

BOSTON PROPERTIES INC
Form 8-K/A
August 12, 2008

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K/A

(Amendment No. 1)

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the

Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): June 6, 2008

BOSTON PROPERTIES, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction)

1-13087
(Commission File Number)

04-2473675
(IRS Employer)

Edgar Filing: BOSTON PROPERTIES INC - Form 8-K/A

of incorporation)

800 Boylston Street, Suite 1900, Boston, Massachusetts 02199-8103

Identification No.)

(Address of principal executive offices) (Zip Code)

(617) 236-3300

(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- .. Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

- .. Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

- .. Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

- .. Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

On June 9, 2008, Boston Properties, Inc. (the Company) completed the acquisition of the General Motors Building in New York City through a joint venture among the Company, US Real Estate Opportunities I, L.P., which is a partnership managed by Goldman Sachs, and Meraas Capital LLC, a Dubai-based private equity firm. The Company has a 60% interest in the venture and provides property management and leasing services for the venture.

The Company filed a Current Report on Form 8-K on June 12, 2008 (the Form 8-K) to report, among other things, the completion of the acquisition. The Company hereby amends the Form 8-K to include in Item 9.01 thereof required financial statements, pro forma financial information and the Consent of Pannell Kerr Forster, PC.

Item 9.01. Financial Statements and Exhibits.

(a) *Financial Statements of Businesses Acquired.*

The Statements of Revenue over Certain Operating Expenses, in accordance with Rule 3-14 of Regulation S-X, of the General Motors Building for the period from January 1, 2008 through June 8, 2008 (unaudited) and for the year ended December 31, 2007.

(b) *Pro Forma Financial Information.*

Pro Forma Consolidated Statements of Operations for the six months ended June 30, 2008 (unaudited) and for the year ended December 31, 2007 (unaudited).

(d) *Exhibits.*

- *10.1 Commitment Increase Agreement, dated as of June 6, 2008, among Boston Properties Limited Partnership and the lenders identified therein. (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K of Boston Properties, Inc. filed on June 12, 2008)
- *10.2 Contribution Agreement, dated as of May 23, 2008, between Fifth Avenue 58/59 Acquisition Co. L.P., BP 767 Fifth LLC and 767 Venture, LLC, and (for purposes of Sections 10(h), 18, 20(c)(i) and 38(c)) Boston Properties Limited Partnership (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K of Boston Properties, Inc. filed on May 28, 2008).
- *10.3 Purchase and Sale Agreement, dated as of May 23, 2008, between 125 West 55th Street Owner LLC, Two Grand Central Tower LLC, 540 Investment Land Company LLC, 540 Madison Avenue Lease LLC and BP Manhattan LLC, and (for purposes of Sections 10(h), 20(c)(i), 38(e) and 38(f)) Boston Properties Limited Partnership (incorporated by reference to Exhibit 10.2 to the Current Report on Form 8-K of Boston Properties, Inc. filed on May 28, 2008).
- *10.4 Contribution Agreement, dated as of May 23, 2008, between Fifth Avenue 58/59 Acquisition Co. L.P. and Boston Properties Limited Partnership (incorporated by reference to Exhibit 10.3 to the Current Report on Form 8-K of Boston Properties, Inc. filed on May 28, 2008).
- +23.1 Consent of Pannell Kerr Forster, PC, Independent Registered Public Accounting Firm.

* Previously filed

+ Filed herewith

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

BOSTON PROPERTIES, INC.

Date: August 12, 2008

By: /s/ Michael E. LaBelle

Name: Michael E. LaBelle

Title: Senior Vice President, Chief Financial Officer

& Treasurer

Independent Auditors Report

To the Board of Directors and Stockholders of

Boston Properties, Inc.:

We have audited the accompanying statement of revenue over certain operating expenses (the Statement) of the General Motors Building located at the corner of 5th Avenue and Central Park South in New York City, New York (the Property) for the year ended December 31, 2007. This Statement is the responsibility of the Property s management. Our responsibility is to express an opinion on this Statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the Statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the Statement. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Statement was prepared for the purpose of complying with the rules and regulations of the Securities and Exchange Commission (for inclusion in the current report on Form 8-K/A of Boston Properties, Inc. dated June 6, 2008) as described in Note 2 and is not intended to be a complete presentation of the Property s revenue and expenses.

In our opinion, the Statement referred to above presents fairly, in all material respects, the revenue over certain operating expenses (as described in Note 2), of the Property for the year ended December 31, 2007, in conformity with accounting principles generally accepted in the United States of America.

/s/ Pannell Kerr Forster, PC

Pannell Kerr Forster, PC

Boston, Massachusetts

August 12, 2008

The General Motors Building

Statements of Revenue over Certain Operating Expenses

(in thousands)

	For the period from January 1, 2008 through June 8, 2008 (Unaudited)	For the year ended December 31, 2007
Revenue (Note 2):		
Rental:		
Base rent	\$ 87,306	\$ 184,144
Recoveries from tenants	11,784	25,149
Parking and other	1,593	3,500
	100,683	212,793
Certain operating expenses (Note 2):		
Cleaning	3,779	7,940
Utilities	5,530	12,046
Repairs and maintenance	3,853	7,846
Security	1,956	4,415
Management fees	833	1,696
General and administrative	641	1,134
Insurance	2,628	6,045
Real estate taxes	13,214	30,230
	32,434	71,352
Excess of revenue over certain operating expenses	\$ 68,249	\$ 141,441

The accompanying notes are an integral part of these statements.

The General Motors Building

Notes to the Statements of Revenue

over Certain Operating Expenses

1. Description of the Property

The accompanying statements of revenue over certain operating expenses (the Statement) includes the operations of the General Motors Building, an approximately 2.0 million square foot Class A office tower (the Property) located at the corner of 5th Avenue and Central Park South in New York City, New York. On June 9, 2008, the Property was acquired from affiliates of Macklowe Properties (Macklowe) for a purchase price of approximately \$2.8 billion through a joint venture among Boston Properties, Inc. (the Company), through its subsidiary Boston Properties Limited Partnership, US Real Estate Opportunities I, L.P., which is a partnership managed by Goldman Sachs, and Meraas Capital LLC, a Dubai-based private equity firm. The Company has a 60% interest in the venture and provides customary property management and leasing services for the venture. The purchase price consisted of approximately \$890.0 million of cash, the issuance to the selling entity of 102,883 common units of limited partnership interest in Boston Properties Limited Partnership and the assumption of approximately \$1.9 billion of secured and mezzanine loans having a weighted-average fixed interest rate of 5.97% per annum, all of which mature in October 2017. In addition, the venture acquired the lenders' interest in a portion of the assumed mezzanine loans having an aggregate principal amount of \$294.0 million and a stated interest rate of 6.02% per annum for a purchase price of approximately \$263.1 million in cash. The purchase price was financed in part with loans from the venture's partners on a pro rata basis totaling \$450.0 million, which bear interest at fixed rate of 11.0% per annum and mature on June 9, 2017.

2. Significant Accounting Policies

Basis of Presentation

The accompanying Statement has been prepared in accordance with Rule 3-14 of Regulation S-X of the Securities and Exchange Commission for real estate properties acquired or to be acquired. Accordingly, this Statement excludes certain historical expenses not comparable to the operations of the Property after acquisition such as certain ancillary income, amortization, depreciation, interest, corporate expenses and certain other costs not directly related to the future operations of the Property.

An audited statement is being presented for the most recent fiscal year available instead of the three most recent years based on the following factors: (i) the Property was acquired from an unaffiliated party and (ii) based on the investigation of the Property, the Company is not aware of any material factors, other than those factors described above, relating to the Property that would cause this financial information not to be necessarily indicative of future operating results.

Rental Revenue

Rental revenue is recognized on a straight-line basis over the terms of the related leases. The excess of recognized rentals over amounts due pursuant to lease terms is recorded as accrued rent. The impact of the straight-line rent adjustment increased revenue by approximately \$8.6 million and \$4.2 million for the year ended December 31, 2007 and for the period from January 1, 2008 through June 8, 2008 (unaudited), respectively.

In accordance with Financial Accounting Standards Board Statement No. 141 Business Combinations (SFAS No. 141), rental revenue of acquired in-place above- and below-market leases has been recognized at their fair values over the terms of the respective leases. The impact of the acquired in-place above- and below-market lease adjustment increased revenue by approximately \$25.8 million and \$11.1 million for the year ended December 31, 2007 and for the period from January 1, 2008 through June 8, 2008 (unaudited), respectively.

The General Motors Building
Notes to the Statements of Revenue
over Certain Operating Expenses

Certain leases provide for percentage rents based upon the levels of sales achieved by the lessee. Percentage rent is recognized once the required sales level has been achieved.

Rental revenue includes amounts recognized in connection with lease termination agreements totaling approximately \$1.5 million for the year ended December 31, 2007. There were no amounts recognized from lease termination agreements for the period from January 1, 2008 through June 8, 2008 (unaudited).

Unaudited Interim Information

The Statement for the period from January 1, 2008 through June 8, 2008 is unaudited. In the opinion of management, all adjustments necessary for a fair statement of such Statement (in accordance with the Basis of Presentation as described in Note 2) have been included. The results of operations for the period are not necessarily indicative of the Property's future results of operations.

Use of Estimates

The preparation of the accompanying Statement in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

3. Description of Leasing Arrangements

The office and retail space is leased to tenants under leases with terms that vary in length. Certain leases contain reimbursement clauses and renewal options. Minimum lease payments due under non-cancelable operating leases in effect as of June 9, 2008 (unaudited), for the remainder of 2008 and annually thereafter are as follows:

	Amount (in thousands)
2008 (June 9, 2008 through December 31, 2008)	\$ 88,718
2009	158,524
2010	153,145
2011	146,311
2012	137,090
Thereafter	938,952

As of December 31, 2007 and June 9, 2008, two tenants leased approximately 43% of the leasable square feet of the Property with base rent totaling approximately \$50.8 million and \$21.6 million for the year ended December 31, 2007 and for the period from January 1, 2008 through June 8, 2008 (unaudited), respectively.

The General Motors Building

Notes to the Statements of Revenue

over Certain Operating Expenses

4. Debt Assumption

In connection with the acquisition, the joint venture assumed approximately \$1.9 billion of secured and mezzanine loans (the Assumed Debt), which loans had been refinanced in September 2007, having a weighted-average fixed interest rate of 5.97% per annum, all of which mature in October 2017. In addition, the venture acquired the lenders' interest in a portion of the assumed mezzanine loans having an aggregate principal amount of \$294.0 million and a stated interest rate of 6.02% per annum for a purchase price of approximately \$263.1 million in cash. As a result of the debt refinancing in September 2007 and the venture's acquisition of the lenders' interest in a portion of the assumed mezzanine loans, the interest expense for the year ended December 31, 2007 and the period from January 1, 2008 through June 8, 2008 is not comparable to future operations of the Property and has been excluded from the Statement.

5. Transactions with Affiliates

On January 7, 2005, the owners of the Property entered into a property management agreement with an affiliate of Macklowe (the Property Manager). Under this agreement, the Property Manager provided overall property management services and received a fee equal to approximately \$0.9 million per annum as compensation for its services through January 2007. On February 22, 2007, a new agreement was executed increasing the compensation of the Property Manager's services to \$1.7 million per annum. Property management fees totaling approximately \$1.7 million and \$0.8 million for the year ended December 31, 2007 and for the period from January 1, 2008 through June 8, 2008 (unaudited) were incurred and are included within the caption Management Fees in the Statement.

On April 1, 2005, the owner of the Property entered into a lease for approximately 26,284 rentable square feet of office space with an affiliate of Macklowe. The lease expires in October 2025. Rental revenue totaling approximately \$2.3 million and approximately \$1.0 million was recognized for the year ended December 31, 2007 and for the period from January 1, 2008 through June 8, 2008 (unaudited), respectively.

6. Commitments and Contingencies

The Property is subject to legal claims and disputes in the ordinary course of business. Management believes that the ultimate settlement of any existing potential claims and disputes would not have a material impact on the Property's revenue and certain expenses.

The Property may be potentially liable for costs and damages related to environmental matters, including asbestos-containing materials that may be located at the Property. The Property has not been notified by any governmental authority of any non-compliance, liability or other claim, and management is not aware of any environmental condition that management believes will have a material adverse effect on the Property's revenue and certain expenses.

Boston Properties, Inc.

Pro Forma Consolidated Financial Statements

Introduction to the Pro Forma Consolidated Financial Statements

For the six months ended June 30, 2008 and for the year ended December 31, 2007

(Unaudited)

The accompanying unaudited Pro Forma Consolidated Financial Statements of Boston Properties, Inc. (the Company) are presented as if the acquisition and the related assumption of mortgage indebtedness of the General Motors Building, which was completed on June 9, 2008 through a joint venture in which the Company has a 60% interest, had been consummated on January 1, 2007.

The Company has not presented a Pro Forma Consolidated Balance Sheet of Boston Properties, Inc. as of June 30, 2008, because the impact of the acquisition of the General Motors Building, which was completed on June 9, 2008, is already reflected as an investment in an unconsolidated joint venture in the Consolidated Balance Sheet of Boston Properties, Inc. as of June 30, 2008, which is included in Boston Properties, Inc.'s Form 10-Q which was filed with the Securities and Exchange Commission on August 11, 2008.

The accompanying unaudited Pro Forma Consolidated Statements of Operations for the six months ended June 30, 2008 and for the year ended December 31, 2007 are presented as if the acquisition on June 9, 2008 of the General Motors Building, through a joint venture in which the Company has a 60% interest, and the related assumption of mortgage indebtedness, had occurred on January 1, 2007.

These Pro Forma Consolidated Statements of Operations should be read in conjunction with the historical consolidated financial statements and notes thereto of the Company, reported on Form 10-K for the year ended December 31, 2007 and on Form 10-Q for the six months ended June 30, 2008.

The unaudited Pro Forma Consolidated financial information prepared by Boston Properties' management is not necessarily indicative of what the actual results of operations would have been for the six months ended June 30, 2008 or for the year ended December 31, 2007, had the acquisition on June 9, 2008 of the General Motors Building, through a joint venture in which the Company has a 60% interest, and the related assumption of mortgage indebtedness occurred on January 1, 2007, nor does it purport to present the future results of operations of the Company.

BOSTON PROPERTIES, INC.

PRO FORMA CONSOLIDATED STATEMENT OF OPERATIONS

(Unaudited)

(in thousands, except for per share amounts)

	Historical Six Months Ended June 30, 2008	The General Motors Building	Other Adjustments	Pro Forma
Revenue				
Rental:				
Base rent	\$ 562,466	\$	\$	\$ 562,466
Recoveries from tenants	98,732			98,732
Parking and other	33,818			33,818
Total rental revenue	695,016			695,016
Hotel revenue	16,232			16,232
Development and management services	11,937		2,189 (B)	14,126
Interest and other	15,894		(5,738) (C)	10,156
Total revenue	739,079		(3,549)	735,530
Expenses				
Real estate operating:				
Rental	236,836			236,836
Hotel	12,346			12,346
General and administrative	37,055			37,055
Interest	132,403		3,500 (D)	135,903
Depreciation and amortization	149,060			149,060
Net derivative losses	3,531			3,531
Losses from early extinguishments of debt				
Total expenses	571,231		3,500	574,731
Income before minority interests in property partnerships, income from unconsolidated joint ventures, minority interest in Operating Partnership and gains on sales of real estate				
	167,848		(7,049)	160,799
Minority interests in property partnerships	(1,045)			(1,045)
Income from unconsolidated joint ventures	2,897	3,277 (A)		6,174
Income before minority interest in Operating Partnership and gains on sales of real estate				
	169,700	3,277	(7,049)	165,928
Minority interest in Operating Partnership	(27,044)	(476) (E)	1,025 (E)	(26,495)
Income available to common shareholders before gains on sales of real estate	\$ 142,656	\$ 2,801	\$ (6,024)	\$ 139,433
Basic earnings per common share:				
Income available to common shareholders before gains on sales of real estate	\$ 1.19			\$ 1.17
Weighted average number of common shares outstanding	119,644			119,644

Edgar Filing: BOSTON PROPERTIES INC - Form 8-K/A

Diluted earnings per common share:

Income available to common shareholders before gains on sales of real estate	\$ 1.18	\$ 1.15
--	---------	---------

Weighted average number of common and common equivalent shares outstanding	121,168	121,168
--	---------	---------

The accompanying notes are an integral part of these financial statements.

BOSTON PROPERTIES, INC.**PRO FORMA CONSOLIDATED STATEMENT OF OPERATIONS****(Unaudited)****(in thousands, except for per share amounts)**

	Historical Year ended December 31, 2007	The General Motors Building	Other Adjustments	Pro Forma
Revenue				
Rental:				
Base rent	\$ 1,084,308	\$	\$	\$ 1,084,308
Recoveries from tenants	184,929			184,929
Parking and other	64,982			64,982
Total rental revenue	1,334,219			1,334,219
Hotel revenue	37,811			