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Is a Sweet Steelers Deal About to Become Ridiculously Generous?

With all three Pittsburgh professional sports teams playing in fancy new digs, taxpayers could be forgiven for thinking they are through having to subsidize the teams. But they could be wrong. There is high probability they will be asked to pony up even more money for Heinz Field as the team eyes adding 3,000 more seats at the southern end of the stadium.

The team, recently valued at more than $1 billion, is invoking a clause in its stadium lease with the Sports and Exhibition Authority (SEA) to force the SEA to pay most of the costs of the expansion. According to Section 10 of the lease, "Repairs, Maintenance, and Alterations", the SEA was to establish a capital reserve fund (Fund) to pay for such an expansion. The SEA was to make an initial deposit of $3 million into the Fund from the player payroll tax (collected from 1999 to 2001), a Three Rivers Stadium ticket surcharge, and NFL ticket surcharge for the 2001-2002 lease year, and from other revenues as the SEA deemed appropriate. Every year through the tenth year, beginning in 2002, the SEA was to deposit $650,000 into the Fund, from the player payroll tax and ticket surcharges (for NFL games, after the first $1.4M), and then increase that amount by the rate of inflation as measured by the CPI. Assuming that all deposits required of the SEA were made the Fund would contain $9.5 million in 2012, not counting interest accumulation.

Section 10.2.2 outlines the "Use of Funds" as follows: "the proceeds of the Capital Reserve Fund will not be used for ordinary maintenance and repairs." Its use is limited solely to capital repairs and capital improvements. Capital improvements were not to be done in the first ten years of the lease. While the team was responsible for most capital repairs, and claims to have spent $6M to date, the SEA also had some responsibility and the Fund provided the money. If funding was insufficient, the SEA was responsible for obtaining other necessary funding. In 2006, the oldest financial report available on the SEA website covering 2006 and 2007, there was just over $6.07M in the fund which dipped $1M in 2007 before rising to $6.3M in 2010 and then settling to $6.04M at the end of 2011. Thus it appears that over the last five years money was in fact used to fund capital repairs and the Fund was not allowed to grow unimpeded.

But the Steelers' plan to expand is considered a Capital Improvement, which is allowed in the eleventh year of the lease (2012). While most Capital Improvements as specified in the lease are designed to allow Heinz Field to "maintain its economic position" compared to other stadia built from 1999-2004, the current plan is referred to as a "Designated Expansion" (Section 10.12.2). "In the event a Capital Improvement is required to increase attendance capacity of the Stadium, in no event shall more than 10,000 seats located in the southern end of the Stadium…be deemed to be Capital Improvements." The plan to install 3,000 seats fits this language. Furthermore the language stipulates that "the parties agree that the Lessee shall be responsible for one-third (1/3) the cost and the remaining two-thirds (2/3) of such cost be paid by the Authority."

The estimated cost of the expansion is $39M. It includes not only the 3,000 seats, but a video scoreboard at the other end of the stadium so those in the expansion can see replays and other entertainment (as currently configured, they would be under the main scoreboard). Two thirds of $39M would be $26M leaving the SEA $20M short in the Fund and responsible for using outside sources to close the gap. Presumably there is a possible avenue in this legal language for the SEA to pursue to reduce its obligation. The scoreboard might not qualify as covered expansion under the terms of the lease. Indeed, the scoreboard should be the sole responsibility of the Steelers.

Keep in mind the SEA is a joint City-County venture and any bonds floated to pay for this expansion will ultimately be repaid by securing additional revenues or pledging the diversion of existing revenue. The Steelers have offered a solution for the SEA—place a $1 surcharge on tickets and $2-$3 on parking to pay for these bonds. And if those sources are inadequate, the SEA would just have to bite the bullet and go after some other sources. Consider that while the demand for Steeler tickets is highly inelastic, the demand for parking is not. An increase in the price of parking around the stadium could push patrons to find alternatives to get to the stadium such as the North Shore Connector or the Gateway Clipper shuttle.

A better answer is for the team to pay for the expansion. Forget the legal issues, this is a moral issue. Why don't the Steelers, who have seen their value rise astronomically after Heinz Field was constructed, figure out how to use in-stadium charges to pay for the expansion? PSLs, (i.e., seat licenses), ticket surcharges, higher ticket prices, etc., higher concessions prices, a boost in luxury box rents. If the additional seats cannot pay for themselves through additional revenue the team can raise from charges imposed on the new seats, they should not be built. There is no justification for asking anyone but the users of the seats and the team to bear this cost. Surely, the team can borrow at favorable rates and terms whatever it needs to do the project. And there is no justification for forcing people who do not use the stadium to pay for new seats.

Steelers claim they have generated sufficient tax revenue at Heinz Field related activities that "it is on track to pay for the public money that was invested in the project." Let's examine that statement. If the stadium were privately owned (and not by an authority) and paying property taxes on the full cost value, including the land, the tax bill would easily come to $12 million or more per year. Or if they were paying rent to a private owner at anything like the price of what a structure of the value represented by Heinz

Field would fetch, $25 million a year would be reasonable. And as far as the other taxes being paid by activities related to the stadium, it is important to bear in mind that what matters is how much tax revenue is being collected over and above what would have been generated at Three Rivers Stadium. And how much have the Steelers benefited from sharing development rights on the North Shore?

How much rent does the team pay to its landlord, the SEA? According to the lease the team is responsible for three payments of $25 million every ten years—$2.5M per year. But the team can use credits for taxes paid to lower their rent payments, including any corporate income taxes, personal income taxes from employees (including players), and any sales and use taxes paid to either the state, county or city. For the first ten years the team was allowed to take the sum of taxes paid and multiply it by 7.5 and in following years by a factor of ten. Thus the team has been living essentially rent free in this heavily taxpayer-subsidized stadium. Now they are demanding more from the SEA.

The Heinz Field lease signed more than ten years ago is truly a sweetheart deal for the Steelers and they certainly have reaped huge financial rewards. It is now time for them to step up and do the right thing by paying for the planned expansion from their own pockets. After all they are the ones who stand to gain. Is there no limit to what the team can demand and get? The lease is a legal document and the SEA might well lose in court. But there are times when good judgment and common decency requires us not to gain a victory on legal grounds simply because we can.

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