

ASSOCIATED ESTATES REALTY CORP  
Form 10-Q  
May 04, 2010

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**Form 10-Q**

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

**For the quarterly period ended March 31, 2010**

**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 1-12486**

**Associated Estates Realty Corporation**  
*(Exact name of registrant as specified in its charter)*

**OHIO**  
*(State or other jurisdiction of  
incorporation or organization)*

**34-1747603**  
*(I.R.S. Employer  
Identification Number)*

**1 AEC Parkway, Richmond Hts., Ohio 44143-1467**  
*(Address of principal executive offices)*

**(216) 261-5000**  
*(Registrant's telephone number, including area code)*

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (subsection 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

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",

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"accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

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

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

The number of shares outstanding as of April 23, 2010 was 22,349,302 shares.

**ASSOCIATED ESTATES REALTY CORPORATION**

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**PART 1. FINANCIAL INFORMATION**  
**ITEM 1. CONSOLIDATED FINANCIAL STATEMENTS**

**ASSOCIATED ESTATES REALTY CORPORATION**  
**CONSOLIDATED BALANCE SHEETS**  
**(UNAUDITED)**

| <i>(In thousands, except share amounts)</i>  | March 31,<br>2010 | December 31,<br>2009 |
|--|-------------------|----------------------|
| <b>ASSETS</b>  |                   |                      |
| Real estate assets   |                   |                      |
| Land   | \$ 108,447        | \$ 107,815           |
| Buildings and improvements   | 798,790           | 798,321              |
| Furniture and fixtures   | 29,984            | 29,710               |
|  | 937,221           | 935,846              |
| Less: accumulated depreciation   | (310,246)         | (302,108)            |
|  | 626,975           | 633,738              |
| Construction in progress   | 6,329             | 4,797                |
| Real estate, net   | 633,304           | 638,535              |
| Cash and cash equivalents  | 3,461             | 3,600                |
| Restricted cash  | 7,012             | 7,093                |
| Accounts and notes receivable, net   |                   |                      |
| Rents  | 1,072             | 1,115                |
| Affiliates   | 89                | 135                  |
| Other  | 1,545             | 1,910                |
| Goodwill   | 1,725             | 1,725                |
| Other assets, net  | 8,928             | 8,392                |
| <b>Total assets</b>  | <b>\$ 657,136</b> | <b>\$ 662,505</b>    |
| <b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>  |                   |                      |
| Mortgage notes payable   | \$ 429,459        | \$ 487,556           |
| Unsecured revolving credit facility  | 20,400            | 12,500               |
| Unsecured debt   | 25,780            | 25,780               |
| Total debt   | 475,639           | 525,836              |
| Accounts payable, accrued expenses and other liabilities   | 21,172            | 27,307               |
| Dividends payable  | 3,815             | 2,849                |
| Resident security deposits   | 2,994             | 2,956                |
| Accrued interest   | 2,182             | 2,288                |
| <b>Total liabilities</b>   | <b>505,802</b>    | <b>561,236</b>       |
| Noncontrolling redeemable interest   | 1,829             | 1,829                |
| Shareholders' equity   |                   |                      |
| Preferred shares, without par value; 9,000,000 shares authorized;<br>8.70% Class B Series II cumulative redeemable, \$250 per share<br>liquidation preference, 232,000 issued and 193,050 outstanding<br>at March 31, 2010 and December 31, 2009, respectively | 48,263            | 48,263               |
| Common shares, without par value, \$.10 stated value; 41,000,000<br>authorized; 28,170,763 issued and 22,349,302 outstanding at<br>March 31, 2010 and 22,995,763 issued and 16,675,826<br>outstanding at December 31, 2009, respectively                       | 2,817             | 2,300                |
| Paid-in capital  | 339,928           | 283,090              |

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|   |            |            |
|---|------------|------------|
| Accumulated distributions in excess of accumulated net income   | (177,506)  | (168,822)  |
| Accumulated other comprehensive loss  | (503)      | (1,420)    |
| Less: Treasury shares, at cost, 5,821,461 and 6,319,937 shares<br>at March 31, 2010 and December 31, 2009, respectively | (63,494)   | (63,971)   |
| <b>Total shareholders' equity</b>   | 149,505    | 99,440     |
| <b>Total liabilities and shareholders' equity</b>   | \$ 657,136 | \$ 662,505 |

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

**ASSOCIATED ESTATES REALTY CORPORATION  
CONSOLIDATED STATEMENTS OF OPERATIONS  
(UNAUDITED)**

|   | Three Months Ended<br>March 31, |           |
|---|---------------------------------|-----------|
| <i>(In thousands, except per share amounts)</i>                                     | 2010                            | 2009      |
| <b>Revenue</b>  |                                 |           |
| Property revenue  | \$ 31,646                       | \$ 31,824 |
| Management and service company revenue:   |                                 |           |
| Fees, reimbursements and other  | 207                             | 468       |
| Construction and other services   | 1,103                           | 96        |
| Total revenue   | 32,956                          | 32,388    |
| <b>Expenses</b>   |                                 |           |
| Property operating and maintenance  | 13,924                          | 13,754    |
| Depreciation and amortization   | 8,620                           | 9,207     |
| Direct property management and service company expense                              | 132                             | 359       |
| Construction and other services   | 1,416                           | 213       |
| General and administrative  | 3,705                           | 3,140     |
| Total expenses  | 27,797                          | 26,673    |
| Operating income  | 5,159                           | 5,715     |
| Interest income   | 9                               | 15        |
| Interest expense  | (8,061)                         | (8,183)   |
| (Loss) income from continuing operations  | (2,893)                         | (2,453)   |
| Income from discontinued operations:  |                                 |           |
| Operating income  | -                               | 302       |
| Gain on disposition of properties   | -                               | 2,278     |
| Income from discontinued operations   | -                               | 2,580     |
| <b>Net (loss) income</b>  | (2,893)                         | 127       |
| Net income attributable to noncontrolling redeemable interest                       | (13)                            | (14)      |
| <b>Net (loss) income attributable to AERC</b>                                       | (2,906)                         | 113       |
| Preferred share dividends   | (1,050)                         | (1,049)   |
| <b>Net (loss) income applicable to common shares</b>                                | \$ (3,956)                      | \$ (936)  |
| <b>Earnings per common share - basic and diluted:</b>                               |                                 |           |
| (Loss) income from continuing operations applicable to common shares                | \$ (0.19)                       | \$ (0.21) |
| Income from discontinued operations   | -                               | 0.15      |
| Net (loss) income applicable to common shares                                       | \$ (0.19)                       | \$ (0.06) |
| <b>Weighted average number of common shares<br/>outstanding - basic and diluted</b> | 21,199                          | 16,434    |

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



**ASSOCIATED ESTATES REALTY CORPORATION**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**(UNAUDITED)**

|  | Three Months Ended |          |
|--|--------------------|----------|
|  | March 31,          |          |
| <i>(In thousands)</i>  | 2010               | 2009     |
| <b>Cash flow from operations:</b>  |                    |          |
| Net (loss) income  | \$ (2,893)         | \$ 127   |
| Adjustments to reconcile net (loss) income to net cash provided by operations: |                    |          |
| Depreciation and amortization (including discontinued operations)              | 8,620              | 9,466    |
| Loss on fixed asset replacements write-off                                     | 7                  | 13       |
| Gain on disposition of properties  | -                  | (2,278)  |
| Amortization of deferred financing costs and other                             | 382                | 322      |
| Share-based compensation   | 880                | 604      |
| Net change in assets and liabilities:  |                    |          |
| Accounts and notes receivable  | 421                | 1,310    |
| Accounts payable and accrued expenses  | (2,019)            | (2,469)  |
| Other operating assets and liabilities   | (796)              | (314)    |
| Restricted cash  | 81                 | (80)     |
| Total adjustments  | 7,576              | 6,574    |
| Net cash flow provided by operations   | 4,683              | 6,701    |
| <b>Cash flow from investing activities:</b>                                    |                    |          |
| Recurring fixed asset additions  | (1,402)            | (2,193)  |
| Revenue enhancing/non-recurring fixed asset additions                          | (413)              | (69)     |
| Acquisition/development fixed asset additions                                  | (2,094)            | (58)     |
| Net proceeds from disposition of operating properties                          | -                  | 3,836    |
| Other investing activity   | (213)              | -        |
| Net cash flow (used for) provided by investing activities                      | (4,122)            | 1,516    |
| <b>Cash flow from financing activities:</b>                                    |                    |          |
| Principal amortization payments on mortgage notes payable                      | (829)              | (743)    |
| Principal repayments of mortgage notes payable                                 | (57,268)           | (72,041) |
| Payment of debt procurement costs  | -                  | (686)    |
| Proceeds from mortgage notes obtained  | -                  | 52,450   |
| Revolving credit facility borrowings   | 24,950             | 78,500   |
| Revolving credit facility repayments   | (17,050)           | (61,700) |
| Common share dividends paid  | (3,764)            | (2,801)  |
| Preferred share dividends paid   | (1,050)            | (1,049)  |
| Operating partnership distributions paid                                       | (13)               | (14)     |
| Issuance of common shares  | 54,918             | -        |
| Purchase of preferred and/or treasury shares                                   | (594)              | (176)    |
| Net cash flow used for financing activities                                    | (700)              | (8,260)  |

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|   |                 |                 |
|---|-----------------|-----------------|
| Decrease in cash and cash equivalents                           | (139)           | (43)            |
| Cash and cash equivalents, beginning of period                  | 3,600           | 3,551           |
| <b>Cash and cash equivalents, end of period</b>                 | <b>\$ 3,461</b> | <b>\$ 3,508</b> |
| Supplemental disclosure of cash flow information:               |                 |                 |
| Dividends declared but not paid                                 | \$ 3,815        | \$ 2,961        |
| Net change in accounts payable related to fixed asset additions | (513)           | (780)           |
| Reclassification of deferred directors' compensation            | 2,255           | -               |

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

**ASSOCIATED ESTATES REALTY CORPORATION  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
UNAUDITED**

**1. BASIS OF PRESENTATION AND ACCOUNTING POLICIES**

*Except as the context otherwise requires, all references to "we," "our," "us," "AERC" and the "Company" in this report collectively refer to Associated Estates Realty Corporation and its consolidated subsidiaries.*

**Business**

We are a self-administered and self-managed equity real estate investment trust ("REIT") specializing in multifamily property management, advisory, development, acquisition, disposition, construction, operation and ownership activities. Our primary source of income is rental revenue. Additional income is derived primarily from property and asset management fees.

As of March 31, 2010, our property portfolio consisted of: (i) 48 apartment communities containing 12,108 units in seven states that are wholly owned, either directly or indirectly through subsidiaries; (ii) one apartment community that we manage for a third party owner consisting of 258 units; and (iii) a 186-unit apartment community and a commercial property containing approximately 145,000 square feet that we asset manage for a government sponsored pension fund.

**Basis of Presentation**

The accompanying unaudited consolidated financial statements have been prepared by management in accordance with accounting principles generally accepted in the United States of America ("GAAP") for interim financial information and applicable rules and regulations of the Securities and Exchange Commission. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. In the opinion of management, all adjustments, consisting only of normal and recurring adjustments considered necessary for a fair statement, have been included. The reported results of operations are not necessarily indicative of the results that may be expected for the full year. These financial statements should be read in conjunction with the audited financial statements and accompanying notes in our Annual Report on Form 10-K for the year ended December 31, 2009. We have evaluated all subsequent events through May 4, 2010, which is the date the financial statements were issued.

**Segment Reporting**

All of our properties are multifamily communities that have similar economic characteristics. Management evaluates the performance of our properties on an individual basis. Our multifamily properties provided approximately 96.0% of our consolidated revenue for the three months ended March 31, 2010, and therefore we have only one reportable segment, which is multifamily properties.

**Share-Based Compensation**

During the three months ended March 31, 2010 and 2009, we recognized total share-based compensation cost of \$880,000 and \$606,000, respectively, in "General and administrative expense" in the Consolidated Statements of Operations. A portion of this increase is due to a change in the Directors' Deferred Compensation Plan, which now will be paid with common shares (see Note 9 for additional information regarding the Directors' Deferred Compensation Plan).

*Stock Options.* During the three months ended March 31, 2010, there were no stock options awarded or exercised. During the three months ended March 31, 2009, there were 8,000 stock options awarded and no stock options were exercised. We use the Black-Scholes option pricing model to estimate the fair value of share-based awards. The weighted average Black-Scholes assumptions and fair value for options awarded during the three months ended March 31, 2009, were as follows:

|                                     |        |
|-------------------------------------|--------|
| Expected volatility                 | 36.5%  |
| Risk-free interest rate             | 2.0%   |
| Expected life of options (in years) | 7.2    |
| Dividend yield                      | 12.2%  |
| Grant-date fair value               | \$0.44 |

The expected volatility was based upon the historical volatility of our weekly share closing prices over a period equal to the expected life of the options granted. The risk-free interest rate used was the yield from U.S. Treasury bonds on the date of grant with a maturity approximating the expected life of the options. The expected life of the options was derived using our historical experience for similar awards. The dividend yield was derived using our annual dividend rate as a percentage of the price of our shares on the date of grant.

*Restricted Shares.* The following table represents restricted share activity for the three months ended March 31, 2010:

|                                  | Number of<br>Shares | Weighted<br>Average<br>Grant-Date<br>Fair Value |
|----------------------------------|---------------------|---|
| Nonvested at beginning of period | 184,339             | \$ 7.15   |
| Granted                          | 547,334             | \$ 7.10   |
| Vested                           | 143,234             | \$ 7.86   |
| Forfeited                        | 66                  | \$ 10.79  |
| Nonvested at end of period       | 588,373             | \$ 10.20  |

At March 31, 2010, there was \$3.6 million of unrecognized compensation cost related to nonvested restricted share awards that we expect to recognize over a weighted average period of 2.4 years.

A portion of the restricted shares granted during 2010 were awards in which the number of shares that will ultimately vest are subject to satisfaction of certain market conditions, which include total shareholder return on an absolute basis and on a relative basis against a peer group consisting of other multifamily apartment companies. The total estimated grant-date fair value of these awards was \$1.1 million. We used the Monte Carlo method to estimate the fair value of these awards. The Monte Carlo method, which is similar to the binomial analysis, evaluates the award for changing

stock prices over the term of vesting and uses random situations that are averaged based on past stock characteristics. There were one million simulation paths used to estimate the fair value of these awards. The risk-free interest rate used was based on a yield curve derived from U.S. Treasury zero-coupon bonds on the date of grant with a maturity equal to the market condition performance periods. The expected life used was the market condition performance period. The expected volatility used for AERC was based upon the historical volatility of our daily share closing prices over a period equal to the market condition performance periods. The expected volatility used for the peer group was a 50%/50% blend of historical volatility and implied volatility. Implied volatility was calculated using each company's stock call option contracts.

The following represents the assumption ranges used in the Monte Carlo method during 2010:

|                                    |                |
|------------------------------------|----------------|
| Expected volatility - AERC         | 39.5% to 63.1% |
| Expected volatility - peer group   | 29.0% to 65.4% |
| Risk-free interest rate            | 0.1% to 1.5%   |
| Expected life (performance period) | 3 years        |

### **Derivative Instruments and Hedging Activities**

We record all derivatives on the balance sheet at fair value. The accounting for changes in the fair value of derivatives depends on the intended use of the derivative and the resulting designation. Derivatives used to hedge the exposure to changes in the fair value of an asset, liability or firm commitment attributable to a particular risk, such as interest rate risk, are considered fair value hedges. Derivatives used to hedge the exposure to variability in expected future cash flows or other types of forecasted transactions are considered cash flow hedges.

For derivatives designated as fair value hedges, changes in the fair value of the derivative and the hedged item related to the hedged risk are recognized in earnings. For derivatives designated as cash flow hedges, the effective portion of changes in the fair value of the derivative is initially reported in other comprehensive income (outside of earnings) and subsequently reclassified to earnings when the hedged transaction affects earnings, and the ineffective portion of changes in the fair value of the derivative is recognized directly in earnings. Hedge ineffectiveness is measured by comparing the changes in fair value or cash flows of the derivative hedging instrument with the changes in fair value or cash flows of the designated hedged item or transaction. For derivatives not designated as hedges, changes in fair value are recognized in earnings.

We do not use derivatives for trading or speculative purposes. Further, we have a policy of only entering into contracts with major financial institutions based upon their credit ratings and other factors. When viewed in conjunction with the underlying and offsetting exposure that the derivatives are designed to hedge, we have not sustained a material loss from these hedges.

We have utilized interest rate swaps and caps to add stability to interest expense and to manage our exposure to interest rate movements. Interest rate swaps designated as cash flow hedges involve the receipt of variable-rate amounts in exchange for fixed-rate payments over the life of the agreements without exchange of the underlying principal amount. Interest rate caps designated as cash flow hedges involve the receipt of variable-rate amounts if interest rates rise above a certain level in exchange for an up front premium.

**Interest Rate Hedge Activity:** During 2007, we executed two interest rate swaps to hedge the cash flows of two existing variable rate loans. In January 2010, we prepaid one of these loans but we did not terminate the corresponding interest rate swap and as a result reclassified the fair value of the related interest rate swap of \$777,000 from other comprehensive income to earnings during the three months ended March 31, 2010. The change in fair value of this derivative is recorded in earnings and the net effect of the reclassification and the change in fair value at March 31, 2010 resulted in a net reduction to earnings of \$320,000. No hedge ineffectiveness on the remaining cash

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flow hedge was recognized during the three months ended March 31, 2010. Amounts reported in "Accumulated other comprehensive loss" related to the cash flow hedge will be reclassified to "Interest expense" as interest payments are made on the related variable-rate loan. During the next twelve months, we estimate that approximately \$506,000 will be reclassified from "Accumulated other comprehensive loss" as an increase to "Interest expense." The following table presents the notional amounts of the swaps as of March 31, 2010:

| <i>(Dollar amount in thousands)</i> | Number of   | Notional |
|-------------------------------------|-------------|----------|
| Interest Rate Derivative            | Instruments | Amounts  |
| Interest rate swaps                 | 2           | \$63,000 |



The following table presents the fair value of our derivative financial instruments as well as their classification on the Consolidated Balance Sheets (see Note 7 for additional information regarding the fair value of these derivative instruments):

Fair Value of Derivative Instruments

|  | Liability Derivatives<br>As of March 31, 2010               |            | As of December 31, 2009                                     |            |
|--|---|------------|---|------------|
|  | Balance Sheet Location                                      | Fair Value | Balance Sheet Location                                      | Fair Value |
| <i>(In thousands)</i><br>Derivatives designated as<br>hedging instruments: |   |            |   |            |
| Interest rate swaps  | Accounts payable, accrued<br>expenses and other liabilities | \$ 503     | Accounts payable, accrued<br>expenses and other liabilities | \$ 1,420   |
| Derivatives not designated<br>as hedging instruments:                      |   |            |   |            |
| Interest rate swaps  | Accounts payable, accrued<br>expenses and other liabilities | \$ 316     | Accounts payable, accrued<br>expenses and other liabilities | \$ -       |

The following table presents the effect of our derivative financial instruments on the Consolidated Statements of Operations (see Note 5 for additional information regarding the effect of these derivative instruments on total comprehensive income):

The Effect of Derivative Instruments on the Consolidated Statements of Operations

|   | Amount of Gain<br>or<br>(Loss)<br>Recognized<br>in OCI on<br>Derivative<br>(Effective<br>Portion) |  | Location of Gain<br>or (Loss)<br>Reclassified from<br>Accumulated OCI<br>into Income<br>(Effective<br>Portion) | Amount of Gain<br>or<br>(Loss)<br>Reclassified<br>from<br>Accumulated<br>OCI into Income<br>(Effective<br>Portion) |  | Location of Gain or<br>(Loss) Recognized<br>in Income on<br>Derivative (Ineffective<br>Portion and<br>Amount<br>Excluded from<br>Effectiveness<br>Testing) | Amount of Gain<br>or<br>(Loss)<br>Recognized in<br>Income on<br>Derivative<br>(Ineffective<br>Portion and<br>Amount<br>Excluded from<br>Effectiveness<br>Testing) |  |
|---|---|--|--|--|--|--|---|--|
|   | Three<br>Months<br>Ended<br>March<br>31,<br>2010  | Three<br>Months<br>Ended<br>March<br>31,<br>2009 |  | Three<br>Months<br>Ended<br>March<br>31,<br>2010   | Three<br>Months<br>Ended<br>March<br>31,<br>2009 |  | Three<br>Months<br>Ended<br>March<br>31,<br>2010  | Three<br>Months<br>Ended<br>March<br>31,<br>2009 |
| <i>(In thousands)</i><br>Derivatives in Cash<br>Flow Hedging<br>Relationships |   |  |  |  |  |  |   |  |

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|                     |         |          |                  |          |        |                  |          |      |
|---------------------|---------|----------|------------------|----------|--------|------------------|----------|------|
| Interest rate swaps | \$ (54) | \$ (272) | Interest expense | \$ (193) | \$ 418 | Interest expense | \$ (777) | \$ - |
|---------------------|---------|----------|------------------|----------|--------|------------------|----------|------|

We have agreements with each of our derivative counterparties that contain a provision where if we either default or are capable of being declared in default on any of our indebtedness, then such counterparty can declare us to be in default on our derivative obligations.

We have an agreement with a derivative counterparty that incorporates the loan covenant provisions of our indebtedness with a lender affiliate of the derivative counterparty. Failure to comply with the loan covenant provisions would result in our being in default on any derivative instrument obligations covered by the agreement.

As of March 31, 2010, the fair value of derivatives in a net liability position, which includes accrued interest but excludes any adjustment for nonperformance risk, related to these agreements was \$1.0 million. As of March 31, 2010, we have not posted any collateral related to these agreements. If we had breached any of these provisions at March 31, 2010, we would have been required to settle our obligations under the agreements at their termination value of \$1.0 million.

### **Classification of Fixed Asset Additions**

We define recurring fixed asset additions to a property to be capital expenditures made to replace worn out assets to maintain the property's value. Revenue enhancing/non-recurring fixed asset additions are defined as capital expenditures that increase the value of the property and/or enable us to increase rents. Acquisition/development fixed asset additions are defined as capital expenditures for the purchase or construction of new properties to be added to our portfolio, or fixed asset additions identified at the time of purchase that are not made until subsequent periods.

### **Reclassifications**

Certain reclassifications have been made to the 2009 financial statements to conform to the 2010 presentation.

## **2. DEVELOPMENT AND DISPOSITION ACTIVITY**

### **Development Activity**

During 2009, we commenced construction of a 60-unit expansion of the existing 240-unit River Forest apartment community located in the Richmond, Virginia metropolitan market area. Construction in progress related to this development was \$6.2 million at March 31, 2010 and includes capitalized interest costs on funds used in construction and real estate taxes and insurance. Capitalized interest costs for the three months ended March 31, 2010 was \$81,000.

### **Construction Activity**

Our subsidiary, Merit Enterprises, Inc., is engaged as a general contractor and construction manager that also acts as our in-house construction division and provides general contracting and construction management services to third parties. Merit intends to concentrate its efforts on rehabilitation and ground-up construction projects. We account for construction contracts using the percentage-of-completion method. We compute the percentage of completion for each project as the ratio of costs incurred (excluding costs that do not represent progress as of the end of the reporting period, such as certain material purchases) to total estimated costs based on the most recent information. This percentage is applied to the revenue expected to be received by project. Any changes in estimates are recognized in the period in which they are known on a prospective basis. We recognized \$1.1 million in revenue and \$1.0 million in expense under this method during the three months ended March 31, 2010. The total costs incurred in excess of amounts recognized as expense are included in "Other assets, net," and totaled \$69,000 and \$72,000 at March 31, 2010 and December 31, 2009, respectively. Funds received on uncompleted contracts in excess of revenue recognized, if any, are included in "Accounts payable, accrued expenses and other liabilities," and were immaterial at March 31, 2010 and December 31, 2009. The remaining costs included in construction and other services expenses include overhead costs, such as payroll and other fixed costs related to Merit Enterprises, Inc.

### **Disposition Activity**

We report the results of operations and gain/loss related to the sale of real estate assets as discontinued operations. Real estate assets that are classified as held for sale are also reported as discontinued operations. We classify properties as held for sale when all significant contingencies surrounding the closing have been resolved. In most transactions, these contingencies are not satisfied until the actual closing of the transaction. Interest expense included in discontinued operations is limited to interest on mortgage debt specifically associated with properties sold or classified as held for sale.

"Income from discontinued operations" in the accompanying Consolidated Statements of Operations for the three months ended March 31, 2010 and 2009, includes the operating results for the properties sold in 2009, as well as the gains recognized on properties sold during each reporting period. The following table summarizes "Income from discontinued operations:"

| <i>(In thousands)</i>                      | Three Months Ended |          |
|--|--------------------|----------|
|  | March 31,<br>2010  | 2009     |
| <b>REVENUE</b>                             |                    |          |
| Property revenue                           | \$ -               | \$ 1,096 |
| <b>EXPENSES</b>                            |                    |          |
| Property operating and maintenance         | -                  | 505      |
| Depreciation and amortization              | -                  | 259      |
| Total expenses                             | -                  | 764      |
| Operating income                           | -                  | 332      |
| Interest expense                           | -                  | (30)     |
| Gain on disposition of properties          | -                  | 2,278    |
| <b>Income from discontinued operations</b> | \$ -               | \$ 2,580 |

### 3. DEBT

The following table identifies our total debt outstanding and weighted average interest rates:

| <i>(Dollar amounts in thousands)</i>     | March 31, 2010         |                                   | December 31, 2009      |                                   |
|--|------------------------|-----------------------------------|------------------------|-----------------------------------|
|  | Balance<br>Outstanding | Weighted Average<br>Interest Rate | Balance<br>Outstanding | Weighted Average<br>Interest Rate |
| <b>FIXED RATE DEBT</b>                   |                        |                                   |                        |                                   |
| Mortgages payable - CMBS                 | \$ 99,656              | 7.7%                              | \$ 115,464             | 7.7%                              |
| Mortgages payable - other <sup>(1)</sup> | 295,092                | 5.8%                              | 337,241                | 5.8%                              |
| Unsecured borrowings                     | 25,780                 | 7.9%                              | 25,780                 | 7.9%                              |
| <b>Total fixed rate debt</b>             | 420,528                | 6.4%                              | 478,485                | 6.4%                              |
| <b>VARIABLE RATE DEBT</b>                |                        |                                   |                        |                                   |
| Mortgages payable                        | 34,711                 | 4.7%                              | 34,851                 | 4.7%                              |
| Unsecured revolving credit facility      | 20,400                 | 2.4%                              | 12,500                 | 2.6%                              |
| <b>Total variable rate debt</b>          | 55,111                 | 3.8%                              | 47,351                 | 4.1%                              |
| <b>Total debt</b>                        | \$ 475,639             | 6.1%                              | \$ 525,836             | 6.2%                              |

|     |   |
|-----|---|
| (1) | Includes \$21.0 million and \$63.0 million of variable rate debt swapped to fixed as of March 31, 2010 and December 31, 2009, |
|     | respectively.   |

**Mortgage Notes Payable**

The following table provides information on loans repaid during 2010:

| <i>(Dollar amounts in thousands)</i> | Loans Repaid |      |
|--------------------------------------|--------------|------|
| Property                             | Amount       | Rate |
| Idlewylde                            | \$ 42,000    | 5.9% |
| Sterling Park                        | 2,910        | 7.9% |
| Kensington Grove                     | 3,172        | 7.9% |
| Spring Brook                         | 4,351        | 7.9% |
| Western Reserve                      | 4,835        | 7.9% |
| Total / weighted average rate        | \$ 57,268    | 6.4% |

During 2008, 2007 and 2006, we defeased 21 CMBS loans. These loans were defeased pursuant to the terms of the underlying loan documents. In accordance with GAAP, we removed those financial assets and the mortgage loans from our financial records. All risk of loss associated with these defeasances have been transferred from us to the successor borrower and any ongoing relationship between the successor borrower and us was deemed inconsequential at the time of completion of the respective transfers. However, we subsequently learned that for certain defeasance transactions completed prior to June 2007, the successor borrower may be able to prepay the loans thus enabling us to receive a refund of a portion of the costs incurred in connection with the transaction. We received refunds of \$554,000 and \$563,000 for the three months ended March 31, 2010 and 2009, respectively, which were included as a reduction to interest expense. It is possible that we may receive additional refunds in the future, however such amounts cannot be estimated due to the uncertainty of future payments, and we believe that any amounts we may receive would not be material to our consolidated financial position, cash flow or results of operations.

Cash paid for interest, excluding capitalized interest, was \$7.8 million and \$8.1 million for the three months ended March 31, 2010 and 2009, respectively. Included in cash paid for interest are the refunds received of \$554,000 and \$563,000 for the three months ended March 31, 2010 and 2009, respectively, as discussed above.

**4. GOODWILL AND OTHER INTANGIBLE ASSETS****Goodwill**

In June 1998, we recorded goodwill in connection with the MIG Realty Advisors, Inc. merger. We have a policy of completing our annual review of goodwill during the first quarter of each year and more frequently if events or changes in circumstances indicate that the carrying value may not be recoverable. The review that was completed during the three months ended March 31, 2010 determined that goodwill was not impaired and as such there were no changes to the carrying value of goodwill as of March 31, 2010. In performing this analysis, we use a multiple of revenues to the range of potential alternatives and assign a probability of the various alternatives under consideration by management. Should the estimates used to determine alternatives or the probabilities of the occurrence thereof

change, impairment may result which could materially impact our results of operations for the period in which it is recorded.

**Intangible Assets**

We allocate a portion of the total purchase price of a property acquisition to any intangible assets identified, such as existing leases and tenant relationships. The intangible assets are amortized over the remaining lease terms or estimated life of the tenant relationship, which is approximately 12 to 16 months. Due to the short term nature of residential leases, we believe that existing lease rates approximate market rates; therefore, no allocation is made for above/below market leases.



## 5. SHAREHOLDERS' EQUITY

The following table provides a reconciliation of activity in Shareholders' equity accounts:

Three Months Ended March 31, 2010

| <i>(In thousands)</i>                                | Common Shares           |                 | Accumulated Distributions In Excess of Accumulated Net Income | Accumulated Other Comprehensive Income | Treasury Shares (at Cost) |
|--|-------------------------|-----------------|---|--|---------------------------|
|  | (at \$.10 stated value) | Paid-In Capital |   |  |                           |
| Balance, December 31, 2009                           | \$2,300                 | \$283,090       | \$ (168,822)  | \$ (1,420)                             | \$(63,971)                |
| Total comprehensive (loss) income                    | -                       | -               | (2,906)   | 917                                    | -                         |
| Share-based compensation                             | -                       | 299             | 2   | -                                      | 1,071                     |
| Reclassification of deferred directors' compensation | -                       | 2,255           | -   | -                                      | -                         |
| Purchase of common shares                            | -                       | -               | -   | -                                      | (594)                     |
| Issuance of common shares                            | 517                     | 54,284          | -   | -                                      | -                         |
| Common share dividends declared                      | -                       | -               | (4,730)   | -                                      | -                         |
| Preferred share dividends declared                   | -                       | -               | (1,050)   | -                                      | -                         |
| Balance, March 31, 2010                              | \$2,817                 | \$339,928       | \$ (177,506)  | \$ (503)                               | \$(63,494)                |

The following table identifies total comprehensive (loss) income:

| <i>(In thousands)</i>  | Three Months Ended March 31, |        |
|--|------------------------------|--------|
|  | 2010                         | 2009   |
| Comprehensive (loss) income:                                   |                              |        |
| Net (loss) income attributable to AERC                         | \$ (2,906)                   | \$ 113 |
| Other comprehensive income:                                    |                              |        |
| Change in fair value and reclassification of hedge instruments | 917                          | 690    |
| Total comprehensive (loss) income                              | \$ (1,989)                   | \$ 803 |

## 6. EARNINGS PER SHARE

There were 1.4 million options to purchase common shares outstanding at March 31, 2010 and 2009. The dilutive effect of these options were not included in the calculation of diluted earnings per share for the periods presented as their inclusion would be antidilutive to the net loss applicable to common shares from continuing operations.

The exchange of operating partnership noncontrolling interests into common shares was also not included in the computation of diluted EPS because we intend to settle these OP units in cash.



The following table presents a reconciliation of basic and diluted earnings per common share:

| <i>(In thousands)</i>   | Three Months Ended |            |
|---|--------------------|------------|
|   | March 31,<br>2010  | 2009       |
| <b>Numerator - basic and diluted:</b>                                     |                    |            |
| (Loss) income from continuing operations                                  | \$ (2,893)         | \$ (2,453) |
| Net income attributable to noncontrolling redeemable interest             | (13)               | (14)       |
| Preferred share dividends   | (1,050)            | (1,049)    |
| (Loss) income from continuing operations applicable to common shares      | \$ (3,956)         | \$ (3,516) |
| Income from discontinued operations applicable to common shares           | \$ -               | \$ 2,580   |
| <b>Denominator - basic and diluted:</b>                                   | 21,199             | 16,434     |
| <b>Net (loss) income applicable to common shares - basic and diluted:</b> |                    |            |
| (Loss) income from continuing operations applicable to common shares      | \$ (0.19)          | \$ (0.21)  |
| Income from discontinued operations                                       | -                  | 0.15       |
| Net (loss) income applicable to common shares - basic and diluted         | \$ (0.19)          | \$ (0.06)  |

## 7. FAIR VALUE

Fair value determined in accordance with GAAP should be based on the assumptions that market participants would use when pricing certain assets or liabilities. Inputs used in determining fair value should be from the highest level available in the following hierarchy:

Level 1 inputs utilize quoted prices (unadjusted) in active markets for identical assets or liabilities that we have the ability to access;

Level 2 inputs may include quoted prices for similar assets and liabilities in active markets, as well as interest rates and yield curves that are observable at commonly quoted intervals; and

Level 3 inputs are unobservable inputs for the asset or liability that are typically based on an entity's own assumptions as there is little, if any, related market activity.

In instances where the determination of the fair value measurement is based on inputs from different levels of the fair value hierarchy, the fair value measurement will fall within the lowest level input that is significant to the fair value measurement in its entirety.

The following table presents the financial liabilities that we measured at fair value on a recurring basis as of March 31, 2010:

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| <i>(In thousands)</i> | Level 1 | Level 2 | Level 3 | Total  |
|-----------------------|---------|---------|---------|--------|
| Interest rate swaps   | \$ -    | \$ 819  | \$ -    | \$ 819 |

We incorporate credit valuation adjustments to appropriately reflect both our own nonperformance risk and that of the respective counterparty in the fair value measurements. The credit valuation adjustments utilize Level 3 inputs, such as estimates of current credit spreads, to evaluate the likelihood of default by either the respective counterparty or us. However, we determined that as of March 31, 2010, the impact of the credit valuation adjustments were not significant to the overall valuation of the swaps. See "Derivative Instruments and Hedging Activities" in Note 1 for additional information regarding the swaps.

Rents, accounts and notes receivable, other assets, accounts payable, accrued expenses and other liabilities are carried at amounts that reasonably approximate corresponding fair values.

Mortgage notes payable, revolving debt and other unsecured debt with an aggregate carrying value of \$475.6 million and \$525.8 million at March 31, 2010, and December 31, 2009, respectively, have an estimated aggregate fair value of \$476.5 million and \$520.1 million, respectively. Estimated fair value is based on interest rates available to us as of the dates reported on for issuance of debt with similar terms and remaining maturities. Considerable judgment is necessary to interpret market data and develop estimated fair values. Accordingly, the estimates presented herein are not necessarily indicative of the amounts we could realize on disposition of the financial instruments. The use of different market assumptions and/or estimation methodologies may have a material effect on the estimated fair value amounts.

## **8. CONTINGENCIES**

### **Legal Proceedings**

We are subject to legal proceedings, lawsuits and other claims, including proceedings by government authorities (collectively "Litigation"). Litigation is subject to uncertainties and outcomes are difficult to predict. Consequently, we are unable to estimate ultimate aggregate monetary liability or financial impact with respect to the Litigation matter described in the following paragraph as of March 31, 2010, and no accrual has been made for this matter. We believe that other Litigation will not have a material adverse impact on us after final disposition. However, because of the uncertainties of Litigation, one or more lawsuits could ultimately result in a material obligation.

### **Pending Lawsuits**

On or about April 14, 2002, Melanie and Kyle Kopp commenced an action against us in the Franklin County, Ohio Court of Common Pleas seeking undetermined damages, injunctive relief and class action certification. This case arose out of our Suredeposit program. This program allowed cash short prospective residents to purchase a bond in lieu of paying a security deposit. The bond serves as a fund to pay those resident obligations that would otherwise have been funded by the security deposit. Plaintiffs allege that the nonrefundable premium paid for the bond is a disguised form of security deposit, which is otherwise required to be refundable in accordance with Ohio's Landlord-Tenant Act. Plaintiffs further allege that certain pet deposits and other nonrefundable deposits required by us are similarly security deposits that must be refundable in accordance with Ohio's Landlord-Tenant Act. On or about January 15, 2004, the Plaintiffs filed a motion for class certification. We subsequently filed a motion for summary judgment. On or about September 3, 2008, the court granted our motion for summary judgment thereby dismissing all Plaintiff claims against us. Plaintiff subsequently appealed the court's ruling to the Ohio Court of Appeals for the 10th District, which recently affirmed the trial court's decision granting summary judgment in our favor. We will consider this matter to have been successfully concluded unless plaintiff seeks a further appeal to the Ohio Supreme Court.

## **9. DIRECTOR COMPENSATION**

### **Directors' Deferred Compensation Plan**

Effective January 1, 2010, the Directors' Deferred Compensation Plan was modified such that all future distributions from the plan will be in the form of our common shares instead of cash, except for the scheduled distributions which were to commence on or before December 31, 2010, which will be made in cash. As a result, deferred compensation totaling \$2.3 million that will be paid in shares was reclassified from "Accounts payable, accrued expenses and other liabilities" to "Paid-in Capital" in the Consolidated Balance Sheets during the three months ended March 31, 2010. Prior to the modification the fair value of the directors' deferred compensation was adjusted at the end of each reporting period based on the closing price of our common shares. However, as a result of the modification, no further adjustment to fair value will be required.

## 10. SUBSEQUENT EVENTS

### Dividends

On May 3, 2010, we paid a dividend of \$0.17 per common share to shareholders of record on April 15, 2010, which was declared on March 16, 2010.

## ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion should be read in conjunction with the consolidated financial statements and notes thereto included in Part I, Item 1 of this report on Form 10-Q. This discussion may contain forward-looking statements based on current judgments and current knowledge of management, which are subject to certain risks, trends and uncertainties that could cause actual results to vary from those projected, including but not limited to, expectations regarding our 2010 performance which are based on certain assumptions. Accordingly, readers are cautioned not to place undue reliance on forward-looking statements that speak only as of the date of the document. These forward-looking statements are intended to be covered by the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. The words "expects," "projects," "believes," "plans," "anticipates" and similar expressions are intended to identify forward-looking statements. Investors are cautioned that these forward-looking statements involve risks and uncertainty that could cause actual results to differ from estimates or projections contained in these forward-looking statements, including without limitation the following:

- changes in the economic climate in the markets in which we own and manage properties, including interest rates, the overall level of economic activity, the availability of consumer credit and mortgage financing, unemployment rates and other factors;
- our ability to refinance debt on favorable terms at maturity;
- risks of a lessening of demand for the multifamily units that we own or manage;
- competition from other available multifamily units and changes in market rental rates;
- increases in property and liability insurance costs;
- unanticipated increases in real estate taxes and other operating expenses;
- weather conditions that adversely affect operating expenses;
- expenditures that cannot be anticipated such as utility rate and usage increases, unanticipated repairs and real estate tax valuation reassessments or millage rate increases;
- inability to control operating expenses or achieve increases in revenue;
- ownership limitations on our common and preferred shares that may discourage a takeover otherwise considered favorably by shareholders;
- the results of litigation filed or to be filed against us;
- changes in tax legislation;
- risks of personal injury claims and property damage related to mold claims because of diminished insurance coverage;
- catastrophic property damage losses that are not covered by our insurance;
- our ability to acquire properties at prices consistent with our investment criteria;
- risks associated with property acquisitions such as environmental liabilities, among others;
- changes in or termination of contracts relating to third party management and advisory business;

risks related to the perception of residents and prospective residents as to the attractiveness, convenience and safety of our properties or the neighborhoods in which they are located; and construction business risks.



## Overview.

We are engaged primarily in the ownership and operation of multifamily residential units. We also provide asset and property management services to third party owners of multifamily residential units for which we are paid fees. Our primary source of cash and revenue from operations is rents from the leasing of owned apartment units, which represented 96.0% of our consolidated revenue for the three months ended March 31, 2010.

The operating performance of our properties is affected by general economic trends including, but not limited to, factors such as household formation, job growth, unemployment rates, population growth, immigration, the supply of new multifamily rental communities and in certain markets the supply of other housing alternatives, such as condominiums, single and multifamily rental homes and owner occupied single and multifamily homes. Additionally, our performance may be affected by access to and cost of debt and equity.

Rental revenue collections are a combination of rental rates, occupancy levels and rent concessions. We attempt to adjust these factors to adapt to changing market conditions, thus allowing us to maximize rental revenue. Indicators that we use in measuring these factors include physical occupancy and net collected rent per unit. These indicators are more fully described in the Results of Operations comparison. Additionally, we consider property Net Operating Income ("NOI") and Funds from Operations ("FFO") to be important indicators of our overall performance. Property NOI (property operating revenue less property operating and maintenance expenses) is a measure of the profitability of our properties and has the largest impact on our financial condition and operating results. FFO is used in the real estate industry as a supplemental measure of the operating performance of real estate companies because it excludes charges such as real estate depreciation that are generally considered not to be reflective of the actual value of real estate assets over time. Additionally, gains and losses from the sale of most real estate assets and certain other items are also excluded from FFO.

NOI is determined by deducting property operating and maintenance expenses from property revenue (excluding amounts classified as discontinued operations) for our properties and deducting direct property management and service company expenses and construction and other services expenses from management and service company revenue for the management and service operations. We consider NOI to be an appropriate supplemental measure of our performance because it reflects the operating performance of our real estate portfolio and management and service companies at the property and management and service company level and is used to assess regional property level performance. NOI should not be considered (i) as an alternative to net income (determined in accordance with GAAP), (ii) as an indicator of financial performance, (iii) as an alternative to cash flow from operating activities (determined in accordance with GAAP) or (iv) as a measure of liquidity; nor is it necessarily indicative of sufficient cash flow to fund all of our needs. Other real estate companies may define NOI in a different manner.

A reconciliation of NOI to total consolidated net (loss) income attributable to AERC is as follows:

| <i>(In thousands)</i>   | Three Months Ended |           |
|---|--------------------|-----------|
|   | March 31,<br>2010  | 2009      |
| Property NOI  | \$ 17,722          | \$ 18,070 |
| Service company NOI   | 75                 | 109       |
| Construction and other services NOI                           | (313)              | (117)     |
| Depreciation and amortization                                 | (8,620)            | (9,207)   |
| General and administrative expense                            | (3,705)            | (3,140)   |
| Interest income   | 9                  | 15        |
| Interest expense  | (8,061)            | (8,183)   |
| Income from discontinued operations:                          |                    |           |
| Operating income  | -                  | 302       |
| Gain on disposition of properties                             | -                  | 2,278     |
| Income from discontinued operations                           | -                  | 2,580     |
| Net (loss) income   | (2,893)            | 127       |
| Net income attributable to noncontrolling redeemable interest | (13)               | (14)      |
| Consolidated net (loss) income attributable to AERC           | \$ (2,906)         | \$ 113    |

We calculate Funds from Operations ("FFO") in accordance with the definition adopted by the Board of Governors of the National Association of Real Estate Investment Trusts ("NAREIT"). This definition includes all operating results, both recurring and non-recurring, except those results defined as "extraordinary items" under GAAP, adjusted for depreciation on real estate assets and amortization of intangible assets, gains on insurance recoveries, and gains and losses from the disposition of properties and land. We calculate FFO per share using the weighted average shares outstanding amounts used in the calculation of basic and diluted earnings per share in accordance with GAAP. FFO does not represent cash generated from operating activities in accordance with GAAP and is not necessarily indicative of cash available to fund cash needs and should not be considered an alternative to net income as an indicator of our operating performance or as an alternative to cash flow as a measure of liquidity. FFO is used in the real estate industry as a supplemental measure of the operating performance of real estate companies because it excludes charges such as real estate depreciation that are generally considered not to be reflective of the actual value of real estate assets over time. Other real estate companies may define FFO in a different manner.

We calculate FFO as adjusted as FFO, as defined above, plus the add back of defeasance and/or other prepayment costs/credits of \$(554,000) and \$(563,000) for the three months ended March 31, 2010 and March 31, 2009, respectively. In accordance with GAAP, these prepayment costs/credits are included as interest expense in the Consolidated Statement of Operations. We provide this calculation as an alternative FFO calculation as we consider it a more appropriate measure of comparing the operating performance of a company's real estate between periods or as compared to different REITs.



A reconciliation of net income attributable to AERC to FFO and FFO as adjusted is as follows:

| <i>(In thousands, except per share amounts)</i>                        | Three Months Ended |          |
|--|--------------------|----------|
|  | March 31,<br>2010  | 2009     |
| Net (loss) income attributable to AERC                                 | \$ (2,906)         | \$ 113   |
| Depreciation - real estate assets                                      | 8,223              | 8,255    |
| Amortization of intangible assets                                      | -                  | 837      |
| Preferred share dividends  | (1,050)            | (1,049)  |
| Gain on disposition of properties                                      | -                  | (2,278)  |
| Funds from Operations  | 4,267              | 5,878    |
| Refund of defeasance costs for previously defeased loans               | (554)              | (563)    |
| Funds from Operations as adjusted                                      | \$ 3,713           | \$ 5,315 |
| Funds from Operations per common share - basic and diluted             | \$ 0.20            | \$ 0.36  |
| Funds from Operations as adjusted per common share - basic and diluted | \$ 0.18            | \$ 0.32  |
| Weighted average shares outstanding - basic and diluted                | 21,199             | 16,434   |

### Updated 2010 Expectations.

**Portfolio performance** Our full-year 2010 guidance reflects Same Community property NOI decreasing in the range of -4.0% to -2.5% as compared to 2009.

**Property acquisitions, sales and development** Our updated guidance continues to reflect no property acquisitions. However, we are aggressively seeking acquisition opportunities. We are not contemplating any property sales during 2010. We are currently constructing a 60-unit expansion of our River Forest apartment community, which is located in the Richmond, Virginia metropolitan area. The cost of this expansion project is expected to be approximately \$7.0 million. We incurred approximately \$5.0 million in costs related to this development during 2009, with the remaining \$2.0 million to be expended in 2010.

**Debt repayment** We have already repaid five loans totaling \$57.3 million that matured in 2010. We have one additional loan maturing in 2010 in the amount of \$21.0 million.

**Forecast Qualification.** The uncertainties caused by the current economic conditions and the unprecedented financial crisis complicate our ability to forecast future performance. We believe that the apartment industry is better situated to weather the recession than other real estate sectors because people will normally choose shelter over discretionary spending such as going to the mall or hotel stays and because government sponsored agencies such as Fannie Mae and Freddie Mac continue to provide attractive apartment financing, which may be unavailable to other commercial real estate sectors. However, our 2010 expectations may be adversely impacted if recessionary forces accelerate or Congress curtails Fannie Mae or Freddie Mac financing support to the apartment industry.



**LIQUIDITY AND CAPITAL RESOURCES**

Cash Flows and Liquidity. Significant sources and uses of cash during the three months ended March 31, 2010 and 2009 are summarized as follows:

| <i>(In thousands)</i>   | Three Months Ended |          |
|---|--------------------|----------|
|   | March 31,<br>2010  | 2009     |
| Net cash provided by operations                                     | \$ 4,683           | \$ 6,701 |
| Fixed assets:   |                    |          |
| Acquisitions and development expenditures, net                      | (2,094)            | (58)     |
| Net property disposition proceeds                                   | -                  | 3,836    |
| Recurring, revenue enhancing and non-recurring capital expenditures | (1,815)            | (2,262)  |
| Debt:   |                    |          |
| Decrease in mortgage notes  | (58,097)           | (20,334) |
| Increase in revolving credit facility borrowings                    | 7,900              | 16,800   |
| Common share issuance proceeds                                      | 54,918             | -        |
| Cash dividends and operating partnership distributions paid         | (4,827)            | (3,864)  |

Our primary sources of liquidity are cash flow provided by operations, short-term borrowings on the unsecured revolver, our secured credit facility or project specific loans. We believe that we are well positioned to weather the recent turmoil in the financial markets. Six mortgage loans totaling approximately \$78.3 million were scheduled to mature in 2010. We have already repaid five of those debt obligations totaling \$57.3 million and we expect to repay the remaining \$21.0 million obligation with proceeds from our unsecured revolver or with proceeds from a project specific secured loan.

In December 2009, we entered into a credit facility agreement with Wells Fargo Multifamily Corporation on behalf of Freddie Mac. Pursuant to the terms of the facility, we have the potential to borrow up to \$100.0 million over a two-year period with obligations being secured by nonrecourse, non cross-collateralized fixed or variable rate mortgages having terms of five, seven or ten years. Our \$150.0 million unsecured revolver, which matures March 20, 2011 and had \$129.6 million available for borrowing as of March 31, 2010, provides us additional financial flexibility.

Our ability to reenter the capital markets affords us additional liquidity as demonstrated by our successful sale to the public markets of 5,175,000 of our common shares in January 2010, which resulted in net proceeds of approximately \$54.9 million. These proceeds were used to prepay a \$42.0 million mortgage loan, repay borrowings on our unsecured revolver and for general corporate purposes.

We anticipate that cash flow provided by operations for the remainder of the year will continue to meet normal business operations and liquidity requirements for the upcoming year. We believe that if net cash provided by operations is below projections, other sources, such as the unsecured revolver, secured and unsecured borrowings are or can be made available and should be sufficient to meet our normal business operations and liquidity requirements. We anticipate that we will continue paying our regular quarterly dividends in cash. Funds to be used for the repayment of debt, property acquisitions, development or other capital expenditures are expected to be provided

primarily by proceeds from the refinancing of debt borrowings, our unsecured revolver and possibly the sale of common shares.

Cash flow provided by operations decreased during the first quarter of 2010 compared to the first quarter of 2009 primarily due to a \$940,000 reduction in property net operating income in 2010, of which \$590,000 was related to properties sold during 2009 and is included in discontinued operations, and the 2009 receipt of funds that were previously advanced to managed properties and funds related to other receivables.

During the remainder of 2010, we anticipate incurring approximately \$12.5 million in capital expenditures. This includes replacement of worn carpet and appliances, parking lots and similar items in accordance with our current property expenditure plan, as well as commitments for revenue enhancing and non-recurring expenditures. These commitments are expected to be funded with cash provided by operating activities and borrowings on our unsecured revolver.

## RESULTS OF OPERATIONS

### *Comparison of the three months ended March 31, 2010 to the three months ended March 31, 2009:*

Our Same Community portfolio represents properties that we have owned for all of the comparison periods. For the three months ended March 31, 2010 and 2009, the Same Community portfolio consisted of all 48 owned properties containing 12,108 units.

The net loss from continuing operations increased \$440,000 during 2010 compared to 2009 primarily as a result of an increase in general and administrative expenses and a reduction in property NOI. These changes were partially offset by a reduction in depreciation and amortization expense.

The following table reflects the amount and percentage change in line items that are relevant to the changes in overall operating performance:

| <i>(In thousands)</i>                      | Increase (decrease) when<br>comparing the three months<br>ended March 31, 2010<br>to March 31, 2009 |          |
|--|---|----------|
| Property revenue                           | \$ (178)  | (0.6)%   |
| Property operating and maintenance expense | 170   | 1.2%     |
| Depreciation and amortization              | (587)   | (6.4)%   |
| General and administrative                 | 565   | 18.0%    |
| Income from discontinued operations        | (2,580)   | (100.0)% |

Property NOI decreased during 2010 primarily due to a reduction in property revenue of \$178,000 and an increase in property expenses of \$170,000.

The following table presents property NOI results by region:

| <i>(In thousands)</i>      | Three Months Ended March 31, |                         |                         |
|----------------------------|------------------------------|-------------------------|-------------------------|
|                            | 2010<br>Property<br>NOI      | 2009<br>Property<br>NOI | Increase/<br>(Decrease) |
| Same Community Properties: |                              |                         |                         |
| Midwest                    | \$ 10,090                    | \$ 10,293               | \$ (203)                |



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|                                   |           |           |          |
|-----------------------------------|-----------|-----------|----------|
| Mid-Atlantic                      | 3,370     | 3,425     | (55)     |
| Southeast                         | 4,262     | 4,352     | (90)     |
| Total/Same Community Property NOI | \$ 17,722 | \$ 18,070 | \$ (348) |

*Property revenue.* Property revenue is impacted by a combination of rental rates, rent concessions and occupancy levels, i.e., net collected rent per unit. Physical occupancy at the end of each period and net collected rent per unit are presented in the following tables:

|                                 | Physical Occupancy<br>as of March 31, |       |
|---------------------------------|---------------------------------------|-------|
|                                 | 2010                                  | 2009  |
| Same Community Properties:      |                                       |       |
| Midwest                         | 95.7%                                 | 95.7% |
| Mid-Atlantic                    | 96.2%                                 | 94.5% |
| Southeast                       | 93.9%                                 | 88.8% |
| Total/Same Community Properties | 95.3%                                 | 93.9% |

|                                 | Average Monthly Net Collected<br>Rent Per Unit<br>For the Three Months<br>Ended March 31, |          |
|---------------------------------|---|----------|
|                                 | 2010  | 2009     |
| Same Community Properties:      |   |          |
| Midwest                         | \$ 771  | \$ 778   |
| Mid-Atlantic                    | \$ 1,155  | \$ 1,151 |
| Southeast                       | \$ 879  | \$ 874   |
| Total/Same Community Properties | \$ 844  | \$ 847   |

The following table presents property revenue results:

|                                       | Three Months Ended March 31, |           |                         |
|---------------------------------------|------------------------------|-----------|-------------------------|
|                                       | 2010                         | 2009      | Increase/<br>(Decrease) |
| <i>(In thousands)</i>                 |                              |           |                         |
| Same Community Properties:            |                              |           |                         |
| Midwest                               | \$ 18,346                    | \$ 18,537 | \$ (191)                |
| Mid-Atlantic                          | 5,214                        | 5,246     | (32)                    |
| Southeast                             | 8,086                        | 8,041     | 45                      |
| Total/Same Community Property Revenue | \$ 31,646                    | \$ 31,824 | \$ (178)                |

The decrease in property revenue was primarily due to increases in concessions resulting in lower net rent across the entire portfolio during the first quarter of 2010, which were partially offset by reductions in vacancy losses in 2010, particularly in the Southeast portfolio. Utility reimbursements also increased in 2010 compared to 2009.

*Property operating and maintenance expenses.* Property operating and maintenance expenses increased in 2010 primarily as a result of increases in personnel and utility costs.

*Depreciation and amortization.* Depreciation and amortization expense decreased during 2010 primarily due to the completion of the 12 month to 16 month amortization periods of intangible assets recorded in connection with properties acquired in 2008.

*General and administrative expense.* General and administrative expense increased during 2010 primarily due to a valuation adjustment in the first quarter of 2009 that reduced directors' deferred compensation expense. Prior to January 1, 2010, the fair value of the directors' deferred compensation was adjusted based upon the closing price of our common shares at the end of each period. Effective January 1, 2010, this plan was modified to provide that all distributions under the plan will be in the form of our common shares instead of cash. As a result, the fair value of the deferred compensation is no longer adjusted based upon the closing price of our common shares.

*Income from Discontinued Operations.* Discontinued operations include the operating results of two properties sold in 2009 and the gain related to the sale of one property sold during the first quarter of 2009. For further details on "Income from discontinued operations," see Note 2 of the Notes to Consolidated Financial Statements presented in Part I, Item 1 of this report on Form 10-Q.

### **Critical Accounting Estimates**

The preparation of the consolidated financial statements in conformity with GAAP requires us to make estimates and assumptions in certain circumstances that affect amounts reported in the consolidated financial statements and related notes. In preparing these consolidated financial statements, we have utilized information available including industry practice and our own past history in forming estimates and judgments of certain amounts included in the consolidated financial statements, giving due consideration to materiality. It is possible that the ultimate outcome that we anticipated in formulating the estimates inherent in these consolidated financial statements may not materialize. However, application of the accounting policies below involves the exercise of judgment and use of assumptions as to future uncertainties and, as a result, actual results could differ from these estimates. In addition, other companies may utilize different estimates that may impact comparability of our results of operations to those of companies in similar businesses. Our critical accounting estimates are discussed in detail in Part II, Item 7 of our Annual Report on Form 10-K for the year ended December 31, 2009. In addition to these critical accounting estimates, we believe that our contracting and construction management services required us to make estimates that could have a material impact on our results of operations and financial statements.

We account for general contracting and construction management services that we provide to third parties using the percentage completion method. Under this method, the amount of revenue and expense to be recognized for each project that we are engaged in at the end of each reporting period is estimated based on the percentage of work completed on that date. The use of judgment and/or estimates is required in determining the percentage of work completed, the expected total cost of a project in process, and in certain circumstances the total amount of revenue for a project in process. If we had used different estimates, different amounts would have been recognized in revenue and expense which may have resulted in a material impact to our results of operations. If actual costs or revenue differ from estimates, it may require us to make a material adjustment to our results of operations.

### **CONTINGENCIES**

For a discussion of contingencies, see Note 8 of the Notes to Consolidated Financial Statements presented in Part I, Item 1 of this report on Form 10-Q.



### **ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

We are exposed to interest rate changes associated with variable rate debt and the refinancing risk on our fixed-rate debt. Based on our variable rate debt outstanding at March 31, 2010 and 2009, an interest rate change of 100 basis points would impact interest expense approximately \$551,000 and \$735,000 on an annual basis, respectively. We occasionally use derivative instruments to manage our exposure to interest rates. See Note 1 of the Notes to Consolidated Financial Statements presented in Part I, Item 1 of this report on Form 10-Q for additional information regarding derivative instruments and "Item 7A Qualitative and Quantitative Disclosures About Market Risk" of our Annual Report on Form 10-K for the year ended December 31, 2009, for a more complete discussion of interest rate sensitive assets and liabilities.

### **ITEM 4. CONTROLS AND PROCEDURES**

*Disclosure Controls and Procedures.* We have evaluated the design and operations of our disclosure controls and procedures to determine whether they are effective in ensuring that the disclosure of required information is timely made in accordance with the Securities Exchange Act of 1934 ("Exchange Act") and the rules and forms of the Securities and Exchange Commission. This evaluation was made under the supervision and with the participation of management, including our Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO"), as of the end of the period covered by this report on Form 10-Q. The CEO and CFO have concluded, based on their review, that our disclosure controls and procedures, as defined in Exchange Act Rules 13a-15(e) and 15d-15(e), are effective to ensure that information required to be disclosed in reports that we file under the Exchange Act is (i) recorded, processed, summarized and reported within the time periods specified in Securities and Exchange Commission rules and forms, and (ii) accumulated and communicated to management, including the principal executive and principal financial officers, as appropriate, to allow timely decisions regarding disclosure.

*Changes in Internal Control over Financial Reporting.* There were no changes in our internal control over financial reporting during the first quarter of 2010 that materially affected, or are reasonably likely to materially affect, internal control over financial reporting.

We believe that because of its inherent limitations, internal control over financial reporting may not always prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

## **PART II. OTHER INFORMATION**

### **ITEM 1. LEGAL PROCEEDINGS**

For information related to legal proceedings, see Note 8 of the Notes to Consolidated Financial Statements presented in Part I, Item 1 of this report on Form 10-Q.

### **ITEM 1A. RISK FACTORS**

See "Risk Factors" in Part I, Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2009.



**ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS**

## Issuer Purchases of Equity Securities for the Three Months Ended March 31, 2010

| Period                         | Total Number of Shares Purchased | Average Price Paid Per Share | Total Number of Shares Purchased As Part of Publicly Announced Plans or Programs | Approximate Dollar Value of Shares That May Yet Be Purchased Under the Plans or Programs (in thousands) |
|--------------------------------|----------------------------------|------------------------------|--|---|
| January 1 through January 31   | -                                | \$ -                         | -  | \$ 26,288   |
| February 1 through February 28 | 42,688                           | 12.07                        | -  | 26,288  |
| March 1 through March 31       | 6,104                            | 12.84                        | -  | 26,288  |
| Total                          | 48,792                           | \$ 12.17                     | -  |   |

There is a total of \$26.3 million remaining on our Board of Director authorizations to repurchase our common and/or preferred shares. Additionally, we have a policy which allows employees to pay their portion of the income taxes related to restricted share vesting by surrendering a number of shares to us equal in value on the day of vesting to the amount of taxes due up to the minimum statutory withholding amount.



**ITEM 6. EXHIBITS**

| <b>Number</b> | <b>Title</b>  | <b>Filed herewith or incorporated herein by reference</b> |
|---------------|---|---|
| 3.1           | Amendment to Second Amended and Restated Articles of Incorporation.   | Exhibit 3.1 to Form 8-K filed December 8, 2004.           |
| 3.2           | Second Amended and Restated Articles of Incorporation.  | Exhibit 3.2 to Form 10-Q filed July 31, 2007.             |
| 3.3           | Amended and Restated Code of Regulations of the Company.  | Exhibit 3.3 to Form 10-Q filed August 1, 2006.            |
| 4.1           | Specimen Common Share Certificate.  | Exhibit 4.1 to Form 10-Q filed November 3, 2009.          |
| 4.1a          | Amended and Restated Shareholders Rights Agreement dated December 30, 2008.   | Exhibit 4.1 to Form 8-K filed December 30, 2008.          |
| 4.2           | Specimen 8.70% Class B Series II Cumulative Redeemable Preferred Shares.  | Exhibit 4.2 to Form 10-Q filed November 3, 2009.          |
| 4.2a          | Specimen Depositary Share representing 1/10 of one share of 8.70% Class B Series II Cumulative Redeemable Preferred Shares.   | Exhibit 4.2a to Form 10-Q filed November 3, 2009.         |
| 4.3           | Deposit Agreement by and among Associated Estates Realty Corporation and National City Bank and Depositary Receipts.          | Exhibit 4.5 to Form 8-A filed December 8, 2004.           |
| 4.5           | Form of Promissory Note and Form of Mortgage and Security Agreement dated May 10, 1999 from AERC to The Chase Manhattan Bank. | Exhibit 4.5 to Form 10-Q filed August 13, 1999.           |

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- |       |   |  |
|-------|---|--|
| 4.5a  | Form of Promissory Note and Form of Mortgage and Security Agreement dated September 10, 1999 from AERC to The Chase Manhattan Bank.   | Exhibit 4.5a to Form 10-Q filed November 12, 1999. |
| 4.5b  | Form of Promissory Note and Form of Mortgage and Security Agreement dated November 18, 1999 from AERC to The Chase Manhattan Bank.  | Exhibit 4.5b to Form 10-K filed March 15, 2000.    |
| 4.13  | Credit Agreement Dated April 24, 2007 among Associated Estates Realty Corporation, as Borrower and National City Bank as Administrative Agent, Lead Arranger, and Book Manager and The Several Lenders From Time To Time Parties Hereto, as Lenders.        | Exhibit 4.13 to Form 10-Q filed July 31, 2007.     |
| 4.14a | Amended and Restated Shareholder Rights Agreement dated December 30, 2008 between Associated Estates Realty Corporation, an Ohio corporation (the "Company") and National City Bank, a national banking association (the "Rights Agent").                   | Exhibit 4.1 to Form 8-K filed December 30, 2008.   |
| 4.15  | First Amendment to Credit Agreement dated March 20, 2008, by and among Associated Estates Realty Corporation (the Borrower), National City Bank and other banks and financial institutions (the Lenders) and National City Bank (the Administrative Agent). | Exhibit 4.15 to Form 10-Q filed May 6, 2008.       |

| Number  | Title   | Filed herewith or incorporated herein by reference                                |
|---|---|---|
| 4.16  | Joinder to Subsidiary Guaranty dated March 20, 2008, for the benefit of National City Bank, as Agent for itself and certain other lenders, with respect to a loan from the Lenders to Associated Estates Realty Corporation.  | Exhibit 4.16 to Form 10-Q filed May 6, 2008.                                      |
| 4.17  | Agreement regarding Master Financing Agreement dated December 22, 2009 by and between Wells Fargo Bank, National Association and Associated Estates Realty Corporation and Master Financing Agreement dated December 22, 2009 by and between Wells Fargo Bank, National Association and Federal Home Loan Mortgage Corporation. | Exhibit 4.17 to Form 10-Q filed herewith.   |
| <p>Certain of the Registrant's assets are subject to mortgage obligations each of which individually relates to indebtedness totaling less than 10.0% of the total assets of the Registrant. The Registrant hereby agrees to furnish a copy of such agreements to the Commission upon its request.</p>  |   |   |
| <p>The Registrant issued unsecured debt in the form of Trust Preferred Securities on March 15, 2005 in a private placement in an amount less than 10.0% of the total assets of the Registrant. The Registrant hereby agrees to furnish a copy of the Purchase Agreement dated March 15, 2005 between Associated Estates Realty Corporation, AERC Delaware Trust and Taberna Preferred Funding 1, Ltd. and a specimen Preferred Securities Certificate to the Commission upon its request.</p> |   |   |
| 10  | Associated Estates Realty Corporation Directors' Deferred Compensation Plan.  | Exhibit 10 to Form 10-K filed February 25, 2010.                                  |
| 10.1  | Stock Option Plan.  | Exhibit 10.2 to Form S-11 filed September 2, 1993 (File No. 33-68276 as amended). |
| 10.2  | Amended and Restated Employment Agreement between the Company and Jeffrey I. Friedman.  | Exhibit 10.1 to Form 10-Q filed May 13, 1996.                                     |
| 10.3  | Equity-Based Incentive Compensation Plan.   | Exhibit 10.4 to Form 10-K filed March 29, 1995.                                   |
| 10.4  | Form of Restricted Stock Agreement dated by and among the Company and its Non-Management Directors.   | Exhibit 10.9 to Form 10-K filed March 28, 1996.                                   |

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|       |  |  |
|-------|--|--|
| 10.5  | Form of Indemnification Agreement.   | Exhibit 4.2 to Form S-11 filed September 2, 1993 (File No. 33-68276 as amended). |
| 10.6  | Amended 2008 Equity-Based Award Plan.  | Exhibit 10.1 to Form 8-K filed May 13, 2008.                                     |
| 10.7  | Amendment to Associated Estates Realty Corporation 2008 Equity-Based Award Plan.   | Exhibit 10.7 to Form 10-K filed February 25, 2009.                               |
| 10.7a | Amendment to Associated Estates Realty Corporation Amended and Restated Equity-Based Award Plan.   | Exhibit 10.7a to Form 10-K filed February 25, 2009.                              |
| 10.7b | Associated Estates Realty Corporation Supplemental Executive Retirement Plan (Restated).   | Exhibit 10.7b to Form 10-K filed February 25, 2009.                              |
| 10.8  | Form of Share Option Agreement by and among the Company and its Non-Management Directors.  | Exhibit 10.14 to Form 10-K filed March 30, 1993.                                 |
| 10.10 | Associated Estates Realty Corporation Amended and Restated 2001 Equity-Based Plan (as amended on May 4, 2005). Incorporated by reference to Appendix 1 to the Definitive Proxy Statement filed March 28, 2005. | Exhibit 99.01 to Form S-8 filed May 26, 2005.                                    |

| Number | Title   | Filed herewith or incorporated herein by reference |
|--------|---|--|
| 10.11  | Form of Equity Award Agreement.   | Exhibit 10.11 to Form 10-Q filed August 2, 2005.   |
| 10.12  | Long Term Incentive Compensation Plan.  | Exhibit 10.12 to Form 10-Q filed November 1, 2005. |
| 10.13  | Associated Estates Realty Corporation Elective Deferred Compensation Plan.  | Exhibit 10.13 to Form 10-Q filed July 31, 2007.    |
| 31     | Certification of Chief Executive Officer Pursuant to Section 302 of the Sarbanes Oxley Act.                             | Exhibit 31 to Form 10-Q filed herewith.            |
| 31.1   | Certification of Chief Financial Officer Pursuant to Section 302 of the Sarbanes Oxley Act.                             | Exhibit 31.1 to Form 10-Q filed herewith.          |
| 32     | Certification of Chief Executive Officer and Chief Financial Officer Pursuant to Section 906 of the Sarbanes Oxley Act. | Exhibit 32 to Form 10-Q filed herewith.            |

**SIGNATURES**

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

ASSOCIATED ESTATES REALTY CORPORATION

May 4, 2010  
(Date)

/s/ Lou Fatica  
Lou Fatica, Vice President  
Chief Financial Officer and Treasurer