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Pirates Threaten Legal Action

Summary: The Pittsburgh Pirates baseball club is threatening legal action over the Sports and Exhibition Authority's reluctance to grant the team's request for ballpark repairs and upgrades. The dispute centers around a video scoreboard which the Authority claims is an improvement and falls outside the stipulations of the lease. Given that the taxpayers have largely paid for the stadium from which the team earns millions, the team should fund desired "improvements".

While spring training is a ways off yet, the Pittsburgh Pirates baseball club is playing hardball with the City-County Sports and Exhibition Authority (SEA) over repairs at PNC Park. The Pirates are asking the SEA to pay for capital upgrades to the ballpark which opened in 2001. The requested upgrades include repairs to seats, new carpeting for suites, painting, and new field lighting. In response, the SEA says it needs to explore whether or not it's obligated to do so under its lease. Legal action is being threatened by the team.

Presumably the lease details will determine what happens. PNC Park was built for $216 million and funded mostly with taxpayer money. Required annual base rent paid by the Pirates for leasing the Park is set at $100,000 per year until 2030. The team is also required to pay "excess gate" rent as well as "excess concession revenue", each based on a percentage of benchmarks achieved by the team or its concessionaires.

The lease also stipulates that the team consents to adding a ticket surcharge to the price of admission. Revenue from the ticket surcharge is divided such that the Pirates retain the first $1.5 million in each year with the next $375,000 going to the SEA (adjusted for cost of living). This amount is to be deposited into a "capital reserve fund". The next $250,000 of the ticket surcharge revenue is to be paid to the SEA as additional rent and "… may be used by the Authority in such manner as it deems appropriate (page 15)." Any remaining ticket surcharge revenue is retained by the team.

According to the SEA's most recent audited financial statement (note 17); "In fiscal year 2015, the Authority recognized $100,000 in Base Rent, $750,969 in ticket surcharges, and $0 for Excess Gate and/or Concession Revenues." So for a rental payment of just over $850,000 per year, the team plays in a $200 million, mostly taxpayer financed stadium—an extraordinarily sweet deal. But the deal is made even more generous by the fact that at least $375,000 of this money is placed into the capital reserve fund which is to be spent on the ballpark. Thus the SEA actually only realizes about $450,000 in rent—certainly nowhere near the rent a $200 million facility would bring in a market transaction.

The capital reserve fund is the source of contention between the SEA and the team.

According to the lease (section 10.3.1) the SEA established a capital reserve fund and had to place an initial $3 million into the fund and then is responsible for placing $650,000 into the fund each year for the duration of the lease. As of December 31, 2015, the fund held $5.8 million down from $9.1 million at end of December 2014. SEA claims there is currently only $3.3 million in the fund (end of December 2016). The lease further specifies that if not enough money is in the fund for use, the SEA is required to find the funds for any work that must be done.

These funds are not to be used for ordinary repairs and maintenance, only for capital improvements and repairs. Capital repairs are defined as extraordinary repairs and replacements that typically have an economic life of greater than seven years or that are needed to maintain the structural integrity of the park. The lease lists quite a few repairs that are covered by the fund.

For example, the lease does allow for replacement of ballpark seats and "major repairs, replacement, or upgrades of components to the field lighting." It also stipulates that painting and carpeting of non-public areas is covered as long as it is done at a minimum every five and seven years respectively.

According to the news reports, the Pirates are seeking repairs to seats, new carpeting for suites, including their exclusive club area, painting, and new field lighting. Furthermore they are asking to upgrade a secondary scoreboard (to show out-of-town scores) and other video boards.

The biggest disagreement seems to stem from the request over the scoreboard and video boards. The lease notes that "upgrades to components of the scoreboard more frequently than seven years" does not constitute a capital repair. News reports state the SEA views the Pirates' request to upgrade the scoreboard as an "improvement" and not a "repair" since it would involve using new technology and not a simple replacement of parts. An improvement would not be covered by the lease. The team disagrees.

The SEA claims that there is currently not enough money in the capital reserve fund to pay for the scoreboard improvements, but plenty to cover the Authority's responsibilities. There are references in news reports to a letter sent from the team president to the head of the SEA in which the team offers to put money into the capital reserve fund as long as the SEA matches those funds with money from a new revenue source. The head of the SEA is quoted as saying "…our position has always been that the revenue should be generated by operation of the facility and not by the taxpayers generally."

This is the fundamental point in the argument. The SEA, as owner, has no source of funds to pay for "improvements" beyond what it can collect from the ballpark. And, the money they currently receive from the team is barely adequate to cover the normal owner expenses of repairs and maintenance, insurance, administration, etc. Where does the team president think the SEA will find more funding? If they borrow the funds, where will the money come from to repay the loan? They cannot levy taxes. The ballpark itself would have to provide the dollars.

Or the SEA could ask the City, the County, or the Commonwealth for the funds. How will that request be received? Not very well in the current fiscal environment. That would mean still more tax dollars for the Pirates. There is a political limit, even in Pittsburgh, to the welfare that will be made available for rich owners and players. Finally, the SEA could turn to foundations and ask for grants. But that seems less viable as a source of funding than the governments.

In short, what is wrong with the team asking luxury suite lessees, game attendees and concessionaires to put in a small percentage more than they are currently paying to fund "improvements" that will be enjoyed by the people at the game? What a novel concept. Tickets and suite leases are already heavily subsidized by taxpayers through the underwriting of the ballpark construction and the fact that there are no property taxes being paid by the facility. Those two factors produce many millions of dollars per year in direct subsidy to the team.

It is bad enough that taxpayers are on the hook for the construction of the ballpark. They should not be fleeced to provide the team with extras like secondary scoreboards. If rents were close to a more normal market rate for a property of the ballpark's value, the owner would be able to fund the repair budget and needed improvements easily.

The team makes many tens of millions from PNC Park through ticket sales, concessions, parking, naming rights, advertising, radio and TV, etc. If the team wants extras, they should pay for them and stop asking taxpayers for even more assistance.

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