

464E9321R-1BFC-42EB-B

#1295237



Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026



MAY 29 2003

Re: Appeal Lloyd's Shopping Centers, Inc. Pension Plan (Case #: 167262)

Dear

The Appeals Board has reviewed your appeal of PBGC's September 21, 2001 determination of your benefit under the Lloyd's Plan. As explained below, the Board changed PBGC's determination by finding you are entitled to a lump-sum payment of \$1,966, plus interest.

PBGC's letter said that you are entitled to a lump-sum benefit of \$799.00, plus interest from the first day of the month following the Plan's termination date (March 5, 1999) until the date PBGC pays you. PBGC noted that, instead of a lump sum now, you may choose to receive annuity payments starting at age 65 of \$34.27 per month, if paid as a lifetime annuity with no survivor benefit.

According to your November 3, 2001 appeal, you computed your Average Monthly Compensation to be \$1,970.10 instead of the \$1,757.32 PBGC used, and your Years-of-Credited-Service to be 6.60 years instead of 2.60 years. You submitted with your appeal a copy of Lloyd's *Report of Your Benefits as of: January 1, 1993* that shows (1) an estimated monthly accrued benefit of \$60.00 as of January 1, 1993, and (2) a "service date for pension purposes" of February 22, 1988. You also asked how your benefit could have decreased and how the Plan's "0.75%" multiplier was determined.

The benefit statement PBGC included with its determination shows that you began working for Lloyd's on February 22, 1988 at age 16 years and 3 months, and that your employment there ended on August 4, 1994. You did not dispute this information in your appeal.

Service

Plan section 1.22 defines Employee as any person employed by the Company. Under section 2.01, an Employee becomes a Participant after reaching age 21 and completing one Year-of-Service. A Participant earns one Year-of-Vesting-Service for each calendar year after age 18 in which the Participant works at least 1,000 hours. A Participant with 3 Years-of-Vesting-

#1295237

Service is 20% vested. The vesting percentage increases by 20% each year, reaching 100% after 7 years (section 2.1). Section 1.63 defines Years-of-Credited-Service for benefit accrual purposes as a Plan Year in which a Participant completes 2,080 Hours-of-Service. Finally, section 1.64 defines Year-of-Service (which forms the basis for the defined terms Year-of-Vesting-Service and Year-of-Credited-Service) as a computation period in which an Employee has been credited with at least 1,000 Hours-of-Service.

Taken together, these Plan provisions can be read two different ways. Under the first, the first possible Year-of-Vesting-Service and Year-of-Credited-Service is the first Year-of-Service after an Employee becomes a Participant (that is, the first year after the Employee meets both the age (18 for vesting and 21 for accruals) and 1,000 hour requirements). Under the second, once an Employee becomes a Participant, the first possible Year-of-Service is the year the Employee first worked at least 1,000 hours (in other words, after satisfying the age and service requirements for participation, service for vesting and accrual purposes would go back to date of hire). PBGC based its September 21, 2001 determination of your benefit on the first reading.

PBGC files, however, show that the former Plan Administrator consistently applied the second reading when calculating Participants' Years-of-Vesting-Service and Years-of-Credited-Service. Based on this information, the Appeals Board decided to apply the second reading. The Board found, therefore, that (1) you are 100% vested because you worked at least 1,000 hours in each of the seven calendar years 1988 through 1994, and (2) you have 6.4 Years-of-Credited-Service from your date of hire until your August 4, 1994 employment termination date.

Average Monthly Compensation

Section 1.09 defines Average Monthly Compensation (AMC) as the average of a participant's last 10 years of earnings as shown on the participant's W-2 forms. For a participant with fewer than 10 years of employment, AMC is based on the actual period worked rounded to the nearest month (in your case, 77 months). PBGC used the same earnings for 1992 through 1994 that you cited in your appeal. Because PBGC did not have your W-2 earnings for 1988 through 1991, PBGC used its standard assumptions for estimating earnings. The table below shows how PBGC computed your AMC:

Year	Earnings	Year	Earnings
1988	\$15,055.00	1992	\$21,432.00
1989	\$18,781.58	1993	\$25,230.00
1990	\$19,650.12	1994	\$14,783.00
1991	\$20,381.83	Total	\$135,313.53
AMC = \$135,313.53 ÷ 77 months = \$1,757.32			

1295237

- 3 -

Appeals Board's Calculation of Your Benefit

Plan section 3.01 provides that a Participant who attains his Normal Retirement Age (age 65) "will be entitled to receive a monthly Normal Retirement Pension equal to $\frac{3}{4}$ of 1% of Average Monthly Compensation times his Years-of-Credited-Service." Using your AMC of \$1,757.32 and 6.4 years of credited service, we found that you are entitled to a benefit of \$84.35 per month if paid as a lifetime annuity at age 65, as follows:

$$(\frac{3}{4} \text{ times } 1\%) \text{ times } \$1,757.32 \text{ times } 6.4 = 0.75\% \text{ times } \$11,246.85 = \$84.35$$

This benefit has a lump-sum value, as of the Plan termination date, of \$1,966.

Decision

Having applied the law, the provisions of the Plan and PBGC policy to the facts in this case, we changed PBGC's determination by finding that you are entitled to a lifetime annuity of \$84.35 beginning at age 65. Instead of the annuity, you may elect to receive a lump-sum payment of \$1,966, with interest from the Plan termination date until the date PBGC pays you. This is the agency's final decision on this matter and you may, if you wish, seek court review.

We will forward a copy of this letter to PBGC's Insurance Operations Department, the organization responsible for determining and paying benefits. They will contact you directly concerning your election of an annuity or a lump sum. Meanwhile, if you have questions, please call PBGC's Customer Service Center at 1-800-400-7242.

Sincerely,



Linda M. Mizzi
Member, Appeals Board