

February 8, 2025

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***VIA ONLINE SHAREHOLDER PROPOSAL FORM***

[whitecase.com](http://whitecase.com)

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 “*2025 Proxy Materials*”) for its 2025 annual meeting of shareholders (“*2025 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 2025 Proxy Materials for the reasons 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 exhibits are also being sent to the Proponent as notice of the Company’s intent to exclude the Proposal from the 2025 Proxy Materials. 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.

Pursuant to Rule 14a-8(j), this letter is being submitted not less than 80 days before the Company currently intends to file its 2025 Proxy Materials with the Commission.

## 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 2025 Proxy Materials pursuant to Rule 14a-8(b)(1) and Rule 14a-8(f)(1) because the Proponent failed to provide the requisite proof of continuous share ownership in response to the Company's proper request for that information. Specifically, the Proponent failed to document ownership of Company shares that satisfy the market value tests in Rule 14a-8 and failed to demonstrate the Proponent's continuous ownership of the requisite amount of Company shares.

## BACKGROUND

### *The Proposal*

The Proponent's Proposal was submitted via email and was received by the Company on January 14, 2025 (the Proponent's Proposal is dated January 6, 2025). See Exhibit A. It appears that the requested action is set forth in the fourth paragraph thereof, which states:

"My proposal: Braemer Hotels & Resorts should demand additional disclosures from our transfer agent for the benefit of our registered holders including:

1. Providing an update regarding alleged arbitrage opportunities that may be enabled through recurring DirectStock Plan purchases.
2. Disclosing how investor's registered shares used for "operational efficiency" (which title is legally owned by Cede & Co.) are protected (or insured). According to section 15 of our investment plan, securities held in DirectStock accounts are not insured.
3. Disclosing how Computershare determines what percentage of aggregate DSPP shares are held at DTC for operational efficiency.
4. Disclosing specifically why certificated shares (that are enrolled in DirectStock Plan) can not be held at DTC for operational efficiency."

### *Information about the Proponent*

In the Proponent's submission, the Proponent introduced himself as Chris Mueller and stated:

"I am an individual investor with a registered ownership position. I intend to hold my position through the 2025 annual shareholder meeting. I can meet with the board to discuss my proposal at any time."

The Proponent did not specify how he satisfied the eligibility criteria set forth under Rule 14a-8(b)(1). He did not indicate the number or market value of any shares of the Company's common stock, par value \$0.01 per share ("**Common Stock**"), he owned, or how long he had continuously held any such shares. The Proponent did not indicate he held any shares of Common Stock through a broker, banker, or other intermediary, or supply any related documentation to such effect.

*Notice of Defect*

Promptly upon receipt of the Proponent's Proposal, the Company reviewed its shareholder records in an effort to investigate whether the Proponent was eligible under Rule 14a-8(b)(2)(i) to submit a shareholder proposal for inclusion in the Company's 2025 Proxy Materials for the 2025 Annual Meeting.

The Company determined that, based on its records, the Proponent held one (1) share of the Company's Common Stock. Based on this, the Company determined that the Proponent's registered holdings of the Company's Common Stock did not satisfy the ownership requirements of 14a-8(b)(1) (the "**Ownership Requirements**").

On January 24, 2025, the Company sent a letter of deficiency to the Proponent via email (the "**Deficiency Notice**"), identifying the procedural deficiency described below. The Proponent confirmed receipt via email on January 24, 2025 (the "**Confirmation of Receipt**"). The Deficiency Notice notified the Proponent of the requirements of Rule 14a-8, and explained how the Proponent could cure the deficiency with respect to demonstrating sufficient proof that he satisfied any of the Ownership Requirements. A copy of the Deficiency Notice and Confirmation of Receipt are attached hereto as Exhibit B.

More specifically, the Deficiency Notice (1) acknowledged the receipt of the Proponent's Proposal, (2) informed the Proponent of the Ownership Requirements, (3) indicated the methods by which the Proponent could cure this eligibility deficiency, and (4) included a copy of Rule 14a-8, Staff Legal Bulletin No. 14F (Oct. 18, 2011), and Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("**SLB 14L**").

The Proponent's deadline for responding to the Deficiency Notice was February 7, 2025, which is 14 calendar days from January 24, 2025, the date the Proponent received the Deficiency Notice. As of the date of this letter, the Proponent has not responded to the deficiencies noted in the Deficiency Notice by providing the requisite proof of ownership.

**RULE AND ANALYSIS****The Proponent's Proposal May Be Excluded Pursuant to Rule 14a-8(b)(1) and Rule 14a-8(f)(1) Because the Proponent Failed to Establish the Requisite Eligibility to Submit the Proponent's Proposal.**

Rule 14a-8(b)(1) provides that, to be eligible to submit a shareholder proposal for inclusion on a company's proxy card in connection with a shareholder meeting that is scheduled to be held on or after January 1, 2023, a shareholder must have continuously held at least:

1. \$2,000 in market value of the company's shares entitled to vote on the proposal for at least three years;  
or
2. \$15,000 in market value of the company's shares entitled to vote on the proposal for at least two years;  
or
3. \$25,000 in market value of the company's shares entitled to vote on the proposal for at least one year.

Pursuant to Rule 14a-8(b)(2)(ii)(A), if a proponent is not the registered holder of shares entitled to vote, the proponent must submit to the company a written statement from the "record" holder of such securities verifying

that, at the time the proponent submitted the proposal, the proponent held enough of the company's shares for a period of time sufficient to satisfy the ownership threshold requirements of Rule 14a-8(b)(1). In this case, while the Proponent is in fact a registered holder of the Company's Common Stock, his direct ownership is insufficient to satisfy the ownership threshold requirements of Rule 14a-8(b)(1). As a result, additional proof of the Proponent's Common Stock ownership is required in order to demonstrate that the Proponent satisfies the ownership threshold requirements of Rule 14a-8(b)(1).

According to SLB 14L, to calculate whether a proponent satisfied the relevant ownership threshold, the proponent should determine whether, on any date within the 60 calendar days before the date the proponent submitted the proposal, the proponent's investment had a market value at the relevant threshold or greater. SLB 14L further provides that the market value is calculated by multiplying the number of shares the proponent continuously held for the relevant period by the highest selling price during the 60 calendar days before the proponent submitted the proposal. Under Rule 14a-8(f)(1), a company may exclude a shareholder proposal if the proponent fails to provide evidence that the proponent satisfies the relevant ownership threshold. For purposes of the Rule 14a-8(b)(1) calculation, it is important to note that a share's highest selling price is not necessarily the same as its highest closing price. During the 60 calendar days preceding and including January 14, 2025, the date the Proponent submitted the Proposal, the highest selling price for the Company's Common Stock was \$3.82 per share. Based on the Company's records, the value of the Proponent's holdings in the Company for purposes of submitting the Proposal is \$3.82, which is below the \$2,000 ownership threshold set forth in Rule 14a-8(b)(1).

The Company satisfied its obligation under Rule 14a-8(f) by sending the Deficiency Notice to the Proponent no more than 14 calendar days after receipt of the Proponent's Proposal, stating that the Proponent had not met the eligibility requirements of Rule 14a-8(b)(1) and requesting verification of the Proponent's sufficient share ownership. The Deficiency Notice clearly informed the Proponent of the eligibility requirements of Rule 14a-8(b)(1), how to cure the eligibility deficiency and the need to respond to the Company to cure the deficiency within 14 days from the receipt of the Deficiency Notice. As discussed above, the Proponent failed to provide timely documentary evidence of his eligibility to submit a shareholder proposal in response to the Company's proper and timely Deficiency Notice.

The Staff has consistently concurred in the exclusion of Proposals under Rule 14a-8(f)(1) where the proponent has failed to provide satisfactory evidence of continuous ownership of the Company's shares, as required by Rule 14a-8(b). See, e.g., *Bank of America Corp.* (avail. Feb. 20, 2024) (concurring with the exclusion of a proposal where the proponent failed to timely provide proof of requisite stock ownership after receiving notice of such deficiency); *RTX Corp.* (avail. Feb. 20, 2024); *Allegheny Technologies Inc.* (avail. Feb. 27, 2018) (concurring with the exclusion of a proposal where the proponent held 70 shares and the market value of these shares was not at least \$2,000); and *QEP Resources, Inc.* (avail. Dec. 27, 2017).

Consistent with the precedent cited above, the Proponent has failed to demonstrate his eligibility to submit a Rule 14a-8 proposal under Rule 14a-8(b)(1). Accordingly, the Company intends to exclude the Proponent's Proposal under Rule 14a-8(f)(1), because the Proponent has not demonstrated that he is eligible to submit the Proponent's Proposal under Rule 14a-8(b)(1).

**CONCLUSION**

For the reasons set forth above, the Company believes that the Proponent's Proposal may be excluded under Rule 14a-8(b)(1) and Rule 14a-8(f)(1). 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 Proponent's Proposal from its 2025 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) 819-8240 or by email at [erica.hogan@whitecase.com](mailto:erica.hogan@whitecase.com).

Sincerely,

Erica L. Hogan

Enclosures

cc: Chris Mueller  
Alex Rose, Executive Vice President, General Counsel & Secretary, Braemar Hotels & Resorts Inc.

Exhibit A

January 6, 2025

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 2025 annual shareholder meeting. I am an individual investor with a registered ownership position. I intend to hold my position through the 2025 annual shareholder meeting. I can meet with the board to discuss my proposal at any time.

I also submitted a shareholder proposal for the 2024 meeting. My proposal included a reference to the arbitrage exposure that allegedly occurs with recurring purchases made through Computershare's DirectStock Plan. It has been 11 months since I submitted my proposal, and Computershare has not provided an update. According to the FAQ page on Computershare's website:

*"We are looking into the concern from investors about the predictable schedule DirectStock Plan open market purchases open up arbitrage opportunities. The orders are being executed on exchanges and there is a concern being raised that third parties can anticipate an order arriving in the market."*

**My proposal: Braemer Hotels & Resorts should demand additional disclosures from our transfer agent for the benefit of our registered holders including:**

- 1) Providing an update regarding alleged arbitrage opportunities that may be enabled through recurring DirectStock Plan purchases.
- 2) Disclosing how investor's registered shares used for "operational efficiency" (which title is legally owned by Cede & Co.) are protected (or insured). According to section 15 of our investment plan, securities held in DirectStock accounts are not insured.
- 3) Disclosing how Computershare determines what percentage of aggregate DSPP shares are held at DTC for operational efficiency.
- 4) Disclosing specifically why certificated shares (that are enrolled in DirectStock Plan) can not be held at DTC for operational efficiency.

It is important to note that last year the SEC updated the "holding your securities" page on their website. Unfortunately, the bulletin is missing an important disclosure. The bulletin states that securities purchased through the transfer agent are not DRS and must be moved from "the issuer plan" to become DRS form. **What is missing, however, is a disclosure stating that when book-entry DRS form shares are enrolled in "the issuer plan" that the title to the shares is no longer owned by the investor.**

Our investors deserve to know who owns the title to "their" securities, and how their investment may or may not be protected or insured. Without the disclosures listed above, our investors do not have the necessary information to make the best decisions for holding their investments.

I believe that our company may have a fiduciary responsibility to provide answers to the concerns above. A hypothetical custodial insolvency could negatively affect our shareholders which could

negatively affect our company. Please demand the disclosures above that Computershare and the SEC have not provided to help protect our investors and our company.

I would prefer correspondence through email to limit the resource expenditure necessary for responding to my proposal.

Thank you,



Chris Mueller

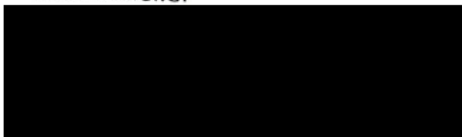


Exhibit B

VIA EMAIL

January 23, 2025

Chris Mueller  


Dear Mr. Mueller:

I am writing on behalf of Braemar Hotels & Resorts Inc. (the "Company"), which received on January 14, 2025 (the "Submission Date"), the shareholder proposal, dated January 6, 2025 (the "Proposal") that you sent via mail pursuant to Securities and Exchange Commission ("SEC") Rule 14a-8.

The submission contains certain procedural deficiencies, which SEC regulations require us to bring to your attention and which you should correct as described below if the Company is to consider the Proposal as properly submitted.

To the extent you intend to submit the Proposal for inclusion in the proxy statement for the 2025 Annual Meeting, please note the following. Rule 14a-8(b) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), provides that a shareholder proponent must submit sufficient proof of its continuous ownership of company shares preceding and including the submission date. Thus, with respect to the Proposal, Rule 14a-8 requires that you demonstrate that you have continuously owned at least:

1. \$2,000 in market value of the Company's shares entitled to vote on the Proposal for at least three years preceding and including the Submission Date;
2. \$15,000 in market value of the Company's shares entitled to vote on the Proposal for at least two years preceding and including the Submission Date; or
3. \$25,000 in market value of the Company's shares entitled to vote on the Proposal for at least one year preceding and including the Submission Date (each an "Ownership Requirement," and collectively, the "Ownership Requirements").

The Company's stock records do not indicate that you are the record owner of sufficient shares to satisfy any of the Ownership Requirements.

To remedy this defect, you must submit sufficient proof that you have satisfied at least one of the Ownership Requirements. As explained in Rule 14a-8(b) and in SEC staff guidance, sufficient proof must be in the form of either:

1. a written statement from the "record" holder of your shares (usually a broker or a bank) verifying that, at the time you submitted the Proposal (the Submission Date), you continuously held the requisite amount of Company shares to satisfy at least one of the Ownership Requirements above; or
2. if you were required to and have filed with the SEC a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, demonstrating that you

met at least one of the Ownership Requirements above, a copy of the schedule and/or form, and any subsequent amendments reporting a change in the ownership level and a written statement that you continuously held the requisite amount of Company shares to satisfy at least one of the Ownership Requirements above.

If you intend to demonstrate ownership by submitting a written statement from the “record” holder of your shares as set forth in (1) above, please note that most large U.S. brokers and banks deposit their customers’ securities with, and hold those securities through, the Depository Trust Company (“DTC”), a registered clearing agency that acts as a securities depository (DTC is also known through the account name of Cede & Co.). Under SEC Staff Legal Bulletin No. 14F, only DTC participants are viewed as record holders of securities that are deposited at DTC. You can confirm whether your broker or bank is a DTC participant by asking your broker or bank or by checking DTC’s participant list, which is available at <https://www.dtcc.com/-/media/Files/Downloads/client-center/DTC/DTC-Participant-in-Alphabetical-Listing-1.pdf>. If a shareholder’s shares are held through DTC, the shareholder needs to obtain and submit to the Company proof of ownership from the DTC participant through which the securities are held, as follows:

1. If your broker or bank is a DTC participant, then you need to obtain and submit a written statement from your broker or bank verifying that you continuously held the requisite amount of Company shares to satisfy at least one of the Ownership Requirements above.
2. If your broker or bank is not a DTC participant, then you need to obtain and submit proof of ownership from the DTC participant through which the shares are held verifying that you continuously held the requisite amount of Company shares to satisfy at least one of the Ownership Requirements above. You should be able to find out the identity of the DTC participant by asking your broker or bank. If your broker is an introducing broker, you may also be able to learn the identity and telephone number of the DTC participant through your account statements, because the clearing broker identified on the account statements will generally be a DTC participant. If the DTC participant that holds your shares is not able to confirm your individual holdings but is able to confirm the holdings of your broker or bank, then you need to satisfy the proof of ownership requirements by obtaining and submitting two proof of ownership statements verifying that you continuously held Company shares satisfying at least one of the Ownership Requirements above: (i) one from your broker or bank confirming your ownership, and (ii) the other from the DTC participant confirming the broker or bank’s ownership.

The SEC’s rules require that any response to this letter be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please address any response to me at c/o Cadwalader, Wickersham & Taft LLP, 200 Liberty Street, 35<sup>th</sup> Floor, New York, NY 10281. Alternatively, you may transmit any response by email to me at [Erica.Hogan@cwt.com](mailto:Erica.Hogan@cwt.com) (with copy to Alex Rose at [arose@ashfordinc.com](mailto:arose@ashfordinc.com)). Please note that the SEC’s staff has stated that a proponent is responsible for confirming our receipt of any correspondence transmitted in response to this letter.

The Company provides no assurance that this is a proper matter for stockholder action and would be included in the Company’s proxy statement even if the proponent remedies all the technical defects in the submission of the Proposal. Due to all the technical form defects of your Proposal, the Company has not made an assessment on whether this is a proper matter for stockholder action and we reserve all rights.

Chris Mueller

January 23, 2025

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The Company greatly appreciates your investment and support.

If you have any questions with respect to the foregoing, please contact me at (212) 504-6645. For your reference, I enclose a copy of Rule 14a-8, Staff Legal Bulletin No. 14F and Staff Legal Bulletin No. 14L.

Sincerely,



Erica L. Hogan

Enclosures

cc: Alex Rose, Executive Vice President, General Counsel & Secretary, Braemar  
Hotels & Resorts Inc.

## Ernst, Edward

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**From:** Chris Mueller [REDACTED]  
**Sent:** Friday, January 24, 2025 9:09 AM  
**To:** Hogan, Erica  
**Cc:** Rose, Alex; Ernst, Edward  
**Subject:** Re: Letter

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[ WARNING: External Email ]

Received. Thank you Erica

Chris

On Fri, Jan 24, 2025 at 5:37 AM Hogan, Erica <[Erica.Hogan@cwt.com](mailto:Erica.Hogan@cwt.com)> wrote:

Dear Mr. Mueller,

Please see attached.

Thank you,

Erica

**Erica L. Hogan**

*Partner*

Cadwalader, Wickersham & Taft LLP

200 Liberty Street, New York, NY 10281

Tel: +1 (212) 504-6645 | Fax: +1 (212) 504-6666

[Erica.Hogan@cwt.com](mailto:Erica.Hogan@cwt.com) | [www.cadwalader.com](http://www.cadwalader.com)

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