

exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

**ADDRESSES:** All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Room N-5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. \_\_, stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to EBSA via e-mail or FAX. Any such comments or requests should be sent either by e-mail to: "moffittb@pwba.dol.gov", or by FAX to (202) 219-0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N-1513, 200 Constitution Avenue, NW., Washington, DC 20210.

#### Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

**SUPPLEMENTARY INFORMATION:** The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete

statement of the facts and representations.

#### Local 705 International Brotherhood of Teamsters Pension Plan (the Plan) Located in Chicago, Illinois

[Application No. D-10992]

#### Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed purchase of a 10 ft. x 52.6 ft. parcel of real property (the Property) by the West Side Realty Corporation (West Side), a wholly owned affiliate of the Plan from Local 705 Building Corporation (the Building Corporation), a party in interest with respect to the Plan, provided that the following conditions are met:

(a) The purchase of the Property by the Plan is a one-time transaction for cash;

(b) The Plan pays no more than the lesser of: (i) \$147,000; or (ii) the fair market value of the Property as determined at the time of the transaction;

(c) The fair market value of the Property is established by an independent, qualified, real estate appraiser that is unrelated to the Building Corporation or any other party in interest with respect to the Plan;

(d) The Plan will not pay any commissions or other expenses with respect to the transaction; and

(e) The Townsend Group, Institutional Real Estate Consultants (the Townsend Group), acting as an independent, qualified, fiduciary for the Plan, determines that the proposed transaction is in the best interest of the Plan and its participants and beneficiaries.

#### Summary of Facts and Representations

1. The Plan is a defined benefit plan. The approximate aggregate fair market value of the total assets of the Plan is \$1,035,500,093. The percentage of the fair market value of the total assets of the Plan that is involved in the exemption transaction is .0001% as of April 12, 2001. The Plan has eight (8) trustees, four (4) of whom are selected by employers who are parties to

collective bargaining agreements with the Truck Drivers, Oil Drivers, Filling Station and Platform Workers Union, Local 705, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (the Union) and four (4) of whom are selected by the Union. These eight (8) individuals who serve as trustees of the Plan also serve as directors of West Side, which is an Illinois corporation wholly owned by the Plan.

2. The Building Corporation, a nominee corporation controlled by the Union owns the Property which consists of a 10 ft. x 52.6 ft. parcel in Chicago, Illinois. In 1992, the Plan completed construction, at 1645 West Jackson Boulevard, Chicago, Illinois, of a multi-tenant office building which is owned by West Side and which is currently leased to the Union and many other tenants. Sometime thereafter, the Plan became aware that the multi-tenant office building encroached, in part, on the Property.

As a result, the Plan now proposes, through West Side, to purchase the Property from the Building Corporation. The Property is contiguous to other parcels owned by the Building Corporation, and the parties contemplate granting each other cross-easements for parking and ingress and egress over their respective parcels pursuant to a reciprocal easement agreement.<sup>1</sup>

3. The proposed purchase is in the interest of the Plan and its participants and beneficiaries since it resolves any concerns involving ownership boundaries between the Property and the multi-tenant office building. The applicant represents that the proposed purchase by the Plan from the Building Corporation is the most equitable and convenient method to resolve this matter. The purchase of the Property will enhance the future marketability of the Property and will avoid the expense of possible future litigation. The rights of the Plan participants and beneficiaries are adequately protected by the transaction in question. The Building Corporation has offered to sell the Property to the Plan for cash in the amount of \$147,000.<sup>2</sup>

4. The Property was appraised by Michael S. MaRous, an employee of MaRous and Company (the Appraiser), a real estate appraisal firm located in Park Ridge, Illinois. The Appraiser

<sup>1</sup> The Department is providing no relief herein with respect to any prohibited transactions that may arise in connection with any cross-easement agreements.

<sup>2</sup> The Building Corporation has determined that a price of \$147,000 in cash for the Property would be acceptable.