AVALONBAY COMMUNITIES INC
Form 10-K
March 02, 2009

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

FORM 10-K
ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2008
Commission file number 1-12672
AVALONBAY COMMUNITIES, INC.
(Exact name of registrant as specified in its charter)

Maryland	77-0404318
(State or other jurisdiction of incorporation or organization)	*(I.R.S. Employer Identification No.)*

2900 Eisenhower Avenue, Suite 300
Alexandria, Virginia 22314
(Address of principal executive office)
(703) 329-6300
(Registrant s telephone number, including area code)

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

Common Stock, par value $.01 per share	New York Stock Exchange
(Title of each class)	*(Name of each exchange on which registered)*

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

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

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

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 90 days.
Yes þ Noo

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

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

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

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

Yes o No þ

The aggregate market value of the Registrant s Common Stock, par value $.01 per share, held by nonaffiliates of the registrant, as of June 30, 2008 was $6,818,282,578.

The number of shares of the registrant s Common Stock, par value $.01 per share, outstanding as of January 31, 2009 was 79,745,531.

Documents Incorporated by Reference

Portions of AvalonBay Communities, Inc. s Proxy Statement for the 2009 annual meeting of stockholders, a definitive copy of which will be filed with the SEC within 120 days after the year end of the year covered by this Form 10-K, are incorporated by reference herein as portions of Part III of this Form 10-K.

TABLE OF CONTENTS

PART I

This Form 10-K contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Our actual results could differ materially from those set forth in each forward-looking statement. Certain factors that might cause such a difference are discussed in this report, including in the section entitled Forward-Looking Statements included in this Form 10-K. You should also review Item 1a., Risk Factors, for a discussion of various risks that could adversely affect us.

ITEM 1. BUSINESS

General

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 treated as a real estate investment trust, or REIT, for federal income tax purposes. We engage in the development, redevelopment, acquisition, ownership and operation of multifamily communities in high barrier-to-entry markets of the United States. These barriers-to-entry 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 markets are located in New England, the New York/New Jersey metro area, the Mid-Atlantic, the Midwest, the Pacific Northwest, and the Northern and Southern California regions of the United States. We focus on these markets because we believe that over the long term, a limited new supply of apartment homes and lower housing affordability in these markets will result in larger increases in cash flows relative to other markets.

At January 31, 2009, we owned or held a direct or indirect ownership interest in:

- 164 operating apartment communities containing 45,728 apartment homes in ten states and the District of Columbia, of which (i) seven wholly owned communities containing 2,143 apartment homes were under redevelopment, as discussed below and (ii) 19 communities containing 3,829 apartment homes, of which two communities containing 467 apartment homes were under redevelopment, were held by the Fund (as defined below), which we manage and in which we own a 15.2% equity interest;

- 14 communities under construction that are expected to contain an aggregate of 4,564 apartment homes when completed; and

- rights to develop an additional 27 communities that, if developed in the manner expected, will contain an estimated 7,304 apartment homes.

We generally obtain ownership in an apartment community by developing a new community on vacant land or by acquiring an existing community. In selecting sites for development or acquisition, we favor locations that are near expanding employment centers and convenient to transportation, recreation areas, entertainment, shopping and dining.

Our real estate investments consist of the following reportable segments: Established Communities, Other Stabilized Communities and Development/Redevelopment Communities. Established Communities are generally operating communities that are consolidated for financial reporting purposes and that were owned and had stabilized occupancy and operating expenses as of the beginning of the prior year such that year-over-year comparisons are meaningful. Other Stabilized Communities are generally all other operating communities that have stabilized occupancy and operating expenses during the current year, but that had not achieved stabilization as of the beginning of the prior year such that year-over-year comparisons are not meaningful. Development/Redevelopment Communities consist of communities that are under construction, communities where substantial redevelopment is in progress or is planned to begin during the current year and communities under lease-up. A more detailed description of these segments and other related information can be found in Note 9, Segment Reporting, of the Consolidated Financial Statements set forth in Item 8 of this report.

Our principal financial goal is to increase long-term stockholder value through the development, acquisition, operation and ultimate disposition of apartments in our high barrier-to-entry markets. To help fulfill this goal, we regularly (i) monitor our investment allocation by geographic market and product type, (ii) develop, redevelop and acquire apartment communities in high barrier-to-entry markets with growing or high potential for demand and high for-sale housing costs, (iii) selectively sell apartment communities that no longer meet our long-term strategy or when opportunities are presented to realize a portion of the value created through our investment and redeploy the proceeds from those sales, and (iv) endeavor to maintain a capital structure that is aligned with our business risks such that we maintain continuous access to cost-effective capital. Our long-term strategy is to more deeply penetrate the high barrier-to-entry markets in our chosen regions with a broad range of products and services and intense focus on our customer. A substantial majority of our current 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.

During the three years ended December 31, 2008, excluding acquisitions for the Fund (as defined below), we acquired two apartment communities and purchased our partner s interest in a joint venture that owns an apartment community. All three communities financial results are consolidated for financial reporting purposes. During the same three-year period, excluding dispositions in which we retained an ownership interest, we disposed of 18 apartment communities, including a community held by a joint venture in which we held a 25% equity interest, disposed of one investment in a real estate joint venture and completed the development of 27 apartment communities and the redevelopment of seven apartment communities, including communities we redeveloped for the Fund (as defined below).

During this period, we also realized gains from the sale of a community owned by AvalonBay Value Added Fund, L.P. (the Fund), an institutional discretionary investment fund, which we manage and in which we own a 15.2% interest. The Fund acquired communities with the objective of either redeveloping or repositioning them, or taking advantage of market cycle timing and improved operating performance. Since its inception in March 2005, the Fund has acquired 20 communities and sold one community in 2008. The investment period for the Fund ended in March 2008.

In September 2008, we formed AvalonBay Value Added Fund II, L.P. (Fund II), an additional private, discretionary investment vehicle which we manage and in which we currently own a 45% interest. At final closing, the aggregate investor commitments to Fund II and our commitment and percentage interest in Fund II may change.

Fund II will seek to create value through redevelopment, enhanced operations and/or improving market fundamentals of communities that it will acquire, principally in our markets. A more detailed description of the Fund and Fund II and the related investment activity can be found in the discussion under Item I., Business General Financing Strategy and Note 6, Investments in Real Estate Entities of the Consolidated Financial Statements in Item 8 of this report.

During 2008, we sold 11 assets including one Fund asset, resulting in a gain in accordance with U.S. generally accepted accounting principles (GAAP) of $288,384,000.

As a result of the recent economic downturn and corresponding adverse impacts on employment and credit availability, we decreased our construction volume during 2008 (as measured by total projected capitalized cost at completion) and reduced our planned development activity for 2009. We do not anticipate starting any new development during the first half of 2009. Development starts in the second half of 2009, if any, will be evaluated based on our assessment of economic, real estate and capital market conditions at that time. We do anticipate an increase in our redevelopment activity for both wholly owned assets and assets held by the Fund.

For 2009, we anticipate asset sales in the range of $100,000,000 to $200,000,000, dependent on strategic and value realization opportunities. The level of our disposition activity also depends on real estate and capital market conditions. A further discussion of our development, redevelopment, disposition, acquisition, property management and related strategies follows.

Development Strategy. We select land for development and follow established procedures that we believe minimize both the cost and the risks of development. As one of the largest developers of multifamily rental apartment communities in high barrier-to-entry markets of the United States, we identify development opportunities through local market presence and access to local market information achieved through our regional offices. In addition to our principal executive office in Alexandria, Virginia, we also maintain regional offices, administrative offices or specialty offices in or near the following cities:

Boston, Massachusetts;

Chicago, Illinois;

Long Island, New York;

Los Angeles, California;

New York, New York;

Newport Beach, California;

San Francisco, California;

San Jose, California;

Seattle, Washington;

Shelton, Connecticut;

Virginia Beach, Virginia; and

Woodbridge, New Jersey.

After selecting a target site, we usually negotiate for the right to acquire the site either through an option or a long-term conditional contract. Options and long-term conditional contracts allow us to acquire the target site shortly before the start of construction, which reduces development-related risks and preserves capital. However, as a result of competitive market conditions for land suitable for development, we have acquired and held land prior to construction for extended periods while entitlements are obtained, or acquired land zoned for uses other than residential with the potential for rezoning. We currently own land that is held for development with an aggregate carrying basis under GAAP of $239,456,000 on which we have not yet commenced construction.

Except for certain mid-rise and high-rise apartment communities where we may elect to use third-party general contractors or construction managers, when we start construction we act as our own general contractor and construction manager. We generally perform these functions directly (although we may use a wholly owned subsidiary) both for ourselves and for the joint ventures and partnerships of which we are a member or a partner. We believe this enables us to achieve higher construction quality, greater control over construction schedules and significant cost savings. Our development, property management and construction teams monitor construction progress to ensure quality workmanship and a smooth and timely transition into the leasing and operating phase.

When there is increased competition for desirable development opportunities, we will in some cases be engaged in more complicated developments. For example, at times we have acquired and may in the future acquire existing commercial buildings with the intent to pursue rezoning, tenant terminations or expirations and demolition of the existing structures. During the period that we hold these buildings for future development, the net revenue from these operations, which we consider to be incidental, is accounted for as a reduction in our investment in the development pursuit and not as net income. We have also participated, and may in the future participate, in master planned or other large multi-use developments where we commit to build infrastructure (such as roads) to be used by other participants or commit to act as construction manager or general contractor in building structures or spaces for third parties (such as municipal garages or parks). Costs we incur in connection with these activities may be accounted for as additional invested capital in the community or we may earn fee income for providing these services. Particularly with large scale, urban in-fill developments, we may engage in significant environmental remediation efforts to prepare a site for construction.

Throughout this report, the term development is used to refer to the entire property development cycle, including pursuit of zoning approvals, procurement of architectural and engineering designs and the construction process. References to construction refer to the actual construction of the property, which is only one element of the development cycle.

Redevelopment Strategy. When we undertake the redevelopment of a community, our goal is to renovate and/or rebuild an existing community so that our total investment is generally below replacement cost and the community is well positioned in the market to achieve attractive returns on our capital. We have established a dedicated group of associates and procedures to control both the cost and risks of redevelopment. Our redevelopment teams, which include key redevelopment, construction and property management personnel, monitor redevelopment progress. We believe we achieve significant cost savings by acting as our own general contractor. More importantly, this helps to ensure quality design and workmanship and a smooth and timely transition into the lease-up and restabilization phases.

Throughout this report, the term redevelopment is used to refer to the entire redevelopment cycle, including planning and procurement of architectural and engineering designs, budgeting and actual renovation work. The actual renovation work is referred to as reconstruction, which is only one element of the redevelopment cycle.

Disposition Strategy. We sell assets that no longer meet our long-term strategy or when market conditions are favorable, and we redeploy the proceeds from those sales to develop, redevelop and acquire communities and to rebalance our portfolio across geographic regions. This also allows us to realize a portion of the value created through our investments, and provides additional liquidity. We are then able to redeploy the net proceeds from our dispositions in lieu of raising that amount of capital externally by issuing debt or equity securities. When we decide to sell a community, we solicit competing bids from unrelated parties for these individual assets and consider the sales price of each proposal.

Acquisition Strategy. Our core competencies in development and redevelopment discussed above allow us to be selective in the acquisitions we target. Acquisitions allow us to achieve rapid penetration into markets in which we desire an increased presence. Acquisitions (and dispositions) also help us achieve our desired product mix or rebalance our portfolio. In 2005 we formed the Fund which, until its investment period closed in March 2008, served as the exclusive vehicle through which we acquired additional investments in apartment communities, subject to limited exceptions. In September 2008, we formed Fund II, which will serve as the exclusive vehicle through which we will acquire additional investments in apartment communities until the earlier of September 2011 or until 90% of its committed capital is invested, subject to limited exceptions. As of December 31, 2008, Fund II had made no investments.

Property Management Strategy. We seek to increase operating income through innovative, proactive property management that will result in higher revenue from communities while constraining operating expenses.

Our principal strategies to maximize revenue include:

- strong focus on resident satisfaction;
- staggering lease terms such that lease expirations are better matched to traffic patterns;
- balancing high occupancy with premium pricing, and increasing rents as market conditions permit; and
- managing community occupancy for optimal rental revenue levels.

Constraining growth in operating expenses is another way in which we seek to increase earnings growth. Growth in our portfolio and the resulting increase in revenue allows for fixed operating costs to be spread over a larger volume of revenue, thereby increasing operating margins. We constrain growth in operating expenses in a variety of ways, which include the following, among others:

- we use purchase order controls, acquiring goods and services from pre-approved vendors;
- we purchase supplies in bulk where possible;
- we bid third-party contracts on a volume basis;
- we strive to retain residents through high levels of service in order to eliminate the cost of preparing an apartment home for a new resident and to reduce marketing and vacant apartment utility costs;
- we perform turnover work in-house or hire third parties, generally depending upon the least costly alternative;

- we undertake preventive maintenance regularly to maximize resident satisfaction and property and equipment life; and

- we aggressively pursue real estate tax appeals.

On-site property management teams receive bonuses based largely upon the net operating income produced at their respective communities. We use and continuously seek ways to improve technology applications to help manage our communities, believing that the accurate collection of financial and resident data will enable us to maximize

revenue and control costs through careful leasing decisions, maintenance decisions and financial management.
We generally manage the operation and leasing activity of our communities directly (although we may use a wholly owned subsidiary) both for ourselves and the joint ventures and partnerships of which we are a member or a partner. From time to time we also pursue or arrange ancillary services for our residents to provide additional revenue sources or increase resident satisfaction. In general, as a REIT we cannot directly provide services to our tenants that are not customarily provided by a landlord, nor can we share in the income of a third party that provides such services. However, we can provide such non-customary services to residents or share in the revenue from such services if we do so through a taxable REIT subsidiary, which is a subsidiary that is treated as a C corporation and is therefore subject to federal income taxes.

Financing Strategy. We have consistently maintained, and intend to continue to maintain, a capital structure that provides us with flexibility in meeting the financial obligations and opportunities presented by our real estate development and ownership business. We estimate that a portion of our short-term liquidity needs will be met from retained operating cash, borrowings under our variable rate unsecured credit facility and sales of current operating communities. If required to meet the balance of our current or anticipated liquidity needs, we will borrow funds under our existing unsecured credit facility, sell existing communities or land and/or issue additional debt or equity securities. A determination to engage in an equity or debt offering depends on a variety of factors such as general market and economic conditions, including interest rates, our short and long term liquidity needs, the adequacy of our expected liquidity sources, the relative costs of debt and equity capital and growth opportunities. A summary of debt and equity activity for the last three years is reflected on our Consolidated Statement of Cash Flows of the Consolidated Financial Statements set forth in Item 8 of this report.

We have entered into, and may continue in the future to enter into, joint ventures (including limited liability companies) or partnerships through which we would own an indirect economic interest of less than 100% of the community or communities owned directly by such joint ventures or partnerships. Our decision whether to hold an apartment community in fee simple or to have an indirect interest in the community through a joint venture or partnership is based on a variety of factors and considerations, including: (i) the economic and tax terms required by a seller of land or of a community; (ii) our desire to diversify our portfolio of communities by market, submarket and product type; (iii) our desire at times to preserve our capital resources to maintain liquidity or balance sheet strength; and (iv) our projection, in some circumstances, that we will achieve higher returns on our invested capital or reduce our risk if a joint venture or partnership vehicle is used. Investments in joint ventures or partnerships are not limited to a specified percentage of our assets. Each joint venture or partnership agreement is 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.

From its inception in 2005 until the investment period closed in March 2008, the Fund was the exclusive vehicle through which we invested in the acquisition of apartment communities, subject to certain exceptions. In September 2008, we formed Fund II. Fund II will now serve as the exclusive vehicle through which we will invest in the acquisition of apartment communities, subject to certain exceptions, until the earlier of September 2011 or until 90% of its committed capital is invested. These exceptions include significant individual asset and portfolio acquisitions, properties acquired in tax-deferred transactions and acquisitions that are inadvisable or inappropriate for Fund II. Fund II does not restrict our development activities, and will terminate after a term of ten years, subject to two one-year extensions. Fund II has four institutional investors, including us, with a combined equity capital commitment of $333,000,000. A significant portion of the investments made in Fund II by its investors are being made through

AvalonBay Value Added REIT II, LP, a Delaware limited partnership that intends to qualify as a REIT under the Internal Revenue Code (the Fund II REIT). A wholly owned subsidiary of the Company is the general partner of Fund II and has committed $150,000,000 to Fund II and the Fund II REIT (none of which has been invested as of January 31, 2009) representing a 45% combined general partner and limited partner equity interest. At final closing, the aggregate investor commitments to Fund II and our commitment and percentage interest in Fund II may change. As of January 31, 2009, Fund II has made no investments.

In addition, we may, from time to time, offer shares of our equity securities, debt securities or options to purchase stock in exchange for property.

Other Strategies and Activities. While we emphasize equity real estate investments in rental apartment communities, we have the ability to invest in other types of real estate, mortgages (including participating or convertible mortgages), securities of other REITs or real estate operating companies, or securities of technology companies that relate to our real estate operations or of companies that provide services to us or our residents, in each case consistent with our qualification as a REIT. On occasion, we own and lease retail space at our communities when either (i) the highest and best use of the space is for retail (e.g., street level in an urban area) or (ii) we believe the retail space will enhance the attractiveness of the community to residents. As of December 31, 2008, we had a total of 425,251 square feet of rentable retail space that produced gross rental revenue in 2008 of $10,166,000 (1.2% of total revenue). If we secure a development right and believe that its best use, in whole or in part, is to develop the real estate with the intent to sell rather than hold the asset, we may, through a taxable REIT subsidiary, develop real estate for sale. At present, through a taxable REIT subsidiary that is a 50% partner in Aria at Hathorne, LLC, we have an economic interest in the development of 64 for-sale town homes at a total projected capital cost of $23,621,000. This for-sale development is on a site that is adjacent to our Avalon Danvers community and that is zoned for for-sale development. Any investment in securities of other entities, and any development of real estate for sale, is subject to the percentage of ownership limitations, gross income tests, and other limitations that must be observed for REIT qualification.

We have not engaged in trading, underwriting or agency distribution or sale of securities of other issuers and do not intend to do so. At all times we intend to make investments in a manner so as to qualify as a REIT unless, because of circumstances or changes to the Internal Revenue Code (or the Treasury Regulations), our Board of Directors determines that it is no longer in our best interest to qualify as a REIT.

Tax Matters

We filed an election with our 1994 federal income tax return to be taxed as a REIT under the Internal Revenue Code of 1986, as amended, and intend to maintain our qualification as a REIT in the future. As a qualified REIT, with limited exceptions, we will not be taxed under federal and certain state income tax laws at the corporate level on our taxable net income to the extent taxable net income is distributed to our stockholders. We expect to make sufficient distributions to avoid income tax at the corporate level. While we believe that we are organized and qualified as a REIT and we intend to operate in a manner that will allow us to continue to qualify as a REIT, there can be no assurance that we will be successful in this regard. Qualification as a REIT involves the application of highly technical and complex provisions of the Internal Revenue Code for which there are limited judicial and administrative interpretations and involves the determination of a variety of factual matters and circumstances not entirely within our control.

Competition

We face competition from other real estate investors, including insurance companies, pension and investment funds, partnerships and investment companies and other REITs, to acquire and develop apartment communities and acquire land for future development. As an owner and operator of apartment communities, we also face competition for prospective residents from other operators whose communities may be perceived to offer a better location or better amenities or whose rent may be perceived as a better value proposition given the quality, location and amenities that the resident seeks. We also compete against condominiums and single-family homes that are for sale or rent. Although we often compete against large sophisticated developers and operators for development opportunities and for prospective residents, real estate developers and operators of any size can provide effective competition for both real estate assets and potential residents.

Environmental and Related Matters

As a current or prior owner, operator and developer of real estate, we are subject to various federal, state and local environmental laws, regulations and ordinances and also could be liable to third parties resulting from environmental contamination or noncompliance at our communities. For some development communities, we undertake extensive environmental remediation to prepare the site for construction, which could be a significant portion of our total construction cost. Environmental remediation efforts could expose us to possible liabilities for accidents or improper handling of contaminated materials during construction. These and other risks related to environmental matters are described in more detail in Item 1a., Risk Factors .

Other Information

We file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any document we file at the SEC s Public Reference Room at 100 F Street, N.E., Washington, D.C. 20002. You may call the SEC at 1-800-SEC-0330 for further information on the operation of the Public Reference Room. Our SEC filings are also available to the public from the SEC s website at www.sec.gov. In addition, you may read our SEC fillings at the offices of the New York Stock Exchange (NYSE), which is located at 20 Board Street, New York, New York 10005. Our SEC filings are available at the NYSE because our common stock is listed on the NYSE.

We maintain a website at www.avalonbay.com. Our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports, filed or furnished pursuant to the Securities Exchange Act of 1934 are available free of charge in the Investor Relations section of our website as soon as reasonably practicable after the reports are filed with or furnished to the SEC. In addition, the charters of our Board s Nominating and Corporate Governance Committee, Audit Committee and Compensation Committee, as well as our Corporate Governance Guidelines and Code of Conduct, are available free of charge in that section of our website or by writing to AvalonBay Communities, Inc., 2900 Eisenhower Avenue, Suite 300, Alexandria, Virginia 22314, Attention: Chief Financial Officer. To the extent required by the rules of the SEC and the NYSE, we will disclose amendments and waivers relating to these documents in the same place on our website.

We were incorporated under the laws of the State of California in 1978. In 1995, we reincorporated in the State of Maryland and have been focused on the ownership and operation of apartment communities since that time. As of January 31, 2009, we had 1,830 employees.

ITEM 1a. RISK FACTORS

Our operations involve various risks that could have adverse consequences, including those described below. This Item 1a includes forward-looking statements. You should refer to our discussion of the qualifications and limitations on forward-looking statements in this Form 10-K.

Development, redevelopment and construction risks could affect our profitability.

We intend to continue to develop and redevelop apartment home communities. These activities can include long planning and entitlement timelines and can involve complex and costly activities, including significant environmental remediation or construction work in high-density urban areas. These activities may be exposed to the following risks:

- we may be unable to obtain, or experience delays in obtaining, necessary zoning, occupancy, or other required governmental or third party permits and authorizations, which could result in increased costs or the delay or abandonment of opportunities;

- we may abandon opportunities that we have already begun to explore for a number of reasons, including changes in local market conditions or increases in construction or financing costs, and, as a result, we may fail to recover expenses already incurred in exploring those opportunities;

- we may incur costs that exceed our original estimates due to increased material, labor or other costs;

- occupancy rates and rents at a community may fail to meet our expectations for a number of reasons, including changes in market and economic conditions beyond our control and the development by competitors of competing communities;

- we may be unable to complete construction and lease up of a community on schedule, resulting in increased construction and financing costs and a decrease in expected rental revenues;

- we may be unable to obtain financing with favorable terms, or at all, for the proposed development of a community, which may cause us to delay or abandon an opportunity;

- we may incur liabilities to third parties during the development process, for example, in connection with managing existing improvements on the site prior to tenant terminations and demolition (such as commercial space) or in connection with providing services to third parties, such as the construction of shared infrastructure or other improvements; and

- we may incur liability if our communities are not constructed and operated in compliance with the accessibility provisions of the Americans with Disabilities Acts, the Fair Housing Act or other federal, state or local requirements. Noncompliance could result in imposition of fines, an award of damages to private litigants, and a requirement that we undertake structural modifications to remedy the noncompliance. We are currently engaged in lawsuits alleging noncompliance with these statutes. See Item 3., Legal Proceedings.

We project construction costs based on market conditions at the time we prepare our budgets, and our projections include changes that we anticipate but cannot predict with certainty. Construction costs may increase, particularly for labor and certain materials and, for some of our Development Communities and Development Rights (as defined below), the total construction costs may be higher than the original budget. Total capitalized cost includes all capitalized costs projected to be incurred to develop or redevelop a community, determined in accordance with GAAP, including:

- land and/or property acquisition costs;

- fees paid to secure air rights and/or tax abatements;

- construction or reconstruction costs;

costs of environmental remediation;

real estate taxes;

capitalized interest;

loan fees;

permits;

professional fees;

allocated development or redevelopment overhead; and

- other regulatory fees.

Costs to redevelop communities that have been acquired have, in some cases, exceeded our original estimates and similar increases in costs may be experienced in the future. We cannot assure you that market rents in effect at the time new development or redevelopment communities complete lease-up will be sufficient to fully offset the effects of any increased construction or reconstruction costs.

Unfavorable changes in market and economic conditions could hurt occupancy, rental rates, operating expenses, and the overall market value of our assets, including joint ventures and Fund investments.

Local conditions in our markets significantly affect occupancy, rental rates and the operating performance of our communities. The risks that may adversely affect conditions in those markets include the following:

- plant closings, industry slowdowns and other factors that adversely affect the local economy;

- an oversupply of, or a reduced demand for, apartment homes;

- a decline in household formation or employment or lack of employment growth;

- the inability or unwillingness of residents to pay rent increases;

- rent control or rent stabilization laws, or other laws regulating housing, that could prevent us from raising rents to offset increases in operating costs; and

- economic conditions that could cause an increase in our operating expenses, such as increases in property taxes, utilities, compensation of on-site associates and routine maintenance.

Changes in applicable laws, or noncompliance with applicable laws, could adversely affect our operations or expose us to liability.

We must develop, construct and operate our communities in compliance with numerous federal, state and local laws and regulations, some of which may conflict with one another or be subject to limited judicial or regulatory interpretations. These laws and regulations may include zoning laws, building codes, landlord tenant laws and other laws generally applicable to business operations. Noncompliance with laws could expose us to liability.

Compliance with changes in (i) laws imposing remediation requirements and the potential liability for environmental conditions existing on properties or the restrictions on discharges or other conditions, (ii) rent control or rent stabilization laws or (iii) other governmental rules and regulations or enforcement policies affecting the development, use and operation of our communities, including changes to building codes and fire and life-safety codes, may result in lower revenue growth or significant unanticipated expenditures.

Short-term leases expose us to the effects of declining market rents.

Substantially all of our apartment leases are for a term of one year or less. Because these leases generally permit the residents to leave at the end of the lease term without penalty, our rental revenues are impacted by declines in market rents more quickly than if our leases were for longer terms.

Competition could limit our ability to lease apartment homes or increase or maintain rents.

Our apartment communities compete with other housing alternatives to attract residents, including other rental apartments, condominiums and single-family homes that are available for rent, as well as new and existing condominiums and single-family homes for sale. Competitive residential housing in a particular area could adversely affect our ability to lease apartment homes and to increase or maintain rental rates.

Attractive investment opportunities may not be available, which could adversely affect our profitability.
We expect that other real estate investors, including insurance companies, pension funds, other REITs and other well-capitalized investors, will compete with us to acquire existing properties and to develop new properties. This competition could increase prices for properties of the type we would likely pursue and adversely affect our profitability.
Capital and credit market conditions may continue to adversely affect our access to various sources of capital and/or the cost of capital, which could impact our business activities, dividends, earnings, and common stock price, among other things.
The capital and credit markets have been experiencing extreme volatility and disruption, and this has affected the amounts, sources and cost of capital available to us. For example, during 2008 we used secured property financing more than in the past, as the interest rate we incur for that source of financing has remained relatively steady, and we may continue to rely more heavily on secured financings. We are unable to predict whether, or to what extent or for how long, the current capital market conditions will persist. We primarily use external financing to fund construction and to refinance indebtedness as it matures. If sufficient sources of external financing are not available to us on cost effective terms, we could be forced to further limit our development and redevelopment activity and/or take other actions to fund our business activities and repayment of debt, such as selling assets, reducing our cash dividend or paying out less than 100% of our taxable income. To the extent that we are able and/or choose to access capital at a higher cost than we have experienced in recent years (reflected in higher interest rates for debt financing or a lower stock price for equity financing) our earnings per share and cash flows could be adversely affected. In addition, the price of our common stock may fluctuate significantly and/or decline in a high-interest rate or volatile economic environment. We believe that the lenders under our unsecured credit line will fulfill their lending obligations thereunder, but if economic conditions deteriorate further there can be no assurance that the ability of those lenders to fulfill their obligations would not be adversely impacted.
Insufficient cash flow could affect our debt financing and create refinancing risk.
We are subject to the risks associated with debt financing, including the risk that our cash flow will be insufficient to meet required payments of principal and interest. In this regard, we note that we are required to annually distribute dividends generally equal to at least 90% of our REIT taxable income, computed without regard to the dividends paid deduction and our net capital gain, in order for us to continue to qualify as a REIT, and this requirement limits the amount of our cash flow available to meet required principal and interest payments. The principal outstanding balance on a portion of our debt will not be fully amortized prior to its maturity. Although we may be able to repay our debt by using our cash flows, we cannot assure you that we will have sufficient cash flows available to make all required principal payments. Therefore, we may need to refinance at least a portion of our outstanding debt as it matures. There is a risk that we may not be able to refinance existing debt or that a refinancing will not be done on as favorable terms, either of which could have a material adverse effect on our financial condition and results of operations.
Rising interest rates could increase interest costs and could affect the market price of our common stock.
We currently have, and may in the future incur, variable interest rate debt. In addition, we regularly seek access to both fixed and variable rate debt financing to repay maturing debt and to finance our development and redevelopment activity. Accordingly, if interest rates increase, our interest costs will also rise, unless we have made arrangements that hedge the risk of rising interest rates. In addition, an increase in market interest rates may lead purchasers of our common stock to demand a greater annual dividend yield, which could adversely affect the market price of our common stock.

Bond financing and zoning compliance requirements could limit our income, restrict the use of communities and cause favorable financing to become unavailable.

We have financed some of our apartment communities with obligations issued by local government agencies because the interest paid to the holders of this debt is generally exempt from federal income taxes and, therefore, the interest rate is generally more favorable to us. These obligations are commonly referred to as tax-exempt bonds and generally must be secured by communities. As a condition to obtaining tax-exempt financing, or on occasion as a condition to obtaining favorable zoning in some jurisdictions, we will commit to make some of the apartments in a community available to households whose income does not exceed certain thresholds (e.g., 50% or 80% of area median income), or who meet other qualifying tests. As of December 31, 2008, approximately 6.9% of our apartment homes at current operating communities were under income limitations such as these. These commitments, which may run without expiration or may expire after a period of time (such as 15 or 20 years) may limit our ability to raise rents aggressively and, in consequence, can also limit increases in the value of the communities subject to these restrictions.

In addition, some of our tax-exempt bond financing documents require us to obtain a guarantee from a financial institution of payment of the principal of, and interest on, the bonds. The guarantee may take the form of a letter of credit, surety bond, guarantee agreement or other additional collateral. If the financial institution defaults in its guarantee obligations, or if we are unable to renew the applicable guarantee or otherwise post satisfactory collateral, a default will occur under the applicable tax-exempt bonds and the community could be foreclosed upon.

Risks related to indebtedness.

We have a $1,000,000,000 revolving variable rate unsecured credit facility with JPMorgan Chase Bank, N.A., and Wachovia Bank, N.A., serving together as syndication agent and as banks, Bank of America, N.A., serving as administrative agent, swing lender, issuing bank and a bank, Morgan Stanley Bank, Wells Fargo Bank, N.A., and Deutsche Bank Trust Company Americas, serving collectively as documentation agent and as banks, and a syndicate of other financial institutions, serving as banks. Our organizational documents do not limit the amount or percentage of indebtedness that may be incurred. Accordingly, subject to compliance with outstanding debt covenants, we could incur more debt, resulting in an increased risk of default on our obligations and an increase in debt service requirements that could adversely affect our financial condition and results of operations.

The mortgages on those of our properties subject to secured debt, our unsecured credit facility, our unsecured term loan and the indentures under which a substantial portion of our debt was issued contain customary restrictions, requirements and other limitations, as well as certain financial and operating covenants including maintenance of certain financial ratios. Maintaining compliance with these restrictions could limit our flexibility. A default in these requirements, if uncured, could result in a requirement that we repay indebtedness, which could severely affect our liquidity and increase our financing costs.

Failure to generate sufficient revenue or other liquidity needs could limit cash flow available for distributions to stockholders.

A decrease in rental revenue or other liquidity needs, including the repayment of indebtedness or funding of our development activities, could have an adverse effect on our ability to pay distributions to our stockholders. Significant expenditures associated with each community such as debt service payments, if any, real estate taxes, insurance and maintenance costs are generally not reduced when circumstances cause a reduction in income from a community.

The form, timing and/or amount of dividend distributions in future periods may vary and be impacted by economic and other considerations.

The form, timing and/or amount of dividend distributions will be declared at the discretion of the Board of Directors and will depend on actual cash from operations, our financial condition, capital requirements, the annual distribution requirements under the REIT provisions of the Internal Revenue Code and other factors as the Board of Directors may consider relevant. The Board of Directors may modify our dividend policy from time to time.

We may in the future choose to pay dividends in our own stock, in which case stockholders may be required to pay tax in excess of the cash you receive.

We may in the future distribute taxable dividends that are payable in part in our stock, as we did in the fourth quarter of 2008. Taxable stockholders receiving such dividends will be required to include the full amount of the dividend as income to the extent of our current and accumulated earnings and profits for federal income tax purposes. As a result, a U.S. stockholder may be required to pay tax with respect to such dividends in excess of the cash received. If a U.S. stockholder sells the stock it receives as a dividend in order to pay this tax, the sales proceeds may be less than the amount included in income with respect to the dividend, depending on the market price of our stock at the time of the sale. Furthermore, with respect to non-U.S. stockholders, we may be required to withhold U.S. tax with respect to such dividends, including in respect of all or a portion of such dividend that is payable in stock. In addition, if a significant number of our stockholders sell shares of our stock in order to pay taxes owed on dividends, that may put downward pressure on the trading price of our stock.

Debt financing may not be available and equity issuances could be dilutive to our stockholders.

Our ability to execute our business strategy depends on our access to an appropriate blend of debt and equity financing. Debt financing may not be available in sufficient amounts or on favorable terms. If we issue additional equity securities, the interests of existing stockholders could be diluted.

Difficulty of selling apartment communities could limit flexibility.

Federal tax laws may limit our ability to earn a gain on the sale of a community (unless we own it through a subsidiary which will incur a taxable gain upon sale) if we are found to have held, acquired or developed the community primarily with the intent to resell the community, and this limitation may affect our ability to sell communities without adversely affecting returns to our stockholders. In addition, real estate in our markets can at times be difficult to sell quickly at prices we find acceptable. These potential difficulties in selling real estate in our markets may limit our ability to change or reduce the apartment communities in our portfolio promptly in response to changes in economic or other conditions.

Acquisitions may not yield anticipated results.

Subject to the requirements related to Fund II, we may in the future acquire apartment communities on a select basis. Our acquisition activities and their success may be exposed to the following risks:

- an acquired property may fail to perform as we expected in analyzing our investment; and

- our estimate of the costs of repositioning or redeveloping an acquired property may prove inaccurate.

Failure to succeed in new markets or in activities other than the development, ownership and operation of residential rental communities may have adverse consequences.

We may from time to time commence development activity or make acquisitions outside of our existing market areas if appropriate opportunities arise. As noted above, we also own and lease ancillary retail space when a retail component represents the best use of the space, as is often the case with large urban in-fill developments. Also, as noted in Item 1., Business, above, through a taxable REIT subsidiary that is a joint venture partner, we have a 50% economic interest in a 64 town home for-sale development with a total estimated capital cost at completion of $23,621,000, on a site adjacent to one of our communities. We may engage or have an interest in for-sale activity in the future. Our historical experience in our existing markets in developing, owning and operating rental communities does not ensure that we will be able to operate successfully in new markets, should we choose to enter them, or that we will be successful in other activities. We may be exposed to a variety of risks if we choose to enter new markets, including an inability to evaluate accurately local apartment market conditions; an inability to obtain land for development or to identify appropriate acquisition opportunities; an inability to hire and retain key personnel; and lack of familiarity with local governmental and permitting procedures. We may be unsuccessful in owning and leasing retail space at our communities or in developing real estate with the intent to sell.

Risks involved in real estate activity through joint ventures.

Instead of acquiring or developing apartment communities directly, at times we invest as a partner or a co-venturer. Partnership or joint venture investments involve risks, including the possibility that our partner might become insolvent or otherwise refuse to make capital contributions when due; that we may be responsible to our partner for indemnifiable losses; that our partner might at any time have business goals which are inconsistent with ours; and that our partner may be in a position to take action or withhold consent contrary to our instructions or requests. Frequently, we and our partner may each have the right to trigger a buy-sell arrangement, which could cause us to sell our interest, or acquire our partner s interest, at a time when we otherwise would not have initiated such a transaction.

Risks associated with an investment in and management of a discretionary investment fund.

We formed the Fund which, through a wholly owned subsidiary, we manage as the general partner and in which we have invested approximately $48,000,000 at December 31, 2008, representing an equity interest of approximately 15%. This presents risks, including the following:

- investors in the Fund may fail to make their capital contributions when due and, as a result, the Fund may be unable to execute its investment objectives;

- our subsidiary that is the general partner of the Fund is generally liable, under partnership law, for the debts and obligations of the Fund, subject to certain exculpation and indemnification rights pursuant to the terms of the partnership agreement of the Fund;

- investors in the Fund holding a majority of the partnership interests may remove us as the general partner without cause, subject to our right to receive an additional nine months of management fees after such removal and our right to acquire one of the properties then held by the Fund;

- while we have broad discretion to manage the Fund and make investment decisions on behalf of the Fund, the investors or an advisory committee comprised of representatives of the investors must approve certain matters, and as a result we may be unable to cause the Fund to make certain investments or implement certain decisions that we consider beneficial; and

- we may be liable and/or our status as a REIT may be jeopardized if either the Fund, or the REIT through which a number of investors have invested in the Fund and which we manage, fails to comply with various tax or other regulatory matters.

We have also formed Fund II which, through a wholly owned subsidiary, we manage as the general partner and to which we have committed $150,000,000, representing a current equity interest of approximately 45%. This presents risks, including the following:

- investors in Fund II may fail to make their capital contributions when due and, as a result, Fund II may be unable to execute its investment objectives;

- our subsidiary that is the general partner of Fund II is generally liable, under partnership law, for the debts and obligations of Fund II, subject to certain exculpation and indemnification rights pursuant to the terms of the partnership agreement of Fund II;

- investors in Fund II holding a majority of the partnership interests may remove us as the general partner without cause, subject to our right to receive an additional nine months of management fees after such removal and our right to acquire one of the properties then held by Fund II;

- while we have broad discretion to manage Fund II and make investment decisions on behalf of Fund II, the investors or an advisory committee comprised of representatives of the investors must approve certain matters, and as a result we may be unable to cause Fund II to make certain investments or implement certain decisions that we consider beneficial;

we can develop communities but have been generally prohibited from making acquisitions of apartment communities outside of Fund II, which is our exclusive investment vehicle until September 2011 or when 90% of Fund II s capital is invested, subject to certain exceptions; and we may be liable and/or our status as a REIT may be jeopardized if either Fund II , or the Fund II REIT through which a number of investors have invested in Fund II and which we manage, fails to comply with various tax or other regulatory matters.

Risk of earthquake damage.

As further described in Item 2., Communities Insurance and Risk of Uninsured Losses, many of our West Coast communities are located in the general vicinity of active earthquake faults. We cannot assure you that an earthquake would not cause damage or losses greater than insured levels. In the event of a loss in excess of insured limits, we could lose our capital invested in the affected community, as well as anticipated future revenue from that community. We would also continue to be obligated to repay any mortgage indebtedness or other obligations related to the community. Any such loss could materially and adversely affect our business and our financial condition and results of operations.

Insurance coverage for earthquakes can be costly due to limited industry capacity. As a result, we may experience shortages in desired coverage levels if market conditions are such that insurance is not available or the cost of insurance makes it, in management s view, economically impractical.

A significant uninsured property or liability loss could have a material adverse effect on our financial condition and results of operations.

In addition to the earthquake insurance discussed above, we carry commercial general liability insurance, property insurance and terrorism insurance with respect to our communities on terms 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. If an uninsured property loss or a property loss in excess of insured limits were to occur, we could lose our capital invested in a community, as well as the anticipated future revenues from such community. We would also continue to be obligated to repay any mortgage indebtedness or other obligations related to the community. If an uninsured liability to a third party were to occur, we would incur the cost of defense and settlement with, or court ordered damages to, that third party. A significant uninsured property or liability loss could materially and adversely affect our business and our financial condition and results of operations.

We may incur costs and increased expenses to repair property damage resulting from inclement weather.

Particularly in New England and the Midwest we are exposed to risks associated with inclement winter weather, including increased costs for the removal of snow and ice as well as from delays in construction. In addition, inclement weather could increase the need for maintenance and repair of our communities.

We may incur costs due to environmental contamination or non-compliance.

Under various federal, state and local environmental and public health laws, regulations and ordinances, we may be required, regardless of knowledge or responsibility, to investigate and remediate the effects of hazardous or toxic substances or petroleum product releases at our properties (including in some cases natural substances such as methane and radon gas) and may be held liable under these laws or common law to a governmental entity or to third parties for property, personal injury or natural resources damages and for investigation and remediation costs incurred as a result of the contamination. These damages and costs may be substantial and may exceed any insurance coverage we have for such events. The presence of such substances, or the failure to properly remediate the contamination, may adversely affect our ability to borrow against, sell or rent the affected property.

In addition, some environmental laws create or allow a government agency to impose a lien on the contaminated site in favor of the government for damages and costs it incurs as a result of the contamination.

The development, construction and operation of our communities are subject to regulations and permitting under various federal, state and local laws, regulations and ordinances, which regulate matters including wetlands protection, storm water runoff and wastewater discharge. Noncompliance with such laws and regulations may subject us to fines and penalties. We do not currently anticipate that we will incur any material liabilities as a result of noncompliance with these laws.

Certain federal, state and local laws, regulations and ordinances govern the removal, encapsulation or disturbance of asbestos containing materials (ACMs) when such materials are in poor condition or in the event of renovation or demolition of a building. These laws and the common law may impose liability for release of ACMs and may allow third parties to seek recovery from owners or operators of real properties for personal injury associated with exposure to ACMs. We are not aware that any ACMs were used in the construction of the communities we developed. ACMs were, however, used in the construction of a number of the communities that we acquired. We implement an operations and maintenance program at each of the communities at which ACMs are detected. We do not currently anticipate that we will incur any material liabilities as a result of the presence of ACMs at our communities.

We are aware that some of our communities have lead paint and have implemented an operations and maintenance program at each of those communities. We do not currently anticipate that we will incur any material liabilities as a result of the presence of lead paint at our communities.

All of our stabilized operating communities, and all of the communities that we are currently developing or redeveloping, have been subjected to at least a Phase I or similar environmental assessment, which generally does not involve invasive techniques such as soil or ground water sampling. These assessments, together with subsurface assessments conducted on some properties, have not revealed, and we are not otherwise aware of, any environmental conditions that we believe would have a material adverse effect on our business, assets, financial condition or results of operations. In connection with our ownership, operation and development of communities, from time to time we undertake substantial remedial action in response to the presence of subsurface or other contaminants, including contaminants in soil, groundwater and soil vapor beneath or affecting our buildings. In some cases, an indemnity exists upon which we may be able to rely if environmental liability arises from the contamination or remediation costs exceed estimates. There can be no assurance, however, that all necessary remediation actions have been or will be undertaken at our properties or that we will be indemnified, in full or at all, in the event that environmental liability arises.

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 presented. However, we cannot provide assurance 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 that may exceed any applicable insurance coverage.

Additionally, we have occasionally been involved in developing, managing, leasing and operating various properties for third parties. Consequently, we may be considered to have been an operator of such properties and, therefore, potentially liable for removal or remediation costs or other potential costs which relate to the release or presence of hazardous or toxic substances. We are not aware of any material environmental liabilities with respect to properties managed or developed by us or our predecessors for such third parties.

We cannot assure you that:

- the environmental assessments described above have identified all potential environmental liabilities;
- no prior owner created any material environmental condition not known to us or the consultants who prepared the assessments;

no environmental liabilities have developed since the environmental assessments were prepared;

the condition of land or operations in the vicinity of our communities, such as the presence of underground storage tanks, will not affect the environmental condition of our communities;

future uses or conditions, including, without limitation, changes in applicable environmental laws and regulations, will not result in the imposition of environmental liability; and

no environmental liabilities will arise at communities that we have sold for which we may have liability.

Failure to qualify as a REIT would cause us to be taxed as a corporation, which would significantly reduce funds available for distribution to stockholders.

If we fail to qualify as a REIT for federal income tax purposes, we will be subject to federal income tax on our taxable income at regular corporate rates (subject to any applicable alternative minimum tax). In addition, unless we are entitled to relief under applicable statutory provisions, we would be ineligible to make an election for treatment as a REIT for the four taxable years following the year in which we lose our qualification. The additional tax liability resulting from the failure to qualify as a REIT would significantly reduce or eliminate the amount of funds available for distribution to our stockholders. Furthermore, we would no longer be required to make distributions to our stockholders. Thus, our failure to qualify as a REIT could also impair our ability to expand our business and raise capital, and would adversely affect the value of our common stock.

We believe that we are organized and qualified as a REIT, and we intend to operate in a manner that will allow us to continue to qualify as a REIT. However, we cannot assure you that we are qualified as a REIT, or that we will remain qualified in the future. This is because qualification as a REIT involves the application of highly technical and complex provisions of the Internal Revenue Code for which there are only limited judicial and administrative interpretations and involves the determination of a variety of factual matters and circumstances not entirely within our control. In addition, future legislation, new regulations, administrative interpretations or court decisions may significantly change the tax laws or the application of the tax laws with respect to qualification as a REIT for federal income tax purposes or the federal income tax consequences of this qualification.

Even if we qualify as a REIT, we will be subject to certain federal, state and local taxes on our income and property and on taxable income that we do not distribute to our shareholders. In addition, we may engage in activities through taxable subsidiaries and will be subject to federal income tax at regular corporate rates on the income of those subsidiaries.

The ability of our stockholders to control our policies and effect a change of control of our company is limited by certain provisions of our charter and bylaws and by Maryland law.

There are provisions in our charter and bylaws that may discourage a third party from making a proposal to acquire us, even if some of our stockholders might consider the proposal to be in their best interests. These provisions include the following:

Our charter authorizes our Board of Directors to issue up to 50,000,000 shares of preferred stock without stockholder approval and to establish the preferences and rights, including voting rights, of any series of preferred stock issued. The Board of Directors may issue preferred stock without stockholder approval, which could allow the Board to issue one or more classes or series of preferred stock that could discourage or delay a tender offer or a change in control.

To maintain our qualification as a REIT for federal income tax purposes, not more than 50% in value of our outstanding stock may be owned, directly or indirectly, by or for five or fewer individuals at any time during the last half of any taxable year. To maintain this qualification, and to otherwise address concerns about concentrations of ownership of our stock, our charter generally prohibits ownership (directly, indirectly by virtue of the attribution provisions of the Internal Revenue Code, or beneficially as defined in Section 13 of the Securities Exchange Act) by any single stockholder of more than 9.8% of the issued and outstanding shares of any class or series of our stock. In general, under our charter, pension plans and mutual funds may directly and beneficially own up to 15% of the outstanding shares of any class or series of stock. Under our charter, our Board of Directors may in its sole

discretion waive or modify the ownership limit for one or more persons. These ownership limits may prevent or delay a change in control and, as a result, could adversely affect our stockholders ability to realize a premium for their shares of common stock.

Our bylaws provide that the affirmative vote of holders of a majority of all of the shares entitled to be cast in the election of directors is required to elect a director. In a contested election, if no nominee receives the vote of holders of a majority of all of the shares entitled to be cast, the incumbent directors would remain in office. This requirement may prevent or delay a change in control and, as a result, could adversely affect our stockholders ability to realize a premium for their shares of common stock.

As a Maryland corporation, we are subject to the provisions of the Maryland General Corporation Law. Maryland law imposes restrictions on some business combinations and requires compliance with statutory procedures before some mergers and acquisitions may occur, which may delay or prevent offers to acquire us or increase the difficulty of completing any offers, even if they are in our stockholders best interests. In addition, other provisions of the Maryland General Corporation Law permit the Board of Directors to make elections and to take actions without stockholder approval (such as classifying our Board such that the entire Board is not up for reelection annually) that, if made or taken, could have the effect of discouraging or delaying a change in control.

ITEM 1b. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. COMMUNITIES

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 are further distinguished as Established Communities, Other Stabilized Communities, Lease-Up Communities and Redevelopment Communities. The following is a description of each category:

<u>Current Communities</u> are categorized as Established, Other Stabilized, Lease-Up, or Redevelopment according to the following attributes:

> *Established Communities (also known as Same Store Communities)* are consolidated 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 ended December 31, 2008, the Established Communities are communities that are consolidated for financial reporting purposes, had stabilized occupancy and operating expenses as of January 1, 2007, 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 we own or have a direct or indirect ownership interest in, and 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.

> *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 communities that we wholly own, 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 owned through a joint venture arrangement.

Development Communities are communities that are under construction and for which a 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 either have an option to 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 capitalize related pre-development costs incurred in pursuit of new developments for which we currently believe future development is probable.

In addition, we own approximately 60,000 square feet of office space in Alexandria, Virginia, for our corporate office, with all other regional and administrative offices leased under operating leases.

As of December 31, 2008, communities that we owned or held a direct or indirect interest in were classified as follows:

	Number of communities	Number of apartment homes
Current Communities		
Established Communities:		
New England	23	5,351
Metro NY/NJ	17	5,309
Mid-Atlantic/Midwest	18	6,122
Pacific Northwest	6	1,320
Northern California	20	5,657
Southern California	11	3,430
Total Established	95	27,189
Other Stabilized Communities:		
New England	10	3,130
Metro NY/NJ	14	4,044
Mid-Atlantic/Midwest	9	2,443
Pacific Northwest	4	1,058
Northern California	10	2,820
Southern California	9	1,675
Total Other Stabilized	56	15,170
Lease-Up Communities	4	759
Redevelopment Communities	9	2,610

Total Current Communities	164	45,728
Development Communities	14	4,564
Development Rights	27	7,304

Our holdings under each of the above categories are discussed on the following pages.

Current Communities

Our Current Communities are primarily garden-style apartment communities consisting of two and three-story buildings in landscaped settings. The Current Communities, as of January 31, 2009, include 125 garden-style (of which 21 are mixed communities and include town homes), 22 high-rise and 17 mid-rise apartment communities. The Current Communities offer many attractive amenities including some or all of the following:

- vaulted ceilings;
- lofts;
- fireplaces;
- patios/decks; and
- modern appliances.

Other features at various communities may include:

- swimming pools;
- fitness centers;
- tennis courts; and
- business centers.

We also have an extensive and ongoing maintenance program to keep all communities and apartment homes substantially free of deferred maintenance and, where vacant, available for immediate occupancy. We believe that the aesthetic appeal of our communities and a service oriented property management team, focused on the specific needs of residents, enhances market appeal to discriminating residents. We believe this will ultimately achieve higher rental rates and occupancy levels while minimizing resident turnover and operating expenses.

Our Current Communities are located in the following geographic markets:

	Number of communities at		Number of apartment homes at		Percentage of total apartment homes at	
	1-31-08	1-31-09	1-31-08	1-31-09	1-31-08	1-31-09
New England	**36**	**36**	**9,600**	**9,077**	**20.2%**	**19.9%**
Boston, MA	22	24	5,788	6,460	12.7%	14.2%
Fairfield County, CT	14	12	3,812	2,617	7.5%	5.7%
Metro NY/NJ	**28**	**31**	**7,947**	**9,353**	**17.5%**	**20.4%**
Long Island, NY	7	7	1,732	1,732	3.8%	3.8%
Northern New Jersey	5	5	1,618	1,618	3.6%	3.5%
Central New Jersey	6	7	2,042	2,258	4.5%	4.9%
New York, NY	10	12	2,555	3,745	5.6%	8.2%
Mid-Atlantic/Midwest	**32**	**30**	**9,770**	**9,213**	**21.5%**	**20.2%**
Baltimore, MD	9	8	1,987	1,830	4.4%	4.0%
Washington, DC	16	16	5,831	5,831	12.8%	12.8%
Chicago, IL	7	6	1,952	1,552	4.3%	3.4%
Pacific Northwest	**12**	**11**	**3,111**	**2,746**	**6.8%**	**6.0%**
Seattle, WA	12	11	3,111	2,746	6.8%	6.0%
Northern California	**34**	**32**	**9,546**	**8,879**	**20.9%**	**19.4%**
Oakland-East Bay, CA	7	8	2,089	2,394	4.6%	5.2%
San Francisco, CA	11	11	2,489	2,489	5.5%	5.4%
San Jose, CA	16	13	4,968	3,996	10.8%	8.8%
Southern California	**21**	**24**	**5,958**	**6,460**	**13.1%**	**14.1%**
Los Angeles, CA	11	12	3,214	3,345	7.1%	7.3%
Orange County, CA	7	8	1,686	1,896	3.7%	4.1%
San Diego, CA	3	4	1,058	1,219	2.3%	2.7%
	163	164	45,932	45,728	100.0%	100.0%

We manage and operate substantially all of our Current Communities. During the year ended December 31, 2008, we completed construction of 4,036 apartment homes in 13 communities and sold 3,059 apartment homes in ten communities. In addition, the Fund sold 400 apartment homes in one community. The average age of our Current Communities, on a weighted average basis according to number of apartment homes, is 14.0 years. When adjusted to reflect redevelopment activity, as if redevelopment were a new construction completion date, the average age of our Current Communities is 8.7 years.

Of the Current Communities, as of January 31, 2009, we own:

a full fee simple, or absolute, ownership interest in 125 operating communities, eight of which are on land subject to land leases expiring in October 2026, November 2028, July 2029, December 2034, January 2062, April 2095, April 2095, and March 2142;

a general partnership interest in three partnerships that each own a fee simple interest in an operating community;

- a general partnership interest and an indirect limited partnership interest in the Fund, which owns a fee simple interest in 19 operating communities;

- a general partnership interest in two partnerships structured as "DownREITs," as described more fully below, that own an aggregate of 10 communities;

- a membership interest in 6 limited liability companies that each hold a fee simple interest in an operating community, two of which are on land subject to land leases expiring in September 2044 and November 2089; and

- a residual profits interest (with no ownership interest) in a limited liability company to which an operating community was transferred upon completion of construction in the second quarter of 2006.

We also hold, directly or through wholly owned subsidiaries, the full fee simple ownership interest in the 14

Development Communities, all of which are currently consolidated for financial reporting purposes and three of which are subject to land leases expiring in September 2105, December 2105 and April 2106.

In our two partnerships structured as DownREITs, either AvalonBay or one of our 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 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 our current common stock dividend amount. The holders of units of limited partnership interest 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 our common stock. In lieu of a cash redemption by the partnership, we may elect to acquire any unit presented for redemption for one share of our common stock or for such cash amount. As of January 31, 2009, there were 19,430 DownREIT partnership units outstanding. The DownREIT partnerships are consolidated for financial reporting purposes.

Profile of Current, Development and Unconsolidated Communities (1)
(Dollars in thousands, except per apartment home data)

	City and state	Number of homes	Approx. rentable area (Sq. Ft.)	Acres	Year of completion / acquisition	Average size (Sq. Ft.)	Physical occupancy at 12/31/08	Average economic occupancy 2008	Average economic occupancy 2007	Average rental rate $ per Apt (4)	Average rental rate $ per Sq. Ft.	re
TIES												
AND												
	Lexington, MA	198	237,855	16.1	1994	1,201	97.5%	97.6%	96.5%	1,826	1.48	
	Wilmington, MA	204	237,167	22.5	1999	1,163	96.6%	95.6%	95.4%	1,481	1.22	
nit	Quincy, MA	245	224,974	8.0	1986/1996	918	95.5%	97.1%	96.0%	1,346	1.42	
t	Peabody, MA	154	201,063	11.1	2000	1,306	95.5%	96.3%	96.5%	1,574	1.16	
xon	Quincy, MA	171	183,954	8.3	1998	1,076	94.2%	95.7%	95.9%	1,667	1.48	
nter	Boston, MA	780	759,130	1.0	1968/1998	973	96.2%	97.5%	97.0%	2,932	2.94	
West	Wilmington, MA	120	133,376	27.0	2002	1,111	93.3%	93.9%	95.0%	1,400	1.18	
ards	Marlborough, MA	156	179,227	23.0	2002	1,149	96.2%	97.0%	96.0%	1,572	1.33	
nders	Westborough, MA	280	301,675	62.0	2003	1,077	94.6%	95.8%	96.0%	1,511	1.34	
wton)	Newton, MA	294	339,537	7.0	2003	1,155	94.2%	96.2%	95.5%	2,300	1.92	
e	Plymouth, MA	101	151,629	6.0	2004	1,501	95.0%	95.9%	95.8%	1,856	1.19	
ane	Peabody, MA	387	433,778	20.0	2004	1,121	96.4%	96.4%	95.7%	1,360	1.17	
	Peabody, MA	286	250,473	18.0	2004	876	91.6%	88.8%(2)	96.3%(2)	1,155	1.17	(2)
dford	Bedford, MA	139	159,704	38.0	2005	1,149	93.5%	95.3%	95.6%	1,739	1.44	
tnut	Chestnut Hill, MA	204	271,899	4.7	2007	1,333	92.6%	93.1%	78.8%	2,337	1.63	
	Shrewsbury, MA	251	274,780	25.5	2007	1,095	92.8%	95.0%	84.3%	1,377	1.20	
ers	Danvers, MA	433	512,991	75.0	2006	1,185	97.0%	86.4%	24.1%(3)	1,407	1.03	
urn	Woburn, MA	446	486,091	56.0	2007	1,090	98.4%	96.7%	61.4%(3)	1,581	1.40	
lls	Lexington, MA	387	511,454	23.0	2007	1,322	94.8%	71.1%(3)	15.5%(3)	1,811	2.91	(3)
n	Acton, MA	380	373,690	50.3	2007	983	95.3%	59.2%(3)	7.5% (3)	1,258	3.00	(3)
on	Sharon, MA	156	178,628	27.2	2007	1,145	98.7%	62.3%(3)	N/A	1,508	1.96	(3)

nter	Providence, RI	225	233,910	1.2	1991/1997	1,040	90.7%	94.5%	92.8%	2,174	1.98	
w												
.	Trumbull, CT	340	389,047	37.0	1997	1,144	96.5%	96.5%	94.9%	1,645	1.39	
	Stamford, CT	238	265,940	4.1	1991	1,117	95.8%	97.1%	97.2%	2,014	1.75	
gs	Wilton, CT	102	160,159	12.0	1996	1,570	90.2%	94.2%	96.5%	3,072	1.84	
y	Danbury, CT	268	303,193	17.1	1999	1,131	90.7%	95.7%	96.8%	1,668	1.41	
ge	Orange, CT	168	161,795	9.6	2005	963	95.2%	95.3%	95.1%	1,554	1.54	
rbor	Stamford, CT	323	337,572	12.1	2003	1,045	96.6%	96.5%	97.5%	2,544	2.35	
	New Canaan, CT	104	145,118	9.1	2002	1,395	94.2%	96.1%	94.3%	2,910	2.00	
ce	Stamford, CT	306	334,381	3.0	2002	1,093	93.8%	96.3%	97.5%	2,301	2.03	
ury	Danbury, CT	234	238,952	36.0	2005	1,021	92.7%	96.0%	95.5%	1,651	1.55	
n	Darien, CT	189	242,533	32.0	2004	1,283	91.0%	94.7%	96.2%	2,640	1.95	
rd I	Milford, CT	246	230,246	22.0	2004	936	97.2%	96.2%	96.1%	1,466	1.51	
ngton	Shelton, CT	99	145,573	7.1	2008	1,470	34.3%	17.0%(3)	N/A	2,421	0.28	(3)
NJ												
NY												
mons	Smithtown, NY	312	385,290	20.6	1997	1,235	92.9%	95.0%	95.4%	2,145	1.65	
rs	Long Beach, NY	109	135,036	1.3	1990/1995	1,239	95.4%	97.4%	96.8%	3,596	2.83	
t	Melville, NY	494	601,342	35.4	1997/2000	1,217	93.5%	94.2%	95.3%	2,474	1.91	
en 11)	Glen Cove, NY	256	262,285	4.0	2004	1,025	93.0%	95.8%	94.5%	2,362	2.21	
I	Coram, NY	298	364,124	32.0	2005	1,222	93.6%	95.8%	95.7%	1,985	1.56	
en 11)	Glen Cove, NY	111	100,851	1.3	2007	909	93.7%	96.8%	50.2%(3)	2,080	2.22	
II	Coram, NY	152	183,857	42.0	2006	1,210	92.1%	95.2%	96.3%	1,974	1.55	

Profile of Current, Development and Unconsolidated Communities (1)
(Dollars in thousands, except per apartment home data)

	City and state	Number of homes	Approx. rentable area (Sq. Ft.)	Acres	Year of completion / acquisition	Average size (Sq. Ft.)	Physical occupancy at 12/31/08	Average economic occupancy 2008	Average economic occupancy 2007	Average rental rate $ per Apt (4)	Average rental rate $ per Sq. Ft
rsey											
	Jersey City, NJ	504	640,467	11.0	1997	1,271	97.6%	96.1%	97.5%	3,014	2.28
ter	Edgewater, NJ	408	438,670	7.6	2002	1,075	96.8%	96.3%	95.2%	2,399	2.15
Park	Florham Park, NJ	270	330,410	41.9	2001	1,224	97.0%	95.8%	96.1%	2,696	2.11
	Lyndhurst, NJ	328	352,462	5.8	2006	1,075	94.5%	94.9%	57.0%(3)	2,205	1.95
ey											
3)	Lawrenceville, NJ	206	274,933	27.1	1996	1,335	97.1%	95.1%	96.2%	1,638	1.17
	West Windsor, NJ	512	496,141	64.4	1988	969	95.1%	96.0%	95.6%	1,438	1.42
l	Freehold, NJ	296	317,416	40.3	2002	1,072	97.0%	96.2%	97.5%	1,780	1.60
I	Lawrenceville, NJ	312	341,292	70.5	2003	1,094	95.5%	96.0%	96.2%	1,820	1.60
	Lawrenceville, NJ	426	443,168	9.0	1994	1,040	97.2%	96.0%	96.2%	1,477	1.36
alls	Tinton Falls, NJ	216	240,747	35.0	2007	1,115	95.8%	56.3%(3)	N/A	1,412	2.83
	Nanuet, NY	504	617,992	62.5	1998	1,226	96.6%	97.0%	96.9%	2,148	1.70
	Elmsford, NY	105	115,038	16.9	1995	1,096	97.1%	97.4%	97.3%	2,415	2.15
	Mamaroneck, NY	227	240,459	4.0	2000	1,059	94.7%	98.0%	96.5%	2,299	2.13
	Bronxville, NY	110	148,335	1.5	1999	1,349	96.4%	97.7%	97.4%	3,700	2.68
nd (11)	New Rochelle, NY	412	415,369	2.4	2001	1,008	97.3%	96.2%	95.2%	2,269	2.17
I (11)	Long Island City, NY	372	352,988	1.0	2002	949	95.2%	96.8%	97.6%	3,229	3.30
ace I	New York, NY	206	162,000	1.1	2006	786	94.7%	96.2%	89.8%	3,982	4.87
North (11)	Long Island City, NY	602	519,092	1.8	2007	862	96.3%	92.2%(3)	30.6%(3)	3,575	3.82
nd East (11)	New Rochelle, NY	588	622,999	1.7	2007	1,060	96.1%	79.6%(3)	27.8%(3)	3,463	2.60
ace II	New York, NY	90	73,624	1.1	2007	818	84.4%	97.1%	42.4%(3)	3,754	4.46

MIDWEST

Hills	Columbia, MD	192	193,784	15.0	1987/1996	1,009	97.4%	94.6%	95.8%	1,275	1.19
Hills II (7)	Columbia, MD	192	192,560	29.0	1987/1996	1,003	95.8%	93.9%	95.9%	1,297	1.21
Woods	Columbia, MD	176	179,880	10.0	1986	1,022	86.4%	88.8%(2)	93.2%	1,354	1.18
Hills III (7)	Columbia, MD	336	337,683	15.0	1987/1996	1,005	94.3%	94.8%	95.5%	1,416	1.34
Woods	Columbia, MD	215	214,670	12.7	1986/2006	998	86.1%	90.3%(2)	93.5%	1,233	1.12
	Washington, DC	308	297,876	2.7	1982	967	93.5%	96.3%	96.2%	2,291	2.28
Place I	Washington, DC	203	184,157	0.5	2003	907	97.0%	96.7%	95.4%	2,511	2.68
ly	Rockville, MD	368	368,732	24.0	1991/1995	1,002	96.5%	96.2%	96.2%	1,462	1.40
	Gaithersburg, MD	192	197,280	5.0	1996	1,028	97.9%	96.7%	97.3%	1,391	1.31
	Gaithersburg, MD	96	100,268	5.0	1998	1,044	97.9%	97.0%	95.9%	1,580	1.47
	Germantown, MD	300	290,544	26.7	1985	968	96.3%	96.5%	96.0%	1,215	1.21
ring (9)	North Bethesda, MD	386	387,884	10.2	2003	1,005	98.4%	96.8%	95.0%	1,774	1.71
or Station	North Bethesda, MD	497	472,001	10.0	2004	950	95.6%	97.0%	95.8%	1,825	1.86
(8)	North Potomac, MD	520	575,529	47.9	2004	1,107	96.5%	97.0%	96.2%	1,761	1.54
ly II	Rockville, MD	196	182,560	10.8	2007	931	93.4%	95.2%	85.3%(3)	1,540	1.57
	Fairfax, VA	420	354,945	24.3	1989/1996	845	92.4%	93.3%(2)	90.0%(2)	1,380	1.52
rs	Arlington, VA	344	294,954	4.1	1990	857	96.8%	96.2%	96.2%	1,811	2.03
n Court	Alexandria, VA	460	478,068	16.0	1998	1,039	94.6%	96.2%	95.6%	1,874	1.73
ice Park	Fairfax, VA	141	148,282	9.3	1988/1997	1,052	96.5%	96.7%	97.0%	1,558	1.43
	McLean, VA	558	613,426	19.1	1996	1,099	93.9%	96.5%	95.6%	1,944	1.71
n Square	Arlington, VA	842	628,433	20.1	2001	746	94.8%	96.8%	96.6%	1,879	2.44

23

Profile of Current, Development and Unconsolidated Communities (1)
(Dollars in thousands, except per apartment home data)

	City and state	Number of homes	Approx. rentable area (Sq. Ft.)	Acres	Year of completion / acquisition	Average size (Sq. Ft.)	Physical occupancy at 12/31/08	Average economic occupancy 2008	Average economic occupancy 2007	Average rental rate $ per Apt (4)	Average rental rate $ per Sq. Ft.	Fina repo c (
ago, IL												
on at Danada s (8)	Wheaton, IL	295	351,206	19.2	1997	1,191	95.6%	96.2%	95.5%	1,432	1.16	40
on at Stratford n (8)	Bloomingdale, IL	192	237,124	12.7	1997	1,235	94.8%	96.7%	96.1%	1,460	1.14	22
on Arlington nts	Arlington Heights, IL	409	352,236	2.8	1987/2000	861	96.6%	96.2%	94.3% (2)	1,543	1.72	56
IFIC THWEST												
le, WA												
on Redmond	Redmond, WA	222	219,075	8.4	1991/1997	987	91.4%	86.4% (2)	90.1% (2)	1,374	1.20 (2)	31
on at Bear k	Redmond, WA	264	296,530	22.2	1998	1,123	93.9%	96.6%	95.5%	1,437	1.24	35
on Bellevue (8)	Bellevue, WA	202	170,965	1.7	2001	846	95.0%	94.8%	96.6%	1,609	1.80	30
on Meadow	Bothell, WA	206	246,683	11.2	2000	1,197	95.6%	95.2%	96.6%	1,332	1.06	24
on WildReed	Everett, WA	234	266,580	23.0	2000	1,139	95.3%	95.8%	96.7%	1,153	0.97	23
on HighGrove	Everett, WA	391	428,962	19.0	2000	1,097	93.4%	94.8%	96.6%	1,131	0.98	39
on ParcSquare	Redmond, WA	124	131,706	2.0	2000	1,062	95.2%	96.9%	96.5%	1,628	1.49	19
on Brandemoor	Lynwood, WA	424	465,257	27.0	2001	1,097	94.6%	95.1%	96.1%	1,214	1.05	45
on Belltown	Seattle, WA	100	95,201	0.7	2001	952	97.0%	95.3%	97.2%	1,813	1.82	18
on lenbauer	Bellevue, WA	368	333,502	3.6	2008	906	93.5%	48.1% (3)	N/A	1,783	1.89 (3)	89
THERN IFORNIA												
and-East Bay,												
on Fremont	Fremont, CA	308	386,277	14.3	1994	1,254	97.1%	96.3%	97.4%	1,769	1.36	56
on Dublin	Dublin, CA	204	179,004	13.0	1989/1997	877	95.6%	96.7%	97.3%	1,578	1.74	28
on Pleasanton	Pleasanton, CA	456	366,062	14.7	1988/1994	803	97.8%	96.8%	95.8%	1,443	1.74	63
on at Union re	Union City, CA	208	150,320	8.5	1973/1996	723	94.2%	96.7%	97.6%	1,293	1.73	22

rford	Hayward, CA	544	452,043	11.1	1985/1986	831	93.8%	93.9%	96.5%	1,279	1.45	62
on at Willow k	Fremont, CA	235	191,935	13.5	1985/1994	817	98.3%	97.0%	98.1%	1,558	1.85	36
on at Dublin on I	Dublin, CA	305	300,760	4.7	2006	986	95.4%	67.6% (3)	2.0% (3)	1,723	2.02 (3)	84
Francisco, CA												
on at Cedar e	Daly City, CA	195	141,411	7.0	1972/1997	725	95.4%	97.0%	98.1%	1,593	2.13	27
on at Nob Hill	San Francisco, CA	185	108,712	1.4	1990/1995	588	97.3%	96.8%	96.9%	1,957	3.22	28
rne Ridge	San Rafael, CA	254	222,685	21.9	1973/1996	877	95.3%	96.8%	97.8%	1,509	1.67	33
on Foster City	Foster City, CA	288	222,364	11.0	1973/1994	772	97.2%	97.1%	97.1%	1,633	2.05	44
on Towers by ay	San Francisco, CA	227	285,881	1.0	1999	1,259	97.4%	97.5%	97.6%	3,140	2.43	67
on Pacifica	Pacifica, CA	220	186,800	21.9	1971/1995	849	97.3%	97.0%	96.9%	1,682	1.92	32
on Sunset ers	San Francisco, CA	243	171,854	16.0	1961/1996	707	97.1%	96.3%	96.9%	1,943	2.64	28
on at Diamond nts	San Francisco, CA	154	123,566	3.0	1972/1994	802	94.2%	95.9% (2)	97.7%	1,852	2.21 (2)	27
on at Mission North	San Francisco, CA	250	240,368	1.4	2003	961	96.8%	96.0%	94.5%	3,320	3.32	92

Profile of Current, Development and Unconsolidated Communities (1)
(Dollars in thousands, except per apartment home data)

	City and state	Number of homes	Approx. rentable area (Sq. Ft.)	Acres	Year of completion / acquisition	Average size (Sq. Ft.)	Physical occupancy at 12/31/08	Average economic occupancy 2008	Average economic occupancy 2007	Average rental rate $ per Apt (4)	Average rental rate $ per Sq. Ft.	Fin rep
ose, CA												
n bell	Campbell, CA	348	329,816	10.8	1995	948	96.0%	96.9%	97.7%	1,761	1.80	6
yBrook	San Jose, CA	360	322,992	14.0	1985/1996	897	95.0%	95.9%	97.0%	1,584	1.69	5
n at River	San Jose, CA	226	211,750	4.0	1990/1996	937	95.1%	97.3%	98.3%	1,713	1.78	4
n at de	Sunnyvale, CA	192	204,510	8.0	1991/1996	1,065	98.4%	97.3%	97.5%	1,987	1.82	3
n on the da	San Jose, CA	305	320,464	8.9	1999	1,051	94.8%	97.3%	97.7%	2,108	1.95	5
n alk	San Jose, CA	456	459,162	16.6	1997/1999	1,007	97.4%	96.4%	97.2%	1,748	1.67	7
n Silicon	Sunnyvale, CA	710	659,729	13.6	1997	929	95.8%	96.1%	96.2%	2,049	2.12	12
n ain View	Mountain View, CA	248	211,552	10.5	1986	853	84.7%	88.0% (2)	96.6%	1,923	1.98 (2)	5
n at side	Mountain View, CA	294	215,680	13.0	1962/1997	734	94.6%	97.6%	98.0%	1,536	2.05	4
n at Park	San Jose, CA	218	221,933	3.8	2002	1,018	97.7%	97.6%	97.7%	2,121	2.03	5
n Towers ula	Mountain View, CA	211	218,392	1.9	2002	1,035	97.2%	97.3%	97.0%	2,810	2.64	6
ybrook	San Jose, CA	80	64,554	3.6	2007	807	91.3%	96.8%	95.9% (3)	1,552	1.86	1
HERN FORNIA												
e y, CA												
n ort	Costa Mesa, CA	145	122,415	6.6	1956/1996	844	98.6%	96.3%	97.7%	1,707	1.95	1
n Mission	Mission Viejo, CA	166	124,770	7.8	1984/1996	752	92.8%	95.4%	96.1%	1,351	1.71	1
n at South	Costa Mesa, CA	258	210,922	8.0	1973/1996	818	93.8%	94.4%	96.4%	1,467	1.70	2
n Santa rita	Rancho Santa Margarita, CA	301	229,593	20.0	1990/1997	763	95.0%	96.7%	95.0%	1,386	1.76	2
		304	268,720	9.7	1971/1997	884	97.4%	96.1%	96.1%	1,544	1.68	3

n at Bay	Huntington Beach, CA											
n Warner	Canoga Park, CA	210	186,402	3.3	2007	888	91.9%	57.2% (3)	N/A	1,420	2.74 (3)	5
iego, CA												
n at n Bay	San Diego, CA	564	402,320	12.9	1969/1997	713	96.8%	95.0%	94.8%	1,438	1.92	6
n at n Ridge	San Diego, CA	200	208,125	4.0	1960/1997	1,041	94.5%	94.9%	96.2%	1,656	1.51	2
n at Hill	San Diego, CA	294	227,373	1.4	1973/1998	773	96.3%	96.4%	94.9%	1,513	1.89	3
n Fashion	San Diego, CA	161	186,766	10.0	2008	1,160	30.4%	15.3% (3)	N/A	2,380	0.25 (3)	6

Profile of Current, Development and Unconsolidated Communities (1)
(Dollars in thousands, except per apartment home data)

	City and state	Number of homes	Approx. rentable area (Sq. Ft.)	Acres	Year of completion / acquisition	Average size (Sq. Ft.)	Physical occupancy at 12/31/08	Average economic occupancy 2008	Average economic occupancy 2007	Average rental rate $ per Apt (4)	Average rental rate $ per Sq. Ft.
les, CA											
Media	Burbank, CA	748	532,264	14.1	1961/1997	712	94.3%	95.6%	95.9%	1,514	2.03
oodland Hills	Woodland Hills, CA	663	597,871	18.2	1989/1997	902	85.5%	76.9% (2)	94.8%	1,593	1.36 (2)
Warner	Woodland Hills, CA	227	195,224	7.0	1979/1998	860	95.2%	94.7%	96.9%	1,693	1.87
endale (11)	Burbank, CA	223	241,714	5.1	2003	1,084	89.7%	94.2%	95.0%	2,357	2.05
enade	Burbank, CA	400	360,587	6.9	1988/2002	901	92.0%	96.7% (2)	97.8%	1,936	2.08 (2)
amarillo	Camarillo, CA	249	233,267	10.0	2006	937	91.6%	94.5%	94.9%	1,623	1.64
ilshire	Los Angeles, CA	123	125,193	1.6	2007	1,018	93.5%	94.7%	55.8% (3)	2,684	2.50
cino	Los Angeles, CA	131	131,220	2.0	N/A	1,002	38.9%	15.7% (3)	N/A	2,475	0.69 (3)
LOPMENT MUNITIES											
naheim	Anaheim, CA	251	302,480	3.5	N/A	1,205	N/A	N/A	N/A	N/A	N/A
nion City	Union City, CA	438	428,730	6.0	N/A	979	N/A	N/A	N/A	N/A	N/A
mboree	Irvine, CA	279	243,157	4.5	N/A	872	N/A	N/A	N/A	N/A	N/A
Mission Bay	San Francisco, CA	260	261,361	1.5	N/A	1,005	N/A	N/A	N/A	N/A	N/A
alnut Creek	Walnut Creek, CA	422	448,384	5.3	N/A	1,063	N/A	N/A	N/A	N/A	N/A
orwalk	Norwalk, CT	311	312,018	4.5	N/A	1,003	N/A	N/A	N/A	N/A	N/A
Hingham	Hingham, MA	235	298,981	12.9	N/A	1,272	N/A	N/A	N/A	N/A	N/A
orthborough I	Northborough, MA	163	183,000	14.0	N/A	1,123	N/A	N/A	N/A	N/A	N/A
ue Hills	Randolph, MA	276	307,085	23.1	N/A	1,113	N/A	N/A	N/A	N/A	N/A
hite Plains	White Plains, NY	407	379,555	0.1	N/A	933	N/A	N/A	N/A	N/A	N/A
orningside	New York, NY	295	243,157	0.8	N/A	824	N/A	N/A	N/A	N/A	N/A
harles Pond	Coram, NY	200	176,000	39.0	N/A	880	N/A	N/A	N/A	N/A	N/A
rt Greene	Brooklyn, NY	631	498,632	1.0	N/A	790	N/A	N/A	N/A	N/A	N/A
owers (11)	Bellevue, WA	396	330,194	1.5	N/A	834	N/A	N/A	N/A	N/A	N/A
SOLIDATED MUNITIES											
	San Francisco, CA	313	291,556	1.5	2006	931	93.6%	95.0%	83.3%	3,226	3.29

Mission Bay 9)											
el Rey (9)	Los Angeles, CA	309	284,387	5.0	2006	920	91.6%	92.7%	96.5%	2,100	2.11
hrystie Place	New York, NY	361	266,940	1.5	2005	739	95.8%	96.9%	96.1%	4,208	5.51
anita Village	Kirkland, WA	211	209,335	2.9	2005	992	96.2%	95.3%	95.2%	1,602	1.54
Redondo	Redondo Beach, CA	105	86,075	1.2	1971/2004	820	97.1%	94.3%	94.0%	2,015	2.32
unset (6)	Los Angeles, CA	82	71,037	0.8	1987/2005	866	91.5%	96.5%	88.3% (2)	1,997	2.23
ter (6)	Norwalk, CA	192	174,378	8.7	1987/2005	908	89.1%	93.6%	85.5% (2)	1,676	1.73
aseo Place (6)	Fremont, CA	134	106,249	7.0	1987/2005	793	97.0%	94.8% (2)	87.3% (2)	1,433	1.71 (2)
erba Buena	San Francisco, CA	160	159,604	0.9	2000/2006	998	97.5%	97.1%	97.1%	3,059	2.98
gs (6)	Corona, CA	320	241,440	13.3	1987/2006	755	81.9%	87.7%	94.2%	1,093	1.27
errace (6)	San Jose,CA	348	287,918	18.4	1994/2007	827	97.1%	97.7%	96.2% (3)	1,470	1.74
s Apartments	West Covina, CA	85	107,150	5.3	1966/2007	1,261	89.4%	88.0% (2)	97.5% (3)	1,715	1.20 (2)
akeside (6)	Wheaton, IL	204	162,821	12.4	2004	798	95.6%	96.2%	95.1%	979	1.18
Poplar Creek	Schaumburg, IL	196	178,490	12.8	1986/2005	911	94.9%	91.3%	88.6% (2)	1,190	1.19
ngton (6)	Schaumburg, IL	256	201,924	13.2	1988/2006	789	98.0%	96.2% (2)	93.1%	1,069	1.30 (2)
k Crossing (6)	Billerica, MA	252	188,915	13.0	2007	750	94.8%	96.0%	93.6% (3)	1,248	1.60
Towers/South hor (6)	Weymouth, MA	211	154,957	7.7	1971/2007	734	94.8%	95.8% (2)	87.9% (3)	1,043	1.36 (2)

26

Profile of Current, Development and Unconsolidated Communities (1)
(Dollars in thousands, except per apartment home data)

	City and state	Number of homes	Approx. rentable area (Sq. Ft.)	Acres	Year of completion / acquisition	Average size (Sq. Ft.)	Physical occupancy at 12/31/08	Average economic occupancy 2008	Average economic occupancy 2007	Average rental rate $ per Apt (4)	Average rental rate $ per Sq. Ft.	Financial reporting cost (5)
Avalon Columbia (6)	Columbia, MD	170	180,452	11.3	1989/2004	1,061	96.5%	96.3%	96.0% (2)	1,485	1.35	N/A
Cedar Place (6)	Columbia, MD	156	152,923	11.4	1972/2006	980	94.9%	86.8% (2)	95.3%	1,158	1.03 (2)	N/A
Avalon Centerpoint (6)	Baltimore, MD	392	312,356	6.9	2005/2007	797	94.6%	90.5%	92.9% (3)	909	1.03	N/A
Avalon at Aberdeen Station (6)	Aberdeen, NJ	290	414,585	16.8	2002/2006	1,430	99.0%	96.5%	96.1%	1,790	1.21	N/A
Avalon at Rutherford Station (6)	East Rutherford, NJ	108	131,937	1.5	2005/2007	1,222	95.4%	95.2%	89.2% (3)	2,237	1.74	N/A
Avalon Crystal Hill (6)	Pomona, NY	168	215,203	12.1	2001/2007	1,281	98.2%	95.2%	94.9% (3)	2,020	1.50	N/A

(1) We own a fee simple interest in the communities listed, excepted as noted below.

(2) Represents community which was under redevelopment during the year, resulting in lower average economic occupancy and average rental rate per square foot for the year.

(3) Represents a community that completed development or was purchased during the year, which could result in lower average economic occupancy and average rental rate per square foot for the year.

(4) Represents the average rental revenue per occupied apartment home.

(5) Costs are presented in accordance with generally accepted accounting principles. For current Development Communities, cost represents total costs incurred through December 31, 2008. Financial reporting costs are excluded for unconsolidated communities, see Note 6, Investments in Real Estate Entities.

(6) We own a 15.2% combined general

partnership and indirect limited partner equity interest in this community.

(7) We own a general partnership interest in a partnership that owns a fee simple interest in this community.

(8) We own a general partnership interest in a partnership structured as a DownREIT that owns this community.

(9) We own a membership interest in a limited liability company that holds a fee simple interest in this community.

(10) This community was transferred to a joint venture entity upon completion of development. We do not hold an equity interest in the entity, but retain a promoted residual interest in the profits of the entity. We

receive a property management fee for this community.

(11) Community is located on land subject to a land lease.

Development Communities

As of December 31, 2008, we had 14 Development Communities under construction. We expect these Development Communities, when completed, to add a total of 4,564 apartment homes to our portfolio for a total capitalized cost, including land acquisition costs, of approximately $1,583,800,000. You should carefully review Item 1a., Risk Factors, for a discussion of the risks associated with development activity and our discussion under Item 7., Management s Discussion and Analysis of Financial Condition and Results of Operations, for further discussion of our 2009 outlook for development activity.

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 of apartment homes	Total capitalized cost (1) ($ millions)	Construction start	Initial occupancy (2)	Estimated completion	Estimated stabilization (3)
1.	Avalon Morningside Park (4) *New York, NY*	295	$ 122.8	Q1 2007	Q3 2008	Q2 2009	Q3 2009
2.	Avalon White Plains *White Plains, NY*	407	154.0	Q2 2007	Q3 2008	Q4 2009	Q1 2010
3.	Avalon Anaheim Stadium *Anaheim, CA*	251	102.3	Q2 2007	Q4 2008	Q3 2009	Q1 2010
4.	Avalon Union City *Union City, CA*	438	122.2	Q3 2007	Q2 2009	Q4 2009	Q2 2010
5.	Avalon at the Hingham Shipyard *Hingham, MA*	235	53.5	Q3 2007	Q3 2008	Q2 2009	Q3 2009
6.	Avalon at Mission Bay North III *San Francisco, CA*	260	153.8	Q4 2007	Q2 2009	Q4 2009	Q2 2010
7.	Avalon Jamboree Village *Irvine, CA*	279	77.4	Q4 2007	Q2 2009	Q1 2010	Q3 2010
8.	Avalon Fort Greene *New York, NY*	631	306.8	Q4 2007	Q4 2009	Q1 2011	Q3 2011
9.	Avalon Charles Pond *Corham, NY*	200	47.8	Q1 2008	Q1 2009	Q3 2009	Q1 2010
10.	Avalon Blue Hills *Randolph, MA*	276	46.6	Q2 2008	Q2 2009	Q4 2009	Q2 2010
11.	Avalon Walnut Creek (4) *Walnut Creek, CA*	422	156.7	Q3 2008	Q3 2010	Q1 2011	Q3 2011

12.	Avalon Norwalk *Norwalk, CT*	311	86.4	Q3 2008	Q3 2010	Q2 2011	Q4 2011
13.	Avalon Northborough I *Northborough, MA*	163	27.4	Q4 2008	Q3 2009	Q1 2010	Q3 2010
14.	Avalon Towers Bellevue *Bellevue, WA*	396	126.1	Q4 2008	Q2 2010	Q2 2011	Q4 2011
	Total	4,564	$ 1,583.8				

(1) Total capitalized cost includes all capitalized costs projected to be or actually incurred to develop the respective Development Community, determined in accordance with 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. There can be no assurance that we will pursue to completion any or all of these proposed developments.

(3) Stabilized operations is defined as the earlier of (i) attainment of 95% or greater physical occupancy or (ii) the one-year anniversary of completion of development.

(4) This community is being financed in part by third party, tax-exempt debt.

Redevelopment Communities

As of December 31, 2008, we had seven consolidated communities under redevelopment. We expect the total capitalized cost to redevelop these communities to be $95,400,000, excluding costs prior to redevelopment. In addition, the Fund has two 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 Item 1a., Risk Factors, for a discussion of the risks associated with redevelopment activity.

The following presents a summary of these Redevelopment Communities:

		Number of apartment homes	Total cost ($ millions) Pre-redevelopment cost	Total capitalized cost (1)	Reconstruction start	Estimated reconstruction completion	Estimated restabilized operations (2)
1.	Essex Place *Peabody, MA*	286	$ 23.7	$ 34.5	Q3 2007	Q2 2009	Q4 2009
2.	Avalon Woodland Hills *Woodland Hills, CA*	663	72.1	109.3	Q4 2007	Q3 2010	Q1 2011
3.	Avalon at Diamond Heights	154					