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

DIVISION OF
CORPORATION FINANCE

April 8, 2024

Ronald O. Mueller
Gibson, Dunn & Crutcher LLP

Re: Lowe's Companies, Inc. (the "Company")
Incoming letter dated January 26, 2024

Dear Ronald O. Mueller:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by John Chevedden for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests that the Company amend its bylaws to include specified requirements for fixing the compensation of directors.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(2). We note that in the opinion of North Carolina counsel, implementation of the Proposal would cause the Company to violate state law. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(i)(2).

Copies of all of the correspondence on which this response is based will be made available on our website at https://www.sec.gov/corpfin/2023-2024-shareholder-proposals-no-action.

Sincerely,

Rule 14a-8 Review Team

cc: John Chevedden

GIBSON DUNN

Gibson, Dunn & Crutcher LLP

1050 Connecticut Avenue, N.W.
Washington, DC 20036-5306
Tel 202.955.8500
www.gibsondunn.com

Ronald O. Mueller
Direct: +1 202.955.8671
Fax: +1 202.530.9569
RMueller@gibsondunn.com

January 26, 2024

VIA ONLINE PORTAL SUBMISSION

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: *Lowe's Companies, Inc.*
Shareholder Proposal of John Chevedden
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, Lowe's Companies, Inc. (the "Company"), intends to omit from its proxy statement and form of proxy for its 2024 Annual Meeting of Shareholders (collectively, the "2024 Proxy Materials") a shareholder proposal (the "Proposal") and statement in support thereof received from John Chevedden (the "Proponent").

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the Securities and Exchange Commission (the "Commission") no later than eighty (80) calendar days before the Company intends to file its definitive 2024 Proxy Materials with the Commission; and

- concurrently sent a copy of this correspondence to the Proponent.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("SLB 14D") provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the staff of the Division of Corporation Finance (the "Staff"). Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of such correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

THE PROPOSAL

If adopted, the Proposal would result in an automatic amendment to the Company's Bylaws (the "Bylaws"). The Proposal states:

> The Bylaws of Lowe's Companies, Inc. are amended as follows:
>
> Article III, Section 9. is deleted and replaced in its entirety as follows:
>
> Compensation. The directors may be paid such expenses as are incurred in connection with their duties as directors. The Board of Directors shall not have any authority to fix the compensation of directors. The compensation of directors the corporation pays shall be fixed at $1 in a fiscal year; provided, however, the corporation may pay, grant, or award compensation greater than $1 in a fiscal year if such compensation has been (1) disclosed to shareholders in advance of the fiscal year in which the corporation will pay, grant, or award such compensation; (2) submitted to an approval vote of shareholders at an annual or special meeting of shareholders in advance of the fiscal year in which the corporation will pay, grant, or award such disclosed compensation; and (3) approved by a majority of shareholder votes present in person or represented by proxies and entitled to vote cast in favor of the disclosed annual compensation at an annual or special meeting of shareholders in advance of the fiscal year in which the corporation will pay, grant, or award such compensation, which majority shall include only shareholder votes of shareholders that are not directors of the Company.

A copy of the Proposal and statement in support thereof is attached to this letter as Exhibit A.

BASIS FOR EXCLUSION

We hereby respectfully request that the Staff concur in our view that the Proposal may be excluded from the 2024 Proxy Materials pursuant to Rule 14a-8(i)(2) because implementation of the Proposal would cause the Company to violate North Carolina law.

ANALYSIS

The Proposal May Be Excluded Under Rule 14a-8(i)(2) Because Implementation Of The Proposal Would Cause The Company To Violate North Carolina Law

A. Background On Rule 14a-8(i)(2)

Rule 14a-8(i)(2) permits a company to exclude a shareholder proposal if implementation of the proposal would "cause the company to violate any state, federal, or foreign law to which it is

subject." *See The Goldman Sachs Group, Inc.* (avail. Feb. 1, 2016); *Kimberly-Clark Corp.* (avail. Dec. 18, 2009); *Bank of America Corp.* (avail. Feb. 11, 2009). The Company is incorporated under the laws of the State of North Carolina. As discussed below and for the reasons set forth in the legal opinion provided by Moore & Van Allen PLLC, the Company's North Carolina counsel, attached hereto as Exhibit B (the "North Carolina Law Opinion"), we believe that the Proposal is excludable under Rule 14a-8(i)(2) because implementation of the Proposal would cause the Company to violate North Carolina law.

On numerous occasions, the Staff has permitted the exclusion of shareholder proposals pursuant to Rule 14a-8(i)(2) where the proposal, as with the Proposal, would according to a legal opinion signed by counsel violate state law by purporting to impair shareholders' voting rights. For example, in *eBay Inc.* (avail. Apr. 1, 2020), the Staff concurred with the exclusion under Rule 14a-8(i)(2) of a proposal requesting that the company provide for the election of a certain percentage of board members by employees. The company argued that implementing the proposal would violate Delaware law pursuant to which each share of capital stock entitles a shareholder to one vote in the election of directors. Similarly, in *Dominion Resources, Inc.* (avail. Jan. 14, 2015), the Staff concurred with the exclusion under Rule 14a-8(i)(2) of a proposal requesting that a director be appointed by the company's board without a shareholder vote, where the company argued that the proposal would improperly deprive shareholders of their voting rights in violation of Virginia law. *See also, e.g., Marathon Oil Corp.* (avail. Feb. 6, 2009) (concurring with the exclusion under Rule 14a-8(i)(2) of a proposal, which, if implemented, would cause the company to violate a fundamental rule of Delaware law relating to discrimination among holders of the same class of stock); *MeadWestvaco Corp.* (avail. Feb. 27, 2005) (concurring with the exclusion under Rule 14a-8(i)(2) of a proposal which, if implemented, would cause the company to violate the "one-vote-per-share rule" under Delaware law by impermissibly imposing a per capita voting standard); *Hewlett-Packard Co.* (avail. Jan. 6, 2005) (same).

In numerous precedent, the Staff also has concurred with exclusion of shareholder proposals pursuant to Rule 14a-8(i)(2) where the proposals entailed a bylaw amendment that would violate state law. *See, e.g., IDACORP, Inc.* (avail. Mar. 13, 2012) (concurring with the exclusion under Rule 14a-8(i)(2) of a shareholder proposal requesting that the company amend its bylaws to implement majority voting for director elections where Idaho law provided for plurality voting unless a company's certificate of incorporation provided otherwise); *Johnson & Johnson* (avail. Feb. 16, 2012) (concurring in the exclusion under Rule 14a-8(i)(2) of a shareholder proposal requesting a bylaw amendment that would prevent the appointment to the compensation committee of directors who received a certain number of "no" or "withhold" votes in a director election where implementation would violate New Jersey law by limiting the decision-making authority of the board to select such committee members); *Ball Corp.* (avail. Jan. 25, 2010, *recon. denied* Mar. 12, 2010) (concurring with the exclusion under Rule 14a-8(i)(2) of a

shareholder proposal that would cause the company to violate Indiana law relating to board classification).

Here, implementation of the Proposal would cause the Company to violate North Carolina law because the Proposal would disenfranchise certain shareholders of their right to vote on matters submitted for the approval of the shareholders of the Company in a manner impermissible under the North Carolina Business Corporation Act (the "NCBCA"). Accordingly, the Proposal may properly be excluded under Rule 14a-8(i)(2).

B. Implementation Of The Proposal Would Cause The Company To Violate North Carolina Law

If approved by shareholders, the Proposal would result in the automatic amendment of the Bylaws. Upon effectiveness, the Bylaw amendment would, among other things, prohibit the Company's Board of Directors (the "Board") from awarding annual compensation to Company directors over $1 unless, among other requirements, such compensation is approved by a "majority of shareholder votes present in person or represented by proxies" with such vote to "include *only shareholder votes of shareholders that are not directors of the Company*" (emphasis added).

As explained in the North Carolina Law Opinion, subject to certain limitations, Section 55-7-21(a) of the NCBCA entitles each share of stock of a corporation to "one vote on each matter voted on at a shareholders' meeting" unless otherwise provided for by the articles of incorporation. Furthermore, there is no provision in the NCBCA that permits shareholders or directors of a corporation to act unilaterally, through the adoption of a bylaw or otherwise, to deprive certain shareholders of the right to vote the shares that they own, either generally or with respect to a specific matter. Such an action could only be accomplished by amending a company's articles of incorporation. Importantly, the Restated Charter of the Company (the "Charter") makes no provision for denying the members of a particular class of shareholders the right to vote their shares of common stock based on their membership of such class. To the contrary, the Charter expressly states that the holders of common stock shall "have the sole and full power to vote . . .for all [] purposes without limitation."

Accordingly, the Proposal, which requires that "majority [approval] shall *include only* shareholder *votes of shareholders that are not directors of the Company*" (emphasis added), would result in the disenfranchisement of shareholders who also serve as Company directors, in direct contravention of the NCBCA and the Company's Charter.

The Staff recently concurred with the exclusion under Rule 14a-8(i)(2) of a proposal that similarly would have disqualified a subset of shareholders from voting on a certain type of matter because such action would be invalid under applicable state law. In *Quotient Technology*

Inc. (avail. May 6, 2022), the proposal requested the company's board of directors "disqualify all shares owned and/or controlled by both current and former [n]amed [e]xecutive [o]fficers" from voting on a proposal to approve the company's tax benefits preservation plan proposal. In support of its argument that the proposal would cause the company to violate Delaware law, Quotient Technology provided a legal opinion issued by its Delaware counsel. In its opinion, Quotient Technology's Delaware counsel stated that Delaware law "grants each stockholder of a Delaware corporation a fundamental franchise right to cast one vote per share of stock on all matters submitted for stockholder action" and further explained that Quotient Technology's certificate of incorporation did not contain a provision modifying the applicable Delaware law voting provisions. Accordingly, because the proposal in *Quotient Technology* sought to disqualify certain shareholders in contravention of Delaware law and the company's certificate of incorporation, Quotient Technology argued that, in keeping with the opinion of its Delaware counsel, the proposal would cause the company to violate Delaware law. The Staff concurred with exclusion under Rule 14a-8(i)(2) "not[ing] that in the opinion of Delaware counsel, implementation of the [proposal] would cause the [c]ompany to violate state law."

Here, the Proposal would result in a binding Bylaw amendment that, just as in *Quotient Technology*, would disqualify a subset of shareholders (i.e., shareholders who are Company directors) from voting on a specific matter (director compensation as mandated by the Proposal). Implementation of the Proposal's binding Bylaw amendment is impermissible because, as explained in the North Carolina Law Opinion, neither the NCBCA nor the Company's Charter provides for depriving certain shareholders of the right to vote the shares that they own. Accordingly, as in *Quotient Technology* and the other precedents cited above, and as supported by the North Carolina Law Opinion, the Proposal is excludable pursuant to Rule 14a-8(i)(2) because implementation of the Proposal would cause the Company to violate North Carolina law.

CONCLUSION

Based upon the foregoing analysis, the Company intends to exclude the Proposal from its 2024 Proxy Materials, and we respectfully request that the Staff concur that the Proposal may be excluded under Rule 14a-8(i)(2). We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to shareholderproposals@gibsondunn.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 955-8671.

Sincerely,

Ronald O. Mueller

Enclosures

cc: Beth R. MacDonald, Esq., Lowe's Companies, Inc.
Moore & Van Allen PLLC
John Chevedden

EXHIBIT A

JOHN CHEVEDDEN

[redacted] [redacted]

Ms. Juliette W. Pryor
Corporate Secretary
Lowe's Companies, Inc. (LOW)
1000 Lowe's Blvd
Mooresville, NC 28117
[redacted]

Dear Ms. Pryor,

This Rule 14a-8 proposal is respectfully submitted in support of the long-term performance of our company.

This Rule 14a-8 proposal is intended as a low-cost method to improve company performance – especially compared to the substantial capitalization of our company.

This proposal is for the next annual shareholder meeting.

I intend to continue to hold the required amount of Company shares through the date of the Company's next Annual Meeting of Stockholders and beyond as is or will be documented in my ownership proof.

This submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

Please assign the proper sequential proposal number in each appropriate place.

Please use the title of the proposal in bold in all references to the proposal in the proxy including the table of contents, like Board of Directors proposals, and on the ballot. If there is objection to the title please negotiate or seek no action relief as a last resort.

I expect to forward a broker letter soon so if you acknowledge this proposal in an email message to [redacted] it may very well save you from formally requesting a broker letter from me.

Please confirm that this proposal was sent to the correct email address for rule 14a-8 proposals.
Per SEC SLB 14L, Section F, the Securities and Exchange Commission Staff "encourages both companies and shareholder proponents to acknowledge receipt of emails when requested."
I so request.

Sincerely,

John Chevedden

December 13, 2023
Date

cc: Beth MacDonald [redacted]
"Johnson, Sarah" [redacted]
Hannah H. Kim

[LOW: Rule 14a-8 Proposal, December 13, 2023]
[This line and any line above it – *Not* for publication.]

Proposal 4 – Bylaw Amendment: Shareholder Approval of Director Compensation

The Bylaws of Lowe's Companies, Inc. are amended as follows:

Article III, Section 9. is deleted and replaced in its entirety as follows:

Compensation. The directors may be paid such expenses as are incurred in connection with their duties as directors. The Board of Directors shall not have any authority to fix the compensation of directors. The compensation of directors the corporation pays shall be fixed at $1 in a fiscal year; provided, however, the corporation may pay, grant, or award compensation greater than $1 in a fiscal year if such compensation has been (1) disclosed to shareholders in advance of the fiscal year in which the corporation will pay, grant, or award such compensation; (2) submitted to an approval vote of shareholders at an annual or special meeting of shareholders in advance of the fiscal year in which the corporation will pay, grant, or award such disclosed compensation; and (3) approved by a majority of shareholder votes present in person or represented by proxies and entitled to vote cast in favor of the disclosed annual compensation at an annual or special meeting of shareholders in advance of the fiscal year in which the corporation will pay, grant, or award such compensation, which majority shall include only shareholder votes of shareholders that are not directors of the Company.

Supporting statement

Lowe's shareholders seek an independent Board of Directors, one that has as its sole objective representing shareholders without conflict of interest. One interest pertains to compensation and how Lowe's compensates directors for board service. Shareholders seek the authority to approve compensation that directors receive from Lowe's.

Shareholders want and need authority over how and how much Lowe's compensates directors. If shareholders approve compensation, then directors have the greatest incentive to work in the sole interest of shareholders. Currently, directors design and approve compensation with no approval from shareholders. Directors receive whatever compensation they desire. This bylaw amendment corrects this problem.

The bylaw amendment provides for a shareholder vote on director compensation. Directors can continue to design and propose compensation structure and amount, including the mix and amount of cash and equity. Shareholders will have final approval over whether Directors receive what directors propose. Shareholders will vote on Director compensation as disclosed in the proxy statement for a shareholder meeting before the fiscal year in which Directors receive that compensation. Stock owned by Directors will not count in the vote, so the vote result represents the independent views of shareholders.

I urge shareholders to approve this bylaw amendment and assume proper authority over the compensation of directors who represent us.

Notes:

Please use the title of the proposal in bold in all references to the proposal in the proxy and on the ballot. If there is objection to the title please negotiate or seek no action relief as a last resort.

"Proposal 4" stands in for the final proposal number that management will assign.

This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(l)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

See also: Sun Microsystems, Inc. (July 21, 2005).

The stock supporting this proposal will be held until after the annual meeting and the proposal will be presented at the annual meeting. **I intend to continue holding the same required amount of Company shares through the date of the Company's next Annual Meeting of Stockholders as is or will be documented in my ownership proof.**

Please acknowledge this proposal promptly by email [redacted].

It is not intend that dashes (–) in the proposal be replaced by hyphens (-).
Please alert the proxy editor.

The color version of the below graphic is to be published immediately after the bold title line of the proposal at the **beginning** of the proposal and be **center justified**.

Please use the title of the proposal in bold in all references to the proposal in the proxy and on the ballot.
If there is objection to the title please negotiate or seek no action relief as a last resort.
Please do not insert any management words between the top line of the proposal and the concluding line of the proposal.

EXHIBIT B

Moore&VanAllen

Moore & Van Allen PLLC
Attorneys at Law

100 North Tryon Street
Suite 4700
Charlotte, NC 28202-4003

T 704 331 1000
F 704 331 1159
www.mvalaw.com

January 26, 2024

Lowe's Companies, Inc.
1000 Lowes Boulevard
Mooresville, North Carolina 28117

Re: Shareholder Proposal on behalf of John Chevedden

Ladies and Gentlemen:

We have acted as counsel in the State of North Carolina to Lowe's Companies, Inc., a North Carolina corporation (the "Company"), in connection with a shareholder proposal (the "Proposal") submitted to the Company by Mr. John Chevedden (the "Proponent") for inclusion in the Company's proxy statement for its 2024 annual meeting of shareholders (the "Annual Meeting"). In this regard, you have requested our opinion as to certain matters under the laws of the State of North Carolina.

For the purpose of rendering our opinion as expressed herein, we have reviewed the following documents: (i) the Restated Charter of the Company, (ii) the Bylaws of the Company, as amended and restated November 11, 2022, and (iii) the Proposal.

With respect to the foregoing documents, we have assumed (i) the conformity to authentic originals of all documents that we have reviewed as copies and (ii) that the foregoing documents, in the forms thereof provided to us for our review, have not been and will not be altered and amended in any respect material to our opinion as expressed herein. We have not reviewed any document other than the documents listed above for purposes of rendering this opinion, and we assume that there exists no provision of any such other document that bears upon or is inconsistent with our opinion as expressed herein.

We have been advised that the Company is considering submitting a no-action letter to the U.S. Securities and Exchange Commission as to its intent to exclude the Proposal from the Company's proxy statement for the Annual Meeting under Rule 14a-8(i)(2) promulgated under the Securities Exchange Act of 1934, as amended. Rule 14a-8(i)(2) provides that a registrant may omit a proposal from its proxy statement when "the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject." In this respect, you have requested our opinion as to whether, under North Carolina law, the implementation of the Proposal, if adopted, would violate North Carolina law.

For the reasons set forth below, it is our opinion the Proposal violates North Carolina law because, if implemented, the Proposal would disenfranchise certain shareholders of their right to vote on matters submitted to the approval of the shareholders of the Company in a manner impermissible under the North Carolina Business Corporation Act (the "NCBCA").

The Proposal requests that the Company adopt a bylaw requiring the compensation of directors of the Company to be approved in advance by a majority of the shareholders of the Company present in

person or represented by proxy "which majority shall include only shareholder votes of shareholders that are not directors of the Company."[1]

Under the NCBCA, the right of a shareholder of a corporation to vote on a matter submitted for approval by its shareholders is a fundamental right of share ownership.[2] This right is the foundation of shareholder control over the subject corporation. Subject to the terms of the statute,[3] the NCBCA entitles each share of stock of a corporation to "one vote on each matter voted on at a shareholders' meeting" unless otherwise provided for by the articles of incorporation of the corporation.[4] There is no provision in the NCBCA that permits shareholders or directors of a corporation to act unilaterally through the adoption of a bylaw, to deprive certain shareholders of the right to vote the shares that they own. Such an action could only be accomplished through a change to the corporation's articles of incorporation.

The Restated Charter of the Company (the "Charter") makes no provision for the denial to members of a particular class of holders of the Company's Common Stock the right to vote such shares of Common Stock based on their membership of such class. In fact, the Charter clearly states that "the holders of Common Stock shall "have the sole and full power to vote for the election of Directors and *for all other purposes without limitation*" (emphasis added).[5]

Based upon and subject to the foregoing and subject to the limitations stated herein, we are of the opinion that the Proposal, if implemented, would cause the Company to violate North Carolina law.

The foregoing opinion is limited to the laws of the State of North Carolina. We have not considered and express no opinion on the laws of any other state or jurisdiction, including federal laws regulating securities or any other federal laws, or the rules and regulations of stock exchanges or of any other regulatory body.

The foregoing opinion is rendered solely for your benefit as related to the matters addressed herein. We understand that the Company and the Company's counsel Gibson, Dunn & Crutcher LLP may furnish a copy of this opinion letter to the Securities and Exchange Commission and to the Proponent in connection with the matters addressed herein, and we consent to your doing so. Except as expressly stated in this paragraph, this opinion letter may not be furnished or quoted to, nor may the foregoing opinion be relied upon by, any other person or entity for any purpose without our prior written consent.

Very truly yours,

Moore & Van Allen PLLC

MOORE & VAN ALLEN PLLC

---

[1] Article III, Section 9(3) of "Proposal 4 – Bylaw Amendment: Shareholder Approval of Director Compensation," as set forth in the Proposal.

[2] *See* Russell M. Robinson II, Robinson on North Carolina Corporation Law §7.01 (7th ed. 2023).

[3] The fundamental right established by NCBCA Section 55-7-21(a) is subject to Sections 55-7-21(b) and (c), which prohibit a corporation from voting shares owned by or otherwise belonging to such corporation unless such shares are held in a fiduciary capacity on behalf of others. *See* N.C. Gen. Stat. Ann. § 55-7-21.

[4] N.C. Gen. Stat. Ann. § 55-7-21(a).

[5] Article 4, Section (b) of the Restated Charter of the Company states, "The holders of Common Stock shall, to the exclusion of the holders of any other class of stock of the Corporation, have the sole and full power to vote for the election of Directors and for all other purposes without limitation except only (i) as otherwise provided in the resolutions establishing and designating a particular series of Preferred Stock and (ii) as otherwise expressly provided by the then existing statutes of the State of North Carolina. The holders of Common Stock shall have one vote for each share of Common Stock held by them."

February 3, 2024

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

 # 1 Rule 14a-8 Proposal
Lowe's Companies, Inc. (LOW)
Shareholder Approval of Director Compensation
John Chevedden
Regarding January 26, 2024 No Action Request
515671

Ladies and Gentlemen:

I write in response to the notice from Lowe's that it intends to omit from its proxy statement and form of proxy for its 2024 Annual Meeting of Stockholders my stockholder proposal and supporting statement.

Lowe's plans to exclude the proposal because implementation of the proposal will cause Lowe's to violate North Carolina law (Rule 14a-8(i)(2)).

Below, we demonstrate the proposal does not violate North Carolina law. We thus urge the SEC to seek an enforcement action if Lowe's so omits the proposal.

In summary, the proposed bylaw term will allow shareholders to limit the inherent conflict of interest that arises when directors determine their own compensation. North Carolina law provides for directors to abstain from various conflicts. The bylaw term merely transforms the occasional instance when directors so abstain, frequently at their own discretion, into a standard, routine, and permanent element of Lowe's corporate governance.

Lowe's Argument

Lowe's asserts implementing the proposal would cause it to violate North Carolina law. Specifically, the proposal will disenfranchise directors that also own Lowe's shares, since those directors cannot vote those shares in the required stockholder vote on director compensation. It explains that North Carolina law generally provides all stockholders with "one vote on each matter voted on at a shareholders' meeting, unless otherwise provided for by the articles of incorporation." Any directors that are also stockholders will then not have the opportunity to vote in the matter of director compensation.

Rebuttal

We acknowledge the bylaw amendment in the proposal disenfranchises corporate directors that also own shares in the corporation. That's the point. As indicated in the Supporting

Statement, if the directors do not vote on their own compensation, then the "vote result represents the independent views of stockholders."

Also, it is so patently obvious that there is no greater conflict of interest than when directors design and approve their own compensation that we need not prove this any further. Directors are inherently conflicted in this matter. North Carolina law provides a mechanism for overcoming this conflict.

North Carolina law restricts how corporate directors, regardless of whether and how many shares they own in the corporation, decide on matters in which they have a material interest. In this instance, we can interpret North Carolina law to allow a bylaw term that prevents corporate directors from voting, *as shareholders*, on their own compensation. North Carolina law places a higher priority on limiting the impact of that personal interest than on preserving the right of a director to vote, as a shareholder, on that compensation.

North Carolina statute specifically addresses whether conflicted directors may vote on the conflicted matter. Statute allows shareholders to approve a conflicted transaction. However, "Shares owned by or voted under the control of a director who has a direct or indirect interest in the transaction…may not be counted in a vote of shareholders to determine whether to authorize, approve, or ratify a conflict of interest transaction." (NCBCA 55-8-31).

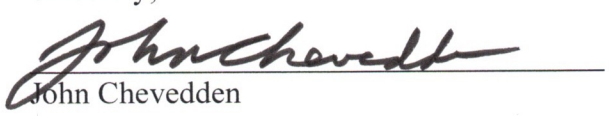
Conclusion

We concur this proposal will disenfranchise Lowe's directors as shareholders. At the same time, directors have a clear, inherent conflict of interest in designing and approving their own compensation.

North Carolina law will allow a bylaw amendment that prevents directors from voting, *as shareholders*, on their own compensation. Statue favors addressing this clear conflict over whatever rights directors have as shareholders. That law allows Lowe's to codify in its bylaws a standard practice of directors and shareholders abstaining from decisions for which they have a conflict of interest.

Thus, proposal does not violate North Carolina law. We expect North Carolina courts would find the bylaw valid. For this reason, we urge the SEC to seek an enforcement action should Lowe's omit it from the proxy statement for the 2024 annual shareholder meeting.

Sincerely,



John Chevedden

cc: Beth MacDonald

[LOW: Rule 14a-8 Proposal, December 13, 2023]
[This line and any line above it – *Not* for publication.]

Proposal 4 – Bylaw Amendment: Shareholder Approval of Director Compensation

The Bylaws of Lowe's Companies, Inc. are amended as follows:

Article III, Section 9. is deleted and replaced in its entirety as follows:

Compensation. The directors may be paid such expenses as are incurred in connection with their duties as directors. The Board of Directors shall not have any authority to fix the compensation of directors. The compensation of directors the corporation pays shall be fixed at $1 in a fiscal year; provided, however, the corporation may pay, grant, or award compensation greater than $1 in a fiscal year if such compensation has been (1) disclosed to shareholders in advance of the fiscal year in which the corporation will pay, grant, or award such compensation; (2) submitted to an approval vote of shareholders at an annual or special meeting of shareholders in advance of the fiscal year in which the corporation will pay, grant, or award such disclosed compensation; and (3) approved by a majority of shareholder votes present in person or represented by proxies and entitled to vote cast in favor of the disclosed annual compensation at an annual or special meeting of shareholders in advance of the fiscal year in which the corporation will pay, grant, or award such compensation, which majority shall include only shareholder votes of shareholders that are not directors of the Company.

Supporting statement

Lowe's shareholders seek an independent Board of Directors, one that has as its sole objective representing shareholders without conflict of interest. One interest pertains to compensation and how Lowe's compensates directors for board service. Shareholders seek the authority to approve compensation that directors receive from Lowe's.

Shareholders want and need authority over how and how much Lowe's compensates directors. If shareholders approve compensation, then directors have the greatest incentive to work in the sole interest of shareholders. Currently, directors design and approve compensation with no approval from shareholders. Directors receive whatever compensation they desire. This bylaw amendment corrects this problem.

The bylaw amendment provides for a shareholder vote on director compensation. Directors can continue to design and propose compensation structure and amount, including the mix and amount of cash and equity. Shareholders will have final approval over whether Directors receive what directors propose. Shareholders will vote on Director compensation as disclosed in the proxy statement for a shareholder meeting before the fiscal year in which Directors receive that compensation. Stock owned by Directors will not count in the vote, so the vote result represents the independent views of shareholders.

I urge shareholders to approve this bylaw amendment and assume proper authority over the compensation of directors who represent us.