



DIVISION OF  
CORPORATION FINANCE

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

March 26, 2024

Erica L. Hogan  
Cadwalader, Wickersham & Taft LLP

Re: Braemar Hotels & Resorts Inc. (the "Company")  
Incoming letter dated February 22, 2024

Dear Erica L. Hogan:

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

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(e)(2) because the Company received it after the deadline for submitting proposals. 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(e)(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: Chris Mueller

**Rule 14a-8(e)(2)**

February 22, 2024

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

Re: Braemar Hotels & Resorts Inc.  
Shareholder Proposal of Chris Mueller

To the Staff of the Division of Corporation Finance:

We are submitting this letter on behalf of Braemar Hotels & Resorts Inc. (the “*Company*”), pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934 (the “*Exchange Act*”) to notify the Securities and Exchange Commission (the “*Commission*”) of the Company’s intention to exclude from its proxy materials (the “*2024 Proxy Materials*”) for its 2024 annual meeting of shareholders (“*2024 Annual Meeting*”) a shareholder proposal (the “*Proponent’s Proposal*”) submitted by Chris Mueller (the “*Proponent*”).

We also request confirmation that the staff of the Division of Corporation Finance (the “*Staff*”) will not recommend to the Commission that enforcement action be taken if the Company omits the Proponent’s Proposal from its 2024 Proxy Materials for the reason discussed below.

A copy of the Proponent’s Proposal is attached hereto as Exhibit A.

This letter and its exhibit are being submitted to the Staff using the online shareholder proposal form. In accordance with Rule 14a-8(j), a copy of this letter and its exhibit also are being sent to the Proponent. Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) provide that a shareholder proponent is required to send the company a copy of any correspondence that the proponent elects to submit to the Commission or the Staff. Accordingly, the undersigned hereby informs the Proponent that, if the Proponent elects to submit additional correspondence to the Commission or the Staff relating to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned.

The Company currently intends to file its 2024 Proxy Materials with the Commission on or about April 2, 2024.

**THE PROPONENT’S PROPOSAL**

It appears that the requested action is set forth in the second paragraph thereof, which states:

“Braemer Hotels & Resorts should disclose registered shareholder share totals on 10-Q and 10-K reports. Registered share totals should include separate tallies of shares held by investors in DRS and DSPP form (and Cede if possible). In addition, our company should upgrade its investment plan, and move away from Computershare's boilerplate DirectStock plan.”

The Proponent's Proposal was submitted via mail and was addressed to and received by Alex Rose, the Company's Corporate Secretary, on February 8, 2024 (the Proponent's Proposal is dated January 28, 2024). Because the initial submission was received after the Company's deadline for receiving shareholder proposals, the Company did not provide the Proponent with a deficiency notice. In this regard, Rule 14a-8(a)(f)(1) provides that a company is not required to provide a stockholder with notice of a deficiency “if the deficiency cannot be remedied, such as if [the stockholder] fails to submit a proposal by the company's properly determined deadline.”

#### **BASIS FOR EXCLUDING THE PROPONENT'S PROPOSAL**

The Company respectfully requests that the Staff concur in our view that the Proponent's Proposal may be excluded from the 2024 Proxy Materials pursuant to Rule 14a-8(e)(2) because the Proponent's Proposal was received by the Company after the deadline for submitting stockholder proposals for inclusion in the 2024 Proxy Materials.

#### **RULE AND ANALYSIS**

Rule 14a-8(e) provides that in order to be eligible for inclusion in a company's proxy statement, a stockholder proposal must be submitted prior to the applicable deadline, which is typically set forth in the company's proxy statement for the prior year.

As required by Rule 14a-5(e), the Company included in its proxy statement for its 2023 Annual Meeting of Stockholders (the “**2023 Proxy Statement**”) the deadline for submitting stockholder proposals, calculated in the manner prescribed in Rule 14a-8(e) and Staff Legal Bulletin No. 14 (July 13, 2001) (“**SLB 14**”). Specifically, the following disclosure appeared on page 71 of the 2023 Proxy Statement under the heading, in bold, “Other Proposals”:

“Stockholder proposals intended to be presented at our 2024 annual meeting of stockholders pursuant to Rule 14a-8 under the Exchange Act, must be received by us no later than November 29, 2023. Such proposals also must comply with SEC regulations Rule 14a-8 regarding the inclusion of stockholder proposals in Company-sponsored proxy materials. Proposals should be addressed to the attention of Investor Relations at 14185 Dallas Parkway, Suite 1200, Dallas, Texas 75254.”

The Company did not receive the Proponent's Proposal before the properly calculated and disclosed deadline for submitting shareholder proposals for inclusion in the Company's 2024 Proxy Materials.

Under Rule 14a-8(e)(2), the deadline for submitting a shareholder proposal for a company's regularly scheduled annual meeting is calculated in the following manner: “[t]he proposal must be received at the

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company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting." Further, SLB 14 provides that a "company should calculate the deadline for submitting proposals" for the company's regularly scheduled annual meeting "as follows: [(1)] start with the release date disclosed in the previous year's proxy statement; [(ii)] increase the year by one; and [(iii)] count back 120 calendar days." Consistent with this guidance, and as described on page 71 of the 2023 Proxy Statement, to calculate the deadline for receiving stockholder proposals submitted for the Company's 2024 Annual Meeting, the Company (1) started with the release date of the 2023 Proxy Statement (i.e., March 28, 2023), (ii) increased the year by one (i.e., March 28, 2024), and then (iii) counted back 120 calendar days, with the result of a Wednesday, November 29, 2023, deadline.

The Proponent's Proposal was submitted after the applicable submission deadline and is excludable pursuant to Rule 14a-8(e)(2).

### CONCLUSION

For the reasons set forth above, the Company believes that the Proposal may be excluded under Rule 14a-8(e)(2). The Company respectfully requests the Staff's concurrence in the Company's view or, alternatively, confirmation that the Staff will not recommend any enforcement action to the Commission if the Company so excludes the Proposal from its 2024 Proxy Materials.

We would be happy to provide the Staff with any additional requested information and answer any questions related to this subject. Please do not hesitate to contact the undersigned by phone at (212) 504-6645 or by email at [Erica.Hogan@cwt.com](mailto:Erica.Hogan@cwt.com).

Sincerely,



Erica L. Hogan

Attachment

cc: Alex Rose, Braemar Hotels & Resorts Inc.  
Chris Mueller

Exhibit A

January 28, 2024

Braemer Hotels & Resorts  
14185 Dallas Parkway, Suite 1200  
Dallas, Texas 75254

Members of the board.

My name is Chris Mueller, and I would like to submit a shareholder proposal for the 2024 annual shareholder meeting. I am an individual investor with a directly registered ownership position in our company. I intend to hold my position through the date of the 2024 annual shareholder meeting. I would be happy to meet with the board to discuss my proposal at any time.

**My proposal: Braemer Hotels & Resorts should disclose registered shareholder share totals on 10-Q and 10-K reports. Registered share totals should include separate tallies of shares held by investors in DRS and DSPP form (and Cede if possible). In addition, our company should upgrade its investment plan, and move away from Computershare's boilerplate DirectStock plan.**

Several issuers already disclose registered share totals with a couple sentences on each 10-Q or 10-K report. Registered holders are passionate and loyal investors who disclose their personal information to and desire a direct and close relationship with the company they invest with. Registered holder information is of material interest to investors who want to track distribution and commitment of an investor base, and can inspire more long term investors.

Regarding the investment plan, there are several reasons why we should upgrade. First - DirectStock plan does not allow hybrid holding methods in a single account. All accounts are either fully enrolled or fully not enrolled in the plan. Accounts NOT enrolled are "all DRS" (owned exclusively by the investor). By comparison, accounts that are fully enrolled are what Computershare calls DSPP consisting of "shares that underpin the plan".

Second, recurring buys through DirectStock plan are scheduled and predictable - making them prone to arbitrage and manipulation. The purchases tend to be processed through a single broker-dealer (often BofA Securities) and they tend to happen T+3 from the 1<sup>st</sup> and 15<sup>th</sup> (excluding weekends and bank holidays). The 2024 dates that these purchases will likely occur for our company are: Jan 5, Jan 19, Feb 6, Feb 21, Mar 6, Mar 20, April 4, April 18, May 6, May 20, June 6, June 21, July 5, July 18, Aug 6, Aug 20, Sept 6, Sept 19, Oct 4, Oct 18, Nov 6, Nov 21, Dec 5, and Dec 19.

Upgrading our investment plan would allow Braemer Resorts & Hotels the ability to allow hybrid registered holding methods and meet the needs of materially interested long term retail investors. It would also allow for our company to either put an end to the predictable and vulnerable recurring purchases, or make sure they are less predictable and vulnerable. While it would represent an additional cost, sponsoring and administering a customized plan will be worth it.

Thank you for your time,



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