EQUITY RESIDENTIAL
Form 10-K
February 26, 2009
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

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

For the Fiscal Year Ended DECEMBER 31, 2008

OR

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

For the transition period from _________ to _________

Commission File Number: 1-12252

EQUITY RESIDENTIAL

(Exact Name of Registrant as Specified in Its Charter)

Maryland	**13-3675988**
(State or Other Jurisdiction of Incorporation or Organization)	**(I.R.S. Employer Identification No.)**
Two North Riverside Plaza, Chicago, Illinois	**60606**
(Address of Principal Executive Offices)	**(Zip Code)**

(312) 474-1300

(Registrant s Telephone Number, Including Area Code)

Securities registered pursuant to Section 12(b) of the Act:

Common Shares of Beneficial Interest, $0.01 Par Value	**New York Stock Exchange**
(Title of Each Class)	**(Name of Each Exchange on Which Registered)**
Preferred Shares of Beneficial Interest, $0.01 Par Value	**New York Stock Exchange**
(Title of Each Class)	**(Name of Each Exchange on Which Registered)**

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes x No ¨

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ¨ No x

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 x No ¨

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ¨

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

Large accelerated filer x	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 Act). Yes ¨ No x

The aggregate market value of Common Shares held by non-affiliates of the Registrant was approximately $10.0 billion based upon the closing price on June 30, 2008 of $38.27 using beneficial ownership of shares rules adopted pursuant to Section 13 of the Securities Exchange Act of 1934 to exclude voting shares owned by Trustees and Executive Officers, some of who may not be held to be affiliates upon judicial determination.

The number of Common Shares of Beneficial Interest, $0.01 par value, outstanding on January 31, 2009 was 272,794,454.

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DOCUMENTS INCORPORATED BY REFERENCE

Part III incorporates by reference certain information to be contained in the Company s definitive proxy statement, which the Company anticipates will be filed no later than April 16, 2009, and thus these items have been omitted in accordance with General Instruction G (3) to Form 10-K.

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PART I

Item 1. Business

General

Equity Residential (EQR), a Maryland real estate investment trust (REIT) formed in March 1993, is an S&P 500 company focused on the acquisition, development and management of high quality apartment properties in top United States growth markets. EQR has elected to be taxed as a REIT.

The Company is one of the largest publicly traded real estate companies and is the largest publicly traded owner of multifamily properties in the United States (based on the aggregate market value of its outstanding Common Shares, the number of apartment units wholly owned and total revenues earned). The Company s corporate headquarters are located in Chicago, Illinois and the Company also operates property management offices throughout the United States.

EQR is the general partner of, and as of December 31, 2008 owned an approximate 94.2% ownership interest in, ERP Operating Limited Partnership, an Illinois limited partnership (the Operating Partnership). The Company is structured as an umbrella partnership REIT (UPREIT) under which all property ownership and related business operations are conducted through the Operating Partnership and its subsidiaries. References to the Company include EQR, the Operating Partnership and those entities owned or controlled by the Operating Partnership and/or EQR.

As of December 31, 2008, the Company, directly or indirectly through investments in title holding entities, owned all or a portion of 548 properties in 23 states and the District of Columbia consisting of 147,244 units. The ownership breakdown includes (table does not include various uncompleted development properties):

	Properties	Units
Wholly Owned Properties	477	127,002
Partially Owned Properties:		
Consolidated	28	5,757
Unconsolidated	41	9,776
Military Housing (Fee Managed)	2	4,709
	548	147,244

As of February 5, 2009, the Company has approximately 4,700 employees who provide real estate operations, leasing, legal, financial, accounting, acquisition, disposition, development and other support functions.

Certain capitalized terms used herein are defined in the Notes to Consolidated Financial Statements.

Available Information

You may access our Annual Report on Form 10-K, our Quarterly Reports on Form 10-Q, our Current Reports on Form 8-K and any amendments to any of those reports we file with the SEC free of charge at our website, www.equityresidential.com. These reports are made available at our website as soon as reasonably practicable after we file them with the SEC.

Business Objectives and Operating Strategies

The Company seeks to maximize current income, capital appreciation of each property and the total return for its shareholders. The Company s strategy for accomplishing these objectives includes:

Leveraging our size and scale in four critical ways:

Investing in apartment communities located in strategically targeted markets to maximize our total return on an enterprise level;
Meeting the needs of our residents by offering a wide array of product choices and a commitment to service;
Engaging, retaining and attracting the best employees by providing them with the education, resources and opportunities to succeed; and

Sharing resources, customers and best practices in property management and across the enterprise.

Owning a highly diversified portfolio by investing in target markets defined by a combination of the following criteria:

High barrier-to-entry (low supply);
Strong economic predictors (high demand); and
Attractive quality of life (high demand and retention).

Giving residents reasons to stay with the Company by providing a range of product options available in our diversified portfolio and by enhancing their experience through our employees and our services.

Being open and responsive to market realities to take advantage of investment opportunities that align with our long-term vision.

Acquisition, Development and Disposition Strategies

The Company anticipates that future property acquisitions, developments and dispositions will occur within the United States. Acquisitions and developments may be financed from various sources of capital, which may include retained cash flow, issuance of additional equity and debt securities, sales of properties, joint venture agreements and collateralized and uncollateralized borrowings. In addition, the Company may acquire properties in transactions that include the issuance of limited partnership interests in the Operating Partnership (OP Units) as consideration for the acquired properties. Such transactions may, in certain circumstances, enable the sellers to defer, in whole or in part, the recognition of taxable income or gain that might otherwise result from the sales. EQR may also acquire land parcels to hold and/or sell based on market opportunities.

When evaluating potential acquisitions, developments and dispositions, the Company generally considers the following factors:

strategically targeted markets;
income levels and employment growth trends in the relevant market;
employment and household growth and net migration of the relevant market s population;
barriers to entry that would limit competition (zoning laws, building permit availability, supply of undeveloped or developable real estate, local building costs and construction costs, among other factors);
the location, construction quality, condition and design of the property;
the current and projected cash flow of the property and the ability to increase cash flow;
the potential for capital appreciation of the property;
the terms of resident leases, including the potential for rent increases;
the potential for economic growth and the tax and regulatory environment of the community in which the property is located;
the occupancy and demand by residents for properties of a similar type in the vicinity (the overall market and submarket);
the prospects for liquidity through sale, financing or refinancing of the property;
the benefits of integration into existing operations;
purchase prices and yields of available existing stabilized properties, if any;
competition from existing multifamily properties, comparably priced single family homes or rentals, residential properties under development and the potential for the construction of new multifamily properties in the area; and
opportunistic selling based on demand and price of high quality assets, including condominium conversions.

The Company generally reinvests the proceeds received from property dispositions primarily to achieve its acquisition, development and rehab strategies and at times to fund its debt and equity repurchase activities. In addition, when feasible, the Company may structure these transactions as tax-deferred exchanges.

See also Note 20 in the Notes to Consolidated Financial Statements for additional discussion regarding the Company s segment disclosures.

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Debt and Equity Activity

Please refer to Item 7, *Management s Discussion and Analysis of Financial Condition and Results of Operations*, for the Company s Capital Structure chart as of December 31, 2008.

Major Debt and Equity Activities for the Years Ended December 31, 2008, 2007 and 2006

During 2008:

- The Operating Partnership obtained $500.0 million of mortgage loan proceeds through the issuance of an 11.5 year (stated maturity date of October 1, 2019) cross-collateralized loan with a fixed stated interest rate for 10.5 years at 5.19% secured by 13 properties.
- The Operating Partnership obtained $550.0 million of mortgage loan proceeds through the issuance of an 11.5 year (stated maturity date of March 1, 2020) cross-collateralized loan with a fixed stated interest rate for 10.5 years at approximately 6% secured by 15 properties.
- The Operating Partnership obtained $543.0 million of mortgage loan proceeds through the issuance of an 8 year (stated maturity date of January 1, 2017) cross-collateralized loan with a fixed stated interest rate for 7 years at approximately 6% secured by 18 properties.
- The Company issued 995,129 Common Shares pursuant to its Share Incentive Plans and received net proceeds of approximately $24.6 million.
- The Company issued 195,961 Common Shares pursuant to its Employee Share Purchase Plan and received net proceeds of approximately $6.2 million.
- The Company repurchased and retired 220,085 of its Common Shares at an average price of $35.93 per share for total consideration of $7.9 million. See Note 3 in the Notes to Consolidated Financial Statements for further discussion.
- The Company repurchased $72.6 million of its 4.75% fixed rate public notes due June 15, 2009 at a discount to par of approximately 1.0%. See Note 9 in the Notes to Consolidated Financial Statements for further discussion.
- The Company repurchased $101.4 million of its 3.85% convertible fixed rate public notes due August 15, 2026 at a discount to par of approximately 17.7%. See Note 9 in the Notes to Consolidated Financial Statements for further discussion.

During 2007:

- The Operating Partnership issued $350.0 million of five-year 5.50% fixed rate notes (the October 2012 Notes) in a public debt offering in May/June 2007. The October 2012 Notes were issued at a discount, which is being amortized over the life of the notes on a straight-line basis. The October 2012 Notes are due October 1, 2012 with interest payable semiannually in arrears on January 15 and July 15, commencing January 15, 2008. The Operating Partnership received net proceeds of approximately $346.1 million in connection with this issuance.
- The Operating Partnership issued $650.0 million of ten-year 5.75% fixed rate notes (the June 2017 Notes) in a public debt offering in May/June 2007. The June 2017 Notes were issued at a discount, which is being amortized over the life of the notes on a straight-line basis. The June 2017 Notes are due June 15, 2017 with interest payable semiannually in arrears on January 15 and July 15, commencing January 15, 2008. The Operating Partnership received net proceeds of approximately $640.6 million in connection with this issuance.
- The Operating Partnership obtained a three-year (subject to two one-year extension options) $500.0 million senior unsecured credit facility (term loan) which generally pays a variable interest rate of LIBOR plus a spread dependent upon the current credit rating on the Operating Partnership s long-term unsecured debt. The Operating Partnership paid $1.1 million in upfront costs, which will be deferred and amortized over the three-year term. EQR has guaranteed the Operating Partnership s term loan facility up to the maximum amount and for the full term of the facility.
- The Company issued 1,040,765 Common Shares pursuant to its Share Incentive Plans and received net proceeds of approximately $28.8 million.
- The Company issued 189,071 Common Shares pursuant to its Employee Share Purchase Plan and received net proceeds of approximately $7.2 million.
- The Company repurchased and retired 27,484,346 of its Common Shares at an average price of $44.62 per share for total consideration of $1.2 billion.

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During 2006:

- The Operating Partnership issued $400.0 million of ten and one-half year 5.375% unsecured fixed rate notes (the August 2016 Notes) in a public debt offering in January 2006. The August 2016 Notes were issued at a discount, which is being amortized over the life of the notes on a straight-line basis. The August 2016 Notes are due August 1, 2016 with interest payable semiannually in arrears on February 1 and August 1, commencing August 1, 2006. The Operating Partnership received net proceeds of approximately $395.5 million in connection with this issuance.
- The Operating Partnership issued $650.0 million of twenty-year 3.85% exchangeable senior notes (the August 2026 Notes) in a public debt offering in August 2006. The August 2026 Notes were issued at a discount, which is being amortized over the life of the notes on a straight-line basis. The August 2026 Notes are due August 15, 2026 with interest payable semiannually in arrears on February 15 and August 15, commencing February 15, 2007. The Operating Partnership received net proceeds of approximately $637.0 million in connection with this issuance. See Note 9 in the Notes to Consolidated Financial Statements for further discussion.
- The Company issued 2,647,776 Common Shares pursuant to its Share Incentive Plans and received net proceeds of approximately $69.7 million.
- The Company issued 213,427 Common Shares pursuant to its Employee Share Purchase Plan and received net proceeds of approximately $8.0 million.
- The Company repurchased 1,897,912 of its Common Shares on the open market at an average price of $43.85 per share. The Company paid approximately $83.2 million for these shares, which were retired subsequent to the repurchase.

On January 27, 2009, the Company repurchased at par $105.2 million of its 4.75% unsecured notes due June 15, 2009 and $185.2 million of its 6.95% unsecured notes due March 2, 2011 pursuant to a cash tender offer announced on January 16, 2009.

As of February 26, 2009, an unlimited amount of debt securities remains available for issuance by the Operating Partnership under a registration statement that became automatically effective upon filing with the SEC in December 2008 (under SEC regulations enacted in 2005, the registration statement automatically expires on December 21, 2011 and does not contain a maximum issuance amount). As of February 26, 2009, an unlimited amount of equity securities remains available for issuance by the Company under a registration statement that became automatically effective upon filing with the SEC in December 2008 (under SEC regulations enacted in 2005, the registration statement automatically expires on December 15, 2011 and does not contain a maximum issuance amount).

In May 2002, the Company s shareholders approved the Company s 2002 Share Incentive Plan. In January 2003, the Company filed a Form S-8 registration statement to register 23,125,828 Common Shares under this plan. As of January 1, 2009, 21,740,453 shares are the maximum shares issuable under this plan. See Note 14 in the Notes to Consolidated Financial Statements for further discussion.

Credit Facilities

The Operating Partnership has a $1.5 billion unsecured revolving credit facility maturing on February 28, 2012, with the ability to increase available borrowings by an additional $500.0 million by adding additional banks to the facility or obtaining the agreement of existing banks to increase their commitments. Advances under the credit facility bear interest at variable rates based upon LIBOR at various interest periods plus a spread dependent upon the Operating Partnership s credit rating or based on bids received from the lending group. EQR has guaranteed the Operating Partnership s credit facility up to the maximum amount and for the full term of the facility.

During the year ended December 31, 2008, one of the providers of the Operating Partnership s unsecured revolving credit facility declared bankruptcy. Under the existing terms of the credit facility, the provider s share is up to $75.0 million of potential borrowings. As a result, the Operating Partnership s borrowing capacity under the unsecured revolving credit facility has in essence been permanently reduced to $1.425 billion of potential borrowings. The obligation to fund by all of the other providers has not changed.

On April 1, 2005, the Operating Partnership obtained a three-year $1.0 billion unsecured revolving credit facility maturing on May 29, 2008. Advances under the credit facility bore interest at variable rates based upon LIBOR at various interest periods plus a spread dependent upon the Operating Partnership s credit rating or based on bids received from the lending group. EQR guaranteed the Operating Partnership s credit facility up to the maximum

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amount and for the full term of the facility. This credit facility was repaid in full and terminated on February 28, 2007. The Company recorded $0.4 million of write-offs of unamortized deferred financing costs as additional interest in connection with this termination.

On May 7, 2007, the Operating Partnership obtained a one-year $500.0 million unsecured revolving credit facility maturing on May 5, 2008. Advances under this facility bore interest at variable rates based on LIBOR at various interest periods plus a spread dependent upon the Operating Partnership s credit rating. EQR guaranteed this credit facility up to the maximum amount and for its full term. This credit facility was repaid in full and terminated on June 4, 2007.

As of December 31, 2008, the amount available on the credit facility was $1.29 billion (net of $130.0 million which was restricted/dedicated to support letters of credit and net of the $75.0 million discussed above). As of December 31, 2007, $139.0 million was outstanding and $80.8 million was restricted/dedicated to support letters of credit and not available for borrowing on the credit facilities. During the years ended December 31, 2008 and 2007, the weighted average interest rates were 4.31% and 5.68%, respectively.

Competition

All of the Company s properties are located in developed areas that include other multifamily properties. The number of competitive multifamily properties in a particular area could have a material effect on the Company s ability to lease units at the properties or at any newly acquired properties and on the rents charged. The Company may be competing with other entities that have greater resources than the Company and whose managers have more experience than the Company s managers. In addition, other forms of rental properties and single-family housing provide housing alternatives to potential residents of multifamily properties. See Item 1A. Risk Factors for additional information with respect to competition.

Environmental Considerations

See Item 1A. Risk Factors for information concerning the potential effects of environmental regulations on our operations.

Item 1A. Risk Factors

General

The following Risk Factors may contain defined terms that are different from those used in the other sections of this report. Unless otherwise indicated, when used in this section, the terms we and us refer to Equity Residential and its subsidiaries, including ERP Operating Limited Partnership. This Item 1A. includes forward-looking statements. You should refer to our discussion of the qualifications and limitations on forward-looking statements included in Item 7.

The occurrence of the events discussed in the following risk factors could adversely affect, possibly in a material manner, our business, financial condition or results of operations, which could adversely affect the value of our common shares of beneficial interest or preferred shares of beneficial interest (which we refer to collectively as Shares); preference interests and/or units (Interests and/or Units) of a subsidiary of ERP Operating Limited Partnership, our operating partnership; and limited partnership interests in the Operating Partnership (OP Units). In this section, we refer to the Shares, Interests, Units and the OP Units together as our securities and the investors who own Shares, Interests, Units and/or OP Units as our security holders .

Our Performance and Securities Value are Subject to Risks Associated with the Real Estate Industry

General

Real property investments are subject to varying degrees of risk and are relatively illiquid. Several factors may adversely affect the economic performance and value of our properties. These factors include changes in the national, regional and local economic climates, local conditions such as an oversupply of multifamily properties or a reduction in demand for our multifamily properties, the attractiveness of our properties to residents, competition from other available multifamily property owners and single family homes and changes in market rental rates. Our performance also depends on our ability to collect rent from residents and to pay for adequate maintenance, insurance and other operating costs, including real estate taxes, which could increase over time. Sources of labor and materials required for maintenance, repair, capital expenditure or development may be more expensive than anticipated. Also,

the expenses of owning and operating a property are not necessarily reduced when circumstances such as market factors and competition cause a reduction in income from the property.

We May Not Have Sufficient Cash Flows From Operations After Capital Expenditures to Cover Our Distributions

We generally consider our cash flows provided by operating activities after capital expenditures to be adequate to meet operating requirements and payment of distributions to our security holders. However, there may be times when we experience shortfalls in our coverage of distributions, which may cause us to consider reducing our distributions and/or using the proceeds from property dispositions or additional financing transactions to make up the difference. Should these shortfalls occur for lengthy periods of time or be material in nature, our financial condition may be adversely affected and we may not be able to maintain our current distribution levels.

We May Be Unable to Renew Leases or Relet Units as Leases Expire

When our residents decide not to renew their leases upon expiration, we may not be able to relet their units. Even if the residents do renew or we can relet the units, the terms of renewal or reletting may be less favorable than current lease terms. Because virtually all of our leases are for apartments, they are generally for terms of no more than one year. If we are unable to promptly renew the leases or relet the units, or if the rental rates upon renewal or reletting are significantly lower than expected rates, then our results of operations and financial condition will be adversely affected. Occupancy levels and market rents may be adversely affected by national and local economic and market conditions including, without limitation, new construction and excess inventory of multifamily and single family housing, slow or negative employment growth, availability of low interest mortgages for single family home buyers and the potential for geopolitical instability, all of which are beyond the Company s control. In addition, various state and local municipalities are considering and may continue to consider rent control legislation which could limit our ability to raise rents. Finally, the federal government is considering and may continue to consider policies which may encourage home ownership, thus increasing competition and possibly limiting our ability to raise rents. Consequently, our cash flow and ability to service debt and make distributions to security holders could be reduced.

New Acquisitions and/or Development Projects May Fail to Perform as Expected and Competition for Acquisitions May Result in Increased Prices for Properties

We intend to actively acquire multifamily properties for rental operations as market conditions dictate. The Company does not currently intend to begin the development of any new wholly-owned projects but has a substantial number of properties under development now and may commence new development activities if conditions warrant. We may underestimate the costs necessary to bring an acquired property up to standards established for its intended market position or to complete a development property. Additionally, we expect that other major real estate investors with significant capital will compete with us for attractive investment opportunities or may also develop properties in markets where we focus our development efforts. This competition may increase prices for multifamily properties. We may not be in a position or have the opportunity in the future to make suitable property acquisitions on favorable terms. To the extent that we do develop more properties if conditions warrant, we expect to do so ourselves in addition to co-investing with our development partners. The total number of development units, cost of development and estimated completion dates are subject to uncertainties arising from changing economic conditions (such as the cost of labor and construction materials), competition and local government regulation.

Because Real Estate Investments Are Illiquid, We May Not Be Able to Sell Properties When Appropriate

Real estate investments generally cannot be sold quickly. We may not be able to reconfigure our portfolio promptly in response to economic or other conditions. This inability to respond promptly to changes in the performance of our investments could adversely affect our financial condition and ability to make distributions to our security holders.

Changes in Laws and Litigation Risk Could Affect Our Business

We are generally not able to pass through to our residents under existing leases real estate or other federal, state or local taxes. Consequently, any such tax increases may adversely affect our financial condition and limit our ability to make distributions to our security holders. Similarly, changes that increase our potential liability under environmental laws or our expenditures on environmental compliance would adversely affect our cash flow and ability to make distributions on our securities.

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We may become involved in legal proceedings, including but not limited to, proceedings related to consumer, employment, development, condominium conversion, tort and commercial legal issues that if decided adversely to or settled by us, could result in liability material to our financial condition or results of operations.

Environmental Problems Are Possible and Can Be Costly

Federal, state and local laws and regulations relating to the protection of the environment may require a current or previous owner or operator of real estate to investigate and clean up hazardous or toxic substances or petroleum product releases at such property. The owner or operator may have to pay a governmental entity or third parties for property damage and for investigation and clean-up costs incurred by such parties in connection with the contamination. These laws typically impose clean-up responsibility and liability without regard to whether the owner or operator knew of or caused the presence of the contaminants. Even if more than one person may have been responsible for the contamination, each person covered by the environmental laws may be held responsible for all of the clean-up costs incurred. In addition, third parties may sue the owner or operator of a site for damages and costs resulting from environmental contamination emanating from that site.

Substantially all of our properties have been the subject of environmental assessments completed by qualified independent environmental consultant companies. While these environmental assessments have not revealed, nor are we aware of, any environmental liability that our management believes would have a material adverse effect on our business, results of operations, financial condition or liquidity, there can be no assurance that we will not incur such liabilities in the future.

Over the past several years, there have been an increasing number of lawsuits against owners and managers of multifamily properties alleging personal injury and property damage caused by the presence of mold in residential real estate. As some of these lawsuits have resulted in substantial monetary judgments or settlements, insurance carriers have reacted by excluding mold-related claims from standard policies and pricing mold endorsements at prohibitively high rates. We have adopted programs designed to minimize the existence of mold in any of our properties as well as guidelines for promptly addressing and resolving reports of mold to minimize any impact mold might have on our residents or the property.

We cannot be assured that existing environmental assessments of our properties reveal all environmental liabilities, that any prior owner of any of our properties did not create a material environmental condition not known to us, or that a material environmental condition does not otherwise exist as to any of our properties.

Insurance Policy Deductibles and Exclusions

In order to manage insurance costs, management has gradually increased deductible and self-insured retention amounts. As of December 31, 2008, the Company s property insurance policy provides for a per occurrence deductible of $250,000 and self-insured retention of $5.0 million per occurrence, subject to a maximum annual aggregate self-insured retention of $7.5 million, with approximately 80% of any excess losses being covered by insurance. Any earthquake and named windstorm losses are subject to a deductible of 5% of the values of the buildings involved in the losses and are not subject to the aggregate self-insured retention. The Company s general liability and worker s compensation policies at December 31, 2008 provide for a $2.0 million and $1.0 million per occurrence deductible, respectively. These higher deductible and self-insured retention amounts do expose the Company to greater potential uninsured losses, but management believes the savings in insurance premium expense justify this potential increased exposure over the long-term.

As a result of the terrorist attacks of September 11, 2001, property insurance carriers created exclusions for losses from terrorism from our all risk property insurance policies. As of December 31, 2008, the Company was insured for $500.0 million in terrorism insurance coverage, with a $100,000 deductible. This coverage excludes losses from nuclear, biological and chemical attacks. In the event of a terrorist attack impacting one or more of our properties, we could lose the revenues from the property, our capital investment in the property and possibly face liability claims from residents or others suffering injuries or losses. The Company believes, however, that the number of properties in and geographic diversity of its portfolio and its terrorism insurance coverage help to mitigate its exposure to the risks associated with potential terrorist attacks.

Debt Financing, Preferred Shares and Preference Interests and Units Could Adversely Affect Our Performance

General

Please refer to Item 7, *Management s Discussion and Analysis of Financial Condition and Results of Operations*, for the Company s total debt and unsecured debt summaries as of December 31, 2008.

In addition to debt, we have $209.0 million of combined liquidation value of outstanding preferred shares of beneficial interest and preference units, with a weighted average dividend preference of 6.94% per annum as of December 31, 2008. Our use of debt and preferred equity financing creates certain risks, including the following:

Disruptions in the Financial Markets Could Adversely Affect Our Ability to Obtain Debt Financing and Impact our Acquisitions and Dispositions

The United States capital and credit markets continue to experience significant dislocations and liquidity disruptions. These circumstances have materially impacted liquidity in the debt markets, making financing terms for us less attractive, and resulted in the unavailability of certain types of debt financing. If the capital and credit markets continue to experience volatility and the availability of funds remains limited, on unattractive terms or non-existent, we will incur increased costs associated with issuing debt instruments. In addition, it is possible that our ability to access the capital and credit markets may be limited or precluded by these or other factors at a time when we would like, or need, to do so, which would adversely impact our ability to refinance maturing debt and/or react to changing economic and business conditions. Due to disruptions in the floating rate tax-exempt bond market where the interest rates reset weekly and in the credit market s perception of Fannie Mae and Freddie Mac, which guaranty and provide liquidity for these bonds, we have experienced and could experience in the future an increase in interest rates on these debt obligations. These bonds could also be put to our consolidated subsidiaries if Fannie Mae or Freddie Mac fail to satisfy their guaranty obligations. While this obligation is in almost all cases non-recourse to us, this could cause the Company to have to repay these obligations on short notice or risk foreclosure actions on the collateralized assets. Furthermore, while we believe Fannie Mae and Freddie Mac will continue to provide liquidity to our sector, should they discontinue doing so, have their mandates changed or reduced or be disbanded by the government, it would significantly reduce our access to debt capital and/or increase borrowing costs and would significantly reduce our sales of assets. Uncertainty in the credit markets could negatively impact our ability to make acquisitions and make it more difficult or not possible for us to sell properties or may adversely affect the price we receive for properties that we do sell, as prospective buyers may experience increased costs of debt financing or difficulties in obtaining debt financing. Potential continued disruptions in the financial markets could also have other unknown adverse effects on us or the economy generally and may cause the price of our Common Shares to fluctuate significantly and/or to decline.

Non-Performance by Our Counterparties Could Adversely Affect Our Performance

Although we have not experienced any material counterparty non-performance, the disruption in financial and credit markets could, among other things, impede the ability of our counterparties to perform on their contractual obligations. There are multiple financial institutions that are individually committed to lend us varying amounts as part of our revolving credit facility. Should any of these institutions fail to fund their committed amounts when contractually required, our financial condition could be adversely affected. Should several of these institutions fail to fund, we could experience significant financial distress.

One of the financial institutions, with a commitment of $75.0 million, has recently declared bankruptcy and it is unlikely that they would honor their financial commitment. Our borrowing capacity under the credit facility has in essence been permanently reduced to $1.425 billion. The Company also has several assets under development with joint venture partners which were financed by financial institutions that are suffering varying degrees of distress. If one or more of these lenders fail to fund when contractually required, the Company or its joint venture partner may be unable to complete construction of its development properties. In addition, the parent of one of the Company s insurance providers has also experienced liquidity issues and while there has yet to be any non-performance, should any occur it could negatively impact the Company. Should any of our other major insurance providers experience similar financial or other distress, it could negatively impact the Company. Finally, we are also party to various derivative contracts with a number of counterparties. Any failure of any of our counterparties to perform under these contracts could negatively impact us.

A Significant Downgrade in Our Credit Ratings Could Adversely Affect Our Performance

A significant downgrade in our credit ratings, while not affecting our ability to draw proceeds under the revolving credit facility, would cause our borrowing costs to increase under the facility and also would impact our ability to borrow secured and unsecured debt by increasing borrowing costs, or otherwise limit our access to capital. In addition, a downgrade below investment grade would require us to post cash collateral and/or letters of credit in favor of some of our secured lenders to cover our self-insured property and liability insurance deductibles.

Scheduled Debt Payments Could Adversely Affect Our Financial Condition

In the future, our cash flow could be insufficient to meet required payments of principal and interest or to pay distributions on our securities at expected levels.

We may not be able to refinance existing debt, including joint venture indebtedness (which in virtually all cases requires substantial principal payments at maturity) and, if we can, the terms of such refinancing might not be as favorable as the terms of existing indebtedness. If principal payments due at maturity cannot be refinanced, extended or paid with proceeds of other capital transactions, such as new equity capital, our cash flow will not be sufficient in all years to repay all maturing debt. As a result, certain of our other debt may cross default, we may be forced to postpone capital expenditures necessary for the maintenance of our properties, we may have to dispose of one or more properties on terms that would otherwise be unacceptable to us or we may be forced to allow the mortgage holder to foreclose on a property.

Please refer to Item 7, *Management s Discussion and Analysis of Financial Condition and Results of Operations*, for the Company s debt maturity schedule as of December 31, 2008.

Financial Covenants Could Adversely Affect the Company s Financial Condition

If a property we own is mortgaged to secure debt and we are unable to meet the mortgage payments, the holder of the mortgage could foreclose on the property, resulting in loss of income and asset value. Foreclosure on mortgaged properties or an inability to refinance existing indebtedness would likely have a negative impact on our financial condition and results of operations.

The mortgages on our properties may contain customary negative covenants that, among other things, limit our ability, without the prior consent of the lender, to further mortgage the property and to reduce or change insurance coverage. In addition, our unsecured credit facilities contain certain restrictions, requirements and other limitations on our ability to incur debt. The indentures under which a substantial portion of our unsecured debt was issued also contain certain financial and operating covenants including, among other things, maintenance of certain financial ratios, as well as limitations on our ability to incur secured and unsecured debt (including acquisition financing), and to sell all or substantially all of our assets. Our credit facilities and indentures are cross-defaulted and also contain cross default provisions with other material debt. The Company believes it was in compliance with its unsecured public debt covenants for both the years ended December 31, 2008 and 2007.

Some of the properties were financed with tax-exempt bonds that contain certain restrictive covenants or deed restrictions. We have retained an independent outside consultant to monitor compliance with the restrictive covenants and deed restrictions that affect these properties. If these bond compliance requirements restrict our ability to increase our rental rates to attract low or moderate-income residents, or eligible/qualified residents, then our income from these properties may be limited. Generally, we believe that the interest rate benefit attendant to properties with tax-exempt bonds more than outweighs any loss of income due to restrictive covenants or deed restrictions.

Our Degree of Leverage Could Limit Our Ability to Obtain Additional Financing

Our consolidated debt-to-total market capitalization ratio was 54.3% as of December 31, 2008. Our degree of leverage could have important consequences to security holders. For example, the degree of leverage could affect our ability to obtain additional financing in the future for working capital, capital expenditures, acquisitions, development or other general corporate purposes, making us more vulnerable to a downturn in business or the economy in general.

Rising Interest Rates Could Adversely Affect Cash Flow

Advances under our credit facilities bear interest at variable rates based upon LIBOR at various interest periods, plus a spread dependent upon the Operating Partnership s credit rating, or based upon bids received from the

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lending group. Certain public issuances of our senior unsecured debt instruments may also, from time to time, bear interest at floating rates. We may also borrow additional money with variable interest rates in the future. Increases in interest rates would increase our interest expense under these debt instruments and would increase the costs of refinancing existing debt and of issuing new debt. Accordingly, higher interest rates could adversely affect cash flow and our ability to service our debt and to make distributions to security holders. We use interest rate hedging arrangements to manage our exposure to interest rate volatility, but these arrangements may expose us to additional risks, and no strategy can completely insulate us from risks associated with interest rate fluctuations. There can be no assurance that our hedging arrangements will have the desired beneficial impact and may involve costs, such as transaction fees or breakage costs, if we terminate them.

We Depend on Our Key Personnel

We depend on the efforts of the Chairman of our Board of Trustees, Samuel Zell, and our executive officers, particularly David J. Neithercut, our President and Chief Executive Officer. If they resign or otherwise cease to be employed by us, our operations could be temporarily adversely affected. Mr. Zell has entered into retirement benefit and noncompetition agreements with the Company.

In the event the Chairman of the Board and/or the CEO are unable to serve, (i) the Lead Trustee will automatically be appointed to serve as the interim successor to the Chairman, (ii) the Chairman will automatically be appointed to serve as the interim successor to the CEO and (iii) the Chair of the Compensation Committee of the Board will immediately call a meeting of the Committee to recommend to the full Board the selection of a permanent replacement for either or both positions, as necessary.

Control and Influence by Significant Shareholders Could Be Exercised in a Manner Adverse to Other Shareholders

The consent of certain affiliates of Mr. Zell is required for certain amendments to the Fifth Amended and Restated Agreement of Limited Partnership of the Operating Partnership (the Partnership Agreement). As a result of their security ownership and rights concerning amendments to the Partnership Agreement, the security holders referred to herein may have influence over the Company. Although these security holders have not agreed to act together on any matter, they would be in a position to exercise even more influence over the Company s affairs if they were to act together in the future. This influence could conceivably be exercised in a manner that is inconsistent with the interests of other security holders. For additional information regarding the security ownership of our trustees, including Mr. Zell, and our executive officers, see the Company s definitive proxy statement.

Shareholders Ability to Effect Changes in Control of the Company is Limited

Provisions of Our Declaration of Trust and Bylaws Could Inhibit Changes in Control

Certain provisions of our Declaration of Trust and Bylaws may delay or prevent a change in control of the Company or other transactions that could provide the security holders with a premium over the then-prevailing market price of their securities or which might otherwise be in the best interest of our security holders. This includes the 5% Ownership Limit described below. While our existing preferred shares do not have these provisions, any future series of preferred shares may have certain voting provisions that could delay or prevent a change in control or other transactions that might otherwise be in the interest of our security holders. In 2008, we adopted amendments to our Bylaws to expand the information required to be provided by any security holder, or persons acting in concert with such security holder, who proposes business or a nominee at an annual meeting of shareholders, including disclosure of information related to hedging activities and investment strategies with respect to our securities. These amendments could delay or prevent a change in control or other transactions that might otherwise be in the interest of our security holders.

We Have a Share Ownership Limit for REIT Tax Purposes

To remain qualified as a REIT for federal income tax purposes, not more than 50% in value of our outstanding Shares may be owned, directly or indirectly, by five or fewer individuals at any time during the last half of any year. To facilitate maintenance of our REIT qualification, our Declaration of Trust, subject to certain exceptions, prohibits ownership by any single shareholder of more than 5% of the lesser of the number or value of the outstanding class of common or preferred shares. We refer to this restriction as the Ownership Limit. Absent any exemption or waiver granted by our Board of Trustees, securities acquired or held in violation of the Ownership Limit will be transferred to a trust for the exclusive benefit of a designated charitable beneficiary, and the security holder s rights to distributions and to vote would terminate. A transfer of Shares may be void if it causes a person to violate the

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Ownership Limit. The Ownership Limit could delay or prevent a change in control and, therefore, could adversely affect our security holders ability to realize a premium over the then-prevailing market price for their Shares. To reduce the ability of the Board to use the Ownership Limit as an anti-takeover device, in 2004 the Company amended the Ownership Limit to require, rather than permit, the Board to grant a waiver of the Ownership Limit if the individual seeking a waiver demonstrates that such ownership would not jeopardize the Company s status as a REIT.

Our Preferred Shares May Affect Changes in Control

Our Declaration of Trust authorizes the Board of Trustees to issue up to 100 million preferred shares, and to establish the preferences and rights (including the right to vote and the right to convert into common shares) of any preferred shares issued. The Board of Trustees may use its powers to issue preferred shares and to set the terms of such securities to delay or prevent a change in control of the Company, even if a change in control were in the interest of security holders.

Inapplicability of Maryland Law Limiting Certain Changes in Control

Certain provisions of Maryland law applicable to real estate investment trusts prohibit business combinations (including certain issuances of equity securities) with any person who beneficially owns ten percent or more of the voting power of outstanding securities, or with an affiliate who, at any time within the two-year period prior to the date in question, was the beneficial owner of ten percent or more of the voting power of the Company s outstanding voting securities (an Interested Shareholder), or with an affiliate of an Interested Shareholder. These prohibitions last for five years after the most recent date on which the Interested Shareholder became an Interested Shareholder. After the five-year period, a business combination with an Interested Shareholder must be approved by two super-majority shareholder votes unless, among other conditions, holders of common shares receive a minimum price for their shares and the consideration is received in cash or in the same form as previously paid by the Interested Shareholder for its common shares. As permitted by Maryland law, however, the Board of Trustees of the Company has opted out of these restrictions with respect to any business combination involving Mr. Zell and certain of his affiliates and persons acting in concert with them. Consequently, the five-year prohibition and the super-majority vote requirements will not apply to a business combination involving us and/or any of them. Such business combinations may not be in the best interest of our security holders.

Our Success as a REIT Is Dependent on Compliance with Federal Income Tax Requirements

Our Failure to Qualify as a REIT Would Have Serious Adverse Consequences to Our Security Holders

We believe that we have qualified for taxation as a REIT for federal income tax purposes since our taxable year ended December 31, 1992 based, in part, upon opinions of tax counsel received whenever we have issued equity securities or engaged in significant merger transactions. We plan to continue to meet the requirements for taxation as a REIT. Many of these requirements, however, are highly technical and complex. We cannot, therefore, guarantee that we have qualified or will qualify in the future as a REIT. The determination that we are a REIT requires an analysis of various factual matters that may not be totally within our control. For example, to qualify as a REIT, our gross income must generally come from rental and other real estate or passive related sources that are itemized in the REIT tax laws. We are also required to distribute to security holders at least 90% of our REIT taxable income excluding capital gains. The fact that we hold our assets through ERP Operating Limited Partnership and its subsidiaries further complicates the application of the REIT requirements. Even a technical or inadvertent mistake could jeopardize our REIT status. Furthermore, Congress and the IRS might make changes to the tax laws and regulations, and the courts might issue new rulings that make it more difficult, or impossible, for us to remain qualified as a REIT. We do not believe, however, that any pending or proposed tax law changes would jeopardize our REIT status. In addition, Congress and the IRS have recently liberalized the REIT qualification rules to permit REIT s in certain circumstances to pay a monetary penalty for inadvertent mistakes rather than lose REIT status.

If we fail to qualify as a REIT, we would be subject to federal income tax at regular corporate rates. Also, unless the IRS granted us relief under certain statutory provisions, we would remain disqualified as a REIT for four years following the year we first failed to qualify. If we fail to qualify as a REIT, we would have to pay significant income taxes. We, therefore, would have less money available for investments or for distributions to security holders. This would likely have a significant adverse effect on the value of our securities. In addition, we would no longer be required to make any distributions to security holders. Even if we qualify as a REIT, we are and will continue to be subject to certain federal, state and local taxes on our income and property. In addition, our corporate housing business and condominium conversion business, which are conducted through taxable REIT subsidiaries, generally will be subject to federal income tax at regular corporate rates to the extent they have taxable income.

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We Could Be Disqualified as a REIT or Have to Pay Taxes if Our Merger Partners Did Not Qualify as REITs

If any of our prior merger partners had failed to qualify as a REIT throughout the duration of their existence, then they might have had undistributed C corporation earnings and profits at the time of their merger with us. If that was the case and we did not distribute those earnings and profits prior to the end of the year in which the merger took place, we might not qualify as a REIT. We believe based, in part, upon opinions of legal counsel received pursuant to the terms of our merger agreements as well as our own investigations, among other things, that each of our prior merger partners qualified as a REIT and that, in any event, none of them had any undistributed C corporation earnings and profits at the time of their merger with us. If any of our prior merger partners failed to qualify as a REIT, an additional concern would be that they would have recognized taxable gain at the time they merged with us. We would be liable for the tax on such gain. In this event, we could have to pay corporate income tax on any gain existing at the time of the applicable merger on assets acquired in the merger if the assets are sold within ten years of the merger. Finally, we could be precluded from electing REIT status for up to four years after the year in which the predecessor entity failed to qualify for REIT status.

Compliance with REIT Distribution Requirements May Affect Our Financial Condition

Distribution Requirements May Increase the Indebtedness of the Company

We may be required from time to time, under certain circumstances, to accrue as income for tax purposes interest and rent earned but not yet received. In such event, or upon our repayment of principal on debt, we could have taxable income without sufficient cash to enable us to meet the distribution requirements of a REIT. Accordingly, we could be required to borrow funds or liquidate investments on adverse terms in order to meet these distribution requirements.

Tax Elections Regarding Distributions May Impact Future Liquidity of the Company

During 2008, we did make, and under certain circumstances may consider making again in the future, a tax election to treat future distributions to shareholders as distributions in the current year. This election, which is provided for in the REIT tax code, may allow us to avoid increasing our dividends or paying additional income taxes in the current year. However, this could result in a constraint on our ability to decrease our dividends in future years without creating risk of either violating the REIT distribution requirements or generating additional income tax liability.

Federal Income Tax Considerations

General

The following discussion summarizes the federal income tax considerations material to a holder of common shares. It is not exhaustive of all possible tax considerations. For example, it does not give a detailed discussion of any state, local or foreign tax considerations. The following discussion also does not address all tax matters that may be relevant to prospective shareholders in light of their particular circumstances. Moreover, it does not address all tax matters that may be relevant to shareholders who are subject to special treatment under the tax laws, such as insurance companies, tax-exempt entities, financial institutions or broker-dealers, foreign corporations and persons who are not citizens or residents of the United States.

The specific tax attributes of a particular shareholder could have a material impact on the tax considerations associated with the purchase, ownership and disposition of common shares. Therefore, it is essential that each prospective shareholder consult with his or her own tax advisors with regard to the application of the federal income tax laws to the shareholder s personal tax situation, as well as any tax consequences arising under the laws of any state, local or foreign taxing jurisdiction.

The information in this section is based on the current Internal Revenue Code, current, temporary and proposed Treasury regulations, the legislative history of the Internal Revenue Code, current administrative interpretations and practices of the Internal Revenue Service, including its practices and policies as set forth in private letter rulings, which are not binding on the Internal Revenue Service, and existing court decisions. Future legislation, regulations, administrative interpretations and court decisions could change current law or adversely affect existing interpretations of current law. Any change could apply retroactively. Thus, it is possible that the Internal Revenue Service could challenge the statements in this discussion, which do not bind the Internal Revenue Service or the courts, and that a court could agree with the Internal Revenue Service.

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Our Taxation

We elected REIT status beginning with the year that ended December 31, 1992. In any year in which we qualify as a REIT, we generally will not be subject to federal income tax on the portion of our REIT taxable income or capital gain that we distribute to our shareholders. This treatment substantially eliminates the double taxation that applies to most corporations, which pay a tax on their income and then distribute dividends to shareholders who are in turn taxed on the amount they receive. We elected taxable REIT subsidiary status for certain of our corporate subsidiaries, primarily those engaged in condominium conversion and sale activities. As a result, we will be subject to federal income taxes for activities performed by our taxable REIT subsidiaries.

We will be subject to federal income tax at regular corporate rates upon our REIT taxable income or capital gain that we do not distribute to our shareholders. In addition, we will be subject to a 4% excise tax if we do not satisfy specific REIT distribution requirements. We could also be subject to the alternative minimum tax on our items of tax preference. In addition, any net income from prohibited transactions (i.e., dispositions of property, other than property held by a taxable REIT subsidiary, held primarily for sale to customers in the ordinary course of business) will be subject to a 100% tax. We could also be subject to a 100% penalty tax on certain payments received from or on certain expenses deducted by a taxable REIT subsidiary if any such transaction is not respected by the Internal Revenue Service. If we fail to satisfy the 75% gross income test or the 95% gross income test (described below) but have maintained our qualification as a REIT because we satisfied certain other requirements, we will still generally be subject to a 100% penalty tax on the taxable income attributable to the gross income that caused the income test failure. If we fail to satisfy any of the REIT asset tests (described below) by more than a *de minimis* amount, due to reasonable cause, and we nonetheless maintain our REIT qualification because of specified cure provisions, we will be required to pay a tax equal to the greater of $50,000 or the highest marginal corporate tax rate multiplied by the net income generated by the non-qualifying assets. If we fail to satisfy any provision of the Internal Revenue Code that would result in our failure to qualify as a REIT (other than a violation of the REIT gross income or asset tests described below) and the violation is due to reasonable cause, we may retain our REIT qualification but we will be required to pay a penalty of $50,000 for each such failure. Moreover, we may be subject to taxes in certain situations and on certain transactions that we do not presently contemplate.

We believe that we have qualified as a REIT for all of our taxable years beginning with 1992. We also believe that our current structure and method of operation is such that we will continue to qualify as a REIT. However, given the complexity of the REIT qualification requirements, we cannot provide any assurance that the actual results of our operations have satisfied or will satisfy the requirements under the Internal Revenue Code for a particular year.

If we fail to qualify for taxation as a REIT in any taxable year and the relief provisions described herein do not apply, we will be subject to tax on our taxable income at regular corporate rates. We also may be subject to the corporate alternative minimum tax. As a result, our failure to qualify as a REIT would significantly reduce the cash we have available to distribute to our shareholders. Unless entitled to statutory relief, we would not be able to re-elect to be taxed as a REIT until our fifth taxable year after the year of disqualification. It is not possible to state whether we would be entitled to statutory relief.

Our qualification and taxation as a REIT depend on our ability to satisfy various requirements under the Internal Revenue Code. We are required to satisfy these requirements on a continuing basis through actual annual operating and other results. Accordingly, there can be no assurance that we will be able to continue to operate in a manner so as to remain qualified as a REIT.

Ownership of Taxable REIT Subsidiaries by Us. The Internal Revenue Code provides that REITs may own greater than ten percent of the voting power and value of the securities of taxable REIT subsidiaries or TRSs , which are corporations subject to tax as a regular C corporation that have elected, jointly with a REIT, to be a TRS. Generally, a taxable REIT subsidiary may own assets that cannot otherwise be owned by a REIT and can perform impermissible tenant services (discussed below), which would otherwise taint our rental income under the REIT income tests. However, the REIT will be obligated to pay a 100% penalty tax on some payments that we receive or on certain expenses deducted by our TRSs if the economic arrangements between us, our tenants and the TRS are not comparable to similar arrangements among unrelated parties. A TRS may also receive income from prohibited transactions without incurring the 100% federal income tax liability imposed on REITs. Income from prohibited transactions may include the purchase and sale of land, the purchase and sale of completed development properties and the sale of condominium units.

TRSs pay federal and state income tax at the full applicable corporate rates. The amount of taxes paid on impermissible tenant services income and the sale of real estate held primarily for sale to customers in the ordinary course of business may be material in amount. The TRSs will attempt to reduce, if possible, the amount of these taxes, but we cannot guarantee whether, or the extent to which, measures taken to reduce these taxes will be successful. To the extent that these companies are required to pay taxes, less cash may be available for distributions to shareholders.

Share Ownership Test and Organizational Requirement. In order to qualify as a REIT, our shares of beneficial interest must be held by a minimum of 100 persons for at least 335 days of a taxable year that is 12 months, or during a proportionate part of a taxable year of less than 12 months. Also, not more than 50% in value of our shares of beneficial interest may be owned directly or indirectly by applying certain constructive ownership rules, by five or fewer individuals during the last half of each taxable year. In addition, we must meet certain other organizational requirements, including, but not limited to, that (i) the beneficial ownership in us is evidenced by transferable shares and (ii) we are managed by one or more trustees. We believe that we have satisfied all of these tests and all other organizational requirements and that we will continue to do so in the future. In order to ensure compliance with the 100 person test and the 50% share ownership test discussed above, we have placed certain restrictions on the transfer of our shares that are intended to prevent further concentration of share ownership. However, such restrictions may not prevent us from failing these requirements, and thereby failing to qualify as a REIT.

Gross Income Tests. To qualify as a REIT, we must satisfy two gross income tests:

(1) At least 75% of our gross income for each taxable year must be derived directly or indirectly from rents from real property, investments in real estate and/or real estate mortgages, dividends paid by another REIT and from some types of temporary investments (excluding certain hedging income).
(2) At least 95% of our gross income for each taxable year must be derived from any combination of income qualifying under the 75% test and dividends, non-real estate mortgage interest and gain from the sale or disposition of stock or securities (excluding certain hedging income).

To qualify as rents from real property for the purpose of satisfying the gross income tests, rental payments must generally be received from unrelated persons and not be based on the net income of the resident. Also, the rent attributable to personal property must not exceed 15% of the total rent. We may generally provide services to residents without tainting our rental income only if such services are usually or customarily rendered in connection with the rental of real property and not otherwise considered impermissible services . If such services are impermissible, then we may generally provide them only if they are considered de minimis in amount, or are provided through an independent contractor from whom we derive no revenue and that meets other requirements, or through a taxable REIT subsidiary. We believe that services provided to residents by us either are usually or customarily rendered in connection with the rental of real property and not otherwise considered impermissible, or, if considered impermissible services, will meet the *de minimis* test or will be provided by an independent contractor or taxable REIT subsidiary. However, we cannot provide any assurance that the Internal Revenue Service will agree with these positions.

If we fail to satisfy one or both of the gross income tests for any taxable year, we may nevertheless qualify as a REIT for the year if we are entitled to relief under certain provisions of the Internal Revenue Code. In this case, a penalty tax would still be applicable as discussed above. Generally, it is not possible to state whether in all circumstances we would be entitled to the benefit of these relief provisions and in the event these relief provisions do not apply, we will not qualify as a REIT.

Asset Tests. In general, at the close of each quarter of our taxable year, we must satisfy four tests relating to the nature of our assets:

(1) At least 75% of the value of our total assets must be represented by real estate assets (which include for this purpose shares in other real estate investment trusts) and certain cash related items;
(2) Not more than 25% of the value of our total assets may be represented by securities other than those in the 75% asset class;
(3) Except for securities includable in item 1 above, equity investments in other REITs, qualified REIT subsidiaries (i.e., corporations owned 100% by a REIT that are not TRSs or REITs), or taxable REIT subsidiaries: (a) the value of any one issuer s securities owned by us may not exceed 5% of the value of our total assets and (b) we may not own securities representing more than 10% of the voting power or value of the outstanding securities of any one issuer; and
(4) Not more than 20% (25% for taxable years beginning after December 31, 2008) of the value of our total assets may be represented by securities of one or more taxable REIT subsidiaries.

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The 10% value test described in clause (3) (b) above does not apply to certain securities that fall within a safe harbor under the Code. Under the safe harbor, the following are not considered securities held by us for purposes of this 10% value test: (i) straight debt securities, (ii) any loan of an individual or an estate, (iii) certain rental agreements for the use of tangible property, (iv) any obligation to pay rents from real property, (v) any security issued by a state or any political subdivision thereof, foreign government or Puerto Rico only if the determination of any payment under such security is not based on the profits of another entity or payments on any obligation issued by such other entity, or (vi) any security issued by a REIT. The timing and payment of interest or principal on a security qualifying as straight debt may be subject to a contingency provided that (A) such contingency does not change the effective yield to maturity, not considering a *de minimis* change which does not exceed the greater of $^1/4$ of 1% or 5% of the annual yield to maturity or we own $1,000,000 or less of the aggregate issue price or value of the particular issuer s debt and not more than 12 months of unaccrued interest can be required to be prepaid or (B) the contingency is consistent with commercial practice and the contingency is effective upon a default or the exercise of a prepayment right by the issuer of the debt. If we hold indebtedness from any issuer, including a REIT, the indebtedness will be subject to, and may cause a violation of, the asset tests, unless it is a qualifying real estate asset or otherwise satisfies the above safe harbor. We currently own equity interests in certain entities that have elected to be taxed as REITs for federal income tax purposes and are not publicly traded. If any such entity were to fail to qualify as a REIT, we would not meet the 10% voting stock limitation and the 10% value limitation and we would, unless certain relief provisions applied, fail to qualify as a REIT. We believe that we and each of the REITs we own an interest in have and will comply with the foregoing asset tests for REIT qualification. However, we cannot provide any assurance that the Internal Revenue Service will agree with our determinations.

If we fail to satisfy the 5% or 10% asset tests described above after a 30-day cure period provided in the Internal Revenue Code, we will be deemed to have met such tests if the value of our non-qualifying assets is *de minimis* (i.e., does not exceed the lesser of 1% of the total value of our assets at the end of the applicable quarter or $10,000,000) and we dispose of the non-qualifying assets within six months after the last day of the quarter in which the failure to satisfy the asset tests is discovered. For violations due to reasonable cause and not willful neglect that are in excess of the *de minimis* exception described above, we may avoid disqualification as a REIT under any of the asset tests, after the 30-day cure period, by disposing of sufficient assets to meet the asset test within such six month period, paying a tax equal to the greater of $50,000 or the highest corporate tax rate multiplied by the net income generated by the non-qualifying assets and disclosing certain information to the Internal Revenue Service. If we cannot avail ourselves of these relief provisions, or if we fail to timely cure any noncompliance with the asset tests, we would cease to qualify as a REIT.

<u>Annual Distribution Requirements</u>. To qualify as a REIT, we are generally required to distribute dividends, other than capital gain dividends, to our shareholders each year in an amount at least equal to 90% of our REIT taxable income. These distributions must be paid either in the taxable year to which they relate, or in the following taxable year if declared before we timely file our tax return for the prior year and if paid with or before the first regular dividend payment date after the declaration is made. We intend to make timely distributions sufficient to satisfy our annual distribution requirements. To the extent that we do not distribute all of our net capital gain or distribute at least 90%, but less than 100% of our REIT taxable income, as adjusted, we are subject to tax on these amounts at regular corporate rates. We will be subject to a 4% excise tax on the excess of the required distribution over the sum of amounts actually distributed and amounts retained for which federal income tax was paid, if we fail to distribute during each calendar year at least the sum of: (1) 85% of our REIT ordinary income for the year; (2) 95% of our REIT capital gain net income for the year; and (3) any undistributed taxable income from prior taxable years. A REIT may elect to retain rather than distribute all or a portion of its net capital gains and pay the tax on the gains. In that case, a REIT may elect to have its shareholders include their proportionate share of the undistributed net capital gains in income as long-term capital gains and receive a credit for their share of the tax paid by the REIT. For purposes of the 4% excise tax described above, any retained amounts would be treated as having been distributed.

<u>Ownership of Partnership Interests By Us</u>. As a result of our ownership of the Operating Partnership, we will be considered to own and derive our proportionate share of the assets and items of income of the Operating Partnership, respectively, for purposes of the REIT asset and income tests, including its share of assets and items of income of any subsidiaries that are partnerships or limited liability companies.

<u>State and Local Taxes</u>. We may be subject to state or local taxation in various jurisdictions, including those in which we transact business or reside. Our state and local tax treatment may not conform to the federal income tax treatment discussed above. Consequently, prospective shareholders should consult their own tax advisors regarding the effect of state and local tax laws on an investment in common shares.

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Taxation of Domestic Shareholders Subject to U.S. Tax

General. If we qualify as a REIT, distributions made to our taxable domestic shareholders with respect to their common shares, other than capital gain distributions and distributions attributable to taxable REIT subsidiaries, will be treated as ordinary income to the extent that the distributions come out of earnings and profits. These distributions will not be eligible for the dividends received deduction for shareholders that are corporations nor will they constitute qualified dividend income under the Internal Revenue Code, meaning that such dividends will be taxed at marginal rates applicable to ordinary income rather than the special capital gain rates currently applicable to qualified dividend income distributed to shareholders who satisfy applicable holding period requirements. In determining whether distributions are out of earnings and profits, we will allocate our earnings and profits first to preferred shares and second to the common shares. The portion of ordinary dividends which represent ordinary dividends we receive from a TRS, will be designated as qualified dividend income to REIT shareholders and are eligible for preferential tax rates if paid to our non-corporate shareholders.

To the extent we make distributions to our taxable domestic shareholders in excess of our earnings and profits, such distributions will be considered a return of capital. Such distributions will be treated as a tax-free distribution and will reduce the tax basis of a shareholder s common shares by the amount of the distribution so treated. To the extent such distributions cumulatively exceed a taxable domestic shareholder s tax basis; such distributions are taxable as a gain from the sale of shares. Shareholders may not include in their individual income tax returns any of our net operating losses or capital losses.

Dividends declared by a REIT in October, November, or December are deemed to have been paid by the REIT and received by its shareholders on December 31 of that year, so long as the dividends are actually paid during January of the following year. However, this treatment only applies to the extent of the REIT s earnings and profits existing on December 31. To the extent the shareholder distribution paid in January exceeds available earnings and profits as of December 31, the excess will be treated as a distribution taxable to shareholders in the year paid. As such, for tax reporting purposes, January distributions paid to our shareholders may be split between two tax years.

Distributions made by us that we properly designate as capital gain dividends will be taxable to taxable domestic shareholders as gain from the sale or exchange of a capital asset held for more than one year. This treatment applies only to the extent that the designated distributions do not exceed our actual net capital gain for the taxable year. It applies regardless of the period for which a domestic shareholder has held his or her common shares. Despite this general rule, corporate shareholders may be required to treat up to 20% of certain capital gain dividends as ordinary income.

Generally, we will classify a portion of our designated capital gain dividends as a 15% rate gain distribution and the remaining portion as an unrecaptured Section 1250 gain distribution. A 15% rate gain distribution would be taxable to taxable domestic shareholders that are individuals, estates or trusts at a maximum rate of 15%. An unrecaptured Section 1250 gain distribution would be taxable to taxable domestic shareholders that are individuals, estates or trusts at a maximum rate of 25%.

If, for any taxable year, we elect to designate as capital gain dividends any portion of the dividends paid or made available for the year to holders of all classes of shares of beneficial interest, then the portion of the capital gains dividends that will be allocable to the holders of common shares will be the total capital gain dividends multiplied by a fraction. The numerator of the fraction will be the total dividends paid or made available to the holders of the common shares for the year. The denominator of the fraction will be the total dividends paid or made available to holders of all classes of shares of beneficial interest.

We may elect to retain (rather than distribute as is generally required) net capital gain for a taxable year and pay the income tax on that gain. If we make this election, shareholders must include in income, as long-term capital gain, their proportionate share of the undistributed net capital gain. Shareholders will be treated as having paid their proportionate share of the tax paid by us on these gains. Accordingly, they will receive a tax credit or refund for the amount. Shareholders will increase the basis in their common shares by the difference between the amount of capital gain included in their income and the amount of the tax they are treated as having paid. Our earnings and profits will be adjusted appropriately.

In general, a shareholder will recognize gain or loss for federal income tax purposes on the sale or other disposition of common shares in an amount equal to the difference between:

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(a) the amount of cash and the fair market value of any property received in the sale or other disposition; and

(b) the shareholder s adjusted tax basis in the common shares.

The gain or loss will be capital gain or loss if the common shares were held as a capital asset. Generally, the capital gain or loss will be long-term capital gain or loss if the common shares were held for more than one year.

In general, a loss recognized by a shareholder upon the sale of common shares that were held for six months or less, determined after applying certain holding period rules, will be treated as long-term capital loss to the extent that the shareholder received distributions that were treated as long-term capital gains. For shareholders who are individuals, trusts and estates, the long-term capital loss will be apportioned among the applicable long-term capital gain rates to the extent that distributions received by the shareholder were previously so treated.

Taxation of Domestic Tax-Exempt Shareholders

Most tax-exempt organizations are not subject to federal income tax except to the extent of their unrelated business taxable income, which is often referred to as UBTI. Unless a tax-exempt shareholder holds its common shares as debt financed property or uses the common shares in an unrelated trade or business, distributions to the shareholder should not constitute UBTI. Similarly, if a tax-exempt shareholder sells common shares, the income from the sale should not constitute UBTI unless the shareholder held the shares as debt financed property or used the shares in a trade or business.

However, for tax-exempt shareholders that are social clubs, voluntary employee benefit associations, supplemental unemployment benefit trusts, and qualified group legal services plans, income from owning or selling common shares will constitute UBTI unless the organization is able to properly deduct amounts set aside or placed in reserve so as to offset the income generated by its investment in common shares. These shareholders should consult their own tax advisors concerning these set aside and reserve requirements which are set forth in the Internal Revenue Code.

In addition, certain pension trusts that own more than 10% of a pension-held REIT must report a portion of the distributions that they receive from the REIT as UBTI. We have not been and do not expect to be treated as a pension-held REIT for purposes of this rule.

Taxation of Foreign Shareholders

The following is a discussion of certain anticipated United States federal income tax consequences of the ownership and disposition of common shares applicable to a foreign shareholder. For purposes of this discussion, a foreign shareholder is any person other than:

(a) a citizen or resident of the United States;

(b) a corporation or partnership created or organized in the United States or under the laws of the United States or of any state thereof; or

(c) an estate or trust whose income is includable in gross income for United States federal income tax purposes regardless of its source.

Distributions by Us. Distributions by us to a foreign shareholder that are neither attributable to gain from sales or exchanges by us of United States real property interests nor designated by us as capital gains dividends will be treated as dividends of ordinary income to the extent that they are made out of our earnings and profits. These distributions ordinarily will be subject to withholding of United States federal income tax on a gross basis at a 30% rate, or a lower treaty rate, unless the dividends are treated as effectively connected with the conduct by the foreign shareholder of a United States trade or business. Please note that under certain treaties lower withholding rates generally applicable to dividends do not apply to dividends from REITs. Dividends that are effectively connected with a United States trade or business will be subject to tax on a net basis at graduated rates, and are generally not subject to withholding. Certification and disclosure requirements must be satisfied before a dividend is exempt from withholding under this exemption. A foreign shareholder that is a corporation also may be subject to an additional branch profits tax at a 30% rate or a lower treaty rate.

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We expect to withhold United States income tax at the rate of 30% on any distributions made to a foreign shareholder unless:

(a) a lower treaty rate applies and any required form or certification evidencing eligibility for that reduced rate is filed with us; or

(b) the foreign shareholder files an IRS Form W-8ECI with us claiming that the distribution is effectively connected income.

A distribution in excess of our current or accumulated earnings and profits will not be taxable to a foreign shareholder to the extent that the distribution does not exceed the adjusted basis of the shareholder s common shares. Instead, the distribution will reduce the adjusted basis of the common shares. To the extent that the distribution exceeds the adjusted basis of the common shares, it will give rise to gain from the sale or exchange of the shareholder s common shares. The tax treatment of this gain is described below.

We intend to withhold at a rate of 30%, or a lower applicable treaty rate, on the entire amount of any distribution not designated as a capital gain distribution. In such event, a foreign shareholder may seek a refund of the withheld amount from the IRS if it is subsequently determined that the distribution was, in fact, in excess of our earnings and profits, and the amount withheld exceeded the foreign shareholder s United States tax liability with respect to the distribution.

Any capital gain dividend with respect to any class of our stock which is regularly traded on an established securities market, will be treated as an ordinary dividend described above, if the foreign shareholder did not own more than 5% of such class of stock at any time during the one year period ending on the date of the distribution. Foreign shareholders generally will not be required to report distributions received from us on U.S. federal income tax returns and all distributions treated as dividends for U.S. federal income tax purposes, including any capital gain dividends, will be subject to a 30% U.S. withholding tax (unless reduced or eliminated under an applicable income tax treaty), as described above. In addition, the branch profits tax will no longer apply to such distributions.

Distributions to a foreign shareholder that we designate at the time of the distributions as capital gain dividends, other than those arising from the disposition of a United States real property interest, generally will not be subject to United States federal income taxation unless:

(a) the investment in the common shares is effectively connected with the foreign shareholder s United States trade or business, in which case the foreign shareholder will be subject to the same treatment as domestic shareholders, except that a shareholder that is a foreign corporation may also be subject to the branch profits tax, as discussed above; or

(b) the foreign shareholder is a nonresident alien individual who is present in the United States for 183 days or more during the taxable year and has a tax home in the United States, in which case the nonresident alien individual will be subject to a 30% tax on the individual s capital gains.

Except as described above, under the Foreign Investment in Real Property Tax Act, which is known as FIRPTA, distributions to a foreign shareholder that are attributable to gain from sales or exchanges of United States real property interests will cause the foreign shareholder to be treated as recognizing the gain as income effectively connected with a United States trade or business. This rule applies whether or not a distribution is designated as a capital gain dividend. Accordingly, foreign shareholders generally would be taxed on these distributions at the same rates applicable to U.S. shareholders, subject to a special alternative minimum tax in the case of nonresident alien individuals. In addition, a foreign corporate shareholder might be subject to the branch profits tax discussed above, as well as U.S. federal income tax return filing requirements. We are required to withhold 35% of these distributions. The withheld amount can be credited against the foreign shareholder s United States federal income tax liability.

Although the law is not entirely clear on the matter, it appears that amounts we designate as undistributed capital gains in respect of the common shares held by U.S. shareholders would be treated with respect to foreign shareholders in the same manner as actual distributions of capital gain dividends. Under that approach, foreign shareholders would be able to offset as a credit against the United States federal income tax liability their proportionate share of the tax paid by us on these undistributed capital gains. In addition, foreign shareholders would be able to receive from the IRS a refund to the extent their proportionate share of the tax paid by us were to exceed their actual United States federal income tax liability.

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Foreign Shareholders Sales of Common Shares. Gain recognized by a foreign shareholder upon the sale or exchange of common shares generally will not be subject to United States taxation unless the shares constitute a United States real property interest within the meaning of FIRPTA. The common shares will not constitute a United States real property interest so long as we are a domestically controlled REIT. A domestically controlled REIT is a REIT in which at all times during a specified testing period less than 50% in value of its stock is held directly or indirectly by foreign shareholders. We believe that we are a domestically controlled REIT. Therefore, we believe that the sale of common shares will not be subject to taxation under FIRPTA. However, because common shares and preferred shares are publicly traded, we cannot guarantee that we will continue to be a domestically controlled REIT. In any event, gain from the sale or exchange of common shares not otherwise subject to FIRPTA will be subject to U.S. tax, if either:

(a) the investment in the common shares is effectively connected with the foreign shareholder s United States trade or business, in which case the foreign shareholder will be subject to the same treatment as domestic shareholders with respect to the gain; or

(b) the foreign shareholder is a nonresident alien individual who is present in the United States for 183 days or more during the taxable year and has a tax home in the United States, in which case the nonresident alien individual will be subject to a 30% tax on the individual s capital gains.

Even if we do not qualify as or cease to be a domestically controlled REIT, gain arising from the sale or exchange by a foreign shareholder of common shares still would not be subject to United States taxation under FIRPTA as a sale of a United States real property interest if:

(a) the class or series of shares being sold is regularly traded, as defined by applicable IRS regulations, on an established securities market such as the New York Stock Exchange; and

(b) the selling foreign shareholder owned 5% or less of the value of the outstanding class or series of shares being sold throughout the five-year period ending on the date of the sale or exchange.

If gain on the sale or exchange of common shares were subject to taxation under FIRPTA, the foreign shareholder would be subject to regular United States income tax with respect to the gain in the same manner as a taxable U.S. shareholder, subject to any applicable alternative minimum tax, a special alternative minimum tax in the case of nonresident alien individuals and the possible application of the branch profits tax in the case of foreign corporations. The purchaser of the common shares would be required to withhold and remit to the IRS 10% of the purchase price.

Information Reporting Requirement and Backup Withholding

We will report to our domestic shareholders and the Internal Revenue Service the amount of distributions paid during each calendar year and the amount of tax withheld, if any. Under certain circumstances, domestic shareholders may be subject to backup withholding. Backup withholding will apply only if such domestic shareholder fails to furnish certain information to us or the Internal Revenue Service. Backup withholding will not apply with respect to payments made to certain exempt recipients, such as corporations and tax-exempt organizations. Domestic shareholders should consult their own tax advisors regarding their qualification for exemption from backup withholding and the procedure for obtaining such an exemption. Backup withholding is not an additional tax. Rather, the amount of any backup withholding with respect to a payment to a domestic shareholder will be allowed as a credit against such person s United States federal income tax liability and may entitle such person to a refund, provided that the required information is timely furnished to the Internal Revenue Service.

Item 1B. Unresolved Staff Comments

None.

Item 2. Properties

As of December 31, 2008, the Company, directly or indirectly through investments in title holding entities, owned all or a portion of 548 properties in 23 states and the District of Columbia consisting of 147,244 units. The Company s properties are summarized by building type in the following table:

Type	Properties	Units	Average Units
Garden	471	124,850	265
Mid/High-Rise	75	17,685	236
Military Housing	2	4,709	2,355
Total	548	147,244	

The Company s properties are summarized by ownership type in the following table:

	Properties	Units
Wholly Owned Properties	477	127,002
Partially Owned Properties:		
Consolidated	28	5,757
Unconsolidated	41	9,776
Military Housing (Fee Managed)	2	4,709
	548	147,244

The following table sets forth certain information by market relating to the Company s properties at December 31, 2008:

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PORTFOLIO SUMMARY

	Markets	Properties	Units	% of Total Units	% of 2009 Stabilized NOI	Average Rental Rate (1)
1	New York Metro Area	22	6,246	4.2%	10.0%	$ 2,748
2	DC Northern Virginia	26	8,781	6.0%	8.8%	1,637
3	South Florida	39	12,897	8.8%	8.4%	1,270
4	Los Angeles	38	7,749	5.3%	7.8%	1,777
5	Seattle/Tacoma	49	11,138	7.6%	7.5%	1,330
6	San Francisco Bay Area	34	6,731	4.6%	6.5%	1,709
7	Boston	37	6,217	4.2%	6.4%	1,962
8	Phoenix	42	12,084	8.2%	5.3%	902
9	Denver	25	8,606	5.8%	5.0%	1,019
10	San Diego	14	4,491	3.1%	4.4%	1,655
11	Orlando	26	8,042	5.5%	4.3%	1,021
12	Atlanta	29	8,882	6.0%	3.9%	944
13	Inland Empire, CA	15	4,655	3.2%	3.7%	1,362
14	Suburban Maryland	21	5,559	3.8%	3.4%	1,180
15	Orange County, CA	10	3,307	2.2%	3.3%	1,597
16	New England (excluding Boston)	32	4,769	3.2%	2.5%	1,106
17	Portland, OR	11	3,713	2.5%	1.9%	959
18	Jacksonville	12	3,951	2.7%	1.7%	868
19	Dallas/Ft. Worth	14	3,427	2.3%	1.4%	936
20	Tampa	11	3,414	2.3%	1.3%	909
	Top 20 Total	**507**	**134,659**	**91.5%**	**97.5%**	**1,344**
21	Raleigh/Durham	12	3,058	2.1%	1.3%	818
22	Central Valley, CA	8	1,343	0.9%	0.6%	1,090
23	Other EQR	15	3,318	2.2%	0.6%	907
	Total	**542**	**142,378**	**96.7%**	**100.0%**	**1,320**
	Condominium Conversion	4	157	0.1%	-	-
	Military Housing	2	4,709	3.2%	-	-
	Grand Total	**548**	**147,244**	**100.0%**	**100.0%**	**$ 1,320**

(1) Average rental rate is defined as total rental revenues divided by the weighted average occupied units for the month of December 2008. The Company s properties had an average occupancy of approximately 93.2% at December 31, 2008. Resident leases are generally for twelve months in length and often require security deposits. The garden-style properties are generally defined as properties with two and/or three story buildings while the mid-rise/high-rise are defined as properties with greater than three story buildings. These two property types typically provide residents with amenities, which may include a clubhouse, swimming pool, laundry facilities and cable television access. Certain of these properties offer additional amenities such as saunas, whirlpools, spas, sports courts and exercise rooms or other amenities. The military housing properties are defined as those properties located on military bases.

The distribution of the properties throughout the United States reflects the Company s belief that geographic diversification helps insulate the portfolio from regional and economic influences. At the same time, the Company has sought to create clusters of properties within each of its primary markets in order to achieve economies of scale in management and operation. The Company may nevertheless acquire additional multifamily properties located anywhere in the United States.

The properties currently in various stages of development at December 31, 2008 are included in the following table:

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Consolidated Development Projects as of December 31, 2008

(Amounts in thousands except for project and unit amounts)

Location	No. of Units	Total Capital Cost (1)	Total Book Value to Date	Total Book Value Not Placed in Service	Total Debt	Percentage Completed	Percentage Leased	Percentage Occupied	Estimated Completion Date
r Development d:									
Hyattsville, MD	260	$ 61,483	$ 53,329	$ 53,329	$ 38,425	94%	21%	14%	Q1 2009
Jersey City, NJ	480	269,958	196,126	196,126	-	79%	-	-	Q4 2009
Mill Creek, WA	100	24,464	9,324	9,324	-	27%	-	-	Q1 2010
Redmond, WA	250	84,382	22,434	22,434	-	7%	-	-	Q1 2011
Development	1,090	440,287	281,213	281,213	38,425				
r Development ed:									
Cambridge, MA	482	254,523	250,629	126,437	158,515	98%	36%	29%	Q1 2009
Silver Spring, MD	457	148,705	139,904	139,904	98,674	95%	22%	5%	Q1 2009
Montclair, NJ	163	48,730	29,326	29,326	14,540	64%	-	-	Q3 2009
South Miami, FL	404	128,816	96,600	96,600	39,028	71%	-	-	Q1 2010
Brooklyn, NY	492	283,968	108,727	108,727	-	32%	-	-	Q2 2010
Pasadena, CA	480	170,558	73,266	73,266	163,160 (2)	24%	-	-	Q2 2011
Development d	2,478	1,035,300	698,452	574,260	473,917				
r Development	**3,568**	**1,475,587**	**979,665**	**855,473**	**512,342** (3)				
Development	**N/A**	**-**	**254,873** (5)	**254,873**	**43,626**				
Held for and/or oment	**3,568**	**1,475,587**	**1,234,538**	**1,110,346**	**555,968**				
t Stabilized l (4):									
Orlando, FL	165	27,955	27,825	-	-		93%	89%	Completed
Boston, MA	310	164,981	163,145	-	-		92%	86%	Completed

Westwood, MA	102	19,888	19,868	-	-	86%	86%	Completed
Orlando, FL	352	57,376	56,680	-	-	81%	69%	Completed
Redmond, WA	321	54,418	52,909	-	-	31%	28%	Completed
eted Not Stabilized	1,250	324,618	320,427	-	-			
t Stabilized ed (4):								
Irvine, CA	132	45,342	45,317	-	28,260	95%	89%	Completed
Chicago, IL	278	69,952	68,247	-	48,448	63%	53%	Completed
eted Not Stabilized d	410	115,294	113,564	-	76,708			
leted Not	**1,660**	**439,912**	**433,991**	**-**	**76,708**			
	5,228	**$ 1,915,499**	**$ 1,668,529**	**$ 1,110,346**	**$ 632,676**			

(1) Total capital cost represents estimated development cost for projects under development and all capitalized costs incurred to date plus any estimates of costs remaining to be funded for all projects, all in accordance with GAAP.

(2) Debt is primarily tax-exempt bonds that are entirely outstanding with $94.1 million held in escrow by the lender and released as draw requests are made. This escrowed amount is classified as Deposits restricted in the consolidated balance sheets at December 31, 2008.

(3) Of the approximately $495.9 million of capital cost remaining to be funded at December 31, 2008 for projects under development, $341.4 million will be funded by fully committed third party bank loans and the remaining $154.5 million will be funded by cash on hand.

(4) Properties included here are substantially complete. However, they may still require additional exterior and interior work for all units to be available for leasing.

(5) Total book value to date of land held for development declined significantly since December 31, 2007 primarily as a result of the $116.4 million impairment charge that the Company announced on January 9, 2009.

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Item 3. Legal Proceedings

The Company is party to a housing discrimination lawsuit brought by a non-profit civil rights organization in April 2006 in the U.S. District Court for the District of Maryland. The suit alleges that the Company designed and built approximately 300 of its properties in violation of the accessibility requirements of the Fair Housing Act and Americans With Disabilities Act. The suit seeks actual and punitive damages, injunctive relief (including modification of non-compliant properties), costs and attorneys fees. The Company believes it has a number of viable defenses, including that a majority of the named properties were completed before the operative dates of the statutes in question and/or were not designed or built by the Company. Accordingly, the Company is defending the suit vigorously. Due to the pendency of the Company s defenses and the uncertainty of many other critical factual and legal issues, it is not possible to determine or predict the outcome of the suit and as a result, no amounts have been accrued at December, 31, 2008. While no assurances can be given, the Company does not believe that the suit, if adversely determined, would have a material adverse effect on the Company.

The Company does not believe there is any other litigation pending or threatened against it that, individually or in the aggregate, reasonably may be expected to have a material adverse effect on the Company.

Item 4. Submission of Matters to a Vote of Security Holders

None.

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PART II

Item 5. Market for Registrant s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Common Share Market Prices and Dividends

The following table sets forth, for the years indicated, the high, low and closing sales prices for and the distributions declared on the Company s Common Shares, which trade on the New York Stock Exchange under the trading symbol EQR.

	Sales Price			
	High	Low	Closing	Distributions
2008				
Fourth Quarter Ended December 31, 2008	$ 43.76	$ 21.27	$ 29.82	$ 0.4825
Third Quarter Ended September 30, 2008	$ 49.00	$ 36.84	$ 44.41	$ 0.4825
Second Quarter Ended June 30, 2008	$ 44.89	$ 37.76	$ 38.27	$ 0.4825
First Quarter Ended March 31, 2008	$ 43.78	$ 31.07	$ 41.49	$ 0.4825
2007				
Fourth Quarter Ended December 31, 2007	$ 45.01	$ 33.79	$ 36.47	$ 0.4825
Third Quarter Ended September 30, 2007	$ 47.48	$ 35.00	$ 42.36	$ 0.4625
Second Quarter Ended June 30, 2007	$ 52.25	$ 44.36	$ 45.63	$ 0.4625
First Quarter Ended March 31, 2007	$ 56.46	$ 46.66	$ 48.23	$ 0.4625

The number of record holders of Common Shares at January 31, 2009 was approximately 3,700. The number of outstanding Common Shares as of January 31, 2009 was 272,794,454.

Common Shares Repurchased in the Quarter Ended December 31, 2008

The Company repurchased the following Common Shares during the quarter ended December 31, 2008:

Period	Total Number of Common Shares Purchased (1)	Average Price Paid Per Share (1)	Total Number of Common Shares Purchased as Part of Publicly Announced Plans or Programs (1)	Dollar Value of Common Shares that May Yet Be Purchased Under the Plans or Programs (1)
October 2008	-	$ -	-	$ 469,273,467
November 2008	48,924	$ 32.97	48,924	$ 467,660,443
December 2008	-	$ -	-	$ 467,660,443
Fourth Quarter 2008	48,924	$ 32.97	48,924	

(1) The Common Shares repurchased during the quarter ended December 31, 2008 represent Common Shares repurchased under the Company s publicly announced share repurchase program approved by its Board of Trustees. All 48,924 shares were repurchased from a Trustee at a price of $32.97 per share (the then current market price) to cover the minimum statutory tax withholding obligation related to the vesting of the Trustee s restricted shares. On December 3, 2007, the Board of Trustees approved a $500.0 million share repurchase program, of which $467.7 million remains available for repurchase as of December 31, 2008.

Equity Compensation Plan Information

The following table provides information as of December 31, 2008 with respect to the Company s Common Shares that may be issued under its existing equity compensation plans.

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Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights	Weighted average exercise price of outstanding options, warrants and rights	Number of securities remaining available for future issuance under equity compensation plans (excluding securities in column (a))
	(a) (1)	(b) (1)	(c) (2)
Equity compensation plans approved by shareholders	9,473,259	$33.94	12,628,543
Equity compensation plans not approved by shareholders	N/A	N/A	N/A

(1) The amounts shown in columns (a) and (b) of the above table do not include 996,011 outstanding Common Shares (all of which are restricted and subject to vesting requirements) that were granted under the Company s Amended and Restated 1993 Share Option and Share Award Plan, as amended (the 1993 Plan) and the Company s 2002 Share Incentive Plan, as restated (the 2002 Plan) and outstanding Common Shares that have been purchased by employees and trustees under the Company s ESPP.

(2) Includes 8,742,816 Common Shares that may be issued under the 2002 Plan, of which only 25% may be in the form of restricted shares, and 3,885,727 Common Shares that may be sold to employees and trustees under the ESPP.

The aggregate number of securities available for issuance (inclusive of restricted shares previously granted and outstanding and shares underlying outstanding options) under the 2002 Plan equals 7.5% of the Company s outstanding Common Shares, calculated on a fully diluted basis, determined annually on the first day of each calendar year. On January 1, 2009, this amount equaled 21,740,453, of which 8,742,816 shares were available for future issuance.

Item 6. Selected Financial Data

The following table sets forth selected financial and operating information on a historical basis for the Company. The following information should be read in conjunction with all of the financial statements and notes thereto included elsewhere in this Form 10-K. The historical operating and balance sheet data have been derived from the historical financial statements of the Company. All amounts have also been restated in accordance with the discontinued operations provisions of SFAS No. 144. Certain capitalized terms as used herein are defined in the Notes to Consolidated Financial Statements.

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CONSOLIDATED HISTORICAL FINANCIAL INFORMATION

(Financial information in thousands except for per share and property data)

	Year Ended December 31, 2008	2007	2006	2005	2004
OPERATING DATA:					
Total revenues from continuing operations	$ 2,103,204	$ 1,947,057	$ 1,702,541	$ 1,413,877	$ 1,229,707
Interest and other income	$ 33,540	$ 20,144	$ 30,880	$ 68,315	$ 8,685
Income from continuing operations, net of minority interests	$ 40,909	$ 67,829	$ 30,293	$ 87,707	$ 24,498
Discontinued operations, net of minority interests	$ 379,183	$ 921,793	$ 1,042,551	$ 774,086	$ 447,831
Net income	$ 420,092	$ 989,622	$ 1,072,844	$ 861,793	$ 472,329
Net income available to Common Shares	$ 405,585	$ 960,676	$ 1,031,766	$ 807,792	$ 418,583
Earnings per share basic:					
Income (loss) from continuing operations available to Common Shares	$ 0.10	$ 0.14	$ (0.04)	$ 0.12	$ (0.10)
Net income available to Common Shares	$ 1.50	$ 3.44	$ 3.56	$ 2.83	$ 1.50
Weighted average Common Shares outstanding	270,012	279,406	290,019	285,760	279,744
Earnings per share diluted:					
Income (loss) from continuing operations available to Common Shares	$ 0.10	$ 0.14	$ (0.04)	$ 0.12	$ (0.10)
Net income available to Common Shares	$ 1.49	$ 3.39	$ 3.56	$ 2.79	$ 1.50
Weighted average Common Shares outstanding	290,060	302,235	290,019	310,785	279,744
Distributions declared per Common Share outstanding	$ 1.93	$ 1.87	$ 1.79	$ 1.74	$ 1.73
BALANCE SHEET DATA (at end of period):					
Real estate, before accumulated depreciation	$ 18,690,239	$ 18,333,350	$ 17,235,175	$ 16,590,370	$ 14,852,621
Real estate, after accumulated depreciation	$ 15,128,939	$ 15,163,225	$ 14,212,695	$ 13,702,230	$ 12,252,794
Total assets	$ 16,535,110	$ 15,689,777	$ 15,062,219	$ 14,108,751	$ 12,656,306
Total debt	$ 10,501,246	$ 9,508,733	$ 8,057,656	$ 7,591,073	$ 6,459,806
Minority Interests	$ 318,501	$ 358,046	$ 411,459	$ 422,183	$ 535,582
Shareholders equity	$ 4,997,294	$ 5,062,518	$ 5,884,222	$ 5,395,340	$ 5,072,528
OTHER DATA:					
Total properties (at end of period)	548	579	617	926	939
Total apartment units (at end of period)	147,244	152,821	165,716	197,404	200,149
Funds from operations available to Common Shares and OP Units basic (1) (2)	$ 631,644	$ 723,484	$ 716,143	$ 784,625	$ 651,741

Cash flow provided by (used for):										
Operating activities	$	755,027	$	793,128	$	755,466	$	698,531	$	707,061
Investing activities	$	(343,803)	$	(200,645)	$	(259,472)	$	(592,201)	$	(555,279)
Financing activities	$	428,739	$	(801,929)	$	(324,545)	$	(101,007)	$	(117,856)

(1) The National Association of Real Estate Investment Trusts (NAREIT) defines funds from operations (FFO) (April 2002 White Paper) as net income (computed in accordance with accounting principles generally accepted in the United States (GAAP)), excluding gains (or losses) from sales of depreciable property, plus depreciation and amortization, and after adjustments for unconsolidated partnerships and joint ventures. Adjustments for unconsolidated partnerships and joint ventures will be calculated to reflect funds from operations on the same basis. The April 2002 White Paper states that gain or loss on sales of property is excluded from FFO for previously depreciated operating properties only. Once the Company commences the conversion of units to condominiums, it simultaneously discontinues depreciation of such property. FFO available to Common Shares and OP Units is calculated on a basis consistent with net income available to Common Shares and reflects adjustments to net income for preferred distributions and premiums on redemption of preferred shares in accordance with accounting principles generally accepted in the United States. The equity positions of various individuals and entities that contributed their properties to the Operating Partnership in exchange for OP Units are collectively referred to as the Minority Interests Operating Partnership . Subject to certain restrictions, the Minority Interests Operating

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Partnership may exchange their OP Units for EQR Common Shares on a one-for-one basis. See Item 7 for a reconciliation of net income to FFO and FFO available to Common Shares and OP Units.

(2) The Company believes that FFO and FFO available to Common Shares and OP Units are helpful to investors as supplemental measures of the operating performance of a real estate company, because they are recognized measures of performance by the real estate industry and by excluding gains or losses related to dispositions of depreciable property and excluding real estate depreciation (which can vary among owners of identical assets in similar condition based on historical cost accounting and useful life estimates), FFO and FFO available to Common Shares and OP Units can help compare the operating performance of a company s real estate between periods or as compared to different companies. FFO and FFO available to Common Shares and OP Units do not represent net income, net income available to Common Shares or net cash flows from operating activities in accordance with GAAP. Therefore, FFO and FFO available to Common Shares and OP Units should not be exclusively considered as alternatives to net income, net income available to Common Shares or net cash flows from operating activities as determined by GAAP or as measures of liquidity. The Company s calculation of FFO and FFO available to Common Shares and OP Units may differ from other real estate companies due to, among other items, variations in cost capitalization policies for capital expenditures and, accordingly, may not be comparable to such other real estate companies.

Item 7. Management s Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis of the results of operations and financial condition of the Company should be read in connection with the Consolidated Financial Statements and Notes thereto. Due to the Company s ability to control the Operating Partnership and its subsidiaries other than entities owning interests in the Partially Owned Properties Unconsolidated and certain other entities in which the Company has investments, the Operating Partnership and each such subsidiary entity has been consolidated with the Company for financial reporting purposes. Capitalized terms used herein and not defined are as defined elsewhere in this Annual Report on Form 10-K for the year ended December 31, 2008.

Forward-Looking Statements

Forward-looking statements in this Item 7 as well as elsewhere in this Annual Report on Form 10-K are intended to be made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. These statements are based on current expectations, estimates, projections and assumptions made by management. While the Company s management believes the assumptions underlying its forward-looking statements are reasonable, such information is inherently subject to uncertainties and may involve certain risks, which could cause actual results, performance or achievements of the Company to differ materially from anticipated future results, performance or achievements expressed or implied by such forward-looking statements. Many of these uncertainties and risks are difficult to predict and beyond management s control. Forward-looking statements are not guarantees of future performance, results or events. The forward-looking statements contained herein are made as of the date hereof and the Company undertakes no obligation to update or supplement these forward-looking statements. Factors that might cause such differences include, but are not limited to the following:

- We intend to actively acquire multifamily properties for rental operations as market conditions dictate. The Company does not currently intend to begin the development of any new wholly-owned projects but has a substantial number of properties under development now and may commence new development activities if conditions warrant. We may underestimate the costs necessary to bring an acquired property up to standards established for its intended market position or to complete a development property. Additionally, we expect that other major real estate investors with significant capital will compete with us for attractive investment opportunities or may also develop properties in markets where we focus our development efforts. This competition may increase prices for multifamily properties. We may not be in a position or have the opportunity in the future to make suitable property acquisitions on favorable terms. To the extent that we do develop more properties if conditions warrant, we expect to do so ourselves in addition to co-investing with our development partners. The total number of development units, cost of development and estimated completion dates are subject to uncertainties arising from changing economic conditions (such as the cost of labor and construction materials), competition and local government regulation;
- Sources of capital to the Company or labor and materials required for maintenance, repair, capital expenditure or development may be more expensive than anticipated;
- Occupancy levels and market rents may be adversely affected by national and local economic and market conditions including, without limitation, new construction and excess inventory of multifamily and single family housing, slow or negative employment growth, availability of low interest mortgages for single family home buyers and the potential for geopolitical instability, all of which are beyond the Company s control; and

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Additional factors as discussed in Part I of this Annual Report on Form 10-K, particularly those under Item 1A. Risk Factors . Forward-looking statements and related uncertainties are also included in Notes 2, 5, 11 and 18 in the Notes to Consolidated Financial Statements in this report.

Overview

Equity Residential (EQR), a Maryland real estate investment trust (REIT) formed in March 1993, is an S&P 500 company focused on the acquisition, development and management of high quality apartment properties in top United States growth markets. EQR has elected to be taxed as a REIT.

The Company is one of the largest publicly traded real estate companies and is the largest publicly traded owner of multifamily properties in the United States (based on the aggregate market value of its outstanding Common Shares, the number of apartment units wholly owned and total revenues earned). The Company s corporate headquarters are located in Chicago, Illinois and the Company also operates property management offices throughout the United States. As of February 5, 2009, the Company has approximately 4,700 employees who provide real estate operations, leasing, legal, financial, accounting, acquisition, disposition, development and other support functions.

EQR is the general partner of, and as of December 31, 2008 owned an approximate 94.2% ownership interest in, ERP Operating Limited Partnership, an Illinois limited partnership (the Operating Partnership). The Company is structured as an umbrella partnership REIT (UPREIT) under which all property ownership and related business operations are conducted through the Operating Partnership and its subsidiaries. References to the Company include EQR, the Operating Partnership and those entities owned or controlled by the Operating Partnership and/or EQR.

Business Objectives and Operating Strategies

The Company seeks to maximize current income, capital appreciation of each property and the total return for its shareholders. The Company s strategy for accomplishing these objectives includes:

- Leveraging our size and scale in four critical ways:
  - Investing in apartment communities located in strategically targeted markets to maximize our total return on an enterprise level;
  - Meeting the needs of our residents by offering a wide array of product choices and a commitment to service;
  - Engaging, retaining and attracting the best employees by providing them with the education, resources and opportunities to succeed; and
  - Sharing resources, customers and best practices in property management and across the enterprise.
- Owning a highly diversified portfolio by investing in target markets defined by a combination of the following criteria:
  - High barrier-to-entry (low supply);
  - Strong economic predictors (high demand); and
  - Attractive quality of life (high demand and retention).
- Giving residents reasons to stay with the Company by providing a range of product options available in our diversified portfolio and by enhancing their experience through our employees and our services.
- Being open and responsive to market realities to take advantage of investment opportunities that align with our long-term vision.

Acquisition, Development and Disposition Strategies

The Company anticipates that future property acquisitions, developments and dispositions will occur within the United States. Acquisitions and developments may be financed from various sources of capital, which may include retained cash flow, issuance of additional equity and debt securities, sales of properties, joint venture agreements and collateralized and uncollateralized borrowings. In addition, the Company may acquire properties in transactions that include the issuance of limited partnership interests in the Operating Partnership (OP Units) as consideration for the

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acquired properties. Such transactions may, in certain circumstances, enable the sellers to defer, in whole or in part, the recognition of taxable income or gain that might otherwise result from the sales. EQR may also acquire land parcels to hold and/or sell based on market opportunities.

When evaluating potential acquisitions, developments and dispositions, the Company generally considers the following factors:

- strategically targeted markets;
- income levels and employment growth trends in the relevant market;
- employment and household growth and net migration of the relevant market s population;
- barriers to entry that would limit competition (zoning laws, building permit availability, supply of undeveloped or developable real estate, local building costs and construction costs, among other factors);
- the location, construction quality, condition and design of the property;
- the current and projected cash flow of the property and the ability to increase cash flow;
- the potential for capital appreciation of the property;
- the terms of resident leases, including the potential for rent increases;
- the potential for economic growth and the tax and regulatory environment of the community in which the property is located;
- the occupancy and demand by residents for properties of a similar type in the vicinity (the overall market and submarket);
- the prospects for liquidity through sale, financing or refinancing of the property;
- the benefits of integration into existing operations;
- purchase prices and yields of available existing stabilized properties, if any;
- competition from existing multifamily properties, comparably priced single family homes or rentals, residential properties under development and the potential for the construction of new multifamily properties in the area; and
- opportunistic selling based on demand and price of high quality assets, including condominium conversions.

The Company generally reinvests the proceeds received from property dispositions primarily to achieve its acquisition, development and rehab strategies and at times to fund its debt and equity repurchase activities. In addition, when feasible, the Company may structure these transactions as tax-deferred exchanges.

Current Environment

The slowdown in the economy, which accelerated in the fourth quarter of 2008, coupled with continued job losses and/or lack of job growth leads us to be cautious regarding expected performance for 2009. Since the fourth quarter of 2008, our revenue has declined in most of our major markets as the economic slowdown continues to impact existing and prospective residents. Markets with little employment loss should perform better than markets with employment issues, although most of our markets are now experiencing job losses. Should the current credit crisis and general economic recession continue, the Company may continue to experience a period of declining revenues, which would adversely impact the Company s results of operations. The vast majority of our leases are for terms of 12 months or less. As a result, we quickly feel the impact of an economic downturn which limits our ability to raise rents or causes us to lower rents on turnover units and lease renewals. Since the second half of 2008, continued job losses and a lack of household formation have hampered our ability to increase rents or caused us to lower rents for new residents. Additionally, in recent months it has become increasingly difficult to maintain rents with our renewing residents.

After two consecutive years of modest expense growth (same store expenses grew 2.2% between 2008 and 2007 and 2.1% between 2007 and 2006), the Company anticipates that 2009 expenses will increase at a higher rate primarily due to cost pressures from non-controllable areas such as utilities and real estate taxes. The combination of expected declines in revenues and higher overall expense levels will have a negative impact on the Company s results of operations for 2009.

The continued credit crisis has negatively impacted the availability and pricing of debt capital. During this time, the multifamily residential sector has benefited from the continued liquidity provided by Fannie Mae and Freddie Mac. A vast majority of the properties we sold this year were financed for the purchaser by one of these agencies. Furthermore, Fannie Mae and Freddie Mac provided us with approximately $1.6 billion of secured mortgage financing in 2008 at attractive rates when compared to other sources of credit. While the Company believes these agencies will continue to provide liquidity to our sector, should they discontinue doing so, have their mandates changed or reduced or be disbanded by the government, it would significantly reduce our access to debt capital and/or increase borrowing costs and would significantly reduce our sales of assets.

In response to the recession and liquidity issues prevalent in the debt markets, we took a number of steps to better position ourselves. In early 2008, we began pre-funding our maturing debt obligations with approximately $1.6 billion in secured mortgage financing obtained from Fannie Mae and Freddie Mac. We also significantly reduced our acquisition activity. During the second half of 2008, we only acquired one property while we continued selling non-core assets. We expect to continue to be a net seller of assets during 2009 should current conditions continue. Additionally, we significantly reduced our development activities, starting only two new projects in the first half of 2008 and none in the second half of the year. We also reduced the number of planned development projects we will undertake in the future and took a $116.4 million impairment charge to reduce the value of five assets that we no longer plan on pursuing. We do not currently anticipate starting any new wholly-owned development projects during 2009 unless market conditions improve significantly. Finally, during 2009 we also expect to continue our focus on our expense control initiatives.

Our specific current expectations regarding our results for 2009 and certain items that will affect them are set forth under Results of Operations below.

We believe that cash and cash equivalents, federally insured investment deposits and current availability on our revolving credit facility will provide sufficient liquidity to meet our funding obligations relating to debt retirement and existing development projects into 2011. We expect that our remaining funding obligations for 2011 and subsequent periods will be met through new borrowings, property dispositions and cash generated from operations.

Despite the challenging conditions noted above, we believe that the Company is well-positioned to withstand the continuing economic downturn. Our properties are geographically diverse and were approximately 93% occupied as of December 31, 2008, little new multifamily rental supply has been added to most of our markets, the national single family home ownership rate continues to decline and the long-term demographic picture is positive.

We believe we are well-positioned with a strong balance sheet and sufficient liquidity to cover debt maturities and development fundings in the near term, which should allow us to take advantage of investment opportunities should distressed assets become available at significant discounts. When economic conditions improve, the short-term nature of our leases and the limited supply of new rental housing being constructed should allow us to quickly realize revenue growth and improvement in our operating results.

Results of Operations

In conjunction with our business objectives and operating strategy, the Company continued to invest or recycle its capital investment in apartment properties located in strategically targeted markets during the years ended December 31, 2008 and December 31, 2007. In summary, we:

Year Ended December 31, 2008:

- Acquired $380.7 million of apartment properties consisting of 7 properties and 2,141 units and an uncompleted development property for $31.7 million and invested $2.4 million to obtain the management contract rights and towards the redevelopment of a military housing project consisting of 978 units, all of which we deem to be in our strategic targeted markets; and
- Sold $896.7 million of apartment properties consisting of 41 properties and 10,127 units, as well as 130 condominium units for $26.1 million and a land parcel for $3.3 million.

Year Ended December 31, 2007:

- Acquired $1.7 billion of apartment properties consisting of 36 properties and 8,167 units and $212.8 million of land parcels, all of which we deem to be in our strategic targeted markets; and

Sold $1.9 billion of apartment properties consisting of 73 properties and 21,563 units, as well as 617 condominium units for $164.2 million and $50.0 million of land parcels.

The Company s primary financial measure for evaluating each of its apartment communities is net operating income (NOI). NOI represents rental income less property and maintenance expense, real estate tax and insurance expense and property management expense. The Company believes that NOI is helpful to investors as a supplemental

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measure of the operating performance of a real estate company because it is a direct measure of the actual operating results of the Company s apartment communities.

Properties that the Company owned for all of both 2008 and 2007 (the 2008 Same Store Properties), which represented 115,051 units, impacted the Company s results of operations. Properties that the Company owned for all of both 2007 and 2006 (the 2007 Same Store Properties), which represented 115,857 units, also impacted the Company s results of operations. Both the 2008 Same Store Properties and 2007 Same Store Properties are discussed in the following paragraphs.

The Company s acquisition, disposition and completed development activities also impacted overall results of operations for the years ended December 31, 2008 and 2007. The impacts of these activities are also discussed in greater detail in the following paragraphs.

Comparison of the year ended December 31, 2008 to the year ended December 31, 2007

For the year ended December 31, 2008, income from continuing operations, net of minority interests, decreased by approximately $26.9 million or 39.7% when compared to the year ended December 31, 2007. The decrease in continuing operations is discussed below.

Revenues from the 2008 Same Store Properties increased $53.8 million primarily as a result of higher rental rates charged to residents. Expenses from the 2008 Same Store Properties increased $13.5 million primarily due to higher real estate taxes, utility costs and payroll. The following tables provide comparative same store results and statistics for the 2008 Same Store Properties:

2008 vs. 2007

Year over Year Same Store Results/Statistics

$ in thousands (except for Average Rental Rate) 115,051 Same Store Units

	Results			Statistics		
Description	Revenues	Expenses	NOI	Average Rental Rate (1)	Occupancy	Turnover
2008	$ 1,739,004	$ 632,366	$ 1,106,638	$ 1,334	94.5%	63.5%
2007	$ 1,685,196	$ 618,882	$ 1,066,314	$ 1,292	94.6%	63.6%
Change	$ 53,808	$ 13,484	$ 40,324	$ 42	(0.1%)	(0.1%)
Change	3.2%	2.2%	3.8%	3.3%		

(1) Average rental rate is defined as total rental revenues divided by the weighted average occupied units for the period.

The following table presents a reconciliation of operating income per the consolidated statements of operations to NOI for the 2008 Same Store Properties.

	Year Ended December 31, 2008	2007
	(Amounts in thousands)	
Operating income	$ 500,112	$ 539,128
Adjustments:		
Non-same store operating results	(148,956)	(82,826)
Fee and asset management revenue	(10,715)	(9,183)
Fee and asset management expense	7,981	8,412

Depreciation	591,162	562,290
General and administrative	44,951	46,767
Impairment	122,103	1,726
Same store NOI	$ 1,106,638	$ 1,066,314

For properties that the Company acquired prior to January 1, 2008 and expects to continue to own through December 31, 2009, the Company anticipates the following same store results for the full year ending December 31, 2009:

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2009 Same Store Assumptions	
Physical occupancy	93.5%
Revenue change	(4.50%) to (1.50%)
Expense change	2.50% to 3.50%
NOI change	(9.25%) to (3.75%)

These 2009 assumptions are based on current expectations and are forward-looking.

Non-same store operating results increased approximately $66.1 million or 79.8% and consist primarily of properties acquired in calendar years 2008 and 2007, as well as operations from completed development properties and our corporate housing business.

See also Note 20 in the Notes to Consolidated Financial Statements for additional discussion regarding the Company s segment disclosures.

Fee and asset management revenues, net of fee and asset management expenses, increased approximately $2.0 million primarily due to an increase in revenue earned on the management of our military housing venture at Fort Lewis along with the addition of McChord Air Force Base, as well as a decrease in asset management expenses. As of December 31, 2008 and 2007, the Company managed 14,485 units and 14,472 units, respectively, primarily for unconsolidated entities and our military housing ventures at Fort Lewis and McChord Air Force Base.

Property management expenses from continuing operations include off-site expenses associated with the self-management of the Company s properties as well as management fees paid to any third party management companies. These expenses decreased by approximately $10.4 million or 11.9%. This decrease is primarily attributable to lower overall payroll-related costs as a result of a decrease in the number of properties in the Company s portfolio, as well as a decrease in legal and professional fees.

Depreciation expense from continuing operations, which includes depreciation on non-real estate assets, increased approximately $28.9 million or 5.1% primarily as a result of additional depreciation expense on properties acquired in 2007 and 2008 and capital expenditures for all properties owned.

General and administrative expenses from continuing operations, which include corporate operating expenses, decreased approximately $1.8 million or 3.9% primarily as a result of a $2.2 million decrease in profit sharing expense and lower overall payroll-related costs, partially offset by an increase in legal and professional fees due to a $1.7 million expense recovery recorded for the year ended December 31, 2007 related to a certain lawsuit in Florida (see Note 21). The Company anticipates that general and administrative expenses will approximate $40.0 million to $42.0 million for the year ending December 31, 2009. The above assumption is based on current expectations and is forward-looking.

Impairment from continuing operations increased approximately $120.4 million primarily due to an impairment charge on land held for development of $116.4 million taken in the fourth quarter of 2008 related to five potential development projects that will no longer be pursued. In addition, the Company wrote-off an additional $4.0 million of various pursuit and out-of-pocket costs for terminated development transactions and halted condominium conversion properties during 2008 compared to the year ended December 31, 2007. See Note 19 in the Notes to Consolidated Financial Statements for further discussion.

Interest and other income from continuing operations increased approximately $13.4 million or 66.5% primarily as a result of an $18.7 million gain recognized during the year ended December 31, 2008 related to the partial debt extinguishment of the Company s June 2009 and August 2026 public notes (see Note 9), as well as an increase in short-term investments. This was partially offset by a $7.3 million decrease in interest earned on 1031 exchange and earnest money deposits due primarily to the decline in the Company s transaction activities. The Company anticipates that interest and other income will approximate $9.0 million to $12.0 million for the year ending December 31, 2009. The above assumption is based on current expectations and is forward-looking.

Interest expense from continuing operations, including amortization of deferred financing costs, decreased approximately $4.1 million or 0.8% primarily as a result of lower overall effective interest rates and a reduction in debt extinguishment costs, partially offset by higher overall debt levels outstanding due to the Company s 2007 share repurchase activity and its pre-funding of its 2008 and 2009 debt maturities. During the year ended December 31, 2008, the Company capitalized interest costs of approximately $60.1 million as compared to $45.1 million for the year ended

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December 31, 2007. This capitalization of interest primarily relates to consolidated projects under development. The effective interest cost on all indebtedness for the year ended December 31, 2008 was 5.56% as compared to 5.96% for the year ended December 31, 2007. The Company anticipates that interest expense will approximate $475.0 million to $495.0 million for the year ending December 31, 2009. The above assumption is based on current expectations and is forward-looking.

Income and other tax expense from continuing operations increased approximately $2.8 million primarily due to a change in the estimate for Texas state taxes and an increase in franchise taxes. The Company anticipates that income and other tax expense will approximate $1.0 million to $2.0 million for the year ending December 31, 2009. The above assumption is based on current expectations and is forward-looking.

Loss from investments in unconsolidated entities increased approximately $0.4 million between the periods under comparison. This increase is primarily due to income received in 2007 from the sale of the Company s 7.075% ownership interest in Wellsford Park Highlands Corporation, an entity which owns a condominium development in Denver, Colorado.

Net gain on sales of unconsolidated entities increased approximately $0.2 million primarily due to a $2.9 million gain on the sale of three unconsolidated institutional joint venture properties realized in 2008 compared to a gain of $2.6 million realized in 2007 on the sale of one property.

Net gain on sales of land parcels decreased approximately $3.4 million primarily as a result of higher net gains realized in 2007 on the sale of two land parcels compared to the net gain realized in 2008 on the sale of one land parcel.

Discontinued operations, net of minority interests, decreased approximately $542.6 million between the periods under comparison. This decrease is primarily due to a significant decrease in the number of properties sold during the year ended December 31, 2008 compared to the same period in 2007, as well as the mix of properties sold in each year. See Note 13 in the Notes to Consolidated Financial Statements for further discussion.

Comparison of the year ended December 31, 2007 to the year ended December 31, 2006

For the year ended December 31, 2007, income from continuing operations, net of minority interests, increased by approximately $37.5 million when compared to the year ended December 31, 2006. The increase in continuing operations is discussed below.

Revenues from the 2007 Same Store Properties increased $67.2 million primarily as a result of higher rental rates charged to residents. Expenses from the 2007 Same Store Properties increased $12.6 million primarily due to higher payroll, building, utility costs, insurance and real estate taxes. The following tables provide comparative same store results and statistics for the 2007 Same Store Properties:

2007 vs. 2006

Year over Year Same Store Results/Statistics

$ in thousands (except for Average Rental Rate) 115,857 Same Store Units

	Results			Statistics		
Description	Revenues	Expenses	NOI	Average Rental Rate (1)	Occupancy	Turnover
2007	$ 1,643,513	$ 607,691	$ 1,035,822	$ 1,250	94.7%	63.3%
2006	$ 1,576,322	$ 595,074	$ 981,248	$ 1,199	94.7%	64.9%
Change	$ 67,191	$ 12,617	$ 54,574	$ 51	0.0%	(1.6%)
Change	4.3%	2.1%	5.6%	4.3%		

(1) Average rental rate is defined as total rental revenues divided by the weighted average occupied units for the period.

Non-same store operating results increased $106.1 million and consist primarily of properties acquired in calendar years 2007 and 2006 as well as operations from completed development properties and our corporate housing business.

See also Note 20 in the Notes to Consolidated Financial Statements for additional discussion regarding the Company s segment disclosures.

Fee and asset management revenues, net of fee and asset management expenses, increased $0.6 million primarily as a result of an increase in property management fees from unconsolidated entities along with a decrease in asset management expenses from managing fewer properties for third parties and unconsolidated entities. As of December 31, 2007 and 2006, the Company managed 14,472 units and 15,020 units, respectively, primarily for unconsolidated entities and our military housing venture at Fort Lewis.

Property management expenses from continuing operations include off-site expenses associated with the self-management of the Company s properties as well as management fees paid to any third party management companies. These expenses decreased by approximately $8.7 million or 9.0%. This decrease is primarily attributable to lower overall payroll costs, various reserve adjustments for workers compensation and medical costs and lower training costs associated with the completion of a majority of the rollout of a new property management system, partially offset by higher legal and professional fees.

Depreciation expense from continuing operations, which includes depreciation on non-real estate assets, increased $79.6 million primarily as a result of additional depreciation expense on newly acquired properties and capital expenditures for all properties owned.

General and administrative expenses from continuing operations, which include corporate operating expenses, increased approximately $2.6 million between the periods under comparison. This increase was primarily due to an increase in restricted share expense and severance costs associated with the resignation of two of the Company s executives as well as less expense recovery related to a certain lawsuit in Florida (see Note 21), partially offset by a decrease in profit sharing.

Impairment from continuing operations decreased $32.3 million primarily due to an impairment charge on goodwill of $30.0 million taken in 2006 related to the corporate housing business. In addition, in 2006 the Company wrote-off $2.0 million of various deferred sales costs following the decision to halt the condominium conversion and sale process at five assets.

Interest and other income from continuing operations decreased approximately $10.7 million primarily as a result of $14.7 million of forfeited deposits for various terminated transactions along with $3.7 million in proceeds from eBay s acquisition of Rent.com received during the year ended December 31, 2006. This was partially offset by $4.1 million received in 2007 for insurance litigation settlement proceeds, a $2.7 million increase in interest earned on 1031 exchange and earnest money deposits and a $0.7 million increase in interest earned on short-term investments.

Interest expense from continuing operations, including amortization of deferred financing costs, increased approximately $67.3 million primarily as a result of higher overall debt levels outstanding due to the Company s share repurchase activity as well as the timing of acquisitions and dispositions, partially offset by lower overall effective interest rates. During the year ended December 31, 2007, the Company capitalized interest costs of approximately $45.1 million as compared to $20.7 million for the year ended December 31, 2006. This capitalization of interest primarily relates to consolidated projects under development. The effective interest cost on all indebtedness for the year ended December 31, 2007 was 5.96% as compared to 6.21% for the year ended December 31, 2006.

Income and other tax expense from continuing operations decreased approximately $1.8 million primarily due to a taxable gain incurred in 2006 on a partially owned land parcel, partially offset by refunds received in 2006 as a result of a change in tax status of a portfolio of partially owned consolidated properties.

Income from investments in unconsolidated entities increased approximately $1.0 million between the periods under comparison. This increase is primarily due to the sale of the Company s 7.075% ownership interest in Wellsford Park Highlands Corporation, an entity which owns a condominium development in Denver, Colorado and profit participation received from the sale of condominium units at a development project that was sold in 2003.

Net gain on sales of unconsolidated entities increased $2.3 million primarily as a result of a $2.6 million gain on the sale of an unconsolidated institutional joint venture property during the year ended December 31, 2007.

Net gain on sales of land parcels increased $3.6 million primarily as a result of higher net gains realized in 2007 on the sales of land parcels compared to the net gains realized in 2006.

Discontinued operations, net of minority interests, decreased approximately $120.8 million between the periods under comparison. This decrease is primarily due to a significant decrease in the number of properties sold during the year ended December 31, 2007 compared to the same period in 2006, as well as the mix of properties sold in each year. See Note 13 in the Notes to Consolidated Financial Statements for further discussion.

Liquidity and Capital Resources

For the Year Ended December 31, 2008

As of January 1, 2008, the Company had approximately $50.8 million of cash and cash equivalents and $1.28 billion available under its revolving credit facility (net of $80.8 million which was restricted/dedicated to support letters of credit and not available for borrowing and net of the $139.0 million balance outstanding). After taking into effect the various transactions discussed in the following paragraphs and the net cash provided by operating activities, the Company s cash and cash equivalents balance at December 31, 2008 was approximately $890.8 million and the amount available on the Company s revolving credit facility was $1.29 billion (net of $130.0 million which was restricted/dedicated to support letters of credit and $75.0 million which had been committed by a now bankrupt financial institution and is not available for borrowing). The significant increase in the Company s cash and cash equivalents balance since December 31, 2007 is a direct result of its decision to pre-fund its 2008 and 2009 debt maturities with the closing of three secured mortgage loan pools in 2008: $500.0 million in March 2008, $550.0 million in August 2008 and $543.0 million in December 2008. See Notes 8 and 10 in the Notes to Consolidated Financial Statements for further discussion.

During the year ended December 31, 2008, the Company generated proceeds from various transactions, which included the following:

- Disposed of 45 properties and various individual condominium units, receiving net proceeds of approximately $887.6 million;
- Obtained $1.6 billion in new mortgage financing and terminated nine forward starting swaps designated to hedge $450.0 million of the total loan issuances, making payments of $26.7 million;
- Obtained an additional $248.5 million of new mortgage loans primarily on development properties; and
- Issued approximately 1.2 million Common Shares and received net proceeds of $30.8 million.

During the year ended December 31, 2008, the above proceeds were primarily utilized to:

- Invest $521.5 million primarily in development projects;
- Acquire seven rental properties and one uncompleted development property, utilizing cash of $388.1 million;
- Invest $2.4 million in a military housing project located in the state of Washington;
- Repurchase 0.2 million Common Shares and settle 0.1 million Common Shares, utilizing cash of $12.5 million (see Note 3);
- Repay $130.0 million of fixed rate private notes;
- Repurchase $174.0 million of fixed rate public notes; and
- Repay $435.4 million of mortgage loans.

Depending on its analysis of market prices, economic conditions, and other opportunities for the investment of available capital, the Company may repurchase its Common Shares pursuant to its existing share repurchase program authorized by the Board of Trustees. The Company repurchased $7.9 million (220,085 shares at an average price per share of $35.93) of its Common Shares during the year ended December 31, 2008. As of December 31, 2008, the Company had authorization to repurchase an additional $467.7 million of its shares. See Note 3 in the Notes to Consolidated Financial Statements for further discussion.

The Company s total debt summary and debt maturity schedules as of December 31, 2008 are as follows:

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Debt Summary as of December 31, 2008

(Amounts in thousands)

	Amounts (1)	% of Total	Weighted Average Rates (1)	Weighted Average Maturities (years)
Secured	$ 5,036,930	48.0%	5.18%	8.3
Unsecured	5,464,316	52.0%	5.46%	5.5
Total	$ 10,501,246	100.0%	5.34%	6.9
Fixed Rate Debt:				
Secured Conventional	$ 3,805,652	36.2%	6.00%	7.2
Unsecured Public/Private	4,701,372	44.8%	5.69%	5.7
Unsecured Tax Exempt	75,790			