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## Texas State Securities Board

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September 26, 2007

Ms. Michele A. Kulerman  
Hogan & Hartson LLP  
Columbia Square  
555 Thirteenth Street, NW  
Washington, DC 20004

RE: Archstone-Smith Operating Trust

Dear Ms. Kulerman:

This is in response to your letter dated July 30, 2007 and received by this Agency on July 31, 2007, as supplemented by your letter dated August 10, 2007 and received on August 13, 2007.

Your letters and the supplemental materials describe a proposed merger involving the Archstone-Smith Operating Trust ("Operating Trust"), a Maryland real estate investment trust, through which Archstone-Smith Trust ("Archstone"), a publicly traded Maryland real estate trust, owns substantially all of its assets and conducts substantially all of its businesses. Archstone is the sole trustee of the Operating Trust.

The Agreement and Plan of Merger ("Merger Agreement") provides for two mergers. In the first merger (the "Operating Trust Merger") River Trust Acquisition (MD), LLC ("MergerSub"), will merge with and into the Operating Trust, with the Operating Trust continuing as the surviving entity. MergerSub is a newly formed Maryland limited liability company that is a wholly-owned subsidiary of River Acquisition (MD), LP ("MergerCo"), a newly formed Maryland limited partnership and wholly-owned subsidiary of River Holding LP ("Parent"), a Delaware limited partnership jointly controlled by affiliates of Tishman Speyer Real Estate Venture VII, L.P. and Lehman Brothers Holdings Inc. MergerCo intends to assign its rights under the Merger Agreement prior to the closing of the mergers to a newly formed Maryland corporation or limited liability company that intends to qualify as a REIT. The second merger (the "REIT Merger") will occur after the effective time of the Operating Trust Merger whereby Archstone will merge with and into MergerCo.

The Operating Trust currently has two classes of common stock (Class A-1 and Class A-2, referred to as "Units") and four series of preferred stock (Series 1, Series M, Series N-1, and Series N-2, referred to as "Stock"). The only Operating Trust securities held by residents of Texas are held by Class A-1 Unitholders. Accordingly, this is the only class of securities that will be addressed in this opinion.

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Upon consummation of the Operating Trust Merger, the outstanding Class A-1 Units of the Operating Trust will be automatically converted into the right to receive Series O preferred units ("Series O Units") of the Operating Trust. At that time, holders of Class A-1 Units will have the right to elect to receive, in exchange for their Class A-1 Units, either \$60.75 per unit or a combination of cash and Series O Units. The Series O Units to be issued in the merger will not be publicly traded and will not be exchangeable for or convertible into any publicly traded security.

You noted that the Operating Trust Merger would be consummated in accordance with the Maryland REIT law and the Declaration of Trust that require the approval of the holders of at least a majority of the outstanding Class A-1 and Class A-2 Units (collectively, the "Common Units"), voting together as a single class. As the holder of all the Class A-2 Units, Archstone holds approximately 89.3% of all of the Common Units and Archstone's approval is the only approval necessary in connection with the Operating Trust Merger. Because of this, you have noted that there will not be a vote of the Class A-1 Unitholders on the Operating Trust Merger. You have represented that the Operating Trust Merger will be consummated pursuant to the Maryland REIT Law, which is analogous to those that apply to Maryland corporations, that provides the holders of the Common Units with protection comparable to those under the Maryland corporation law, including appraisal rights.

In connection with the Operating Trust Merger and the related election being offered to the holders of the Class A-1 Units, the Operating Trust has filed to register the Series O Units of the Operating Trust to be issued in connection with the Operating Trust Merger with the U.S. Securities and Exchange Commission. As soon as practicable after the effectiveness of the registration statement, the Operating Trust will send to all of its unitholders a prospectus/information statement that will describe more fully the terms of the Series O Units, the proposed Operating Trust Merger, and the procedures by which the Class A-1 Unitholders may make an election to receive either cash consideration or the Series O Units.

Based on the foregoing, the staff of the State Securities Board will recommend no action to require registration of the Series O Units to be offered to the Operating Trust's existing security holders in Texas.

Please note that this Agency has not made an independent investigation of the facts, but has relied upon the information you have provided. If this information is incorrect or changes substantially, the staff would reconsider the matter and the no-action position stated above would be void.

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I trust this letter answers your inquiry. Please feel free to write us if you need further information.

Very truly yours,

DENISE VOIGT CRAWFORD  
Securities Commissioner

David Weaver  
General Counsel

DW/ms