LOCAL NO. 863 PENSION FUND

209 SUMMIT ROAD MOUNTAINSIDE, N.J. 07092
Tel: (908) 654-3361

ALPHONSE RISPOLI, JR.
Secretary

Notice of Critical Status

Local Union No. 863 I.B. of T. Pension Plan

To: Participants, Beneficiaries, Contributing Employers and Local Union 863 I.B. of T.

This is to inform you that on November 25, 2015, as required by federal law, the actuary for the Local Union No. 863 I.B. of T. Pension Plan (the "Fund") certified to the U.S. Department of the Treasury and to the Board of Trustees that the Fund is in critical and declining status for the Plan year beginning September 1, 2015. That same federal law requires that you receive this notice.

Introduction

The Pension Protection Act ("Act"), signed into law in 2006, is intended to improve the financial condition of pension funds. The Act introduced several formal safeguards and added notification requirements for Trustees to share more information about a fund's financial circumstances with participants, contributing employers, and others directly related to the pension plan. Many of the Act's safeguards relate to funding, which, in simplest terms, is how much a pension plan has coming in, going out, and what is in reserve (or "in the bank") for future obligations. The safeguards are intended to prevent future funding problems and correct those that have already developed.

The Act requires us to test the Fund annually to determine its official funding status. The federal law has adopted specific phrases to classify a fund's status at the time of the report and these have come to be identified with a "color code." Funds that are labeled as "endangered" status (commonly known as yellow zone) or "critical" status (or, red zone) must notify all fund participants, beneficiaries, unions, and contributing employers of the fund's status, as well as take corrective action to improve the fund's financial health. These categories took effect for the Local 863 Plan as of September 1, 2008. We previously informed you of the Fund's "critical" status for the Plan years 2008 through 2014. It is now necessary that we update you on the Fund's status for the 2015 Plan year.

Fund's Status – Red Zone

The Fund is in critical and declining status (red zone) as of September 1, 2015, based on the actuary's determination that the Fund is projected to have an accumulated funding deficiency for the 2015 plan year and is expected to be insolvent within 15 years. The projected accumulated funding deficiency for the 2015 Plan year means that during the 2015 plan year, contributions are not expected to be high enough to meet government standards for funding promised benefits plus those that participants are currently earning.

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Rehabilitation Plan and Possibility of Reduction in Benefits

The Act requires that a fund that continues in the red zone to annually monitor and update its Rehabilitation Plan, which is designed to improve its funded position, if possible, so that, over time, it will be able to meet the statutory funding requirements. Pursuant to this requirement, on November 25, 2009, the Trustees adopted a Rehabilitation Plan, that was updated in June 2013 and reaffirmed in 2015. This Rehabilitation Plan consists of two "schedules", including a preferred schedule calling for no changes in contribution rates or benefit levels and a default schedule that includes possible reductions in benefits. Please note that all of the possible reductions in benefits, except for possible elimination of certain death benefits under certain conditions, were already adopted by the Trustees in August 2008 and were communicated to you by a Notice dated August 15, 2008. The bargaining parties have been provided with these schedules for consideration in negotiations in new or renewed collective bargaining agreements. The "preferred schedule" reflects the Plan changes and reductions in the benefits as described in the Notice sent August 15, 2008. No further plan changes are incorporated in the "preferred schedule." The "default schedule" includes elimination of certain death benefits that will be applicable to groups who elect this schedule. These revised schedules were based on the Trustees' conclusion that the Fund could not reasonably emerge from critical status and that, upon exhaustion of all reasonable measures, the schedules forestall possible insolvency.

In addition to revising the formula for future benefit accruals and making similar changes, under the Act, a Rehabilitation Plan may eliminate or reduce "adjustable benefits." Adjustable benefits include:

- Plan benefits, rights, and features, including pre-retirement death benefits (other than qualified joint and survivor annuities), optional forms including the lump sum and 10-year certain guarantee, cash vested benefits, and similar benefits; and
- Early retirement benefits or retirement-type subsidies.

Benefit Suspension and Partition

Under Multiemployer Pension Reform Act of 2014 (MPRA), a plan that has been determined to be in critical and declining status and is projected to become insolvent may be able to adopt certain reductions to accrued benefits, subject to various requirements and limitations, if doing so is projected to prevent insolvency. Generally, in order for the plan sponsor to adopt a benefit suspension, the suspension must be approved by the Department of the Treasury (Treasury) in consultation with the Department of Labor and the Pension Benefit Guaranty Corporation (PBGC), and ratified by a vote of the plan's participants and beneficiaries. MPRA also provides that a plan in critical and declining status that cannot be projected to avoid insolvency by benefit suspension alone, may be eligible to apply to the PBGC for a partition, subject to various requirements and limitations, if a partition (in addition to suspension) is projected to prevent insolvency. Because the Plan is in critical and declining status for the 2015 plan year, the plan sponsor may be eligible to apply to Treasury for approval of benefit suspensions and, if necessary, to PBGC for a partition.

Benefit Restrictions

Due to the federal Pension Protection Act (PPA), effective on September 2, 2008, the Fund is not permitted to pay lump sum benefits or any other payment in excess of the monthly amount paid under a single life annuity (except for the payout of benefits with a value that is less than $5,000) while the Plan is in critical status. This includes the payment of the Lump Sum Benefit and Cash Vested Benefit.

Employer Surcharge

Just as the PPA will not permit payment of a lump sum benefit while the Plan is in critical status, it likewise imposes obligations upon the contributing employers. Thus the law requires that all contributing employers pay to the Fund a surcharge to help correct the Fund's financial situation, beginning 30 days after the employer is notified that the plan is in critical status.

The surcharge is a percentage of the employer's negotiated contribution rate. A 5% surcharge was applicable the first Plan year in critical status. The surcharge went up to 10% for each succeeding Plan year in which the Fund is in critical status, until the employer agrees to a collective bargaining agreement that implements one of the schedules in the Rehabilitation Plan. These surcharges are separate requirements and are in addition to the obligation of the contributing employers to pay their regular contributions and their share of accumulated funding deficiencies. The 10% surcharge applies to contributions actually paid on or after September 1, 2009.

The surcharge amount is paid in a separate check made payable to the Teamsters Local 863 Pension Fund, with the notation "surcharge." These surcharges will be disregarded in determining the rate of benefit accruals and potential employer withdrawal liability allocations, as required by the law. However, they will be reflected in the determination of the annual payment for any withdrawal liability allocation.

What's Next

We understand that legally required notices like this one can create concern about the Fund's future. Be assured that the Board of Trustees takes very seriously its obligation to preserve the financial viability of the Fund to the greatest extent possible. As a final note, since the Fund is influenced by economic and financial variables beyond our control (such as market volatility and changes in employment and/or the number of contributing employers), unexpected developments can affect the Fund's status and any future corrective actions needed.

For more information about this notice or the Fund, you may contact the Fund Office at the address or phone number listed at the top of this letter.

Sincerely,

The Board of Trustees
Date: December 2015

As required by law, this notice is being provided to the Pension Benefit Guaranty Corporation (PBGC) and the Department of Labor.