

BERKSHIRE INCOME REALTY INC
Form 10-Q
November 14, 2008

United States
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF
1934

For the quarterly period ended September 30, 2008

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF
1934

Commission File number 001-31659

Berkshire Income Realty, Inc.

Maryland
(State or other jurisdiction of incorporation
or organization)

32-0024337
(I. R. S. Employer Identification
No.)

One Beacon Street, Boston, Massachusetts
(Address of principal executive offices)

02108
(Zip Code)

(617) 523-7722
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes
 No

Indicate by check mark whether the registrant is a large 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 .

Large Accelerated Filer

Accelerated Filer

Non-accelerated Filer (Do not check if a smaller reporting company) Smaller Reporting Company

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

There were 1,406,196 shares of Class B common stock outstanding as of November 13, 2008.

BERKSHIRE INCOME REALTY, INC.

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Part I FINANCIAL INFORMATION
Item 1. CONSOLIDATED FINANCIAL STATEMENTS

BERKSHIRE INCOME REALTY, INC.
CONSOLIDATED BALANCE SHEETS
(unaudited)

| | September 30, 2008 | December 31, 2007 |
|--|-----------------------|-----------------------|
| ASSETS | | |
| Multifamily apartment communities, net of accumulated depreciation of \$154,285,956 and \$144,240,061, respectively | \$ 462,403,236 | \$ 464,265,061 |
| Cash and cash equivalents | 8,304,227 | 22,479,937 |
| Cash restricted for tenant security deposits | 1,853,232 | 1,953,503 |
| Replacement reserve escrow | 5,381,253 | 7,760,738 |
| Prepaid expenses and other assets | 9,957,254 | 11,026,329 |
| Investment in Multifamily Limited Partnership | 14,878,639 | 16,794,450 |
| Investment in Mezzanine Loan Limited Liability Company | 904,192 | - |
| Acquired in place leases and tenant relationships, net of accumulated amortization of \$5,909,360 and \$7,136,556, respectively | 617,721 | 201,002 |
| Deferred expenses, net of accumulated amortization of \$1,297,941 and \$1,045,194, respectively | 3,681,517 | 3,581,610 |
| Total assets | \$ 507,981,271 | \$ 528,062,630 |
| LIABILITIES AND STOCKHOLDERS' EQUITY | | |
| Liabilities: | | |
| Mortgage notes payable | \$ 488,072,643 | \$ 506,903,882 |
| Revolving credit facility - affiliate | 10,000,000 | - |
| Due to affiliates | 1,975,424 | 1,952,547 |
| Dividend and distributions payable | 1,837,607 | 1,837,607 |
| Accrued expenses and other liabilities | 12,109,871 | 13,351,402 |
| Tenant security deposits | 2,204,675 | 1,955,389 |
| Total liabilities | 516,200,220 | 526,000,827 |
| Commitments and contingencies | - | - |
| Minority interest in properties | - | - |
| Minority common interest in Operating Partnership | - | - |
| Stockholders' equity: | | |
| Series A 9% Cumulative Redeemable Preferred Stock, no par value, \$25 stated value, 5,000,000 shares authorized, 2,978,110 shares issued and outstanding at September 30, 2008 and December 31, 2007, respectively | 70,210,830 | 70,210,830 |
| Class A common stock, \$.01 par value, 5,000,000 shares authorized, 0 shares issued and outstanding at September 30, 2008 and December 31, 2007, respectively | - | - |
| | 14,062 | 14,062 |

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Class B common stock, \$.01 par value, 5,000,000 shares authorized, 1,406,196 issued and outstanding at September 30, 2008 and December 31, 2007, respectively

Excess stock, \$.01 par value, 15,000,000 shares authorized, 0 shares issued and outstanding at September 30, 2008 and December 31, 2007, respectively

| | | |
|--|----------------|----------------|
| Accumulated deficit | (78,443,843) | (68,163,089) |
| Total stockholders' equity | (8,218,951) | 2,061,803 |
| Total liabilities and stockholders' equity | \$ 507,981,271 | \$ 528,062,630 |

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

BERKSHIRE INCOME REALTY, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS
(unaudited)

| | Three months ended | | | Nine months | |
|--|--------------------|-------------------|-------------------|-------------------|-------------------|
| | ended | September 30, | | September | |
| | 30, | 2008 | 2007 | 2007 | |
| Revenue: | | | | | |
| Rental | \$ | 18,951,193 | \$ 18,241,631 | \$ 55,694,985 | \$ 52,823,127 |
| Interest | | 145,303 | 230,983 | 512,972 | 643,820 |
| Utility reimbursement | | 400,158 | 323,750 | 1,211,612 | 881,552 |
| Other | | 781,147 | 842,690 | 2,293,792 | 2,153,484 |
| Total revenue | | 20,277,801 | 19,639,054 | 59,713,361 | 56,501,983 |
| Expenses: | | | | | |
| Operating | | 4,857,545 | 4,792,496 | 14,805,920 | 14,668,354 |
| Maintenance | | 1,562,199 | 1,531,383 | 4,359,748 | 3,990,340 |
| Real estate taxes | | 2,260,542 | 1,893,582 | 6,233,294 | 5,376,830 |
| General and administrative | | 846,257 | 695,992 | 2,259,449 | 2,136,725 |
| Management fees | | 1,205,926 | 1,182,391 | 3,574,233 | 3,445,327 |
| Depreciation | | 7,787,657 | 7,496,275 | 23,378,485 | 21,649,076 |
| Interest | | 6,554,605 | 6,871,780 | 19,766,756 | 19,155,283 |
| Amortization of acquired in-place leases and tenant relationships | | 128,987 | 281,872 | 245,468 | 1,027,954 |
| Total expenses | | 25,203,718 | 24,745,771 | 74,623,353 | 71,449,889 |
| Loss before minority interest in properties, equity in income (loss) of Multifamily Limited Partnership and Mezzanine Loan Limited Liability Company, minority common interest in Operating Partnership and income (loss) from discontinued operations | | (4,925,917) | (5,106,717) | (14,909,992) | (14,947,906) |
| Minority interest in properties | | (204,270) | (168,000) | (598,302) | (1,863,195) |
| Equity in income (loss) of Multifamily Limited Partnership | | (1,066,063) | (739,397) | (2,615,887) | (2,037,163) |
| Equity in income (loss) of Mezzanine Loan Limited Liability Company | | 43,101 | - | 49,192 | - |
| Minority common interest in Operating Partnership | | (976,100) | (976,100) | (12,689,300) | (2,928,300) |

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| | | | | |
|---|----------------|----------------|----------------|--------------|
| Net income (loss) from continuing operations | (7,129,249) | (6,990,214) | (30,764,289) | (21,776,564) |
| Discontinued operations: | | | | |
| Income (loss) from discontinued operations | (15,901) | (105,934) | (1,215,715) | (1,230,556) |
| Gain on disposition of real estate assets | 3,591 | (11,367) | 27,035,489 | 32,111,239 |
| Income (loss) from discontinued operations | (12,310) | (117,301) | 25,819,774 | 30,880,683 |
| Net income (loss) | \$ (7,141,559) | \$ (7,107,515) | \$ (4,944,515) | \$ 9,104,119 |
| Preferred Dividend | (1,675,144) | (1,675,197) | (5,025,539) | (5,025,595) |
| Net income (loss) available to common shareholders | \$ (8,816,703) | \$ (8,782,712) | \$ (9,970,054) | \$ 4,078,524 |
| Net income (loss) from continuing operations per common share, basic and diluted | \$ (6.26) | \$ (6.16) | \$ (25.45) | \$ (19.06) |
| Net income (loss) from discontinued operations per common share, basic and diluted | \$ (0.01) | \$ (0.08) | \$ 18.36 | \$ 21.96 |
| Net income (loss) available to common shareholders, per common share, basic and diluted | \$ (6.27) | \$ (6.24) | \$ (7.09) | \$ 2.90 |
| Weighted average number of common shares outstanding, basic and diluted | 1,406,196 | 1,406,196 | 1,406,196 | 1,406,196 |
| Dividend declared per common share | \$ - | \$ - | \$ 0.20 | \$ 0.03 |

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

BERKSHIRE INCOME REALTY, INC.
CONSOLIDATED STATEMENT OF CHANGES IN STOCKHOLDERS' EQUITY (DEFICIT)
FOR THE NINE MONTHS ENDED SEPTEMBER 30, 2008
(unaudited)

| | Series A Preferred Stock | | Class B Common Stock | | Accumulated | Total |
|--|--------------------------|---------------|----------------------|-----------|----------------|--------------------------------------|
| | Shares | Amount | Shares | Amount | Deficit | Stockholders' Equity (Deficit) |
| Balance at December 31, 2007 | 2,978,110 | \$ 70,210,830 | 1,406,196 | \$ 14,062 | \$(68,163,089) | \$ 2,061,803 |
| Net income | - | - | - | - | (4,944,515) | (4,944,515) |
| Distributions to common shareholders | - | - | - | - | (310,700) | (310,700) |
| Distributions to preferred shareholders | - | - | - | - | (5,025,539) | (5,025,539) |
| Balance at September 30, 2008 | 2,978,110 | \$ 70,210,830 | 1,406,196 | \$ 14,062 | \$(78,443,843) | \$ (8,218,951) |

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

BERKSHIRE INCOME REALTY, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited)

| | For the nine months ended September 30, | |
|--|---|--------------|
| | 2008 | 2007 |
| Cash flows from operating activities: | | |
| Net income (loss) | \$ (4,944,515) | \$ 9,104,119 |
| Adjustments to reconcile net income (loss) to net cash provided by operating activities: | | |
| Amortization of deferred financing costs | 389,993 | 333,179 |
| Amortization of acquired in-place leases and tenant relationships | 245,468 | 1,033,683 |
| Depreciation | 24,360,890 | 24,266,586 |
| Loss on extinguishment of debt | - | 290,341 |
| Minority interest in properties | 598,302 | 1,863,195 |
| Equity in loss of Multifamily Limited Partnership | 2,615,887 | 2,037,163 |
| Equity in income of Mezzanine Loan Limited Liability Company | (49,192) | - |
| Minority common interest in Operating Partnership | 12,689,300 | 2,928,300 |
| Interest earned on replacement reserve deposits | (62,034) | - |
| Gain on disposition of real estates related to fire | (129,146) | - |
| Gain on disposition of real estate assets | (27,035,489) | (32,111,239) |
| Write off deferred financing costs | 195,453 | - |
| Increase (decrease) in cash attributable to changes in assets and liabilities: | | |
| Tenant security deposits, net | (51,938) | (375,050) |
| Prepaid expenses and other assets | 2,409,482 | (2,042,085) |
| Due to/from affiliates | 22,877 | 807,280 |
| Accrued expenses and other liabilities | (1,838,665) | 507,553 |
| Net cash provided by operating activities | 9,416,673 | 8,643,025 |
| Cash flows from investing activities: | | |
| Capital improvements | (19,155,849) | (12,562,119) |
| Acquisition of multifamily apartment communities | - | (45,009,930) |
| Acquisition of real estate limited partnership interests | (20,148,140) | - |
| Proceeds from sale of real estate interests | 41,643,556 | 44,690,564 |
| Interest earned on replacement reserve deposits | - | (38,562) |
| Deposits to replacement reserve escrow | (579,572) | (1,812,750) |
| Withdrawals from replacement reserve escrow | 3,289,647 | - |
| Investment in Multifamily Limited Partnership | (700,075) | (6,370,681) |
| Investment in Mezzanine Loan Limited Liability Company | (855,000) | - |
| Distributions from Multifamily Limited Partnership | - | 141,802 |
| Net cash provided by (used in) investing activities | 3,494,567 | (20,961,676) |
| Cash flows from financing activities: | | |
| Borrowings from mortgage notes payable | - | 73,090,000 |
| Principal payments on mortgage notes payable | (11,685,713) | (2,886,842) |
| Prepayments of mortgage notes payable | (6,433,293) | (31,451,196) |
| Borrowings from revolving credit facility - affiliate | 15,000,000 | 37,500,000 |
| Principal payments on revolving credit facility - affiliate | (5,000,000) | (37,500,000) |
| Good faith deposits on mortgage notes payable | 341,250 | (325,000) |

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| | | |
|--|---------------|---------------|
| Deferred financing costs | (685,353) | (748,470) |
| Distributions to minority interest in properties | (598,302) | (1,872,645) |
| Distributions on common operating partnership units | (13,000,000) | (3,000,000) |
| Distributions to preferred shareholders | (5,025,539) | (5,025,595) |
| Net cash provided by (used in) financing activities | (27,086,950) | 27,780,252 |
| Net increase (decrease) in cash and cash equivalents | (14,175,710) | 15,461,601 |
| Cash and cash equivalents at beginning of period | 22,479,937 | 15,393,249 |
| Cash and cash equivalents at end of period | \$ 8,304,227 | \$ 30,854,850 |
| Supplemental disclosure: | | |
| Cash paid for interest | \$ 20,790,026 | \$ 20,378,362 |

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

BERKSHIRE INCOME REALTY, INC.
 CONSOLIDATED STATEMENTS OF CASH FLOWS (continued)
 (unaudited)

For the nine months ended September 30,
 2008 2007

Supplemental disclosure (continued):

Supplemental disclosure of non-cash investing and financing activities:

| | | |
|---|------------|------------|
| Capital improvements included in accrued expenses and other liabilities | \$ 768,852 | \$ 136,884 |
| Dividends declared and payable to preferred shareholders | 837,607 | 837,607 |
| Dividends and distributions declared and payable on common operating partnership units and shares | 1,000,000 | 1,000,000 |
| Mortgage debt assumed by buyer | 31,377,606 | - |
| Write-off of real estate assets – hurricane damage | 1,040,898 | - |
| Insurance proceeds receivable - hurricane damage | 1,040,898 | - |

Acquisition of multifamily apartment communities:

Assets purchased:

| | | |
|--|------|-----------------|
| Multifamily apartment communities | \$ - | \$ (45,040,527) |
| Acquired in-place leases | - | (615,003) |
| Prepaid expenses | - | (346,568) |
| Accrued expenses | - | 737,089 |
| Tenant security deposit liability | - | 255,079 |
| Net cash used for acquisition of Multifamily apartment communities | \$ - | \$ (45,009,930) |

Acquisition of real estate limited partnership interests:

Assets purchased:

| | | |
|--|-----------------|------|
| Multifamily apartment communities | \$ (50,205,199) | \$ - |
| Acquired in-place leases | (662,187) | - |
| Prepaid expenses | (640,758) | - |
| Accrued expenses | 293,134 | - |
| Tenant security deposit liability | 401,496 | - |
| Mortgage debt assumed | 30,665,374 | - |
| Net cash used for acquisition of real estate limited partnership interests | \$ (20,148,140) | \$ - |

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

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BERKSHIRE INCOME REALTY, INC
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(unaudited)

1. ORGANIZATION AND BASIS OF PRESENTATION

Berkshire Income Realty, Inc. (the “Company”), a Maryland corporation, was incorporated on July 19, 2002 and 100 Class B common shares were issued upon organization. The Company is in the business of acquiring, owning, operating and rehabilitating multifamily apartment communities. As of September 30, 2008, the Company owned, or had an interest in, 26 multifamily apartment communities consisting of a total 7,247 apartment units.

Discussion of acquisitions for the nine months ended September 30, 2008

On September 18, 2008, the Company’s operating partnership, Berkshire Income Realty – OP, L.P. (the “Operating Partnership”), through a newly formed and wholly owned subsidiary, BIR Executive House, L.P., completed the acquisition of 100% of the partnership interests in Executive House Associates, the owner of Executive House Apartments, a 302 unit multifamily apartment community located in Philadelphia, Pennsylvania, from an unaffiliated third party. The purchase price of \$50,000,000 and related closing costs consisted of a cash payment of \$20,148,140 plus the assumption of the outstanding mortgage debt secured by the property. The purchase was subject to normal operating pro rations. The cash portion of the purchase price and related closing costs were funded through a \$10,000,000 advance from the revolving credit facility available from an affiliate and available cash. The acquisition of Executive House is intended to be the qualified replacement property in connection with the pending sale of the Westchester West property, expected to be sold in the fourth quarter of 2008, identified for replacement pursuant to a transaction structured to comply with the requirements of a reverse 1031 Exchange under the Internal Revenue Code of 1986, as amended, (the “Tax Code”). As required by the Tax Code, a qualified 1031 Exchange intermediary was retained to execute the Executive House acquisition and relinquished properties transactions. As of September 30, 2008, the purchase price allocation was final and no further adjustment is contemplated.

Discussion of dispositions for the nine months ended September 30, 2008

On April 28, 2008, the Operating Partnership completed the sale of 100% of its interest in St. Marin/Karrington Apartments in Coppell, Texas. On May 6, 2008, the Board of Directors (“Board”) authorized the general partner of the Operating Partnership to distribute a portion of the proceeds from the sale of St. Marin/Karrington to the common general and common limited partners as a special distribution in the amount of \$10,000,000, payable on May 15, 2008. On the same day, the Board also declared a common dividend of \$0.169960 per share on the Company’s Class B common stock payable concurrently with the Operating Partnership distribution. The Company retained the balance of the sale proceeds in its operating account for its operating use. The operating results of St. Marin/Karrington have been presented in the consolidated statement of operations as discontinued operations in accordance with FAS 144 “Accounting for the Impairment or Disposal of Long Lived Assets.”

On May 29, 2008, the Operating Partnership completed the sale of 100% of its interest in Berkshire at Westchase Apartments in Houston, Texas. The proceeds from the sale of Westchase were deposited in the Company’s operating account for its operating use. The operating results of Berkshire at Westchase have been presented in the consolidated statement of operations as discontinued operations in accordance with FAS 144 “Accounting for the Impairment or Disposal of Long Lived Assets.”

Recent Accounting Pronouncements

In September 2006, the FASB issued Statement of Financial Accounting Standards No. 157, "Fair Value Measurements" ("SFAS No. 157"). SFAS No. 157 provides guidance for, among other things, the definition of fair value and the methods used to measure fair value. The provisions of SFAS No. 157 are effective for fiscal years beginning after November 15, 2007. In February 2008, the FASB deferred the effective date of SFAS No. 157 until January 1, 2009 for all non-financial assets and non-financial liabilities except those that are recognized or disclosed at fair value in the financial statements on a recurring basis. The Company adopted SFAS No. 157 as of January 1, 2008. The Company has assessed the impact of SFAS No. 157 and has determined that the adoption of SFAS No. 157 did not have a material impact on the financial position or operating results of the Company. Additionally, the Company is assessing the potential impact that the adoption of SFAS No. 157 may have on non-financial assets and non-financial liabilities.

In February 2007, the FASB issued Statement of Financial Accounting Standards No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities – Including an amendment of FASB Statement No. 115" ("SFAS No. 159"). SFAS No. 159 permits entities to choose to measure many financial instruments and certain other items at fair value. The provisions of SFAS No. 159 are effective for fiscal years beginning after November 15, 2007. The Company adopted SFAS No. 159 as of January 1, 2008 and has not opted to fair value any assets or liabilities as of September 30, 2008. The Company has assessed the impact of SFAS No. 159 and, based on not fair valuing any assets or liabilities as of September 30, 2008, has determined that the adoption of SFAS No. 159 did not have a material impact on the financial position or operating results of the Company.

In December 2007, the FASB issued Statement of Financial Accounting Standards No. 141(R), Business Combinations (“SFAS 141R”), which is intended to improve reporting by creating greater consistency in the accounting and financial reporting of business combinations. SFAS No. 141R establishes principles and requirements for how the acquiring entity shall recognize and measure in its financial statements the identifiable assets acquired, liabilities assumed, any non-controlling interest in the acquired entity and goodwill acquired in a business combination. This statement is effective for business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after December 15, 2008. The Company is assessing the potential impact that the adoption of SFAS No. 141R may have on its financial position and results of operations.

In December 2007, the FASB issued Statement of Financial Accounting Standards No. 160, Noncontrolling Interests in Consolidated Financial Statements – an amendment of ARB No. 51 (“SFAS No. 160”), which is intended to improve the relevance, comparability, and transparency of financial information provided to investors by establishing and expanding accounting and reporting standards for minority interests in a subsidiary. This statement is effective for fiscal years beginning on or after December 15, 2008. The Company is currently assessing the potential impact that the adoption of SFAS No. 160 may have on its financial position and results of operations.

Unaudited interim consolidated financial statements

The accompanying interim consolidated financial statements of the Company are unaudited; however, the consolidated financial statements have been prepared in accordance with the accounting principles generally accepted in the United States of America (“GAAP”) for interim financial information and in conjunction with the rules and regulations of the Securities and Exchange Commission (the “SEC”). Accordingly, certain disclosures accompanying annual financial statements prepared in accordance with GAAP are omitted. In the opinion of management, all adjustments (consisting solely of normal recurring matters) necessary for a fair statement for the interim periods have been included. The results of operations for the interim periods are not necessarily indicative of the results to be obtained for other interim periods or for the full fiscal year. The interim financial statements and notes thereto should be read in conjunction with the Company’s financial statements and notes thereto included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2007.

Consolidated statements of Comprehensive Income (Loss)

For the nine months ended September 30, 2008 and 2007, comprehensive loss equaled net loss. Therefore, the Consolidated Statement of Comprehensive Income and Loss required to be presented has been omitted from the consolidated financial statements.

Reclassifications

Certain prior period balances have been reclassified in order to conform to the current period presentation.

2. MULTIFAMILY APARTMENT COMMUNITIES

The following summarizes the carrying value of the Company’s multifamily apartment communities:

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| | September 30, 2008 | December 31, 2007 |
|---|-----------------------|----------------------|
| Land | \$ 63,092,313 | \$ 63,636,289 |
| Buildings, improvements and personal property | 553,596,879 | 544,868,833 |
| Multifamily apartment communities | 616,689,192 | 608,505,122 |
| Accumulated depreciation | (154,285,956) | (144,240,061) |
| Multifamily apartment communities, net | \$ 462,403,236 | \$ 464,265,061 |

The Company accounts for its acquisitions of investments in real estate in accordance with Statement of Financial Accounting Standards (SFAS) No. 141(R), Business Combinations, which requires the fair value of the real estate acquired to be allocated to the acquired tangible assets, consisting of land, building, furniture, fixtures and equipment and identified intangible assets and liabilities, consisting of the value of the above-market and below-market leases, the value of in-place leases and the value of other tenant relationships, based in each case on their fair values. The value of in-place leases and tenant relationships are amortized over the specific expiration dates of the in-place leases over a period of 12 months and the tenant relationships are based on the straight-line method of amortization over a 24-month period.

Discontinued Operations

On May 30, 2007 and June 22, 2007 the Operating Partnership completed the sale of 100% of the fee simple interest of the Trellis at Lee's Mill ("Trellis") and the Dorsey's Forge ("Dorsey's") properties, respectively. The assets and liabilities related to the sale of the properties were removed from the accounts of the Company pursuant to the recording of the sale of the property.

On April 28, 2008 and May 29, 2008 the Operating Partnership completed the sale of 100% of the fee simple interest of the St. Marin/Karrington ("St. Marin") and Berkshire at Westchase ("Westchase") properties, respectively. The assets and liabilities related to the sale of the properties were removed from the accounts of the Company pursuant to the recording of the sale of the properties. The net proceeds from the sales of St. Marin and Westchase are in the amount of \$29,428,835 and \$4,937,736, respectively.

The results of operations for Trellis, Dorsey's, St. Marin and Westchase properties have been restated and are presented as results from discontinued operations in the statement of operations for the three and nine months ended September 30, 2008 and 2007, respectively, pursuant to FASB No. 144 – "Accounting for the Impairment or Disposal of Long-Lived Assets".

The operating results of discontinued operations for the three and nine months ended September 30, 2008 and 2007 are presented in the following table.

| | Three months ended | | Nine months | |
|-----------------------|--------------------|---------------|--------------|--------------|
| | ended | September 30, | 2008 | September |
| | 30, | 2007 | 2008 | 2007 |
| | 2008 | | | |
| Revenue: | | | | |
| Rental | \$ 157 | \$ 2,072,461 | \$ 2,849,651 | \$ 8,038,726 |
| Interest | - | 856 | - | 2,323 |
| Utility reimbursement | 49 | 47,092 | 96,474 | 163,495 |
| Other | 1,275 | 125,199 | 165,236 | 406,327 |

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| | | | | |
|---|-------------|--------------|----------------|----------------|
| Total revenue | 1,481 | 2,245,608 | 3,111,361 | 8,610,871 |
| Expenses: | | | | |
| Operating | 5,411 | 515,891 | 726,283 | 2,047,268 |
| Maintenance | 8,586 | 135,890 | 156,493 | 667,104 |
| Real estate taxes | - | 377,514 | 765,263 | 1,314,965 |
| General and administrative | 3,329 | 56,545 | 105,684 | 198,021 |
| Management fees | 56 | 84,402 | 121,702 | 336,327 |
| Depreciation | - | 691,505 | 982,405 | 2,617,509 |
| Loss on early extinguishment of debt | - | - | 819,914 | 566,290 |
| Interest | - | 489,795 | 649,332 | 2,088,214 |
| Amortization of acquired in-place leases and tenant relationships | - | - | - | 5,729 |
| Total expenses | 17,382 | 2,351,542 | 4,327,076 | 9,841,427 |
| Loss from discontinued operations | \$ (15,901) | \$ (105,934) | \$ (1,215,715) | \$ (1,230,556) |

On September 13, 2008, the Company sustained varying degrees of damage from Hurricane Ike to four of its Houston area properties. The Walden Pond property suffered the greatest damage estimated at approximately \$2.5 million of which the Company will be responsible for a \$570,000 insurance deductible. The Company has incurred approximately \$225,000 of clean-up and emergency repair expense and has begun the process of renovating units damaged by the storm. As of September 30, 2008, the Company has written-off an estimated net book value of approximately \$1.0 million for assets damaged by the storm and recorded a like amount for insurance proceeds receivable.

3. INVESTMENT IN MULTIFAMILY LIMITED PARTNERSHIP VENTURE

On August 12, 2005, the Company, together with affiliates and other unaffiliated parties, entered into a subscription agreement to invest in the Berkshire Multifamily Value Fund, L.P. (“BVF”), an affiliate of Berkshire Property Advisors, L.L.C. (“Berkshire Advisor” or the “Advisor”). Under the terms of the agreement and the related limited partnership agreement, the Company and its affiliates agreed to invest up to \$25,000,000, or approximately 7%, of the total capital of the partnership. The Company’s final commitment under the subscription agreement with BVF totals \$23,400,000. BVF’s investment strategy is to acquire middle-market properties where there is an opportunity to add value through repositioning or rehabilitation. Under the terms of the BVF partnership agreement, the Company’s ability to acquire additional properties is restricted to the two following conditions: (1) the Company can invest up to \$8,000,000 per year in new properties from available cash or cash generated from the refinancing of existing properties, for a period of up to thirty-nine months, at which time such restriction will lapse, and (2) the Company is authorized to sell existing properties and reinvest those proceeds through transactions structured to comply with 1031 Exchanges under the Tax Code, without limit.

The managing partner of BVF is an affiliate of the Company. The Company has evaluated its investment in BVF and concluded that the investment, although subject to the requirements of FIN 46R, will not require the Company to consolidate the activity of BVF as the Company has determined that it is not the primary beneficiary of the venture as defined in FIN 46R.

In relation to its investment in BVF, the Company has elected to adopt a three-month lag period in which it recognizes its share of the equity earnings of BVF in arrears. The lag period is allowed under the provisions of Accounting Principles Board Opinion No. 18 (as Amended) – The Equity Method of Accounting for Investments in Common Stock Statement of Position 78-9 (“APB No.18”), and is necessary in order for the Company to consistently meet its regulatory filing deadlines. As of September 30, 2008 and December 31, 2007, the Company has accounted for its share of the equity in BVF operating activity through June 30, 2008 and September 30, 2007, respectively.

On September 12, 2008, the Company received notice of the tenth capital call by BVF, an affiliate of the Company. The capital call represented 3.0%, or \$700,075, of the total \$23,400,000 capital committed to BVF by the Company. The contribution was paid to BVF on September 26, 2008 and brought the total direct investment by the Company in BVF to \$21,772,326, or 93.0% of the total committed capital amount of \$23,400,000.

The summarized statement of assets, liabilities and partners’ capital of BVF is as follows:

| ASSETS | June 30, 2008 | September 30, 2007 |
|--|------------------|-----------------------|
| Multifamily apartment communities, net | \$ 1,211,225,683 | \$ 997,654,798 |
| Cash and cash equivalents | 18,263,905 | 6,649,923 |
| Other assets | 28,060,991 | 39,121,557 |

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| | | |
|---|------------------|------------------|
| Total assets | \$ 1,257,550,579 | \$ 1,043,426,278 |
| LIABILITIES AND PARTNERS' CAPITAL | | |
| Mortgage notes payable | \$ 940,001,601 | \$ 736,027,766 |
| Revolving credit facility | 66,900,000 | 69,000,000 |
| Other liabilities | 19,590,312 | 24,014,923 |
| Minority interest | 37,162,633 | 19,121,730 |
| Partners' capital | 193,896,033 | 195,261,859 |
| Total liabilities and partners' capital | \$ 1,257,550,579 | \$ 1,043,426,278 |
| Company's share of partners' capital | \$ 13,574,169 | \$ 13,669,787 |
| Basis differential (1) | 1,304,470 | 3,124,663 |
| Carrying value of the Company's investment in Multifamily Limited Partnership | \$ 14,878,639 | \$ 16,794,450 |

1) - This amount represents the difference between the Company's investment in BVF and its share of the underlying equity in the net assets of BVF (adjusted to conform with GAAP) including the timing of the lag period, as described above. At June 30, 2008 and September 30, 2007, the differential related mainly to the contribution of capital made by the Operating Partnership, in the amount of \$700,075 and \$3,710,396, to BVF during the third quarter of 2008 and the fourth quarter of 2007, respectively. Additionally, \$583,240 represents the Company's share of syndication costs incurred by BVF that the Company was not required to fund via a separate capital call.

The summarized statement of operations of BVF for the three and nine months ended June 30, 2008 and 2007 is as follows:

| | Three months ended | | Nine months | |
|---|--------------------|-----------------|-----------------|-----------------|
| | ended | June 30, | | June |
| | 30, | | 2008 | 2007 |
| Revenue | \$ 34,974,846 | \$ 20,728,213 | \$ 97,489,967 | \$ 57,905,757 |
| Expenses | (53,113,608) | (32,332,729) | (147,198,499) | (90,276,721) |
| Minority interest | 2,910,918 | 1,110,268 | 6,764,119 | 3,339,178 |
| Gain on sale of properties | - | - | 5,578,590 | - |
| Net loss attributable to investment | \$ (15,227,844) | \$ (10,494,248) | \$ (37,365,823) | \$ (29,031,786) |
| Equity in loss of Multifamily Limited Partnership | \$ (1,066,063) | \$ (734,676) | \$ (2,615,887) | \$ (2,032,442) |

4. INVESTMENT IN MEZZANINE LOAN LIMITED LIABILITY COMPANY

On June 19, 2008, the Company through its wholly owned subsidiary BIR Blackrock, L.L.C., entered into a subscription agreement to invest in the Leggat McCall Hingham Mezzanine Loan LLC, a Massachusetts Limited Liability Company (the "Mezzanine Loan LLC"). Under the terms of the agreement, the Company agreed to invest up to \$1,425,000, or approximately 41%, of the total capital of the investment in order to subscribe for 14.25 units of Mezzanine Loan LLC. The Company has funded \$855,000, or 60% of its commitment as of September 30, 2008. During the period ended September 30, 2008, the Company recorded \$49,192 of equity in income of the Mezzanine Loan LLC. The carrying value of the Company's investment in the Mezzanine Loan LLC was \$904,192 at September 30, 2008.

The Company has evaluated its investment in Mezzanine Loan LLC and concluded that the investment, although subject to the requirements of FIN 46R, will not require the Company to consolidate the activity of Mezzanine Loan LLC as the Company has determined that it is not the primary beneficiary of the venture as defined in FIN 46R. The Company accounted for its investment in Mezzanine Loan LLC under the equity method of accounting in accordance with the provisions of paragraph 19 of APB No.18.

5. MORTGAGE NOTES PAYABLE

On January 25, 2008, the Company, through its wholly owned subsidiary BIR Arboretum Development L.L.C., executed a fixed rate first mortgage note for \$13,650,000, which is collateralized by the related property. The proceeds of the loan will be used to build a multifamily apartment community on a parcel of land adjacent to the Arboretum Place Apartments, a multifamily apartment community also owned by the Company. The interest rate on the note is fixed at 6.20% and has a term of 7 years, including a 2 year construction period and 5 years of permanent financing. The loan is a non-drawn mortgage note and was granted with equity requirements that provide for the Company to make an equity investment of \$5,458,671, inclusive of land equity of \$2,150,000, in the project. On September 12, 2008, the Company submitted the first construction loan draw to the lender for the Arboretum Land development project totaling \$3,371,836. As of September 30, 2008, there have been no advances on this mortgage. The Company will continue to draw on this mortgage in the fourth quarter of 2008.

On September 18, 2008, the Company, through its wholly owned subsidiary, BIR Executive House, L.P., in connection with the acquisition of Executive House Apartments, assumed a first and second non-recourse mortgage note payable with then outstanding balances of \$27,000,000 and \$3,665,374, which are collateralized by the related property. The interest rates on the notes are fixed at 5.515% and 5.99%, respectively, for terms of approximately 7 and 4 years, respectively. The first mortgage note requires monthly payments of \$153,557 of principal and interest after seven payments of interest only and the second mortgage note requires monthly payments of \$22,160 of principal and interest. In accordance with FAS 141, "Business Combinations", the Company recorded the mortgages at their carrying value as the fair value, which was determined by calculating the present value of the future payments at current interest rates, approximated carrying value.

6. REVOLVING CREDIT FACILITY - AFFILIATE

On June 30, 2005, the Company obtained financing in the form of a revolving credit facility in the amount of \$20,000,000. The revolving credit facility was provided by an affiliate of the Company. The revolving credit facility provides for interest on borrowings at a rate of 5% above the 30 day LIBOR rate, as announced by Reuter's, and fees based on borrowings under the revolving credit facility and various operational and financial covenants, including a maximum leverage ratio and a maximum debt service ratio. The agreement had a maturity date of December 31, 2006, with a one-time six-month extension available at the option of the Company. The terms of the revolving credit facility were agreed upon through negotiations and were approved by the Audit Committee of the Board, which is comprised solely of directors who are independent under applicable rules and regulations of the SEC and the American Stock Exchange.

On October 30, 2006, the Company exercised its contractual option to extend the maturity date on the revolving credit facility available from the affiliate. The Company sent notice to the affiliate, pursuant to the credit agreement, to extend the maturity date of the revolving credit facility to June 30, 2007.

On May 31, 2007, the Company executed an amendment to the agreement. The amendment provides for an extension of the maturity date by replacing the maturity date of June 30, 2007 with a 60-day notice of termination provision by which the lender can affect a termination of the commitment under the Agreement and render all outstanding amounts due and payable. The amendment also adds a clean-up requirement to the Agreement, which requires the Company to repay in full all outstanding loans and have no outstanding obligations under the Agreement for a 14 consecutive day period during each 365-day period. This requirement has been satisfied for the initial 365-day period starting on June 1, 2007.

During the nine months ended September 30, 2008 and 2007, the Company borrowed \$15,000,000 and \$37,500,000, respectively, under the revolving credit facility related to the acquisition activities of the Company and repaid advances of \$5,000,000 and \$37,500,000 respectively, during the same periods. There was \$10,000,000 and \$0 of borrowings outstanding as of September 30, 2008 and December 31, 2007, respectively, under the facility. The Company incurred interest and fees of \$51,615 and \$676,400 related to the revolving credit facility during the nine months ended September 30, 2008 and 2007, respectively. The Company currently expects to repay the loan in the fourth quarter of 2008 from proceeds of the sale of properties currently under contract to be sold.

7. STOCKHOLDERS' EQUITY

On March 25, 2003, the Board declared a dividend at an annual rate of 9%, on the stated liquidation preference of \$25 per share of the outstanding Preferred Shares which is payable quarterly in arrears, on February 15, May 15, August 15, and November 15 of each year to shareholders of record in the amount of \$0.5625 per share per quarter. The first quarterly dividend paid on May 15, 2003 was prorated to reflect the issue date of the Preferred Shares. For the nine months ended September 30, 2008 and 2007, the Company's aggregate dividends on the Preferred Shares totaled \$5,025,540 and \$5,025,595, respectively, of which \$837,607 was payable and included on the balance sheet in Dividends and Distributions Payable as of September 30, 2008 and December 31, 2007.

On November 11, 2007, the Board authorized the general partner of the Operating Partnership to distribute quarterly distributions of \$1,000,000 each, in the aggregate, from its operating cash flows to common general and common limited partners, payable on February 15, 2008 and May 15, 2008. On the same day, the Board also declared a common dividend of \$0.016996 per share on the Company's Class B common stock payable concurrently with the Operating Partnership distributions.

On May 6, 2008, the Board authorized the general partner of the Operating Partnership to distribute quarterly distributions of \$1,000,000 each, in the aggregate, from its operating cash flows to common general and common limited partners, payable on August 15, 2008 and November 15, 2008. On the same day, the Board also declared a common dividend of \$0.016996 per share on the Company's Class B common stock payable concurrently with the Operating Partnership distributions.

On May 6, 2008, the Board authorized the general partner of the Operating Partnership to distribute a special distribution of \$10,000,000 from the proceeds of the sale of St. Marin to common general and common limited partners, payable on May 15, 2008. On the same day, the Board also declared a common dividend of \$0.169960 per share on the Company's Class B common stock payable concurrently with the Operating Partnership distributions.

For the nine months ended September 30, 2008 and 2007, the Company's aggregate distributions and dividends to common general and common limited partners and Class B common stockholders totaled \$13,000,000 and \$3,000,000, respectively, of which \$1,000,000 was payable and included on the balance sheet in Dividends and Distributions Payable as of September 30, 2008 and December 31, 2007.

The Company's policy to provide for common distributions is based on available cash and Board approval.

8. EARNINGS PER SHARE

Net income (loss) per common share, basic and diluted, is computed as net income (loss) available to common shareholders divided by the weighted average number of common shares outstanding during the applicable period, basic and diluted.

The reconciliation of the basic and diluted earnings per common share for the three and nine months ended September 30, 2008 and 2007 follows:

| | Three months ended September 30, | | Nine months ended September 30, | |
|---|-------------------------------------|----------------|------------------------------------|-----------------|
| | 2008 | 2007 | 2008 | 2007 |
| Net income (loss) from continuing operations | \$ (7,129,249) | \$ (6,990,214) | \$ (30,764,289) | \$ (21,776,564) |
| Less: Preferred dividends | (1,675,144) | (1,675,197) | (5,025,539) | (5,025,595) |
| Net income (loss) from continuing operations available to common shareholders | \$ (8,804,393) | \$ (8,665,411) | \$ (35,789,828) | \$ (26,802,159) |
| Net income (loss) from discontinued operations | \$ (12,310) | \$ (117,301) | \$ 25,819,774 | \$ 30,880,683 |
| Net income (loss) available to common shareholders | \$ (8,816,703) | \$ (8,782,712) | \$ (9,970,054) | \$ 4,078,524 |
| Weighted average number of common shares outstanding, basic and diluted | 1,406,196 | 1,406,196 | 1,406,196 | 1,406,196 |
| Net income (loss) from continuing operations per common share available to common shareholders, basic and diluted | \$ (6.26) | \$ (6.16) | \$ (25.45) | \$ (19.06) |
| Net income (loss) from discontinued operations per common share available to common shareholders, basic and diluted | \$ (0.01) | \$ (0.08) | \$ 18.36 | \$ 21.96 |
| Net income (loss) per common share available to common shareholders, basic and diluted | \$ (6.27) | \$ (6.24) | \$ (7.09) | \$ 2.90 |

For the nine months ended September 30, 2008 and 2007, the Company did not have any common stock equivalents; therefore basic and dilutive earnings per share were the same.

9. COMMITMENTS AND CONTINGENCIES

The Company is party to certain legal actions arising in the ordinary course of its business, such as those relating to tenant issues. All such proceedings taken together are not expected to have a material adverse effect on the Company. While the resolution of these matters cannot be predicted with certainty, management believes that the final outcome of such legal proceedings and claims will not have a material adverse effect on the Company's liquidity, financial position or results of operations.

10. RELATED PARTY TRANSACTIONS

Amounts accrued or paid to the Company's affiliates are as follows:

| | Three months ended | | Nine months | |
|---------------------------------------|--------------------|--------------|---------------|---------------|
| | ended | | September, | |
| | 2008 | 2007 | 2008 | 2007 |
| Property management fees | \$ 787,621 | \$ 848,434 | \$ 2,440,855 | \$ 2,526,575 |
| Expense reimbursements | 48,975 | 62,739 | 146,925 | 188,217 |
| Salary reimbursements | 2,152,324 | 2,306,373 | 6,723,247 | 7,106,483 |
| Asset management fees | 418,360 | 418,360 | 1,255,081 | 1,255,079 |
| Construction management fees | 141,423 | 229,030 | 360,428 | 545,693 |
| Development fees | 127,000 | 100,000 | 381,000 | 300,000 |
| Acquisition fees | 500,000 | - | 500,000 | 447,500 |
| Interest on revolving credit facility | 29,128 | 116,100 | 51,615 | 676,400 |
| Total | \$ 4,204,831 | \$ 4,081,036 | \$ 11,859,151 | \$ 13,045,947 |

Amounts due to affiliates of \$2,634,120 and \$2,891,791 are included in Due to affiliates at September 30, 2008 and December 31, 2007, respectively, in the accompanying Consolidated Balance Sheets.

Amounts due from affiliates of \$658,696 and \$939,244 are included in Due to affiliates at September 30, 2008 and December 31, 2007, respectively, in the accompanying Consolidated Balance Sheets.

Amounts due to affiliates of \$1,975,424 and \$1,952,547 at September 30, 2008 and December 31, 2007, respectively, represent intercompany development fees and related party reimbursements.

The Company pays property management fees to an affiliate for property management services. The fees are payable at a rate of 4% of gross income.

The Company pays asset management fees to an affiliate, Berkshire Advisor, for asset management services. These fees are payable quarterly, in arrears, and may be paid only after all distributions currently payable on the Company's Preferred Shares have been paid. Effective April 4, 2003, under the advisory services agreement, the Company will pay Berkshire Advisor an annual asset management fee equal to 0.40%, up to a maximum of \$1,600,000 in any calendar year, as per an amendment to the management agreement, of the purchase price of real estate properties owned by the Company, as adjusted from time to time to reflect the then current fair market value of the properties. The purchase price is defined as the capitalized basis of an asset under GAAP, including renovation or new construction costs, costs of acquisition or other items paid or received that would be considered an adjustment to basis. Annual asset management fees earned by the affiliate in excess of the \$1,600,000 maximum payable by the Company represent fees incurred and paid by the minority partners in the properties. The Company also reimburses affiliates for certain expenses incurred in connection with the operation of the properties, including administrative expenses and salary reimbursements.

The Company pays acquisition fees to an affiliate, Berkshire Advisor, for acquisition services. These fees are payable upon the closing of an acquisition of real property. The fee is equal to 1% of the purchase price of any new property acquired directly or indirectly by the Company. The purchase price is defined as the capitalized basis of an asset under GAAP, including renovations or new construction costs, cost of acquisition or other items paid or received that would be considered an adjustment to basis. The purchase price does not include acquisition fees and capital costs of a recurring nature. During the quarter ended September 30, 2008, the Company paid a \$500,000 acquisition fee in relation to the acquisition of Executive House.

The Company pays a construction management fee to an affiliate, Berkshire Advisor, for services related to the management and oversight of renovation and rehabilitation projects at its properties. The Company paid or accrued \$360,428 and \$545,693 in construction management fees for the nine months ended September 30, 2008 and 2007, respectively. The fees are capitalized as part of the project cost in the year they are incurred.

The Company pays development fees to an affiliate, Berkshire Residential Development, for property development services. As of September 30, 2008, the Company has one property under development and has incurred fees totaling \$381,000 and \$300,000 in the nine month period ended September 30, 2008 and 2007, respectively. The fees, all of which are related to the development phase as the project is currently under construction, are based on the project's development/construction costs. As of September 30, 2008, \$0 has been paid to the affiliate for the current year fees and \$381,000 remained payable related to the Arboretum Land development project.

During the nine months ended September 30, 2008 and 2007, the Company borrowed \$15,000,000 and \$37,500,000 respectively, related to the acquisition activities of the Company and repaid advances of \$5,000,000 and \$37,500,000 respectively. There was \$10,000,000 and \$0 of borrowings outstanding as of September 30, 2008 and December 31,

2007, respectively. The Company incurred interest and fees of \$51,615 and \$676,400 related to the revolving credit facility during the nine months ended September 30, 2008 and 2007, respectively.

11. LEGAL PROCEEDINGS

The Company is currently party to a legal proceeding initiated by a seller/developer from whom the Company acquired a property in 2005. The dispute involves the interpretation of certain provisions of the purchase and sales agreement related to post acquisition construction activities. Specifically, the purchase and sales agreement provided that if certain conditions were met, the seller/developer would develop a vacant parcel of land contiguous to the acquired property with 18 new residential apartment units (the "New Units") for the benefit of the Company at an agreed-upon price. The purchase and sales agreement also provided the opportunity for the seller/developer to build a limited number of garages (the "Garages") for the existing apartment units for the benefit of the Company at an agreed-upon price.

In 2006, the Company accrued \$190,000 with respect to the New Units matter based on a settlement offer extended to the plaintiff, which was not accepted at that time. On November 9, 2007, the judge issued a summary judgment against the Company with respect to the construction of the New Units. On February 13, 2008, the court entered judgment related to the New Units on the seller/developer's behalf awarding them a judgment in the amount of \$774,292 for costs and damages. The Company believes that there are reasonable grounds for appeal of this ruling and is pursuing an appeal of the judgment awarded by the court.

As of September 30, 2008 and December 31, 2007, respectively, the Company did not increase its accrual of \$190,000 related to the New Units matter as it is moving forward with an appeal of the judgment awarded by the court. Based on the court's award of damages in the amount of \$774,292, if the appeal were to be unsuccessful, the Company would record an additional cost of \$584,292 related to the New Units matter, the amount in excess of the \$190,000 accrued as of September 30, 2008.

The Company settled the matter related to the Garages and has executed a contract with the seller/developer for the construction of 48 Garages at an aggregate cost of \$740,000. As of September 30, 2008, the garage construction project was in process and scheduled to be completed in the fourth quarter of 2008.

The Company and our properties are not subject to any other material pending legal proceedings.

12. SUBSEQUENT EVENTS

On October 20, 2008, the Company, through its wholly owned subsidiary, BIR Briarwood Limited Partnership, executed a non-recourse mortgage note payable on the Berkshires at Briarwood Village Apartments for \$13,200,000, which is collateralized by the related property. The interest rate on the note is fixed at 6.43% for a term of 10 years. The note requires interest only payments for the first 24 months and matures on October 1, 2018, at which time the remaining principal and accrued interest is due. The note may be prepaid, subject to a prepayment penalty, at anytime with 30 days of notice. The new mortgage debt is a replacement for debt \$8,575,364 that matured in April 2008.

On October 27, 2008, the Company repaid an advance of \$7,500,000 under the revolving credit facility available from an affiliate and reduced the outstanding borrowing balance to \$2,500,000.

On October 29, 2008, the Operating Partnership completed the sale of 100% of its interest in Century Apartments in Cockeysville, Maryland. The selling price was \$52,000,000 and subject to normal closing costs and operating prorations. The Company's portion of the net proceeds from the sale of Century was deposited in the Company's operating account for its operating use.

Item 2 MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS OF BERKSHIRE INCOME REALTY, INC

You should read the following discussion in conjunction with Berkshire Income Realty, Inc's (the "Company") consolidated financial statements and their related notes and other financial information included in this report. For further information please refer to the Company's consolidated financial statements and footnotes thereto included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007.

Forward Looking Statements

Certain statements contained in this report, including information with respect to our future business plans, constitute "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). For this purpose, any statements contained herein that are not statements of historical fact may be deemed to be forward-looking statements, subject to a number of risks and uncertainties that could cause actual results to differ significantly from those described in this report. These forward-looking statements include statements regarding, among other things, our business strategy and operations, future expansion plans, future prospects, financial position, anticipated revenues or losses and projected costs, and objectives of management. Without limiting the foregoing, the words "may," "will," "should," "could," "expect," "plans," "anticipates," "believes," "estimates," "predicts," "potential" or "continue" or the negative of such terms and comparable terminology are intended to identify forward-looking statements. There are a number of important factors that could cause our results to differ materially from those indicated by such forward-looking statements. These factors include, but are not limited to, changes in economic conditions generally and the real estate and bond markets specifically, legislative/regulatory changes (including changes to laws governing the taxation of real estate investment trusts ("REITs")), possible sales of assets, the acquisition restrictions placed on the Company by its investment in Berkshire Multifamily Value Fund, LP, ("BVF" or the "Fund"), the acquisition restrictions placed on the Company by an affiliated entity Berkshire Multifamily Value Fund II, LP, ("BVF II" or "Fund II"), availability of capital, interest rates and interest rate spreads, changes in accounting principles generally accepted in the United States of America ("GAAP") and policies and guidelines applicable to REITs, those factors set forth in Part I, Item 1A "Risk Factors" of the Company's Annual Report on Form 10-K for the year ended December 31, 2007 filed with the SEC and other risks and uncertainties as may be detailed from time to time in our public announcements and our reports filed with the Securities and Exchange Commission (the "SEC").

The foregoing risks are not exhaustive. Other sections of this report may include additional factors that could adversely affect our business and financial performance. Moreover, we operate in a competitive and rapidly changing environment. New risk factors emerge from time to time and it is not possible for management to predict all such risks factors, nor can it 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, undue reliance should not be placed on forward-looking statements as a prediction of actual results.

Current economic conditions have lead to instability and tightening in the credit markets and have lead to increases in spreads and the related pricing of secured and unsecured debt. Prolonged interest rate increases could negatively impact the Company's ability to make future acquisitions, develop or renovate properties or refinance existing debt at acceptable rates. Additionally, prospective buyers of our properties may also have difficulty obtaining debt which might make it more difficult for the Company to sell properties a acceptable pricing levels. Continued disruptions in the credit markets may also indirectly adverse effects on the Company's operations or the overall economy in which it operates.

As used herein, the terms “we”, “us” or the “Company” refer to Berkshire Income Realty, Inc, a Maryland corporation, incorporated on July 19, 2002. The Company is in the business of acquiring, owning, operating and renovating multifamily apartment communities. Berkshire Property Advisors, L.L.C. (“Berkshire Advisor” or “Advisor”) is an affiliated entity we have contracted with to make decisions relating to the day-to-day management and operation of our business, subject to the Company’s Board of Directors’ (“Board”) oversight. Refer to Item 13 – Certain Relationships and Related Transactions and Director Independence and Notes to the Consolidated Financial Statements, Note 13 –Related Party Transactions of the Company’s Annual Report on Form 10-K for the year ended December 31, 2007 filed with the SEC for additional information about the Advisor.

Overview

The Company is engaged primarily in the ownership, acquisition, operation and rehabilitation of multifamily apartment communities in the Baltimore/Washington D.C., Southeast, Southwest, Northwest and Midwest areas of the United States. We conduct substantially all of our business and own, either directly or through subsidiaries, substantially all of our assets through Berkshire Income Realty – OP, L.P. (the “Operating Partnership”), a Delaware limited partnership. The Company’s wholly owned subsidiary, BIR GP, L.L.C., a Delaware limited liability company, is the sole general partner of the Operating Partnership.

As of November 14, 2008, the Company owns of 100% of the preferred limited partner units of the Operating Partnership, whose terms mirror the terms of the Company's Series A 9% Cumulative Redeemable Preferred Stock and, through BIR GP, L.L.C., owns 100% of the general partner interest of the Operating Partnership, which represents approximately 2.39% of the common economic interest of the Operating Partnership.

Our general and limited partner interests in the Operating Partnership entitle us to share in cash distributions from, and in the profits and losses of, the Operating Partnership in proportion to our percentage interest therein. The other partners of the Operating Partnership are affiliates who contributed their direct or indirect interests in certain properties to the Operating Partnership in exchange for common units of limited partnership interest in the Operating Partnership.

Our highlights of the nine months ended September 30, 2008 included the following:

- On January 25, 2008, the Company closed on \$13,650,000 of fixed rate mortgage debt on the development project of the Reserve at Arboretum Place. The proceeds of the borrowing will be used to build multifamily buildings on a parcel of pre-purchased land adjacent to the Arboretum Place Apartments. The loan will be a non-drawn mortgage note with a fixed interest rate of 6.20% and a term of 7 years. This loan was granted with equity requirements that the Company would provide an equity investment for the project in the amount of \$5,458,671. The amount of \$5,458,671 represented by the land and improvements are \$2,150,000 and \$3,308,671 respectively.
- On February 13, 2008, the Company had a judgment ordered against it by the court in a legal proceeding initiated by a seller/developer from whom the Company acquired a property in 2005. The judgment was for \$774,292 and represented costs and damages in the case. The Company has appealed the judgment. If the appeal were to be unsuccessful, the Company would record an additional cost of \$584,292 related to the judgment, the amount in excess of the \$190,000 accrued as of September 30, 2008. A second part of the proceeding related to the construction of garages on the property was dismissed, and the Company has executed a contract for the construction of 48 garages at an aggregate cost of \$740,000. The garage construction project is in progress and is scheduled to be complete in the fourth quarter of 2008.
- On April 10, 2008, the Company paid off the outstanding mortgage balance on the Briarwood property in the amount of \$8,600,333 on its maturity date. \$5,000,000 of the payment was funded from a draw on the revolving credit facility and \$3,600,333 of the payment was funded from available operating capital.
- On April 28, 2008, the Operating Partnership completed the sale of 100% of its interest in St. Marin/Karrington Apartments in Coppell, Texas. On May 6, 2008, the Board authorized the general partner of the Operating Partnership to distribute a portion of the proceeds from the sale of St. Marin/Karrington to the common general and common limited partners as a special distribution in the amount of \$10,000,000, payable on May 15, 2008. On the same day, the Board also declared a common dividend of \$0.169960 per share on the Company's Class B common stock payable concurrently with the Operating Partnership distribution. The company retained the balance of the proceeds in its operating account for its operating use. The operating results of St. Marin/Karrington have been presented in the consolidated statement of operations as discontinued operations in accordance with FAS 144 "Accounting for the Impairment or Disposal of Long Lived Assets."
- On May 29, 2008, the Operating Partnership completed the sale of 100% of its interest in Berkshire at Westchase Apartments in Houston, Texas. The proceeds from the sale of Berkshires at Westchase were deposited in the Company's operating account for its operating use. The operating results of

Berkshires at Westchase have been presented in the consolidated statement of operations as discontinued operations in accordance with FAS 144 "Accounting for the Impairment or Disposal of long lived Assets."

- On June 19, 2008, the Company through its wholly owned subsidiary BIR Blackrock, L.L.C., entered into a subscription agreement to invest in the Leggat McCall Hingham Mezzanine Loan LLC, a Massachusetts Limited Liability Company. Under the terms of the agreement, the Company agreed to invest up to \$1,425,000, or approximately 41%, of the total capital of the investment in order to subscribe for 14.25 units. The Company has funded \$855,000 or 60%, of its commitment as of September 30, 2008.
- On September 12, 2008, The Company received notice of an additional call of capital from BVF. The tenth investment of \$700,075, or 3.0% of the total BIR commitment, was paid on September 26, 2008. After the payment, the Company has invested \$21,772,326 or approximately 93.0% of its total commitment of \$23,400,000 to BVF.
- On September 13, 2008, the Company sustained varying degrees of damage from Hurricane Ike to four of its Houston area properties. The Walden Pond property suffered the greatest damage estimated at approximately \$2.5 million of which the Company will be responsible for a \$570,000 insurance deductible. Brompton, Briarwood and Gables all suffered minimal damage estimated at approximately \$50,000 each.
- On September 17, 2008, the Company borrowed \$10,000,000 on the revolving credit facility available from an affiliate. The proceeds of the borrowing were used in the acquisition of Executive House. The Company expects to repay the loan in the fourth quarter of 2008 from proceeds of the sale of properties subject to purchase and sale contracts at September 30, 2008.
- On September 18, 2008, the Company acquired 100% of the partnership interests in Executive House Associates, the owner of Executive House Apartments for \$50,000,000, from an unaffiliated seller. The high rise residential property is located in Philadelphia, Pennsylvania and has 302 units. The purchase price of \$50,000,000 and related closing costs consisted of a cash payment of \$20,148,140 plus the assumption of the outstanding mortgage debt secured by the property. The purchase was subject to normal operating pro rations. The cash portion of the purchase price and related closing costs were funded through a \$10,000,000 advance from the revolving credit facility available from an affiliate and available cash. The property has been designated as a qualified replacement property in the reverse 1031 exchange transaction with the pending sale of Westchester West property.
- On September 25, 2008, The Company closed on the sale of the Hampton House liquor license at a price of \$275,000. The license, which was acquired as part of the acquisition of the property, was sold as it was determined it was no longer needed for operations at the property. The proceeds from the sale were reduced by the costs relating to the sale including a 10% commission.

General

The Company detailed a number of significant trends and specific factors affecting the real estate industry in general and the Company's business in particular in Part II, Item 7 - "Management's Discussion and Analysis of Financial Condition and Results of Operations" of our Annual Report on Form 10-K for the year ended December 31, 2007. The Company believes those trends and factors continue to be relevant to the Company's performance and financial condition.

Recent Accounting Pronouncements

In September 2006, the Statement of Financial Accounting Standards issued SFAS No. 157 "Fair Value Measurements" ("SFAS No. 157"). SFAS No. 157 provides guidance for, among other things, the definition of fair value and the methods used to measure fair value. The provisions of SFAS No. 157 are effective for fiscal years beginning after November 15, 2007. In February 2008, the FASB deferred the effective date of SFAS No. 157 until January 1, 2009 for all non-financial assets and non-financial liabilities except those that are recognized or disclosed at fair value in the financial statements on a recurring basis. The Company adopted SFAS No. 157 as of January 1, 2008. The Company has assessed the impact of SFAS No. 157 and has determined that the adoption of SFAS No. 157 did not have a material impact on the financial position or operating results of the Company. Additionally, the Company is assessing the potential impact that the adoption of SFAS No. 157 may have on non-financial assets and non-financial liabilities.

In February 2007, the Statement of Financial Accounting Standards issued SFAS No. 159 "The Fair Value Option for Financial Assets and Financial Liabilities – Including an amendment of FASB Statement No. 115" ("SFAS No. 159"). SFAS No. 159 permits entities to choose to measure many financial instruments and certain other items at fair value. The provisions of SFAS No. 159 are effective for fiscal years beginning after November 15, 2007. The Company adopted SFAS No. 159 as of January 1, 2008 and has not opted to fair value any assets or liabilities as of March 31, 2008. The Company has assessed the impact of SFAS No. 159 and, based on not fair valuing any assets or liabilities as of March 31, 2008, has determined that the adoption of SFAS No. 159 did not have a material impact on the financial position or operating results of the Company.

In December 2007, the Statement of Financial Accounting Standards issued SFAS No. 141(R), Business Combinations ("SFAS 141R"), which is intended to improve reporting by creating greater consistency in the accounting and financial reporting of business combinations. SFAS No. 141R establishes principles and requirements for how the acquiring entity shall recognize and measure in its financial statements the identifiable assets acquired, liabilities assumed, any non-controlling interest in the acquired entity and goodwill acquired in a business combination. This statement is effective for business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after December 15, 2008. The Company is assessing the potential impact that the adoption of SFAS No. 141R may have on its financial position and results of operations.

In December 2007, the Statement of Financial Accounting Standards issued SFAS No. 160, Noncontrolling Interests in Consolidated Financial Statements – an amendment of ARB No. 51 ("SFAS No. 160"), which is intended to improve the relevance, comparability, and transparency of financial information provided to investors by establishing and expanding accounting and reporting standards for minority interests in a subsidiary. This statement is effective for fiscal years beginning on or after December 15, 2008. The Company is currently assessing the potential impact that the adoption of SFAS No. 160 may have on its financial position and results of operations.

Liquidity and Capital Resources

Cash and Cash Flows

As of September 30, 2008 and December 31, 2007, the Company had \$8,304,227 and \$22,479,937 of cash and cash equivalents, respectively. Cash provided and used by the Company for the three and nine month periods ended September 30, 2008 and 2007 are as follows:

| | ended | | T h r e e m o n t h s Nine months ended | |
|---|--------------|--------------|--|--------------|
| | 30, | | S e p t e m b e r September 30, | |
| | 2008 | 2007 | 2008 | 2007 |
| Cash provided by operating activities | \$ 4,908,803 | \$ 2,337,973 | \$ 9,416,673 | 8,643,025 |
| Cash provided by (used) in investing activities | (29,681,955) | 9,987,388 | 3,494,567 | (20,961,676) |
| Cash provided by (used) in financing activities | 5,876,767 | 10,435,761 | (27,086,950) | 27,780,252 |

During the nine months ended September 30, 2008, cash decreased by \$14,175,710. The main component of the overall decrease was \$27,086,950 used by financing activities of the Company, which was used for payment of mortgage notes of \$11,685,713, prepayment of a mortgage note of \$6,433,293, distributions of common and special dividends of \$13,000,000 and preferred dividends of \$5,025,539 which were partially offset by a draw on the revolving credit facility available from an affiliate of \$10,000,000. Increases in cash related to investing activities total \$3,494,567 and was mainly from the sale of St. Marin and Westchase properties which provided a total of \$41,643,556, which was offset by \$20,148,140 used to acquire Executive House and \$19,155,849 used to fund capital improvements and development at properties throughout the Company's portfolio.

The Company's principal liquidity demands are expected to be distributions to our preferred and common shareholders and Operating Partnership unitholders, capital improvements, rehabilitation projects and repairs and maintenance for the properties, acquisition of additional properties within the investment restrictions placed on it by BVF, and debt repayment and investment in the affiliated BVF. (See footnote 3 to the consolidated financial statements in Part I, Item I herein for additional information).

The Company intends to meet its short-term liquidity requirements through net cash flows provided by operating activities, cash distributions from its investments, including the Company's investments in the Multifamily Venture, and advances from the revolving credit facility. The Company considers its ability to generate cash to be adequate to meet all operating requirements and make distributions to its stockholders in accordance with the provisions of the Internal Revenue Code of 1986, as amended, applicable to REITs. Funds required to make distributions to our preferred and common shareholders and Operating Partnership unitholders that are not provided by operating activities will be supplemented by property debt financing and refinancing activities.

The Company intends to meet its long-term liquidity requirements through property debt financing and refinancing noting that prolonged interest rate increases resulting from current economic conditions could negatively impact the Company's ability to refinance existing debt at acceptable rates. As of September 30, 2008, approximately \$38,705,000 of principal, or 7.93% of the Company's outstanding mortgage debt is due to be repaid within the next four years. Of the principal amounts due during that period, only one mortgage note, in the amount of \$15,720,000, is due to mature and be repaid in full. All other payments of principal are regular monthly payments in accordance with

the loans amortization schedule. Refer to the "Debt Maturity Summary" schedule on page 31 of this "Management's Discussion and Analysis of Financial Condition and Results of Operations" discussion. Additionally, the Company may seek to expand its purchasing power through the use of venture relationships with other companies.

As of September 30, 2008, the Company has obtained fixed interest rate mortgage financing on all of the properties in the portfolio with the exception of the Briarwood property, for which it obtained fixed interest rate mortgage financing on October 20, 2008. The fixed interest rate mortgage financing also includes a fixed rate construction to permanent mortgage on the Arboretum Land Development project, a parcel of vacant land adjacent to the Arboretum Place Apartments that is currently under development and is anticipated to be complete in early 2009.

The Company has a \$20,000,000 revolving credit facility in place with an affiliate of the Company. As of September 30, 2008, the Company has \$10,000,000 borrowings outstanding on the revolving credit facility.

Capital Expenditures

The Company incurred \$3,566,961 and \$3,665,617 in recurring capital expenditures during the nine months ended September 30, 2008 and 2007, respectively. Recurring capital expenditures typically include items such as appliances, carpeting, flooring, HVAC equipment, kitchen and bath cabinets, site improvements and various exterior building improvements.

The Company incurred \$15,588,888 and \$8,896,502 in renovation and development related capital expenditures during the nine months ended September 30, 2008 and 2007, respectively. Renovation related capital expenditures generally include capital expenditures of a significant non-recurring nature, including construction management fees payable to an affiliate of the Company, where the Company expects to see a financial return on the expenditure or where the Company believes the expenditure preserves the status of a property within its sub-market.

In December 2006, the Company, as part of the decision to acquire the Standard at Lenox Park property, approved a rehabilitation project at the 375-unit property of approximately \$5,000,000 for interior and exterior improvements. As of September 30, 2008, the exterior improvements have been completed and the interior portion of the project, which includes rehabilitation of the kitchens, bathrooms, lighting and fixtures, was 90% complete as 333 of the 375 units had been completed, of which 331 units, or 99%, of those completed units have been leased. Project costs to date approximate \$4,762,000 of the total estimated costs of \$5,108,000.

In December 2007, the Company authorized the renovation of the Hampton House property, a 222 unit high-rise building. Approximately \$6,126,000 has been budgeted for 2008 for interior and exterior improvements. Exterior improvements include replacement of windows, sliding doors and balcony railings and interior improvements include updates to apartment units including rehabilitation of the kitchens, bathrooms, lighting and fixtures and updates to common areas and systems, including the lobby, hallways and updates to the buildings central systems. As of September 30, 2008, the interior renovations of the lobby and amenities are progressing. Additionally, 42 units, or 18%, of the individual apartment units have been renovated and 27 of the renovated units have been leased as of September 30, 2008. Scope changes are expected to increase the overall cost of the project by approximately \$900,000. The exterior improvements have been completed as of September 30, 2008.

The Company owns two parcels of vacant land. One parcel is the Arboretum Land which is contiguous to an existing property owned by the Company and the other is also a parcel contiguous with an existing property owned by the Company. A decision to move forward with the development of the Arboretum Land, which is contiguous with the Arboretum Place Apartments, has been made by the Company. Development plans were approved and as of November 1, 2007, the Company commenced construction on the development of the vacant land. The development plans include the construction of five buildings, containing 143 units, and a clubhouse. The project cost is estimated at \$17,000,000 and is expected to be completed in early 2009. As of September 30, 2008, project costs to date approximate \$8,211,854. The development plans include the construction of five buildings, containing 143 units, and a clubhouse. Interest costs are capitalized on development projects until construction is substantially complete. There was \$222,404 and \$0 of interest capitalized in the nine months ended September 30, 2008 and 2007, respectively.

Pursuant to terms of the mortgage debt on certain properties in the Company's portfolio, lenders require the Company to fund repair or replacement escrow accounts. The funds in the escrow accounts are disbursed to the Company upon completion of the required repairs or renovations activities. The Company is required to provide to the lender documentation evidencing the completion of the repairs, and in some cases, are subject to inspection by the lender.

The Company's capital budgets for 2008 anticipate spending approximately \$32,935,000 for ongoing rehabilitation, including the Hampton House project and development of current portfolio properties, including the Arboretum Land development project during the year. As of September 30, 2008, the Company has not committed to any new significant rehabilitation projects.

Discussion of acquisitions for the nine months ended September 30, 2008

On September 18, 2008, the Operating Partnership, through a newly formed and wholly owned subsidiary, BIR Executive House, L.P., completed the acquisition of 100% of the partnership interests in Executive House Associates, the owner of Executive House Apartments, a 302 unit multifamily apartment community located in the City of Philadelphia, Pennsylvania, from an unaffiliated third party. The purchase price of \$50,000,000 and related closing costs consisted of a cash payment of \$20,148,140 plus the assumption of the outstanding mortgage debt secured by the property. The purchase was subject to normal operating pro rations. The cash portion of the purchase price and related closing costs were funded through a \$10,000,000 advance from the revolving credit facility available from an affiliate and available cash. The acquisition of Executive House is intended to be the qualified replacement property in connection with the sale of the Westchester West property identified for replacement pursuant to a transaction structured to comply with the requirements of a reverse 1031 Exchange under the Tax Code. As required by the tax code, a qualified 1031 Exchange intermediary was retained to execute the Executive House acquisition and relinquished properties transactions. As of September 30, 2008, the purchase price allocation was final and no further adjustment is contemplated.

Discussion of dispositions for the nine months ended September 30, 2008

On April 28, 2008, the Operating Partnership completed the sale of 100% of its interest in St. Marin/Karrington Apartments in Coppell, Texas. On May 6, 2008, the Board authorized the general partner of the Operating Partnership to distribute a portion of the proceeds from the sale of St. Marin/Karrington to the common general and common limited partners as a special distribution in the amount of \$10,000,000, payable on May 15, 2008. On the same day, the Board also declared a common dividend of \$0.169960 per share on the Company's Class B common stock payable concurrently with the Operating Partnership distribution. The company retained the balance of the proceeds in its operating account for its operating use. The operating results of St. Marin/Karrington have been presented in the consolidated statement of operations as discontinued operations in accordance with FAS 144 "Accounting for the Impairment or Disposal of Long Lived Assets."

On May 29, 2008, the Operating Partnership completed the sale of 100% of its interest in Berkshire at Westchase Apartments in Houston, Texas. The proceeds from the sale of Westchase was deposited in the Company's operating account for its operating use. The operating results of Berkshire at Westchase have been presented in the consolidated statement of operations as discontinued operations in accordance with FAS 144 "Accounting for the Impairment or Disposal of Long Lived Assets."

The gain from the sale of St. Marin/Karrington and Berkshire at Westchase is reflected, on a combined basis, as gain on disposition on real estate assets in the discontinued operations section of the Consolidated Statements of Operations.

Declaration of Dividends and Distributions

On March 25, 2003, the Board declared a dividend at an annual rate of 9% on the stated liquidation preference of \$25 per share of the outstanding Preferred Shares which is payable quarterly in arrears, on February 15, May 15, August 15, and November 15 of each year to shareholders of record in the amount of \$0.5625 per share, per quarter. For the nine months ended September 30, 2008 and 2007, the Company's aggregate dividends totaled \$5,025,539 and \$5,025,595, respectively, of which \$837,607 was payable and included on the balance sheet in Dividends and Distributions Payable as of September 30, 2008 and December 31, 2007.

On November 11, 2007, the Board authorized the general partner of the Operating Partnership to distribute quarterly distributions of \$1,000,000 each, in the aggregate, from its operating cash flows to common general and common limited partners, payable on February 15, 2008 and May 15, 2008. On the same day, the Board also declared a common dividend of \$0.016996 per share on the Company's Class B common stock payable concurrently with the Operating Partnership distributions.

On May 6, 2008, the Board authorized the general partner of the Operating Partnership to distribute quarterly distributions of \$1,000,000 each, in the aggregate, from its operating cash flows to common general and common limited partners, payable on August 15, 2008 and November 15, 2008. On the same day, the Board also declared a common dividend of \$0.016996 per share on the Company's Class B common stock payable concurrently with the Operating Partnership distributions.

On May 6, 2008, the Board authorized the general partner of the Operating Partnership to distribute a special distribution of \$10,000,000 from the proceeds of the sale of St. Marin/Karrington to common general and common

limited partners, payable on May 15, 2008. On the same day, the Board also declared a common dividend of \$0.169960 per share on the Company's Class B common stock payable concurrently with the Operating Partnership distributions.

For the nine months ended September 30, 2008 and 2007, the Company's aggregate distributions and dividends paid to common general and common limited partners and Class B common stockholders totaled \$13,000,000 and \$3,000,000 respectively. Additionally, as of September 30, 2008 and December 31, 2007, \$1,000,000 of distributions are payable and included on the balance sheet in Dividends and Distributions Payable.

The Company's policy to provide for common distributions is based on available cash and Board approval.

Results of Operations and Financial Condition

During the nine months ended September 30, 2008, the Company's portfolio (the "Total Property Portfolio"), which consists of all properties acquired or placed in service and owned through September 30, 2008, was reduced by the sale of two properties-St. Marin/Karrington and Berkshire at Westchase and increased by the purchase of one property – Executive House in Philadelphia Pennsylvania. As a result of changes in the composition of the property holdings in the Total Property Portfolio over the nine-month period ended September 30, 2008, the consolidated financial statements show changes in revenue and expenses from period to period and as a result, the Company does not believe that its period-to-period financial data are comparable. Therefore, the comparison of operating results for the nine months ended September 30, 2008 and 2007 reflects the changes attributable to the properties owned by the Company throughout each period presented (the "Same Property Portfolio").

"Net Operating Income" ("NOI") falls within the definition of a "non-GAAP financial measure" as stated in Item 10(e) of Regulation S-K promulgated by the SEC and should not be considered as an alternative to net income (loss), the most directly comparable financial measure of our performance calculated and presented in accordance with GAAP. The Company believes NOI is a measure of operating results that is useful to investors to analyze the performance of a real estate company because it provides a direct measure of the operating results of the Company's multifamily apartment communities. The Company also believes it is a useful measure to facilitate the comparison of operating performance among competitors. The calculation of NOI requires classification of income statement items between operating and non-operating expenses, where operating items include only those items of revenue and expense which are directly relate to the income producing activities of the properties. We believe that to achieve a more complete understanding of the Company's performance, NOI should be compared with our reported net income (loss). Management uses NOI to evaluate the operating results of properties without reflecting the effect of capital decisions such as the issuance of mortgage debt and investments in capital items, in turn these capital decisions have an impact on interest expense and depreciation and amortization.

The most directly comparable financial measure of the Company's NOI, calculated and presented in accordance with GAAP, is net income (loss), shown on the consolidated statement of operations. For the three month period ended September 30, 2008 and 2007, net income (loss) was \$(7,141,559) and \$(7,107,515), respectively. For the nine month period ended September 30, 2008 and 2007, the net income (loss) was \$(4,944,515) and \$9,104,119, respectively. A reconciliation of the Company's NOI to net loss for the three and nine month period ended September 30, 2008 and 2007 are presented as part of the following table on pages 25 and 29.

Comparison of the three months ended September 30, 2008 to the three months ended September 30, 2007

The table below reflects selected operating information for the Same Property Portfolio. The Same Property Portfolio consists of the 23 properties acquired or placed in service on or prior to January 1, 2007 and owned through September 30, 2008.

| | 2008 | | Same Property Portfolio Three months ended September 30, Increase / (Decrease) | | % Change | |
|--|---------------|---------------|---|--|-------------|---|
| | 2008 | 2007 | | | | |
| Revenue: | | | | | | |
| Rental | \$ 17,854,080 | \$ 17,270,635 | \$ 583,445 | | 3.38 | % |
| Interest, utility reimbursement and other | 1,114,098 | 1,088,723 | 25,375 | | 2.33 | % |
| Total revenue | 18,968,178 | 18,359,358 | 608,820 | | 3.32 | % |
| Operating Expenses: | | | | | | |
| Operating | 4,342,471 | 4,324,748 | 17,723 | | 0.41 | % |
| Maintenance | 1,465,238 | 1,440,616 | 24,622 | | 1.71 | % |
| Real estate taxes | 2,020,041 | 1,782,665 | 237,376 | | 13.32 | % |
| General and administrative | 468,117 | 222,687 | 245,430 | | 110.21 | % |
| Management fees | 741,316 | 717,661 | 23,655 | | 3.30 | % |
| Total operating expenses | 9,037,183 | 8,488,377 | 548,806 | | 6.47 | % |
| Net Operating Income | 9,930,995 | 9,870,981 | 60,014 | | 0.61 | % |
| Non-operating expenses: | | | | | | |
| Depreciation | 7,133,600 | 6,962,426 | 171,174 | | 2.46 | % |
| Interest | 5,946,961 | 6,165,510 | (218,549) | | (3.54) | % |
| Amortization of acquired in-place leases and tenant relationships | 21,555 | 93,548 | (71,993) | | (76.96) | % |
| Total non-operating expenses | 13,102,116 | 13,221,484 | (119,368) | | (0.90) | % |
| Loss before minority interest in properties, equity in income (loss) of Multifamily Limited Partnership and Mezzanine Loan Limited Liability Company, minority common interest in Operating Partnership and income (loss) from discontinued operations | (3,171,121) | (3,350,503) | 179,382 | | (5.35) | % |
| Minority interest in properties | - | - | - | | - | |

| | | | | | | |
|---|---------------|----------------|------------|--------|---|--|
| Equity in income (loss) of Multifamily Limited Partnership | | | | | | |
| Equity in income (loss) of Mezzanine Loan Limited Liability Company | - | - | - | - | | |
| Minority common interest in Operating Partnership | - | - | - | - | | |
| Gain on fire damage of real estate assets | - | - | - | - | | |
| Discontinued operations | - | - | - | - | | |
| Net loss | \$ (3,171,121 | \$ (3,350,503) | \$ 179,382 | (5.35) | % | |

Comparison of the three months ended September 30, 2008 to the three months ended September 30, 2007

| | Total Property Portfolio Three months ended September 30, | | | |
|--|--|---------------|--------------------------|-------------|
| | 2008 | 2007 | Increase / (Decrease) | % Change |
| Revenue: | | | | |
| Rental | \$ 18,951,193 | \$ 18,241,631 | \$ 709,562 | 3.89% |
| Interest, utility reimbursement and other | 1,326,608 | 1,397,423 | (70,815) | (5.07)% |
| Total revenue | 20,277,801 | 19,639,054 | 638,747 | 3.25% |
| Operating Expenses: | | | | |
| Operating | 4,857,545 | 4,792,496 | 65,049 | 1.36% |
| Maintenance | 1,668,431 | 1,531,383 | 137,048 | 8.94% |
| Real estate taxes | 2,260,542 | 1,893,582 | 366,960 | 19.38% |
| General and administrative | 740,025 | 695,992 | 44,033 | 6.37% |
| Management fees | 1,205,926 | 1,182,391 | 23,535 | 1.99% |
| Total operating expenses | 10,732,469 | 10,095,844 | 636,625 | 6.31% |
| Net Operating Income | 9,545,332 | 9,543,210 | 2,122 | 0.02% |
| Non-operating expenses: | | | | |
| Depreciation | 7,787,657 | 7,496,275 | 291,382 | 3.89% |
| Interest | 6,554,605 | 6,871,780 | (317,175) | (4.62)% |
| Amortization of acquired in-place leases and tenant relationships | 128,987 | 281,872 | (152,885) | (54.24)% |
| Total non-operating expenses | 14,471,249 | 14,649,927 | (178,678) | (1.22)% |
| Loss before minority interest in properties, equity in income (loss) of Multifamily Limited Partnership and Mezzanine Loan Limited Liability Company, minority common interest in Operating Partnership and income (loss) from discontinued operations | (4,925,917) | (5,106,717) | 180,800 | (3.54)% |
| Minority interest in properties | (204,270) | (168,000) | (36,270) | (21.59)% |
| Equity in income (loss) of Multifamily Limited Partnership | (1,066,063) | (739,397) | (326,666) | 44.18% |
| Equity in income (loss) of Mezzanine Loan Limited Liability Company | 43,101 | - | 43,101 | 100.00% |
| Minority common interest in Operating Partnership | (976,100) | (976,100) | - | -% |

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| | | | | |
|-------------------------|----------------|----------------|-------------|----------|
| Discontinued operations | (12,310) | (117,301) | 104,991 | (89.51)% |
| Net income (loss) | \$ (7,141,559) | \$ (7,107,515) | \$ (34,044) | 0.48% |

Comparison of the three months ended September 30, 2008 to the three months ended September 30, 2007
(Same Property Portfolio)

Revenue

Rental Revenue

Rental revenue of the Same Property Portfolio increased for the three-month period ended September 30, 2008 in comparison to the similar period of 2007. The majority of the increase is attributable mainly to properties that have completed major renovations in 2007 and are leasing the newly renovated units at premium rent levels and with rising occupancy levels at the properties following the completion of the rehabilitation projects. Properties experiencing increased post rehabilitation rent levels include the Berkshire of Columbia in Maryland, Berkshire on Brompton in Texas and Berkshires at Lenox Park in Atlanta. Market conditions remain favorable in the majority of the sub-markets in which the Company owns and operates apartments however the current economic environment has resulted in increased bad debts at certain properties in the portfolio. The Company continues to benefit from property rehabilitation projects at various properties in the Same Property Portfolio where successful projects improve the consumer appeal and historically have yielded increased rental revenues as rehabilitated units become available for occupancy at the incrementally higher rental rates than the pre-rehabilitation levels. Given current economic conditions, the Company is prioritizing the retention of quality tenants in properties throughout the portfolio.

Interest, utility reimbursement and other revenue

Same Property Portfolio interest, utility reimbursement and other revenues increased for the three-month period ended September 30, 2008 as compared to the three-month period ended September 30, 2007. Utility reimbursement decreased slightly, primarily due to normal fluctuations. Miscellaneous revenues increased due to revenues from the fees charged to tenants and potential tenants, including late fees, valet trash and other similar revenue items.

Operating Expenses

Operating

Overall operating expenses increased slightly in the quarter ended September 30, 2008 as compared to the same period of 2007. The increase is due mainly to normal fluctuations. The Company continues to realize savings from improved insurance premium levels when it renewed its property insurance coverage for the portfolio for the policy period as of May 1, 2007 when it was able to achieve modest cost reductions in premiums for its property insurance coverage. Further insurance cost reductions were achieved in 2008. The savings were partially offset by increases in some utilities, including gas and water and sewer, advertising publications and rubbish removal. The Seasons of Laurel property has historically contributed significantly to the Company's overall utility expense as the electricity charges at the property have been paid by the Company and were not billed directly to tenants for usage of their apartment unit. The Company has substantially completed a project to modify the utility infrastructure to allow for direct billing of electric costs by individual apartment unit. The changes to the infrastructure will be completed in the fourth quarter of 2008 with the related direct billing to tenants currently tracking to be implemented to all units by the end of 2008. As a result of the individual apartments units being migrated to a direct tenant billing the Company has realized a reduction in electricity expense at Season's and anticipates the reductions and related comparative savings to continue going forward.

Maintenance

Maintenance expense increased slightly in the three-months ended September 30, 2008 as compared to the same period of 2007 and is due mainly to higher operating costs in recurring, non-recurring and painting maintenance activities, including normal maintenance activities including interior cleaning and janitorial services, interior painting as well as exterior activities such as landscaping, snow removal and pool services. Management continues to employ a proactive maintenance rehabilitation strategy at its apartment communities and considers the strategy an effective program that preserves and in some cases increases, its occupancy levels through improved consumer appeal of the apartment communities, from both an interior and exterior perspective.

Real Estate Taxes

Real estate taxes increased for the three-months ended September 30, 2008 from the comparable period of 2007. The increase is due mainly to increased costs at numerous properties including the payment of a prior year liability for a property that was split into two separate parcel billings, one of which was not received and paid until the current three-month period. Additionally, the Company continues to see a trend of escalation in assessed property valuations for properties across the portfolio as renovation projects are completed resulting in new values and the effects of continued reliance placed on local and state property tax revenues. The Company continually scrutinizes the assessed values of its properties and avails itself of arbitration or similar forums made available by the taxing authority for increases in assessed values that the Company considers to be unreasonable. The Company has had success in achieving tax abatements for certain of its properties based on challenges made to the assessed values and anticipates continued success with certain future challenges given the current economic climate.

General and Administrative

General and administrative expenses increased in the three-month period ended September 30, 2008 compared to 2007. The overall increase is due mainly to normal operating expense fluctuations experienced throughout the properties of the Same Property Portfolio including legal expense related to tenant issues.

Management Fees

Management fees of the Same Property Portfolio increased in the three-month period ended September 30, 2008 compared to the same period of 2007 based on a proportionate increased level of revenues in the comparative periods. Property management fees are assessed on the revenue stream of the properties managed by an affiliate of the Company.

Non Operating Expenses

Depreciation

Depreciation expense of the Same Property Portfolio increased for the three-months ended September 30, 2008 as compared to the same period of the prior year. The increased expense is related to the additions to the basis of fixed assets in the portfolio driven by substantial rehabilitation projects ongoing at the Seasons of Laurel, Hannibal Grove, Standard of Lenox and the Hampton House properties and to a lesser degree, normal recurring capital spending activities over the remaining properties in the Same Property Portfolio.

Interest

Interest expense for the three-months ended September 30, 2008 decreased over the comparable period of 2007. The majority of the decrease is attributable to the pay off of the Briarwood loan balance of \$8,600,333 at maturity in April 2008 for which there is no interest charges in the comparative period as new mortgage debt financing has not been obtained as of September 30, 2008.

Amortization of acquired in-place leases and tenant relationships

Amortization of acquired in-place-leases and tenant relationships decreased significantly in the three-months ended September 30, 2008 as compared to the same period of 2007. The decrease is related mainly to the completion of amortization of the acquired-in-place lease intangible assets booked at acquisition and amortized over a 12 month period which did not extend into the twelve-months period ended September 30, 2008. The decreases were partially

offset by the amortization of acquired in-place-leases and tenant relationships related to the new property, Executive House, which was acquired during the quarter.

Comparison of the three months ended September 30, 2008 to the three months ended September 30, 2007 (Total Property Portfolio).

In general, increases in revenues and operating expenses and decreases in non-operating expenses and the related losses of the Total Property Portfolio for the three months ended September 30, 2008 as compared to the three months ended September 30, 2007 are due mainly to profitable operations of properties across the portfolio. As with the Same Store Portfolio, increases in revenues were attributable mainly to properties that have completed major renovations in 2007 and are leasing the newly renovated units at premium rent levels and were offset by increases in real estate taxes and other operational expenses.

Comparison of the nine months ended September 30, 2008 to the nine months ended September 30, 2007

The table below reflects selected operating information for the Same Property Portfolio. The Same Property Portfolio consists of the 23 properties acquired or placed in service on or prior to January 1, 2007 and owned through September 30, 2008.

| | Same Property Portfolio | | | |
|--|---------------------------------|---------------|--------------|----------|
| | Nine months ended September 30, | | Increase / | % |
| | 2008 | 2007 | (Decrease) | Change |
| Revenue: | | | | |
| Rental | \$ 52,566,484 | \$ 50,905,393 | \$ 1,661,091 | 3.26% |
| Interest, utility reimbursement and other | 3,172,189 | 2,914,214 | 257,975 | 8.85% |
| Total revenue | 55,738,673 | 53,819,607 | 1,919,066 | 3.57% |
| Operating Expenses: | | | | |
| Operating | 13,395,532 | 13,560,737 | (165,205) | (1.22) % |
| Maintenance | 4,591,090 | 3,841,326 | 749,764 | 19.52% |
| Real estate taxes | 5,620,344 | 5,175,352 | 444,992 | 8.60% |
| General and administrative | 941,114 | 910,533 | 30,581 | 3.36% |
| Management fees | 2,179,354 | 2,108,248 | 71,106 | 3.37% |
| Total operating expenses | 26,727,434 | 25,596,196 | 1,131,238 | 4.42% |
| Net Operating Income | 29,011,239 | 28,223,411 | 787,828 | 2.79% |
| Non-operating expenses: | | | | |
| Depreciation | 21,560,627 | 20,701,022 | 859,605 | 4.15% |
| Interest | 17,989,801 | 17,671,884 | 317,917 | 1.80% |
| Amortization of acquired in-place leases and tenant relationships | 80,626 | 594,525 | (513,899) | (86.44)% |
| Total non-operating expenses | 39,631,054 | 38,967,431 | 663,623 | 1.70% |
| Loss before minority interest in properties, equity in income (loss) of Multifamily Limited Partnership and Mezzanine Loan Limited Liability Company, minority common interest in Operating Partnership and income (loss) from discontinued operations | (10,619,815) | (10,744,020) | 124,205 | 1.16 % |
| Minority interest in properties | - | - | - | - |
| Equity in income (loss) of Multifamily Limited Partnership | - | - | - | - |

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| | | | | |
|---|-----------------|-----------------|------------|-------|
| Equity in income (loss) of Mezzanine Loan Limited Liability Company | - | - | - | - |
| Minority common interest in Operating Partnership | - | - | - | - |
| Gain on fire damage of real estate assets | - | - | - | - |
| Discontinued operations | - | - | - | - |
| Net loss | \$ (10,619,815) | \$ (10,744,020) | \$ 124,205 | 1.16% |

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Comparison of the nine months ended September 30, 2008 to the nine months ended September 30, 2007

| | Total Property Portfolio Nine months ended September 30, | | | % Change |
|--|---|---------------------|--------------------------|------------------|
| | 2008 | 2007 | Increase / (Decrease) | |
| Revenue: | | | | |
| Rental | \$ 55,694,985 | \$ 52,823,127 | \$ 2,871,858 | 5.44% |
| Interest, utility reimbursement and other | 4,018,376 | 3,678,856 | 339,520 | 9.23% |
| Total revenue | 59,713,361 | 56,501,983 | 3,211,378 | 5.68% |
| Operating Expenses: | | | | |
| Operating | 14,805,920 | 14,668,354 | 137,566 | 0.94% |
| Maintenance | 4,359,748 | 3,990,340 | 369,408 | 9.26% |
| Real estate taxes | 6,233,294 | 5,376,830 | 856,464 | 15.93% |
| General and administrative | 2,259,449 | 2,136,725 | 122,724 | 5.74% |
| Management fees | 3,574,233 | 3,445,327 | 128,906 | 3.74% |
| Total operating expenses | 31,232,644 | 29,617,576 | 1,615,068 | 5.45% |
| Net Operating Income | 28,480,717 | 26,884,407 | 1,596,310 | 5.94% |
| Non-operating expenses: | | | | |
| Depreciation | 23,378,485 | 21,649,076 | 1,729,409 | 7.99% |
| Interest | 19,766,756 | 19,155,283 | 611,473 | 3.19% |
| Amortization of acquired in-place leases and tenant relationships | 245,468 | 1,027,954 | (782,486) | (76.12)% |
| Total non-operating expenses | 43,390,709 | 41,832,313 | 1,558,396 | 3.73% |
| Loss before minority interest in properties, equity in income (loss) of Multifamily Limited Partnership and Mezzanine Loan Limited Liability Company, minority common interest in Operating Partnership and income (loss) from discontinued operations | (14,909,992) | (14,947,906) | (37,914) | 0.25 % |
| Minority interest in properties | (598,302) | (1,863,195) | 1,264,893 | (67.89)% |
| Equity in income (loss) of Multifamily Limited Partnership | (2,615,887) | (2,037,163) | (578,724) | 28.40% |
| Equity in income (loss) of Mezzanine Loan Limited Liability Company | 49,192 | - | 49,192 | 100.00% |
| Minority common interest in Operating Partnership | (12,689,300) | (2,928,300) | (9,761,000) | 333.33% |
| Discontinued operations | 25,819,774 | 30,880,683 | (5,060,909) | (16.39)% |
| Net income (loss) | \$ (4,944,515) | \$ 9,104,119 | \$ (14,048,634) | (154.31)% |

Comparison of the nine months ended September 30, 2008 to the nine months ended September 30, 2007
(Same Property Portfolio)

Revenue

Rental Revenue

Rental revenue of the Same Property Portfolio increased for the nine-month period ended September 30, 2008 in comparison to the similar period of 2007. The majority of the increase is attributable to properties that have completed major renovations in 2007 and are leasing the newly renovated units at premium rent levels and with rising the occupancy levels at the properties following the completion of the rehabilitation projects. Properties experiencing increased post rehabilitation rent levels include the Berkshire of Columbia in Maryland, Berkshire on Brompton in Texas and Berkshires at Lenox Park in Atlanta. Market conditions remain favorable in the majority of the sub-markets in which the Company owns and operates apartments however the current economic environment has resulted in increased bad debts at certain properties in the portfolio. The Company continues to benefit from its focus on resident retention and property rehabilitation projects at various properties in the Same Property Portfolio where successful projects improve the consumer appeal and historically have yielded increased rental revenues as rehabilitated units become available for occupancy at the incrementally higher rental rates than the pre-rehabilitation levels. Given current economic conditions, the Company is prioritizing the retention of quality tenants in properties throughout the portfolio.

Interest, utility reimbursement and other revenue

Same Property Portfolio interest, utility reimbursement and other revenues increased for the nine-month period ended September 30, 2008 as compared to the nine-month period ended September 30, 2007. Utility reimbursement decreased slightly, primarily due to normal fluctuations. Miscellaneous revenues increased due to revenues from the fees charged to tenants and potential tenants, including late fees, valet trash and other similar revenue items.

Operating Expenses

Operating

Overall operating expenses decreased slightly in the quarter ended September 30, 2008 as compared to the same period of 2007. The increase is due mainly to normal fluctuations. The Company continues to realize savings from improved insurance premium levels when it renewed its property insurance coverage for the portfolio for the policy period as of May 1, 2007 when it was able to achieve modest cost reductions in premiums for its property insurance coverage. Further insurance cost reductions were achieved in 2008. The savings were partially offset by increases in some utilities, including gas and water and sewer, advertising publications and rubbish removal. The Seasons of Laurel property has historically contributed significantly to the Company's overall utility expense as the electricity charges at the property have been paid by the Company and were not billed directly to tenants for usage of their apartment unit. The Company has substantially completed a project to modify the utility infrastructure to allow for direct billing of electric costs by individual apartment unit. The changes to the infrastructure were completed in the fourth quarter of 2008 with the related direct billing to tenants currently tracking to be implemented to all units by the end of 2008. As a result of the individual apartments units being migrated to a direct tenant billing the Company has realized a reduction in electricity expense at Season's and anticipates the reductions and related comparative savings to continue going forward.

Maintenance

Maintenance expense increased in the nine-months ended September 30, 2008 as compared to the same period of 2007 and is due mainly to higher unit turn costs including painting, cleaning and non-recurring repairs and maintenance. Management continues to employ a proactive maintenance rehabilitation strategy at its apartment communities and considers the strategy an effective program that preserves and in some cases increases, its occupancy levels through improved consumer appeal of the apartment communities, from both an interior and exterior perspective.

Real Estate Taxes

Real estate taxes increased for the nine-months ended September 30, 2008 from the comparable period of 2007. The increase is due mainly to increased costs at numerous properties including the payment of a prior year liability for a property that was split into two separate parcel billings, one of which was not received and paid until the current nine-month period. Additionally, the Company continues to see a trend of escalation in assessed property valuations for properties across the portfolio as renovation projects are completed resulting in new values and the effects of continued reliance placed on local and state property tax revenues. The Company continually scrutinizes the assessed values of its properties and avails itself of arbitration or similar forums made available by the taxing authority for increases in assessed values that the Company considers to be unreasonable. The Company has had success in achieving tax abatements for certain of its properties based on challenges made to the assessed values and anticipates continued success with certain future challenges given the current economic climate.

General and Administrative

General and administrative expenses increased in the nine-month period ended September 30, 2008 compared to 2007. The overall increase is due mainly to normal operating expense fluctuations experienced throughout the properties of the Same Property Portfolio including legal expense related to tenant issues. In addition, OneSite Payments expense has been increased significantly due to high volume payments through OneSite as compared to the same period of 2007.

Management Fees

Management fees of the Same Property Portfolio increased in the nine-month period ended September 30, 2008 compared to the same period of 2007 based on a proportionate increased level of revenues in the comparative periods. Property management fees are assessed on the revenue stream of the properties managed by an affiliate of the Company.

Non Operating Expenses

Depreciation

Depreciation expense of the Same Property Portfolio increased for the nine-months ended September 30, 2008 as compared to the same period of the prior year. The increased expense is related to the additions to the basis of fixed assets in the portfolio driven by substantial rehabilitation projects ongoing at the Seasons of Laurel, Hannibal Grove, Standard of Lenox and the Hampton House properties and to a lesser degree, normal recurring capital spending activities over the remaining properties in the Same Property Portfolio.

Interest

Interest expense for the nine-months ended September 30, 2008 increased slightly over the comparable period of 2007. The majority of the increase is attributable to the refinancing of a mortgage on the Berkshires on Brompton property at an incrementally higher principal level than the related paid-off loan, which was partially offset by the reduced interest rate obtained on the new debt. Additionally, new second mortgage debt on two properties that was not in place in the comparative period of 2007 also contributed to the increased interest expense.

Amortization of acquired in-place leases and tenant relationships

Amortization of acquired in-place-leases and tenant relationships decreased significantly in the nine-months ended September 30, 2008 as compared to the same period of 2007. The decrease is related mainly to the completion of amortization of the acquired-in-place lease intangible assets booked at acquisition and amortized over a 12 month period which did not extend into the twelve-months period ended September 30, 2008. The decreases were partially offset by the amortization of acquired in-place-leases and tenant relationships related to the new property, Executive House, which was acquired during the quarter ended September 30, 2008.

Comparison of the nine months ended September 30, 2008 to the nine months ended September 30, 2007 (Total Property Portfolio)

In general, increases in revenues, operating expenses, non-operating expenses and the related losses of the Total Property Portfolio for the nine months ended September 30, 2008 as compared to the nine months ended September 30, 2007 are due mainly to the change in the mix of properties owned by the Company and the related periods of ownership of those properties in the comparative periods presented and to the increase in the level of mortgage and revolving credit debt outstanding during the comparative periods.

Debt to Fair Value of Real Estate Assets

The Company's total debt summary and debt maturity schedule, as of September 30, 2008, is as follows:

| Debt Summary | | Weighted Average Rate |
|---|----------------|--------------------------|
| | Balance | |
| Total - Collateralized - Fixed Rate Debt | \$ 488,072,643 | 5.56% |

Debt Maturity Summary

| Year | Balance | % of Total |
|------------|----------------|------------|
| 2008 | \$ 695,571 | 0.14% |
| 2009 | 19,893,074 | 4.07% |
| 2010 | 4,517,557 | 0.93% |
| 2011 | 4,816,074 | 0.99% |
| 2012 | 8,783,206 | 1.80% |
| Thereafter | 449,367,161 | 92.07% |
| Total | \$ 488,072,643 | 100.00% |

The Company's "Debt-to-Fair Value of Real Estate Assets" as of September 30, 2008 and December 31, 2007 is presented in the following table. Fair value of real estate assets is based on management's best estimate of fair value for properties purchased in prior years or purchase price for properties acquired within the current year. As with any estimate, management's estimate of the fair value of properties purchased in prior years represents only its good faith opinion as to that value, and there can be no assurance that the actual value that might, in fact, be realized for any such property would approximate that fair value. The following information is presented in lieu of information regarding the Company's "Debt-to-Total Market Capitalization Ratio", which is a commonly used measure in our industry, because the Company's market capitalization is not readily determinable since there was no public market for its common equity during the periods presented in this report.

The Board has established investment guidelines under which management may not incur indebtedness such that at the time we incur the indebtedness our ratio of debt to total assets exceeds 75%. This measure is calculated based on the fair value of the assets determined by management as described above.

The information regarding "Debt-to-Fair Value of Real Estate Assets" is presented to allow investors to calculate our loan-to-value ratios in a manner consistent with those used by management and others in our industry, including those used by our current and potential lenders. Management uses this information when making decisions about financing or refinancing properties. Management also uses fair value information when making decisions about selling assets as well as evaluating acquisition opportunities within markets where we have assets.

"Fair Value of Real Estate Assets" is not a GAAP financial measure and should not be considered as an alternative to net book value of real estate assets, the most directly comparable financial measure calculated and presented in accordance with GAAP. The net book value of our real estate assets was \$463,444,134 and \$464,265,061 at September 30, 2008 and December 31, 2007, respectively, and is presented on the balance sheet as multifamily apartment communities, net of accumulated depreciation. The following table reconciles the fair value of our real estate assets to the net book value of real estate assets as of September 30, 2008.

Debt-to-Fair Value of Real Estate Assets as of

| | September 30, 2008 | December 31, 2007 |
|---|-----------------------|----------------------|
| Net book value of multifamily apartment communities | \$ 462,403,236 | \$ 464,265,061 |
| Accumulated depreciation | 154,285,956 | 144,240,061 |
| Historical cost | 616,689,192 | 608,505,122 |
| Increase in fair value over historical cost | 183,317,616 | 216,414,878 |
| Fair Value – estimated | \$ 800,006,808 | \$ 824,920,000 |
| Mortgage Debt and Revolving Credit Facility | \$ 498,072,643 | \$ 506,903,882 |
| Debt-to-Fair Value of Real Estate Assets | 62.26% | 61.45% |

The Debt-to-Fair Value of Real Estate Assets includes the outstanding borrowings under the Company's revolving credit facility, which were \$10,000,000 and \$0 at September 30, 2008 and December 31, 2007, respectively. The

revolving credit facility contains covenants that require the Company to maintain certain financial ratios, including an indebtedness to value ratio not to exceed 75%. If the Company were to be in violation of this covenant, we would be unable to draw advances from our line, which could have a material impact on the Company's ability to meet its short-term liquidity requirements. Further, if the Company were unable to draw on its revolving credit facility, the Company may have to slow or temporarily stop our rehabilitation projects, which could have a negative impact on its results of operations and cash flows. As of September 30, 2008 and December 31, 2007, the Company was in compliance with the covenants of the revolving credit facility. Fair value of the real estate assets is based on management's most current valuation of properties, which was made for all properties owned at December 31, 2007, acquisition cost of properties acquired subsequent to December 31, 2007, if any, and sales price of assets under contract of sale as of September 30, 2008.

Funds From Operations

The Company has adopted the revised definition of Funds from Operations (“FFO”) adopted by the Board of Governors of the National Association of Real Estate Investment Trusts (“NAREIT”). Management considers FFO to be an appropriate measure of performance of an equity REIT. We calculate FFO by adjusting net income (loss) (computed in accordance with GAAP, including non-recurring items), for gains (or losses) from sales of properties, real estate related depreciation and amortization, and adjustment for unconsolidated partnerships and ventures. Management believes that in order to facilitate a clear understanding of the historical operating results of the Company, FFO should be considered in conjunction with net income as presented in the consolidated financial statements included elsewhere herein. Management considers FFO to be a useful measure for reviewing the comparative operating and financial performance of the Company because, by excluding gains and losses related to sales of previously depreciated operating real estate assets and excluding real estate asset depreciation and amortization (which can vary among owners of identical assets in similar condition based on historical cost accounting and useful life estimates), FFO can help one compare the operating performance of a company’s real estate between periods or as compared to different companies.

The Company’s calculation of FFO may not be directly comparable to FFO reported by other REITs or similar real estate companies that have not adopted the term in accordance with the current NAREIT definition or that interpret the current NAREIT definition differently. FFO is not a GAAP financial measure and should not be considered as an alternative to net income (loss), the most directly comparable financial measure of our performance calculated and presented in accordance with GAAP, as an indication of our performance. FFO does not represent cash generated from operating activities determined in accordance with GAAP and is not a measure of liquidity or an indicator of our ability to make cash distributions. We believe that to further understand our performance, FFO should be compared with our reported net income (loss) and considered in addition to cash flows in accordance with GAAP, as presented in our consolidated financial statements.

The following table presents a reconciliation of net income (loss) to FFO for the three and nine months ended September 30, 2008 and 2007:

| | Three months ended | | September | |
|--|----------------------------------|----------------|----------------|--------------|
| | Nine months ended 30, 2008 | 2007 | 2008 | 2007 |
| Net income (loss) | \$ (7,141,559) | \$ (7,107,515) | \$ (4,944,515) | \$ 9,104,119 |
| Add | | | | |
| Depreciation of real property | 6,745,306 | 6,233,408 | 20,022,211 | 17,741,909 |
| Depreciation of real property included in results of discontinued operations | - | 717,522 | 797,039 | 2,210,969 |
| Minority common interest in Operating Partnership | 976,100 | 976,100 | 12,689,300 | 2,928,300 |
| Minority interest in properties | 204,270 | 168,000 | 598,302 | 1,863,195 |
| Amortization of acquired in-place leases and tenant relationships | 128,987 | 281,872 | 245,468 | 1,033,683 |
| Equity in loss of Multifamily Limited Partnership | 1,066,063 | 734,676 | 2,615,887 | 2,032,442 |

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| | | | | |
|--|--------------|--------------|--------------|--------------|
| Equity in loss of Multifamily Venture | - | 4,721 | - | 4,721 |
| Funds from operations of Multifamily Venture and Limited Venture | 275,457 | 6,034 | 1,043,066 | 6,034 |
| Funds from operations of Multifamily Venture and Limited Partnership Venture | - | 495,094 | - | 59,982 |
| Less | | | | |
| Minority interest in properties share of funds from operations | (179,567) | (261,572) | (620,237) | (638,346) |
| Equity in income of Multifamily Venture | - | - | - | - |
| Fund from operations of Multifamily Venture and Limited Partnership Venture | - | - | - | - |
| Gain on disposition of real estate assets | (3,591) | 11,367 | (27,035,489) | (32,111,239) |
| Funds from Operations | \$ 2,071,466 | \$ 2,259,707 | \$ 5,411,032 | \$ 4,235,769 |

FFO for the nine months ended September 30, 2008 increased as compared to FFO for the nine month periods ended September 30, 2007. The increase is due mainly to increases in Net Operating Income of the properties, due to increased rental revenues in the comparable periods, which was partially offset by increases in interest expense related to increased debt balances in the comparative nine-month periods ended September 30, 2008 and 2007.

Environmental Issues

There are no recorded amounts resulting from environmental liabilities because there are no known contingencies with respect to environmental liabilities. The Company obtains environmental audits through various sources, including lender evaluations and acquisition due diligence, for each of its properties at various intervals throughout a property's useful life. The Company has not been advised by any third party as to the existence of, nor has it identified on its own, any material liability for site restoration or other costs that may be incurred with respect to any of its properties.

Inflation and Economic Conditions

Substantially all of the leases at our properties are for a term of one year or less, which enables the Company to seek increased rents for new leases or upon renewal of existing leases. These short-term leases minimize the potential adverse effect of inflation on rental income, although residents may leave without penalty at the end of their lease terms and may do so if rents are increased significantly.

The Company believes the domestic economy is poised for continued slow down and believes a recession is reasonably possible which would continue to disadvantage single family homeowners with unfavorable credit arrangements. While an economic slowdown that may result in a recession would not provide a favorable economic environment to operate within, the multifamily sector may benefit from the displacement of single family homeowners due to increasing foreclosure activity in the credit markets and continue to benefit from favorable ongoing demographic trends. While the apartment sector had previously experienced slower growth over recent years due to rising unemployment and a significant renter migration to single family homes, the reversal of the renter migration to single family homes trend is now expected to contribute to an apartment sector recovery. The Company believes that, for single family homebuyers over the next several years, increasing housing costs, higher interest rates, and continued escalation in foreclosure activity may make purchases increasingly expensive and out of reach as well as force existing homeowners back into the rental market. In addition, we believe the projected demographic trends strongly favor the multifamily sector, driven primarily by the continued flow of echo boomers (children of baby boomers, age 20 to 29), the fastest growing segment of the population, and an increasing number of immigrants who are typically renters by necessity.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The Company's mortgage notes are fixed rate instruments; therefore, the Company's outstanding mortgage debt is not sensitive to changes in the capital market except upon maturity. The Company's revolving credit facility is a variable rate arrangement tied to LIBOR and is therefore sensitive to changes in the capital market. The table below provides information about the Company's financial instruments, specifically debt obligations.

The table presents principal cash flows and related weighted average interest rates by expected maturity dates for the mortgage notes payable as of September 30, 2008.

| 2008 | 2009 | 2010 | 2011 | 2012 | Thereafter | Total |
|------|------|------|------|------|------------|-------|
|------|------|------|------|------|------------|-------|

| | | | | | | | |
|-----------------------------|------------|---------------|--------------|--------------|--------------|----------------|----------------|
| Fixed Rate Debt | \$ 695,571 | \$ 19,893,074 | \$ 4,517,557 | \$ 4,816,074 | \$ 8,783,206 | \$ 449,367,161 | \$ 488,072,643 |
| Average Interest Rate | 5.23% | 5.21% | 5.22% | 5.23% | 5.55% | 5.53% | 5.56% |

The level of market interest rate risk remained relatively consistent from December 31, 2007 to September 30, 2008. As of September 30, 2008, \$0 of the Company's outstanding debt outstanding subject to variable interest rates. The Company estimates that the effect of a 1% increase or decrease in interest rates would not have a material impact on interest expense.

Item 4.

CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

Based on their evaluation, as required by the Exchange Act Rules 13a-15(b) and 15d-15(b), the Company's principal executive officer and principal financial officer have concluded that the Company's disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) were effective as of September 30, 2008 to ensure that information required to be disclosed by the Company in reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC rules and forms and were effective as of September 30, 2008 to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the Company's management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f) under the Exchange Act) identified in connection with the evaluation required by paragraph (d) of the Exchange Act Rules 13a-15 or 15d-15 that occurred during the fiscal quarter ended September 30, 2008, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. LEGAL PROCEEDINGS

The Company is currently party to a legal proceeding initiated by a seller/developer from whom the Company acquired a property in 2005. The dispute involves the interpretation of certain provisions of the purchase and sales agreement related to post acquisition construction activities. Specifically, the purchase and sales agreement provided that if certain conditions were met, the seller/developer would develop a vacant parcel of land contiguous to the acquired property with 18 new residential apartment units (the "New Units") for the benefit of the Company at an agreed-upon price. The purchase and sales agreement also provided the opportunity for the seller/developer to build a limited number of garages (the "Garages") for the existing apartment units for the benefit of the Company at an agreed-upon price.

In 2006, the Company accrued \$190,000 with respect to the New Units matter based on a settlement offer extended to the plaintiff, which was not accepted at that time. On November 9, 2007, the judge issued a summary judgment against the Company with respect to the construction of the New Units. The judgment did not specify damages, which the plaintiff will be required to demonstrate at trial. On February 13, 2008, the court entered judgment related to the New Units on the seller/developer's behalf awarding them the amount of \$774,292 for costs and damages. The Company believes that there are reasonable grounds for appeal of this ruling and is pursuing an appeal of the judgment awarded by the court.

As of September 30, 2008 and December 31, 2007, respectively, the Company did not increase its accrual of \$190,000 related to the New Units matter as it is moving forward with an appeal of the judgment awarded by the court. Based on the court's award of damages in the amount of \$774,292, if the appeal were to be unsuccessful, the Company would record an additional cost of \$584,292 related to the New Units matter, the amount in excess of the \$190,000 accrued as of September 30, 2008.

The Company settled the matter related to the Garages and has executed a contract with the seller/developer for the construction of 48 Garages at an aggregate cost of \$740,000. As of September 30, 2008, the garage construction project was in progress and scheduled to be completed in the fourth quarter of 2008.

The Company and our properties are not subject to any other material pending legal proceedings.

Item 1A. RISK FACTORS

Please read the risk factors disclosed in our Annual Report on Form 10-K for the Company's fiscal year ended December 31, 2007 as filed with the SEC on March 28, 2008. As of September 30, 2008, except for the additional risks associated with the tightening of the credit markets, there have been no material changes to the risk factors as presented therein. Additional risks and uncertainties not currently known to us or that

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we currently deem to be immaterial also may materially adversely affect our financial condition and/or operating results.

- Item 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS
- None
- Item 3. DEFAULTS UPON SENIOR SECURITIES
- None
- Item 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS
- None
- Item 5. OTHER INFORMATION
- None
- Item 6. EXHIBITS
- 10.1 Purchase and Sale Agreement between St. Marin/Karrington Limited Partnership, a Delaware limited partnership and Williams Asset Management, LLC, a Georgia limited liability company, dated February 26, 2008 (Incorporated by reference to Exhibit No. 10.1 to the Registrant's Current Report on Form 8-K filed with the SEC on May 2, 2008).
- 10.2 Purchase and Sale Agreement by and among EHGP, Inc., a Pennsylvania corporation , Eric Blumenfeld, an individual, EHA Acquisition, L.P., a Pennsylvania limited partnership, BIR Executive GP, L.L.C. and BIR Executive LP, L.L.C. (Incorporated by reference to Exhibit No. 99.1 to the Registrant's Current Report on Form 8-K filed with the SEC on August 13, 2008).
- 10.3 Purchase and Sale Agreement by and among Anthony W. Packer, an individual, Jerome D. Winnick , an individual, Shoreline/Marin LLC, a Delaware limited liability company, BIR Executive GP, L.L.C. and BIR Executive LP, L.L.C. (Incorporated by reference to Exhibit No. 99.2 to the Registrant's Current Report on Form 8-K filed with the SEC on August 13, 2008).
- 10.4 Purchase and Sale Agreement between BRI Westchester Limited Partnership, a Maryland limited partnership, and Home Properties, L.P., a New York limited partnership, dated September 10, 2008 (Incorporated by reference to Exhibit No. 99.1 to the Registrant's Current Report on Form 8-K filed with the SEC on September 16, 2008).
- 31.1 Certification of Principal Executive Officer Pursuant of 18 U.S.C. Section 1350, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.

- 31.2 Certification of Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 32.1 Certification of Principal Executive Officer Pursuant of 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 32.2 Certification of Principal Financial Officer Pursuant of 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

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 thereunto duly authorized.

BERKSHIRE INCOME REALTY, INC.

November 14, 2008

/s/ David C. Quade
David C. Quade
President, Chief Financial Officer and
Principal Executive Officer

November 14, 2008

/s/ Christopher M. Nichols
Christopher M. Nichols
Vice President and Principal Accounting
Officer

