

BOSTON PROPERTIES INC

Form S-3ASR

November 12, 2008

Table of Contents

As filed with the Securities and Exchange Commission on November 12, 2008

Registration Statement No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-3
REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

BOSTON PROPERTIES, INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State of Incorporation)

The Prudential Center

04-2473675
(I.R.S. Employer Identification Number)

Edgar Filing: BOSTON PROPERTIES INC - Form S-3ASR

800 Boylston Street, Suite 1900

Boston, Massachusetts 02199-8103

(617) 236-3300

(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

Mortimer B. Zuckerman, Chairman

Edward H. Linde, Chief Executive Officer

Boston Properties, Inc.

The Prudential Center

800 Boylston Street, Suite 1900

Boston, Massachusetts 02199-8103

(617) 236-3300

(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

With copies to:

Gilbert G. Menna

Ettore A. Santucci

Goodwin Procter LLP

Exchange Place

Boston, Massachusetts 02109

(617) 570-1000

Eric G. Kevorkian, Esq.

Senior Vice President, Senior Corporate Counsel

Boston Properties, Inc.

The Prudential Center

800 Boylston Street, Suite 1900

Boston, Massachusetts 02199-8103

(617) 236-3300

Approximate date of commencement of proposed sale to the public: From time to time after this registration statement becomes effective.

Edgar Filing: BOSTON PROPERTIES INC - Form S-3ASR

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)

Smaller reporting company

Table of Contents

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered /Proposed	Maximum Offering Price Per Unit /	Proposed Maximum Aggregate	Amount of Registration Fee
Common stock, par value \$0.01 per share				
Preferred stock, par value \$0.01 per share				
Stock purchase contracts				
Depository shares (2)				
Warrants				
Preferred Stock Purchase Rights (3)				
TOTAL			\$(1)	\$(1)

- (1) The amount to be registered consists of an unspecified amount of the securities of each identified class as may from time to time be offered at indeterminate prices. As discussed below, pursuant to Rule 415(a)(6) under the Securities Act, this Registration Statement includes a total of \$697,262,500 of unsold securities that had been previously registered and for which the registration fee had been previously paid. In accordance with Rules 456(b) and 457(r) under the Securities Act, except with respect to the unsold securities that had been previously registered, the Registrant is deferring payment of all the registration fee.
- (2) To be represented by depository receipts representing an interest in all or a specified portion of a share of preferred stock. Each depository share will be issued under a deposit agreement.
- (3) This Registration Statement also relates to the rights to purchase shares of Series E Junior Participating Cumulative Preferred Stock of the Registrant, which are attached to all shares of Common Stock issued, pursuant to the terms of the Registrant's Shareholder Rights Agreement dated June 18, 2007. Until the occurrence of prescribed events, the rights are not exercisable, are evidenced by the certificates for the Common Stock and will be transferred with and only with such Common Stock.

Pursuant to Rule 415(a)(6) under the Securities Act, the securities registered pursuant to this Registration Statement include (i) \$610,339,375 of unsold common stock, preferred stock, depository shares, warrants and preferred stock purchase rights previously registered on the Registrant's Registration Statement on Form S-3 (Registration No. 333-116556) and (ii) \$86,923,125 of unsold common stock, preferred stock and warrants previously registered on the Registrant's Registration Statement on Form S-3 (Registration No. 333-69375), which we refer to collectively as the Prior Registration Statements. In connection with the registration of such unsold securities on the Prior Registration Statements, the Registrant paid registration fees of \$77,330 on Form S-3 (Registration No. 333-116556), and \$24,165 on Form S-3 (Registration No. 333-69375) which will continue to be applied to such unsold securities. Pursuant to Rule 415(a)(6), the offering of the unsold securities registered under the Prior Registration Statements will be deemed terminated as of the date of effectiveness of this Registration Statement.

Table of Contents

Prospectus

BOSTON PROPERTIES, INC.

Common Stock

Preferred Stock

Stock Purchase Contracts

Depositary Shares

Warrants

Boston Properties, Inc. and selling security holders of Boston Properties Inc. may from time to time offer to sell common stock, preferred stock, stock purchase contracts and warrants under this prospectus. The preferred stock of Boston Properties, Inc. may either be sold separately or represented by depositary shares and may be convertible into common stock or preferred stock of another series. Each time we or selling security holders sell securities, we will provide a prospectus supplement that will contain specific information about the terms of any securities offered, the specific manner in which the securities will be offered and the identity of any selling security holders. The prospectus supplement may add to, update or change the information in this prospectus. You should read this prospectus and any prospectus supplement carefully before you invest in our securities.

We or our selling security holders may offer securities directly to investors, through agents designated from time to time by us, or to or through underwriters or dealers. If any agents, underwriters, or dealers are involved in the sale of securities, their names, and any applicable purchase price, fee, commission, or discount arrangement with, between, or among them, will be set forth, or will be calculable from the information set forth, in an accompanying prospectus supplement. We will not receive any of the proceeds from the sale of securities by the selling security holders.

The common stock of Boston Properties, Inc. is listed on the New York Stock Exchange under the symbol BXP. On November 11, 2008, the last reported sale price of our common stock on the New York Stock Exchange was \$58.35 per share.

Investing in our securities involves various risks. See Risk Factors beginning on page 3 as well as the risk factors contained in documents we file with the Securities and Exchange Commission and which are incorporated by reference in this prospectus.

Neither the Securities and Exchange Commission nor any other regulatory body has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

Prospectus dated November 12, 2008.

Table of Contents

TABLE OF CONTENTS

	Page
<u>PROSPECTUS SUMMARY</u>	2
<u>RISK FACTORS</u>	3
<u>CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS</u>	3
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	4
<u>INFORMATION INCORPORATED BY REFERENCE</u>	5
<u>RATIOS OF EARNINGS TO FIXED CHARGES</u>	6
<u>RATIOS OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED DISTRIBUTIONS</u>	6
<u>USE OF PROCEEDS</u>	7
<u>DESCRIPTION OF COMMON STOCK</u>	8
<u>DESCRIPTION OF PREFERRED STOCK</u>	12
<u>DESCRIPTION OF STOCK PURCHASE CONTRACTS</u>	18
<u>DESCRIPTION OF DEPOSITARY SHARES</u>	19
<u>DESCRIPTION OF WARRANTS</u>	23
<u>LIMITS ON OWNERSHIP OF COMMON STOCK</u>	24
<u>IMPORTANT PROVISIONS OF DELAWARE LAW, OUR CERTIFICATE OF INCORPORATION AND BYLAWS AND OTHER GOVERNANCE DOCUMENTS</u>	26
<u>UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS</u>	30
<u>SELLING SECURITY HOLDERS</u>	46
<u>PLAN OF DISTRIBUTION</u>	46
<u>LEGAL MATTERS</u>	50
<u>EXPERTS</u>	50

Table of Contents

PROSPECTUS SUMMARY

About this Prospectus

This prospectus is part of a shelf registration statement that we have filed under the Securities Act of 1933, as amended (the Securities Act), with the Securities and Exchange Commission (the SEC). By using a shelf registration statement, we and/or our selling security holders are registering an unspecified amount of common stock, preferred stock, stock purchase contracts and warrants, and may sell such securities, at any time and from time to time, in one or more offerings.

As used in this prospectus and the registration statement on Form S-3 of which this prospectus is a part, unless the context otherwise requires, the terms we, us, our, Boston Properties and the Company refer to Boston Properties, Inc., a Delaware corporation organized in 1997, individually or together with its subsidiaries, including Boston Properties Limited Partnership, a Delaware limited partnership, and our predecessors.

Boston Properties Limited Partnership is the entity through which Boston Properties, Inc. conducts substantially all of its business and owns substantially all of its assets. We are not making an offer of these securities in any jurisdiction where the offer is not permitted. You should not assume that the information in this prospectus or a prospectus supplement is accurate as of any date other than the date on the front of the document.

About our Company

We are a fully integrated self-administered and self-managed real estate investment trust, or REIT, and one of the largest owners and developers of Class A office properties in the United States. Our properties are concentrated in five markets Boston, midtown Manhattan, Washington, D.C., San Francisco and Princeton, NJ. We conduct substantially all of our business through our subsidiary, Boston Properties Limited Partnership. We are the sole general partner and the owner of approximately 84.1% of the economic interests in Boston Properties Limited Partnership as of September 30, 2008.

At September 30, 2008, we owned or had interests in a portfolio of 146 commercial real estate properties aggregating approximately 48.5 million net rentable square feet, including 14 properties under construction totaling approximately 4.4 million net rentable square feet, and structured parking for approximately 32,542 vehicles containing approximately 10.3 million square feet. At September 30, 2008, our properties consisted of:

142 office properties, including 122 Class A office properties (including 14 properties under construction) and 20 office/technical properties;

one hotel; and

three retail properties.

At September 30, 2008, we owned or controlled undeveloped land parcels totaling approximately 583.0 acres. In addition, we have a minority interest in the Boston Properties Office Value-Added Fund, L.P. which we refer to as the Value-Added Fund, which is a strategic partnership with two institutional investors through which we have pursued the acquisition of value-added investments in assets within our existing markets. Our investments through the Value-Added Fund are not included in our portfolio information or any other portfolio level statistics. At September 30, 2008, the Value-Added Fund had investments in 26 buildings comprised of an office property in Chelmsford, Massachusetts and office complexes in San Carlos, California and Mountain View, California.

Our principal executive office is located at 800 Boylston Street, Suite 1900, Boston, Massachusetts 02199-8103 and our telephone number is (617) 236-3300.

Table of Contents

RISK FACTORS

You should carefully consider the risks described in the documents incorporated by reference in this prospectus before making an investment decision. These risks are not the only ones facing our company. Additional risks not presently known to us or that we currently deem immaterial may also impair our business operations. Our business, financial condition or results of operations could be materially adversely affected by the materialization of any of these risks. The trading price of our securities could decline due to the materialization of any of these risks, and you may lose all or part of your investment. This prospectus and the documents incorporated herein by reference also contain forward-looking statements that involve risks and uncertainties. Actual results could differ materially from those anticipated in these forward-looking statements as a result of certain factors, including the risks described in the documents incorporated herein by reference, including (i) our Annual Report on Form 10-K, (ii) our Quarterly Reports on Form 10-Q and (iii) documents we file with the SEC after the date of this prospectus and which are deemed incorporated by reference in this prospectus.

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This prospectus, including the information incorporated by reference into this prospectus, and any accompanying prospectus supplement, contain forward-looking statements within the meaning of the federal securities laws. We caution investors that any forward-looking statements presented in this prospectus or any of the documents incorporated by reference, or which management may make orally or in writing from time to time, are based on beliefs and assumptions made by, and information currently available to, management. When used, the words anticipate, believe, estimate, expect, intend, may, might, plan, project, result, should, will and similar expressions which do not relate to matters are intended to identify forward looking statements. Such statements are subject to risks, uncertainties and assumptions and are not guarantees of future performance, which may be affected by known and unknown risks, trends, uncertainties and factors that are beyond our control. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results may vary materially from those anticipated, estimated or projected by the forward-looking statements. We caution you that while forward-looking statements reflect our good-faith beliefs when we make them, they are not guarantees of future performance and are impacted by actual events when they occur after we make such statements. We expressly disclaim any responsibility to update our forward looking statements, whether as a result of new information, future events, or otherwise. Accordingly, investors should use caution in relying on forward looking statements, which are based on results and trends at the time they are made, to anticipate future results or trends.

Some of the risks and uncertainties that may cause our actual results, performance or achievements to differ materially from those expressed or implied by forward-looking statements include, among others, the following:

the impact of the current credit crisis and global economic slowdown, which is having and may continue to have a negative effect on the following, among other things:

the fundamentals of our business, including overall market occupancy and rental rates;

the financial condition of our tenants, many of which are financial, legal and other professional firms, our lenders, counterparties to our derivative financial instruments and institutions that hold our cash balances and short-term investments, which may expose us to increased risks of default by these parties;

our ability to obtain debt financing on attractive terms or at all, which may adversely impact our ability to pursue acquisition and development opportunities and refinance existing debt and our future interest expense; and

the value of our real estate assets, which may limit our ability dispose of assets at attractive prices or obtain or maintain debt financing secured by our properties or on an unsecured basis;

Table of Contents

general risks affecting the real estate industry (including, without limitation, the inability to enter into or renew leases, dependence on tenants' financial condition, and competition from other developers, owners and operators of real estate);

failure to manage effectively our growth and expansion into new markets and sub-markets or to integrate acquisitions and developments successfully;

the ability of our joint venture partners to satisfy their obligations;

risks and uncertainties affecting property development and construction (including, without limitation, construction delays, cost overruns, inability to obtain necessary permits and public opposition to such activities);

risks associated with the availability and terms of financing and the use of debt to fund acquisitions and developments, including the risk associated with interest rates impacting the cost and/or availability of financing;

risks associated with interest rate hedging contracts and the effectiveness of such arrangements;

risks associated with downturns in the national and local economies, increases in interest rates, and volatility in the securities markets;

risks associated with actual or threatened terrorist attacks;

costs of compliance with the Americans with Disabilities Act and other similar laws;

potential liability for uninsured losses and environmental contamination;

risks associated with Boston Properties, Inc.'s potential failure to qualify as a REIT under the Internal Revenue Code of 1986, as amended;

possible adverse changes in tax and environmental laws;

the impact of newly adopted accounting principles on our accounting policies and on period-to-period comparisons of financial results;

risks associated with possible state and local tax audits;

risks associated with our dependence on key personnel whose continued service is not guaranteed; and

Edgar Filing: BOSTON PROPERTIES INC - Form S-3ASR

the other risk factors identified in each of our most recently filed Annual Report on Form 10-K and Quarterly Report on Form 10-Q, including those described under the caption Risk Factors, and our other reports filed from time to time with the SEC and any prospectus supplement.

The risks included herein are not exhaustive and you should be aware that there may be other factors which could adversely affect our business and financial performance. Moreover, we operate in a very competitive and rapidly changing environment. New risk factors emerge from time to time and it is not possible for management to predict all such risk factors, nor can we assess the impact of all such risk factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements. Given these risks and uncertainties, investors should not place undue reliance on forward-looking statements as a prediction of actual results. Investors should also refer to our annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K that are incorporated herein by reference and for future periods as we file them with the SEC, and to other materials we may furnish to the public from time to time through Forms 8-K or otherwise.

WHERE YOU CAN FIND MORE INFORMATION

We are subject to the information requirements of the Securities Exchange Act of 1934, as amended (the Exchange Act), and in accordance with the Exchange Act, we file annual, quarterly, and current reports, proxy statements, and other information with the SEC. You may read and copy any document we file at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. You may call the SEC at

Table of Contents

1-800-SEC-0330 for further information on the operation of the Public Reference Room. Our SEC filings are also available to the public from the SEC's website at <http://www.sec.gov>. In addition, you may read our SEC filings at the offices of the New York Stock Exchange (the "NYSE"), which is located at 20 Broad Street, New York, New York 10005. Our SEC filings are available at the NYSE because our common stock is listed and traded on the NYSE under the symbol of BXP.

We have a website located at <http://www.bostonproperties.com>. The information on our website is not a part of this prospectus.

INFORMATION INCORPORATED BY REFERENCE

The SEC allows us to incorporate by reference the information we file with the SEC, which means that we can disclose important information to you by referring you to these documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede the information already incorporated by reference. Our SEC file number is 1-13087. We are incorporating by reference the documents listed below, which we have already filed with the SEC:

our Annual Report on Form 10-K for the year ended December 31, 2007 filed on February 29, 2008;

our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2008, June 30, 2008 and September 30, 2008 filed on May 12, 2008, August 11, 2008 and November 10, 2008, respectively;

the description of our common stock contained in our Registration Statement on Form 8-A filed on June 12, 1997, including any amendments and reports filed for the purpose of updating such description;

the description of the rights to purchase shares of Series E Junior Participating Cumulative Preferred Stock contained in our Registration Statement on Form 8-A filed on June 18, 2007, including any amendments and reports filed for the purpose of updating such description; and

our Current Reports on Forms 8-K and 8-K/A filed on January 29, 2008, May 28, 2008, June 12, 2008, July 23, 2008, August 12, 2008, August 13, 2008, August 14, 2008 (two Form 8-Ks), August 20, 2008, September 16, 2008 and October 24, 2008 (one Form 8-K and one Form 8-K/A).

All documents filed by us with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act on or after the date of this prospectus and prior to the termination of this offering shall be deemed incorporated by reference in this prospectus and to be a part of this prospectus from the date of filing of those documents. Upon request, we will provide, without charge, to each person, including any beneficial owner, to whom a copy of this prospectus is delivered a copy of the documents incorporated by reference in this prospectus. You may request a copy of these filings, and any exhibits we have specifically incorporated by reference as an exhibit in this prospectus, by writing or telephoning us at the following:

Boston Properties, Inc.

The Prudential Center

800 Boylston Street, Suite 1900

Boston, Massachusetts 02199-8103

Attention: Investor Relations

(617) 236-3300

Edgar Filing: BOSTON PROPERTIES INC - Form S-3ASR

This prospectus is part of a registration statement we filed with the SEC. We have incorporated exhibits into the registration statement. You should read the exhibits carefully for provisions that may be important to you.

You should rely only on the information incorporated by reference or provided in this prospectus or any prospectus supplement. We have not authorized anyone to provide you with different or additional information. We are not making an offer of these securities in any state where the offer is not permitted. You should not assume that the information in this prospectus or in the documents incorporated by reference is accurate as of any date other than the date on the front of this prospectus or the date of the applicable documents.

Table of Contents**RATIOS OF EARNINGS TO FIXED CHARGES**

The following table sets forth Boston Properties, Inc.'s historical ratio of earnings to fixed charges for the periods indicated:

	Nine Months Ended September 30, 2008	Year Ended December 31, 2007	Year Ended December 31, 2006	Year Ended December 31, 2005	Year Ended December 31, 2004	Year Ended December 31, 2003
Ratio of Earnings to Fixed Charges	1.99	4.98	4.35	2.52	1.94	2.06

The ratio of earnings to fixed charges was computed by dividing earnings by fixed charges. Earnings consist of income before minority interests in property partnerships, income from unconsolidated joint ventures, minority interest in Boston Properties Limited Partnership, gains on sales of real estate and other assets, discontinued operations, cumulative effect of a change in accounting principle and preferred dividend, plus gains on sales of real estate and other assets, amortization of interest capitalized, distributions from unconsolidated joint ventures, and fixed charges, minus interest capitalized and preferred distributions. Fixed charges consist of interest expensed, which includes credit enhancement fees and amortization of loan costs, and interest capitalized.

RATIOS OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED DISTRIBUTIONS

The following table sets forth Boston Properties, Inc.'s historical ratios of earnings to combined fixed charges and preferred distributions for the periods indicated:

	Nine Months Ended September 30, 2008	Year Ended December 31, 2007	Year Ended December 31, 2006	Year Ended December 31, 2005	Year Ended December 31, 2004	Year Ended December 31, 2003
Ratio of Earnings to Combined Fixed Charges and Preferred Distributions	1.97	4.82	4.05	2.32	1.84	1.92

The ratio of earnings to combined fixed charges and preferred distributions was computed by dividing earnings by combined fixed charges and preferred distributions. Earnings consist of income before minority interests in property partnerships, income from unconsolidated joint ventures, minority interest in Boston Properties Limited Partnership, gains on sales of real estate and other assets, discontinued operations, cumulative effect of a change in accounting principle and preferred dividend, plus gains on sales of real estate and other assets, amortization of interest capitalized, distributions from unconsolidated joint ventures, and combined fixed charges and preferred distributions, minus interest capitalized and preferred distributions. Combined fixed charges and preferred distributions consist of interest expensed, which includes credit enhancement fees and amortization of loan costs, interest capitalized, and preferred distributions.

Table of Contents

USE OF PROCEEDS

Boston Properties, Inc. is required by the terms of the partnership agreement of Boston Properties Limited Partnership to contribute the net proceeds of any sale of common stock, preferred stock, stock purchase contracts, depositary shares or warrants to Boston Properties Limited Partnership in exchange for securities of Boston Properties Limited Partnership with economic interests that are substantially similar to the securities issued by Boston Properties, Inc.

Unless we provide otherwise in a supplement to this prospectus, following our contribution of the net proceeds to Boston Properties Limited Partnership, we intend to use the net proceeds from our sale of the securities covered by this prospectus for one or more of the following:

the acquisition, development, and improvement of properties;

the repayment of debt;

capital expenditures;

working capital; and

other general corporate purposes.

We will not receive any of the proceeds of the sale by selling security holders of the securities covered by this prospectus.

Table of Contents

DESCRIPTION OF COMMON STOCK

The following is a summary of the material terms and provisions of Boston Properties, Inc. common stock. It may not contain all the information that is important to you. You can access complete information by referring to the certificate of incorporation and bylaws of Boston Properties, Inc., the shareholder rights plan of Boston Properties, Inc. and the Delaware General Corporation Law, and the following summary is qualified by reference to such documents and the applicable provision of the Delaware General Corporate Law. The shareholder rights plan, certificate of incorporation and bylaws are incorporated by reference into this prospectus.

General

Under the certificate of incorporation, we have the authority to issue 250,000,000 shares of common stock, par value \$0.01 per share. On September 30, 2008, there were:

119,851,868 shares of our common stock issued and outstanding;

20,195,785 common units of partnership interest in Boston Properties Limited Partnership issued and outstanding (other than the common units held by Boston Properties, Inc.), each of which is redeemable for one share of our common stock (if we elect to issue common stock rather than pay cash upon such redemption);

946,369 long term incentive units of partnership interest in Boston Properties Limited Partnership issued and outstanding (excluding 1,085,861 long term incentive units granted under our 2008 Outperformance Plan, which have not yet been earned) pursuant to the Long-Term Incentive Plan, each of which, upon the satisfaction of certain conditions, is convertible into one common unit; and

1,113,044 Series Two preferred units of partnership interest in Boston Properties Limited Partnership issued and outstanding, each of which is currently convertible into approximately 1.312336 common units (or a total of 1,460,688 common units).

We may issue common stock from time to time. Our board of directors must approve the amount of stock we sell and the price for which it is sold. Holders of our common stock do not have any preferential rights or preemptive rights to buy or subscribe for capital stock or other securities that we may issue. However, each outstanding share of our common stock currently has attached to it one preferred stock purchase right issued under our shareholder rights plan, which is summarized below. Our common stock does not have any redemption or sinking fund provisions or any conversion rights.

All of our common stock, when issued, will be duly authorized, fully paid and nonassessable. This means that the full price for our outstanding common stock will have been paid at the time of issuance and that any holder of our common stock will not later be required to pay us any additional money for our common stock.

Dividends

Subject to the preferential rights of any other shares of our stock and the provisions of our certificate of incorporation regarding excess stock, holders of our common stock may receive dividends out of assets that we can legally use to pay dividends when and if they are authorized and declared by our board of directors. In the event we are liquidated, dissolved or our affairs are wound up, each common stockholder shares in the same proportion as other common stockholders out of assets that we can legally use to pay distributions after we pay or make adequate provision for all of our known debts and liabilities.

Voting Rights

Subject to the provisions of our certificate of incorporation regarding excess stock, holders of common stock will have the exclusive power to vote on all matters presented to our stockholders, including the election of directors, except as otherwise provided by Delaware law or as provided with respect to any other shares of our

Table of Contents

stock. Holders of our common stock are entitled to one vote per share. There is no cumulative voting in the election of our directors. Generally, all matters to be voted on by stockholders must be approved by a majority, or, in the case of the election of directors, by a plurality, of the votes present in person or represented by proxy and entitled to vote at a meeting at which a quorum is present, subject to any voting rights granted to holders of any then outstanding preferred stock.

Other Rights

Subject to the provisions of our certificate of incorporation regarding excess stock, all shares of our common stock have equal dividend, distribution, liquidation and other rights, and have no preference, appraisal or exchange rights, except for any appraisal rights provided by Delaware law.

Delaware law generally requires that we obtain the approval of a majority of the outstanding shares of our common stock that are entitled to vote before we may consolidate or merge with another corporation. However, Delaware law does not require that we seek approval of our stockholders to enter into a merger in which we are the surviving corporation following the merger if:

our certificate of incorporation is not amended in any respect by the merger;

each share of our stock outstanding prior to the merger is to be an identical share of stock following the merger; and

any shares of common stock (together with any other securities convertible into shares of common stock) to be issued or delivered as a result of the merger represent in the aggregate no more than 20% of the number of shares of our common stock outstanding immediately prior to the merger.

Restrictions on Ownership

For us to qualify as a real estate investment trust under the Internal Revenue Code, no more than 50% in value of our outstanding stock may be owned, actually or constructively, by five or fewer individuals during the last half of a taxable year. To assist us in meeting this requirement, we may take actions including the automatic conversion of shares in excess of this ownership restriction into excess stock to limit the ownership of our outstanding equity securities, actually or constructively, by one person or entity. See *Limits on Ownership of Common Stock* beginning on page 24.

Transfer Agent

The transfer agent and registrar for our common stock is Computershare Trust Company, N.A.

Preferred Stock

Under our certificate of incorporation, we have authority to issue up to 50,000,000 shares of preferred stock. We do not have any preferred stock outstanding as of the date of this prospectus. We may issue preferred stock from time to time, in one or more series, as authorized by our board of directors. Prior to issuance of shares of each series, our board of directors is required by the Delaware General Corporation Law and our certificate of incorporation to fix for each series, subject to the provisions of our certificate of incorporation regarding excess stock, the terms, preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms or conditions of redemption, as are permitted by Delaware law. The preferred stock will, when issued, be fully paid and nonassessable and will have no preemptive rights. Our board of directors could authorize the issuance of preferred stock with terms and conditions that could have the effect of discouraging a takeover or other transaction that holders of our common stock might believe to be in their best interests or in which holders of some, or a majority, of our common stock might receive a premium for their shares over the then market price of our common stock.

Table of Contents

Under our certificate of incorporation we have authority to issue up to 150,000 shares of Series E junior participating cumulative preferred stock. None of the Series E junior participating cumulative preferred stock is issued or outstanding. Shares of our Series E junior participating cumulative preferred stock may be issued under our shareholder rights plan, which is summarized below.

Shareholder Rights Plan

In 1997, our board of directors adopted a shareholder rights plan and entered into a shareholder rights agreement with Computershare Trust Company, N.A. (as successor to BankBoston, N.A.), as rights agent. In 2007, our board of directors determined it was in the best interests of our stockholders to extend the benefits afforded by this shareholder rights plan by entering into a new shareholder rights agreement with Computershare Trust Company, N.A., as rights agent. The rights may discourage, delay or prevent hostile takeovers. They are not intended, however, to interfere with any merger or other business combination approved by our board of directors.

Under our shareholder rights plan, one preferred stock purchase right is attached to each outstanding share of our common stock. We refer to these preferred stock purchase rights as the rights. Each share of common stock issued in the future will also receive a right until any of the rights become exercisable. Until a right is exercised, the holder of a right does not have any additional rights as a stockholder. These rights will expire on June 29, 2017, unless previously redeemed or exchanged by us as described below. These rights trade automatically with our common stock and will separate from the common stock and become exercisable only under the circumstances described below.

In general, the rights will separate from our common stock and become exercisable when the first of the following events happens:

- (1) ten calendar days after a public announcement that a person or a group of affiliated or associated persons has acquired beneficial ownership of more than 15% of the sum of our outstanding common stock and excess stock, the date of such public announcement being referred to as a stock acquisition date; or
- (2) ten business days, or such other date determined by our board of directors, after the beginning of a tender offer or exchange offer that would result in a person or group beneficially owning more than 15% of the sum of our outstanding common stock and excess stock.

Under our shareholder rights plan, shares of our common stock that may be issued upon redemption of outstanding common units of limited partnership interest in Boston Properties Limited Partnership are not included in the definition of beneficial ownership.

However, if a person who became a limited partner of Boston Properties Limited Partnership at the time of our initial public offering acquires beneficial ownership of more than 15% of the sum of our common stock and excess stock, the rights will not become exercisable unless the acquisition results in that person acquiring a percentage of the outstanding shares of our outstanding common stock plus outstanding common units of limited partnership interest of Boston Properties Limited Partnership that is greater than the percentage of outstanding shares of common stock plus outstanding common units of limited partnership interest of Boston Properties Limited Partnership that such person held at the completion of our initial public offering. In addition, no group of which Messrs. Zuckerman or E. Linde, any of their respective heirs, legatees or devisees, or any other person whose beneficial ownership of shares of our common stock would be attributed to Mr. Zuckerman and Mr. E. Linde, respectively, under the Internal Revenue Code, will be deemed to beneficially own any of our securities owned by that person. Common units of limited partnership interest of Boston Properties Limited Partnership held by Boston Properties, Inc. are excluded in making these calculations.

If the rights become exercisable, holders of the rights will be able to purchase from us a unit of preferred stock equal to one one-thousandth of a share of our Series E junior participating cumulative preferred stock at a

Table of Contents

cash exercise price of \$100 per unit, subject to adjustment. We have designated 200,000 shares of Series E junior participating cumulative preferred stock and have reserved these shares for issuance under our shareholder rights plan. However, all rights owned by any persons or groups triggering the event shall be void.

In the event that a stock acquisition date occurs, the rights (other than those held by the person or group triggering the stock acquisition date, whose rights will become null and void) will be exercisable for units of our Series E junior participating cumulative preferred stock having a market value of two times the exercise price of the rights.

In addition, if at any time following a stock acquisition date:

we enter into a merger or other business combination transaction in which we are not the surviving entity;

we enter into a merger or other business combination transaction in which all or part of our common stock is exchanged for stock or other securities of any other person or cash or any other property; or

we sell, transfer or mortgage 50% or more of our assets or earning power;
then each holder of a right, other than rights held by the person or group who triggered the event, will be entitled to receive, upon exercise, common stock of the acquiring company having a market value equal to two times the exercise price of the right.

At any time on or after the date on which the rights separate and become exercisable, our board of directors may, at its option, exchange all or any part of the then outstanding and exercisable rights for shares of our common stock or units of Series E junior participating cumulative preferred stock at an exchange ratio of one share or one unit per right. However, our board of directors generally will not be empowered to effect an exchange at any time after any person becomes the beneficial owner of 50% or more of our outstanding common stock.

We may redeem the rights in whole, but not in part, at a price of \$.001 per right at any time before the earlier of (1) the date that is ten calendar days after a stock acquisition date or (2) the expiration date of the rights plan. The rights will expire at the close of business on June 29, 2017 unless we redeem them before that date.

We may, in our sole discretion, amend any provision of the rights agreement until the rights become exercisable. After the rights become exercisable, we may, subject to specified limitations, amend the rights agreement only to cure any ambiguity, defect or inconsistency, to shorten or lengthen any time period, or to make changes that do not adversely affect the interests of the holders of the rights.

The above description of our shareholder rights plan is not intended to be a complete description. For a full description of the shareholder rights plan, you should read the shareholder rights agreement. The foregoing description of shareholder rights plan is qualified in its entirety by reference to the shareholder rights agreement. A copy of the shareholder rights agreement has been filed with the SEC and is incorporated herein by reference.

Table of Contents

DESCRIPTION OF PREFERRED STOCK

This section describes the general terms and provisions of shares of our preferred stock that we or selling security holders may offer by this prospectus. We may issue preferred stock in one or more series; each series of preferred stock will have its own rights and preferences. We will describe in a prospectus supplement (1) the specific terms of the series of any preferred stock offered through that prospectus supplement and (2) any general terms outlined in this section that will not apply to those shares of preferred stock. This summary of terms is not complete. For additional information before you buy any preferred stock you should read our certificate of incorporation and bylaws that are in effect on the date that we offer any preferred stock, as well as any applicable amendment to our certificate of incorporation designating the terms of a series of preferred stock.

General

Under our certificate of incorporation, we have the authority to issue up to 50,000,000 shares of preferred stock, par value \$0.01 per share. Prior to issuing shares of preferred stock of a particular series, our board of directors will determine or fix the terms of that series of preferred stock, as described below.

When we issue shares of preferred stock, they will be fully paid and nonassessable. This means the full purchase price for the outstanding preferred stock will be paid at issuance and that the purchasers of shares of preferred stock will not be required later to pay us any additional consideration for those shares. The preferred stock will have no preemptive rights to subscribe for any additional securities which we may issue in the future. This means that the purchasers of shares of preferred stock will not receive any rights, as a holder of preferred stock, to buy any portion of the securities which we may issue in the future. Because our board of directors has the power to establish the preferences and rights of each class or series of preferred stock, our board of directors may grant the holders of any series or class of preferred stock preferences, powers, and rights, voting or otherwise, senior to the rights of holders of shares of common stock. The issuance or possibility of issuance of preferred stock could have the effect of delaying or preventing a change in control of our company.

Terms

The preferred stock will have the dividend, liquidation, redemption, voting, and conversion rights described in this section unless we state otherwise in the applicable prospectus supplement. The liquidation preference is not indicative of the price at which the preferred stock will actually trade on or after the date of issuance. You should read the prospectus supplement relating to the particular series of the preferred stock for specific terms, including:

the title and liquidation preference of such preferred stock and the number of shares offered;

the initial offering price of such preferred stock;

the dividend rate or rates (or method of calculation), the dividend periods, the date(s) on which dividends will be payable and whether the dividends will be cumulative or noncumulative, and, if cumulative, the dates from which the dividends will start to cumulate;

procedures for any auction and remarketing, if any;

any listing of such preferred stock on any securities exchange;

any redemption or sinking fund provisions;

any conversion or exchange provisions;

any voting rights;

any other specific terms, preferences, rights, limitations, or restrictions of such preferred stock;

Table of Contents

discussion of federal income tax considerations applicable to such preferred stock;

relative ranking and preference of such preferred stock as to dividend rights and rights upon liquidation, dissolution, or winding up of our business;

any limitations on issuance of any series of preferred stock ranking senior to or on a parity with such series of preferred stock as to dividend rights and rights upon liquidation, dissolution, or winding up of our business; and

any limitations on direct or beneficial ownership and restrictions on transfer, in each case as may be appropriate to preserve our status as a REIT.

Rank

Unless we state otherwise in the applicable prospectus supplement, each series of preferred stock will, with respect to dividend rights and rights upon liquidation, dissolution, or winding up of our business, rank:

senior to our common stock and any of our other equity securities ranking junior to such series of preferred stock;

on a parity with all of our equity securities which according to their terms rank on a parity with such series of preferred stock; and

junior to all of our equity securities which according to their terms rank senior to such series of preferred stock.

The term equity securities does not include any convertible debt securities we may issue.

Dividends

As a holder of shares of preferred stock, you will be entitled to receive cash dividends, if declared by our board of directors, out of our assets that we can legally use to pay dividends. The prospectus supplement relating to a particular series of preferred stock will state the dividend rate or rates (or method of calculation) and dates on which the dividends will be payable for such series. We will pay dividends to the holders of record as they appear on our stock transfer books on the record dates fixed by our board of directors.

The applicable prospectus supplement will also state whether the dividends on any series of the preferred stock are cumulative or non-cumulative. Dividends, if cumulative, will accumulate from and after the dates stated in the applicable prospectus supplement. If our board of directors does not declare a dividend payable on a dividend payment date on any series of the preferred s