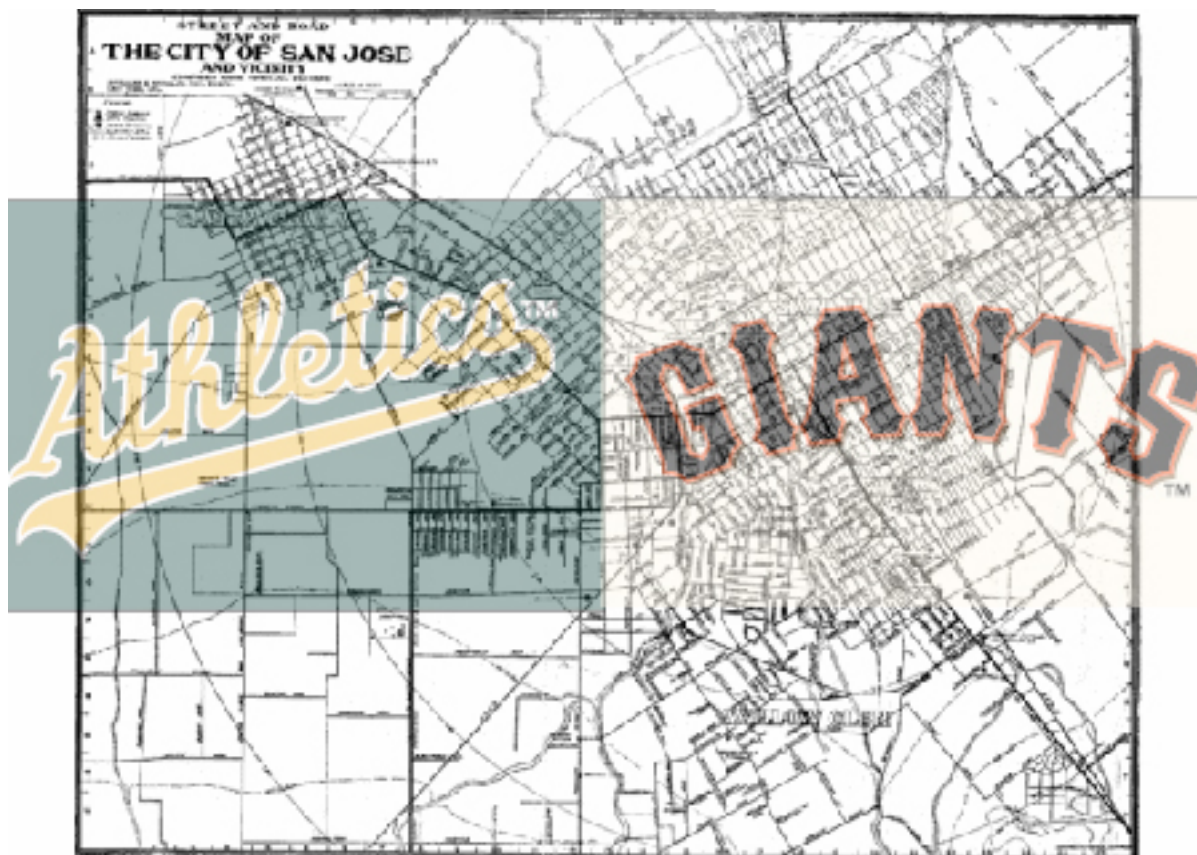


## The Definitive Case of Whether the A's or Giants Once Controlled San Jose

Written by Maury Brown

Tuesday, 25 June 2013 22:44

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The story is convoluted and obscured over time. The principles in the story have moved on, or passed away. The clubs at the heart of the debate have nearly shifted 180 degrees from where they once were, and the structure of Major League Baseball is under an entirely different organizational structure.

The story of who once controlled or gave away control of Santa Clara Co. has taken on new meaning now that the City of San Jose is suing the Office of the Commissioner saying that they are being aggrieved by the league's arcane rules by disallowing the Athletics to move there. A large part of their case that challenges Major League Baseball's antitrust exemption rests on the telling of how the San Francisco Giants acquired the now coveted region from the A's.

On page 5 of the complaint ( [read it here](#) ), the plaintiffs claim:

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*In 1990, when the San Francisco Giants were considering selling the team and moving to Florida, Bob Lurie, the then-owner of the Giants, expressed interest in moving to San José. To accommodate the Giants, Walter Haas, the Athletics then-owner, gave his consent for the Giants to relocate to San José for no consideration paid to the Athletics. As a result, the MLB Constitution was amended to provide that the Giants hold territorial rights to the County of Santa Clara, which includes the City of San José. The Giants twice were unsuccessful in their attempt to obtain a publicly-funded stadium in the South Bay and although the Giants did not move, the Giants continued to claim the territorial rights to the County of Santa Clara.*

The problem with this is it's not the simple and it's not as clear as it would be made out to be.

### Two Leagues, Different Rules

A problem in the telling of the story of who controlled Santa Clara Co. is that unlike the filing by San Jose, the league was not under one set of rules—one Constitution that guided matters such as the territories of each of the clubs. At the time of Bob Lurie's attempt to gain access to Santa Clara Co., the National League and American League were separate leagues. It was not until 2000 that Major League Baseball (under Bud Selig) determined a unified set of rules that governed territories based upon counties, rather than distance by radius, would become how to prevent potential land grabs, such as was seen in the 1960s during the Expansion Era. So, the plaintiff's claim that, "As a result, the MLB Constitution was amended to provide that the Giants hold territorial rights to the County of Santa Clara, which includes the City of San José." Is not quite correct. At least, not based upon the timeline provided. That would occur later. That would occur, not by one that owned rights or even shared rights relinquished control of Santa Clara Co., but rather, a discussion around something not controlled by either.

### No Man's Land

Here's the truth of the matter: in the late '80s when Lurie failed to get a new ballpark built in San Francisco, and later when he saw not one, but two referendums fail to allow the Giants to move to Santa Clara Co., neither the Giants or the A's controlled the area. It was, for lack of a better term, "no man's land." Remember, this is before Silicon Valley would explode into a major source of sponsors, and season ticket holders with deep wells of disposable income. At the time, the location was not nearly as fertile as it is seen now. The A's had swept the Giants in the 1989 "Earthquake" World Series. The Giants played in Candlestick Park, and while not entirely new, the A's were enjoying Oakland-Alameda County Coliseum before Al Davis would build in 1996 what would called "Mt. Davis", blocking the view of the Oakland Hills. As [John Shea of the San Francisco Chronicle wrote in 2009](#)

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*As Wally Haas tells the story, the A's were approached by Giants exec Corey Busch requesting exclusive rights to the area before the Giants' proposed ballparks in Santa Clara and San Jose.*

*The A's said OK, and the transfer became official when baseball owners granted approval.*

*That was it.*

*"We shared the territorial rights up to that point, the Giants and the A's," Haas said on the set of "Chronicle Live" on Thursday. "They asked if we would cede those rights to them so they could go through the referendum, and we felt that was fine."*

Except that wasn't quite it. Yes, Busch approached Haas. Yes, Haas agreed to give the Giants access to Santa Clara Co., but it was because no one controlled the area. It was a case of, "Since neither one of us own this location, you mind if we take it?"

The problem was, there was nothing memorialized that said that if the Giants didn't get the referendums passed the territory would go back to being neutral or even co-controlled in the truest sense as many clubs that reside in single-large markets now share. As the Shea story adds, "Once the referendums failed, one could say, 'Well, maybe you should have gone back to a shared situation,' " said Haas, son of the late owner Walter Haas Jr. "We didn't ask for it. We weren't looking to build a new stadium. That's just the way it stood."

And since then, the issue has changed. The Giants will say that they've cultivated the market and it was a wholly different time when sponsorship dollars were not as hotly contested as they were prior. The A's will say that the Giants aren't truly forced into the situation, but that they're not exactly moving the karma meter forward, and that technicalities be damned, it's the right thing to do. Look at what's occurred. It's come to the league's antitrust status being challenged.

### **The Legal Case Has Holes, but It Could Force the Issue**

The San Jose case has serious holes in it. For one, the complaint tries to make claim that on Dec. 31 of 2012, the league's constitution expired, and MLB is ostensibly running around

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without one in place. This would be like saying that the CBA between the league and the MLBPA was about to expire and no one was paying attention. There is of course one in place, however gaining access to a copy is likely only going to surface through the power of subpoena. As to a subpoena, [a recent San Francisco Chronicle column](#) made it sound like Bud Selig had been hiding in closets for 3 days, terrified at the San Jose's case challenging MLB's antitrust status. The papers were served at the New York offices of the league, not Milwaukee where Selig retains his office. That's why there was a delay. It's not as if the league hasn't been subpoenaed.

All the positioning aside, the matter of relocation to San Jose—either by brute force by the courts or the league's owners voting in favor—comes with serious barbs. In either of those scenarios, the precedent would be set to allow other clubs to move about more freely. Don't think Stu Sternberg wouldn't consider moving the Rays to Newark, NJ after the A's got into San Jose?

And then there's the potential lawsuit by the Giants, although in Article VI (Arbitration), Section 2 of the [June 2005 copy of the Major League Constitution](#) reads (bolding by author):

*The Major League Clubs recognize that it is in the best interests of Baseball that all actions taken by the Commissioner under the authority of this Constitution, including, without limitation, Article II and this Article VI, **be accepted and complied with by the Clubs, and that the Clubs not otherwise engage in any form of litigation between or among themselves or with any Major League Baseball entity, but resolve their differences pursuant to the provisions of this Constitution** . In furtherance thereof, the Clubs (on their own behalf and including, without limitation, on behalf of their owners, officers, directors and employees) severally agree to be finally and unappealably bound by actions of the Commissioner and all other actions, decisions or interpretations taken or reached pursuant to the provisions of this Constitution and **severally waive such right of recourse to the courts as would otherwise have existed in their favor** . In the event of any legal action other than as prescribed by Section 1 of this Article VI by any Club (including, without limitation, their owners, officers, directors and employees) in connection with any dispute or controversy related in any way to professional baseball, or in the event of noncompliance with any action of the Commissioner, with any action or decision taken or reached pursuant to the provisions of this Constitution, or with the terms or intent of this Article VI, in addition to any other remedy that may be available to the Commissioner, the Commissioner may direct that the costs, including attorneys' fees, to the Office of the Commissioner or any other Baseball entity, whether as plaintiff or defendant, of any court proceeding or other form of litigation resulting therefrom be reimbursed to the Office of the Commissioner or such other Baseball entity by such non-complying Club (on its own behalf and*

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*including, without limitation, on behalf of its owners, officers, directors and employees). Nothing herein shall be construed to limit any rights of indemnity that the Major League Clubs or any Major League Baseball entity may have against any Club.*

There is truth that the league sees powers that they wish to retain, especially as it pertains to territorial movement of the clubs. This is not unique to baseball. All the major sports leagues have held this interest. In that, the change from the time when Bob Lurie approached Walter Haas has changed dramatically. That move in 2000 that united the National and American Leagues, the umpires and the overarching facets that now make Major League Baseball one entity have changed. The constitution has been altered to where this mess (yes, that's what we will call it) between the A's and Giants would have never occurred. Now, 75 percent of the league's owners must approve relocation or expansion, which would tie into a vote to amend the league constitution to redefine who controls (or co-controls) a territory. In that, there could be a historic sense of the ironic involved. While it is impossible to see what the final outcome of the legal case by San Jose, or whether Commissioner Selig and the owners finally move on the matter by their own accord, the possibility that one part of the solution would see the A's and the Giants co-control Santa Clara Co. It seems unfathomable that the Giants would relinquish it entirely. Not that Corey Busch didn't approach Walter Haas on behalf of Bob Lurie and say, "Walter, you mind if we take this land... if you're not?" In the end, Santa Clara Co. will never become no man's land again... but it could certainly be something that both the A's and Giants would have a vested controlling interest in.

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**Maury Brown** is the Founder and President of the [Business of Sports Network](#) , which includes The Biz of Baseball, The Biz of Football, The Biz of Basketball and The Biz of Hockey. He [writes for Baseball Prospectus](#)

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