

AVALONBAY COMMUNITIES INC

Form 8-K

November 26, 2012

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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 8-K**

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of**  
**the Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported) **November 26, 2012**

**AVALONBAY COMMUNITIES, INC.**

(Exact Name of Registrant as Specified in Its Charter)

**Maryland**

(State or Other Jurisdiction of Incorporation)

**1-12672**

(Commission File Number)

**77-0404318**

(I.R.S. Employer Identification No.)

**671 N. Glebe Road, Suite 800, Arlington, Virginia**  
(Address of Principal Executive Offices)

**22203**  
(Zip Code)

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**(703) 329-6300**

(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 1.01 Entry into A Material Definitive Agreement.**

***The Archstone Portfolio Acquisition***

On November 26, 2012, we entered into an asset purchase agreement, or the Purchase Agreement, with (i) Equity Residential and its operating partnership, ERP Operating Partnership LP, or, collectively, Equity Residential, (ii) Lehman Brothers Holdings Inc., or Lehman, and (iii) Archstone Enterprise LP, or Archstone, pursuant to which we and Equity Residential will acquire, directly or indirectly, all of the assets and entities owned by, and all of the liabilities of, Archstone (other than certain excluded liabilities).

Pursuant to the Purchase Agreement and separate arrangements between us and Equity Residential governing the allocation of liabilities to be assumed under the Purchase Agreement, our portion of consideration under the Purchase Agreement is approximately \$6.9 billion, and consists of the following:

- the issuance of 14,889,706 shares of our common stock to Archstone, valued at \$1.9 billion, using the closing price for our common stock on the New York Stock Exchange on November 23, 2012 of \$128.54;
- \$669.0 million in cash;
- the assumption of indebtedness with a fair value of approximately \$4.1 billion, consisting of \$3.7 billion principal amount for consolidated borrowings, \$238.3 million principal amount for our proportionate share of debt related to unconsolidated joint ventures, and \$197.5 million representing the amount by which the fair value of the aforementioned debt exceeds the principal face value;
- an obligation to pay, when presented for redemption from time to time, approximately \$132.2 million in respect of the liquidation value of and accrued dividends on outstanding Archstone preferred units; and
- the assumption of 40% of all other liabilities, known or unknown, of Archstone, other than certain excluded liabilities.

For this consideration, we will acquire a portfolio of direct and indirect interests in apartment communities and net other liabilities that we refer to as the Archstone Portfolio Acquisition.

The Archstone Portfolio Acquisition represents a rare opportunity for us to buy a large portfolio of high-quality apartment communities that is concentrated in our existing high barrier-to-entry markets and is consistent with our strategic objective of more deeply penetrating our chosen

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markets with a broader range of products and services. For the nine months ended September 30, 2012, 98% of the net operating income, or NOI, from the consolidated apartment communities we expect to acquire in the Archstone Portfolio Acquisition is generated in our existing markets. The Archstone Portfolio Acquisition consists of the following:

- 66 consolidated apartment communities, containing 22,222 apartment homes, of which six communities are under construction and are expected to contain 1,666 apartment homes upon completion;
- three parcels of land, which are consolidated, and if developed as expected, will contain a total of 968 apartment homes;
- interests in unconsolidated joint ventures in which we expect to be the general partner or managing member, which own 10 apartment communities containing 2,040 apartment homes, of which one community is under construction and is expected to contain 157 apartment homes upon completion; and
- a 40% ownership interest in unconsolidated joint venture arrangements with Equity Residential which will hold assets that we will jointly manage, sell to third parties, and/or subsequently transfer to Equity Residential or to us.

The following table provides the approximate allocation of the Company's investment in the Archstone Portfolio Acquisition:

<b>Archstone Portfolio Acquisition</b>	<b>Acquisition Value(1)</b> <b>(in thousands)</b>
Consolidated stabilized assets	\$ 6,140,323
Development communities under construction	308,819
Land held for future development	49,800
Net equity in unconsolidated joint ventures plus allocated joint venture debt	410,112
<b>Total</b>	<b>\$ 6,909,054</b>

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(1) Value is based on the closing price of our common stock on November 23, 2012 and the fair market value of debt we expect to assume.

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Under the Purchase Agreement, we will acquire 40% of the assets and liabilities of Archstone and Equity Residential will acquire the remaining 60% of the assets and liabilities of Archstone. We refer herein to 40% and 60% as our respective pro rata shares. We and Equity Residential are jointly and severally liable for most obligations to Lehman under the Purchase Agreement. The Purchase Agreement provides that the closing of the acquisitions thereunder must occur within 120 days after execution of the Purchase Agreement. If we and Equity Residential fail to close the acquisition, then Equity Residential and we could be liable for payment of a termination fee of \$800.0 million (or \$650.0 million if the Purchase Agreement is terminated in the first 60 days after signing) as discussed Under Purchase Agreement and Related Arrangements. The Archstone Portfolio Acquisition is also subject to customary closing conditions, which do not include our and Equity Residential's ability to obtain the necessary financing or lender consents for the transaction. Neither we nor Equity Residential could terminate the Purchase Agreement because of a lack of financing or lender consents without incurring the termination fee.

*The Archstone Portfolio*

We believe the Archstone Portfolio Acquisition will create strategic, portfolio and financial benefits for us, including the following:

- It will increase our ownership of high-quality apartment communities in our existing markets.
- It will allow us to more closely align our portfolio allocation with our long-term geographic allocation goals.
- It will expand our portfolio into complementary submarkets with more varied product offerings.
- It will enable us to more rapidly implement our multi-branding strategy.
- It will provide enhanced corporate efficiencies due to our increased scale.

*High-Quality Portfolio Concentrated in Our Markets.* The following table provides the percentage of NOI generated during the nine months ended September 30, 2012, by region for our consolidated apartment communities, as well as communities that were under construction, or for which substantial redevelopment is planned or that occurred during 2012, pro forma for the Archstone Portfolio Acquisition (dollars in thousands);

Region/Portfolio (1)	AvalonBay		Archstone Portfolio(3)		Pro Forma	
	NOI YTD 2012(2)	% of Total NOI	NOI YTD 2012(2)	% of Total NOI	NOI YTD 2012(2)	% of Total NOI
New England	\$ 99,277	19%	\$ 7,433	3%	\$ 106,710	14%

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Metro NY/NJ	156,135	29%	31,336	14%	187,471	25%
Mid-Atlantic	71,401	14%	61,727	29%	133,128	18%
Pacific Northwest	27,241	5%	5,471	3%	32,712	4%
Northern California	102,335	19%	31,544	15%	133,879	18%
Southern California	74,287	14%	72,910	34%	147,197	20%
Non-Core and Other	447	0%	5,227	2%	5,674	1%
Total NOI	\$ 531,123	100%	\$ 215,648	100%	\$ 746,771	100%

(1) NOI for the nine months ended September 30, 2012 for consolidated apartment communities, excluding NOI from apartment communities in joint ventures. NOI is a non-GAAP financial measure. For a description of how we define NOI and a reconciliation of NOI to net income, please see Reconciliation of Non-GAAP Financial Measures beginning on page F-14 of this report.

(2) GAAP net income for AvalonBay, the Archstone Portfolio Acquisition, and on a pro forma basis, assuming the acquisition of the portfolio, was \$301,178, \$43,425 and \$344,603, respectively for the nine months ended September 30, 2012.

(3) NOI for the nine months ended September 30, 2012 for this portfolio includes \$26 for communities for which construction is not complete but leasing activity has begun.

For the nine months ended September 30, 2012, pro forma for the Archstone Portfolio Acquisition, 99% of the NOI from our apartment communities would be concentrated in our existing high barrier-to-entry markets.

In connection with the Archstone Portfolio Acquisition, we will acquire interests in certain non-core assets or communities in non-core markets for us, including interests in assets in Texas, Florida and Germany. Some of these interests will be held and managed in a joint venture with Equity Residential, pending disposition or assignment to Equity Residential or us.

*Achieving Geographic Portfolio Allocation Goals.* We believe that the Archstone Portfolio Acquisition will allow us to bring our overall portfolio more closely in line with our long-term goals for regional allocation. In particular, our current Southern California portfolio is expected to grow from approximately 10,400 apartment homes at September 30, 2012 to approximately 19,200 apartment homes pro forma for the Archstone Portfolio Acquisition. Other geographic allocation adjustments expected to be achieved through the Archstone Portfolio Acquisition include a reduction in our relative concentration in the New England and Metro New York/New Jersey regions (where relatively few of the Archstone Portfolio Acquisition apartment communities to be acquired by us are located) and an increase in our mid-Atlantic region presence.

*Complementary Submarket and Product Positioning.* Many of the apartment communities to be acquired by us in the Archstone Portfolio Acquisition are located in submarkets that are different than, but complementary to, the submarkets where our current apartment communities are located within each of our six main market regions.

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For example, in the Mid-Atlantic region, our existing apartment communities are more concentrated in suburban locations such as the Rockville/Gaithersburg corridor in suburban Maryland and the Tysons Corner and Fairfax submarkets in Northern Virginia. By contrast, the Archstone Portfolio Acquisition apartment communities in the Washington, D.C. market are concentrated in more urban, higher density submarkets such as the Rosslyn/Ballston corridor in Arlington, Virginia and the Wisconsin/Connecticut Avenue NW corridor in Washington D.C. We believe that many of the apartment communities to be acquired by us in the Archstone Portfolio Acquisition are also positioned to appeal to a somewhat different consumer segment than our existing assets based on the different characteristics of the Archstone Portfolio Acquisition apartment communities, which are generally more heavily weighted towards smaller apartments in high-rise buildings. We believe the Archstone Portfolio Acquisition will provide us with a more diversified portfolio with broader product offerings within each region where we currently do business.

*Increased Scale Supports our Multi-Brand Strategy.* We recently introduced a three brand strategy. We are currently in the process of rolling out our two new brands (*AVA* and *Eaves by Avalon*) at certain of our existing apartment communities, and refining our core *Avalon* brand. We believe that the Archstone Portfolio Acquisition will allow us to extend our three brand platform across additional assets in an efficient manner, bringing these brands to a meaningful market presence sooner than we otherwise would be able to do so.

*Enhanced Corporate Efficiencies Due to Increased Scale.* We expect that the increased scale of our apartment community portfolio from the Archstone Portfolio Acquisition will require a lower proportionate increase in our corporate and property management overhead and general and administrative expenses. We believe that our corporate support functions, including our customer care center in Virginia Beach and our marketing, customer insight, and market research groups in our corporate headquarters in Arlington, Virginia, are positioned to allow for absorption of additional assets to provide additional operating leverage.

The table below provides details by region for the operating apartment communities as of September 30, 2012 in which we expect to acquire a direct or indirect interest in connection with the Archstone Portfolio Acquisition.

Community	Location	Number of Homes	Average SF Per Home(1)	Year Built(2)	Revenue per Occupied Home (by Region)(3)
<b>New England</b>					
Archstone Quincy	Quincy, MA	224	705	1977	
Archstone Bear Hill	Waltham, MA	324	1,208	1999	
Legacy Place(4)	Dedham, MA	285	1,075	2011	
<b>Subtotal New England</b>		<b>833</b>	<b>1,027</b>		<b>\$ 2,270</b>
<b>Metro New York / New Jersey</b>					
Archstone Clinton North	New York, NY	339	536	2008	
Archstone Clinton South	New York, NY	288	557	2007	
Archstone Midtown West	New York, NY	550	716	1998	
Kips Bay(4)	New York, NY	208	733	1997	
Archstone Meadowbrook Crossing	Westbury, NY	396	1,014	2006	
<b>Subtotal Metro New York / New Jersey</b>		<b>1,781</b>	<b>724</b>		<b>\$ 3,338</b>

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<b>Community</b>	<b>Location</b>	<b>Number of Homes</b>	<b>Average SF Per Home(1)</b>	<b>Year Built(2)</b>	<b>Revenue per Occupied Home (by Region)(3)</b>
<b>Mid-Atlantic</b>					