

## Invest Atlanta Sues City Ethics Board Over Decision Barring 'Free' Stadium Tickets

Atlanta's development arm, Invest Atlanta, has sued the city Board of Ethics over its refusal to reverse a ruling declaring that tickets to events at the soon-to-open Mercedes-Benz Stadium are an illegal gratuity barred by city ordinance.

Barred from getting free tickets to sporting events at the new Mercedes-Benz Stadium, the Atlanta Development Authority—an agent of the city that promotes it under the Invest Atlanta moniker—has taken the dispute to court.

A petition filed in Fulton County Superior Court said the city's Board of Ethics is wrong both procedurally and substantively in ruling that tickets to football and soccer games at the stadium are illegal gratuities barred by city ordinance.

Invest Atlanta attorney **Josh Belinfante** said there was nothing “free” about the tickets Invest Atlanta wants in order to showcase the city as it drums up new business.

“Invest Atlanta’s job is investing in development, and it invested more than \$220 million in the stadium,” Belinfante said.

“One of the things it purchased with that investment was access to these tickets so it could do what development authorities everywhere do: take potential investors to sporting events and show how great the city is.”

No response pleadings have been filed yet, and Belinfante said he did not know who would defend the ethics board.

There was no immediate reply to queries to Board of Ethics chairwoman Kathleen Wasch, Ethics Officer Jabu Sengova or City Attorney Jeremy Berry as to who will be defend the board.

Belinfante said the agreement between Invest Atlanta and the stadium included language allowing the agency to receive the tickets as part of the deal.

“Our position is that the contract included the tickets as consideration for our significant investment,” said Belinfante, who filed the petition with **Robbins Ross Alloy Belinfante Littlefield** colleagues **Kimberly Anderson** and **David Dove**.

In July, Invest Atlanta CEO Eloisa Klementich sent the panel a letter asking it to reconsider and rescind a 2013 advisory opinion in which the contract's provisions regarding the tickets were deemed illegal.

The advisory opinion said the city's ethics code "prohibits the city or its agent from requiring that passes, tickets or gratuities be paid to officials or employees in connection" with any contract or lease.

As Atlanta's "official economic development arm" and whose board chairman is the city's mayor, Invest Atlanta qualifies as an "instrumentality" or "agent" of the city, the opinion said.

In September the Board of Ethics denied the request for reconsideration.

On Oct. 27 Invest Atlanta filed its petition and complaint, naming the Board of Ethics and Wasch as respondent/defendants.

The complaint asks the court to reverse the board's 2013 opinion and to declare that the city's ethics code does not apply to Invest Atlanta.

The complaint said that 2013 opinion is procedurally wrong because it was issued in response to an oral request by members of the Atlanta City Council, while the ethics code requires that such requests must be made in writing.

Substantively, it said, the board erred by concluding that Invest Atlanta is a city agency when it is, in fact, an independent development authority and a "separate legal entity from the City of Atlanta."

The city "was not a party to the agreement" and the ordinance thus does not apply, it said.

Further, Invest Atlanta argued, the code section prohibits tickets from being "given," indicating they apply to "gratuities."

It does not include a prohibition against the purchase of tickets or their "being used as consideration in contract," it said.

In addition to providing \$224 million in revenue bond funding, Invest Atlanta also provided financing for a jobs training program adjacent to the stadium and helped coordinate the distribution of some of the city's hotel/motel tax revenues allocated to the stadium's operation.

Even the Board of Ethics website, it said, notes that there is an "official duty exception" to the prohibition, including as an example the city attorney accepting free tickets to a Braves game "when attorneys representing the state and other local governments will also be present" for the event.

"Tickets giving officers or employees of Invest Atlanta access to events at Mercedes-Benz Stadium are not for the personal benefit of those officers or employees," it said. "Rather, the tickets provide access to suitable venues for these officers and employees to carry out their official duties."