

AVALONBAY COMMUNITIES INC

Form 10-Q

November 09, 2007

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**  
**FORM 10-Q**  
**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d)**  
**OF THE SECURITIES EXCHANGE ACT OF 1934**  
**For the quarterly period ended September 30, 2007**  
**Commission file number 1-12672**  
**AVALONBAY COMMUNITIES, INC.**  
*(Exact name of registrant as specified in its charter)*

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

77-0404318  
*(I.R.S. Employer  
Identification No.)*

2900 Eisenhower Avenue, Suite 300  
Alexandria, Virginia 22314  
*(Address of principal executive offices, including zip code)*  
(703) 329-6300  
*(Registrant's telephone number, including area code)*  
*(Former name, if changed since last report)*

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 twelve (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 ninety (90) days.

Yes  No

Indicate by check mark whether the Exchange registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer (as defined in Rule 12b-2 of the Act).

Large accelerated filer  Accelerated filer  Non-accelerated filer

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act).

Yes  No

**APPLICABLE ONLY TO CORPORATE ISSUERS**

Indicate the number of shares outstanding of each of the issuer's classes of common stock as of the latest practicable date:

78,751,658 shares of common stock, par value \$0.01 per share, were outstanding as of October 31, 2007

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**AVALONBAY COMMUNITIES, INC.**  
**FORM 10-Q**  
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**EXPLANATORY NOTE**

We have filed Amendment No. 1 on Form 10-K/A on May 10, 2007 (the Form 10-K/A ) to our Annual Report on Form 10-K for the fiscal year ended December 31, 2006 filed on March 1, 2007 (the Form 10-K ) (1) to restate our financial statements as of December 31, 2006, 2005 and 2004 and for the years then ended and to amend other Items contained in the Form 10-K to reflect such restatement, and (2) to correct a typographical error in the description of the Second Amended and Restated Revolving Loan Agreement of the Company referenced as Exhibit 10.32 to the Form 10-K. In addition we have restated our financial statements for the three and nine months ended September 30, 2006. This restatement is reported in this Quarterly Report on Form 10-Q for the quarter ended September 30, 2007. We have not amended and do not anticipate amending our Annual Reports on Form 10-K for any years prior to fiscal year 2006, nor will we be amending any of our Quarterly Reports on Form 10-Q filed prior to the Form 10-K/A. The financial statements and other information that have been previously filed or otherwise reported for these periods should no longer be relied upon; all such prior information is superseded by the information in the Form 10-K/A and this Quarterly Report on Form 10-Q for the quarter ended September 30, 2007.

As discussed in the Form 10-K/A, this restatement revises our accounting for long-term land leases. We revised the accounting for leases with fixed, or minimum, escalations, recognizing as rental expense on a straight-line basis, the aggregate undiscounted payments required over the non-cancelable portion of the lease term, as opposed to our expected holding period of our interest in the related asset. This change primarily impacts the land lease accounting related to one consolidated asset with a 90-year lease that became effective in 1999, in which the land lessor is also our partner in the venture holding the asset. In addition, we recognized as a component of minority interest, the value associated with a provision allowing our partner in that same venture to put their interest in the venture to us based on the fair market value of the underlying real estate with the offset to stockholders' equity.

AVALONBAY COMMUNITIES, INC.  
CONDENSED CONSOLIDATED BALANCE SHEETS  
(Dollars in thousands, except per share data)

|   | 9-30-07<br>(unaudited) | 12-31-06     |
|---|------------------------|--------------|
| <b>ASSETS</b>   |                        |              |
| Real estate:  |                        |              |
| Land  | \$ 1,005,484           | \$ 943,724   |
| Buildings and improvements                                    | 4,939,740              | 4,501,494    |
| Furniture, fixtures and equipment                             | 155,656                | 141,303      |
|   | 6,100,880              | 5,586,521    |
| Less accumulated depreciation                                 | (1,212,453)            | (1,080,313)  |
| Net operating real estate                                     | 4,888,427              | 4,506,208    |
| Construction in progress, including land                      | 806,189                | 641,781      |
| Land held for development                                     | 373,757                | 202,314      |
| Operating real estate assets held for sale, net               | 113,005                | 160,059      |
| Total real estate, net  | 6,181,378              | 5,510,362    |
| Cash and cash equivalents                                     | 39,042                 | 8,284        |
| Cash in escrow  | 195,409                | 135,917      |
| Resident security deposits                                    | 30,325                 | 26,429       |
| Investments in unconsolidated real estate entities            | 46,195                 | 42,724       |
| Deferred financing costs, net                                 | 28,422                 | 26,140       |
| Deferred development costs                                    | 54,454                 | 39,365       |
| Prepaid expenses and other assets                             | 57,474                 | 56,270       |
| Total assets  | \$ 6,632,699           | \$ 5,845,491 |
| <b>LIABILITIES AND STOCKHOLDERS EQUITY</b>                    |                        |              |
| Unsecured notes, net  | \$ 2,003,394           | \$ 2,153,078 |
| Variable rate unsecured credit facility                       | 245,000                |              |
| Mortgage notes payable  | 806,102                | 648,350      |
| Dividends payable   | 69,112                 | 60,417       |
| Payables for construction                                     | 68,804                 | 59,232       |
| Accrued expenses and other liabilities                        | 200,857                | 189,006      |
| Accrued interest payable                                      | 28,830                 | 37,189       |
| Resident security deposits                                    | 42,162                 | 37,654       |
| Liabilities related to real estate assets held for sale       | 44,974                 | 69,100       |
| Total liabilities   | 3,509,235              | 3,254,026    |
| Minority interest of unitholders in consolidated partnerships | 23,152                 | 18,311       |

## Commitments and contingencies

## Stockholders' equity:

|   |              |              |
|---|--------------|--------------|
| Preferred stock, \$0.01 par value; \$25 liquidation preference; 50,000,000 shares authorized at both September 30, 2007 and December 31, 2006; 4,000,000 shares issued and outstanding at both September 30, 2007 and December 31, 2006 | 40           | 40           |
| Common stock, \$0.01 par value; 140,000,000 shares authorized at both September 30, 2007 and December 31, 2006; 78,746,272 and 74,668,372 shares issued and outstanding at September 30, 2007 and December 31, 2006, respectively       | 787          | 747          |
| Additional paid-in capital  | 3,075,093    | 2,482,516    |
| Accumulated earnings less dividends   | 27,448       | 93,430       |
| Accumulated other comprehensive loss  | (3,056)      | (3,579)      |
| Total stockholders' equity  | 3,100,312    | 2,573,154    |
| <br>  |              |              |
| Total liabilities and stockholders' equity  | \$ 6,632,699 | \$ 5,845,491 |

See accompanying notes to Condensed Consolidated Financial Statements.

AVALONBAY COMMUNITIES, INC.  
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS  
AND OTHER COMPREHENSIVE INCOME  
(Unaudited)  
(Dollars in thousands, except per share data)

|  | For the three months<br>ended |                       | For the nine months<br>ended |                       |
|--|-------------------------------|-----------------------|------------------------------|-----------------------|
|  | 9-30-07                       | 9-30-06<br>(restated) | 9-30-07                      | 9-30-06<br>(restated) |
| Revenue:   |                               |                       |                              |                       |
| Rental and other income                            | \$ 206,634                    | \$ 182,061            | \$ 595,934                   | \$ 527,455            |
| Management, development and other fees             | 1,490                         | 1,585                 | 4,421                        | 4,186                 |
| <b>Total revenue</b>                               | <b>208,124</b>                | <b>183,646</b>        | <b>600,355</b>               | <b>531,641</b>        |
| Expenses:  |                               |                       |                              |                       |
| Operating expenses, excluding property taxes       | 61,545                        | 55,044                | 176,013                      | 158,914               |
| Property taxes                                     | 19,058                        | 16,734                | 55,213                       | 49,775                |
| Interest expense, net                              | 25,129                        | 26,479                | 71,283                       | 80,788                |
| Depreciation expense                               | 45,682                        | 39,752                | 132,371                      | 119,687               |
| General and administrative expense                 | 6,645                         | 5,633                 | 20,067                       | 18,395                |
| <b>Total expenses</b>                              | <b>158,059</b>                | <b>143,642</b>        | <b>454,947</b>               | <b>427,559</b>        |
| Equity in income (loss) of unconsolidated entities | (57)                          | 589                   | (340)                        | 1,024                 |
| Minority interest in consolidated partnerships     | (331)                         | (135)                 | (1,236)                      | (395)                 |
| Gain on sale of land                               |                               | 505                   | 545                          | 13,671                |
| <b>Income from continuing operations</b>           | <b>49,677</b>                 | <b>40,963</b>         | <b>144,377</b>               | <b>118,382</b>        |
| Discontinued operations:                           |                               |                       |                              |                       |
| Income from discontinued operations                | 834                           | 1,150                 | 3,705                        | 4,440                 |
| Gain on sale of communities                        | 78,258                        |                       | 78,258                       | 97,411                |
| <b>Total discontinued operations</b>               | <b>79,092</b>                 | <b>1,150</b>          | <b>81,963</b>                | <b>101,851</b>        |
| <b>Net income</b>                                  | <b>128,769</b>                | <b>42,113</b>         | <b>226,340</b>               | <b>220,233</b>        |
| Dividends attributable to preferred stock          | (2,175)                       | (2,175)               | (6,525)                      | (6,525)               |
| <b>Net income available to common stockholders</b> | <b>\$ 126,594</b>             | <b>\$ 39,938</b>      | <b>\$ 219,815</b>            | <b>\$ 213,708</b>     |

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|   |            |           |            |            |
|---|------------|-----------|------------|------------|
| Other comprehensive income (loss):  |            |           |            |            |
| Unrealized gain (loss) on cash flow hedges  | (387)      | (514)     | 523        | 671        |
| Comprehensive income  | \$ 126,207 | \$ 39,424 | \$ 220,338 | \$ 214,379 |
| Dividends declared per common share   | \$ 0.85    | \$ 0.78   | \$ 2.55    | \$ 2.34    |
| Earnings per common share basic:  |            |           |            |            |
| Income from continuing operations<br>(net of dividends attributable to preferred stock) | \$ 0.60    | \$ 0.52   | \$ 1.74    | \$ 1.51    |
| Discontinued operations   | 1.00       | 0.02      | 1.04       | 1.38       |
| Net income available to common stockholders   | \$ 1.60    | \$ 0.54   | \$ 2.78    | \$ 2.89    |
| Earnings per common share diluted:  |            |           |            |            |
| Income from continuing operations<br>(net of dividends attributable to preferred stock) | \$ 0.59    | \$ 0.51   | \$ 1.72    | \$ 1.48    |
| Discontinued operations   | 0.99       | 0.02      | 1.02       | 1.35       |
| Net income available to common stockholders   | \$ 1.58    | \$ 0.53   | \$ 2.74    | \$ 2.83    |

See accompanying notes to Condensed Consolidated Financial Statements.



AVALONBAY COMMUNITIES, INC.  
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS  
(Unaudited)  
(Dollars in thousands)

|  | For the nine months ended |                       |
|--|---------------------------|-----------------------|
|  | 9-30-07                   | 9-30-06<br>(restated) |
| Cash flows from operating activities:  |                           |                       |
| Net income   | \$ 226,340                | \$ 220,233            |
| Adjustments to reconcile net income to cash provided by operating activities:                              |                           |                       |
| Depreciation expense, including discontinued operations  | 134,547                   | 122,442               |
| Amortization of deferred financing costs and debt premium/discount   | 3,505                     | 3,121                 |
| Amortization of deferred compensation  | 10,810                    | 8,208                 |
| Income allocated to minority interest in consolidated partnerships   | 1,236                     | 395                   |
| Equity in income (loss) of unconsolidated entities, net of eliminations                                    | 1,107                     | (787)                 |
| Return on investment of unconsolidated entities  | 122                       | 268                   |
| Gain on sale of real estate assets   | (78,803)                  | (111,082)             |
| Increase in cash in operating escrows  | (4,329)                   | (456)                 |
| Increase in resident security deposits, prepaid expenses and other assets                                  | (592)                     | (2,527)               |
| Increase (decrease) in accrued expenses, other liabilities and accrued interest payable                    | (300)                     | 9,775                 |
| Net cash provided by operating activities  | 293,643                   | 249,590               |
| Cash flows used in investing activities:   |                           |                       |
| Development/redevelopment of real estate assets including land acquisitions and deferred development costs | (836,162)                 | (483,085)             |
| Acquisition of real estate assets  | (13,841)                  |                       |
| Capital expenditures existing real estate assets   | (5,188)                   | (14,527)              |
| Capital expenditures non-real estate assets  | (3,665)                   | (386)                 |
| Proceeds from sale of real estate assets, net of selling costs   | 121,693                   | 240,665               |
| Increase in payables for construction  | 9,572                     | 27,871                |
| Decrease in cash in construction escrows   | 44,837                    | 18,309                |
| Increase in investments in unconsolidated real estate entities   | (4,870)                   | (6,924)               |
| Net cash used in investing activities  | (687,624)                 | (218,077)             |
| Cash flows provided by financing activities:   |                           |                       |
| Issuance of common stock   | 619,239                   | 22,763                |
| Repurchase of common stock   | (114,833)                 |                       |
| Dividends paid   | (199,983)                 | (174,686)             |
| Net borrowings (repayments) under unsecured credit facility  | 245,000                   | (66,800)              |
| Issuance of mortgage notes payable   | 59,126                    | 42,299                |
| Repayments of mortgage notes payable   | (21,317)                  | (13,309)              |
| Issuance (repayment) of unsecured notes  | (150,000)                 | 343,743               |
| Payment of deferred financing costs  | (5,471)                   | (3,869)               |

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|   |           |            |
|---|-----------|------------|
| Redemption of units for cash by minority partners             | (6,851)   | (80)       |
| Contributions from minority and profit-sharing partners       | 1,334     |            |
| Distributions to DownREIT partnership unitholders             | (225)     | (297)      |
| Distributions to joint venture and profit sharing partners    | (1,280)   | (98)       |
| Net cash provided by (used in) financing activities           | 424,739   | 149,666    |
| Net increase in cash and cash equivalents                     | 30,758    | 181,179    |
| Cash and cash equivalents, beginning of period                | 8,284     | 5,703      |
| Cash and cash equivalents, end of period                      | \$ 39,042 | \$ 186,882 |
| Cash paid during year for interest, net of amount capitalized | \$ 81,857 | \$ 86,128  |

See accompanying notes to Condensed Consolidated Financial Statements.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (continued)

Supplemental disclosures of non-cash investing and financing activities (dollars in thousands):

During the nine months ended September 30, 2007:

As described in Note 4, Stockholders' Equity, 74,667 shares of common stock valued at \$10,905 were issued in connection with stock grants, 1,932 shares valued at \$249 were issued through the Company's dividend reinvestment plan, 40,742 shares valued at \$4,357 were withheld to satisfy employees' tax withholding and other liabilities and 8,094 shares valued at \$216 were forfeited, for a net value of \$6,581. In addition, the Company granted 331,356 options for common stock, net of forfeitures, at a value of \$7,518.

19,231 units of limited partnership, valued at \$887, were presented for redemption to the DownREIT partnerships that issued such units and were acquired by the Company in exchange for an equal number of shares of the Company's common stock.

The Company recorded a decrease to other liabilities and a corresponding gain to other comprehensive income of \$523 to adjust the Company's Hedging Derivatives (as defined in Note 5, Derivative Instruments and Hedging Activities) to their fair value.

The Company issued \$100,000 of variable-rate tax-exempt debt relating to Avalon Morningside Park. The proceeds were placed in an escrow account until requisitioned for construction funding.

Common and preferred dividends declared but not paid totaled \$69,109.

The Company recorded an increase of \$6,124 to minority interest with a corresponding decrease to accumulated earnings less dividends to adjust the redemption value associated with a put option held by a joint venture partner. This put option allows our partner to put their interest in the investment to the Company at the future fair market value.

The Company assumed a mortgage note in the amount of \$3,941 in conjunction with the acquisition of Countrybrook II.

The Company was relieved of its obligations related to a mortgage note in the amount of \$8,116 collateralized by Avalon West. In conjunction with the disposition of the community, the mortgage note was assumed by the purchaser.

During the nine months ended September 30, 2006:

As described in Note 4, Stockholders' Equity, 122,172 shares of common stock valued at \$12,368 were issued in connection with stock grants, 1,625 shares valued at \$169 were issued through the Company's dividend reinvestment plan and 47,448 shares valued at \$3,365 were withheld to satisfy employees' tax withholding and other liabilities, for a net value of \$9,172. In addition, the Company granted 864,113 options for common stock, net of forfeitures, at a value of \$9,889.

302,823 units of limited partnership, valued at \$13,990, were presented for redemption to the DownREIT partnerships that issued such units and were acquired by the Company in exchange for an equal number of shares of the Company's common stock.

The Company recorded a decrease to other liabilities and a corresponding gain to other comprehensive income of \$671 to adjust the fair value of the Company's Hedging Derivatives (as defined in Note 5, Derivative Instruments and Hedging Activities) to the current market value and record the effective portion of the Hedging Derivatives' fair value changes in other comprehensive income.

Common and preferred dividends declared but not paid totaled \$60,359.

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**AVALONBAY COMMUNITIES, INC.**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**(Unaudited)**  
**(Dollars in thousands, except per share data)**

1. Organization and Significant Accounting Policies

*Organization*

AvalonBay Communities, Inc. (the Company, which term, unless the context otherwise requires, refers to AvalonBay Communities, Inc. together with its subsidiaries) is a Maryland corporation that has elected to be taxed as a real estate investment trust ( REIT ) under the Internal Revenue Code of 1986 ( the Code ), as amended. The Company focuses on the ownership and operation of apartment communities in high barrier-to-entry markets of the United States. These markets are located in the Northeast, Mid-Atlantic, Midwest, Pacific Northwest, and Northern and Southern California regions of the country.

At September 30, 2007, the Company owned or held a direct or indirect ownership interest in 182 operating apartment communities containing 51,898 apartment homes in ten states and the District of Columbia, of which nine communities containing 2,452 apartment homes were under reconstruction. In addition, the Company owned or held a direct or indirect ownership interest in 19 communities under construction that are expected to contain an aggregate of 6,086 apartment homes when completed. The Company also owned or held a direct or indirect ownership interest in rights to develop an additional 52 communities that, if developed as expected, will contain an estimated 14,477 apartment homes.

During the three months ended September 30, 2007:

The Company sold three communities: Avalon View, located in Wappingers Falls, New York; San Marino, located in San Jose, California; and Avalon West, located in Westborough, Massachusetts. These communities contain a total of 656 apartment homes and were sold for an aggregate sales price of \$127,000. The sale of these communities resulted in a gain in accordance with generally accepted accounting principles ( GAAP ) of \$78,258.

The Company completed the development of three communities: Avalon Wilshire, Avalon Lyndhurst and Avalon at Glen Cove North. Avalon Wilshire, located in Los Angeles, California, is a mid-rise community containing 123 apartment homes and was completed for a total capitalized cost of \$47,600. Avalon Lyndhurst, located in northern New Jersey, is a garden-style community containing 328 apartment homes and was completed for a total capitalized cost of \$83,100. Avalon at Glen Cove North, located in Long Island, New York, is a mid-rise community containing 111 apartment homes and was completed for a total capitalized cost of \$40,300.

The Company commenced construction of three communities during the third quarter of 2007: Avalon at the Hingham Shipyard, a garden-style community located in Hingham, Massachusetts; Avalon Sharon, a garden-style community located in Sharon, Massachusetts; and Avalon Union City, a garden-style community located in Union City, California. These three communities are expected to contain an aggregate of 829 apartment homes when completed for an estimated total capitalized cost of \$208,600.

The Company commenced the reconstruction of two communities during the third quarter of 2007: Essex Place, a garden-style community with 286 homes in Peabody, Massachusetts and Avalon Redmond Place, a garden-style community containing 222 homes in Redmond, Washington. The aggregate projected total capitalized cost for redevelopment is \$15,800, excluding costs incurred prior to redevelopment.

The Company purchased a land parcel in Chicago, Illinois, for approximately \$23,000. The Company expects to begin construction of the first phase of a multi-phase community in 2008.

The Company purchased a garden-style community located in San Jose, California adjacent to its existing Countrybrook community. The new community, Countrybrook II, contains 80 apartment homes and was

acquired for a purchase price of \$17,700. The Company will operate Countrybrook II in conjunction with the existing Countrybrook community.

In August 2007, the Company announced that its Board of Directors authorized an increase in its common stock repurchase program for purchases of shares of its common stock in open market or negotiated transactions up to an aggregate purchase price of \$300 million. From August 1, 2007 to September 30, 2007, the Company repurchased 1,031,400 shares at an average price of \$111.31 per share through this program.

The Company purchased for cash 61,706 operating units for \$6,800 from DownREIT partnership unit holders. These units represented all third-party ownership interest in two separate DownREITs.

In August 2007, the Company repaid \$150,000 in previously issued unsecured notes, along with any unpaid interest, pursuant to their scheduled maturity.

The Company issued a tax-exempt mortgage note for \$42,200, which is secured by the operating assets of a community.

AvalonBay Value Added Fund, L.P. (the Fund), the private, discretionary investment vehicle in which the Company holds an equity interest of approximately 15%, acquired three communities: South Hills Apartments, a garden-style community containing 85 homes located in West Covina, California; Avalon Rutherford Station, a garden-style community containing 108 apartment homes located in East Rutherford, New Jersey; and Colonial Towers, a garden-style community containing 211 apartment homes located in Weymouth, Massachusetts.

The Fund also commenced redevelopment of Cedar Valley, located in Columbia, Maryland. Cedar Valley is a garden-style community containing 156 homes. The projected total capitalized cost for redevelopment is \$4,000, excluding costs incurred prior to redevelopment. In addition, the Fund completed the redevelopment of Avalon Redmond, located in Redmond, Washington. Avalon Redmond is a garden-style community containing 400 apartment homes and was completed for a total capitalized cost of \$7,100,000 excluding costs incurred prior to the starts of redevelopment. See Note 6, Investments in Real Estate Entities.

The interim unaudited financial statements have been prepared in accordance with GAAP for interim financial information and in conjunction with the rules and regulations of the Securities and Exchange Commission (SEC). Certain information and footnote disclosures normally included in financial statements required by GAAP have been condensed or omitted pursuant to such rules and regulations. These unaudited financial statements should be read in conjunction with the financial statements and notes included in the Form 10-K/A. The results of operations for the nine months ended September 30, 2007 are not necessarily indicative of the operating results for the full year. Management believes the disclosures are adequate to ensure the information presented is not misleading. In the opinion of management, all adjustments and eliminations, consisting only of normal, recurring adjustments necessary for a fair presentation of the financial statements for the interim periods, have been included.

#### *Principles of Consolidation*

The accompanying Condensed Consolidated Financial Statements include the accounts of the Company and its wholly-owned partnerships, certain joint venture partnerships, subsidiary partnerships structured as DownREITs and any variable interest entities consolidated under FASB Interpretation No. 46 (FIN 46(R)), Consolidation of Variable Interest Entities, an Interpretation of ARB No. 51, as revised in December 2003. All significant intercompany balances and transactions have been eliminated in consolidation.

The Company assesses consolidation of variable interest entities under the guidance of FIN 46(R). The Company accounts for joint venture entities and subsidiary partnerships, including those structured as DownREITs, that are not variable interest entities, in accordance with EITF Issue No. 04-5, Determining Whether a General Partner, or the General Partners as a Group, Controls a Limited Partnership or Similar Entity When the Limited Partners Have Certain Rights, Statement of Position (SOP) 78-9, Accounting for Investments in Real Estate Ventures, Accounting Principles Board (APB) Opinion No. 18, The Equity Method of Accounting for Investments in Common Stock and EITF Topic D-46, Accounting for Limited Partnership Investments. The Company uses EITF Issue No. 04-5 to evaluate the partnership of each joint venture entity and determine whether control over the partnership, as defined by the EITF, lies with the general partner, or the limited partners, when the limited partners have certain rights. The general partner in a limited partnership is presumed to control that limited partnership, unless that presumption is overcome by the limited partners having either: (i) the substantive ability, either by a single limited partner or through a simple majority vote, to dissolve the limited partnership or otherwise remove the general partner without cause; or

(ii) substantive participating rights. If the Company is the general partner and has control over the partnership, or if the Company's limited partnership ownership includes the ability to dissolve the partnership, or has substantive participating rights, as discussed above, the Company consolidates the investments. If the Company is not the general partner, or the Company's partnership interest does not contain either of the above terms which overcome the presumption of control in a limited partnership residing with the general partner, the Company then looks to the guidance in SOP 78-9, APB No. 18 and EITF Topic D-46 to determine the accounting framework to apply. The Company generally uses the equity method to account for these investments unless its ownership interest is so minor that it has virtually no influence over the partnership's operating and financial policies. Investments in which the Company has little or no influence are accounted for using the cost method.



In each of the partnerships structured as DownREITs, either the Company or one of the Company's wholly owned subsidiaries is the general partner, and there are one or more limited partners whose interest in the partnership is represented by units of limited partnership interest. For each DownREIT partnership, limited partners are entitled to receive an initial distribution of current cash flow before any distribution is made to the general partner. Although the partnership agreements for each of the DownREITs are different, generally the distributions per unit paid to the holders of units of limited partnership interests have approximated the Company's current common stock dividend per share. The holders of units of limited partnership interests have the right to present all or some of their units for redemption for a cash amount as determined by the applicable partnership agreement and based on the fair value of the Company's common stock. In lieu of cash redemption, the Company may elect to exchange such units for an equal number of shares of the Company's common stock.

In conjunction with the acquisition and development of investments in unconsolidated entities, the Company may incur costs in excess of its equity in the underlying assets. These costs are capitalized and depreciated over the life of the underlying assets to the extent that the Company expects to recover the costs.

*Revenue and Gain Recognition*

Rental income related to leases is recognized on an accrual basis when due from residents in accordance with SEC Staff Accounting Bulletin No. 104, Revenue Recognition, and Statement of Financial Accounting Standards (SFAS) No. 13, Accounting for Leases. In accordance with the Company's standard lease terms, rental payments are generally due on a monthly basis. Any cash concessions given at the inception of the lease are amortized over the approximate life of the lease, which is generally one year.

The Company accounts for sales of real estate assets and the related gain recognition in accordance with SFAS No. 66, Accounting for Sales of Real Estate.

*Real Estate*

Operating real estate assets are stated at cost and consist of land, buildings and improvements, furniture, fixtures and equipment, and other costs incurred during their development, redevelopment and acquisition. Significant expenditures which improve or extend the life of an asset are capitalized. Expenditures for maintenance and repairs are charged to operations as incurred.

The Company's policy with respect to capital expenditures is generally to capitalize only non-recurring expenditures. Improvements and upgrades are capitalized only if the item exceeds \$15, extends the useful life of the asset and is not related to making an apartment home ready for the next resident. Purchases of personal property, such as computers and furniture, are capitalized only if the item is a new addition and exceeds \$2.5. The Company generally expenses purchases of personal property made for replacement purposes.

The capitalization of costs during the development of assets (including interest and related loan fees, property taxes and other direct and indirect costs) begins when the Company has determined that development of the future asset is probable and ends when the asset, or a portion of an asset, is delivered and is ready for its intended use. For redevelopment efforts, we capitalize costs beginning either (i) in advance of taking homes out of service when significant renovation of the common area has begun until the redevelopment is completed, or (ii) when an apartment home is taken out-of-service for redevelopment until the redevelopment is completed and the apartment home is available for a new resident. Rental income and operating costs incurred during the initial lease-up or post-redevelopment lease-up period are recognized as they accrue.

In accordance with SFAS No. 67, *Accounting for Costs and Initial Rental Operations of Real Estate Projects*, the Company capitalizes pre-development costs incurred in pursuit of new development opportunities for which the Company currently believes future development is probable ( *Development Rights* ). Future development of these *Development Rights* is dependent upon various factors, including zoning and regulatory approval, rental market conditions, construction costs and availability of capital. Pre-development costs incurred in the pursuit of *Development Rights* for which future development is not yet considered probable are expensed as incurred. In addition, if the status of a *Development Right* changes, making future development by the Company no longer probable, any capitalized pre-development costs are written-off with a charge to expense. The Company expensed costs related to abandoned pursuits, which includes the abandonment or impairment of *Development Rights*, acquisition pursuits and disposition pursuits, in the amounts of \$405 and \$136 for the three months ended September 30, 2007 and 2006, respectively, and \$2,479 and \$1,501 for the nine months ended September 30, 2007 and 2006, respectively. These costs are included in operating expenses, excluding property taxes on the accompanying Condensed Consolidated Statements of Operations and Other Comprehensive Income. Abandoned pursuit costs can vary greatly, and the costs incurred in any given period may be significantly different in future years.

The Company owns land improved with office buildings and industrial space occupied by unrelated third parties in connection with five *Development Rights*. The Company intends to manage the current improvements until such time as all tenant obligations have been satisfied or eliminated through negotiation, and construction of new apartment communities is ready to begin. As provided under the guidance of SFAS No. 67, the revenue from incidental operations received from the current improvements in excess of any incremental costs are being recorded as a reduction of total capitalized costs of the *Development Right* and not as part of net income.

In connection with the acquisition of an operating community, the Company performs a valuation, allocating to each asset and liability acquired in such transaction, their estimated fair values at the date of acquisition in accordance with SFAS No. 141, *Business Combinations*. The purchase price allocations to tangible assets, such as land, buildings and improvements, and furniture, fixtures and equipment, are reflected in real estate assets and depreciated over their estimated useful lives. Any purchase price allocation to intangible assets, such as in-place leases, is included in prepaid expenses and other assets on the accompanying Condensed Consolidated Balance Sheets and amortized over the average remaining lease term of the acquired leases. The fair value of acquired in-place leases is determined based on the estimated cost to replace such leases, including foregone rents during an assumed re-lease period, as well as the impact on projected cash flow of acquired leases with leased rents above or below current market rents.

Depreciation is calculated on buildings and improvements using the straight-line method over their estimated useful lives, which range from seven to thirty years. Furniture, fixtures and equipment are generally depreciated using the straight-line method over their estimated useful lives, which range from three years (primarily computer-related equipment) to seven years.

It is the Company's policy to perform a quarterly qualitative analysis to determine if there are changes in circumstances that suggest the carrying value of a long-lived asset may not be recoverable. If there is an event or change in circumstance that indicates an impairment in the value of an operating community, the Company compares the current and projected operating cash flow of the community over its remaining useful life, on an undiscounted basis, to the carrying amount of the community. If the carrying amount is in excess of the estimated projected operating cash flow of the community, the Company would recognize an impairment loss equivalent to an amount required to adjust the carrying amount to its estimated fair market value. The Company did not recognize an impairment loss on any of its operating communities during the three and nine months ended September 30, 2007 or 2006.

#### *Deferred Financing Costs*

Deferred financing costs include fees and other expenditures necessary to obtain debt financing and are amortized on a straight-line basis, which approximates the effective interest method, over the shorter of the term of the loan or the related credit enhancement facility, if applicable. Unamortized financing costs are written-off when debt is retired before the maturity date. Accumulated amortization of deferred financing costs was \$19,379 at September 30, 2007 and was \$16,179 at December 31, 2006.



*Cash, Cash Equivalents and Cash in Escrow*

Cash and cash equivalents include all cash and liquid investments with an original maturity of three months or less from the date acquired. Cash in escrow consists primarily of construction financing proceeds that are restricted for use in the construction of a specific community. The majority of the Company's cash, cash equivalents and cash in escrows are held at major commercial banks.

*Interest Rate Contracts*

The Company utilizes derivative financial instruments to manage interest rate risk and generally designates these financial instruments as cash flow hedges under the guidance of SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities*, as amended. This statement requires that derivatives be recorded on the balance sheet as either an asset or liability measured at its fair value, with changes in fair value recognized currently in earnings unless specific hedge accounting criteria are met. For cash flow hedge relationships, changes in the fair value of the derivative instrument that are deemed effective at offsetting the risk being hedged are reported in other comprehensive income. For cash flow hedges where the cumulative changes in the fair value of the derivative exceed the cumulative changes in fair value of the hedged item, the ineffective portion is recognized in current period earnings. As of September 30, 2007 and December 31, 2006, the Company had approximately \$190,245 and \$229,159, respectively, in variable rate debt subject to cash flow hedges. As of September 30, 2007, the Company did not apply hedge accounting for an additional \$92,400 in variable rate debt which is subject to interest rate caps. See Note 5, *Derivative Instruments and Hedging Activities*, for further discussion of derivative financial instruments.

*Comprehensive Income*

Comprehensive income, as reflected on the Condensed Consolidated Statements of Operations and Other Comprehensive Income, is defined as all changes in equity during each period except for those resulting from investments by or distributions to shareholders. Accumulated other comprehensive loss as reflected in Note 4, *Stockholders' Equity*, reflects the effective portion of the cumulative changes in the fair value of derivatives in qualifying cash flow hedge relationships.

*Earnings per Common Share*

In accordance with the provisions of SFAS No. 128, *Earnings per Share*, basic earnings per share is computed by dividing earnings available to common stockholders by the weighted average number of shares outstanding during the period. Other potentially dilutive common shares, and the related impact to earnings, are considered when calculating earnings per share on a diluted basis. The Company's earnings per common share are determined as follows:

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|  | For the three months ended |                       | For the nine months ended |                       |
|--|----------------------------|-----------------------|---------------------------|-----------------------|
|  | 9-30-07                    | 9-30-06<br>(restated) | 9-30-07                   | 9-30-06<br>(restated) |
| <u>Basic and diluted shares outstanding</u>  |                            |                       |                           |                       |
| Weighted average common shares basic   | 78,962,615                 | 74,226,808            | 78,942,370                | 74,047,944            |
| Weighted average DownREIT units outstanding  | 89,505                     | 151,936               | 119,960                   | 180,265               |
| Effect of dilutive securities  | 972,594                    | 1,310,155             | 1,133,578                 | 1,275,817             |
| Weighted average common shares diluted   | 80,024,714                 | 75,688,899            | 80,195,908                | 75,504,026            |
| <u>Calculation of Earnings per Share basic</u>   |                            |                       |                           |                       |
| Net income available to common stockholders  | \$ 126,594                 | \$ 39,938             | \$ 219,815                | \$ 213,708            |
| Weighted average common shares basic   | 78,962,615                 | 74,226,808            | 78,942,370                | 74,047,944            |
| Earnings per common share basic  | \$ 1.60                    | \$ 0.54               | \$ 2.78                   | \$ 2.89               |
| <u>Calculation of Earnings per Share diluted</u>   |                            |                       |                           |                       |
| Net income available to common stockholders  | \$ 126,594                 | \$ 39,938             | \$ 219,815                | \$ 213,708            |
| Add: Minority interest of DownREIT unitholders in consolidated partnerships, including discontinued operations | 53                         | 98                    | 225                       | 296                   |
| Adjusted net income available to common stockholders   | \$ 126,647                 | \$ 40,036             | \$ 220,040                | \$ 214,004            |
| Weighted average common shares diluted   | 80,024,714                 | 75,688,899            | 80,195,908                | 75,504,026            |
| Earnings per common share diluted  | \$ 1.58                    | \$ 0.53               | \$ 2.74                   | \$ 2.83               |

Certain options to purchase shares of common stock in the amounts of 331,356 and 4,500 were outstanding at September 30, 2007 and 2006, respectively, but were not included in the computation of diluted earnings per share because in applying the treasury stock method under the provisions of SFAS No.123(R), Share Based Payment ( SFAS 123(R) ), such options are anti-dilutive.

*Legal and Other Contingencies*

The Company is currently involved in litigation alleging that 100 communities owned by the Company, at the time of the suit, violate the accessibility requirements of the Fair Housing Act and the Americans with Disabilities Act. The lawsuit, Equal Rights Center v. AvalonBay Communities, Inc, was filed on September 23, 2005 in the federal district court in Maryland. The plaintiff seeks compensatory and punitive damages in unspecified amounts as well as injunctive relief (such as modification of existing assets), an award of attorneys fees, expenses and costs of suit. The Company has filed a motion to dismiss all or parts of the suit, which has not been ruled on yet by the court. We cannot predict or determine the outcome of this lawsuit, nor is it reasonably possible to estimate the amount of loss, if any, that would be associated with an adverse decision.

During 2006, the Company determined that contaminated soil from imported fill was delivered to its Avalon Lyndhurst development site by third parties. The contaminants exceeded allowable levels for residential use under

New Jersey state and local regulations. The remediation effort is complete. The net cost associated with this remediation effort, after considering insurance proceeds received to date and including costs associated with construction delays necessary to complete construction and commence operations, is approximately \$6,000. The Company is pursuing the recovery of these additional net costs from the third parties involved, but no assurance can be given as to the amount or timing of additional reimbursements to the Company. The Company recorded these incremental costs incurred, and is recording potential recoveries as they become certain or are received. Although the net costs to complete construction of this community exceeded the original construction budget, the Company has determined that there is not an impairment in value of this asset which would require a write down in the carrying value. The Company will continue to review this assessment based on changes in circumstances or market conditions. In addition, the Company is subject to various legal proceedings and claims that arise in the ordinary course of business. These matters are frequently covered by insurance. If it has been determined that a loss is probable to occur, the estimated amount of the loss is expensed in the financial statements. While the resolution of these matters cannot be predicted with certainty, management currently believes the final outcome of such matters will not have a material adverse effect on the financial position or results of operations of the Company.

*Assets Held for Sale & Discontinued Operations*

The Company follows SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets* ( SFAS 144 ) which requires that the assets and liabilities of any communities which have been sold, or otherwise qualify as held for sale, be presented separately in the Condensed Consolidated Balance Sheets. In addition, the results of operations for those assets that meet the definition of discontinued operations are presented as such in the Company's Condensed Consolidated Statements of Operations and Other Comprehensive Income. Held for sale and discontinued operations classifications are provided in both the current and prior periods presented. Real estate assets held for sale are measured at the lower of the carrying amount or the fair value less the cost to sell. Both the real estate assets and corresponding liabilities are presented separately in the accompanying Condensed Consolidated Balance Sheets. Subsequent to classification of a community as held for sale, no further depreciation is recorded. For those assets qualifying for classification as discontinued operations, the community specific components of net income presented as discontinued operations include net operating income, minority interest expense, depreciation expense and interest expense, net. For periods prior to the asset qualifying for discontinued operations under SFAS 144, the Company reclassified the results of operations to discontinued operations in accordance with SFAS 144. Subsequent to the reclassification to discontinued operations, the impact of assets classified as discontinued operations on the statements of operations and other comprehensive income will include depreciation. In addition, the net gain or loss (including any impairment loss) on the eventual disposal of communities held for sale will be presented as discontinued operations when recognized. A change in presentation for held for sale or discontinued operations will not have any impact on the Company's financial condition or results of operations. The Company combines the operating, investing and financing portions of cash flows attributable to discontinued operations with the respective cash flows from continuing operations on the accompanying Condensed Consolidated Statements of Cash Flows.

*Use of Estimates*

The preparation of financial statements in conformity with U.S. GAAP requires management to make certain estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the dates of the financial statements and the reported amounts of revenue and expenses during the reporting periods. Actual results could differ from those estimates.

*Reclassifications*

Certain reclassifications have been made to amounts in prior period financial statements to conform to current year presentations.

*Recently Issued Accounting Standards*

The Company adopted the provisions of FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes* and Interpretation of FASB Statement No. 109, ( FIN 48 ), on January 1, 2007. The Company did not have any unrecognized tax benefits and there was no material effect on either the financial condition or results of operations of the Company as a result of implementing FIN 48. We do not believe that there will be any material changes in our unrecognized tax positions over the next 12 months. The Company is subject to examination by the respective taxing authorities for the tax years 2003 through 2005.

2. Interest Capitalized

The Company capitalizes interest during the development and redevelopment of real estate assets in accordance with SFAS No. 34, Capitalization of Interest Cost. Capitalized interest associated with communities under development or redevelopment totaled \$19,193 and \$12,910 for the three months ended September 30, 2007 and September 30, 2006, respectively, and \$53,019 and \$32,479 for the nine months ended September 30, 2007 and September 30, 2006, respectively.

3. Notes Payable, Unsecured Notes and Credit Facility

The Company's mortgage notes payable, unsecured notes and variable rate unsecured credit facility as of September 30, 2007 and December 31, 2006 are summarized below. The following amounts and discussion do not include the mortgage note related to a community classified as held for sale as of September 30, 2007 (see Note 7, Real Estate Disposition Activities ).

|   | 9-30-07      | 12-31-06     |
|---|--------------|--------------|
| Fixed rate unsecured notes <sup>(1)</sup>                                   | \$ 2,003,394 | \$ 2,153,078 |
| Fixed rate mortgage notes payable - conventional and tax-exempt             | 252,923      | 210,114      |
| Variable rate mortgage notes payable - conventional and tax-exempt          | 553,179      | 438,236      |
| Total notes payable and unsecured notes                                     | 2,809,496    | 2,801,428    |
| Variable rate unsecured credit facility                                     | 245,000      |              |
| Total mortgage notes payable, unsecured notes and unsecured credit facility | \$ 3,054,496 | \$ 2,801,428 |

<sup>(1)</sup> Balances at September 30, 2007 and December 31, 2006 include \$2,606 and \$2,922 of debt discount, respectively.

During the nine months ended September 30, 2007,

the Company assumed the mortgage note in the amount of \$3,941 in conjunction with the acquisition of Countrybrook II;

the Company repaid an outstanding mortgage note in the amount of \$15,980, secured by the operating assets of a community and repaid \$150,000 in unsecured notes;

the Company issued two mortgage notes for approximately \$59,126 secured by the operating assets of two communities, and a tax-exempt construction note for \$100,000 for a development community, the proceeds of which are held in escrow; and

The Company was relieved of its obligation related to the mortgage note secured by the assets of Avalon West in the amount of \$8,116, as it was assumed by the purchaser in conjunction with the sale of the community.

In the aggregate, secured notes payable mature at various dates from October 2008 through April 2043 and are secured by certain apartment communities and improved land parcels (with a net carrying value of \$1,034,600 as of September 30, 2007). As of September 30, 2007, the Company has guaranteed approximately \$109,070 of mortgage notes payable held by wholly owned subsidiaries; all such mortgage notes payable are consolidated for financial



reporting purposes. The weighted average interest rate of the Company's fixed rate mortgage notes payable (conventional and tax-exempt) was 6.5% and 6.8% at September 30, 2007 and December 31, 2006, respectively. The weighted average interest rate of the Company's variable rate mortgage notes payable and its unsecured credit facility (as discussed on the following page), including the effect of certain financing related fees, was 5.5% at September 30, 2007 and 5.8% at December 31, 2006.

Scheduled payments and maturities of mortgage notes payable and unsecured notes outstanding at September 30, 2007 are as follows:

| Year       | Secured<br>notes<br>payments | Secured<br>notes<br>maturities | Unsecured<br>notes<br>maturities | Stated<br>interest<br>rate<br>of<br>unsecured<br>notes |
|------------|------------------------------|--------------------------------|----------------------------------|--|
| 2007       | \$ 3,445                     | \$ 3,941                       | \$ 110,000                       | 6.875%   |
| 2008       | 8,854                        | 4,368                          | 50,000                           | 6.625%   |
|            |                              |                                | 146,000                          | 8.250%   |
| 2009       | 7,966                        | 73,793                         | 150,000                          | 7.500%   |
| 2010       | 6,628                        | 28,989                         | 200,000                          | 7.500%   |
| 2011       | 5,181                        | 50,524                         | 300,000                          | 6.625%   |
|            |                              |                                | 50,000                           | 6.625%   |
| 2012       | 4,481                        | 12,166                         | 250,000                          | 6.125%   |
|            |                              |                                | 250,000                          | 5.500%   |
| 2013       | 4,613                        |                                | 100,000                          | 4.950%   |
| 2014       | 3,209                        | 34,882                         | 150,000                          | 5.375%   |
| 2015       | 5,399                        |                                |                                  |  |
| 2016       | 5,838                        |                                | 250,000                          | 5.750%   |
| Thereafter | 264,586                      | 277,239                        |                                  |  |
|            | \$ 320,200                   | \$ 485,902                     | \$ 2,006,000                     |  |

The Company's unsecured notes contain a number of financial and other covenants with which the Company must comply, including, but not limited to, limits on the aggregate amount of total and secured indebtedness the Company may have on a consolidated basis and limits on the Company's required debt service payments.

The Company has a \$650,000 revolving variable rate unsecured credit facility with a syndicate of commercial banks. The Company had \$245,000 outstanding under the current credit facility and \$56,296 outstanding in letters of credit on September 30, 2007. At December 31, 2006 there were no amounts outstanding under the current facility and \$38,713 outstanding in letters of credit. Under the terms of the credit facility, the Company may elect to increase the facility up to \$1,000,000, provided that one or more banks (from the syndicate or otherwise) voluntarily agree to provide the additional commitment. No member of the syndicate of banks can prohibit such increase; such an increase in the facility will only be effective to the extent banks (from the syndicate or otherwise) choose to commit to lend additional funds. The Company pays participating banks, in the aggregate, an annual facility fee of approximately \$813, which is subject to increase in the event that the amount available on the facility is increased. The unsecured credit facility bears interest at varying levels based on the London Interbank Offered Rate (LIBOR), rating levels achieved on the Company's unsecured notes and on a maturity schedule selected by the Company. The current stated pricing is LIBOR plus 0.40% per annum. The stated spread over LIBOR can vary from LIBOR plus 0.325% to LIBOR plus 1.00% based on the Company's credit rating. In addition, the unsecured credit facility includes a competitive bid option, which allows banks that are part of the lender consortium to bid to make loans to the Company at a rate that is lower than the stated rate provided by the unsecured credit facility for up to \$422,500. The competitive bid option may result in lower pricing than the stated rate if market conditions allow. The Company had \$40,000 outstanding under this competitive bid option as of September 30, 2007. The Company is in compliance with certain customary covenants under the unsecured credit facility, including, but not limited to, maintaining certain maximum leverage ratios, a minimum fixed charges coverage ratio and minimum unencumbered assets and equity levels. The credit facility matures in November 2011, assuming exercise of a one-year renewal option by the Company.



4. Stockholders Equity

The following summarizes the changes in stockholders equity for the nine months ended September 30, 2007:

|   | Preferred<br>stock | Common<br>stock | Additional<br>paid-in<br>capital | Accumulated<br>earnings<br>less<br>dividends | Accumulated<br>other<br>comprehensive<br>loss | Stockholders<br>equity |
|---|--------------------|-----------------|----------------------------------|--|---|------------------------|
| Balance at December 31,<br>2006                               | \$ 40              | \$ 747          | \$ 2,482,516                     | \$ 93,430                                    | \$ (3,579)                                    | \$ 2,573,154           |
| Net income  |                    |                 |                                  | 226,340                                      |   | 226,340                |
| Unrealized gain on cash<br>flow hedges                        |                    |                 |                                  |  | 523   | 523                    |
| Change in redemption<br>value of minority interest            |                    |                 |                                  | (6,124)                                      |   | (6,124)                |
| Dividends declared to<br>common and preferred<br>stockholders |                    |                 |                                  | (208,927)                                    |   | (208,927)              |
| Issuance of common<br>stock, net of<br>withholdings           |                    | 50              | 617,491                          | (1,740)                                      |   | 615,801                |
| Repurchase of common<br>stock, including<br>repurchase costs  |                    | (10)            | (39,292)                         | (75,531)                                     |   | (114,833)              |
| Amortization of deferred<br>compensation                      |                    |                 | 14,378                           |  |   | 14,378                 |
| Balance at September 30,<br>2007                              | \$ 40              | \$ 787          | \$ 3,075,093                     | \$ 27,448                                    | \$ (3,056)                                    | \$ 3,100,312           |

During the nine months ended September 30, 2007, the Company:

- (i) Issued 4,600,000 shares of common stock in connection with an equity offering;
- (ii) issued 462,306 shares of common stock in connection with stock options exercised;
- (iii) issued 19,231 shares of common stock to acquire an equal number of DownREIT limited partnership units;
- (iv) issued 1,932 shares through the Company's dividend reinvestment plan;
- (v) issued 74,667 common shares in connection with stock grants;
- (vi) had 8,094 shares of restricted stock forfeited;
- (vii) withheld 40,742 shares to satisfy employees' tax withholding and other liabilities; and
- (viii) purchased 1,031,400 shares through the Company's stock repurchase program.

In addition, the Company granted 344,429 options for common stock to employees. As required under SFAS 123(R), any deferred compensation related to the Company's stock option and restricted stock grants during the nine months

ended September 30, 2007 is not reflected on the Company's Condensed Consolidated Balance Sheet as of September 30, 2007 or above, and will not be reflected until earned as compensation cost.

Dividends per common share were \$2.55 for the nine months ended September 30, 2007 and \$2.34 for the nine months ended September 30, 2006. The average dividend for all non-redeemed preferred shares for the nine months ended September 30, 2007 and 2006 was \$1.63 per share.

In 2004, the Company resumed its Dividend Reinvestment and Stock Purchase Plan (the "DRIP"). The DRIP allows for holders of the Company's common stock or preferred stock to purchase shares of common stock through either reinvested dividends or optional cash payments. The purchase price per share for newly issued shares of common stock under the DRIP will be equal to the last reported sale price for a share of the Company's common stock as reported by the New York Stock Exchange ("NYSE") on the applicable investment date.

In August 2007, the Company announced that its Board of Directors authorized an increase in its common stock repurchase program for purchases of shares of its common stock in open market or negotiated transactions up to an aggregate purchase price of \$300 million. From August 1, 2007 to September 30, 2007, the Company repurchased 1,031,400 shares at an average price of \$111.31 per share through this program. The Company did not have any purchases under this program prior to August 1, 2007.

### 5. Derivative Instruments and Hedging Activities

The Company enters into interest rate swap and interest rate cap agreements (collectively, the Hedging Derivatives ) to reduce the impact of interest rate fluctuations on its variable rate, tax-exempt bonds and its variable rate conventional secured debt (collectively, the Hedged Debt ). The Company has not entered into any interest rate hedge agreements for its conventional unsecured debt and does not enter into derivative transactions for trading or other speculative purposes. The following table summarizes the consolidated Hedging Derivatives at September 30, 2007 (dollars in thousands):

|   | Interest<br>Rate Caps | Interest<br>Rate Swaps |
|---|-----------------------|------------------------|
| Notional balance                              | \$235,973             | \$46,672               |
| Weighted average interest rate <sup>(1)</sup> | 5.6%                  | 6.5%                   |
| Weighted average capped interest rate         | 6.2%                  | n/a                    |
| Earliest maturity date                        | May-09                | Jun-10                 |
| Latest maturity date                          | Mar-14                | Jun-10                 |
| Estimated derivative fair value               | \$ 201                | \$ (2,600)             |

<sup>(1)</sup> For interest rate caps, this represents the weighted average interest rate on the debt.

At September 30, 2007, the Company had nine derivatives designated as cash flow hedges and four derivatives not designated as hedges. For the derivative positions that the Company has determined qualify as effective cash flow hedges under SFAS No. 133, the Company has recorded the effective portion of cumulative changes in the fair value of the Hedging Derivatives in other comprehensive income. Amounts recorded in other comprehensive income will be reclassified into earnings in the periods in which earnings are affected by the hedged cash flow. To adjust the Hedging Derivatives to their fair value, the Company recorded unrealized gains in other comprehensive income of \$523 and \$671 during the nine months ended September 30, 2007 and 2006, respectively. These amounts will be reclassified into earnings in conjunction with the periodic adjustment of the floating rates on the Hedged Debt, in interest expense, net. The amount reclassified into earnings for the nine months ended September 30, 2007, as well as the estimated amount included in accumulated other comprehensive income as of September 30, 2007, expected to be reclassified into earnings within the next twelve months to offset the variability of cash flows of the hedged items during this period are not material.

The Company assesses both at inception and on an on-going basis, the effectiveness of qualifying cash flow hedges. Hedge ineffectiveness, reported as a component of general and administrative expenses, did not have a material impact on earnings of the Company for any prior period, and the Company does not anticipate that it will have a material effect in the future. The fair values of the Hedging Derivatives are included in accrued expenses and other liabilities on the accompanying Condensed Consolidated Balance Sheets.

Derivative financial instruments expose the Company to credit risk in the event of nonperformance by the counterparties under the terms of the Hedging Derivatives. The Company minimizes its credit risk on these transactions by dealing with major, creditworthy financial institutions which have an A+ or better credit rating by the Standard & Poor's Ratings Group. As part of its on-going control procedures, the Company monitors the credit ratings of counterparties and the exposure of the Company to any single entity, thus minimizing credit risk concentration. The Company believes the likelihood of realizing losses from counterparty non-performance is remote.

**6. Investments in Real Estate Entities**

*Investments in Unconsolidated Real Estate Entities*

The Company accounts for its investments in unconsolidated real estate entities that are not considered variable interest entities under FIN 46(R) in accordance with EITF Issue No. 04-5. As of September 30, 2007, the Company's investments in unconsolidated real estate entities accounted for under the equity method of accounting consisted of:

a 50% limited liability company membership interest (with a right to 50% of distributions after achievement of a threshold return) in the limited liability company that owns the Avalon Grove community. In October 2007, the Company sold its interest in Avalon Grove to its joint venture partner, see Note 11, Subsequent Events;

a 20% limited liability company membership interest (with a right to 50% of distributions after achievement of a threshold return) in the limited liability company that owns the Avalon Chrystie Place I community;

a 25% limited liability company membership interest (with a right to 45% of distributions after achievement of a threshold return) in the limited liability company that developed and owns the Avalon at Mission Bay North II community; and

a 15.2% combined general partner and indirect limited partner equity interest in the Fund, which owns the following 20 communities: Avalon at Redondo Beach, Avalon Lakeside, Avalon Columbia, Avalon Redmond, Avalon Sunset, Avalon at Poplar Creek, Civic Center Place, Paseo Park, Avalon at Yerba Buena, Avalon at Aberdeen Station, The Springs, The Covington, Cedar Valley, Avalon Crystal Hill, Middlesex Crossing, Avalon Centerpoint and Skyway Terrace. In addition, during the three months ended September 30, 2007, the Fund acquired three communities. South Hills Apartments, located in the Los Angeles market, contains 85 homes and was acquired for a purchase price of \$20,700. Avalon Rutherford Station, located in Northern New Jersey, contains 108 apartment homes and was acquired for a purchase price of \$35,850. Colonial Towers, located in the Boston market, contains 211 apartment homes and was acquired for a purchase price of \$21,500.

In addition, as part of the formation of the Fund, the Company provided a guarantee to one of the limited partners. The guarantee provides that, if, upon final liquidation of the Fund, the total amount of all distributions to that partner during the life of the Fund (whether from operating cash flow or property sales) does not equal the total capital contributions made by that partner, then the Company will pay the partner an amount equal to the shortfall, but in no event more than 10% of the total capital contributions made by the partner (maximum of approximately \$4,400 as of September 30, 2007). As of September 30, 2007, the fair value of the real estate assets owned by the Fund is considered adequate to cover such potential payment under a liquidation scenario. The estimated fair value of and the Company's obligation under this guarantee, both at inception and as of September 30, 2007 was not significant and therefore the Company has not recorded any obligation for this guarantee as of September 30, 2007.

The following is a combined summary of the financial position of the entities accounted for using the equity method, as of the dates presented:

|  | 9-30-07<br>(unaudited) | 12-31-06<br>(unaudited) |
|--|------------------------|-------------------------|
| Assets:                                    |                        |                         |
| Real estate, net                           | \$ 1,027,498           | \$ 724,795              |
| Other assets                               | 37,765                 | 55,716                  |
| <br>Total assets                           | <br>\$ 1,065,263       | <br>\$ 780,511          |
| Liabilities and partners' equity:          |                        |                         |
| Mortgage notes payable and credit facility | \$ 767,817             | \$ 510,784              |
| Other liabilities                          | 41,630                 | 51,108                  |
| Partners' equity                           | 255,816                | 218,619                 |
| <br>Total liabilities and partners' equity | <br>\$ 1,065,263       | <br>\$ 780,511          |

The following is a combined summary of the operating results of the entities accounted for using the equity method, for the periods presented:

|                              | For the three months<br>ended<br>(unaudited) |                | For the nine months<br>ended<br>(unaudited) |                |
|------------------------------|--|----------------|---|----------------|
|                              | 9-30-07                                      | 9-30-06        | 9-30-07                                     | 9-30-06        |
| Rental income                | \$ 25,655                                    | \$ 18,360      | \$ 67,672                                   | \$ 48,329      |
| Operating and other expenses | (10,815)                                     | (8,537)        | (29,512)                                    | (22,270)       |
| Interest expense, net        | (11,080)                                     | (6,180)        | (29,841)                                    | (16,250)       |
| Depreciation expense         | (7,067)                                      | (4,984)        | (19,261)                                    | (12,741)       |
| <br>Net loss                 | <br>\$ (3,307)                               | <br>\$ (1,341) | <br>\$ (10,942)                             | <br>\$ (2,932) |

#### *Investments in Consolidated Real Estate Entities*

The Company is subject to the following arrangements related to entities that are not accounted for under the equity method of accounting:

The Company holds a 30% membership interest in a limited liability company that owns the Avalon Del Rey community. In conjunction with the construction management services that the Company provided to Avalon Del Rey, the Company provided a construction completion guarantee to the construction loan lender in order to fulfill their standard financing requirements related to construction financing. The obligation of the Company under this guarantee will terminate following satisfaction of the lender's standard completion requirements, which the Company expects to occur in 2007.

The Company provided an operating guarantee to the third-party investor in the limited liability company that owns Avalon Del Rey. This guarantee, which extends until December 2007, provides that if the one-year return



for the initial year of the joint venture partner's investment is less than a threshold return of 7% on its initial equity investment, then the Company will pay the joint venture partner an amount equal to the shortfall, up to the 7% threshold return required. As of September 30, 2007, the cash flows and return on investment for Avalon Del Rey are expected to meet and exceed the initial year threshold return required by our joint venture partner. As a result, the Company's obligation under this guarantee and its related fair value is insignificant, and the Company has therefore not recorded any liability associated with this guarantee as of September 30, 2007.

The sale of the 70% ownership interest in 2006 is being accounted for under the deposit method of accounting pursuant to SFAS No. 66, with the recognition of the sale deferred until the Company is relieved of its obligation under the operating guarantee. Accordingly, the Company continues to consolidate this community for financial reporting purposes, reporting the joint venture partner's interest in the net assets of the limited liability company as a component of accrued expenses and other liabilities, and recognizing the joint venture partner's interest in the operating results of the limited liability company as a component of minority interest in consolidated partnerships.

The Company holds an option to make a capital contribution to an entity in connection with the pursuit of a Development Right in Pleasant Hill, California. The Company currently does not have any equity or economic interest in this entity. However, due to the nature of the Company's option to make a capital contribution, this entity is considered a variable interest entity under FIN 46(R), where the Company is the primary beneficiary. This entity has no operations and has minimal assets and equity, and is therefore not considered a significant variable interest entity.

**7. Real Estate Disposition Activities**

During the nine months ended September 30, 2007, the Company sold three communities: Avalon View, located in Wappingers Falls, New York, San Marino, located in San Jose, California and Avalon West, located in Westborough, Massachusetts. These three communities contained a total of 656 apartment homes and were sold for an aggregate sales price of \$127,000. The sale of these communities resulted in a gain in accordance with GAAP of \$78,258.

During the nine months ended September 30, 2006, the Company sold three communities: Avalon Estates, located in the Boston, Massachusetts area, Avalon Cupertino, located in San Jose, California and Avalon Corners, located in Stamford, Connecticut. These three communities, which contained a total of 668 apartment homes, were sold for an aggregate sales price of \$182,750. The sale of these three communities resulted in a gain as reported in accordance with GAAP of approximately \$97,411.

As of September 30, 2007, the Company had one community that qualified as discontinued operations under the provisions of SFAS No. 144. In addition, Avalon Del Rey, which is accounted for under the deposit method due to the operating guarantee provided to its 70% joint venture partner (see Note 6, Investments in Real Estate Entities ) qualifies as held for sale as of September 30, 2007. However, due to the Company's continuing involvement through its 30% ownership interest and its role as the managing member of the venture, Avalon Del Rey has been and will continue to be reported as a component of continuing operations in the accompanying Condensed Consolidated Financial Statements.

In accordance with the requirements of SFAS No. 144, the operations for any communities sold from January 1, 2006 through September 30, 2007 and the communities that qualify as discontinued operations as of September 30, 2007 have been presented as discontinued operations in the accompanying Condensed Consolidated Financial Statements. Accordingly, certain reclassifications have been made in prior periods to reflect discontinued operations consistent with current period presentation.

The following is a summary of income from discontinued operations for the periods presented:

|                                     | For the three months ended |          | For the nine months ended |           |
|-------------------------------------|----------------------------|----------|---------------------------|-----------|
|                                     | 9-30-07                    | 9-30-06  | 9-30-07                   | 9-30-06   |
| Rental income                       | \$ 2,327                   | \$ 4,021 | \$ 10,341                 | \$ 13,646 |
| Operating and other expenses        | (951)                      | (1,493)  | (3,773)                   | (5,043)   |
| Interest expense, net               | (144)                      | (458)    | (687)                     | (1,408)   |
| Depreciation expense                | (398)                      | (920)    | (2,176)                   | (2,755)   |
| Income from discontinued operations | \$ 834                     | \$ 1,150 | \$ 3,705                  | \$ 4,440  |

The Company's Condensed Consolidated Balance Sheets include other assets (excluding net real estate) of \$1,178 and \$3,821 as of September 30, 2007 and December 31, 2006, respectively, and other liabilities of \$44,974 as of September 30, 2007 and \$69,100 as of December 31, 2006, relating to real estate assets sold or classified as held for sale.

During the nine months ended September 30, 2007, the Company sold one parcel of land through a taxable REIT subsidiary, located in the Mid-Atlantic, for a sales price of \$5,800, resulting in a GAAP gain of \$545.

#### 8. Segment Reporting

The Company's reportable operating segments include Established Communities, Other Stabilized Communities, and Development/Redevelopment Communities. Annually as of January 1<sup>st</sup>, the Company determines which of its communities fall into each of these categories and maintains that classification, unless disposition plans regarding a community change, throughout the year for the purpose of reporting segment operations.

*Established Communities (also known as Same Store Communities)* are communities where a comparison of operating results from the prior year to the current year is meaningful, as these communities were owned and had stabilized occupancy and operating expenses as of the beginning of the prior year. For the year 2007, the Established Communities are communities that are consolidated for financial reporting purposes, had stabilized occupancy and operating expenses as of January 1, 2006, are not conducting or planning to conduct substantial redevelopment activities and are not held for sale or planned for disposition within the current year. A community is considered to have stabilized occupancy at the earlier of (i) attainment of 95% physical occupancy or (ii) the one-year anniversary of completion of development or redevelopment.

*Other Stabilized Communities* includes all other completed communities that have stabilized occupancy, as defined above. Other Stabilized Communities do not include communities that are conducting or planning to conduct substantial redevelopment activities within the current year.

*Development/Redevelopment Communities* consists of communities that are under construction and have not received a final certificate of occupancy, communities where substantial redevelopment is in progress or is planned to begin during the current year and communities under lease-up, that had not reached stabilized occupancy, as defined above, as of January 1, 2007.

In addition, the Company owns land held for future development and has other corporate assets that are not allocated to an operating segment.

SFAS No. 131, Disclosures about Segments of an Enterprise and Related Information, requires that segment disclosures present the measure(s) used by the chief operating decision maker for purposes of assessing such segments performance. The Company's chief operating decision maker is comprised of several members of its executive management team who use net operating income (NOI) as the primary financial measure for Established Communities and Other Stabilized Communities. NOI is defined by the Company as total revenue less direct property operating expenses. Although the Company considers NOI a useful measure of a community's or communities' operating

performance, NOI should not be considered an alternative to net income or net cash flow from operating activities, as determined in accordance with GAAP. NOI excludes a number of income and expense categories as detailed in the reconciliation of NOI to net income.

A reconciliation of NOI to net income for the three and nine months ended September 30, 2007 and 2006 is as follows (unaudited):

|  | For the three months<br>ended |                     | For the nine months<br>ended |                     |
|--|-------------------------------|---------------------|------------------------------|---------------------|
|  | 9-30-07                       | 9-30-06<br>restated | 9-30-07                      | 9-30-06<br>restated |
| Net income   | \$ 128,769                    | \$ 42,113           | \$ 226,340                   | \$ 220,233          |
| Indirect operating expenses, net of corporate income | 8,102                         | 6,569               | 22,317                       | 20,908              |
| Investments and investment management                | 1,625                         | 1,388               | 6,133                        | 5,257               |
| Interest expense, net                                | 25,129                        | 26,479              | 71,283                       | 80,788              |
| General and administrative expense                   | 6,645                         | 5,633               | 20,067                       | 18,395              |
| Equity in loss (income) of unconsolidated entities   | 57                            | (589)               | 340                          | (1,024)             |
| Minority interest in consolidated partnerships       | 331                           | 135                 | 1,236                        | 395                 |
| Depreciation expense                                 | 45,682                        | 39,752              | 132,371                      | 119,687             |
| Gain on sale of land                                 |                               | (505)               | (545)                        | (13,671)            |
| Gain on sale of communities                          | (78,258)                      |                     | (78,258)                     | (97,411)            |
| Income from discontinued operations                  | (834)                         | (1,150)             | (3,705)                      | (4,440)             |
| Net operating income                                 | \$ 137,248                    | \$ 119,825          | \$ 397,579                   | \$ 349,117          |

The primary performance measure for communities under development or redevelopment depends on the stage of completion. While under development, management monitors actual construction costs against budgeted costs as well as lease-up pace and rent levels compared to budget.

The table below provides details of the Company's segment information as of the dates specified. The segments are classified based on the individual community's status as of the beginning of the given calendar year. Therefore, each year the composition of communities within each business segment is adjusted. Accordingly, the amounts between years are not directly comparable. The accounting policies applicable to the operating segments described above are the same as those described in Note 1, Organization and Significant Accounting Policies. Segment information for the three and nine months ended September 30, 2007 and 2006 has been adjusted for the communities that were sold from January 1, 2006 through September 30, 2007, or otherwise qualify as discontinued operations as of September 30, 2007, as described in Note 7, Real Estate Disposition Activities.

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|  | For the three months ended |            |                        |                 | For the nine months ended |            |                        |                 |
|--|----------------------------|------------|------------------------|-----------------|---------------------------|------------|------------------------|-----------------|
|  | Total                      |            | % NOI                  | Gross           | Total                     |            | % NOI                  | Gross           |
|  | revenue                    | NOI        | change from prior year | real estate (1) | revenue                   | NOI        | change from prior year | real estate (1) |
| <u>For the period ended September 30, 2007</u> |                            |            |                        |                 |                           |            |                        |                 |
| Established                                    |                            |            |                        |                 |                           |            |                        |                 |
| Northeast                                      | \$ 69,845                  | \$ 46,504  | 2.9%                   | \$ 1,803,132    | \$ 206,766                | \$ 138,515 | 4.4%                   | \$ 1,803,132    |
| Mid-Atlantic                                   | 28,842                     | 17,977     | 7.7%                   | 688,791         | 85,277                    | 53,273     | 7.9%                   | 688,791         |
| Midwest  | 3,016                      | 1,773      | (3.8%)                 | 92,625          | 9,026                     | 5,450      | 3.1%                   | 92,625          |
| Pacific Northwest                              | 8,567                      | 5,784      | 15.7%                  | 290,170         | 24,934                    | 17,131     | 18.2%                  | 290,170         |
| Northern                                       |                            |            |                        |                 |                           |            |                        |                 |
| California                                     | 40,636                     | 29,401     | 13.4%                  | 1,392,110       | 119,111                   | 86,335     | 13.1%                  | 1,392,110       |
| Southern                                       |                            |            |                        |                 |                           |            |                        |                 |
| California                                     | 14,129                     | 10,058     | 5.7%                   | 349,267         | 41,951                    | 30,260     | 7.0%                   | 349,267         |
| Total Established                              | 165,035                    | 111,497    | 7.1%                   | 4,616,095       | 487,065                   | 330,964    | 8.0%                   | 4,616,095       |
| Other Stabilized                               |                            |            |                        |                 |                           |            |                        |                 |
| Development /                                  | 12,727                     | 7,821      | n/a                    | 342,827         | 35,853                    | 22,837     | n/a                    | 342,827         |
| Redevelopment                                  | 28,872                     | 17,930     | n/a                    | 1,902,993       | 73,016                    | 43,778     | n/a                    | 1,902,993       |
| Land Held for Future                           |                            |            |                        |                 |                           |            |                        |                 |
| Development                                    | n/a                        | n/a        | n/a                    | 373,757         | n/a                       | n/a        | n/a                    | 373,757         |
| Non-allocated (2)                              | 1,490                      | n/a        | n/a                    | 45,154          | 4,421                     | n/a        | n/a                    | 45,154          |
| Total  | \$ 208,124                 | \$ 137,248 | 14.5%                  | \$ 7,280,826    | \$ 600,355                | \$ 397,579 | 13.9%                  | \$ 7,280,826    |

For the period ended September 30, 2006 (restated)

|                   |           |           |       |              |            |           |       |              |
|-------------------|-----------|-----------|-------|--------------|------------|-----------|-------|--------------|
| Established       |           |           |       |              |            |           |       |              |
| Northeast         | \$ 50,298 | \$ 33,964 | 4.6%  | \$ 1,231,712 | \$ 147,769 | \$ 99,688 | 4.9%  | \$ 1,231,712 |
| Mid-Atlantic      | 25,553    | 15,341    | 14.4% | 626,541      | 74,442     | 45,198    | 13.8% | 626,541      |
| Midwest           | 2,956     | 1,844     | 19.7% | 92,204       | 8,524      | 5,288     | 5.4%  | 92,204       |
| Pacific Northwest | 8,449     | 5,525     | 14.9% | 315,717      | 24,448     | 16,030    | 11.2% | 315,717      |
| Northern          |           |           |       |              |            |           |       |              |
| California        | 37,970    | 26,250    | 13.9% | 1,404,279    | 110,654    | 77,161    | 10.8% | 1,404,279    |
| Southern          |           |           |       |              |            |           |       |              |
| California        | 14,625    | 10,302    | 8.0%  | 374,471      | 42,883     | 30,612    | 9.5%  | 374,471      |
| Total Established | 139,851   | 93,226    | 9.9%  | 4,044,924    | 408,720    | 273,977   | 8.8%  | 4,044,924    |

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|   |            |            |       |              |            |            |       |              |
|---|------------|------------|-------|--------------|------------|------------|-------|--------------|
| Other Stabilized Development / Redevelopment Land Held for Future Development | 22,184     | 13,987     | n/a   | 712,394      | 64,559     | 40,703     | n/a   | 712,394      |
| Non-allocated (2)   | 20,026     | 12,612     | n/a   | 1,118,629    | 54,178     | 34,437     | n/a   | 1,118,629    |
|   | n/a        | n/a        | n/a   | 199,911      | n/a        | n/a        | n/a   | 199,911      |
|   | 1,585      | n/a        | n/a   | 29,306       | 4,184      | n/a        | n/a   | 29,306       |
| Total   | \$ 183,646 | \$ 119,825 | 12.3% | \$ 6,105,164 | \$ 531,641 | \$ 349,117 | 10.8% | \$ 6,105,164 |

(1) Does not include gross real estate assets held for sale of \$119,918 and \$184,679 as of September 30, 2007 and 2006, respectively.

(2) Revenue represents third-party management, accounting and developer fees and miscellaneous income which are not allocated to a reportable segment.

### 9. Stock-Based Compensation Plans

The Company has a stock incentive plan (the 1994 Plan), which was amended and restated on December 8, 2004, and amended on February 9, 2006, December 6, 2006 and September 19, 2007. Individuals who are eligible to participate in the 1994 Plan include officers, other associates, outside directors and other key persons of the Company and its subsidiaries who are responsible for or contribute to the management, growth or profitability of the Company and its subsidiaries. The 1994 Plan authorizes (i) the grant of stock options that qualify as incentive stock options (ISOs) under Section 422 of the Internal Revenue Code, (ii) the grant of stock options that do not so qualify, (iii) grants of shares of restricted and unrestricted common stock, (iv) grants of deferred stock awards, (v) performance share awards entitling the recipient to acquire shares of common stock and (vi) dividend equivalent rights.

Shares of common stock of 2,161,382 and 1,791,861 were available for future option or restricted stock grant awards under the 1994 Plan as of September 30, 2007 and December 31, 2006, respectively. Annually on January 1<sup>st</sup>, the maximum number available for issuance under the 1994 Plan is increased by between 0.48% and 1.00% of the total number of shares of common stock and DownREIT units actually outstanding on such date. Notwithstanding the foregoing, the maximum number of shares of stock for which ISOs may be issued under the 1994 Plan shall not exceed 2,500,000 and no awards shall be granted under the 1994 Plan after May 11, 2011. Options and restricted stock granted under the 1994 Plan vest and expire over varying periods, as determined by the Compensation Committee of the Board of Directors.

Information with respect to stock options granted under the 1994 Plan, the Avalon 1995 Incentive Plan and the Avalon 1993 Plan is as follows:

|  | 1994 Plan<br>shares | Weighted<br>average<br>exercise<br>price<br>per share | Avalon<br>1995<br>Incentive<br>Plan<br>and Avalon<br>1993 Plan<br>shares | Weighted<br>average<br>exercise<br>price<br>per share |
|--|---------------------|---|--|---|
| Options Outstanding, December 31, 2006     | 2,487,239           | \$ 69.65  | 4,240  | \$ 36.81  |
| Exercised                                  | (459,218)           | 56.45   | (3,088)  | 36.76   |
| Granted                                    | 344,429             | 147.39  |  |   |
| Forfeited                                  | (38,929)            | 110.28  |  |   |
| Options Outstanding, September 30, 2007    | 2,333,521           | \$ 83.04  | 1,152  | \$ 36.96  |
| Options Exercisable:<br>September 30, 2007 | 1,240,234           | \$ 60.77  | 1,152  | \$ 36.96  |

The weighted average fair value of the options granted during the nine months ended September 30, 2007 is estimated at \$21.83 per share on the date of grant using the Black-Scholes option pricing model with the following weighted average assumptions: dividend yield of 4.0% over the expected life of the option, volatility of 17.32%, risk-free interest rates of 4.73% and an expected life of approximately seven years.

The Company issued restricted stock as part of its stock-based compensation plan during the nine months ended September 30, 2007. Compensation cost is recognized over the requisite service period, which varies, but does not exceed five years. The fair value of restricted stock is the closing stock price on the date of the grant. Provisions of SFAS 123(R) require the Company to recognize compensation cost taking into consideration retirement eligibility. The cost related to stock-based compensation for restricted stock included in the determination of net income is based on actual forfeitures for the given year. Restricted stock awards typically vest over a five-year period with the



exception of accelerated vesting provisions. Restricted stock vesting during the nine months ended September 30, 2007 had fair values ranging from \$36.66 to \$147.75 per share. The total fair value of shares vested was \$8,504 for the nine months ended September 30, 2007.

Total compensation cost recognized in income relating to deferred compensation was \$10,810 and \$8,208 for the nine months ended September 30, 2007 and 2006, respectively, and total capitalized compensation cost relating to deferred compensation was \$3,568 and \$2,938 for the nine months ended September 30, 2007 and 2006, respectively. At September 30, 2007, there was a total of \$10,386 and \$12,846 in unrecognized compensation cost for unvested stock options and unvested restricted stock, respectively. The unrecognized compensation cost for stock options does not take into account estimated forfeitures. The unrecognized compensation cost for unvested stock options and restricted stock is expected to be recognized over a weighted average period of 1.83 years and 2.48 years, respectively.

#### 10. Related Party Arrangements

##### *Unconsolidated Entities*

The Company manages unconsolidated real estate entities for which it receives asset management, property management, development and redevelopment fee revenue. From these entities, the Company received fees of \$1,490 and \$4,421 in the three and nine months ended September 30, 2007, respectively, and \$1,585 and \$4,186 for the three and nine months ended September 30, 2006, respectively. These fees are included in management, development and other fees on the accompanying Condensed Consolidated Statements of Operations and Other Comprehensive Income.

In addition, in connection with the construction management services that the Company provided to MVP I, LLC, the entity that owns and developed Avalon at Mission Bay North II, the Company funds certain construction costs that are expected to be reimbursed through construction financing within 30 to 60 days. Although construction was completed in 2006, final payments to vendors are still being funded. The accompanying Condensed Consolidated Balance Sheets reflect a receivable in prepaid expenses and other assets in the amounts of \$2,588 as of September 30, 2007 and \$5,654 as of December 31, 2006, from MVP I, LLC.

##### *Director Compensation*

Directors of the Company who are also employees receive no additional compensation for their services as a director. Following each annual meeting of stockholders starting with the 2006 annual meeting, non-employee directors receive (i) a number of shares of restricted stock (or deferred stock awards) having a value of \$100 and (ii) a cash payment of \$40, payable in quarterly installments of \$10. After September 20, 2007, the cash payment increased to \$50, payable in quarterly installments of \$12.5. The value of the restricted stock or deferred stock award will increase to \$125 following the 2008 annual meeting. Until the 2007 annual meeting, the number of shares of restricted stock (or deferred stock awards) was calculated based on the last reported sale price of the common stock on the New York Stock Exchange ( NYSE ) on the fifth business day following the prior year's annual meeting. Following the 2007 annual meeting, the number of shares of restricted stock (or deferred stock awards) is calculated based on the closing price on the day of the award. Non-employee directors may elect to receive all or a portion of cash payments in the form of a deferred stock award. In addition, the Lead Independent Director receives an annual fee of \$30 payable in equal monthly installments of \$2.5.

The Company recorded non-employee director compensation expense relating to the restricted stock grants and deferred stock awards in the amount of \$95 and \$277 for the three and nine months ended September 30, 2007 as a component of general and administrative expense. Deferred compensation relating to these restricted stock grants and deferred stock awards was \$801 and \$778 on September 30, 2007 and December 31, 2006, respectively.

11. Subsequent Events

In October 2007, the Company sold its partnership interest in Avalon Grove, located in Stamford, Connecticut for \$63,400. Town Grove, LLC was formed to own and operate Avalon Grove, which contains 402 apartment homes. The Company will continue to manage Avalon Grove although it does not retain any ownership interest in the community. In November 2007, the Company sold Avalon at Stevens Pond for \$77,650. Avalon at Stevens Pond is a garden-style community with 425 apartment homes located in Saugus, Massachusetts. In November 2007, the Company purchased an additional 219,800 shares of its common stock under its share repurchase program at an average price of \$106.28.

12. Restatement of Previously Issued Financial Statements

The Company has restated its Condensed Consolidated Balance Sheet as of December 31, 2006 in the Form 10-K/A. In addition, the Company has restated its unaudited Condensed Consolidated Statements of Operations and Other Comprehensive Income for the three and nine months ended September 30, 2006 as presented in the table below. The restatement adjustments reflected in the following tables relate to the Company's accounting for long-term land leases, changing the straight-line recognition of lease payments with fixed, or minimum, escalations over the period equal to the non-cancelable portion of the lease term as opposed to the Company's expected holding period of its interest in the asset. This change primarily impacts the land lease accounting related to one consolidated asset with a 90-year lease in which the land lessor is also the partner in the venture holding the asset. The change resulted in an additional non-cash increase to operating expenses of approximately \$2,655 per quarter in excess of the current quarterly cash payments, as well as additional depreciation expense. The effects of the restatement did not impact the total operating, investing or financing cash flows. The cumulative effect of the restatement on the Condensed Consolidated Statements of Operations for the periods affected is as follows:

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|   | For the three months ended September 30,<br>2006 |             |                               | For the nine months ended September 30,<br>2006 |             |                               |
|---|--|-------------|-------------------------------|---|-------------|-------------------------------|
|   | As<br>Previously<br>Reported                     | Adjustments | As<br>Adjusted <sup>(1)</sup> | As<br>Previously<br>Reported                    | Adjustments | As<br>Adjusted <sup>(1)</sup> |
|   | Revenue:   |             |                               |   |             |                               |
| Rental and other income                               | \$ 186,082                                       | \$          | \$ 186,082                    | \$ 539,314                                      | \$          | \$ 539,314                    |
| Management,<br>development and other<br>fees          | 1,585  |             | 1,585                         | 4,186   |             | 4,186                         |
| Total revenue   | 187,667  |             | 187,667                       | 543,500   |             | 543,500                       |
| Expenses:   |  |             |                               |   |             |                               |
| Operating expenses,<br>excluding property taxes       | 53,513   | 2,655       | 56,168                        | 154,250   | 7,965       | 162,215                       |
| Property taxes  | 17,103   |             | 17,103                        | 50,878  |             | 50,878                        |
| Interest expense, net                                 | 26,937   |             | 26,937                        | 82,195  |             | 82,195                        |
| Depreciation expense                                  | 40,364   | 308         | 40,672                        | 121,518   | 924         | 122,442                       |
| General and<br>administrative expense                 | 5,633  |             | 5,633                         | 18,395  |             | 18,395                        |
| Total expenses  | 143,550  | 2,963       | 146,513                       | 427,236   | 8,889       | 436,125                       |
| Joint venture income and<br>minority interest expense | 589  |             | 589                           | 1,024   |             | 1,024                         |
| Minority interest in<br>consolidated partnerships     | (135)  |             | (135)                         | (395)   |             | (395)                         |
| Gain on sale of land                                  | 505  |             | 505                           | 13,671  |             | 13,671                        |
| Income from continuing<br>operations                  | 45,076   | (2,963)     | 42,113                        | 130,564   | (8,889)     | 121,675                       |
| Discontinued operations:                              |  |             |                               |   |             |                               |
| Income from<br>discontinued operations                |  |             |                               | 1,147   |             | 1,147                         |
| Gain on sale of<br>communities                        |  |             |                               | 97,411  |             | 97,411                        |
| Total discontinued<br>operations                      |  |             |                               | 98,558  |             | 98,558                        |
| Net income  | 45,076<br>(2,175)                                |             | 42,113<br>(2,175)             | 229,122<br>(6,525)                              |             | 220,233<br>(6,525)            |

Dividends attributable to preferred stock

|   |           |    |           |            |    |            |
|---|-----------|----|-----------|------------|----|------------|
| Net income available to common stockholders | \$ 42,901 | \$ | \$ 39,938 | \$ 222,597 | \$ | \$ 213,708 |
|---|-----------|----|-----------|------------|----|------------|

Other comprehensive income:

|                                     |       |  |       |     |  |     |
|-------------------------------------|-------|--|-------|-----|--|-----|
| Unrealized gain on cash flow hedges | (514) |  | (514) | 671 |  | 671 |
|-------------------------------------|-------|--|-------|-----|--|-----|

|                      |           |    |           |            |    |            |
|----------------------|-----------|----|-----------|------------|----|------------|
| Comprehensive income | \$ 42,387 | \$ | \$ 39,424 | \$ 223,268 | \$ | \$ 214,379 |
|----------------------|-----------|----|-----------|------------|----|------------|

Earnings per common share basic:

|  |         |           |         |         |           |         |
|--|---------|-----------|---------|---------|-----------|---------|
| Income from continuing operations (net of dividends attributable to preferred stock) | \$ 0.58 | \$ (0.04) | \$ 0.54 | \$ 1.68 | \$ (0.12) | \$ 1.56 |
| Discontinued operations  |         |           |         | 1.33    |           | 1.33    |

|                                   |         |           |         |         |           |         |
|-----------------------------------|---------|-----------|---------|---------|-----------|---------|
| Net income per common share basic | \$ 0.58 | \$ (0.04) | \$ 0.54 | \$ 3.01 | \$ (0.12) | \$ 2.89 |
|-----------------------------------|---------|-----------|---------|---------|-----------|---------|

Earnings per common share diluted:

|  |         |           |         |         |           |         |
|--|---------|-----------|---------|---------|-----------|---------|
| Income from continuing operations (net of dividends attributable to preferred stock) | \$ 0.57 | \$ (0.04) | \$ 0.53 | \$ 1.64 | \$ (0.11) | \$ 1.53 |
| Discontinued operations  |         |           |         | 1.31    |           | 1.31    |

|                                     |         |           |         |         |           |         |
|-------------------------------------|---------|-----------|---------|---------|-----------|---------|
| Net income per common share diluted | \$ 0.57 | \$ (0.04) | \$ 0.53 | \$ 2.95 | \$ (0.11) | \$ 2.83 |
|-------------------------------------|---------|-----------|---------|---------|-----------|---------|

(1) As adjusted reflects the third quarter and year-to-date data for the restatement items only and has not been updated to reflect discontinued

operations at  
September 30,  
2007.

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

*Management's Discussion and Analysis of Financial Condition and Results of Operations as set forth in this Item 2 contains financial information as of December 31, 2006 and for the three and nine months ended September 30, 2006, that has been revised to reflect the restatement of the Consolidated Financial Statements contained in Amendment No. 1 on Form 10-K/A filed on May 10, 2007 (the "Form 10-K/A") to our Annual Report on Form 10-K for the period ended December 31, 2006, and the Condensed Consolidated Financial Statements in this Quarterly Report on Form 10-Q for the three and nine-month periods ended September 30, 2006. See Note 12, "Restatement of Previously Issued Financial Statements" to the Condensed Consolidated Financial Statements included in Item 1 of this report.*

Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") is intended to help provide an understanding of our business and results of operations. This MD&A should be read in conjunction with our Condensed Consolidated Financial Statements and the accompanying Notes to Condensed Consolidated Financial Statements included elsewhere in this report. This report, including the following MD&A, contains forward-looking statements regarding future events or trends as described more fully under "Forward-Looking Statements" on page 50 of this report. Actual results or developments could differ materially from those projected in such statements as a result of the risk factors described in Item 1a, "Risk Factors," of the Form 10-K/A for the year ended December 31, 2006.

### Executive Overview

#### *Business Description*

We are primarily engaged in developing, acquiring, owning and operating apartment communities in high barrier-to-entry markets of the United States. We believe that apartment communities present an attractive long-term investment opportunity compared to other real estate investments because a broad potential resident base should help reduce demand volatility over a real estate cycle. However, throughout the real estate cycle, apartment market fundamentals, and therefore operating cash flows, are affected by overall economic conditions. We seek to create long-term shareholder value by accessing capital on cost effective terms; deploying that capital to develop, redevelop and acquire apartment communities in high barrier-to-entry markets; operating apartment communities; and selling communities when they no longer meet our long-term investment strategy or when pricing is attractive.

Barriers-to-entry in our markets generally include a difficult and lengthy entitlement process with local jurisdictions and dense urban or suburban areas where zoned and entitled land is in limited supply.

Our individual markets are located in the Northeast, Mid-Atlantic, Midwest, Pacific Northwest, and Northern and Southern California regions of the United States. Our strategy is to more deeply penetrate these markets with a broad range of products and services and an intense focus on our customer. A majority of our communities are upscale, which generally command among the highest rents in their markets. However, we also pursue the ownership and operation of apartment communities that target a variety of customer segments and price points, consistent with our goal of offering a broad range of products and services.

#### *Third Quarter 2007 Highlights*

We continued to experience positive apartment fundamentals in the third quarter of 2007. Our Established Community portfolio (as defined later in this report) experienced a 7.1% increase in net operating income ("NOI") over the comparable period of 2006, driven by a 5.0% increase in rental revenue and moderate growth in operating expenses of 1.1%. The rental revenue growth over the comparable period in 2006 is comprised of an increase in rental rates of 5.2% and a decrease in occupancy of 0.2%.

In addition to our Established Community year-over-year growth in NOI, our operating results were supported by the growing contribution from our development communities. We continued to focus on creating value through our development activities and pipeline, completing the development of three communities containing 562 apartment homes in the third quarter of 2007. In addition, we began the construction of three wholly-owned apartment communities that, upon completion, are expected to contain 829 apartment homes for a total capitalized cost of \$208,600,000.

During the third quarter of 2007 we sold three communities which contained a total of 656 apartment homes, for an aggregate sales price of \$127,000,000.

We acquired a direct investment interest in one additional community containing 80 apartment homes and an indirect investment interest in three additional communities containing 404 apartment homes through an acquisition by the Fund (as defined later in this report).

We repurchased 1,031,400 shares of the Company's common stock through open market transactions under our common stock repurchase program. The shares were repurchased at an average price of \$111.31.

We purchased for cash 61,706 operating units from DownREIT partnership unit holders. These units represented all third-party ownership interest in the two respective DownREITs.

#### *Financial Outlook*

We expect that our Established Communities will continue to show revenue and net operating income growth, but will moderate from current levels for the remainder of 2007. Positive apartment fundamentals are supported primarily by continued job growth and relatively stable apartment home supply levels. We believe that renting continues to be an attractive alternative to owning given these current economic factors. These factors combined with tighter lending standards for home purchases provide additional support for multifamily fundamentals and earnings growth. We expect that job growth will continue in our markets for the remainder of 2007. The supply of net new apartment homes is returning to historical levels due to the delivery of new apartment homes from development coupled with the fall off in condominium conversions. Overall, we expect apartment market fundamentals will be balanced in our markets such that apartment rental demand will absorb new supply.

We expect that our development activity will continue to create value. We currently have approximately \$1,700,000,000 under construction (measured by total projected capitalized cost of the communities at completion, including the portions in which joint venture partners hold an equity or economic interest). We anticipate our construction activity will remain at or be slightly higher than this level through the remainder of 2007. For new development, the slowing for-sale market has resulted in increased investment opportunities. We continue to be selective in pursuing these opportunities, given continued high land prices and construction costs. We continue to selectively secure new Development Rights, including the acquisition of land for future development. We currently have Development Rights for construction of new apartment communities that would, if developed as expected, total approximately \$4,300,000,000, based on total projected capitalized costs at September 30, 2007.

AvalonBay Value Added Fund, L.P. (the Fund) is a discretionary investment fund in which we hold a 15% interest. The Fund has been our principal vehicle for acquiring apartment communities subject to certain exceptions, since its closing in March 2005. As of October 31, 2007, the total amount invested by the Fund is \$774,233,000, which represents a level where the Fund is substantially at its total investment capacity.

We continue to see real estate capital flows from income investors. During the third quarter we completed the disposition of three communities for an aggregate sales price of \$127,000,000. In addition, subsequent to the end of the third quarter of 2007, we sold both a wholly owned community and our partnership interest in a joint venture community for an aggregate sales price of \$141,050,000.

#### Community Information Overview

Our real estate investments consist primarily of current operating apartment communities, communities in various stages of development ( Development Communities ) and Development Rights as defined below. Our current operating communities and our Development Communities include communities in which we hold a direct and indirect ownership interest.



Our current operating communities are further distinguished as follows:

*Established Communities (also known as Same Store Communities)* are consolidated communities that have stabilized occupancy and operating expenses as of January 1, 2006, and are not Redevelopment Communities, as defined below. A community has stabilized occupancy at the earlier of (i) attainment of 95% physical occupancy or (ii) the one-year anniversary of completion of development or redevelopment.

*Other Stabilized Communities* are all other completed communities with stabilized occupancy, as defined above, other than Redevelopment Communities as defined below.

*Lease-Up Communities* are communities where construction has been complete for less than one year and where physical occupancy has not reached 95%.

*Redevelopment Communities* are communities where substantial redevelopment is in progress or is planned to begin during the current year. For wholly-owned communities, redevelopment is considered substantial when capital invested during the reconstruction effort is expected to exceed the lesser of \$5,000,000 or 10% of the community's acquisition cost. The definition of substantial redevelopment may differ for communities that are not wholly-owned.

Development Communities are communities that are under construction and for which a final certificate of occupancy has not been received. These communities may be partially complete and operating.

Development Rights are development opportunities in the early phase of the development process for which we have an option to either acquire land or enter into a leasehold interest, for which we are the buyer under a long-term conditional contract to purchase land or where we own land to develop a new community.

We generally evaluate overall operating, industry and market trends based on the operating results of Established Communities, for which a detailed discussion can be found in Results of Operations as part of our discussion of overall operating results. We focus on the net operating income of our current operating communities, as defined later in this report, as one of the financial measures to evaluate community performance. We evaluate our current and future cash needs and future operating potential based on acquisition, disposition, development, redevelopment and financing activities within Other Stabilized, Redevelopment and Development Communities, and discussions related to these segments of our business can be found in Liquidity and Capital Resources.

As of September 30, 2007, the composition of our current direct and indirect ownership interests in apartment communities and Development Rights is as follows:

|                                | Number of<br>communities | Number of<br>apartment homes |
|--------------------------------|--------------------------|------------------------------|
| <u>Current Communities</u>     |                          |                              |
| Established Communities:       |                          |                              |
| Northeast                      | 41                       | 11,325                       |
| Mid-Atlantic                   | 17                       | 5,757                        |
| Midwest                        | 3                        | 887                          |
| Pacific Northwest              | 9                        | 2,278                        |
| Northern California            | 27                       | 8,109                        |
| Southern California            | 10                       | 3,172                        |
| Total Established              | 107                      | 31,528                       |
| Other Stabilized Communities:  |                          |                              |
| Northeast                      | 18                       | 4,376                        |
| Mid-Atlantic                   | 6                        | 1,485                        |
| Midwest                        | 3                        | 869                          |
| Pacific Northwest              | 2                        | 611                          |
| Northern California            | 6                        | 1,303                        |
| Southern California            | 9                        | 2,512                        |
| Total Other Stabilized         | 44                       | 11,156                       |
| Lease-Up Communities           | 3                        | 676                          |
| Redevelopment Communities      | 9                        | 2,452                        |
| Total Current Communities      | 163                      | 45,812                       |
| <u>Development Communities</u> | 19                       | 6,086                        |
| <u>Development Rights</u>      | 52                       | 14,477                       |

#### Results of Operations

Our year-over-year operating performance is primarily affected by individual geographic market conditions and apartment fundamentals as measured by changes in net operating income of our Established Communities; net operating income derived from acquisitions and development completions; the loss of net operating income related to disposed communities; and capital market, disposition and financing activity. A comparison of our operating results for the three and nine months ended September 30, 2007 and 2006 follows (dollars in thousands):



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|   | For the three months ended<br>9-30-06 |            |              |             | For the nine months ended<br>9-30-06 |            |              |             |
|---|---------------------------------------|------------|--------------|-------------|--------------------------------------|------------|--------------|-------------|
|   | 9-30-07                               | (restated) | \$<br>Change | %<br>Change | 9-30-07                              | (restated) | \$<br>Change | %<br>Change |
| Revenue:  |                                       |            |              |             |                                      |            |              |             |
| Rental and other income   | \$ 206,634                            | \$ 182,061 | \$ 24,573    | 13.5%       | \$ 595,934                           | \$ 527,455 | \$ 68,479    | 13.0%       |
| Management, development and other fees                                    | 1,490                                 | 1,585      | (95)         | (6.0%)      | 4,421                                | 4,186      | 235          | 5.6%        |
| Total revenue   | 208,124                               | 183,646    | 24,478       | 13.3%       | 600,355                              | 531,641    | 68,714       | 12.9%       |
| Expenses:   |                                       |            |              |             |                                      |            |              |             |
| Direct property operating expenses, excluding property taxes              | 49,128                                | 45,502     | 3,626        | 8.0%        | 141,942                              | 128,565    | 13,377       | 10.4%       |
| Property taxes  | 19,058                                | 16,734     | 2,324        | 13.9%       | 55,213                               | 49,775     | 5,438        | 10.9%       |
| Total community operating expenses  | 68,186                                | 62,236     | 5,950        | 9.6%        | 197,155                              | 178,340    | 18,815       | 10.6%       |
| Corporate-level property management and other indirect operating expenses | 10,792                                | 8,154      | 2,638        | 32.4%       | 27,938                               | 25,092     | 2,846        | 11.3%       |
| Investments and investment management                                     | 1,625                                 | 1,388      | 237          | 17.1%       | 6,133                                | 5,257      | 876          | 16.7%       |
| Interest expense, net   | 25,129                                | 26,479     | (1,350)      | (5.1%)      | 71,283                               | 80,788     | (9,505)      | (11.8%)     |
| Depreciation expense  | 45,682                                | 39,752     | 5,930        | 14.9%       | 132,371                              | 119,687    | 12,684       | 10.6%       |
| General and administrative expense  | 6,645                                 | 5,633      | 1,012        | 18.0%       | 20,067                               | 18,395     | 1,672        | 9.1%        |
| Total other expenses  | 89,873                                | 81,406     | 8,467        | 10.4%       | 257,792                              | 249,219    | 8,573        | 3.4%        |
|   |                                       | 505        | (505)        |             | 545                                  | 13,671     | (13,126)     | (96.0%)     |

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|  |            |           |           |          |            |            |          |          |
|--|------------|-----------|-----------|----------|------------|------------|----------|----------|
| Gain on sale of land                           |            |           |           |          |            |            |          |          |
| Equity in income of unconsolidated entities    | (57)       | 589       | (646)     | (109.7%) | (340)      | 1,024      | (1,364)  | (133.2%) |
| Minority interest in consolidated partnerships | (331)      | (135)     | (196)     | 145.2%   | (1,236)    | (395)      | (841)    | 212.9%   |
| Income from continuing operations              | 49,677     | 40,963    | 8,714     | 21.3%    | 144,377    | 118,382    | 25,995   | 22.0%    |
| Discontinued operations:                       |            |           |           |          |            |            |          |          |
| Income from discontinued operations            | 834        | 1,150     | (316)     | (27.5%)  | 3,705      | 4,440      | (735)    | (16.6%)  |
| Gain on sale of communities                    | 78,258     |           | 78,258    | N/A      | 78,258     | 97,411     | (19,153) | (19.7%)  |
| Total discontinued operations                  | 79,092     | 1,150     | 77,942    | N/A      | 81,963     | 101,851    | (19,888) | (19.5%)  |
| Net income                                     | 128,769    | 42,113    | 86,656    | 205.8%   | 226,340    | 220,233    | 6,107    | 2.8%     |
| Dividends attributable to preferred stock      | (2,175)    | (2,175)   |           |          | (6,525)    | (6,525)    |          |          |
| Net income available to common stockholders    | \$ 126,594 | \$ 39,938 | \$ 86,656 | 217.0%   | \$ 219,815 | \$ 213,708 | \$ 6,107 | 2.9%     |

*Net income available to common stockholders* increased \$86,656,000 or 217.0%, to \$126,594,000 for the three months ended September 30, 2007 due primarily to asset sales and related gains occurring in 2007 combined with growth in net operating income from Established Communities and contributions to net operating income from newly developed communities in 2007. *Net income available to common stockholders* increased \$6,107,000, or 2.9%, to \$219,815,000 for the nine months ended September 30, 2007, primarily attributable to growth in net operating income from Established Communities and contributions to net operating income from newly developed communities in 2007, partially offset by higher relative gains from the disposition of land and communities in 2006 as compared to 2007. *Net operating income ( NOI )* is considered by management to be an important and appropriate supplemental performance measure to net income because it helps both investors and management to understand the core operations of a community or communities prior to the allocation of any corporate-level or financing-related costs. NOI reflects the operating performance of a community and allows for an easy comparison of the operating performance of individual assets or groups of assets. In addition, because prospective buyers of real estate have different financing and overhead structures, with varying marginal impacts to overhead by acquiring real estate, NOI is considered by many in the real estate industry to be a useful measure for determining the value of a real estate asset or group of

assets. We define NOI as total property revenue less direct property operating expenses, including property taxes. NOI does not represent cash generated from operating activities in accordance with GAAP. Therefore, NOI should not be considered an alternative to net income as an indication of our performance. NOI should also not be considered an alternative to net cash flow from operating activities, as determined by GAAP, as a measure of liquidity, nor is NOI necessarily indicative of cash available to fund cash needs. A calculation of NOI for the three and nine months ended September 30, 2007 and 2006, along with reconciliation to net income for each year, is as follows (dollars in thousands):

|  | For the three months ended |                       | For the nine months ended |                       |
|--|----------------------------|-----------------------|---------------------------|-----------------------|
|  | 9-30-07                    | 9-30-06<br>(restated) | 9-30-07                   | 9-30-06<br>(restated) |
| Net income   | \$ 128,769                 | \$ 42,113             | \$ 226,340                | \$ 220,233            |
| Indirect operating expenses, net of corporate income | 8,102                      | 6,569                 | 22,317                    | 20,908                |
| Investments and investment management                | 1,625                      | 1,388                 | 6,133                     | 5,257                 |
| Interest expense, net                                | 25,129                     | 26,479                | 71,283                    | 80,788                |
| General and administrative expense                   | 6,645                      | 5,633                 | 20,067                    | 18,395                |
| Equity in loss (income) of unconsolidated entities   | 57                         | (589)                 | 340                       | (1,024)               |
| Minority interest in consolidated partnerships       | 331                        | 135                   | 1,236                     | 395                   |
| Depreciation expense                                 | 45,682                     | 39,752                | 132,371                   | 119,687               |
| Gain on sale of real estate assets                   | (78,258)                   | (505)                 | (78,803)                  | (111,082)             |
| Income from discontinued operations                  | (834)                      | (1,150)               | (3,705)                   | (4,440)               |
| Net operating income                                 | \$ 137,248                 | \$ 119,825            | \$ 397,579                | \$ 349,117            |

The NOI increases during the three and nine months ended September 30, 2007, as compared to the prior year period, consist of changes in the following categories (dollars in thousands):

|   | 2007 NOI Increase                       |  |
|---|---|--|
|   | For the three months ended<br>9/30/2007 | For the nine months ended<br>9/30/2007 |
| Established Communities                   | \$ 7,347                                | \$ 24,598                              |
| Other Stabilized Communities              | 1,635                                   | 9,339                                  |
| Development and Redevelopment Communities | 8,441                                   | 14,525                                 |
| Total                                     | \$ 17,423                               | \$ 48,462                              |

The NOI increases in Established Communities in 2007 were largely due to continued favorable apartment market fundamentals. During the nine months ended September 30, 2007, we continued to focus on rental rate growth, while maintaining occupancy of at least 95% in all regions. We anticipate that increases in rental rates and overall rental revenue growth will moderate during the remainder of 2007, as we expect continued but moderating job growth (demand) and net apartment supply consistent with historical levels. In addition, we continue to monitor and manage operating expenses to constrain expense growth.

*Rental and other income* increased in the three and nine months ended September 30, 2007 as compared to the prior year period due to increased rental rates for our Established Communities, coupled with additional rental income generated from newly developed communities.

**Overall Portfolio** The weighted average number of occupied apartment homes increased to 38,057 apartment homes for the nine months ended September 30, 2007 as compared to 36,166 for the prior year period. This change is primarily the result of increased homes available from newly developed and acquired communities, partially offset by communities sold in 2006 as well as a slight decline in occupied apartment homes for our Established Communities. The weighted average monthly revenue per occupied apartment home increased to \$1,765 for the nine months ended September 30, 2007 as compared to \$1,644 in the prior year period.





Established Communities Rental revenue increased \$7,907,000, or 5.0%, for the three months ended September 30, 2007 over the prior year period. Rental revenue increased \$27,350,000, or 6.0%, for the nine months ended September 30, 2007 over the prior year period. These increases are due to increased average rental rates, partially offset by decreased economic occupancy. For the nine months ended September 30, 2007, the weighted average monthly revenue per occupied apartment home increased 6.3% to \$1,786 compared to \$1,680 in the prior year period, primarily due to increased market rents and the decrease in the amortization of concessions. The higher amortization recognized in the nine months ended September 30, 2006 was due to the higher levels of concessions granted in periods prior to 2006. The average economic occupancy decreased from 96.6% to 96.3% for the nine months ended September 30, 2007. Economic occupancy takes into account the fact that apartment homes of different sizes and locations within a community have different economic impacts on a community's gross revenue. Economic occupancy is defined as gross potential revenue less vacancy loss, as a percentage of gross potential revenue. Gross potential revenue is determined by valuing occupied homes at leased rates and vacant homes at market rents.

We experienced increases in Established Communities rental revenue in all six of our regions for the nine months ended September 30, 2007 as compared to the prior year period. The largest increases in rental revenue were in the Pacific Northwest, Northern California and the Mid-Atlantic, with increases of 11.7%, 8.9% and 6.9%, respectively, between years. The Northeast and Northern California regions comprise the majority of our Established Community revenue, and therefore are discussed in more detail below.

Northern California, which represented approximately 24.5% of Established Community rental revenue during the nine months ended September 30, 2007, experienced an increase in rental revenue of 8.9% as compared to the prior year period. Average rental rates increased by 8.7% to \$1,684, and economic occupancy increased 0.2% to 96.9% for the nine months ended September 30, 2007. Apartment fundamentals remain strong in Northern California and we expect Northern California to see continued but moderating revenue growth during the remainder of 2007.

The Northeast region, which accounted for approximately 42.4% of Established Community rental revenue for the nine months ended September 30, 2007, experienced an increase in rental revenue of 3.4% for the nine months ended September 30, 2007 as compared to the prior year period. Average rental rates increased 3.8% to \$2,124, and economic occupancy decreased 0.4% to 96.2% for the nine months ended September 30, 2007. We expect job growth to continue but moderate for the remainder of 2007 and into 2008. We expect net new supply will increase to levels approaching historical averages. We expect overall apartment fundamentals will remain positive, resulting in moderate rental rate growth in the Northeast during the remainder of 2007. Supply-demand fundamentals for New York City and surrounding areas should remain healthy, although a slow down in job growth for the financial services industry could cause economic growth to slow. In addition, we expect continued modest rent growth in Long Island. Boston will continue to lag the region in revenue growth, as we expect the net new supply from apartment deliveries will outpace improvement in the regional economic conditions.

In accordance with GAAP, cash concessions are amortized as an offset to rental revenue over the approximate lease term, which is generally one year. As a supplemental measure, we also present rental revenue with concessions stated on a cash basis to help investors evaluate the impact of both current and historical concessions on GAAP based rental revenue and to more readily enable comparisons to revenue as reported by other companies. Rental revenue with concessions stated on a cash basis also allows investors to understand historical trends in cash concessions, as well as current rental market conditions.

The following table reconciles total rental revenue in conformity with GAAP to total rental revenue adjusted to state concessions on a cash basis for our Established Communities for the three and nine months ended September 30, 2007 and 2006 (dollars in thousands):

|  | For the three months |            | For the nine months ended |            |
|--|----------------------|------------|---------------------------|------------|
|  | ended<br>9-30-07     | 9-30-06    | 9-30-07                   | 9-30-06    |
| Rental revenue (GAAP basis)                                  | \$ 164,850           | \$ 156,943 | \$ 486,559                | \$ 459,208 |
| Concessions amortized  | 1,563                | 2,459      | 4,547                     | 10,634     |
| Concessions granted  | (1,558)              | (1,407)    | (5,051)                   | (5,001)    |
| <br>   |                      |            |                           |            |
| Rental revenue adjusted to state concessions on a cash basis | \$ 164,855           | \$ 157,995 | \$ 486,055                | \$ 464,841 |

|                         |              |      |     |      |     |
|-------------------------|--------------|------|-----|------|-----|
| Year-over-year % change | GAAP revenue | 5.0% | n/a | 6.0% | n/a |
|-------------------------|--------------|------|-----|------|-----|

|                         |                               |      |     |      |     |
|-------------------------|-------------------------------|------|-----|------|-----|
| Year-over-year % change | cash concession based revenue | 4.3% | n/a | 4.6% | n/a |
|-------------------------|-------------------------------|------|-----|------|-----|

*Management, development and other fees* decreased \$95,000, or 6.0% and increased \$235,000 or 5.6% for the three and nine months ended September 30, 2007, respectively. The quarterly decrease in 2007 was due to higher construction and development fees earned in 2006. The year to date increase is due to increased asset management, property management and redevelopment fees earned from the Fund, as additional communities are acquired and redeveloped. In addition, construction and development fees earned from unconsolidated entities for the nine months ended September 30, 2007 contributed to increased fee income.

*Direct property operating expenses, excluding property taxes* increased \$3,626,000 or 8.0% and \$13,377,000 or 10.4% in the three and nine months ended September 30, 2007 as compared to the same period of 2006, primarily due to the addition of recently developed and acquired apartment homes coupled with expense growth in our Established Communities.

For Established Communities, direct property operating expenses, excluding property taxes, increased \$229,000, or 0.6%, and \$1,481,000, or 1.4%, to \$38,160,000 and \$111,153,000 for the three and nine months ended September 30, 2007 over the prior year periods, due primarily to increases in other maintenance, redecorating and marketing expenses.

*Property taxes* increased \$2,324,000 or 13.9% and \$5,438,000 or 10.9% for the three and nine months ended September 30, 2007 over the prior year period due to overall higher assessments and the addition of newly developed and redeveloped apartment homes. Property taxes are impacted by the size and timing of successful tax appeals in both years.

For Established Communities, property taxes increased by \$833,000, or 5.7%, and \$1,333,000, or 3.1% for the three and nine months ended September 30, 2007, respectively, due to overall higher assessments throughout all regions. Period over period changes are impacted by the size and timing of successful tax appeals. Overall, we expect property taxes in 2007 to exceed the levels in 2006 due to increased valuations and the addition of newly developed communities. However, property tax increases are limited for communities in California, where increases in property taxes are limited by law (Proposition 13). We evaluate property tax increases internally, as well as engage third-party consultants, and appeal increases when appropriate.

*Corporate-level property management and other indirect operating expenses* increased by \$2,638,000, or 32.4% and \$2,846,000, or 11.3%, for the three and nine months ended September 30, 2007, respectively, over the prior year periods due primarily to increased costs relating to corporate initiatives focused on increasing efficiency and enhancing controls at our operating communities, coupled with increased compensation and relocation costs.



*Investments and investment management* reflects the costs incurred for investment acquisitions, investment management and abandoned pursuit costs, which include costs incurred for development pursuits not yet considered probable for development, as well as the abandonment or impairment of development pursuits, acquisition pursuits and disposition pursuits. Investments and investment management costs increased for the nine months ended September 30, 2007 as compared to the prior year period due primarily to increased abandoned pursuit costs. Abandoned pursuit costs were \$405,000 and \$2,479,000 for the three and nine months ended September 30, 2007, and \$136,000 and \$1,502,000 for the three and nine months ended September 30, 2006. Abandoned pursuit costs can be volatile, and the costs incurred in any given period may vary significantly in future periods.

*Interest expense, net* decreased \$1,350,000 or 5.1% and \$9,505,000 or 11.8% for the three and nine months ended September 30, 2007 as compared to the prior year period due primarily to higher levels of capitalized interest in connection with our increased development activity, lower average outstanding balances on our unsecured credit facility and increased interest income. Interest income increased for the three and nine months ended September 30, 2007 due to higher invested cash balances from our January 2007 equity offering as well as increases in the interest rate earned on cash deposits, offset partially by interest income in 2006 from an escrow funded from a disposition in 2005 that was used in a tax-deferred exchange.

*Depreciation expense* increased \$5,930,000 or 14.9% and \$12,684 or 10.6% for the three and nine months ended September 30, 2007 as compared to the prior year periods primarily due to the completion of development and redevelopment activities.

*General and administrative expense* ( G&A ) increased \$1,012,000 or 18.0% and \$1,672,000 or 9.1% for the three and nine months ended September 30, 2007 relative to the prior year periods primarily due to increased compensation costs.

*Gain on sale of land* for the nine months ended September 30, 2007 and 2006 relates to the disposition of a land parcel in each respective period.

*Equity in income of unconsolidated entities* for the three and nine months ended September 30, 2007 decreased from the prior year periods due primarily to losses (after depreciation) associated with two unconsolidated investments, coupled with the consolidation in 2007 of a community that was not consolidated as of September 30, 2006 and the disposition of an investment in an unconsolidated entity in the fourth quarter of 2006.

*Minority interest in consolidated partnerships* increased during the three and nine months ended September 30, 2007 as compared to the prior year periods due to the recognition of our 70% joint venture partner interest in one of our consolidated communities (See Note 6, *Investment in Real Estate Entities* ). This increase was partially offset by the conversion and redemption of limited partnership units, thereby reducing outside ownership interests and the allocation of net income to outside ownership interests.

*Income from discontinued operations* represents the net income generated by communities sold or qualifying as discontinued operations during the period from January 1, 2006 through September 30, 2007. It decreased during the three and nine months ended September 30, 2007 due to fewer communities sold or classified as discontinued operations compared to the same period in 2006. See Note 7, *Real Estate Disposition Activities*, of our Condensed Consolidated Financial Statements.

*Gain on sale of communities* increased during the three months ended September 30, 2007 due to the sale of three communities in 2007, as compared to no community sales in the third quarter of 2006. Gain on sale of communities decreased during the nine months ended September 30, 2007 due to smaller gains compared to the prior year period. The amount of gain realized in any given reporting period depends on many factors, including the number of communities sold, the size and carrying value of those communities and the sales prices, which are driven by local and national market conditions.

Funds from Operations Attributable to Common Stockholders ( FFO )

FFO is considered by management to be an appropriate supplemental measure of our operating and financial performance. In calculating FFO, we exclude gains or losses related to dispositions of previously depreciated property and exclude real estate depreciation. These amounts are generally excluded in the industry definition of FFO as amounts can vary among owners of identical assets in similar condition based on historical cost accounting and useful life estimates. FFO can help one compare the operating performance of a real estate company between periods or as compared to different companies. We believe that in order to understand our operating results, FFO should be examined with net income as presented in our Condensed Consolidated Financial Statements included elsewhere in this report.

Consistent with the definition adopted by the Board of Governors of the National Association of Real Estate Investment Trusts<sup>â</sup> ( NAREIT ), we calculate FFO as net income or loss computed in accordance with GAAP, adjusted for:

gains or losses on sales of previously depreciated operating communities;

extraordinary gains or losses (as defined by GAAP);

depreciation of real estate assets; and

adjustments for unconsolidated partnerships and joint ventures.

FFO does not represent net income in accordance with GAAP, and therefore it should not be considered an alternative to net income, which remains the primary measure as an indication of our performance. In addition, FFO as calculated by other REITs may not be comparable to our calculation of FFO.

The following is a reconciliation of net income to FFO (dollars in thousands, except per share data):

|  | For the three months ended |                       | For the nine months ended |                       |
|--|----------------------------|-----------------------|---------------------------|-----------------------|
|  | 9-30-07                    | 9-30-06<br>(restated) | 9-30-07                   | 9-30-06<br>(restated) |
| Net income   | \$ 128,769                 | \$ 42,113             | \$ 226,340                | \$ 220,233            |
| Dividends attributable to preferred stock  | (2,175)                    | (2,175)               | (6,525)                   | (6,525)               |
| Depreciation real estate assets, including discontinued operations and joint venture adjustments | 46,913                     | 41,224                | 136,677                   | 123,712               |
| Minority interest expense, including discontinued operations                                     | 53                         | 99                    | 225                       | 296                   |
| Gain on sale of previously depreciated real estate assets  | (78,258)                   |                       | (78,258)                  | (97,411)              |
| Funds from operations attributable to common stockholders  | \$ 95,302                  | \$ 81,261             | \$ 278,459                | \$ 240,305            |
| Weighted average common shares outstanding diluted   | 80,024,714                 | 75,688,899            | 80,195,908                | 75,504,026            |
| Earnings per common share diluted  | \$ 1.58                    | \$ 0.53               | \$ 2.74                   | \$ 2.83               |
| FFO per common share diluted   | \$ 1.19                    | \$ 1.07               | \$ 3.47                   | \$ 3.18               |

FFO also does not represent cash generated from operating activities in accordance with GAAP, and therefore should not be considered an alternative to net cash flows from operating activities, as determined by GAAP, as a measure of

liquidity. Additionally, it is not necessarily indicative of cash available to fund cash needs.

A presentation of GAAP based cash flow metrics is as follows (dollars in thousands) and a discussion of Liquidity and Capital Resources can be found below.

|   | For the three months ended |                       | For the nine months ended |                       |
|---|----------------------------|-----------------------|---------------------------|-----------------------|
|   | 9-30-07                    | 9-30-06<br>(restated) | 9-30-07                   | 9-30-06<br>(restated) |
| Net cash provided by operating activities           | \$ 92,377                  | \$ 64,584             | \$ 293,643                | \$ 249,590            |
| Net cash used in investing activities               | \$ (135,173)               | \$ (166,054)          | \$ (687,624)              | \$ (218,077)          |
| Net cash provided by (used in) financing activities | \$ (55,873)                | \$ 275,975            | \$ 424,739                | \$ 149,666            |

### Liquidity and Capital Resources

Factors affecting our liquidity and capital resources are our cash flows from operations, financing activities and investing activities, as well as general economic and market conditions. Operating cash flow has historically been determined by: (i) the number of apartment homes currently owned, (ii) rental rates, (iii) occupancy levels and (iv) operating expenses with respect to apartment homes. The timing, source and amount of cash flows provided by financing activities and used in investing activities are sensitive to the capital markets environment, particularly to changes in interest rates. The timing and type of capital markets activity in which we engage, as well as our plans for development, redevelopment, acquisition and disposition activity, are affected by changes in the capital markets environment, such as changes in interest rates or the availability of cost-effective capital.

We regularly review our liquidity needs, the adequacy of cash flows from operations, and other expected liquidity sources to meet these needs. We believe our principal short-term liquidity needs are to fund:

normal recurring operating expenses;

debt service and maturity payments;

preferred stock dividends and DownREIT partnership unit distributions;

repurchases of our common stock;

the minimum dividend payments on our common stock required to maintain our REIT qualification under the Internal Revenue Code of 1986;

development and redevelopment activity in which we are currently engaged; and

capital calls for the Fund, as required.

We anticipate that we can fully satisfy these needs from a combination of cash flow provided by operating activities, proceeds from asset dispositions and borrowing capacity under our variable rate unsecured credit facility, as well as other public or private sources of liquidity.

Cash and cash equivalents totaled \$39,000 at September 30, 2007, an increase of \$31,000 from \$8,000 at December 31, 2006. The following discussion relates to changes in cash due to operating, investing and financing activities, which are presented in our Condensed Consolidated Statements of Cash Flows included elsewhere in this report.

**Operating Activities** Net cash provided by operating activities increased to \$293,643,000 in the nine months ended September 30, 2007 from \$249,590,000 in the nine months ended September 30, 2006. The increase was driven primarily by the additional NOI from our Established Communities operations, as well as NOI from recently developed communities.

**Investing Activities** Net cash used in investing activities of \$687,624,000 in the nine months ended September 30, 2007 related to investments in assets through the development and redevelopment of apartment communities, the acquisition of a community, and the acquisition of three land parcels, partially offset by proceeds from the disposition

of a land parcel and three communities. During the nine months ended September 30, 2007, we invested \$855,191,000 in the purchase and development of the following real estate and capital expenditures:

We completed the development of six communities containing a total of 1,213 apartment homes for a total capitalized cost, including land acquisition cost, of \$298,900,000.



We acquired five parcels of land in connection with Development Rights, for a purchase price of \$168,000,000.

We had capital expenditures relating to current communities' real estate assets of \$5,188,000 and non-real estate capital expenditures of \$3,665,000.

We invested approximately \$855,200,000 of capital in the development of apartment communities.

**Financing Activities** Net cash provided by financing activities totaled \$424,739,000 in the nine months ended September 30, 2007. The net cash inflow is due primarily to the proceeds from the issuance of 4,600,000 shares of the Company's common stock at \$129.30 per share, borrowings of \$245,000,000 under our unsecured credit facility and the issuance of two mortgage notes for approximately \$59,126,000, offset by the repurchase of 1,031,400 shares of our common stock, the repayment of a mortgage note of approximately \$15,980,000, the repayment of unsecured notes at maturity of approximately \$150,000,000 and dividend payments of \$199,983,000.

*Variable Rate Unsecured Credit Facility*

We currently have a \$650,000,000 revolving variable rate unsecured credit facility with a syndicate of commercial banks. Under the terms of the credit facility, we may elect to increase the facility up to \$1,000,000,000, provided that one or more banks (from the syndicate or otherwise) voluntarily agree to provide the additional commitment. No member of the syndicate of banks can prohibit such an increase; such an increase in the facility will only be effective to the extent banks (from the syndicate or otherwise) choose to commit to lend additional funds. We pay participating banks, in the aggregate, an annual facility fee of approximately \$813,000. The unsecured credit facility bears interest at varying levels based on the London Interbank Offered Rate (LIBOR), our credit rating and on a maturity schedule selected by us. The current stated pricing is LIBOR plus 0.40% per annum (5.11% on October 31, 2007). The spread over LIBOR can vary from LIBOR plus 0.325% to LIBOR plus 1.00% based on our credit rating. In addition, a competitive bid option is available for borrowings of up to \$422,500,000. This option allows banks that are part of the lender consortium to bid to provide us loans at a rate that is lower than the stated pricing provided by the unsecured credit facility. The competitive bid option may result in lower pricing if market conditions allow. We had no outstanding balance under this competitive bid option at October 31, 2007. We are subject to and currently in compliance with certain customary covenants under the unsecured credit facility, including, but not limited to, maintaining certain maximum leverage ratios, a minimum fixed charges coverage ratio and minimum unencumbered assets and equity levels. The credit facility matures in November 2011, assuming our exercise of a one-year renewal option. At October 31, 2007, \$225,000,000 was outstanding on the credit facility, \$58,000,000 was used to provide letters of credit and \$367,000,000 was available for borrowing under the unsecured credit facility.

*Future Financing and Capital Needs Debt Maturities*

One of our principal long-term liquidity needs is the repayment of long-term debt at the time that such debt matures. For unsecured notes, we anticipate that no significant portion of the principal of these notes will be repaid prior to maturity. If we do not have funds on hand sufficient to repay our indebtedness as it becomes due, it will be necessary for us to refinance the debt. This refinancing may be accomplished by uncollateralized private or public debt offerings, additional debt financing that is collateralized by mortgages on individual communities or groups of communities, draws on our unsecured credit facility or by additional equity offerings. Although we believe we will have the capacity to meet our long-term liquidity needs, we cannot assure you that additional debt financing or debt or equity offerings will be available or, if available, that they will be on terms we consider satisfactory.

The following debt activity occurred during the nine months ended September 30, 2007:

we repaid \$15,980,000 of mortgage debt, secured by the assets of an operating community;

we issued \$100,000,000 of variable rate, tax-exempt debt for a development community in September 2007, maturing in November 2040;

we issued \$16,926,000 of variable rate mortgage debt for an operating community in June 2007, maturing in May 2012;

we repaid \$150,000,000 in previously issued unsecured notes in August 2007, along with any unpaid interest, pursuant to their scheduled maturity;

we issued \$42,200,000 of fixed rate, tax-exempt mortgage debt for an operating community in September 2007, maturing in October 2047;

we assumed \$3,941,000 of fixed rate mortgage debt in conjunction with the acquisition of an operating community in July 2007. We intend to repay this debt in the fourth quarter of 2007;

we borrowed \$245,000,000 under our unsecured credit facility; and

we were relieved of our obligations associated with \$8,116,000 in mortgage debt in conjunction with the disposition of the associated operating community in September 2007.

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The table below details debt maturities for the next five years, excluding our unsecured credit facility, and amounts outstanding related to communities classified as held for sale, for debt outstanding at September 30, 2007 (dollars in thousands).

| Community               | All-IF<br>interest<br>rate<br>(1) | Principal<br>maturity<br>date | Balance outstanding |           | Scheduled maturities |        |        |        |        |            |
|-------------------------|-----------------------------------|-------------------------------|---------------------|-----------|----------------------|--------|--------|--------|--------|------------|
|                         |                                   |                               | 12-31-06            | 9-30-07   | 2007                 | 2008   | 2009   | 2010   | 2011   | Thereafter |
| <b>Tax-exempt bonds</b> |                                   |                               |                     |           |                      |        |        |        |        |            |
| <b>Fixed rate</b>       |                                   |                               |                     |           |                      |        |        |        |        |            |
| Country Brook           | 6.30%                             | Mar-2012                      | 15,990              | \$ 15,518 | \$ 162               | \$ 676 | \$ 719 | \$ 766 | \$ 816 | \$ 12,379  |
| Avalon at Symphony Glen | 4.90%                             | Jan-2024                      | 9,780               | 9,780     |                      |        |        |        |        | 9,780      |
| Avalon at Lexington     | 6.55%                             | Feb-2025                      | 12,467              | 12,178    | 78                   | 415    | 441    | 469    | 498    | 10,277     |
| Avalon at Nob Hill      | 5.80%                             | Jan-2025                      | 18,116              | 17,815(2) |                      |        |        |        |        | 17,815     |
| Avalon Campbell         | 6.48%                             | Jan-2025                      | 32,776              | 32,108(2) |                      |        |        |        |        | 32,108     |
| Avalon Pacifica         | 6.48%                             | Jan-2025                      | 14,867              | 14,564(2) |                      |        |        |        |        | 14,564     |
| Avalon Knoll            | 6.95%                             | Jan-2026                      | 11,957              | 11,732    | 77                   | 324    | 347    | 371    | 398    | 10,215     |
| Avalon Landing          | 6.85%                             | Jan-2026                      | 5,903               | 5,790     | 40                   | 162    | 173    | 185    | 198    | 5,032      |
| Avalon Fields           | 7.55%                             | May-2027                      | 10,483              | 10,306    | 60                   | 256    | 275    | 295    | 316    | 9,104      |
| Avalon Oaks             | 7.45%                             | Jul-2041                      | 17,205              | 17,110    | 34                   | 137    | 147    | 157    | 168    | 16,467     |
| Avalon Oaks West        | 7.48%                             | Apr-2043                      | 17,036              | 16,949    | 30                   | 125    | 133    | 142    | 152    | 16,367     |
| Avalon at Chestnut Hill | 5.32%                             | Oct-2047                      |                     | 42,200    | 25                   | 314    | 331    | 349    | 368    | 40,813     |
|                         |                                   |                               | 166,580             | 206,050   | 506                  | 2,409  | 2,566  | 2,734  | 2,914  | 194,921    |
| <b>Variable rate</b>    |                                   |                               |                     |           |                      |        |        |        |        |            |
| <b>(3)</b>              |                                   |                               |                     |           |                      |        |        |        |        |            |
| The Promenade           | 5.50%                             | Oct-2010                      | 31,495              | 31,175    | 331                  | 701    | 755    | 29,388 |        |            |
| Waterford               | 4.15%                             | Jul-2014                      | 33,100              | 33,100(4) |                      |        |        |        |        | 33,100     |
| Avalon at Mountain View | 4.15%                             | Feb-2017                      | 18,300              | 18,300(4) |                      |        |        |        |        | 18,300     |
| Avalon at Foxchase I    | 4.15%                             | Nov-2017                      | 16,800              | 16,800(4) |                      |        |        |        |        | 16,800     |
| Avalon at Foxchase II   | 4.15%                             | Nov-2017                      | 9,600               | 9,600(4)  |                      |        |        |        |        | 9,600      |
| Avalon at Mission Viejo | 4.73%                             | Jan-2025                      | 7,635               | 7,635(4)  |                      |        |        |        |        | 7,635      |

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|                                     |       |          |         |            |     |       |       |        |        |         |
|-------------------------------------|-------|----------|---------|------------|-----|-------|-------|--------|--------|---------|
| Avalon at<br>Nob Hill               | 3.72% | Jan-2025 | 2,684   | 2,985(2)   |     |       |       |        | 2,985  |         |
| Avalon<br>Campbell                  | 3.72% | Jan-2025 | 6,024   | 6,692(2)   |     |       |       |        | 6,692  |         |
| Avalon<br>Pacifica                  | 3.72% | Jan-2025 | 2,733   | 3,036(2)   |     |       |       |        | 3,036  |         |
| Bowery Place<br>I                   | 4.00% | Nov-2037 | 93,800  | 93,800(5)  | 521 | 576   | 636   | 703    | 91,364 |         |
| Bowery Place<br>II                  | 4.01% | Nov-2039 | 48,500  | 48,500(5)  |     |       | 270   | 298    | 47,932 |         |
| Avalon Acton<br>Morningside<br>Park | 4.81% | Jul-2040 | 45,000  | 45,000(5)  |     |       |       |        | 45,000 |         |
| Avalon at<br>Fairway Hills<br>I     | 3.88% | Nov-2040 |         | 100,000(5) |     |       | 138   | 302    | 99,560 |         |
|                                     | 4.71% | Jan-2026 | 11,500  | 11,500     |     |       |       |        | 11,500 |         |
|                                     |       |          | 327,171 | 428,123    | 331 | 1,222 | 1,331 | 30,432 | 1,303  | 393,504 |

**Conventional  
loans (6)**

**Fixed rate**

|                                     |       |          |         |         |         |         |         |         |         |
|-------------------------------------|-------|----------|---------|---------|---------|---------|---------|---------|---------|
| \$150 Million<br>unsecured<br>notes | 5.18% | Aug-2007 | 150,000 |         |         |         |         |         |         |
| \$110 Million<br>unsecured<br>notes | 7.13% | Dec-2007 | 110,000 | 110,000 | 110,000 |         |         |         |         |
| \$50 Million<br>unsecured<br>notes  | 6.63% | Jan-2008 | 50,000  | 50,000  |         | 50,000  |         |         |         |
| \$146 Million<br>unsecured<br>notes | 8.38% | Jul-2008 | 146,000 | 146,000 |         | 146,000 |         |         |         |
| \$150 Million<br>unsecured<br>notes | 7.63% | Aug-2009 | 150,000 | 150,000 |         |         | 150,000 |         |         |
| \$200 Million<br>unsecured<br>notes | 7.66% | Dec-2010 | 200,000 | 200,000 |         |         |         | 200,000 |         |
| \$300 Million<br>unsecured<br>notes | 6.79% | Sep-2011 | 300,000 | 300,000 |         |         |         |         | 300,000 |
| \$50 Million<br>unsecured<br>notes  | 6.31% | Sep-2011 | 50,000  | 50,000  |         |         |         |         | 50,000  |
| \$250 Million<br>unsecured<br>notes | 6.26% | Nov-2012 | 250,000 | 250,000 |         |         |         |         | 250,000 |
| \$100 Million<br>unsecured<br>notes | 5.11% | Mar-2013 | 100,000 | 100,000 |         |         |         |         | 100,000 |

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|   |       |          |              |              |            |            |            |            |            |              |
|---|-------|----------|--------------|--------------|------------|------------|------------|------------|------------|--------------|
| notes   |       |          |              |              |            |            |            |            |            |              |
| \$150 Million unsecured notes                                 | 5.52% | Apr-2014 | 150,000      | 150,000      |            |            |            |            |            | 150,000      |
| \$250 million unsecured notes                                 | 5.73% | Jan-2012 | 250,000      | 250,000      |            |            |            |            |            | 250,000      |
| \$250 million unsecured notes                                 | 5.89% | Sep-2016 | 250,000      | 250,000      |            |            |            |            |            | 250,000      |
| Countrybrook II   | 5.22% | Dec-2007 |              | 3,941        | 3,941      |            |            |            |            |              |
| Wheaton Development Right 4600                                | 6.99% | Oct-2008 | 4,514        | 4,453        | 21         | 4,432      |            |            |            |              |
| Eisenhower Avenue   | 8.08% | Apr-2009 | 4,402        | 4,321        | 28         | 118        | 4,175      |            |            |              |
| Twinbrook Development Right                                   | 7.25% | Oct-2011 | 8,200        | 8,057        | 50         | 207        | 222        | 239        | 7,339      |              |
| Avalon at Tysons West   | 5.55% | Jul-2028 | 6,535        | 6,420        | 41         | 162        | 173        | 183        | 193        | 5,668        |
| Avalon Orchards   | 7.65% | Jul-2033 | 19,883       | 19,681       | 70         | 290        | 311        | 333        | 357        | 18,320       |
|   |       |          | 2,199,534    | 2,052,873    | 114,151    | 201,209    | 154,881    | 200,755    | 357,889    | 1,023,988    |
| <b>Variable rate</b>  |       |          |              |              |            |            |            |            |            |              |
| (3) Avalon Ledges   | 6.75% | May-2009 | 18,635       | 18,100(4)    | 276        | 688        | 17,136     |            |            |              |
| Avalon at Flanders Hill                                       | 6.75% | May-2009 | 21,245       | 20,635(4)    | 316        | 784        | 19,535     |            |            |              |
| Avalon at Newton Highlands                                    | 6.69% | May-2009 | 37,650       | 36,670(4)    | 566        | 1,397      | 34,707     |            |            |              |
| Avalon at Crane Brook   | 6.60% | Mar-2011 | 33,535       | 32,725(4)    | 420        | 1,045      | 1,106      | 1,169      | 28,985     |              |
| Avalon at Bedford Center                                      | 6.69% | May-2012 |              | 16,926(4)    | 820        | 468        | 497        | 527        | 14,614     |              |
|   |       |          | 111,065      | 125,056      | 2,398      | 4,382      | 72,981     | 1,696      | 43,599     |              |
| <b>Total indebtedness excluding unsecured credit facility</b> |       |          |              |              |            |            |            |            |            |              |
|   |       |          | \$ 2,804,350 | \$ 2,812,102 | \$ 117,386 | \$ 209,222 | \$ 231,759 | \$ 235,617 | \$ 405,705 | \$ 1,612,413 |

- (1) Includes credit enhancement fees, facility fees, trustees fees and other fees.
- (2) Financed by variable rate, tax-exempt debt, but the interest rate on a portion of this debt is effectively fixed at September 30, 2007 and December 31, 2006 through a swap agreement. The portion of the debt fixed through a swap agreement decreases (and therefore the variable portion of the debt increases) monthly as payments are made to a principal reserve fund.
- (3) Variable rates are given as of September 30, 2007.
- (4) Financed by variable rate debt, but interest rate is capped through an interest rate protection agreement.



(5) Represents full amount of the debt as of September 30, 2007. Actual amounts drawn on the debt as of September 30, 2007 are \$87,518,000 for Bowery Place I, \$24,964,000 for Bowery Place II, \$12,144,000 for Avalon Acton and \$0 for Morningside Park.

(6) Balances outstanding represent total amounts due at maturity, and are not net of \$2,606 of debt discount as of September 30, 2007 and \$2,922 of debt discount as of December 31, 2006, as reflected in unsecured notes on our Condensed Consolidated Balance Sheets included elsewhere in this report.

*Future Financing and Capital Needs Portfolio and Other Activity*

As of September 30, 2007, we had 19 new communities under construction, for which a total estimated cost of \$705,384,000 remained to be invested. In addition, we had nine communities which we own, or in which we have a direct or indirect interest, under reconstruction, for which a total estimated cost of \$20,883,000 remained to be invested. Substantially all of the capital expenditures necessary to complete the communities currently under construction and reconstruction, as well as development costs related to pursuing Development Rights, will be funded from:



cash currently on hand invested in highly liquid overnight money market funds and repurchase agreements, and short-term investment vehicles;

the remaining capacity under our current \$650,000,000 unsecured credit facility;

the net proceeds from sales of existing communities;

retained operating cash;

the issuance of debt or equity securities; and/or

private equity funding.

Before planned reconstruction activity, including reconstruction activity related to communities acquired by the Fund as discussed below, or the construction of a Development Right begins, we intend to arrange adequate financing to complete these undertakings, although we cannot assure you that we will be able to obtain such financing. In the event that financing cannot be obtained, we may have to abandon Development Rights, write-off associated pre-development costs that were capitalized and/or forego reconstruction activity. In such instances, we will not realize the increased revenues and earnings that we expected from such Development Rights or reconstruction activity and significant losses could be incurred.

We have invested in the Fund, a private, discretionary investment vehicle that acquires and operates apartment communities in our markets. The Fund has invested \$771,775,000 as of September 30, 2007. Management expects the Fund will invest approximately \$50,000,000 of additional funds to redevelop the assets acquired, at which time the Fund will become fully invested. The Fund has nine institutional investors, including us, with a combined capital equity commitment of \$330,000,000. A significant portion of the investments made in the Fund by its investors have been made through AvalonBay Value Added Fund, Inc., a Maryland corporation that qualifies as a REIT under the Internal Revenue Code (the Fund REIT). A wholly-owned subsidiary of the Company is the general partner of the Fund and has committed \$50,000,000 to the Fund and the Fund REIT (of which approximately \$32,035,000 has been invested as of October 31, 2007) representing a 15.2% combined general partner and limited partner equity interest. As of October 31, 2007, the Fund has committed to invest approximately \$823,000,000. We are exploring various potential sources for funding future acquisitions after the Fund is fully invested.

From time to time we use joint ventures to hold or develop individual real estate assets. We generally employ joint ventures primarily to mitigate asset concentration or market risk or secondarily as a source of liquidity. We may also use joint ventures related to mixed-use land development opportunities where our partners bring development and operational expertise to the venture. Each joint venture or partnership agreement has been and will continue to be individually negotiated, and our ability to operate and/or dispose of a community in our sole discretion may be limited to varying degrees depending on the terms of the joint venture or partnership agreement. We cannot assure you that we will achieve our objectives through joint ventures.

In evaluating our allocation of capital within our markets, we sell assets that do not meet our long-term investment criteria or when capital and real estate markets allow us to realize a portion of the value created over the past business cycle and redeploy the proceeds from those sales to develop and redevelop communities. In response to real estate and capital markets conditions, we sold three communities and one partnership interest for an aggregate sales price of \$190,446,000 from January 1, 2007 through November 1, 2007. Because the proceeds from the sale of communities may not be immediately redeployed into revenue generating assets, the immediate effect of a sale of a community for a gain is to increase net income, but reduce future total revenues, total expenses and NOI. However, we believe that the absence of future cash flows from communities sold will have a minimal impact on our ability to fund future liquidity and capital resource needs.

#### Off Balance Sheet Arrangements

In addition to the investment interests in consolidated and unconsolidated real estate entities, we have certain off-balance sheet arrangements with the entities in which we invest. Additional discussion of these entities can be found in Note 6, Investments in Real Estate Entities, and Note 8, Commitments and Contingencies, of our Condensed Consolidated Financial Statements located elsewhere in this report.

CVP I, LLC has outstanding tax-exempt, variable rate bonds maturing in November 2036 in the amount of \$117,000,000, which have permanent credit enhancement. We have agreed to guarantee, under limited circumstances, the repayment to the credit enhancer of any advances it may make in fulfillment of CVP I, LLC's repayment obligations under the bonds. We have also guaranteed to the credit enhancer that CVP I, LLC will obtain a final certificate of occupancy for the project (Chrystie Place in New York City) overall once tenant improvements related to a retail tenant are complete, which is expected in 2007. Our 80% partner in this venture has agreed that it will reimburse us its pro rata share of any amounts paid relative to these guaranteed obligations. The estimated fair value of, and our obligation under these guarantees, both at inception and as of September 30, 2007 were not significant. As a result we have not recorded any obligation associated with these guarantees at September 30, 2007.

MVP I, LLC has a construction loan in the amount of \$94,400,000 (of which \$85,336,000 is outstanding as of September 30, 2007), which matures in September 2010, assuming exercise of two one-year renewal options, and is payable by the unconsolidated real estate entity. MVP I, LLC has entered into an early rate lock agreement to refinance this construction loan with a seven-year, fixed-rate conventional loan in the fourth quarter of 2007. In connection with the construction management services that we provided to MVP I, LLC, the entity that owns and developed Avalon at Mission Bay North II in San Francisco, we have provided a construction completion guarantee to the lender in order to fulfill their standard financing requirements related to the construction financing. Construction was completed in 2006, and our obligations under this guarantee will terminate once all of the lender's standard completion requirements have been satisfied, which we currently expect to occur in 2007. The estimated fair value of and our obligation under this guarantee, both at inception and as of September 30, 2007 was not significant and therefore no liability has been recorded related to this construction completion guarantee as of September 30, 2007.

The Fund has 20 mortgage loans with amounts outstanding in the aggregate of \$446,000,000. These mortgage loans have varying maturity dates (or dates after which the loans can be prepaid), ranging from October 2011 to September 2016. These mortgage loans are secured by the underlying real estate. In addition, the Fund had amounts outstanding of \$120,000,000 as of September 30, 2007 under its credit facilities. These borrowings include \$93,000,000 in borrowings under the Fund's credit facility secured by uncalled capital commitments maturing in January 2008 and \$27,000,000 in borrowings under a separate unsecured credit facility maturing in December 2008. The mortgage loans and the credit facility are payable by the Fund with operating cash flow from the underlying real estate, and the credit facility is secured by capital commitments. We have not guaranteed the debt of the Fund, nor do we have any obligation to fund this debt should the Fund be unable to do so.

In addition, as part of the formation of the Fund, we have provided to one of the limited partners a guarantee. The guarantee provides that if, upon final liquidation of the Fund, the total amount of all distributions to that partner during the life of the Fund (whether from operating cash flow or property sales) does not equal a minimum of the total capital contributions made by that partner, then we will pay the partner an amount equal to the shortfall, but in no event more than 10% of the total capital contributions made by the partner (maximum of approximately \$4,400,000 as of September 30, 2007). As of September 30, 2007, the fair value of the real estate assets owned by the Fund is considered adequate to cover such potential payment to that partner under a liquidation scenario. The estimated fair value of, and our obligation under this guarantee, both at inception and as of September 30, 2007 was not significant and therefore we have not recorded any obligation for this guarantee as of September 30, 2007.

In connection with the pursuit of a Development Right in Pleasant Hill, California, \$125,000,000 in bond financing was issued by the Contra Costa County Redevelopment Agency (the Agency) in connection with the possible future construction of a multifamily rental community by PHVP I, LLC. The bond proceeds were immediately invested in their entirety in a guaranteed investment contract (GIC) administered by a trustee. This Development Right is planned as a mixed-use development, with residential, for-sale, retail and office components. The bond proceeds will remain in the GIC until December 5, 2007, at which time a loan will be made to PHVP I, LLC to fund construction of the multifamily portion of the development, or the bonds will be redeemed by the Agency. We are currently in discussions to extend both the term until the bond financing proceeds must be used for development of the multifamily portion of the project, and the GIC until September 2008, when construction of the multifamily portion of the development is now expected to begin. Although we do not have any equity or economic interest in PHVP I, LLC at this time, we do have an option to make a capital contribution to PHVP I, LLC in exchange for a 99% general partner interest in the entity. Should we decide not to exercise this option, bond proceeds will be released from escrow, the bonds will be redeemed without penalty and a loan will not be made to PHVP I, LLC. The bonds are payable from the proceeds of the GIC and are non-recourse to both PHVP I, LLC and to us. There is no loan payable outstanding by PHVP I, LLC as of September 30, 2007.

In addition, as part of providing construction management services to PHVP I, LLC for the construction of a public garage, we have provided a construction completion guarantee to the related lender in order to fulfill their standard financing requirements related to the garage construction financing. Our obligations under this guarantee will terminate following construction completion of the garage once all of the lender's standard completion requirements have been satisfied, which we currently expect to occur in the first half of 2008. In the third quarter of 2006, significant modifications were requested by the local transit authority to change the garage structure design. We do not believe that the requested design changes impact the construction schedule. However, it is expected that these changes will increase the original budget by an amount up to \$5,000,000. We believe that substantially all potential additional amounts are reimbursable from unrelated third parties. At this time we do not believe that it is probable that we will incur any additional costs. The estimated fair value of, and our obligation under this guarantee, both at inception and as of September 30, 2007 was not significant and therefore we have not recorded any obligation for this guarantee as of September 30, 2007.

In the fourth quarter of 2006, we admitted a 70% venture partner to the Avalon Del Rey Apartments, LLC for an investment of \$49,000,000, including the assumption of debt. In conjunction with this investment, we provided an operating guarantee to the joint venture partner. This guarantee provides that if the initial year return earned by the joint venture partner is less than a threshold return of 7% on its initial equity investment, we will pay the joint venture partner an amount equal to the shortfall, up to the 7% threshold return required. As of September 30, 2007, the cash flows and expected return on investment of the community are expected to meet and exceed the initial year threshold return required by our joint venture partner. Therefore we have not recorded any liability associated with this guarantee as of September 30, 2007.

There are no other lines of credit, side agreements, financial guarantees or any other derivative financial instruments related to or between our unconsolidated real estate entities and us. In evaluating our capital structure and overall leverage, management takes into consideration our proportionate share of this unconsolidated debt.

Contractual Obligations

We currently have contractual obligations consisting primarily of long-term debt obligations and lease obligations for certain land parcels and regional and administrative office space. During the second quarter of 2007, we entered into an operating lease for 20,000 square feet of office space in Virginia Beach, Virginia. We began to utilize this space for certain of our community-related accounting and customer service functions in the third quarter of 2007. There have not been any other material changes outside the ordinary course of business to our contractual obligations during the nine months ended September 30, 2007.

Development Communities

As of September 30, 2007, we had 19 Development Communities under construction. We expect these Development Communities, when completed, to add a total of 6,086 apartment homes to our portfolio for a total projected capitalized cost, including land acquisition costs and portions owned by joint venture partners, of approximately \$1,724,900,000. We anticipate the total projected capitalized cost of Development Communities under construction will remain between \$1,500,000,000 and \$2,000,000,000 for the remainder of 2007. You should carefully review the discussion under Item 1a., Risk Factors, of the Form 10-K/A for a discussion of the risks associated with development activity.

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The following table presents a summary of the Development Communities. We hold a direct or indirect fee simple ownership interest in these communities except where noted.

|   | Number<br>of<br>apartment<br>homes | Total<br>capitalized<br>cost (1)<br>(\$<br>millions) | Construction<br>start | Initial<br>occupancy (2) | Estimated<br>completion | Estimated<br>stabilization (3) |
|---|------------------------------------|--|-----------------------|--------------------------|-------------------------|--------------------------------|
| 1. Avalon Riverview<br>North<br><i>New York, NY</i>       | 602                                | 175.6  | Q3 2005               | Q3 2007                  | Q2 2008                 | Q4 2008                        |
| 2. Avalon Danvers (4)<br><i>Danvers, MA</i>               | 433                                | 84.8   | Q4 2005               | Q1 2007                  | Q3 2008                 | Q1 2009                        |
| 3. Avalon Woburn<br><i>Woburn, MA</i>                     | 446                                | 83.1   | Q4 2005               | Q3 2006                  | Q4 2007                 | Q2 2008                        |
| 4. Avalon on the Sound II<br><i>New Rochelle, NY</i>      | 588                                | 181.8  | Q1 2006               | Q2 2007                  | Q2 2008                 | Q4 2008                        |
| 5. Avalon Meydenbauer<br><i>Bellevue, WA</i>              | 368                                | 84.3   | Q1 2006               | Q1 2008                  | Q3 2008                 | Q1 2009                        |
| 6. Avalon at Dublin<br>Station I<br><i>Dublin, CA</i>     | 305                                | 85.8   | Q2 2006               | Q4 2007                  | Q2 2008                 | Q4 2008                        |
| 7. Avalon at Lexington<br>Hills<br><i>Lexington, MA</i>   | 387                                | 86.2   | Q2 2006               | Q2 2007                  | Q3 2008                 | Q1 2009                        |
| 8. Avalon Bowery Place<br>II (5)<br><i>New York, NY</i>   | 90                                 | 61.9   | Q3 2006               | Q4 2007                  | Q1 2008                 | Q2 2008                        |
| 9. Avalon Encino<br><i>Los Angeles, CA</i>                | 131                                | 61.5   | Q3 2006               | Q3 2008                  | Q4 2008                 | Q1 2009                        |
| 10. Avalon Warner Place<br>(6)<br><i>Canoga Park, CA</i>  | 210                                | 53.9   | Q4 2006               | Q2 2008                  | Q3 2008                 | Q1 2009                        |
| 11. Avalon Acton (5)<br><i>Acton, MA</i>                  | 380                                | 68.8   | Q4 2006               | Q4 2007                  | Q4 2008                 | Q2 2009                        |
| 12. Avalon Morningside<br>Park (5)<br><i>New York, NY</i> | 296                                | 125.5  | Q1 2007               | Q3 2008                  | Q1 2009                 | Q3 2009                        |
| 13. Avalon White Plains<br><i>White Plains, NY</i>        | 393                                | 154.5  | Q2 2007               | Q4 2008                  | Q2 2009                 | Q4 2009                        |
| 14. Avalon at Tinton Falls<br><i>Tinton Falls, NJ</i>     | 216                                | 41.2   | Q2 2007               | Q3 2008                  | Q4 2008                 | Q2 2009                        |
| 15. Avalon Fashion Valley<br><i>San Diego, CA</i>         | 161                                | 64.7   | Q2 2007               | Q4 2008                  | Q1 2009                 | Q2 2009                        |
| 16. Avalon Anaheim<br><i>Anaheim, CA</i>                  | 251                                | 102.7  | Q2 2007               | Q2 2009                  | Q3 2009                 | Q2 2010                        |
| 17. Avalon Union City<br><i>Union City, CA</i>            | 438                                | 125.2  | Q3 2007               | Q2 2009                  | Q3 2009                 | Q2 2010                        |

|  |       |            |         |         |         |         |
|--|-------|------------|---------|---------|---------|---------|
| 18. Avalon at the Hingham Shipyard<br><i>Hingham, MA</i> | 235   | 52.7       | Q3 2007 | Q3 2008 | Q4 2008 | Q2 2009 |
| 19. Avalon Sharon<br><i>Sharon, MA</i>                   | 156   | 30.7       | Q3 2007 | Q2 2008 | Q3 2008 | Q1 2009 |
| Total  | 6,086 | \$ 1,724.9 |         |         |         |         |

(1) Total capitalized cost includes all capitalized costs projected to be or actually incurred to develop the respective Development Community, determined in accordance with U.S. GAAP, including land acquisition costs, construction costs, real estate taxes, capitalized interest and loan fees, permits, professional fees, allocated development overhead and other regulatory fees. Total capitalized cost for communities identified as having joint venture ownership, either during construction or upon construction completion, represents the total projected joint venture

contribution  
amount.

- (2) Future initial occupancy dates are estimates.
- (3) Stabilized operations are defined as the earlier of
  - (i) attainment of 95% or greater physical occupancy or
  - (ii) the one-year anniversary of completion of development.
- (4) Avalon Danvers experienced a fire in April 2007. The Company expects insurance proceeds will substantially cover all losses.
- (5) This community is being financed in part by third-party tax-exempt debt.
- (6) This community was formally known as Avalon Canoga Park.



Redevelopment Communities

As of September 30, 2007, we had four consolidated communities under redevelopment. We expect the total capitalized cost to redevelop these communities to be approximately \$34,700,000, excluding costs prior to redevelopment. In addition, the Fund had five communities under redevelopment. We have found that the cost to redevelop an existing apartment community is more difficult to budget and estimate than the cost to develop a new community. Accordingly, we expect that actual costs may vary from our budget by a wider range than for a new development community. We cannot assure you that we will meet our schedule for reconstruction completion or restabilized operations, or that we will meet our budgeted costs, either individually or in the aggregate. We anticipate increasing our redevelopment activity related to Fund-owned communities, as well as communities in our current operating portfolio. You should carefully review the discussion under Item 1a., Risk Factors, of the Form 10-K/A for a discussion of risks associated with redevelopment activity.

The following presents a summary of communities under redevelopment, which also includes redevelopment activity of the Fund:

|   | Number<br>of<br>apartment<br>homes | Per-redevelopment<br>cost | Total cost<br>(\$ millions)<br>Total capitalized<br>cost (1) | Reconstruction<br>start | Estimated<br>reconstruction<br>completion | Estimated<br>restabilized<br>operations (2) |
|---|------------------------------------|---------------------------|--|-------------------------|---|---|
| 1. Avalon Walk I and II<br><i>Hamden, CT</i>              | 764                                | \$ 59.4                   | 71.2   | Q1 2006                 | Q4 2007                                   | Q2 2008                                     |
| 2. Avalon at<br>AutumnWoods<br><i>Fairfax, VA</i>         | 420                                | 31.2                      | 38.3   | Q3 2006                 | Q2 2008                                   | Q4 2008                                     |
| 3. Essex Place<br><i>Peabody, MA</i>                      | 286                                | 23.7                      | 34.5   | Q3 2007                 | Q2 2009                                   | Q4 2009                                     |
| 4. Avalon Redmond<br>Place<br><i>Redmond, WA</i>          | 222                                | 26.3                      | 31.3   | Q3 2007                 | Q4 2008                                   | Q2 2009                                     |
| 5. Civic Center Place (3)<br><i>Norwalk, CA</i>           | 192                                | 38.1                      | 43.5   | Q4 2006                 | Q4 2007                                   | Q2 2008                                     |
| 6. Avalon at Poplar Creek<br>(3)<br><i>Schaumburg, IL</i> | 196                                | 25.2                      | 28.6   | Q4 2006                 | Q4 2007                                   | Q2 2008                                     |
| 7. Avalon Sunset (3)<br><i>Los Angeles, CA</i>            | 82                                 | 17.9                      | 21.3   | Q1 2007                 | Q4 2007                                   | Q2 2008                                     |
| 8. Paseo Park (3)<br><i>Fremont, CA</i>                   | 134                                | 19.8                      | 25.5   | Q2 2007                 | Q2 2008                                   | Q4 2008                                     |
| 9. Cedar Valley (3)<br><i>Columbia, MD</i>                | 156                                | 21.0                      | 25.0   | Q3 2007                 | Q1 2009                                   | Q3 2009                                     |
| Total   | 2,452                              | \$ 262.6                  | \$ 319.2   |                         |   |   |

(1) Total capitalized cost includes all capitalized costs projected to be incurred to

redevelop the  
respective  
Redevelopment  
Community,  
including costs  
to acquire the  
community,  
reconstruction  
costs, real estate  
taxes,  
capitalized  
interest and loan  
fees, permits,  
professional  
fees, allocated  
redevelopment  
overhead and  
other regulatory  
fees determined  
in accordance  
with U.S.  
GAAP.

- (2) Restabilized operations are defined as the earlier of
- (i) attainment of 95% or greater physical occupancy or
  - (ii) the one-year anniversary of completion of redevelopment.
- (3) This is a Fund-owned community.

Development Rights

As of September 30, 2007, we were evaluating the future development of 52 new apartment communities on land that is either owned by us, under contract, subject to a leasehold interest or for which we hold a purchase option. We prefer to hold Development Rights through options to acquire land, although for 22 of the Development Rights we currently own the land on which a community would be built if we proceeded with development. The Development Rights range from those beginning design and architectural planning to those that have completed site plans and drawings and can begin construction almost immediately. We estimate that the successful completion of all of these communities would ultimately add 14,477 apartment homes to our portfolio. Substantially all of these apartment homes will offer features like those offered by the communities we currently own. At September 30, 2007, there were cumulative capitalized costs (including legal fees, design fees and related overhead costs, but excluding land costs) of \$54,454,000 relating to Development Rights that we consider probable for future development. In addition, land costs related to the pursuit of Development Rights (consisting of original land and additional carrying costs) of \$373,757,000 are reflected as land held for development on the accompanying Condensed Consolidated Balance Sheet as of September 30, 2007.

The properties comprising the Development Rights are in different stages of the due diligence and regulatory approval process. The decisions as to which of the Development Rights to invest in, if any, or to continue to pursue once an investment in a Development Right is made, are business judgments that we make after we perform financial, demographic and other analyses. In the event that we do not proceed with a Development Right, we generally would not recover capitalized costs incurred in the pursuit of those communities, unless we were to recover amounts in connection with the sale of land; however, we cannot guarantee a recovery. Pre-development costs incurred in the pursuit of Development Rights for which future development is not yet considered probable are expensed as incurred. In addition, if the status of a Development Right changes, deeming future development no longer probable, any capitalized pre-development costs are written-off with a charge to expense.

You should carefully review the discussion under Item 1a., Risk Factors, of the Form 10-K/A for a discussion of risks associated with Development Rights we are currently pursuing.

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|     |                             | Estimated<br>number<br>of homes | Total<br>capitalized<br>cost<br>(\$ millions)<br>(1) |
|-----|-----------------------------|---------------------------------|--|
| 1.  | Irvine, CA                  | (2) 279                         | 78   |
| 2.  | San Francisco, CA Phase III | (2) 260                         | 158  |
| 3.  | Coram, NY                   | (2) 200                         | 48   |
| 4.  | Shelton, CT                 | 99                              | 27   |
| 5.  | Brooklyn, NY                | (2) 628                         | 319  |
| 6.  | Los Angeles, CA             | (2) 174                         | 78   |
| 7.  | Randolph, MA                | (2) 276                         | 54   |
| 8.  | Northborough, MA            | 350                             | 61   |
| 9.  | Pleasant Hill, CA           | (4) 416                         | 153  |
| 10. | Kirkland, WA Phase II       | (2) 181                         | 60   |
| 11. | Rockville Centre, NY        | 349                             | 129  |
| 12. | Norwalk, CT                 | 311                             | 84   |
| 13. | Canoga Park, CA             | (2) 297                         | 85   |
| 14. | Andover, MA                 | (2) 115                         | 21   |
| 15. | Bellevue, WA                | 408                             | 126  |
| 16. | North Bergen, NJ            | (3) 164                         | 48   |
| 17. | Chicago, IL Phase I         | (2) 492                         | 173  |
| 18. | Wilton, CT                  | (2) 100                         | 24   |
| 19. | Camarillo, CA               | 376                             | 55   |
| 20. | Irvine, CA III              | 170                             | 73   |
| 21. | San Francisco, CA           | 157                             | 50   |
| 22. | Brooklyn, NY II             | 825                             | 443  |
| 23. | New York, NY II             | 680                             | 261  |
| 24. | Seattle, WA                 | 201                             | 65   |
| 25. | Cohasset, MA                | (2) 200                         | 38   |
| 26. | Dublin, CA Phase II         | 405                             | 105  |
| 27. | Greenburgh, NY Phase II     | 444                             | 112  |
| 28. | Plymouth, MA Phase II       | 69                              | 17   |
| 29. | Irvine, CA II               | (2) 179                         | 57   |
| 30. | Wheaton, MD                 | (2) 320                         | 107  |
| 31. | West Long Branch, NJ        | (3) 180                         | 34   |
| 32. | Milford, CT                 | (2) 284                         | 45   |
| 33. | Stratford, CT               | (2) 146                         | 23   |
| 34. | Highland Park, NJ           | 178                             | 42   |
| 35. | Oyster Bay, NY              | (2) 150                         | 42   |
| 36. | Quincy, MA                  | (2) 146                         | 24   |
| 37. | Shelton, CT II              | 240                             | 66   |
| 38. | Roselle Park, NJ            | (3) 300                         | 70   |
| 39. | Yonkers, NY                 | 400                             | 88   |
| 40. | Randolph, NJ                | 115                             | 31   |
| 41. | Hackensack, NJ              | 230                             | 56   |
| 42. | Bloomington, NJ             | 173                             | 38   |
| 43. | Alexandria, VA              | (2) 283                         | 73   |

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|                          |     |        |    |       |
|--------------------------|-----|--------|----|-------|
| 44. Garden City, NY      |     | 160    |    | 58    |
| 45. Tysons Corner, VA    | (2) | 439    |    | 121   |
| 46. Gaithersburg, MD     |     | 254    |    | 41    |
| 47. Chicago, IL Phase II | (2) | 492    |    | 141   |
| 48. Oakland, NJ          |     | 228    |    | 49    |
| 49. Plainview, NY        |     | 160    |    | 38    |
| 50. Wanaque, NJ          |     | 210    |    | 45    |
| 51. Yaphank, NY          | (2) | 343    |    | 57    |
| 52. Rockville, MD        | (2) | 241    |    | 62    |
| <br>                     |     |        |    |       |
| Total                    |     | 14,477 | \$ | 4,353 |

- (1) Total capitalized cost includes all capitalized costs incurred to date (if any) and projected to be incurred to develop the respective community, determined in accordance with U.S. GAAP, including land acquisition costs, construction costs, real estate taxes, capitalized interest and loan fees, permits, professional fees, allocated development overhead and other regulatory fees.
- (2) We own the land parcel, but construction has not yet begun.
- (3) This community will be subject to a joint venture ownership structure.
- (4) This Development Right is subject to a joint venture arrangement. In connection with

the pursuit of this Development Right, \$125 million in bond financing was issued and immediately invested in a guaranteed investment contract ( GIC ) administered by a trustee. The Company does not have any equity or economic interest in the joint venture entity at this time, but has an option to make a capital contribution to the joint venture entity for a 99% general partner interest. Should the Company exercise this option, the bond proceeds will be released from the GIC and used for future construction of the Development Right. Should the Company decide not to exercise this option, bond proceeds will be released from escrow and the bonds will be redeemed without penalty.

Insurance and Risk of Uninsured Losses

We carry commercial general liability insurance and property insurance with respect to all of our communities. These policies, and other insurance policies we carry, have policy specifications, insured limits and deductibles that we consider commercially reasonable. There are, however, certain types of losses (such as losses arising from acts of war) that are not insured, in full or in part, because they are either uninsurable or the cost of insurance makes it, in management's view, economically impractical. You should carefully review the discussion under Item 1a., Risk Factors, of the Form 10-K/A for a discussion of risks associated with an uninsured property or liability loss. Many of our West Coast communities are located in the general vicinity of active earthquake faults. A large concentration of our communities lies near, and thus are susceptible to, the major fault lines in California, including the San Andreas Fault and the Hayward Fault. We cannot assure you that an earthquake would not cause damage or losses greater than insured levels. We have in place with respect to communities located in California, for any single occurrence and in the aggregate, \$75,000,000 of coverage with a deductible per building equal to five percent of the insured value of that building. The five percent deductible is subject to a minimum of \$100,000 per occurrence. Earthquake coverage outside of California is subject to a \$100,000,000 limit, except with respect to the state of Washington, for which the limit is \$65,000,000. Our earthquake insurance outside of California provides for a \$100,000 deductible per occurrence. In addition, up to a policy aggregate of \$2,000,000, the next \$400,000 of loss per occurrence outside California will be treated as an additional deductible.

We renewed our property insurance policy on May 1, 2007 and the insurance coverage provided for in these renewal policies and related premiums did not materially change from the preceding year. We renewed our annual general liability policy and workman's compensation coverage on August 1, 2007 with no material changes from the preceding year.

Just as with office buildings, transportation systems and government buildings, there have been reports that apartment communities could become targets of terrorism. In December 2005, Congress passed the Terrorism Risk Insurance Extension Act (TRIEA) which is designed to make terrorism insurance available. In connection with this legislation, we have purchased insurance for property damage due to terrorism up to \$200,000,000. Additionally, we have purchased insurance for certain terrorist acts, not covered under TRIEA, such as domestic-based terrorism. This insurance, often referred to as non-certified terrorism insurance, is subject to deductibles, limits and exclusions. Our general liability policy provides TRIEA coverage (subject to deductibles and insured limits) for liability to third parties that result from terrorist acts at our communities. TRIEA is scheduled to expire on December 31, 2007. It is uncertain if Congress will extend this act and continue to provide federal support for terrorism insurance. If Congress does not extend TRIEA, the cost and availability of terrorism insurance may be in question.



Mold growth may occur when excessive moisture accumulates in buildings or on building materials, particularly if the moisture problem remains undiscovered or is not addressed over a period of time. Although the occurrence of mold at multifamily and other structures, and the need to remediate such mold, is not a new phenomenon, there has been increased awareness in recent years that certain molds may in some instances lead to adverse health effects, including allergic or other reactions. To help limit mold growth, we educate residents about the importance of adequate ventilation and request or require that they notify us when they see mold or excessive moisture. We have established procedures for promptly addressing and remediating mold or excessive moisture from apartment homes when we become aware of its presence regardless of whether we or the resident believe a health risk is present. However, we cannot assure that mold or excessive moisture will be detected and remediated in a timely manner. If a significant mold problem arises at one of our communities, we could be required to undertake a costly remediation program to contain or remove the mold from the affected community and could be exposed to other liabilities. We cannot assure that we will have coverage under our existing policies for property damage or liability to third parties arising as a result of exposure to mold or a claim of exposure to mold at one of our communities.

We also carry a Crimeshield policy (also commonly referred to as a fidelity insurance policy or employee dishonesty insurance policy) that protects the company, up to \$3,000,000 per occurrence, from employee theft of money, securities or property.

#### Inflation and Deflation

Substantially all of our apartment leases are for a term of one year or less. In an inflationary environment, this may allow us to realize increased rents upon renewal of existing leases or the beginning of new leases. Short-term leases generally minimize our risk from the adverse effects of inflation, although these leases generally permit residents to leave at the end of the lease term and therefore expose us to the effect of a decline in market rents. In a deflationary rent environment, we may be exposed to declining rents more quickly under these shorter-term leases.

#### Forward-Looking Statements

This Form 10-Q contains forward-looking statements as that term is defined under the Private Securities Litigation Reform Act of 1995. You can identify forward-looking statements by our use of the words believe, expect, anticipate, intend, estimate, assume, project, plan, may, shall, will and other similar expressions in this Form 10-Q indicate future events and trends and that do not report historical matters. These statements include, among other things, statements regarding our intent, belief or expectations with respect to:

our potential development, redevelopment, acquisition or disposition of communities;

the timing and cost of completion of apartment communities under construction, reconstruction, development or redevelopment;

the timing of lease-up, occupancy and stabilization of apartment communities;

the pursuit of land on which we are considering future development;

the anticipated operating performance of our communities;

cost, yield and earnings estimates;

our declaration or payment of distributions;

our joint venture and discretionary fund activities;

our policies regarding investments, indebtedness, acquisitions, dispositions, financings and other matters;

our qualification as a REIT under the Internal Revenue Code;

the real estate markets in Northern and Southern California and markets in selected states in the Mid-Atlantic, Northeast, Midwest and Pacific Northwest regions of the United States and in general;

the availability of debt and equity financing;

interest rates;

general economic conditions; and

trends affecting our financial condition or results of operations.

We cannot assure the future results or outcome of the matters described in these statements; rather, these statements merely reflect our current expectations of the approximate outcomes of the matters discussed. You should not rely on forward-looking statements because they involve known and unknown risks, uncertainties and other factors, some of which are beyond our control. These risks, uncertainties and other factors may cause our actual results, performance or achievements to differ materially from the anticipated future results, performance or achievements expressed or implied by these forward-looking statements. You should carefully review the discussion under Item 1a, Risk Factors, of the Form 10-K/A for a discussion of risks associated with forward-looking statements.

In addition, these forward-looking statements represent our estimates and assumptions only as of the date of this report. We do not undertake a duty to update these forward-looking statements, and therefore they may not represent our estimates and assumptions after the date of this report.

Some of the factors that could cause our actual results, performance or achievements to differ materially from those expressed or implied by these forward-looking statements include, but are not limited to, the following:

we may fail to secure development opportunities due to an inability to reach agreements with third parties to obtain land at attractive prices or to obtain desired zoning and other local approvals;

we may abandon or defer development opportunities for a number of reasons, including changes in local market conditions which make development less desirable, increases in costs of development and increases in the cost of capital, resulting in losses;

construction costs of a community may exceed our original estimates;

we may not complete construction and lease-up of communities under development or redevelopment on schedule, resulting in increased interest costs and construction costs and a decrease in our expected rental revenues;

occupancy rates and market rents may be adversely affected by competition and local economic and market conditions which are beyond our control;

financing may not be available on favorable terms or at all, and our cash flows from operations and access to cost effective capital may be insufficient for the development of our pipeline which could limit our pursuit of opportunities;

our cash flows may be insufficient to meet required payments of principal and interest, and we may be unable to refinance existing indebtedness or the terms of such refinancing may not be as favorable as the terms of existing indebtedness;

we may be unsuccessful in our management of the Fund and the Fund REIT; and

we may be unsuccessful in managing changes in our portfolio composition.

### Critical Accounting Policies

The preparation of financial statements in conformity with U.S. generally accepted accounting principles ( GAAP ) requires management to use judgment in the application of accounting policies, including making estimates and assumptions. If our judgment or interpretation of the facts and circumstances relating to various transactions had been different, or different assumptions were made, it is possible that different accounting policies would have been applied, resulting in different financial results or a different presentation of our financial statements. Below is a discussion of the accounting policies that we consider critical to an understanding of our financial condition and operating results that may require complex or significant judgment in their application or require estimates about matters which are inherently uncertain. A discussion of our significant accounting policies, including further discussion of the accounting policies described below, can be found in Note 1, Organization and Significant Accounting Policies of our Condensed Consolidated Financial Statements.

#### *Principles of Consolidation*

We may enter into various joint venture agreements with unrelated third parties to hold or develop real estate assets. We must determine for each of these ventures, whether to consolidate the entity or account for our investment under the equity or cost basis of accounting.

We determine whether to consolidate certain entities based on our rights and obligations under the joint venture agreements, applying the guidance of FIN 46(R), Consolidation of Variable Interest Entities (as revised) and Emerging Issues Task Force Issue No. 04-5, Determining Whether a General Partner, or the General Partners as a Group, Controls a Limited Partnership or Similar Entity When the Limited Partners Have Certain Rights. For investment interests that we do not consolidate, we look to the guidance in AICPA Statement of Position 78-9, Accounting for Investments in Real Estate Ventures , Accounting Principles Board Opinion No. 18, The Equity Method of Accounting for Investments in Common Stock , and Emerging Issues Task Force Topic D-46, Accounting for Limited Partnership Investments , to determine the accounting framework to apply. The application of these rules in evaluating the accounting treatment for each joint venture is complex and requires substantial management judgment. Therefore, we believe the decision to choose an appropriate accounting framework is a critical accounting estimate.

If we were to consolidate the joint ventures that we accounted for using the equity method at September 30, 2007, our assets would have increased by \$1,065,263,000 and our liabilities would have increased by \$809,447,000.

#### *Cost Capitalization*

We capitalize costs during the development of assets beginning when we determine that development of a future asset is probable until the asset, or a portion of the asset, is delivered and is ready for its intended use. For redevelopment efforts, we capitalize costs beginning either (i) in advance of taking homes out of service when significant renovation of the common area has begun until the redevelopment is completed, or (ii) when an apartment home is taken out of service for redevelopment until the redevelopment is completed and the apartment home is available for a new resident. Rental income and operating expenses incurred during the initial lease-up or post-redevelopment lease-up period are fully recognized as they accrue.

During the development and redevelopment efforts we capitalize all direct and those indirect costs which have been incurred as a result of the development and redevelopment activities. These costs include interest and related loan fees, property taxes as well as other direct and indirect costs. Interest is capitalized for any project specific financing, as well as for general corporate financing to the extent of our aggregate investment in the projects. Indirect project costs, which include personnel and office and administrative costs, that are clearly associated with our development and redevelopment efforts are also capitalized. The estimation of the direct and indirect costs to capitalize as part of our development and redevelopment activities requires judgment, and as such, we believe cost capitalization to be a critical accounting estimate.

There may be a change in our operating expenses in the event that there are changes in accounting guidance governing capitalization or changes to development or redevelopment activity. If changes in the accounting guidance limit our ability to capitalize costs or if we reduce our development and redevelopment activities without a corresponding decrease in indirect project costs, there may be an increase in our operating expenses. For example, if for the three months ended September 30, 2007, our development activities decreased by 10%, and there were no corresponding decrease in our indirect project costs, our operating expenses would have increased by \$2,600,000.

We capitalize pre-development costs incurred in pursuit of Development Rights for which we currently believe future development is probable. These costs include legal fees, design fees and related overhead costs. Future development of these pursuits is dependent upon various factors, including zoning and regulatory approval, rental market conditions, construction costs and availability of capital. Pre-development costs incurred in the pursuit of Development Rights for which future development is not yet considered probable are expensed as incurred. In addition, if the status of a Development Right changes, making future development no longer probable, any capitalized pre-development costs are written-off with a charge to expense.

Due to the subjectivity in determining whether a pursuit will result in the acquisition or development of an apartment community, and therefore should be capitalized, the accounting for pursuit costs is a critical accounting estimate. If it were determined that 10% of our capitalized pursuits were no longer probable of occurring, net income for the quarter ended September 30, 2007 would have decreased by \$5,445,000.

#### *Asset Impairment Evaluation*

We apply the provisions of SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*, to determine the need for performing impairment analyses, as well as to measure the loss if an impairment has occurred on a regular basis, considering qualitative economic factors. Because each asset is unique, requiring significant management judgment, we believe that the asset impairment evaluation is a critical accounting estimate.

Management judgment is required both to determine if a significant event has occurred, such that an impairment analysis is necessary, as well as for the assessment and measurement of any potential impairment. To perform the impairment analysis, we must estimate the undiscounted future cash flows associated with the asset, which in the case of an apartment community would be the NOI, as well as potential disposition proceeds for a given asset. Forecasting cash flows requires assumptions about such variables as the estimated holding period, rental rates, occupancy and operating expenses during the holding period as well as disposition proceeds. In addition, when an impairment has occurred, we must estimate the discount factor, or market capitalization rate to apply to the undiscounted cash flows to derive the fair value of the position. The market capitalization rate is influenced by many factors, including national and local economic conditions, as well as the location and quality of the asset.

Changes in the future cash flows associated with an asset have a direct, linear relationship to the fair value of the position. For example, if there is a 10% decline in the estimated NOI for a community, there would be a corresponding decrease in the fair value of that asset of 10%. Changes in the market capitalization rate have an inverse relationship with the fair value of an asset, with a decrease in the market capitalization rate resulting in an increase in the fair value of the asset. For example, an asset that is valued at \$80,000,000 when using a five percent market capitalization rate will increase in value to \$100,000,000 if the market capitalization rate decreases by one percent to four percent, and to \$133,000,000 if the market capitalization rate decreases by two percent, to a three percent market capitalization rate.

For the nine months ended September 30, 2007, we did not recognize any impairment in value associated with our investments or long-lived assets. We cannot predict the occurrence of future events that may cause an impairment assessment to be performed.

*REIT Status*

We are a Maryland corporation that has elected to be treated, for federal income tax purposes, as a REIT. We elected to be taxed as a REIT under the Internal Revenue Code of 1986 ( the Code ), as amended, for the year ended December 31, 1994 and have not revoked such election. A corporate REIT is a legal entity which holds real estate interests and must meet a number of organizational and operational requirements, including a requirement that it currently distribute at least 90% of its adjusted taxable income to stockholders. As a REIT, we generally will not be subject to corporate level federal income tax on taxable income if we distribute 100% of taxable income to our stockholders over time periods allowed under the Code. If we fail to qualify as a REIT in any taxable year, we will be subject to federal income taxes at regular corporate rates (subject to any applicable alternative minimum tax) and may not be able to elect to qualify as a REIT for four subsequent taxable years. For example, if we failed to qualify as a REIT in 2006, our net income would have decreased by approximately \$70,000,000.

Our qualification as a REIT requires management to exercise significant judgment and consideration with respect to operational matters and accounting treatment. Therefore, we believe our REIT status is a critical accounting estimate.

**Part I. FINANCIAL INFORMATION**

Item 3. Quantitative and Qualitative Disclosures About Market Risk

There have been no material changes to our exposures to market risk since December 31, 2006.

Item 4. Controls and Procedures

(a) Evaluation of disclosure controls and procedures.

The Company carried out an evaluation under the supervision and with the participation of the Company's management, including the Company's Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of the Company's disclosure controls and procedures as of September 30, 2007. Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that the Company's disclosure controls and procedures are effective to ensure that information required to be disclosed by the Company in the reports it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission's rules and forms.

We continue to review and document our disclosure controls and procedures, including our internal controls and procedures for financial reporting, and may from time to time make changes aimed at enhancing their effectiveness and to ensure that our systems evolve with our business.

(b) Changes in internal controls over financial reporting.

During the third quarter of 2007, we opened an office in Virginia Beach, Virginia. We expect to utilize this office to centralize certain community-related accounting, administrative and customer service functions. The transition began during the third quarter of 2007, when certain community-related accounting functions were relocated to our Virginia Beach office. This transition of previously decentralized processing functions is expected to continue through the end of 2008. Consistent with any process changes that we implement, the design of the internal controls has and will continue to be evaluated for effectiveness as part of our overall assessment of the effectiveness of our disclosure controls and procedures. We expect that centralization of these accounting, operational and administrative processes will improve our internal controls over financial reporting as related to certain community-related accounting and administrative functions.

**Part II. OTHER INFORMATION**

Item 1. Legal Proceedings

We are seeking compensatory damages, as well as punitive and treble damages, in a complaint we filed in October 2007 in the U.S. District Court, Eastern District of Virginia (Alexandria) against a former vice president of the Company who had authority over repair and capital improvements at existing communities (*AvalonBay Communities, Inc. v. James R. Willden*). The complaint alleges, among other things, that the former employee colluded to receive payments from a vendor in exchange for approving invoices. We previously filed a complaint in the same court against this vendor and its president (*AvalonBay Communities, Inc. v. San Jose Water Conservation Corp. and Michael P. Schroll*). We are investigating these and other payments approved by or under the supervision of this former employee and may amend these complaints or file additional complaints. We do not expect that the loss related to this matter will be material to our results of operations or financial condition.

## Item 1a. Risk Factors

In addition to the other information set forth in this report, you should carefully consider the factors which could materially affect our business, financial condition or future results discussed in the Form 10-K/A in Part I, Item 1a. Risk Factors. The risks described in the Form 10-K/A are not the only risks that could affect the Company. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition and/or operating results in the future. There have been no material changes to our risk factors since December 31, 2006.

## Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

None.

## Issuer Purchases of Equity Securities

| Period                           |                 | (a)<br>Total<br>Number<br>of Shares<br>Purchased | (b)<br>Average<br>Price<br>Paid per<br>Share | (c)<br>Total Number<br>of<br>Shares<br>Purchased<br>as Part of<br>Publicly<br>Announced<br>Plans<br>or Programs | (d)<br>Maximum<br>Dollar<br>Amount that<br>May<br>Yet be<br>Purchased<br>Under the<br>Plans or<br>Programs<br><br>(in thousands)<br>(2) |
|----------------------------------|-----------------|--|--|---|---|
| July 1 - July 31, 2007           |                 |  |  |   | \$ 300,000  |
| August 1                         | August 31, 2007 | 896,207(1)                                       | \$ 111.37                                    | 896,200   | \$ 200,195  |
| September 1 - September 30, 2007 |                 | 135,200  | \$ 110.93                                    | 135,200   | \$ 185,197  |

(1) Includes 7 shares surrendered to the Company in connection with vesting of restricted stock as payment of exercise price or as payment of taxes.

(2) As disclosed in our Form 10-Q for the quarter ended June 30, 2007, on



August 3, 2007,  
the Board of  
Directors voted  
to increase to  
\$300,000,000  
the aggregate  
purchase price  
of shares that  
may be  
purchased under  
the Company's  
Stock  
Repurchase  
Program, under  
which we may  
acquire, from  
time to time,  
shares of  
common stock  
in the open  
market. In  
determining  
whether to  
repurchase  
shares, we  
consider a  
variety of  
factors,  
including  
among other  
things our  
liquidity needs,  
corporate and  
legal  
requirements,  
the then current  
market price of  
our shares,  
market  
conditions, and  
the effect of the  
share  
repurchases on  
our per share  
earnings and  
FFO. There is  
no scheduled  
expiration date  
to this program.

Item 3. Defaults Upon Senior Securities

None.

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

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None.

Item 5. Other Information

None.

Item 6. Exhibits

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| Exhibit No. | Description  |
|-------------|--|
| 3(i).1      | Articles of Amendment and Restatement of Articles of Incorporation of AvalonBay Communities (the Company ), dated as of June 4, 1998. (Incorporated by reference to Exhibit 3(i).1 to Form 10-K of the Company filed on March 1, 2007.)  |
| 3(i).2      | Articles of Amendment, dated as of October 2, 1998. (Incorporated by reference to Exhibit 3.1(ii) to Form 10-K of the Company filed on March 1, 2007.)   |
| 3(i).3      | Articles Supplementary, dated as of October 13, 1998, relating to the 8.70% Series H Cumulative Redeemable Preferred Stock. (Incorporated by reference to Exhibit 3(i).3 to Form 10-K of the Company filed on March 1, 2007.)  |
| 3(ii).1     | Amended and Restated Bylaws of the Company, as adopted by the Board of Directors on February 13, 2003. (Incorporated by reference to Exhibit 3(ii) to Form 10-K of the Company filed March 11, 2003.)  |
| 4.1         | Second Supplemental Indenture of Avalon Properties, Inc. (hereinafter referred to as Avalon Properties ) dated as of December 16, 1997. (Incorporated by reference to Exhibit 4.3 to Form 10-K of the Company filed March 11, 2003.)   |
| 4.2         | Indenture for Senior Debt Securities, dated as of January 16, 1998, between the Company and State Street Bank and Trust Company, as Trustee. (Incorporated by reference to Exhibit 4.1 to Registration Statement on Form S-3 of the Company (File No. 333-139839), filed January 8, 2007.)         |
| 4.3         | First Supplemental Indenture, dated as of January 20, 1998, between the Company and the State Street Bank and Trust Company as Trustee. (Incorporated by reference to Exhibit 4.2 to Registration Statement on Form S-3 of the Company (File No. 333-139839), filed January 8, 2007.)              |
| 4.4         | Second Supplemental Indenture, dated as of July 7, 1998, between the Company and State Street Bank and Trust Company as Trustee. (Incorporated by reference to Exhibit 4.3 to Registration Statement on Form S-3 of the Company (File No. 333-139839), filed January 8, 2007.)                     |
| 4.5         | Amended and Restated Third Supplemental Indenture, dated as of July 10, 2000 between the Company and State Street Bank and Trust Company as Trustee. (Incorporated by reference to Exhibit 4.4 to Registration Statement on Form S-3 of the Company (File No. 333-139839), filed January 8, 2007.) |
| 4.6         | Fourth Supplemental Indenture, dated as of September 18, 2006 between the Company and U.S. Bank National Association as Trustee. (Incorporated by reference to Exhibit 4.5 to Registration Statement on Form S-3 of the Company (File No. 333-139839), filed January 8, 2007.)                     |
| 4.7         | Dividend Reinvestment and Stock Purchase Plan of the Company. (Incorporated by reference to Exhibit 8.1 to Registration Statement on Form S-3 of the Company (File No. 333-87063), filed September 14, 1999.)  |

- 4.8 Amendment to the Company's Dividend Reinvestment and Stock Purchase Plan filed on December 17, 1999. (Incorporated by reference to the Prospectus Supplement filed pursuant to Rule 424(b)(2) of the Securities Act of 1933 on December 17, 1999.)

| Exhibit No. | Description  |
|-------------|--|
| 4.9         | Amendment to the Company's Dividend Reinvestment and Stock Purchase Plan filed on March 26, 2004. (Incorporated by reference to the Prospectus Supplement filed pursuant to Rule 424(b)(3) of the Securities Act of 1933 on March 26, 2004.) |
| 4.10        | Amendment to the Company's Dividend Reinvestment and Stock Purchase Plan filed in May 15, 2006. (Incorporated by references to the Prospectus Supplement filed pursuant to Rule 424(b)(3) of the Securities Act of 1933 on May 15, 2006.)    |
| 10.1        | Amendment, dated September 19, 2007, to the AvalonBay Communities, Inc. 1994 Stock Incentive Plan, as amended and restated on December 8, 2004. (Filed herewith.)  |
| 10.2        | Amendment, effective September 30, 2007, to the Company's quarterly compensation of Non-Employee Directors. (Filed herewith.)  |
| 10.3        | Amended Form of AvalonBay Communities, Inc. Director Restricted Stock Agreement. (Filed herewith.)   |
| 10.4        | Amended Form of AvalonBay Communities, Inc. Director Restricted Unit Agreement. (Filed herewith.)  |
| 12.1        | Statements re: Computation of Ratios. (Filed herewith.)  |
| 31.1        | Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (Chief Executive Officer.) (Filed herewith.)   |
| 31.2        | Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (Chief Financial Officer.) (Filed herewith.)   |
| 32          | Certification pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (Chief Executive Officer and Chief Financial Officer.) (Furnished 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.

**AVALONBAY COMMUNITIES, INC.**

Date: November 8, 2007

/s/ Bryce Blair

Bryce Blair  
Chief Executive Officer  
(Principal Executive Officer)

Date: November 8, 2007

/s/ Thomas J. Sargeant

Thomas J. Sargeant  
Chief Financial Officer  
(Principal Financial Officer)