UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

DIVISION OF
CORPORATION FINANCE

February 19, 2014

Eric G. Kevorkian
Boston Properties, Inc.
ekevorkian@bostonproperties.com

Re: Boston Properties, Inc.

Dear Mr. Kevorkian:

This is in regard to your letter dated February 19, 2014 concerning the shareholder proposal submitted by Amalgamated Bank's LongView Large Cap 500 Index Fund for inclusion in Boston Properties' proxy materials for its upcoming annual meeting of security holders. Your letter indicates that the proponent has withdrawn the proposal and that Boston Properties therefore withdraws its January 10, 2014 request for a no-action letter from the Division. Because the matter is now moot, we will have no further comment.

Copies of all of the correspondence related to this matter will be made available on our website at http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

Erin E. Martin
Attorney-Advisor

cc: Cornish F. Hitchcock
Hitchcock Law Firm PLLC
conh@hitchlaw.com

Boston Properties

February 19, 2014

Via Electronic Mail (Shareholderproposals@sec.gov)
U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, N.E.
Washington, D.C. 20549

BOSTON, MA
NEW YORK, NY
PRINCETON, NJ
SAN FRANCISCO, CA
WASHINGTON, D.C.

Re: Boston Properties, Inc. – Withdrawal of No-Action Request, dated January 10, 2014, regarding the Omission of Stockholder Proposal of Amalgamated Bank's LongView Large Cap 500 Index Fund Pursuant to Rule 14a-8

Ladies and Gentlemen:

On January 10, 2014, Boston Properties, Inc., a Delaware corporation (the "Company"), submitted a request for a no-action letter (the "No-Action Request") to the Staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission requesting that the Staff concur with the Company's view that, for the reasons stated in the request, the shareholder proposal and statement of support (the "Proposal") submitted by Amalgamated Bank's LongView Large Cap 500 Index Fund (the "Proponent") may be properly omitted from the Company's definitive proxy materials for its 2014 Annual Meeting of Stockholders.

The Company received a letter dated February 18, 2014 from Cornish F. Hitchcock, on behalf of the Proponent, a copy of which is attached hereto as Exhibit A. The letter informed the Company that the Proponent was voluntarily withdrawing the Proposal. In reliance on the withdrawal of the Proposal by the Proponent, the Company is hereby withdrawing the No-Action Request. A copy of this letter is being provided to the Proponent.

If the Staff has any questions with respect to the foregoing, please do not hesitate to contact the undersigned by phone at (617) 236-3354 or via electronic mail at ekevorkian@bostonproperties.com.

Sincerely,

Eric G. Kevorkian, Esq.
Senior Vice President, Senior Corporate Counsel

cc: Cornish F. Hitchcock, Esq.
Hitchcock Law Firm PLLC
5614 Connecticut Avenue, N.W.
No. 304
Washington, D.C. 20015-2604
conh@hitchlaw.com
Telephone: (202) 489-4813
Facsimile: (202) 315-3552

Exhibit A
Withdrawal Letter

HITCHCOCK LAW FIRM PLLC
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(202) 489-4813 • FAX: (202) 315-3552

CORNISH F. HITCHCOCK
E-MAIL: CONH@HITCHLAW.COM

18 February 2014

Mr. Frank D. Burt
Corporate Secretary
Boston Properties, Inc.
800 Boylston Street, Suite 1900
Boston, Massachusetts 02199

By UPS

Re: Shareholder proposal for 2014 annual meeting

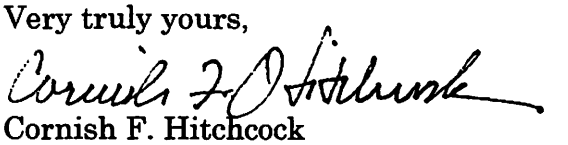
Dear Mr. Burt:

On behalf of Amalgamated Bank's LongView Large Cap 500 Index Fund (the "Fund"), I write to advise that the Fund hereby withdraws this shareholder proposal. We are taking this action in light of the very constructive dialogue that the Fund was able to have with Messrs. Zuckerman and Twardock last week, and we appreciate Mr. Twardock's follow-up e-mail confirming that the Company is not targeting compensation to a specific peer benchmark.

Thank you for your assistance in this matter, and we look forward to reviewing the proxy once it becomes available.

Please do not hesitate to contact me if there is any further information that we can provide.

Very truly yours,



Cornish F. Hitchcock

cc: Scott Zdrazil

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CORNISH F. HITCHCOCK
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24 January 2014

Office of the Chief Counsel
Division of Corporation Finance
Securities & Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Via e-mail

Re: Request for no-action relief filed by Boston Properties

Dear Counsel:

On behalf of Amalgamated Bank's LongView LargeCap 500 Index Fund (the "Fund") I am responding to the letter from counsel for Boston Properties, Inc. ("Boston Properties" or the "Company") dated 10 January 2014 ("Company Letter"). In that letter Boston Properties seeks no-action relief as to a shareholder proposal that the Fund submitted for inclusion in the proxy materials to be distributed prior to the 2014 annual meeting. For the reasons set forth below, the Fund respectfully asks the Division to deny the requested relief.

The Fund's Proposal and Boston Properties' Objection.

The Fund's proposal deals with the use of benchmarking in setting compensation for senior executives. Boston Properties seeks exclusion under Rule 14a-8(i)(1) and (i)(2) on the related theories that the proposal is not a proper subject for shareholder action under Delaware law and, if implemented, would cause the Company to violate state law. The Company presses its case rather vigorously, which is surprising, since the objection is limited in scope and (without conceding the point) could have been resolved in a phone call between counsel. There was no need for the Company to crank up the no-action process. Why the reluctance to let shareholders vote? We cannot say, although we do note that Boston Properties' 2013 say-on-pay report was supported by only 19.4 percent of the shares voted – the worst showing in the S&P 500 and the third worst showing in the Russell 3000.[1]

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[1] Institutional Shareholder Services, *2013 Proxy Season Review*, at p. 8, *available at* http://www.issgovernance.com/files/private/2013ISSUnitedStatesPostseasonReport.pdf. This report covered annual meetings held in the first six months of 2013.

Whatever the reason, Boston Properties' objections lack merit, as we now explain; should the Division disagree, the Fund is willing to make a minor wording change of the sort that the Division has routinely permitted in the past.

Discussion.

Because the (i)(1) and (i)(2) exclusions are conceptually related, we discuss them in tandem.

The centerpiece of the Company's argument is the contention that the proposal trenches on the board's ability "to fix officer compensation to the board of directors" by "not using precatory language," with the result that the proposal would "in essence" be a "binding mandate from stockholders as to how the Company should conduct its business." Company Letter at 3. Of course, the phrase "in essence" gives away the game, because "in essence" means "not quite" – and the Fund's proposal is "not quite" a binding proposal, not by a long shot.

Any analysis of the Company's arguments must begin with the text of the "resolved" clause, which states: "Resolved: That the board of directors of Boston Properties, Inc. adopt a policy that benchmarks used to establish total compensation (and the elements of total compensation) for senior executives be less than or equal to the 50th percentile of peers."

Boston Properties seems to concede that the proposal would be perfectly acceptable if it read: "Resolved: *The shareholders ask* that the board of directors of Boston Properties, Inc. adopt a policy . . ." or perhaps "Resolved: That the board of directors of Boston Properties, Inc. *should* adopt a policy that benchmarks used to establish total compensation (and the elements of total compensation) for senior executives be less than or equal to the 50th percentile of peers." If such a revision would be satisfactory to the Company or the Division, the Fund would be happy to make it, though we believe any such change is unnecessary for several reasons.

First, if one reads the proposal as a whole, it is clear that the proposal is a request, not a diktat. Indeed, the last paragraph in the supporting statement states explicitly: "We urge the board to adopt a more appropriate benchmark."

Second, not a single one of the letters cited in the Company Letter at 3-4 involves a verbal formulation on all fours with what the Fund proposes here.[2]

[2] We have reviewed each of the cited letters, which appear to have been culled from a string-cite of no-action decisions that routinely turn up in no-action requests from other law firms, *see, e.g., IEC Electronics Corp* (31 October 2012) (incoming letter dated 18 September 2012 at 3) or *Scott's Liquid Gold, Inc.* (7 May 2013) (incoming letter dated 5 April 2013 at 5). There is, of course, nothing wrong with recycling old arguments or string-citing authorities if they are on point, but a rote repetition of boilerplate citations might

Instead those authorities tend to use words of command such as "will" or "must" or "shall" or otherwise make it clear that the board is required to do something specific.[3] In each case also, the Division may have agreed with the (i)(1) argument, but it also permitted the proposal to be included if the proponent was willing to revise the proposal as a request or recommendation.

Finally (dare we say it), there is grammar. We could offer an exegesis about how the "adopt a policy" language indicates a non-binding proposal, given how the language appears in a subordinate clause and correctly uses the subjunctive mood in conveying a recommendation or a suggestion, not a command. If Boston Properties wants to a counter-argument based on rules of grammar, the Company is free to do so (and it does have the burden of proof). We hope that such an exercise would be unnecessary, however, in view of the Fund's willingness (without conceding the point) to make a language changes of the sort that the Division has routinely allowed in the past – and indeed, in all the no-action authorities that Boston Properties cites.

Unfortunately, the Fund's proffer does not end the discussion because Boston Properties asks the Division to create *ex nihilo* an absolute bar against any revision if one is dealing with an "experienced proponent" or "experienced counsel." Though we appreciate the compliment, the argument is unpersuasive for several reasons.

First, even the most skilled expert in any field will inevitably err. Homer nodded. Second, the Company offers no yardstick for the Division to use in deciding who is or is not "a sophisticated proponent." Third, the Company Letter badly misrepresents (at 6) the two cited no-action letters, which do not endorse the view

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suggest that they were not chosen because the language in those proposals closely tracked the language in the Fund's proposal.

[3] *E.g., IEC Electronics Corp.* (31 October 2012) (incentive awards "must" be approved by shareholders); National Technical Systems, Inc. (29 March 2011) (company "shall immediately hire"); *MGM Mirage* (6 February 2008) (company "will conduct a study"); *Constellation Energy Group* (2 March 2004) ("[n]o officer" of the company "may serve concurrently as Chairman of the Board of Directors").

In making this point, we acknowledge an arguable exception in *Bank of America Corp.* (16 February 2011), where the proposal read: "BE IT RESOLVED that the Board of Directors report to shareholders (at reasonable cost and omitting proprietary information) by December 1, 2011, the firm's policy concerning the use of initial and variation margin (collateral) on all over the counter derivatives trades and its procures to ensure that the collateral is maintained in segregated accounts and is not rehypothecated[.]" The supporting statement did contain a sentence referring to the "requested policy." However, it appears that the proponents there neither opposed the no-action request nor made the textual (and contextual) arguments that the Fund makes here. Thus *Bank of America* is of limited value on this point, although it is relevant on another point, as discussed below.

that a "sophisticated proponent" should be "denied . . . the opportunity to revise his proposal where the [unrevised] proposal, if implemented would have violated Delaware law."[4]

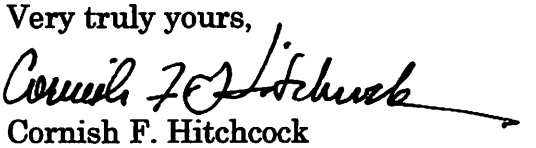
Finally, Boston Properties curiously omits reference to *Bank of America Corp.* (16 February 2011), cited at p. 3 of the Company Letter for a different proposition. This is odd, because *Bank of America Corp.* states that a proposal may be included if it were revised to be a request or recommendation, *even though the company expressly argued for denying the proponents that right because they were represented by an experienced advocate* (incoming letter dated 6 January 2011 at 3). Doubtless there are reasons why Boston Properties did not bring this portion of the letter to the Division's attention. Homer nodded?

Conclusion.

For these reasons, Boston Properties has not sustained its burden of showing that the Fund's proposal may be excluded from the Company's proxy materials, either as submitted, or with a minor revision as discussed, and we respectfully ask the Division to deny the requested relief.

Thank you for your consideration of these points. Please do not hesitate to contact me if there is further information that we can provide.

Very truly yours,



Cornish F. Hitchcock

cc: Eric G. Kevorkian, Esq.

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[4] The Company's argument here is a "block and copy" version of the same argument in the first of its two cited letters, *Boston Properties, Inc.* (14 January 2008), which involved a bylaw amendment that was, on its face, inconsistent with the Company's charter and Delaware law and that made no effort to harmonize the proposed amendment with those provisions. The proponent (the Carpenters union) did not offer to make a revision, nor, it appears, did it even file a response contesting the no-action request. Thus, the problem in that case could not be cured with a simple "make 'shall' a 'should'" type of solution; the staff would have been obliged to do its own redrafting with no assurance that the end product would be valid. The Division said nothing about the proponent's sophistication, nor did the Division say that it was denying the proponent the chance to make a revision.

Similarly *Northrop Grumman Corp.* (13 March 2007) involved a proposal from Ray Chevedden that did not admit to an easy linguistic fix; also, Mr. Chevedden did not file a response to the no-action request, nor did he seek the opportunity to make a language change. The Division's letter said nothing about his level of sophistication, nor did it state that he was being "denied" any right under Rule 14a-8(i)(1) or (2).

Boston Properties

January 10, 2014

Via Electronic Mail (Shareholderproposals@sec.gov)

Office of the Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F. Street N.E.
Washington, D.C. 20549

BOSTON, MA
NEW YORK, NY
PRINCETON, NJ
SAN FRANCISCO, CA
WASHINGTON, D.C.

Re: Boston Properties, Inc. – Omission of Stockholder Proposal of Amalgamated Bank's LongView Large Cap 500 Index Fund Pursuant to Rule 14a-8

Ladies and Gentlemen:

On November 21, 2013, Boston Properties, Inc., a Delaware corporation (the "Company"), received a shareholder proposal and statement of support (the "Proposal") from Amalgamated Bank's LongView Large Cap 500 Index Fund (the "Proponent"). The Proposal is attached hereto as Exhibit A. I write this letter to advise the Staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission (the "Commission") that the Company intends to omit the Proposal from its definitive proxy materials (the "Proxy Materials") for its 2014 Annual Meeting of Stockholders (the "Annual Meeting"). The Company respectfully requests confirmation from the Staff that it will not recommend any enforcement action against the Company if the Company omits the Proposal from the Proxy Materials for the reasons set forth in this letter.

In accordance with Section C of Staff Legal Bulletin No. 14D (November 7, 2008), this letter and the attached exhibits are being e-mailed to the Commission at shareholderproposals@sec.gov and, accordingly, the Company will not enclose the six paper copies otherwise required by Rule 14a-8(j). In accordance with Rule 14a-8(j), a copy of this letter and its exhibits has also been sent to the Proponent to notify the Proponent of the Company's intention to exclude the Proposal from the Proxy Materials. The Company intends to file the Proxy Materials with the Commission and mail such materials to the Company's stockholders no earlier than 80 days after the date of this letter.

The Company would like to remind the Proponent to send copies of any future correspondence with regards to the Proposal to the undersigned on behalf of the Company, as required by Rule 14a-8(k).

I. The Proposal and Basis for Omission

The Proposal mandates:

> Resolved: That the board of directors of Boston Properties, Inc. adopt a policy that benchmarks used to establish total compensation (and the elements of total compensation) for senior executives be less than or equal to the 50th percentile of peers.

The Company, which is incorporated under the laws of the State of Delaware, believes that the Proposal may be properly omitted from the Proxy Materials pursuant to:

- Rule 14a-8(i)(1) because the Proposal is not a proper subject for action by shareholders under Delaware law; and
- Rule 14a-8(i)(2) because, if implemented, it would cause the Company to violate the laws of Delaware.

The opinion of the Delaware law firm, Morris, Nichols, Arsht & Tunnell LLP, as required by Rule 14a-8(j)(2), is attached hereto as Exhibit B (the "Legal Opinion"). The Legal Opinion sets forth a detailed analysis of the relevant Delaware law, and the reasons (i) the Proposal is not a proper subject for action by the Company stockholders under Delaware law and (ii) the Proposal, if implemented, would cause the Company to violate Delaware law.

II. The Proposal May Be Omitted Because It Is Not A Proper Subject For Action By Stockholders Under Delaware Law.

Under Rule 14a-8(i)(1), a company may exclude a shareholder proposal that "is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization." The note to Rule 14a-8(i)(1) provides that: "Depending on the subject matter, some proposals are not considered proper under state law if they would be binding upon the Company if approved by shareholders." Additionally, in the 1976 adopting release for the predecessor rule to 14-8(i)(1), the Commission stated that:

> "The text of the above Note is in accord with the longstanding interpretative view of the Commission and its staff under subparagraph (c)(1). In this regard, it is the Commission's understanding that the laws of most states do not, for the most part, explicitly indicate those matters which are proper for security holders to act upon but instead provide only that 'the business and affairs of every corporation organized under this law shall be managed by its board of directors,' or words to that effect. Under such a statute, the board may be considered to have exclusive discretion in corporate matters, absent a specific provision to the contrary in the statute itself, or the corporation's charter or bylaws. Accordingly, proposals by security holders that mandate or direct the board to take certain action may constitute an unlawful intrusion on the board's discretionary authority under the typical statute."

Section 141(a) of the General Corporation Law of the State of Delaware (the "DGCL") contains similar language to that referenced in the adopting release, stating that the "business and affairs of every corporation organized under this chapter shall be managed by or under the direction of a board of directors, except as may be otherwise provided in this chapter or in its certificate of incorporation." As the Legal Opinion explains, the power granted by Section 141(a) includes the authority to fix the compensation of officers. Neither the DGCL nor the Company's Amended and Restated Certificate of Incorporation (the "Charter"), allows for any unilateral modification by stockholders of Section 141(a)'s mandate with respect to the matters set forth in the Proposal. Therefore, the Board of Directors of the Company (the "Board") has the exclusive authority to manage the business and affairs of the Company.

As the Legal Opinion explains, Delaware law reserves the power and authority to fix officer compensation to the board of directors of a company and its committees. The Proposal does not use precatory language and, as a result, if the Proposal were approved by the Company's stockholders, it would purport to require the Board to adopt the policy set forth in the Proposal. The Proposal is in essence a binding mandate from stockholders as to how the Company should conduct its business. The policy that the Proposal would require the Board to adopt would mandate that the Board, in all instances and under all circumstances, in establishing total compensation (and the elements of total compensation) for senior executives, use benchmarks that are less than or equal to the 50th percentile of the Company's peers. By requiring the Board to use specific benchmark metrics, the proposed policy would impermissibly interfere with the duty and authority of the Board to manage the business and affairs of the Company. In addition the policy mandated by the Proposal would significantly circumscribe the discretionary authority of the Board, would limit its ability to exercise its business judgment in choosing executive compensation benchmark metrics that it believes are best suited to maximize short and long term stockholder value based on then-current circumstances and may cause directors to violate their fiduciary duty to act in the best interests of the Company and its stockholders. In doing so, the Proposal would confer upon the Company's stockholders the power to take action that falls within the scope of the powers exclusively reserved to the board of directors under state law as detailed in the Legal Opinion. Accordingly, as the Legal Opinion concludes, the Proposal is not a proper subject for shareholder action.

The omission of the Proposal under Rule 14a-8(i)(1) is also consistent with Staff no-action letters permitting the omission of shareholder proposals that mandate or direct a company's board of directors to take action inconsistent with the discretionary authority provided to a board of directors under state law. *See IEC Electronics Corp.* (Oct. 31, 2012)(proposal providing that cash incentive awards for executive officers and directors that are not dependent on the price of the company's common shares must be approved by a vote of the shareholders); *National Technical Systems Inc.* (March 29, 2011) (proposal mandating that the company immediately hire an investment banking firm to initiate a search for a buyer of the company in order to maximize shareholder value); *Bank of America Corporation* (February 16, 2011) (proposal requiring a report to shareholders on certain trading policies and procedures); *MGM Mirage* (February 6, 2008) (proposal requiring that the company conduct a study of dividends, determine a reasonable dividend, and begin paying dividends as soon as the study is completed); *Constellation Energy Group, Inc.* (March 2, 2004) (proposal excluding the company's president from concurrent service as its chairman of the board of directors); *International Paper Company* (March 1, 2004) (proposal requiring that none of the five highest paid executives or any non-employee directors be eligible to receive future stock options); *PPL Corporation* (February 19, 2002)

(proposal to reduce the retainer payable to non-employee directors of the company); *PSB Holdings, Inc.* (January 23, 2002) (proposal seeking to limit compensation of non-employee directors during the succeeding calendar year); *Ford Motor Co.* (March 19, 2001) (proposal mandating that the company establish an independent committee to evaluate certain conflicts of interest); *American National Bankshares, Inc.* (February 26, 2001) (proposal mandating that any indication of interest received in the future be submitted to the board of directors for their approval and then to the shareholders for their approval or disapproval); *AMERCO* (July 21, 2000) (proposal requiring the company to implement a compensation program for certain senior officers); *K-Mart Corporation* (March 27, 2000) (proposal mandating that all bonuses be voted on by the shareholders and limited to a specified percentage of the annual salaries of the executive officers).

Based on the foregoing reasons, the Company believes that the Proposal is not a proper subject for shareholder action under Delaware law and may be omitted under Rule 14a-8(i)(1).

III. The Proposal May Be Omitted Because It Would, If Implemented, Cause The Company To Violate Delaware Law.

In addition to not being a proper subject for shareholder action under Rule 14a-8(i)(1), the Proposal, if approved by stockholders, would cause the Company to violate Delaware law. Accordingly, the Company believes that the Proposal may be omitted from the Proxy Materials pursuant to Rule 14a-8(i)(2). As more fully described in the Legal Opinion, the Proposal would violate Delaware law because it would prevent the Board from discharging its duty to manage the business and affairs of the Company.

As noted above, Section 141(a) of the DGCL and the Charter reserve to the Board the authority to manage the business and affairs of the Company. The Legal Opinion also cites established principles of Delaware common law that hold that the power and discretion to fix executive compensation is a core function of a board of directors and an exercise of business judgment that cannot be precluded through a stockholder-mandated adoption of a policy. Additionally, the Legal Opinion notes that the directors have a fiduciary duty to act in the best interests of the corporation and all its stockholders and to make informed, independent judgments regarding executive compensation. The judgment to benchmark executive compensation to a certain percentage of peer company compensation cannot be dictated in advance, and apply indefinitely, by stockholders without running afoul of Section 141(a). *See CA. Inc. v. AFSCME Employees Pension Plan*, 953 A.2d 227, 239 (Del. 2008) (reasoning that neither the board nor the shareholders could adopt a mandatory proxy expense reimbursement bylaw because it would impermissibly "prevent the directors from exercising their full managerial power in circumstances where their fiduciary duties would require them to deny reimbursement"); and *Quickturn Design Systems, Inc. v. Shapiro*, 721 A.2d 1281, 1292 (Del. 1998) (holding that a provision restricting a future board's ability to redeem a rights plan was invalid under Section 141(a) of the DGCL which "confers upon any newly elected board of directors *full* power to manage and direct the business and affairs of a Delaware corporation" (emphasis in original)). The Legal Opinion concludes that a stockholder-adopted resolution cannot impose limits on the Board's power to fix executive compensation and, accordingly, the Proposal, if implemented, would be inconsistent with the mandate set forth in Section 141(a) and cause the Company to violate the DGCL.

Moreover, the Staff has consistently permitted the exclusion of shareholder proposals under Rule 14a-8(i)(2) that would mandate or direct a company's board to act in violation of the directors' fiduciary duties to shareholders or otherwise violate state law. This has particularly been the case when the mandate would prevent or interfere with a director's ability to exercise his or her independent business judgment in the management of the company. See *JPMorgan Chase & Co.* (Feb. 22, 2012); *Vail Resorts, Inc.* (September 16, 2011); *Monsanto Co.* (Nov. 7, 2008); *GenCorp Inc.* (Dec. 20, 2004); *SRC Communications, Inc.* (Dec. 16, 2004); *DCB Financial Corp.* (March 5, 2003); and *ICN Pharmaceuticals, Inc.* (April 4, 2001). As detailed above, this is precisely the effect the Proposal would have if implemented as it imposes limits on the Board's power to fix executive compensation and improperly circumscribes the use of a director's business and independent, informed judgment. Consequently, and as discussed in greater detail in the Legal Opinion, the Proposal, if implemented, would violate Delaware law.

Based on the foregoing reasons, the Company believes it may properly omit the Proposal from the Proxy Materials in reliance on Rule 14a-8(i)(2).

IV. Proponent Should Not Be Permitted To Revise The Proposal.

The Company recognizes that the Staff, on occasion, will permit proponents to cure defects in their proposals by revising and resubmitting their proposals in precatory form, so long as the revisions are "minor in nature and do not alter the substance of the proposal." See Corporation Finance: Staff Legal Bulletin No. 14(E)(2) (July 13, 2001). However, for the reasons set forth below, the Company respectfully requests that the Staff decline to grant the Proponent the opportunity to recast its Proposal as a recommendation to the Board.

As noted above, the Staff allows proponents to cure defects in proposals that are minor in nature. The Proposal currently fails to use precatory language, which renders the Proposal an improper subject for action by stockholders under Delaware law and would cause the Proposal, if implemented, to violate Delaware law. The Company respectfully suggests that a proposal that would be invalid under the state law of incorporation would aptly be described as containing major (and *not* minor) defects. Allowing the Proponent to revise the Proposal would substantively transform the nature of the proposal.

Moreover, the Proponent cannot claim a "lack of sophistication" with respect to the drafting of shareholder proposals as it is one of the most active proponents of shareholder proposals and actively touts its pursuit of a "vigorous program of shareholder engagement."[1] Additionally, the Proponent has sophisticated legal counsel and engaged such legal counsel to draft, assess and advocate its shareholder proposals, including the Proposal that is the subject of this letter. Accordingly, the Proponent, as well as its counsel, clearly possesses the necessary sophistication and expertise to properly format a shareholder proposal and to assess the appropriateness of any proposal that it chooses to submit such that the proposal would survive scrutiny under Rule 14a-8.

Nonetheless, the Proponent failed to recognize, or chose to disregard, that the Proposal is not the proper subject for action by stockholders under Delaware law and, if implemented, would be invalid under Delaware law. The Company and the Staff should not be required to expend their time and resources to perform the Proponent's due diligence. Permitting the Proponent to revise the Proposal

effectively shifts the burden of ensuring that its proposals can be legally implemented to the Company and the Staff. The Proponent submits numerous proposals to companies each year and should be required to bear the costs of drafting proposals that comply with relevant law.

Furthermore, determining not to permit the Proponent to revise the Proposal would also be consistent with the Staff's position in *Boston Properties, Inc.* (Jan. 14, 2008) and *Northrop Grumman Corporation* (Mar. 13, 2007). In both cases, the Staff denied a sophisticated proponent the opportunity to revise his proposal where the proposal, if implemented, would have violated Delaware law, which is similar to this instance. Accordingly, the same result should follow and the Proponent should be denied the opportunity to revise the Proposal.

V. Conclusion.

Based on the foregoing analysis, the Company respectfully requests that the Staff confirm that it would not recommend enforcement action against the Company if the Company omits the Proposal from the Proxy Materials. If you have any questions, or if the Staff is unable to concur with the Company's conclusions without additional information or discussions, the Company respectfully requests the opportunity to confer with members of the Staff prior to the issuance of any written response to this letter. Please do not hesitate to contact the undersigned at (617) 236-3354. Please transmit the response letter via electronic mail to the Company at ekevorkian@bostonproperties.com.

Respectfully submitted,

Eric G. Kevorkian, Esq.
Senior Vice President, Senior Corporate Counsel

cc: Cornish F. Hitchcock, Esq.
Hitchcock Law Firm PLLC
5614 Connecticut Avenue, N.W.
No. 304
Washington, D.C. 20015-2604
conh@hitchlaw.com
Telephone: (202) 489-4813
Facsimile: (202) 315-3552

[1] See http://www.amalgamatedbank.com/home/fiFiles/static/documents/AB_Longviewover20yrs_Brochure_042613.pdf

Exhibit A
Proposal

HITCHCOCK LAW FIRM PLLC
5614 CONNECTICUT AVENUE, N.,W. • NO. 304
WASHINGTON, D.C. 20015-2604
(202) 489-4813 • FAX: (202) 315-3552

CORNISH F. HITCHCOCK
E-MAIL: CONH@HITCHLAW.COM

21 November 2013

Mr. Frank D. Burt
Corporate Secretary
Boston Properties, Inc.
800 Boylston Street, Suite 1900
Boston, Massachusetts 02199

By UPS

Re: Shareholder proposal for 2014 annual meeting

Dear Mr. Burt:

On behalf of Amalgamated Bank's LongView Large Cap 500 Index Fund (the "Fund"), I enclose a shareholder resolution for inclusion in the proxy materials that Boston Properties plans to circulate to shareholders in anticipation of the 2014 annual meeting. The proposal is submitted under SEC Rule 14a-8 and relates to Boston Properties' executive compensation policies.

The Fund is an S&P 500 index fund located at 275 7th Avenue, New York, N.Y. 10001. It has beneficially owned over $2000 worth of Boston Properties common stock for more than a year. A letter confirming ownership is being submitted under separate cover. The Fund plans to continue ownership through the date of the upcoming annual meeting, which a representative is prepared to attend.

The Fund would be pleased to discuss with the Company the issues raised by this resolution and routinely engages in such dialogue with its portfolio companies. Please let me know if you would be interested in having such a dialogue here.

Very truly yours,

Cornish F. Hitchcock

Resolved: That the board of directors of Boston Properties, Inc. adopt a policy that benchmarks used to establish total compensation (and the elements of total compensation) for senior executives be less than or equal to the 50th percentile of peers.

SUPPORTING STATEMENT

As long-term shareholders, we believe that executive compensation should be based on a "pay-for-performance" philosophy. We are concerned, however, that at Boston Properties, the company's practice of targeting pay levels well above the median for its peers promotes pay levels without a close connection to actual performance. Benchmarking executive pay at a higher level than most of one's peers can lead to a vicious cycle, whereby a few CEOs "leapfrog" their peers by getting huge raises that may have little to do with the performance of their companies. Other companies then use the oversized pay of the "leapfrog" CEOs in subsequent benchmarks, which ultimately increases pay for everyone, without regard to the performance of the companies.

According to last year's proxy statement, Boston Properties uses a peer group to benchmark executive compensation. On page 27, the company identifies that it falls roughly in the middle of this peer group under various metrics: 48th percentile of total market capitalization, 55th percentile of 3-year total shareholder returns, and 42nd percentile of 5-year total shareholder returns. However, and despite this average performance and position among peers, last year's proxy states that the Compensation Committee's "objective" for executives' total compensation has been "to keep it within the 70th and 85th percentiles (or 75th on average) of the peer set." Accordingly, on page 28, and despite ranking in the 54th percentile of peers on 3-year total shareholder return, the company ranks 77th in total compensation to the top five highest paid executives.

Benchmarking executive pay above pay levels at most peers can create a "Lake Wobegon effect" in which no executive is below average. By setting total compensation at the 75th percentile, Boston Properties virtually assures a ratcheting up of senior executive pay while also contributing to a cascading effect at other companies that use Boston Properties for peer comparison. Raises in pay designed to exceed the median will increase the median. Even if only a small number of companies set such a high benchmark, the median will increase every year, promoting a spiraling increase in compensation for top executives, without regard to individual or company performance. Indeed, between the end of 2006 (when the stock price was near a record high up to that point) and the end of 2012, the stock price rose by approximately 25%. During that same six-year period, however, Mr. Zuckerman's total compensation nearly tripled.

We urge the board to adopt a more appropriate benchmark for compensation. If the company's peer group is indeed well-constructed, we believe that benchmarking pay at the 50th percentile of peers is more appropriate.

We urge shareholders to vote for this proposal.

AMALGAMATED BANK®

21 November 2013

Mr. Frank D. Burt
Corporate Secretary
Boston Properties, Inc.
800 Boylston Street, suite 1900
Boston, MA 02199

Via courier

Re: Shareholder proposal for 2014 annual meeting

Dear Mr. Burt:

This letter will supplement the shareholder proposal submitted to you by Cornish F. Hitchcock, attorney for the Amalgamated Bank's LongView LargeCap 500 Index Fund (the - "Fund"), who is authorized to represent the Fund in all matters in connection with that proposal.

At the time Mr. Hitchcock submitted the Fund's resolution, the Fund beneficially owned 25,801 shares of Boston Properties, Inc. common stock. These shares are held of record by Amalgamated Bank through its agent, CEDE & Co. The Fund has continuously held at least $2000 worth of the Company's common stock for more than one year prior to submission of the resolution and plans to continue ownership through the date of your 2014 annual meeting.

If you require any additional information, please let me know.

Sincerely,

Scott Zdrazil
First VP – Corporate Governance

Exhibit B
Legal Opinion

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

1201 NORTH MARKET STREET
P.O. BOX 1347
WILMINGTON, DELAWARE 19899-1347

302 658 9200
302 658 3989 FAX

January 9, 2014

Boston Properties, Inc.
800 Boylston Street, Suite 1900
Boston, Massachusetts 02199

Re: Stockholder Proposal Submitted by Amalgamated Bank LongView Large Cap 500 Index Fund

Ladies and Gentlemen:

This letter confirms our advice with respect to a proposal (the "Proposal") submitted to Boston Properties, Inc., a Delaware corporation (the "Company"), from Amalgamated Bank LongView Large Cap 500 Index Fund (the "Proponent") for inclusion in the Company's proxy materials for its 2014 annual meeting of stockholders. For the reasons explained below, it is our opinion that the Proposal is not a proper subject for action by stockholders under Delaware law and that the Proposal would violate Delaware law if it were implemented.

I. The Proposal.

The Proposal provides:

> Resolved: That the board of directors of Boston Properties, Inc. adopt a policy that benchmarks used to establish total compensation (and the elements of total compensation) for senior executives be less than or equal to the 50th percentile of peers.

The Proposal seeks to limit executive compensation and would impose a limitation by reference to the compensation paid by peer companies. In its supporting statement, the Proponent notes that the Board's analysis of executive compensation includes a comparison with the executive compensation of the Company's peers. The Proposal would intrude on the

Board's determination of executive compensation by requiring that compensation be limited to arrive at amounts that comport to the desired "50% or less" percentile of peer companies.[1]

II. Summary.

The Proposal would have the stockholders dictate the terms of the Company's executive compensation. Delaware law reserves the power and authority to fix officer compensation to the Board of Directors and its committees. The Proposal would impermissibly usurp the power and authority reserved to the Board. Accordingly, the Proposal is not a proper subject for action by Company stockholders under Delaware law, and the Proposal would violate Delaware law if it were implemented.

III. Analysis.

The Proposal is not a proper subject for stockholder action because it would purport to regulate the executive compensation that the Board may award to senior executives. Section 141(a) of the Delaware General Corporation Law (the "DGCL") vests in the Board (and not the stockholders) the power and authority to manage the Company's business and affairs.[2] This power includes the authority to fix the compensation of officers.[3] The Delaware courts

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[1] Although the supporting statement to the Proposal references "urg[ing]" the Board to adopt the desired benchmark requirements, the text of the Proposal itself is cast in mandatory, not precatory, terms. Accordingly, the Proposal forces the Board to take the action set forth in the Proposal.

[2] 8 *Del. C.* § 141(a) ("(a) The business and affairs of every corporation organized under this chapter shall be managed by or under the direction of a board of directors, except as may be otherwise provided in this chapter or in its certificate of incorporation.").

[3] *Freedman v. Adams*, 58 A.3d 414, 417 (Del. 2013) (finding it to be "a classic exercise of business judgment" for a board of directors to "retain flexibility in compensation decisions," rather than seek the potential tax savings of making payments under a (stockholder-approved) Section 162(m) compensation plan); *Brehm v. Eisner*, 746 A.2d 244, 263 (Del. 2000) (quoting *In re The Walt Disney Co. Deriv. Litig.*, 731 A.2d 342, 362 (Del. 2000)) ("[A] board's decision on executive compensation is entitled to great deference. It is the essence of business judgment for a board to determine if 'a particular individual warrant[s] large amounts of money, whether in the form of current salary or severance provisions.'"); *Zucker v. Andreessen*, 2012 WL 2366448, at *10 (Del. Ch. June 21, 2012) (quoting *In re infoUSA, Inc. S'holders Litig.*, 953 A.2d 963, 984 (Del. Ch. 2007)) ("The value of assets bought and sold in the marketplace, including the personal services of executives and directors, is a matter best determined by the good faith judgments of disinterested and independent directors, men and women with business acumen appointed by shareholders precisely for their skill at making such evaluations."); *In re Goldman Sachs Group, Inc. S'holder Litig.*, 2011 WL 4826104, at *14 (Del. Ch. Oct. 12, 2011) ("The decision as to how much compensation is appropriate to retain and incentivize employees, both individually and in the aggregate, is a core function of a board of directors exercising its business judgment.") *Id.* (denying stockholder plaintiffs' challenge to the board's compensation scheme and noting that changes to compensation plans "may be accomplished through directorial elections, but not, absent a showing unmet here, through this Court").

have held that stockholders may not prescribe actions that directors must take.[4] As explained by the Delaware Court of Chancery, Delaware law "does not operate on the theory that directors, in exercising their powers to manage the firm, are obligated to follow the wishes of a majority of shares."[5] Because directors, and not stockholders, owe fiduciary duties to act in the best interests of the corporation and all its stockholders, only the directors possess the authority to manage the corporation,[6] and make important decisions such as fixing executive compensation.

The Proposal is not cast as a request or a recommendation: it would require the Board to adopt the benchmark requirements in the Proposal. Because the Proposal *directs* rather than *recommends* that the Board adopt these requirements, it is an improper subject for stockholder action under Delaware law.

In addition, because a stockholder-adopted resolution cannot impose limits on the Board's power to fix executive compensation, it is our opinion that the Proposal would violate Delaware law if it were implemented.

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4 *CA, Inc. v. AFSCME Employees Pension Plan*, 953 A.2d 227, 240 (Del. 2008) (stating a bylaw would be invalid because it "mandates reimbursement of election expenses in circumstances that a proper application of fiduciary duties could preclude").

5 *Paramount Commcn's Inc. v. Time Inc.*, 1989 WL 79880, at *30 (Del. Ch. July 14, 1989), *aff'd*, 571 A.2d 1140 (Del. 1989); *see also Spiegel v. Buntrock*, 571 A.2d 767, 772-73 (Del. 1990) ("A basic principle of the General Corporation Law of the State of Delaware is that directors, rather than shareholders, manage the business and affairs of the corporation. The exercise of this managerial power is tempered by fundamental fiduciary obligations owed by the directors to the corporation and its shareholders." (internal quotation marks and citations omitted)); *In re Trados Inc. S'holder Litig.*, 73 A.3d 17, 38 (Del. Ch. 2013) ("Directors must exercise their independent fiduciary judgment; they need not cater to stockholder whim."). We note that, in *Unisuper Ltd. v. News Corp.*, 2005 WL 3529317 (Del. Ch. Dec. 20, 2005), the Court of Chancery, in *dicta*, analogized the director-stockholder relationship to an agency relationship. *Unisuper* concerned a board that allegedly *affirmatively contracted away* its powers; this is in contrast to the Proposal, which asks the stockholders to *unilaterally* prescribe actions that the Board must take. In any event, the *dicta* from the Court of Chancery in *Unisuper* is directly contrary to Supreme Court precedent that "[d]irectors, in the ordinary course of their service as directors, do not act as agents of the corporation", *Arnold v. Soc'y for Savs. Bancorp, Inc.*, 678 A.2d 533, 539-40 (Del. 1996), and to the more recent Supreme Court opinion in *AFSCME*, which re-affirmed that stockholders cannot unilaterally limit a board's authority to manage the corporation.

6 *Norte & Co. v. Manor Healthcare Corp.*, 1985 WL 44684, at *3 (Del. Ch. Nov. 21, 1985) ("[T]he directors rather than the stockholders manage the business and affairs of the corporation and the directors, in carrying out their duties, act as fiduciaries for the company and its stockholders.").

IV. Conclusion.

For the reasons discussed in this letter, it is our opinion that the Proposal is not a proper subject for action by stockholders under Delaware law and would violate Delaware law if it were implemented.

Very truly yours,

Morris, Nichols, Arsht & Tunnell LLP

7881963