

## **NOTICE TO INTERESTED PERSONS**

The Plumbers and Pipefitters Local 553 Joint Training Fund (“Training Fund”) has requested authorization from the United States Department of Labor that the restrictions of sections 406(a)(1)(A) and (D) and sections 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (ERISA) shall not apply to the purchase by the Training Fund of real property located at 959 East Airline Drive in Madison County, Illinois. This property consists of a vacant tract of land adjacent to the Plumbers and Pipefitters Local 553 (“the Union”) union hall.

A transaction between the Union and the Training Fund involving the sale of real property is ordinarily a “prohibited transaction” under ERISA. The Training Fund, however, has requested authorization from the Department, pursuant to procedures contained in Prohibited Transaction Class Exemption 96-62 (“PTE 96-62”), regarding the Training Fund’s contemplated purchase of the property from the Union.

### **1) Tentative Authorization**

The proposed purchase of the Property has met the requirements for tentative authorization under PTE 96-62, and the Department has granted tentative authorization for the Training Fund to purchase the property, subject to certain terms and conditions. Final authorization, if granted, will occur 5 days after the expiration of the Comment Period defined below, unless the Department notifies the Training Fund otherwise. If final authorization is obtained, that the restrictions of sections 406(a)(1)(A) and (D) and sections 406(b)(1) and (b)(2) will not apply, provided that the following conditions are satisfied:

- (a) The purchase is a one-time transaction for cash, and the Training Fund pays no commissions, fees or other expenses with respect to the transaction (other than fees associated with one of the two qualified, independent appraisers and the retention of a qualified, independent fiduciary).
- (b) The Training Fund pays, as consideration for the property, the lesser of (1) \$130,000.00, or (2) the lesser of, if any, the fair market values reflected in the two updated appraisals as of the date of the sale, performed by the respective qualified independent appraisers.
- (c) The terms of the transaction are at least as favorable as those that the Training Fund could obtain in an arms length transaction with an unrelated party.
- (d) A qualified independent fiduciary has determined that the transaction is appropriate for the Training Fund and is in the best interest of the Training Fund and its participants and beneficiaries.
- (e) The independent fiduciary will monitor the purchase of the property by the Training Fund, enforce the terms of the final authorization, and take whatever action is necessary to safeguard the interests of the Training Fund and its participants and beneficiaries.

- (f) The Training Fund's independent fiduciary will review and approve the methodology used by the qualified, independent appraisers, to ensure that such methodology is properly applied in determining the fair market value of the property on the date of the transaction, and will also determine whether it is prudent to go forward with the proposed transaction.

## **2) Terms of the Proposed Transaction**

The Training Fund is a trust fund created pursuant to the terms of the Taft-Hartley Act of 1947. It is jointly administered by a board of trustees consisting of equal representation from union and management. The Training Fund is based in East Alton, Illinois, and provides training and education to approximately 500 participants, members of Plumbers and Pipefitters Local 553 and their employers.

The Training Fund currently leases two facilities to conduct training. The rented classroom space contains a single classroom, which can accommodate approximately 15 people at a time. The Training Fund is currently providing training to more than 70 apprentices, as well as OSHA, first aid, and other training to all participants on an ongoing basis. The Training Fund also leases a facility where it separately provides training in welding.

A new, larger facility would not only permit training to be offered more efficiently due to the accommodation of larger groups, it would also consolidate all training in a single location. Furthermore, the Training Fund would have the space and ability to provide additional types of training, currently impossible due to the lack of space, such as HVAC servicing and rigging.

The Training Fund has solicited preliminary cost estimates from reputable construction companies in this area. The Trustees believe that a new training facility can be constructed on the site in question for approximately \$370,000.00.

The Trustees of the Plan have been investigating moving into new space for approximately two years. The Trustees have examined both leasing larger facilities, as well as acquiring property. The Trustees did locate one potentially suitable facility to lease, which would have required approximately \$35,000.00 in construction and upgrades to configure it to be suitable for the Plan's needs. The lease on that facility would have been \$5,000.00 per month. Over the expected lifespan of a new facility, the leasing option would have been more expensive over the long term than constructing new space.

The Trustees also believe that it serves the long-term interests of the Training Fund, its participants and beneficiaries, to pay cash for this construction rather than finance the costs. The Trustees intend to pay for this from the Training Fund's investment accounts. This will not have a material effect on the operation of the Training Fund. The Fund's operations are adequately funded on an ongoing basis by employer contributions. The Fund's investments have rarely, if ever, been used to provide ongoing operational funding.

The Training Fund has approximately \$800,000.00 in assets, which includes \$100,000.00 in its operational checking account and more than \$700,000.00 in its investment account with the bank of Edwardsville. The acquisition of the property and construction of the facility combined will involve slightly more than 60 percent of the Training Fund's assets.

The subject property, located in Madison County, Illinois, is approximately one acre in size. It is vacant and unimproved. The Union purchased the property in August, 2008, for \$130,000.00. The Training Fund intends to use the property to construct a modern facility to provide participants and beneficiaries the necessary training and skills to become a journeyman plumber and pipefitter, as well as additional training for journeymen.

The terms of the proposed sale are usual and customary. The Training Fund will pay, as consideration for the property, the lesser of (1) \$130,000.00, or (2) the lesser of, if any, the fair market values reflected in the two updated appraisals as of the date of the sale, performed by the respective qualified independent appraisers. There will be no financing or lending agreements between the Training Fund and the Union. The Training Fund will not pay any commissions or other expenses with respect to the transaction, other than the services of the independent fiduciary; the cost of one of the independent qualified appraisers; and any environmental reports, surveys or property condition reports.

A qualified independent fiduciary, Dennis DeSantis of Gateway Commercial in St. Louis, Missouri, reviewed the proposed transaction and determined that the purchase is in the best interests of the Training Fund and its participants and beneficiaries. Mr. DeSantis is a Senior Director at Gateway Commercial, and is a member of the Society of Industrial and Office Realtors (SIOR). He has 35 years of experience in commercial real estate transactions, and is a multiple recipient of the SIOR St. Louis Chapter's award for largest real estate transaction of the year.

Mr. DeSantis will continue to monitor the purchase, enforce the terms of the final authorization, and take whatever actions are necessary to protect the interests of Training Fund participants through closing.

In January 2009, the fair market value of the property was appraised at \$130,000.00 by a qualified, independent real estate appraiser, Dinan Real Estate Advisors, Inc. Dinan Real Estate Advisors, Inc. is a professional real estate appraisal and consulting firm located in St. Louis, Missouri. The company's principal, Edward Dinan, is a certified appraiser in Missouri, Illinois, Georgia and Mississippi. He is also a licensed real estate broker in Missouri and Illinois, and has earned the MAI designation from the Appraisal Institute. He has more than 30 years of experience in real estate, including appraisal and evaluation of many types of properties, such as hospitals, casinos, planned communities, farms, banks, airports, restaurants, schools, vacant land and more.

A second qualified, independent real estate appraiser, at the expense of the Union, appraised the property in July 2009, also at \$130,000.00. This firm, R.A. Buckles & Associates, Inc., is a real estate appraisal and consulting firm located in St. Louis, Missouri. The company's principal, Richard A. Buckles, is a certified appraiser in Missouri. The appraisal was performed by Gary W. Puckett, an associate appraiser certified in Illinois. The appraisal was also signed by Richard A. Buckles, MAI, the principal of the firm. The firm has more than 20 years' experience in appraising many types of property, including urban, suburban, rural, commercial, industrial, multi- and single family residential, recreational and institutional properties.

**3) Anticipated Date of Proposed Transaction**

As soon as possible following authorization by the Department and upon authorization by the Union membership, if necessary, but in no event before the grant of final authorization by the Department.

**4) Right to Comment**

As an interested person, you have the right to comment to the Department concerning the Training Fund's proposed purchase of the property by writing to the following address before the expiration of the Comment Period:

Submission E-00633  
Office of Exemption Determinations  
U.S. Department of Labor  
200 Constitution Ave., NW, Room N-5649  
Washington, DC 20210

Comments may also be submitted by fax or email to the attention of Ms. Karin Weng:

Fax: (202) 219-0204  
Email: [Weng.Karin@dol.gov](mailto:Weng.Karin@dol.gov)

**5) Expiration of Comment Period**

The comment period will expire on September 12, 2009.

**6) Substantially Similar Transactions**

The Department has previously approved a number of substantially similar transactions between unions and related trust funds. In general, under PTE 96-62, the Training Fund must identify two substantially similar transactions contained in an individual exemption which have been approved by the Department in the previous sixty

(60) months. The Training Fund is relying on the following substantially similar transactions for the purposes of this application:

**Prohibited Transaction Exemption 2004-18** (69 FR 65230, Nov. 10, 2004), issued to the Carpenters Joint Training Fund of St. Louis. This transaction concerned the purchase by the Carpenters Training Fund of an improved parcel of real property from the Carpenters District Council (“Union”), a party in interest. The Department approved that transaction on the conditions that a) the Fund paid fair market value for the property, as established by an independent appraiser; b) the Fund paid no commission or other expenses on the transaction; and c) an independent, qualified fiduciary determined that the transaction was in the best interest of the Fund and its participants and beneficiaries. This exemption also required additional safeguards, due to the fact that the Union in PTE 2004-18 also proposed guaranteeing a \$6 million loan for the Training Fund, and was making an additional \$1 million loan directly to the Fund. Neither of those factors are present or relevant to the instant proposed transaction being sought by the Local 553 Training Fund. As such, these differences between the proposed transaction and PTE 2004-18 are not material, because the proposed transaction for which exemption is sought is narrower in scope than the exemption previously granted.

**Prohibited Transaction Exemption 2007-13** (72 FR 42129, Aug. 1, 2007) was granted to permit the Sheet Metal Workers Local Union 17 Insurance Fund to purchase a business condominium from the Local 17 Building Association, Inc., a party in interest. This exemption was granted under the condition that the transaction was a) a one-time, cash purchase; b) the Fund did not pay any sales commissions or fees; c) the Fund paid fair market value, as determined by an independent appraiser, and that the terms were no less favorable than an arms-length transaction; and d) an independent, qualified fiduciary determined that it was in the best interest of the Fund. The fiduciary was also to “monitor” the transaction on behalf of the Fund. The only difference between the proposed transaction and PTE 2007-13 is that the property at issue was an improved, rather than unimproved, property, which is not a material factor.