio Attorney General Mike DeWine sent notice to Mr. Precourt reciting that “in light of continued accounts that you are ‘exploring . . . potentially relocating the Club to the city of Austin, Texas,’ I write to reiterate your obligation under Ohio Law.” That letter, a copy of which is attached here as Exhibit A, also urged Mr. Precourt “to keep the Crew in Columbus.”

4. The Attorney General's letter focused on Ohio Revised Code §9.67¹, which requires that the "owner of a professional sports team that uses a tax-supported facility" and "receives financial assistance from the state or a political subdivision" give six months' notice to the political subdivision of its intention to stop playing at the facility, during which "any individual or group of individuals who reside in the area" must be given an "opportunity to purchase" the team.

5. R.C. 9.67 was enacted in June of 1996 in the wake of then-Cleveland Browns owner Art Modell's relocation of the Browns to Baltimore earlier that year. During the 1995 NFL season, Mr. Modell had come to believe that the City of Cleveland would not upgrade Cleveland Stadium, in which the Browns then played. He announced the team's move on November 6, 1995, just one day before Cleveland voters approved a \$175 million tax issue to do exactly that. The Browns-to-Baltimore move spawned litigation, Congressional hearings, and a nationwide debate about the use of public funds to build and upgrade facilities for wealthy owners of professional sports teams. The eventual compromise that brought the Browns back to Cleveland was widely reported, and R.C. 9.67 came to be known as "the Art Modell law."

6. The statute is a narrowly written, common-sense response to owners who accept taxpayer benefits from one location and then shop their teams to the highest bidders

¹ No owner of a professional sports team that uses a tax-supported facility for most of its home games and receives financial assistance from the state or a political subdivision thereof shall cease playing most of its home games at the facility and begin playing most of its home games elsewhere unless the owner either:

(A) Enters into an agreement with the political subdivision permitting the team to play most of its home games elsewhere;

(B) Gives the political subdivision in which the facility is located not less than six months' advance notice of the owner's intention to cease playing most of its home games at the facility and, during the six months after such notice, gives the political subdivision or any individual or group of individuals who reside in the area the opportunity to purchase the team.

elsewhere. It applies only to owners whose teams use “tax supported” facilities and accept “financial assistance” from the state or a political subdivision, and it applies to in-state and out-of-state moves alike.

7. The Crew plays its home games in “a tax-supported facility,” and PSV and MLS have accepted “financial assistance” from Ohio and Columbus.

8. Neither Mr. Precourt nor anyone affiliated with PSV or MLS has responded to Attorney General DeWine’s letter. Therefore, Ohio and Columbus are filing this lawsuit to ensure that PSV and MLS comply with R.C. 9.67.

The Parties

9. Ohio brings this suit on Attorney General DeWine’s relation. The Attorney General is a constitutional officer of the State pursuant to Section 1, Article III of the Ohio Constitution. He is the chief law officer for the State, and he has wide-ranging statutory and common-law powers to appear on the State’s behalf in matters as to which the State is “directly or indirectly interested.” *See* R.C. 109.02; *see also State ex rel. Cordray v. Marshall*, 123 Ohio St.3d 229 (2009). The Crew and its affiliates have accepted the benefits of approximately \$5,000,000 in state taxpayer-funded improvements to their parking facilities; they have accepted the benefits of a state property tax exemption for the land on which Mapfre Stadium sits; and Crew Soccer leases that land at a below-market rate. Attorney General DeWine seeks to enforce R.C. 9.67 based on the State benefits the Crew and its affiliates have accepted.

10. Columbus is a political subdivision in which Mapfre Stadium, the Crew’s primary facility, is located. The Crew and its affiliates have accepted more than \$300,000 in city taxpayer-funded reimbursements of their costs in moving portions of a storm sewer and

constructing a water line, which was required to serve Mapfre Stadium. The City also extended Silver Drive to increase access to Mapfre Stadium as provided in a Tax Increment Financing (“TIF”) and Economic Development Agreement at a current cost of over \$1,300,000 in city taxpayer-funds. Columbus seeks to enforce R.C. 9.67 based on the city funds and benefits the Crew and its affiliates have accepted.

11. Precourt Sports Ventures LLC (“PSV”) is an MLS “operator/investor.” It manages the Crew, and Anthony Precourt is its chief executive officer. The Crew plays most of its home games at Mapfre Stadium, which is a publicly subsidized, tax-supported facility, and it has received financial assistance from Ohio and Columbus. PSV is a limited liability company formed in Delaware.

12. MLS is the “owner” of the Crew, which is a “professional sports team.” MLS is a limited liability company formed in Delaware.

13. Team Columbus Soccer, LLC (“Team Columbus”) is a limited liability company formed in Delaware.

14. Crew Soccer Stadium LLC (“Crew Soccer”) owns Mapfre Stadium and leases 15.25 acres of State-owned property, including the property on which Mapfre Stadium sits.

15. PSV and MLS are the primary defendants in this case. Team Columbus and Crew Soccer are included as defendants to comply with R.C. 2721.12(A), which requires that all entities with a claim or interest in the declaratory judgment Ohio and Columbus seek be named parties.

Jurisdiction and Venue

16. This Court has subject matter jurisdiction over the claims of Ohio and Columbus under R.C. Chapter 2721 and the common law of Ohio.

17. This Court has personal jurisdiction over PSV, MLS, Team Columbus and Crew Soccer under R.C. 2307.381, R.C. 2307.382(A)(1), R.C. 2307.382(A)(2) and R.C. 2307.382(A)(8). The Court also has personal jurisdiction over PSV, MLS, Team Columbus and Crew Soccer because each of those entities has had continuous and systematic business contacts with Ohio.

18. Venue is proper in this Court under Rules 3(B)(2), 3(B)(3) and 3(B)(5) of the Ohio Rules of Civil Procedure.

The History of MLS and the Crew

19. MLS was founded in 1993.

20. MLS awarded the City of Columbus a major league soccer team in 1994. Lamar Hunt and his family became the first operator/investors of the team, which was founded as the Columbus Crew. The name was changed to Columbus Crew SC in 2014, and the team's logo was changed at the same time to reflect what the team described as "a new vision with new leaders and a progressive hometown with youthful energy." The new logo has been used since the beginning of the 2015 season

21. MLS's first season was in 1996, and the Crew was then one of the league's ten teams. From 1996 through 1998, the Crew played in "The Shoe," Ohio State University's football stadium.

22. In 1998, Crew Soccer entered into a twenty-five (25) year lease with Ohio to lease land owned by the Ohio Expo Commission on which Crew Soccer later constructed Columbus Crew Stadium. The State leased the land to Crew Soccer at a rate well below market value. The stadium, now called Mapfre Stadium, was MLS's first soccer-specific stadium in the United States.

23. In 2006, Ohio granted Crew Soccer tax exempt status. As a result, all taxes, penalties and interest paid by Crew Soccer for the years 1998 through 2005 were remitted, and Crew Soccer has not paid property tax on the land or Mapfre stadium since 2005.

24. In 2008, the Crew won its first MLS Cup Championship. The “Nordecke” was formed that same year in the stadium’s northeast corner. It houses the Crew’s most enthusiastic fans and is known throughout the league for those fans’ near-constant chanting and drum-beating. In addition to its MLS Cup Championship, the Crew won the Eastern Conference Championship in 2008 and 2015; it won the Lamar Hunt U.S. Open Cup Championship in 2002; it was the MLS Supporters Shield winner in 2004, 2008 and 2009; it won the Trillium Cup in 2008, 2009, 2010, 2012 and 2013; and Columbus Crew Juniors teams won national championships in 2010 and 2011.

25. In 2013, the Hunt family sold its operator/investor interest in the Crew to the MLS, which in turn sold the interest to PSV.

26. At the time, Mr. Precourt was quoted as saying that he would keep the Crew in Columbus. In response to a question from then-mayor Michael Coleman, Mr. Precourt said, “Absolutely. The Crew is in Columbus to stay.” Mr. Precourt later said, “I think it was very important to the Hunt family and to Major League Soccer that the Crew would remain in Columbus. We’re very committed to that. We’re excited to be here. I’m excited to get to know Columbus better. To be honest, I haven’t spent a lot of time here, but I intend to start spending a lot of time here.”²

27. Upon information and belief, when it purchased the interest in the Crew, PSV also became the sole member of Team Columbus, the entity that owns Mapfre Stadium, and it

² <http://www.dispatch.com/content/stories/sports/2013/07/30/1-crew-announcement.html>.

became the sole member of Crew Soccer, the entity to which Ohio leases the grounds on which the Stadium sits.

PSV's and MLS's Efforts to Move the Crew to Austin, Texas

28. In October 2017, Mr. Precourt announced his intention to move the Crew if the City or private investors could not guarantee him that a downtown stadium would be built for the team.

29. In December 2017, Mr. Garber endorsed PSV's "explor[ing]" its "options in Austin." Since then, Mr. Precourt and Mr. Garber have engaged in discussions with Austin city officials and have reviewed potential sites for a new stadium there.

30. Mr. Precourt has also stated that he has engaged in discussions with at least one potential local "investor" about keeping the Crew in Columbus. That investor has never publicly been identified, Columbus has had no meaningful indications from Mr. Precourt or Mr. Garber about the Crew remaining in Columbus, and neither Mr. Precourt nor Mr. Garber has responded to Attorney General DeWine's December 8, 2017 letter.

Claim for Declaratory Judgment and Preliminary and Permanent Injunctive Relief

31. The purpose and effect of R.C. 9.67 is twofold. It requires professional sports team owners who have been given the benefit of tax subsidies and public financial assistance to give the cities in which their publicly-subsidized facilities are housed and any interested individuals a reasonable opportunity to buy those teams in order to keep them in the locale. It also provides an opportunity for negotiation with, or formal advance warning to, the jurisdiction that has helped finance a home for the team.

32. PSV and MLS are actively taking steps to develop a new stadium site in Austin and move the Crew there. They have made no effort to give Columbus or any interested

individuals or groups a reasonable opportunity to buy the team, and they have made no effort to negotiate a plan under which Columbus would permit the team to move to Austin.

33. No defendant has entered into “an agreement with the political subdivision permitting the team to play most of its home games elsewhere.”

34. No defendant has provided any notice of a determination to stop playing most Crew home games in Columbus, let alone the statutorily required “not less than six months advance notice” of that intention. Therefore, no defendant has given “the political subdivision or any individual or group of individuals who reside in the area the opportunity to purchase the team.”

35. Nonetheless, with each passing day it appears more likely than not that PSV and MLS will move the Crew to Austin. Austin City Council, for example, is actively considering potential soccer stadium sites in anticipation of that move.

36. Mr. Precourt, in fact, recently spoke at length about PSV’s efforts to find a site for a new stadium in Austin, and he never mentioned the possibility that the Crew would remain in Columbus.³

37. PSV and MLS cannot avoid R.C. 9.67 by refusing to admit that they have, by their deeds, now abandoned Columbus. R.C. 9.67 requires them to comply with Ohio law because they have accepted public subsidies, they now play most of the Crew’s home games at a tax-supported facility in Columbus, and they have given every signal that they intend to cease playing most of the Crew’s home games in Columbus soon.

38. Given Defendants’ failure to acknowledge their responsibilities under R.C. 9.67, and in light of team representations made to the city of Austin expressing an intent and desire

³ <http://www.dispatch.com/sports/20180227/crew-sc-owner-reaffirms-interest-in-finding-site-for-austin-stadium>

to relocate there before the 2019 soccer season, declaratory judgment is necessary to confirm and promote compliance with the obligations imposed by Ohio's statute.

39. There exists a real controversy between the parties. PSV's and MLS's obligations under R.C. 9.67 arise because the Crew and its affiliates have willingly sought and accepted both Ohio and Columbus taxpayer support. Defendants are proceeding in their relocation efforts in contravention of the statutory obligations that are related to their acceptance of that support.

40. The issues are appropriate for judicial resolution, and Ohio, Columbus and the Columbus community will be harmed and will not receive the benefit of the statute if it is violated. To prevent that harm, a declaratory judgment and a preliminary and permanent injunction requiring PSV and MLS to comply with R.C. 9.67 is necessary.

41. R.C. 9.67 applies with regard to the Crew and PSV. It states that "[n]o owner of a professional sports team that uses a tax-supported facility for most of its home games and receives financial assistance from the state or a political subdivision . . . shall cease playing most of its home games at the facility and begin playing most of its home games elsewhere unless the owner . . . [e]nters into an agreement with the political subdivision permitting the team to play most of its games elsewhere . . . or [g]ives the political subdivision in which the facility is located not less than six months' advance notice of the owner's intention to cease playing most of its home games at the facility and, during the six months after such notice, gives the political subdivision or any individual or group of individuals who reside in the area the opportunity to purchase the team."

42. The Crew plays "most of its home games" at Mapfre Stadium, which opened in 1999, three years after R.C. 9.67 was enacted.

43. Mapfre Stadium is a “tax-supported facility” and Crew owners have received “financial assistance from the state or a political subdivision.”

44. Among other subsidies, (a) the stadium was constructed on tax-exempt property owned by Ohio; (b) Crew Soccer leases that land at a below-market rate; (c) in 2008, the Crew lobbied the Ohio General Assembly and obtained the benefit of \$5,000,000 the General Assembly allocated to improve and pave the North Parking Lot at the Ohio Expo Center, which is used by fans attending Crew games; (d) in 1999, the City reimbursed more than \$300,000 of the costs the Crew and its affiliates paid in moving portions of a storm sewer and constructing a water line adjacent to the stadium; and (e) in 2000, the City entered into a TIF and Economic Development Agreement to extend Silver Drive to allow access to the stadium, an agreement that has currently cost Columbus over \$1,300,000 in tax revenue with a potential total cost of over \$2,100,000.

WHEREFORE, Ohio and the City of Columbus ask for the following relief:

1. A declaratory judgment that: (a) R.C. 9.67 applies to each Defendant separately; (b) PSV and MLS cannot move the Crew from Columbus to Austin, Texas or any other city without giving the City of Columbus notice at least six months before that move; (c) during the notice period, PSV and MLS must offer the City of Columbus and any individual or group of individuals residing in the Columbus area a reasonable opportunity to buy the Crew and prevent its move or to negotiate an agreement under which the Crew would be permitted to move.

- 2. A preliminary and permanent injunction barring PSV and MLS from moving the Crew from Columbus to Austin, Texas or any other city absent compliance with R.C. 9.67.
- 3. Continuing oversight by the Court to ensure that PSV and MLS negotiate in good faith with the City of Columbus and any individual or group of individuals residing in the Columbus area a reasonable opportunity to buy the Crew.

Respectfully submitted,

MIKE DEWINE
Ohio Attorney General

/s/ Randall W. Knutti

RANDALL W. KNUTTI (0022388)
 Assistant Attorney General
 Principal Attorney
 Court of Claims Defense Section
 150 E. Gay Street, 18th Floor
 Columbus, Ohio 43215
 Phone: (614) 466-7447
 Fax: (866) 771-4236
Randall.Knutti@OhioAttorneyGeneral.gov
 Bridget C. Coontz (0072919)
 Assistant Chief, Constitutional Offices Section
Bridget.coontz@ohioattorneygeneral.gov
 Samuel C. Peterson (0081432)
 Deputy Solicitor, Appeals
Samuel.peterson@ohioattorneygeneral.gov
 30 E. Broad St., 17th Floor
 Columbus, Ohio 43215
 (614) 466-4320

**COUNSEL FOR THE STATE OF OHIO ex
rel. OHIO ATTORNEY GENERAL MIKE
DeWINE**

and

ZACH KLEIN
Columbus City Attorney

/s/ Joshua T. Cox

Joshua T. Cox (0029860)
Chief Counsel
Office of the Columbus City Attorney
77 N. Front Street, 4th Floor
Columbus, Ohio 43215
Phone: (614) 645-7385
Fax: (614) 645-6949
jtcx@columbus.gov

/s/ Charles P. Campisano

Charles P. Campisano (0095201)
Assistant City Attorney
Office of the Columbus City Attorney
77 N. Front Street, 4th Floor
Columbus, Ohio 43215
Phone: (614) 645-7385
Fax: (614) 645-6949
cpcampisano@columbus.gov

**COUNSEL FOR THE CITY OF
COLUMBUS**