BNP RESIDENTIAL PROPERTIES INC
Form DEFM14A
November 13, 2006

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SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the

Securities Exchange Act of 1934

Filed by Registrant x Filed by Party other than the Registrant ¨

Check the appropriate box:

¨ Preliminary Proxy Statement

¨ **Confidential, for Use of the Commission Only (as permitted by Rule 14-6(e)(2))**

x Definitive Proxy Statement

¨ Definitive Additional Materials

¨ Soliciting Material Pursuant to Sec. 240.14a-12

BNP Residential Properties, Inc.

Payment of Filing Fee (Check the appropriate box):

¨ No fee required.

¨ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

1) Title of each class of securities to which transaction applies:

Common stock, $0.01 par value per share

2) Aggregate number of securities to which transaction applies:

10,468,177

3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11(Set forth the amount on which the filing fee is calculated and state how it was determined):

$24.00

4) Proposed maximum aggregate value of transaction:

$251,236,248.00

5) Total fee paid:

$26,882.28

x Fee paid previously with preliminary materials

¨ Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

1) Amount Previously Paid:

2) Form, Schedule or Registration Statement No.:

3) Filing Party:

4) Date Filed:

November 8, 2006

Dear Stockholders:

You are invited to attend a special meeting of the stockholders of BNP Residential Properties, Inc. to be held on December 21, 2006 at 10:00 a.m., local time. The meeting will take place at The Westin Charlotte, 601 S. College Street, Charlotte, North Carolina.

At the special meeting, we will ask you to consider and vote upon the merger of our company with and into a wholly owned subsidiary of Babcock & Brown Bravo Holdings LLC, which is an affiliate of international investment and advisory firm Babcock & Brown Limited. If the merger is completed, in exchange for each share you own, you will be entitled to receive $24.00 in cash. Until we complete the merger, we expect we will continue paying regular quarterly dividends on our common stock at a rate of $0.26 per share for each full fiscal quarter ending before the merger s closing date. In addition, we expect to pay you a prorated portion of the regular quarterly dividend for the quarter in which the merger occurs, subject to certain limitations as more fully described in the enclosed proxy statement.

After careful consideration, our board of directors approved the merger and declared the merger advisable. **Our board of directors recommends that you vote FOR the merger.**

Holders of at least a majority of our outstanding shares of common stock must affirmatively vote in favor of the merger in order for it to be approved. If our stockholders approve the merger, the merger will occur within five business days after the other conditions to closing the merger are satisfied or waived or on such other date as the parties agree in writing.

This proxy statement provides you with a summary of the merger, the merger agreement and additional information about the parties involved. You should carefully read the information in this proxy statement, including the exhibits. You may also obtain more information about our company from us or from documents we have filed with the Securities and Exchange Commission.

Some of our directors and executive officers have interests and arrangements that may be different from, or in addition to, your interests as a stockholder of our company. Some of these interests may conflict with yours. These interests are summarized in the section entitled The Mergers Interests of Our Directors and Executive Officers in the Mergers in the enclosed proxy statement.

Your vote is very important. Whether or not you plan to attend the special meeting, please complete and return the enclosed proxy card as promptly as possible. If you attend the special meeting, you may continue to have your shares voted as instructed in the proxy, or you may withdraw your proxy at the special meeting and vote your shares in person. Failing to vote by proxy or in person, or failing to instruct your broker on how to vote (if your shares are held in street name), will have the same effect as voting against the merger.

Very truly yours,

/s/ Philip S. Payne
Philip S. Payne
Chairman

This proxy statement is dated November 8, 2006 and is first being mailed, along with the attached proxy card, to our stockholders on or about November 13, 2006.

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BNP Residential Properties, Inc.

301 South College Street, Suite 3850, Charlotte, NC 28202-6024, Telephone 704/944-0100

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

to be held December 21, 2006

The special meeting of the stockholders of BNP Residential Properties, Inc. will be held at The Westin Charlotte, 601 S. College Street, Charlotte, North Carolina, on December 21, 2006, at 10:00 a.m., local time, for the following purposes:

1. To consider and vote upon a proposal to approve the merger of BNP Residential Properties, Inc. with and into a wholly owned subsidiary of Babcock & Brown Bravo Holdings LLC, which is an affiliate of international investment and advisory firm Babcock & Brown Limited, pursuant to the Amended and Restated Agreement and Plan of Merger, dated as of October 17, 2006, by and among BNP Residential Properties, Inc., BNP Residential Properties Limited Partnership, Babcock & Brown Bravo Holdings LLC, Babcock & Brown Bravo Acquisition LLC and Babcock & Brown Bravo Operating Partnership LP; and

2. To transact such other business as may properly come before the special meeting or any adjournments or postponements of the special meeting.

Holders of record of our shares of common stock as of the close of business on October 20, 2006 are entitled to notice of and vote at the special meeting or any postponements or adjournments of the special meeting. Holders of at least a majority of our outstanding shares of common stock must affirmatively vote in favor of the merger proposal in order for it to be approved. If we have not received sufficient votes for approval of the merger at the special meeting of stockholders, the special meeting may be adjourned for the purpose of soliciting additional proxies. Regardless of the number of shares you own, your vote is important. If you do not plan to attend the meeting and vote your shares in person, please mark, sign, date and promptly return the enclosed proxy card in the postage-paid envelope.

You may revoke your proxy at any time before its exercise by notifying our Secretary in writing of the revocation, by delivering a later-dated proxy, or by voting in person at the special meeting.

After careful consideration, our board of directors unanimously approved the merger and declared the merger advisable. **Our board of directors recommends that our stockholders vote FOR the merger.**

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EXHIBIT A	Amended and Restated Agreement and Plan of Merger
EXHIBIT B	Opinion of Banc of America Securities LLC
EXHIBIT C	Voting and Proxy Agreement

SUMMARY TERM SHEET

This term sheet summarizes material information contained in this proxy statement relating to the merger and may not contain all of the information that is important to you. To understand the merger and related transactions fully and for a more complete description of the transactions contemplated by the merger agreement, you should carefully read this entire proxy statement as well as the additional documents to which it refers, including the Amended and Restated Agreement and Plan of Merger, dated October 17, 2006, by and among BNP Residential Properties, Inc., BNP Residential Properties Limited Partnership, Babcock & Brown Bravo Holdings LLC, Babcock & Brown Bravo Acquisition LLC and Babcock & Brown Bravo Operating Partnership LP, which amends and restates the Agreement and Plan of Merger, dated August 31, 2006. We refer to the Amended and Restated Agreement and Plan of Merger, as it may be amended from time to time, in this proxy statement as the merger agreement. We refer to the Agreement and Plan of Merger, dated August 31, 2006, as the original merger agreement. A copy of the merger agreement is attached to this proxy statement as Exhibit A. We encourage you to read the merger agreement because it is the legal document that governs the parties agreement pursuant to which the merger will occur. We have included page references to pages in this proxy statement to direct you to a more complete description of the topics presented in this summary.

The Special Meeting (Page 19)

We are providing this proxy statement to holders of our common stock for use at the special meeting and at any adjournments or postponements of that meeting. We are holding the meeting to ask you to approve the merger pursuant to the terms of the merger agreement, all in the manner described in this proxy statement. We will hold the special meeting at The Westin Charlotte, 601 S. College Street, Charlotte, North Carolina, on December 21, 2006, at 10:00 a.m., local time.

Merger Vote Requirement (Page 25)

All holders of record of our outstanding common stock as of the close of business on October 20, 2006 are entitled to vote at the special meeting. The holders of at least a majority of our outstanding common stock must affirmatively vote in favor of the merger proposal for the merger to be approved. If you hold your common stock in street name (that is, through a broker or other nominee), your broker or nominee will not vote your common stock unless you provide instructions to your broker or nominee on how to vote your shares. You should instruct your broker or nominee how to vote your common stock by following the directions your broker or nominee provides. **If you fail to either return your proxy card or vote in person at the special meeting, if you mark your proxy card abstain, or if you fail to instruct your broker or nominee on how to vote, the effect will be the same as a vote AGAINST the merger.**

Parties to the Mergers (Page 22)

BNP Residential Properties, Inc. and BNP Residential Properties Limited Partnership. BNP Residential Properties, Inc. (referred to in this proxy statement as BNP, we, us, our or our company) is a self-administered and self-managed real estate investment trust, which we refer to in this proxy statement as a REIT, with operations in North Carolina, South Carolina and Virginia. Our primary activity is owning and operating apartment communities. We currently own and manage 32 apartment communities containing 8,180 apartment units. We also serve as general partner of limited partnerships that own three properties with 713 apartment units, which we also manage. In addition to our apartment communities, we own 40 properties that we lease on a triple-net basis to a restaurant operator under a master lease.

We are structured as an UpREIT, or umbrella partnership real estate investment trust. We are the sole general partner and own a controlling interest in BNP Residential Properties Limited Partnership, through which we conduct all of our operations. We refer to this partnership in this proxy statement as our operating partnership. We currently own 80% of the outstanding operating partnership units. BNP Residential Properties Limited Partnership was organized as a Delaware limited partnership in 1997.

Our company was originally incorporated in the state of Delaware in 1987. In 1997, we reincorporated in the state of Maryland. Our executive offices are located at 301 South College Street, Suite 3850, Charlotte, North Carolina 28202-6024, and our telephone number is 704/944-0100. Our shares of common stock are currently listed on the American Stock Exchange (AMEX), under the symbol BNP.

Babcock & Brown Bravo Holdings LLC, Babcock & Brown Bravo Acquisition LLC and Babcock & Brown Bravo Operating Partnership LP. We refer to Babcock & Brown Bravo Holdings LLC, Babcock & Brown Bravo Acquisition LLC and Babcock & Brown Bravo Operating Partnership LP in this proxy statement as the Babcock & Brown transaction entities. The Babcock & Brown transaction entities are entities recently formed by Babcock & Brown Real Estate Investments LLC solely for the purpose of effecting the transactions contemplated by the merger agreement. Babcock & Brown Real Estate Investments LLC is an affiliate of Babcock & Brown Limited, a global investment and advisory firm with longstanding capabilities in structured finance and the creation, syndication and management of asset and cash flow-based investments. Babcock & Brown Limited was founded in 1977 and is listed on the Australian Stock Exchange (ASX) under the symbol BNB.

Babcock & Brown Bravo Holdings LLC is a Delaware limited liability company and is the sole member of Babcock & Brown Bravo Acquisition LLC. Babcock & Brown Bravo Holdings LLC is sometimes referred to in this proxy statement as Babcock & Brown.

Babcock & Brown Bravo Acquisition LLC is a newly formed Delaware limited liability company and the entity into which we will merge pursuant to the terms of the merger agreement. We sometimes refer to Babcock & Brown Acquisition LLC in this proxy statement as B&B Acquisition Sub. B&B Acquisition Sub will be the surviving company in the merger.

Babcock & Brown Bravo Operating Partnership LP is a newly formed Delaware limited partnership and the entity that will merge with and into our operating partnership pursuant to the terms of the merger agreement. The general partner of Babcock & Brown Bravo Operating Partnership LP is B&B Acquisition Sub. The limited partner of Babcock & Brown Bravo Operating Partnership LP is Babcock & Brown. Our operating partnership will be the surviving entity of the partnership merger.

The Mergers (Page 24)

Merger. At the special meeting, we will ask our stockholders to approve the merger of our company with and into B&B Acquisition Sub, with B&B Acquisition Sub surviving the merger. We sometimes also use the term surviving company in this proxy statement to describe B&B Acquisition Sub as the surviving company following the merger. We refer to this merger in this proxy statement as simply the merger.

Partnership Merger. Babcock & Brown Bravo Operating Partnership LP will merge with and into our operating partnership, with our operating partnership surviving the partnership merger. We refer to this merger in this proxy statement as the partnership merger and, together with the merger, the mergers. We sometimes use the term surviving partnership in this proxy statement to describe our operating partnership as the surviving entity following the partnership merger.

Sequence of Transactions. We expect that the merger and the partnership merger will occur on the same day, with the partnership merger occurring first and the merger occurring second.

Merger Consideration (Page 51)

In the merger, each share of our common stock that is issued and outstanding immediately before the effective time of the merger will be converted into the right to receive the merger consideration. The merger consideration per share consists of $24.00 in cash without interest and less any applicable withholding taxes. The merger consideration will not be adjusted for changes in the price of our common stock. Until we complete the merger, we anticipate we will continue to pay regular quarterly dividends on our common stock at a rate of $0.26 per share for each full fiscal quarter ended prior to the closing date of the merger. Additionally, we expect to pay a prorated portion of the regular quarterly dividend for the quarter in which the merger occurs, as more fully described in the section captioned Description of the Merger Agreement Dividends; Special Dividend.

Partnership Merger Consideration (Page 51)

In the partnership merger, each outstanding operating partnership common unit will remain a common unit in the surviving partnership unless the unitholder makes the election described below.

In lieu of continuing to hold common units in the surviving partnership, each limited partner of our operating partnership will be offered the opportunity, subject to certain conditions, to elect to receive $24.00 cash without interest and less applicable withholding taxes or, if the limited partner qualifies as an accredited investor, as defined under the U.S. securities laws, one preferred unit in the surviving partnership, in each case, in respect of each common unit in our operating partnership held by such limited partner. Separate materials will be sent to the limited partners of our operating partnership regarding this election. **This proxy statement does not constitute any solicitation of consents in respect of the partnership merger, and does not constitute an offer to exchange or convert the operating partnership common units that you may own for or into cash consideration or preferred units in the surviving partnership.**

Exchange and Payment Procedures (Page 53)

Promptly after completion of the mergers, you will receive a letter of transmittal, which will include instructions describing how you may exchange your common stock for the merger consideration. At that time, you must send your share certificates with your completed letter of transmittal to the exchange agent. You should not send your share certificates to us or anyone else until you receive these instructions. You will receive the payment of the merger consideration after the exchange agent receives from you a properly completed letter of transmittal together with your share certificates. If any of your share certificates have been lost, stolen or destroyed, the exchange agent will pay you your merger consideration upon your making an affidavit as to the fact that such certificate is lost, stolen or destroyed, and if requested by Babcock & Brown or the surviving company, your posting of a bond as indemnity against any claim against such certificate. If you hold your common stock in street name, and follow the appropriate procedures, your broker or nominee will surrender your shares in exchange for your merger consideration following the merger s completion.

Treatment of Options to Purchase Shares of Our Common Stock (Page 52)

Certain of our employees, including some of our executive officers, hold options to purchase shares of our common stock, some of which are currently exercisable. In accordance with the terms of the merger agreement, any unexercised options to purchase our shares held by any such holders, whether or not vested or exercisable as of the closing of the merger, will be exchanged for cash in an amount equal to the product of (1) the number of shares such holder could have purchased under our option plan (assuming full vesting) had such holder exercised such option in full immediately prior to the merger becoming effective and (2) the excess of $24.00 over the exercise price per share of such option, which cash payment will be treated as compensation and will be subject to applicable withholding. The exercise price of each outstanding option is less than $24.00.

Treatment of Restricted Stock (Page 52)

Restricted stock issued to certain of our officers as long-term incentive compensation is subject to forfeiture if certain service and holding periods are not met. As a result of the merger, any restrictions or forfeiture provisions will terminate or lapse and the restricted stock will be treated under the merger agreement in the same manner as our other shares, including receipt of the per share merger consideration.

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Dividends (Page 53)

We are authorized under the merger agreement to pay regular quarterly dividends and distributions (not to exceed $0.26 per share or per operating partnership common unit) for each full fiscal quarter ended prior to the effective date of the mergers. We are also permitted under the merger agreement to pay a special dividend for the period from the last day of the last quarter for which we paid a full quarterly dividend up to the effective time of the mergers. We refer to this period in this proxy statement as the stub period. The special dividend will generally equal funds from operations for the stub period divided by the number of shares of common stock and operating partnership units we do not own. Funds from operations for the stub period equals net income excluding gains (losses) from sales of property and certain transaction fees and expenses relating to the mergers, plus depreciation and amortization, and after adjustments for unconsolidated partnerships and joint ventures. However, the special dividend may not exceed $0.26 per share prorated for the number of days in the stub period compared with the number of days in the quarter in which the closing occurs.

As an example, if the effective date of the merger is February 15, 2007, holders of our common stock would receive regular quarterly dividends through the fiscal quarter ended December 31, 2006. Additionally, you would receive a prorated portion of the quarterly dividend for the period from January 1, 2007 through February 15, 2007.

Notwithstanding what the merger agreement permits, we can provide no assurances with respect to the payment of future quarterly distributions or the special dividend. These distributions depend on our future results of operations.

Conditions to the Mergers (Page 69)

Before the mergers can be consummated, a number of conditions must be satisfied (or waived by us or Babcock & Brown, as appropriate, to the extent permitted by law), including:

the approval of the merger by our stockholders and the partnership merger by the holders of common units in our operating partnership (of which we own a sufficient number to ensure we obtain the required vote);

the receipt of all material consents, approvals of, filings and registrations with, and notifications to, all governmental authorities required for consummation of the mergers and any transactions contemplated by the merger agreement and the expiration of all waiting periods required by law;

the absence of any law or order by any governmental authority which prohibits, restricts or makes illegal the consummation of the mergers or any transactions contemplated by the merger agreement and which continues to be in effect;

- the truth and correctness of our and Babcock & Brown s representations and warranties, subject to certain qualifications;

- the performance and compliance, in all material respects, by each of us and Babcock & Brown of our respective obligations and covenants under the merger agreement; and

- the receipt by Babcock & Brown and B&B Acquisition Sub of a tax opinion opining that we have been organized and have operated in conformity with the requirements for qualification as a REIT under the Internal Revenue Code of 1986, as amended, which we refer to in this proxy statement as the Internal Revenue Code, for all taxable periods commencing with our taxable year ended December 31, 2001 through and including the closing date (which opinion will be based, in part, on customary assumptions and customary factual representations we and our subsidiaries will make).

In addition, Babcock & Brown is not obligated to effect the merger and consummate the transactions contemplated by the merger agreement prior to June 30, 2007 if we have not received certain consents to the merger on terms satisfactory to Babcock & Brown or if any consent received before June 30, 2007 shall no longer be in effect.

Timing of Closing (Page 24)

If our stockholders approve the merger and the other conditions to the mergers are satisfied or waived, then we intend to complete the mergers as soon as practicable following the special meeting, which is scheduled for December 21, 2006. The parties to the merger agreement, however, are currently seeking consents to the merger and the transactions contemplated by the merger agreement from certain of our lenders. Babcock & Brown is not obligated to effect the merger or the transactions contemplated by the merger agreement prior to June 30, 2007, if we have not received these consents on terms satisfactory to Babcock & Brown. Accordingly, any delay in receiving such consents on terms satisfactory to Babcock & Brown could result in a delay between the approval of the merger and the effective time of the mergers.

Recommendation of Our Board of Directors (Page 33)

Our board of directors recommends that our stockholders vote FOR the merger. At a special meeting held on August 30, 2006, our board of directors (excluding Messrs. Payne and Wilkerson, who abstained) unanimously determined that the merger was advisable, approved the merger agreement and the transactions contemplated thereby and voted to recommend that holders of our shares vote FOR the merger.

Reasons for the Mergers (Page 33)

In determining whether to approve the mergers, our board of directors considered a number of factors, which are described under the caption entitled Reasons for the Mergers.

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Opinion of Our Financial Advisor (Page 39)

In connection with the merger, Banc of America Securities LLC, our financial advisor, delivered to our board of directors an opinion, dated August 30, 2006, as to the fairness, from a financial point of view and as of the date of the opinion, of the merger consideration to be received by holders of our common stock. The full text of the written opinion dated August 30, 2006 of Banc of America Securities, which describes, among other things, the assumptions made, procedures followed, factors considered and limitations on the review undertaken, is attached as Exhibit B to this proxy statement and is incorporated by reference in its entirety into this proxy statement. Holders of our common stock are encouraged to read the opinion carefully in its entirety. **Banc of America Securities provided its opinion to our board of directors to assist it in its evaluation of the merger consideration from a financial point of view. Banc of America Securities opinion does not address any other aspect of the merger and does not constitute a recommendation to any stockholder as to how to vote or act in connection with the merger.**

Financing Commitment; Guarantee (Page 76)

The Babcock & Brown transaction entities have represented to us that they will have the merger consideration available at the effective time of the merger. There is no financing contingency in the merger agreement.

In connection with the merger agreement, Babcock & Brown International Pty Ltd (an affiliate of Babcock & Brown Limited), provided us and our operating partnership with a guarantee of certain obligations of Babcock & Brown and its subsidiaries under the merger agreement.

No Appraisal Rights (Page 20)

Our shares of common stock were listed on the AMEX on the record date for determining those stockholders entitled to notice of, and vote at, the special meeting. Accordingly, under Maryland law, appraisal rights are not available to holders of our common stock in connection with the merger.

Interests of Our Directors and Executive Officers in the Mergers (Page 45)

Some of our directors and executive officers have interests in the mergers that differ from, or are in addition to (and therefore may conflict with), your interests as a stockholder. Our board of directors is aware of these interests and considered them in approving the mergers. These interests are described below.

Certain of our executive officers will receive change in control payments at the effective time of the merger or if their employment is terminated under specified circumstances after the merger.

Certain of our executive officers hold options to purchase our common stock that will be canceled and entitle them to additional payments at the effective time of the merger.

Certain executive officers hold restricted stock for which the restrictions will lapse at the effective time of the merger, and the restricted stock will be treated in the same manner as our common stock.

Certain executive officers have entered into employment agreements with us that will become effective and will be assumed by the surviving company at the time of the merger.

Certain of our independent directors own common units in our operating partnership and will continue to own such units in the surviving partnership unless they elect to exchange each common unit for $24.00 in cash or a preferred unit issuable by the surviving partnership. If they do not elect to exchange their units for cash, they will be entitled to defer the taxable gain they would otherwise recognize if they were to receive cash in respect of their common units.

Our board of directors and executive officers are entitled to indemnification by us and the surviving company.

Certain executive officers and directors have entered into a voting agreement pursuant to which they have agreed to vote their shares in favor of the merger and against a competing transaction with a third party.

Prohibition Against Solicitation (Page 64)

The merger agreement prohibits us or any of our directors, officers or other representatives from soliciting, encouraging or taking any other action to facilitate inquiries with respect to competing business combination transactions or initiating, participating or encouraging discussions or negotiations regarding a competing business combination transaction. If we receive an unsolicited proposal regarding another potential business combination that constitutes a superior proposal, however, we have a limited right, subject to satisfaction of certain conditions and payment of a $12.5 million termination fee to Babcock & Brown, to terminate the merger agreement and enter into an agreement with respect to a superior proposal with a third party.

Termination Rights Under the Merger Agreement (Page 71)

The merger agreement may be terminated before the merger s effective time:

by mutual written consent of us and Babcock & Brown;

by Babcock & Brown or us based on breaches of representations, warranties, covenants or agreements set forth in the merger agreement by the other party such that the related conditions to the non-breaching parties obligation to close would be incapable of being satisfied and could not be cured before the earlier of 30 calendar days following notice of such breach or June 30, 2007;

- by either us or Babcock & Brown if any judgment, injunction, order, decree or action by any governmental entity prevents the completion of the merger;

- by either us or Babcock & Brown if our stockholders fail to approve the merger as contemplated by the merger agreement;

- by either us or Babcock & Brown if the merger is not completed by June 30, 2007, subject to certain exceptions;

- by us, before obtaining stockholder approval of the merger, if our board of directors authorizes us to enter into a binding written agreement concerning a superior competing transaction, provided that we pay the termination fee and otherwise comply with the terms of the merger agreement (we refer to this termination right in this proxy statement as our superior transaction termination right); or

- by Babcock & Brown, if (1) our board of directors fails to make, or withdraws or modifies in a manner adverse to Babcock & Brown, its recommendation to our stockholders that they approve the merger or recommends that our stockholders approve a superior competing transaction, (2) our board of directors fails to solicit proxies in favor of the merger, (3) we deliver a notice with respect to our receipt of, and intent to enter into, an agreement to complete a superior competing transaction, (4) we fail, within ten days after Babcock & Brown s request, to recommend against a competing acquisition proposal that is publicly announced or rumored, (5) we materially breach our obligations with respect to not soliciting a competing acquisition proposal, (6) we materially breach our obligations with respect to obtaining stockholder approval of the merger, (7) we approve, recommend or enter into any agreement or arrangement (other than a confidentiality agreement) with respect to any competing acquisition proposal, (8) our board of directors resolves to take any of the actions described in numbered items three through seven, or (9) a tender offer or exchange offer is commenced and we have not sent to our stockholders, within 10 business days after such tender or exchange offer is first published, a statement disclosing that we recommend rejecting such tender or exchange offer (we refer to this termination right in this proxy statement as Babcock & Brown s competing transaction response termination right).

Payment of Termination Fees (Page 73)

We have agreed to pay Babcock & Brown a termination fee of $12.5 million if:

- we exercise our superior transaction termination right; or

- Babcock & Brown exercises its competing transaction response termination right.

We have also agreed to pay Babcock & Brown the termination fee of $12.5 million if:

- Babcock & Brown exercises its right, as discussed above, to terminate the merger agreement based on breaches of the merger agreement by us or our operating partnership and those breaches are willful;

- we or Babcock & Brown terminate the merger agreement because our stockholders fail to approve the merger as contemplated by the merger agreement; or

- we or Babcock & Brown terminate the merger agreement because the mergers have not occurred by June 30, 2007

and, in each of the above three cases, within 12 months following any such termination, we complete a competing transaction or enter into a written agreement with respect to a competing transaction that is ultimately completed, with any individual or entity.

Material Tax Consequences of the Merger (Page 76)

The receipt of the merger consideration in exchange for shares of common stock will be taxable for federal income tax purposes. Your tax consequences will depend on your personal situation. You should consult your own tax advisor for a full understanding of the tax consequences of the merger to you.

Fees and Expenses (Page 76)

We estimate that our company will incur, and will be responsible for paying, transaction-related fees and expenses, consisting primarily of filing fees, fees and expenses of investment bankers, attorneys and accountants and other related charges, totaling approximately $6.2 million assuming the mergers and related transactions are completed.

Regulatory Approvals (Page 76)

No material federal or state regulatory approvals are required to be obtained by us or the other parties to the merger agreement in connection with either the merger or the partnership merger.

Conduct of Our Company if the Mergers are not Completed (Page 39)

If the mergers are not completed for any reason, we will continue to pursue our strategic business plan intended to deliver further sustainable growth in funds from operations and enhanced value for our stockholders over time. Additionally, we may seek to enter into other acquisition or business combination opportunities or to issue additional debt or equity securities.

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Who Can Answer Other Questions

If you have any questions about the merger or would like additional copies of this proxy statement, please contact us at the following address: BNP Residential Properties, Inc., 301 South College Street, Suite 3850, Charlotte, North Carolina 28202, Attn: Investor Relations or call us at (704) 944-0100.

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QUESTIONS AND ANSWERS ABOUT THE MERGER AND THE SPECIAL MEETING

The Merger

Q: ***What is the proposed transaction?***

A: The proposed transaction is a merger of our company with and into B&B Acquisition Sub, with B&B Acquisition Sub surviving the merger. If the merger is approved by our stockholders and the other closing conditions set forth in the merger agreement are satisfied or waived, the merger will be consummated, we will become a subsidiary of Babcock & Brown and our common stock will cease to be publicly traded.

Q: ***If the merger is completed, what will I receive for my shares of common stock?***

A: In the merger, each share of our common stock that is issued and outstanding immediately before the effective time of the merger will be converted into the right to receive the merger consideration. The merger consideration per share consists of $24.00 in cash without interest and less any applicable withholding taxes. The merger consideration will not be adjusted for changes in the price of our common stock.

Q: ***When do you expect the merger to be completed?***

A: If our stockholders approve the merger and the other conditions to the mergers are satisfied or waived, then we intend to complete the mergers as soon as practicable following the special meeting, which is scheduled for December 21, 2006.

Q: ***Do you expect to continue to pay quarterly dividends on my shares before the merger?***

A: Yes. We are authorized under the merger agreement to pay regular quarterly dividends (not to exceed $0.26 per share) for each full fiscal quarter ending before the effective date of the merger. We are also permitted under the merger agreement to pay a special dividend for the period from the last day of the last quarter for which we paid a full quarterly dividend up to the effective time of the merger. The special dividend will generally equal funds from operations for this period divided by the number of shares of common stock and operating partnership units we do not own. Funds from operations is net income excluding gains (losses) from sales of property and certain transaction fees and expenses relating to the mergers, plus depreciation and amortization, and after adjustments for unconsolidated partnerships and joint ventures. However, the special dividend may not exceed $0.26 per share prorated for the number of days in the period. Notwithstanding what the merger agreement permits, we can provide no assurances with respect to the payment of future quarterly distributions or the special dividend. These distributions depend on our future results of operations.

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Q: ***If I am a U.S. stockholder, what are the tax consequences of the merger to me?***

A: Your receipt of the merger consideration for your shares will be taxable for U.S. federal and state income tax purposes. For further information on the material tax consequences of the merger, see the section captioned Material United States Federal Income Tax Consequences of the Merger Consequences to You of the Merger U.S. Stockholders. You should consult your own tax advisor for a full understanding of the tax consequences of the merger to you.

Q: ***If I am a non-U.S. stockholder, what are the tax consequences of the merger to me?***

A: The tax consequences to non-U.S. stockholders are complex and unclear. Non-U.S. stockholders should read the section captioned Material United States Federal Income Tax Consequences of the Merger Consequences to You of the Merger Non-U.S. Stockholders and consult with their own tax advisors, especially considering the Foreign Investment in Real Property Tax Act of 1980, U.S. federal income tax withholding rules and the possible application of benefits under an applicable income tax treaty.

Q: ***What rights do I have if I oppose the merger?***

A: You can vote against the merger by indicating a vote against the proposal on your proxy card and signing and mailing your proxy card or by voting against the merger in person at the special meeting. You are not, however, entitled to dissenters appraisal rights under Maryland law.

Q: ***What will happen to my shares of common stock after completion of the merger?***

A: Following completion of the merger, your shares of our common stock will be cancelled and will represent only the right to receive the merger consideration. In addition, trading in shares of our common stock on the AMEX will cease and price quotation will no longer be available.

The Special Meeting

Q: ***When and where is the special meeting?***

A: The special meeting will be held at The Westin Charlotte, 601 S. College Street, Charlotte, North Carolina, on December 21, 2006, at 10:00 a.m., local time.

Q: ***What matters will I vote on at the special meeting?***

A: You will be asked to consider and vote upon a proposal to approve the merger. Other than this proposal, and any adjournments or postponements of the special meeting, no other business or matter may be properly presented at the special meeting.

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Q: ***How does the board of directors recommend that I vote on the proposal?***

A: Our board of directors recommends that our stockholders vote FOR the merger. At a special meeting held on August 30, 2006, our board of directors (excluding Messrs. Payne and Wilkerson, who abstained) unanimously determined that the merger was advisable, approved the merger agreement and voted to recommend that holders of our shares vote FOR the merger. The recommendation of our board of directors was decided after the careful evaluation of a variety of business, financial and other factors more fully described in this proxy statement.

Q: ***Who is entitled to notice and vote at the special meeting?***

A: Only holders of record of our outstanding shares of common stock at the close of business on October 20, 2006 are entitled to vote at the special meeting or any postponements or adjournments of the special meeting. As of October 20, 2006, there were 10,468,177 shares of common stock outstanding. Each share entitles its holder to one vote.

Q: ***How many stockholders have to be present at the meeting in order to conduct a vote?***

A: The presence at the special meeting, in person or by proxy, of the holders of a majority of the aggregate number of our shares of common stock outstanding and entitled to vote on the record date will constitute a quorum, allowing us to conduct the business of the special meeting.

Q: ***What vote of the stockholders is required to approve the proposal?***

A: The holders of at least a majority of our outstanding common stock must affirmatively vote in favor of the merger proposal for the merger to be approved.

Q: ***What happens if I sell my shares before the special meeting?***

A: The record date for the special meeting, October 20, 2006, is earlier than the date of the special meeting. If you held your shares on the record date but transfer them before the effective time of the merger, you will retain your right to vote at the special meeting, but not the right to receive the merger consideration for the shares. The right to receive such consideration will pass to the person who owns your shares when the merger closes.

Q: ***How do I vote?***

A: If you complete and properly sign the proxy card attached to this proxy statement and return it to us before the special meeting, your shares will be voted as you direct. If you are a registered stockholder and attend the special meeting, you may deliver your completed proxy card or vote in person. Those stockholders who hold their shares through a broker or other nominee (street name stockholders) and who wish to vote at the special meeting will need to obtain a proxy form from the institution that holds their shares.

If you fail to either return your proxy card or vote in person at the special meeting, if you mark your proxy card abstain, or if you fail to instruct your broker or nominee on how to vote, the effect will be the same as a vote AGAINST the merger. If you sign and return your proxy card and fail to indicate your vote on your proxy, your shares will be counted as a vote FOR the merger.

Q: ***How will proxy holders vote my shares?***

A: If you complete and properly sign the proxy card enclosed with this proxy statement and return it to us before the special meeting, your shares will be voted as you direct. If you do not direct on the proxy card how to vote your shares, your shares will be voted FOR the merger.

Q: ***If my shares are held for me by my broker, will my broker vote my shares for me?***

A: If you hold your shares in street name through a broker or other nominee, your broker or nominee will not vote your shares unless you provide instructions on how to vote. You should instruct your broker or nominee how to vote your shares by following the directions your broker or nominee will provide to you. **If you do not provide voting instructions to your broker or nominee, your shares will not be voted, which will have the same effect as a vote AGAINST the merger.**

Q: ***May I change my vote after I have mailed my signed proxy card?***

A. Yes. You may change your vote by delivering to our Secretary, before the special meeting, a later-dated, signed proxy card or a written revocation of your proxy or by attending the special meeting and voting in person. The powers of the proxy holders will be suspended with respect to your proxy if you attend the special meeting in person and so request. Your attendance at the special meeting, however, will not by itself revoke your proxy. If you have instructed a broker or nominee to vote your shares, you must follow the directions you receive from your broker or nominee to change those instructions. Also, if you elect to vote in person at the special meeting and your shares are held by a broker or nominee, you must bring to the special meeting a legal proxy from the broker or nominee authorizing you to vote your shares.

Q: ***What do I need to do now?***

A: This proxy statement contains important information regarding the merger and the other transactions contemplated by the merger agreement, as well as information about us and the other parties to the merger agreement. It also contains important information about what our board of directors considered in approving the merger. You should read this proxy statement carefully, including the exhibits. You may also want to review the documents referenced in the section captioned Where You Can Find Additional Information.

Q: ***Whom can I call with questions?***

A: Please call our Investor Relations department at (704) 944-0100.

Q: ***Who will solicit and pay the cost of soliciting proxies?***

A: Our board of directors is soliciting your proxy. We will bear the cost of soliciting proxies. In addition to solicitation by mail, and without additional compensation for such services, our officers or employees may solicit your proxy personally, by telephone or telecopy. We will also request that banking institutions, brokerage firms, custodians, trustees, nominees, fiduciaries and other like parties forward the solicitation materials to the beneficial owners of common stock held of record by such party. We will, upon request of such record holders, reimburse forwarding charges and out-of-pocket expenses.

FORWARD-LOOKING STATEMENTS

This proxy statement (including information incorporated by reference) contains certain forward-looking statements, including statements relating to our financial condition, results of operations, plans, objectives, future performance and businesses, as well as information relating to the mergers, the merger agreement and the transactions contemplated by the merger agreement, including statements concerning the expected closing of the mergers, the conduct of our business if the mergers are not completed and tax consequences of the merger. The Private Securities Litigation Reform Act of 1995 provides safe harbor provisions for forward-looking information. These forward-looking statements are based on current expectations, beliefs, assumptions, estimates and projections about the industry and markets in which we operate. Words such as believes, expects, anticipates, intends, plans, estimates and variations of such words and similar words also identify forward-looking state We also may provide oral or written forward-looking information in other materials we release to the public.

You should not rely on forward-looking statements because they involve known and unknown risks, uncertainties and other factors that are, in some cases, beyond our control. Although we believe that the expectations reflected in any forward-looking statements that we made are based upon reasonable assumptions, these risks, uncertainties and other factors may cause our actual results, performance or achievements to differ materially from anticipated future results, or the performance or achievements expressed or implied by such forward-looking statements. Accordingly, we can provide no assurance that these expectations will be realized. As a result, our actual results could materially differ from those set forth in the forward-looking statements. Factors that might cause such a difference include but are not limited to:

- the conditions to closing of the mergers, including the approval of our stockholders, may not occur;

- litigation could arise challenging the proposed mergers;

- our markets could suffer unexpected increases in the development of apartment, other rental or competitive housing alternatives;

- our markets could suffer unexpected declines in economic growth or an increase in unemployment rates;

- general economic conditions could cause the financial condition of a large number of our tenants to deteriorate;

- we may not be able to lease or re-lease apartments quickly or on as favorable terms as under existing leases;

- a decline in revenues from, or a sale of, our restaurant properties could adversely affect our financial condition and results of operations;

- we may have incorrectly assessed the environmental condition of our properties;

- an unexpected increase in interest rates could cause our debt service costs to exceed expectations;

- we may not be able to meet our long-term liquidity requirements on favorable terms;

- we could lose the services of key executive officers;

- we could face litigation arising from our operations;

- conditions affecting ownership of residential real estate and general conditions of the multifamily residential real estate market could change;

- accounting policies and other regulatory matters detailed in our filings with the Securities and Exchange Commission could change;

- our ability to continue to qualify as a real estate investment trust under the Internal Revenue Code could be compromised;

- we could face a material adverse change in our business, assets, properties, results of operations or financial condition; and

- other risks and uncertainties set forth in our publicly filed documents, including our Annual Report on Form 10-K for the fiscal year ended December 31, 2005.

You should carefully review all of these factors, and you should be aware that there may be other factors that could cause such differences. We caution you not to place undue reliance on any forward-looking statements. We undertake no obligation to update or revise forward-looking statements in this proxy statement (including information incorporated by reference) to reflect changes in underlying assumptions or factors, new information, future events or otherwise. Any forward-looking statements speak only as of the date that they are made.

THE SPECIAL MEETING

Date, Time, Place and Purpose of the Special Meeting

A special meeting of our shareholders will be held on December 21, 2006 at 10:00 a.m., local time. The meeting will take place at The Westin Charlotte, 601 S. College Street, Charlotte, North Carolina. The purpose of the meeting is to act upon the proposal to approve a merger of our company with and into a wholly owned subsidiary of Babcock & Brown Bravo Holdings LLC, which is an affiliate of international investment and advisory firm Babcock & Brown Limited, all in the manner described in this proxy statement.

Our board of directors recommends that our stockholders vote FOR the merger. At a special meeting held on August 30, 2006, our board of directors (excluding Messrs. Payne and Wilkerson, who abstained) unanimously determined that the merger was advisable, approved the merger agreement and voted to recommend that holders of our shares vote FOR the merger. The recommendation of our board of directors was decided after the careful evaluation of a variety of business, financial and other factors more fully described in this proxy statement.

Other than the business or matters indicated above, and any adjournments or postponements of the special meeting, no other business or matter may be properly presented at the special meeting.

Shares Entitled to Vote

Only holders of record of our outstanding shares of common stock at the close of business on October 20, 2006 are entitled to vote at the special meeting or any postponements or adjournments of the special meeting. As of October 20, 2006, there were 10,468,177 shares of common stock outstanding. Each share entitles its holder to one vote.

Vote Required; Quorum

The proposal to approve the merger pursuant to the terms of the merger agreement requires the affirmative vote of the holders of at least a majority of our outstanding shares of common stock entitled to vote at the special meeting. While the merger requires the holders of common units in our operating partnership to approve the merger, we hold a sufficient number of units to ensure partnership approval of the merger. The presence at the special meeting, in person or by proxy, of the holders of a majority of the aggregate number of our shares of common stock outstanding and entitled to vote on the record date will constitute a quorum, allowing us to conduct the business of the special meeting.

No Appraisal Rights

Our shares of common stock were listed on the AMEX on the record date for determining those stockholders entitled to notice of, and vote at, the special meeting. Thus, under Maryland law, you are not entitled to appraisal rights in connection with the merger.

Voting; Voting by Proxy

If you complete and properly sign the proxy card included with to this proxy statement and return it to us before the special meeting, your shares will be voted as you direct. If you are a registered stockholder and attend the special meeting, you may deliver your completed proxy card or vote in person. Stockholders who hold their shares through a broker or other nominee (street name stockholders) who wish to vote at the special meeting will need to obtain a proxy form from the institution that holds their shares.

If you fail to either return your proxy card or vote in person at the special meeting, if you mark your proxy card abstain, or if you fail to instruct your broker or nominee how to vote, the effect will be the same as a vote AGAINST the merger. If you sign and return your proxy card and fail to indicate your vote on your proxy, your shares will be counted as a vote FOR the merger.

If you hold your shares in street name, your broker or nominee will not vote your shares unless you provide instructions to your broker or nominee on how to vote your shares. You should instruct your broker or nominee how to vote your shares by following the directions your broker or nominee provides. **Failing to authorize a proxy to vote your shares by completing and returning the enclosed proxy card, failing to vote in person or failing to instruct your broker or nominee on how to vote will have the same effect as a vote AGAINST the merger.**

You may change your vote by delivering to our Secretary, before the special meeting, a later-dated, signed proxy card or a written revocation of your proxy. In addition, your attendance at the special meeting in person and notification of the chairman of the meeting that you would like your proxy revoked will suspend the powers of the proxy holders with respect to your proxy, and you may then vote in person at the meeting. Attending the special meeting will not by itself revoke a previously granted proxy. If you have instructed a broker or nominee to vote your shares, you must follow the directions you receive from your broker or nominee to change those instructions. Also, if you elect to vote in person at the special meeting and your shares are held by a broker or nominee, you must bring to the special meeting a legal proxy from the broker or nominee authorizing you to vote your shares.

Our board of directors is soliciting proxies. We will bear the cost of soliciting proxies. In addition to solicitation by mail, and without additional compensation for such services, our officers or employees may solicit your proxy personally, by telephone or telecopy. We will also request that banking institutions, brokerage firms, custodians, trustees, nominees, fiduciaries and other like parties forward the solicitation materials to the beneficial owners of common stock held of record by such party. We will, upon request of such record holders, reimburse forwarding charges and out-of-pocket expenses.

Adjournments

Although we do not expect to do so, we may adjourn the special meeting or postpone it, if necessary or appropriate, to solicit additional proxies. If we have not received sufficient votes to approve the merger at the special meeting of stockholders, we may adjourn the special meeting to solicit additional proxies.

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PROPOSAL NO. 1: APPROVAL OF THE MERGER

PARTIES TO THE MERGERS

BNP Residential Properties, Inc. and BNP Residential Properties Limited Partnership

BNP Residential Properties, Inc. is a self-administered and self-managed REIT with operations in North Carolina, South Carolina and Virginia. Our primary activity is owning and operating apartment communities. We currently own and manage 32 apartment communities containing 8,180 apartment units. We also serve as general partner of limited partnerships that own three properties with 713 apartment units, which we also manage. In addition to our apartment communities, we own 40 properties that we lease on a triple-net basis to a restaurant operator under a master lease.

We are structured as an UpREIT, or umbrella partnership real estate investment trust. We are the sole general partner and own a controlling interest in BNP Residential Properties Limited Partnership, through which we conduct all of our operations. We refer to this partnership as the operating partnership. We currently own 80% of the outstanding operating partnership units. BNP Residential Properties Limited Partnership was organized as a Delaware limited partnership in 1997.

Our company was originally incorporated in the state of Delaware in 1987. In 1997, we reincorporated in the state of Maryland. Our executive offices are located at 301 South College Street, Suite 3850, Charlotte, North Carolina 28202-6024, and our telephone number is 704/944-0100. Our shares of common stock are currently listed on the AMEX under the symbol BNP.

Babcock & Brown Bravo Holdings LLC, Babcock & Brown Bravo Acquisition LLC and Babcock & Brown Bravo Operating Partnership LP

Babcock & Brown Real Estate Investments LLC, a Delaware limited liability company and an affiliate of Babcock & Brown Limited, recently formed Babcock & Brown Bravo Holdings LLC, Babcock & Brown Bravo Acquisition LLC and Babcock & Brown Bravo Operating Partnership LP, in each case, solely for the purpose of effecting the transactions contemplated by the merger agreement.

Babcock & Brown Limited is a global investment and advisory firm with longstanding capabilities in structured finance and the creation, syndication and management of asset and cash flow-based investments. Babcock & Brown Limited was founded in 1977 and is listed on the ASX under the symbol BNB.

Babcock & Brown Bravo Acquisition LLC is a newly formed Maryland corporation and is the sole general partner of Babcock & Brown Bravo Operating Partnership LP. Babcock & Brown Bravo Acquisition LLC will be the surviving company in the merger. Babcock & Brown Bravo Holdings LLC is the sole member of Babcock & Brown Bravo Acquisition LLC.

Babcock & Brown Bravo Operating Partnership LP is a newly formed Delaware limited partnership and the entity that will merge with and into our operating partnership pursuant to the terms of the merger agreement. The general partner of Babcock & Brown Bravo Operating Partnership LP is B&B Acquisition Sub. The limited partner of Babcock & Brown Bravo Operating Partnership LP is Babcock & Brown. Our operating partnership will be the surviving entity in the partnership merger.

Babcock & Brown s executive offices are located at 2 Harrison Street, 6th Floor, San Francisco, CA 94105, and its telephone number is (415) 512-1515.

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THE MERGERS

The Merger of BNP Residential Properties, Inc. into Babcock & Brown Bravo Acquisition LLC

The merger agreement provides for the merger of our company with and into B&B Acquisition Sub. B&B Acquisition Sub will be the surviving company in the merger. The merger will become effective at such time as we and Babcock & Brown agree and designate in the articles of merger that will be filed with the State Department of Assessments and Taxation of Maryland and in the certificate of merger that will be filed with the Secretary of State of the State of Delaware, in each case, on the closing date. The closing date of the merger will be no later than the fifth business day after the closing conditions set forth in the merger agreement are satisfied or waived by us, our operating partnership and the Babcock & Brown transaction entities, as applicable, or on such other date as agreed to in writing by the parties. Babcock & Brown is not obligated to effect the merger or the transactions contemplated by the merger agreement prior to June 30, 2007, if we have not received certain consents on terms satisfactory to Babcock & Brown.

At the effective time of the merger, holders of our common stock will have no further ownership interest in the surviving company. Instead, each share of common stock (including shares subject to restriction, but excluding shares held by us or any of our wholly owned subsidiaries, if any) will be converted into the right to receive $24.00 in cash, without interest and less any applicable withholding taxes. The merger consideration for the common stock is fixed as described in the preceding sentence and will not be adjusted for changes in the price of our common stock. Until the completion of the merger, we expect we will continue to pay regular quarterly dividends on our common stock at a rate of $0.26 per share for each full fiscal quarter ended before the merger s closing date. In addition, we expect to pay you a prorated portion of the regular quarterly dividend for the quarter in which the merger occurs, subject to certain limitations, as described in this proxy statement.

At the effective time of the merger, each share of our common stock that we or any of our wholly owned subsidiaries own, if any, will be canceled and retired and cease to exist. No payment will be made for any such canceled shares.

At the effective time of the merger, all of our outstanding stock options, whether or not vested, will be canceled and, in full settlement of these options, Babcock & Brown will pay each option holder an amount in cash equal to $24.00 less the exercise price per share, multiplied by the number of shares underlying those options that remain subject to exercise (without any interest or dividend payment). All payments will be made net of any taxes required to be withheld by us or Babcock & Brown. If an option s exercise price equals or exceeds $24.00, the option will be canceled and each option holder will receive no consideration for such option.

The Merger of Babcock & Brown Bravo Operating Partnership LP into BNP Residential Properties Limited Partnership

Immediately before the merger, Babcock & Brown Bravo Operating Partnership LP will merge with and into our operating partnership. The partnership merger will become effective when the certificate of merger is accepted by the Secretary of State of the State of Delaware, or such later time as we and our operating partnership and Babcock & Brown may agree and designate in the certificate of merger. Under the merger agreement, the merger may not occur unless the partnership merger has been completed. Our operating partnership will survive the partnership merger.

In the partnership merger, each outstanding operating partnership common unit will remain a common unit in the surviving partnership unless the unitholder makes the election described below.

In lieu of continuing to hold common units in the surviving partnership, each limited partner of our operating partnership may elect, subject to certain conditions, to receive for each common unit in our operating partnership held by such limited partner either (i) $24.00 cash, without interest and less applicable withholding taxes, or (ii) if such holder is an accredited investor, as defined under the U.S. securities laws, one preferred unit in the surviving partnership. Separate materials will be sent to the limited partners of our operating partnership regarding this election. **This proxy statement does not constitute any solicitation of consents in respect of the partnership merger, and does not constitute an offer to exchange or convert the operating partnership common units that you may own for or into cash consideration or preferred units in the surviving partnership.**

Merger Vote Requirement

The affirmative vote of the holders of at least a majority of our outstanding common stock entitled to vote at the special meeting is required to approve the merger. The votes of the holders of operating partnership common units are also required to approve the partnership merger, but we own a sufficient number of operating partnership common units to ensure we obtain the required vote.

Determination of Merger Consideration

We determined the consideration offered to our stockholders in the merger based on arm s-length negotiations with Babcock & Brown. We did not use any other particular method of determining the merger consideration.

Background of the Mergers

Our board of directors has long held the view that our shares were worth more than their public trading prices, and from time to time we received unsolicited inquiries about our possible sale. Before February 2006, however, we did not devote significant resources to considering our sale for several reasons:

- We believed that we had a strong management team, business operating platform and strategic plan that would maximize stockholder value in the long term.

The inquiries regarding our possible sale were conditioned on our entering into exclusive negotiations with the potential buyers. We believed that a competitive bidding process was more likely to maximize stockholder value.

Potential buyers did not persuade us that they were willing or able to pay a price that was more attractive than pursuing our long-term strategic plan.

In February 2006, however, we decided that we should invite a financial advisor to meet with the board of directors to discuss our possible sale because multifamily assets were selling at historically high prices. In this environment, the board of directors believed it was possible that our sale could yield greater stockholder returns than pursuing our long-term strategic plan. In addition, we were concerned that the growing disparity between our trading prices and our value could lead to an unsolicited takeover attempt in which it could be difficult for the board of directors to manage the sale process in a way that would maximize stockholder value.

On February 27, 2006, we invited Banc of America Securities LLC (Banc of America Securities) to attend a meeting of our board of directors. At this meeting, our board of directors discussed with Banc of America Securities, among other things, the favorable market conditions affecting sellers of large multifamily portfolios and, in general terms, the timing and mechanics of a sale process involving the solicitation of proposals from targeted potential buyers. Banc of America Securities also described its qualifications to serve as our financial advisor in connection with a possible transaction.

Our board indicated that it did not want us to devote significant resources to considering a possible transaction unless the possibility of securing a compelling offer was strong. As a result, our board asked that Banc of America Securities, with assistance from management, review valuation parameters in the context of our possible sale. Over the next several weeks, our management and Banc of America Securities discussed certain business and financial matters relating to us, including our current operations and operating projections, the nature of our assets and current market conditions.

At a board meeting on April 20, 2006, management updated the board as to the valuation considerations that had been reviewed with Banc of America Securities. Believing that the likelihood of securing an attractive sale price was sufficiently high, the board authorized management, with the assistance of Banc of America Securities, to prepare a confidential information memorandum with respect to our properties and operations and to solicit indications of interest from potential buyers. The board also authorized our engagement of Banc of America Securities as our financial advisor in connection with a potential sale transaction.

Over the next several weeks, in accordance with our board s directives, our management, with the assistance of Banc of America Securities, prepared a confidential information memorandum about our company for distribution to parties that would likely have an interest in acquiring us.

On June 1, 2006 and over the next couple of weeks, 15 parties were contacted (including five parties that previously had expressed an interest in acquiring us), of which eight parties entered into confidentiality agreements with us. The confidentiality agreements included standstill provisions prohibiting attempts to acquire us except by invitation for a period of two years and also included prohibitions on the solicitation of our officers or employees for a period of one year.

On June 12, 2006, we delivered a confidential information memorandum and instruction letter to the eight potential buyers that had executed a confidentiality agreement with us. The letter indicated a deadline for submitting indications of interest of June 30, 2006 and that potential buyers invited to participate in a second round of bidding would be given access to management, the opportunity to tour our properties and access to an electronic data room for due diligence purposes. Potential buyers were requested to specify a per share offer price for our company, their valuation of certain specified assets, key assumptions underlying their valuation, the proposed form of consideration, sources of financing, the information they would need to complete due diligence and their timetable for completing a transaction.

On June 30, 2006, we received non-binding indications of interest from five parties. The highest proposed offer price, which was $21.45 per share, was submitted by Babcock & Brown. Party A and Party B, each of which had approached us in the fall of 2005 about a possible acquisition, proposed $21.00 per share and $21.42 per share, respectively. The other two potential buyers proposed $20.00 per share and $18.25 per share.

On July 5, 2006, at our direction, our financial advisor contacted each of the five parties to better understand the assumptions underlying their proposals as well as the conditions of their proposals. On July 7 and July 12, 2006, the board of directors held meetings with management and our legal and financial advisors to discuss the indications of interest. The board of directors was also reminded at this time that Mr. Payne and Mr. Wilkerson, who are directors as well as executive officers, would have an interest in a change-in-control transaction, including the potential payments to be received by them under their employment agreements and the vesting of their equity awards.

Following the full board meeting on July 12, 2006, the independent directors met in executive session with our legal counsel and determined that, since the lowest bidder was much less competitive than the other four, further discussions with that bidder would not be productive. The independent directors decided to inform the four highest bidders that their proposed offer prices were not high enough and invite them to participate in a second round of bidding.

Subsequently, each of the selected bidders was sent a letter detailing instructions for the second round of bidding, which letter indicated, among other things, that all final proposals:

- were due by August 18, 2006;
- should include proposed revisions to a form of merger agreement to be prepared by our legal counsel;
- should be for cash and should include the sources of financing and, if financing were to involve external sources, all relevant commitment letters; and
- should outline remaining areas of due diligence, if any, to be performed, noting that all due diligence should be completed by August 18, 2006 and that any proposals not subject to further due diligence would be given priority.

Management subsequently held discussions with potential buyers regarding our assets, provided access to an electronic data room for due diligence purposes and conducted property tours upon request. On or about August 4, 2006, we provided a proposed form of merger agreement to the prospective buyers.

Shortly before our delivery of the proposed form of merger agreement to the prospective buyers, Babcock & Brown indicated that they were far enough along in their due diligence to offer $23.50 per share if we would agree to negotiate exclusively with them. Babcock & Brown made clear, however, that its proposal would be subject to final approval of its board of directors after negotiation of the proposed merger agreement.

On July 26, 2006, our board of directors met to consider Babcock & Brown s revised proposal. Following the discussion of the full board, the independent directors met with our legal counsel in an executive session and concluded that it was important to permit all of the bidders to complete their due diligence on the time frame proposed by us and to keep competitive pressure on all of the bidders to secure the highest possible price.

On August 18, 2006, we received three proposals. Babcock & Brown proposed $23.50 per share, Party A proposed $23.00 per share and Party B proposed $23.02 per share. Each bidder also proposed to purchase the common units of our operating partnership held by its limited partners for the same price it was proposing to purchase shares of our common stock. On August 19, 2006, at our direction, our financial advisor contacted each bidder to better understand the assumptions and conditions of each bid.

On Sunday, August 20, 2006, we held a board meeting to discuss the proposals, which meeting was followed by an executive session of the independent directors. The board concluded that each proposal contained assumptions and conditions that were unacceptable. However, based in part on statements the bidders made on August 19th, the board believed that the bidders would not insist on many of the conditions set forth in their proposed offers. The board compared the proposals, in terms of price, certainty and timing.

With respect to Babcock & Brown s proposal, the $23.50 per share offer price assumed no tax liability under tax protection agreements with limited partners in our operating partnership. Given that management estimated our liability under those agreements to be as much as $6 million (or $0.45 per share), our board considered Babcock & Brown s proposal to be approximately $23.05 per share. Babcock & Brown s proposal also permitted our continued payment of quarterly dividends, but did not permit our payment of dividends for the stub period between the last day of the most recent quarter and the closing date. Based on information from Babcock & Brown, the board of directors believed that Babcock & Brown had the financial resources necessary to complete the proposed transaction. Babcock & Brown s proposal letter did not indicate the need for further due diligence and did not specify a termination fee. Furthermore, Babcock & Brown had spent significant resources conducting due diligence to date and providing comments to the proposed merger agreement. Babcock & Brown s indication of interest also included a request for exclusivity.

With respect to Party A s proposal, it included a revised offer price of $23.00 per share, prohibited us from paying more than one regular quarterly dividend regardless of the closing date of the merger and also provided for a $12 million termination fee. Party A indicated that it would require 10 business days to complete all due diligence after our selection of its proposal plus an additional three days to obtain the approval of Party A s board of directors. Party A also noted in its proposal letter that it would require as a condition to closing that we deliver evidence establishing our good and marketable title to each of our properties, free and clear of all encumbrances. In addition, Party A previously had informed our management that it had acquired approximately 4% of our outstanding shares before entering into the confidentiality agreement with us. Our board believed that Party A had the financial resources necessary to complete the proposed transaction. However, our board of directors was not confident that Party A s proposal would lead to a binding agreement within a short period given Party A s failure to complete due diligence within the time frame originally requested by us and given Party A s unusual demand with respect to title to our properties.

With respect to Party B s proposal, it included a revised offer price of $23.02 per share and a $20 million termination fee. Party B s proposal also included letters from potential funding sources interested in providing the funds necessary to complete the transaction. The board of directors was concerned that there was a significant risk that Party B would not be able to complete the transaction because of the uncertainty of its access to financing. Party B also indicated that it would require two weeks to complete its due diligence.

Primarily due to its concerns regarding Party B s financing, the board of directors directed our management and advisors to focus on negotiations with Babcock & Brown and Party A. Our board decided at this point not to negotiate on an exclusive basis with either potential buyer given the similarity of their proposals as to pricing. Also, our board of directors decided to permit potential buyers to speak with management before entering into a binding merger agreement regarding the potential buyers intentions with respect to management.

During discussions between August 18, 2006 and August 20, 2006, Party A confirmed on three separate occasions that $23.00 per share was its best and final offer. On August 22, 2006, Babcock & Brown effectively increased its bid by approximately $0.45 per share by proposing to pay $23.50 per share regardless of our liabilities under the tax protection agreements. Babcock & Brown also proposed an $11 million termination fee and to permit us to pay dividends during the stub period at our regular rate, prorated for the days in the stub period assuming our funds from operation were not significantly lower than anticipated based on our historical performance. Babcock & Brown also confirmed a willingness to negotiate the closing conditions that we found unacceptable; however, Babcock & Brown stated that its updated proposal was conditioned on our agreement that we negotiate on an exclusive basis.

Also on August 22, 2006, our management met with Babcock & Brown to discuss the terms on which management would work for Babcock & Brown after the merger. Acting solely on our behalf, a representative of DLA Piper US LLP, our counsel, also attended this meeting. Babcock & Brown offered to permit us to enter into new employment agreements with our officers, which would become effective upon the closing of the merger.

On August 23, 2006, our board of directors met with our management and legal counsel to discuss Babcock & Brown s revised proposal. A representative of our financial advisor also participated in part of the meeting. Following a full discussion of the merits of Babcock & Brown s revised proposal, our board of directors determined that the proposal from Babcock & Brown was an attractive alternative to proceeding with our long-term strategic plan. With respect to exclusivity, our board determined that we would focus our efforts on reaching a deal with Babcock & Brown but that, if another party approached us about a transaction that appeared reasonably likely of being superior to Babcock & Brown s revised proposal, we would negotiate with the other party.

On August 24 and 25, 2006, we resolved all material items with respect to the proposed merger agreement with Babcock & Brown other than the amount of the termination fee and the terms of a guarantee from Babcock & Brown Limited or a subsidiary thereof of the obligations of the Babcock & Brown acquisition entities that were parties to the proposed merger agreement. It was during this time that we discussed giving Babcock & Brown the option to offer the limited partners of our operating partnership the right to elect to receive the cash merger consideration or a continuing interest in the surviving operating partnership. The parties believed that offering the limited partners such a choice could reduce potential liabilities under the tax protection agreements.

In the afternoon of August 25, 2006, we received a revised proposal from Party A indicating a price of $24.00 per share. The proposal reiterated that Party A would require 10 additional business days to complete all due diligence, plus an additional three days to obtain the approval of Party A s board of directors. Party A also reiterated its closing condition that we deliver evidence establishing our good and marketable title to each of our properties, free and clear of all encumbrances. In a subsequent telephone conference, Party A also indicated for the first time that the retention of our management would not be a condition to Party A s willingness to enter into a merger agreement with us. Shortly thereafter, our management informed Babcock & Brown of the nature of the proposal and that we would likely resume negotiations with Party A. In response, Babcock & Brown indicated that it might withdraw from the process because it appeared to Babcock & Brown that it was merely being used to induce a higher offer from another buyer.

On August 26, 2006, our board of directors met with management and our legal and financial advisors to discuss the latest developments. After full discussion of the merits of the competing proposals, the board of directors met in executive session with our legal counsel and determined that we should:

negotiate with Party A with a view to entering into an acceptable merger agreement at a price of at least $24.00 per share;

facilitate the prompt completion of Party A s due diligence; and

continue to negotiate with Babcock & Brown to lower the termination fee if Babcock & Brown s offer remained at $23.50 per share.

Throughout the remainder of that weekend, we negotiated with both Party A and Babcock & Brown. On August 28, 2006, our legal counsel informed Party A s legal counsel that we would not negotiate exclusively with Party A and that Party A should complete their due diligence as quickly as possible because we did not plan to extend the bidding process until Party A had completed its due diligence and obtained internal approvals. Party A s legal counsel indicated that Party A believed that it could be in a position to sign a binding merger agreement in 10 business days.

On August 28 and 29, 2006, we had conversations with Party A and its legal counsel regarding due diligence matters. On the evening of August 29, 2006, our legal counsel delivered a revised proposed merger agreement to Party A that reflected the same structure as the proposed merger agreement with Babcock & Brown with respect to the option of providing our limited partners a choice to elect the cash merger consideration or a continuing interest in the surviving operating partnership.

Also on the evening of August 29, 2006, Mr. Payne received a call from the most senior executive representing Party A. This executive was not the executive who was leading Party A s day-to-day involvement in the bidding process. Although it did not appear to Mr. Payne that the executive was calling to relay material information regarding Party A s proposal, Mr. Payne believed that the executive downplayed the need for the due diligence referenced in its August 25th proposal and in subsequent communications from Party A. However, on August 30th, counsel to Party A made plans with our counsel for the review of additional due diligence items at the offices of DLA Piper. In addition, at the request of our board of directors, on the evening of August 30, 2006, a representative of our financial advisor contacted a representative of Party A who stated that Party A s due diligence was ongoing and who did not indicate that Party A s expected timing had changed.

Through August 30, 2006, we continued to negotiate with Babcock & Brown to finalize the proposed merger agreement and guarantee. On August 30, 2006, Babcock & Brown informed us that its board of directors was meeting that day to consider a transaction between the parties and that the offer price could be increased to $24.00 but that the termination fee also would be increased to approximately $12.5 million.

On the afternoon of August 30, 2006, our management, legal counsel and one of our independent directors, Mr. Blank, discussed Babcock & Brown s offer. Mr. Blank and Mr. Payne then spoke with Babcock & Brown in an attempt to negotiate a lower termination fee. Babcock & Brown indicated that the higher termination fee would be a non-negotiable condition of the higher $24.00 per share offer price.

On the evening of August 30, 2006, Babcock & Brown indicated that they had received the internal approvals necessary to make the anticipated offer discussed earlier in the day. Babcock & Brown made it clear to us that they expected our board of directors to act promptly with regard to its offer and that $24.00 per share was its highest price.

Also during the evening of August 30, 2006, our board of directors, which had met previously that day and every day since August 26, 2006, met with our management and our legal and financial advisors. At this meeting, Banc of America Securities reviewed with our board of directors its financial analysis of the $24.00 per share merger consideration and delivered to our board of directors an oral opinion, which was confirmed by delivery of a written opinion, dated August 30, 2006, to the effect that, as of that date and based on and subject to various assumptions and limitations described in its opinion, the $24.00 per share merger consideration to be received by holders of our common stock was fair, from a financial point of view, to such holders. After discussions with our independent directors, the representatives of Banc of America Securities were excused from the meeting. At this time, Messrs. Payne and Wilkerson also left the meeting. A representative of DLA Piper then summarized the material terms of the original merger agreement, guarantee and ancillary documents. The representative of DLA Piper also reviewed the board s duties. Considerable discussion among the independent directions of our board of directors regarding the proposed transaction followed. Our board of directors:

concluded that the merger was advisable and approved the merger agreement and the guarantee;

directed that the merger should be submitted to our stockholders for consideration at a special meeting of the stockholders; and

resolved to recommend that the stockholders approve the merger.

Our independent directors, who were the only directors who participated in the deliberations, voted unanimously in support of the motion relating to the foregoing.

Subsequently, with the approval of our board of directors at a meeting held on October 16, 2006, we and the Babcock & Brown transaction entities amended and restated the merger agreement, primarily to modify certain provisions relating to the partnership merger. The original merger agreement had provided that, in the partnership merger, common units of our operating partnership would be converted to cash unless Babcock & Brown determined that it would give holders of common units an option to elect to receive, in lieu of cash for their units, either common or preferred units in the surviving partnership. In the amended and restated merger agreement, as a result of the partnership merger, common units in our operating partnership will remain common units in the surviving partnership unless the holder elects to receive cash or preferred units in the surviving partnership. In the original merger agreement, the merger involved a merger of our company with and into a corporate subsidiary of Babcock & Brown. In the amended and restated merger agreement, our company will merge with and into B&B Acquisition Sub, which is a Delaware limited liability company.

On October 24, 2006, Mr. Payne received a letter, dated October 19, 2006, from the most senior executive representing Party A. The letter generally conveyed, among other things, disappointment with the bidding process and alleged that Party A could easily have paid $25.00 a share.

Mr. Payne shared the letter from Party A with our board of directors and our counsel. On October 27, 2006, our board of directors unanimously decided (with Messrs. Payne and Wilkerson abstaining) that the letter did not merit a response because, among other reasons, it did not reference a current acquisition proposal. The factors that were considered by the board of directors in deciding to accept Babcock & Brown s offer and not to continue discussions with Party A are described under Reasons for the Mergers Factors Supporting Entering into a Merger Agreement with Babcock & Brown versus Prolonging the Bidding Process and Factors Supporting Prolonging the Bidding Process versus Entering into a Merger Agreement with Babcock & Brown.

Recommendation of Our Board of Directors

As described above under the section captioned Background of the Mergers, our board of directors (excluding Messrs. Payne and Wilkerson, who abstained) has unanimously determined that the merger is advisable and approved the merger agreement. **Accordingly, our board of directors recommends that our stockholders vote FOR the merger.**

Reasons for the Mergers

In determining whether to approve the mergers and enter into the original merger agreement, our board of directors considered a variety of factors that might impact our long-term as well as our short-term interests. As part of its deliberations in evaluating the merger, our board of directors consulted with our management and our legal and financial advisors and considered our historical, recent and prospective financial condition, results of operations, property holdings, share price, capitalization and our operating, strategic and financial risks.

Our board of directors considered a number of factors in determining whether to approve the mergers. Some of those factors related to whether entering into the merger agreement was more favorable to us than continuing to pursue our long-term strategic plan. Other factors related to whether entering into the merger agreement was superior to our other short-term option pursuing a merger agreement with another potential buyer. Set forth below are the principal factors considered by our board in making these determinations (the order does not reflect the relative significance):

Factors Supporting the Mergers versus Continued Execution of Our Long-Term Strategic Plan

Value and Form of Consideration. Our stockholders will receive $24.00 per share of common stock in the merger. The merger consideration consists solely of cash, which provides certainty of value to the holders of our common stock.

Dividends. We are permitted to continue to pay regular quarterly dividends through the closing date of the merger. We are also permitted under the terms of the merger agreement to pay dividends during the stub period between the last day of the prior quarter and the closing date of the merger, at our regular dividend rate, prorated for the number of days in the stub period, if our funds from operations are not significantly lower than we currently anticipate.

The High Probability of Transaction Completion. Our board of directors believes there is a high probability of completing the proposed transaction. Based on our discussions with Babcock & Brown International Pty Ltd, the guarantor of the performance of the obligations of the Babcock & Brown transaction entities, and after consultation with our financial advisor, our board of directors believed that the Babcock & Brown transaction entities and Babcock & Brown International Pty Ltd had access to the necessary financing to complete the mergers. In addition, the merger agreement does not contain a financing contingency.

Favorable Market Conditions. Our board of directors believes that the merger agreement enables us to receive a sale price that was set at a time when multifamily assets were selling at historically high prices. This was a key consideration for our board of directors in determining that the merger was more likely to provide our stockholders with greater value on a current basis than continued pursuit of our long-term strategic plan.

Our Business Prospects. Our board of directors believes that the merger represents a more desirable alternative for our stockholders than continuing to operate as an independent public company under our current long-term strategic business plan. Although we believe in our strategic plan and our management team s ability to execute the plan, in the view of our board of directors, realizing a cash premium in the merger provides more value for our stockholders on a risk-adjusted basis than executing our strategic business plan. Even if successful in meeting our long-term business objectives, there is a risk that our success would not be reflected by our public trading price because, among other things, we have a relatively small market capitalization and high leverage versus our peers, investment banks do not issue research reports regarding our securities, our assets are located outside of major metropolitan areas, our assets are generally not considered class A apartment communities and future valuations for multifamily assets may not remain at current levels.

Our Financial Advisor s Presentation and Opinion. Our board of directors considered the financial presentation of Banc of America Securities, including its opinion, dated August 30, 2006, to our board of directors as to the fairness, from a financial point of view and as of the date of the opinion, of the merger consideration to be received by holders of our common stock, as more fully described under the section captioned Opinion of Our Financial Advisor.

Approval of Our Stockholders Is Required. The merger is subject to the approval of our stockholders. Accordingly, the merger will not be consummated unless it is supported by the holders of a majority of our outstanding common stock.

Factors Supporting the Continued Execution of Our Long-Term Strategic Plan versus the Mergers

Holders of Our Shares Will Be Unable to Share in Our Future Growth. Our board of directors acknowledged that the merger would preclude the holders of our shares of common stock from having the opportunity to participate in the future performance of our assets and any future appreciation in the value of our shares. The holders of our shares will no longer share in any future growth of our company or receive quarterly dividends after the merger.

Tax Consequences to Our Stockholders. Our board of directors acknowledged that the merger is a taxable transaction and, as a result, holders of shares will generally be required to pay taxes on any gains that result from their receipt of the cash consideration.

Significant Costs Involved. Our board of directors considered the significant costs involved in connection with completing the mergers, the substantial management time and effort required to effectuate the mergers and the related disruption to our operations. If the mergers are not completed, then we may bear these expenses and the costs of these disruptions.

As discussed under Background of the Mergers above, Babcock & Brown s offer was the product of a competitive bidding process involving multiple potential bidders over a period of several months. At the time of Babcock & Brown s $24.00 per share offer, our board believed that our short-term alternatives were to either enter into the merger agreement with Babcock & Brown immediately or to try to prolong the bidding process with the hope that Babcock & Brown or another bidder would raise its offer price. At the time, Party A was the only other potential buyer with proven access to capital that appeared to offer the possibility of bettering Babcock & Brown s offer. Set forth below are the factors the board considered in deciding that accepting Babcock & Brown s offer promptly was superior to trying to prolong the bidding process.

Factors Supporting Entering into a Merger Agreement with Babcock & Brown versus Prolonging the Bidding Process

Failure to Accept Babcock & Brown s Final Offer at the Time of the Offer Risked Losing the Offer. As discussed under Background of the Mergers above, Babcock & Brown made clear that our failure to accept the offer promptly risked losing the offer altogether. Our board of directors believed that the risk of losing Babcock & Brown had to be taken seriously because:

Babcock & Brown had expressed concern that we were merely using Babcock & Brown to get a better price from Party A; and

Babcock & Brown was devoting significant resources in pursuit of a transaction with us.

Our board feared that Babcock & Brown would withdraw from the process to minimize its losses if it believed that it was not likely to be the winning bidder.

Extending the Bidding Process for Only a Short Period of Time Did Not Appear to Increase Our Chances of Receiving a Higher Offer from Party A. Party A indicated as recently as August 28th, after being told of the importance of being able to sign an agreement promptly, that it would require 10 business days to complete its due diligence and be in a position to sign a merger agreement. Although the most senior executive representing Party A appeared to downplay Party A s remaining due diligence needs, this was not supported by other statements or actions by Party A. Moreover, we estimated that we would need significant time to negotiate the final terms of a merger agreement and secure the approval of Party A s board of directors. Therefore, our board believed that we would have had to extend the bidding process by approximately two weeks to try to secure a higher offer from Party A.

We Did Not Believe that Babcock & Brown Would Consider Paying More than $24.00 per Share. Executives of Babcock & Brown stated that their board of directors would not approve a purchase price in excess of $24.00 per share. They also indicated that their board was frustrated by aspects of the bidding process and that the executives would not be willing to ask their board to approve a higher offer.

We Had Little Confidence that Party A Would Pay $24.00 per Share or Higher. Party A did not appear to devote as many resources to completing a transaction with us as did Babcock & Brown. Its August 25th proposal was conditioned on completion of 10 business days of due diligence, which was approximately three weeks after the date by which we had urged buyers to have completed their due diligence. Having devoted fewer resources to the transaction, we believed Party A s proposal was less credible.

Party A indicated that it had previously acquired a 4% ownership stake in us. Such an ownership stake could have motivated Party A to make a non-binding $24.00 per share offer in order to drive up the ultimate sale price and increase its profit on its investment in us.

Party A s $24.00 proposal was conditioned on completion of its due diligence as well as our delivering evidence establishing good and marketable title to each of our properties, free and clear of all encumbrances. Notwithstanding the non-binding nature of Party A s proposal, these conditions were so significant that we believed Party A could attempt to justify a lower purchase price based on its due diligence findings or on title encumbrances.

If, as we feared, we lost Babcock & Brown s offer by waiting for Party A to complete its due diligence and negotiate a binding merger agreement, Party A s $24.00 per share proposal might be less likely to materialize without the competitive pressure created by Babcock & Brown s offer.

We Have a Termination Right in the Event of a Superior Competing Transaction. If prior to receiving stockholder approval for the merger, we receive unsolicited inquiries regarding other potential business combinations that are reasonably likely to lead to a superior proposal, we may provide information and participate in discussions and negotiations with respect to any such inquiries if our board of directors determines, after consultation with legal and financial advisors, that such inquiries are reasonably likely to lead to a proposal that is more favorable to our stockholders than the merger, from a financial point of view. Upon making such a determination and subject to the satisfaction of specified conditions and payment of a $12.5 million termination fee, we may terminate the merger agreement with the Babcock & Brown transaction entities and enter into an agreement with respect to a superior competing transaction with a third party.

Factors Supporting Prolonging the Bidding Process versus Entering into a Merger Agreement with Babcock & Brown

We Did Not Inform Party A that Another Bidder had Offered $24.00 per Share and was Ready to Sign Immediately. Had we informed Party A on August 30th that Babcock & Brown was ready to sign a merger agreement at $24.00 per share, our board of directors acknowledged that there was a chance, however seemingly remote, that Party A might have agreed to a higher price promptly. In deciding to enter into the merger agreement with Babcock & Brown when we did, our board considered this uncertainty to be a negative factor.

The Termination Fee May Discourage a Competing Proposal to Acquire our Company. If we receive an unsolicited proposal regarding another potential business combination that constitutes a superior proposal, we have a limited right, subject to satisfaction of certain conditions and payment of a $12.5 million termination fee to Babcock & Brown, to terminate the merger agreement and enter into an agreement with respect to a superior proposal with a third party. This termination fee may discourage a competing proposal to acquire our company.

We May Not Solicit Other Offers. Even though the merger agreement permits our board of directors to receive unsolicited inquiries regarding other potential business combination transactions, it prohibits our company and our directors, officers and representatives from initiating any proposal that may reasonably be expected to lead to a competing business combination transaction.

In addition to the factors described above, our board of directors also considered the fact that our executive officers and four of our directors have interests in the mergers that differ from and may conflict with your interests as a stockholder. These interests, which are discussed under the heading Interests of Our Directors and Executive Officers in the Mergers, include the lapsing of restrictions and immediate vesting of restricted stock and stock options awarded under our benefit plans, the new employment agreements entered into by several of our executive officers and the ownership of common units in our operating partnership.

Our board also took note of the fact that our four most senior executive officers would be entitled to receive severance payments totaling $2.2 million upon consummation of the transaction had we entered into a merger agreement with Party A. However, under the new employment agreements they entered into with us in connection with the merger with Babcock & Brown, those executive officers were not entitled to those payments upon consummation of the merger (but they may become entitled to the payments upon the occurrence of subsequent events).

On the other hand, our board also observed that Babcock & Brown conditioned its offer on our securing new employment agreements with our executive officers relating to their ongoing employment after the merger. In contrast, Party A indicated a willingness to proceed without retaining management.

As a result of these additional and varying interests, which interests are different from those of our stockholders, Messrs. Payne and Wilkerson did not participate in the vote or the deliberations of the independent directors regarding the approval of the mergers. Moreover, our independent directors met frequently in executive session, without management, throughout the bidding process.

In view of the wide variety of factors considered by our board of directors, our board did not find it practicable to, and did not, quantify or otherwise attempt to assign relative weights to the specific factors considered. Our board of directors views its recommendation as being based on the totality of the information presented to and considered by it. After taking into consideration all of the factors set forth above, our board of directors determined that the potential benefits of the mergers substantially outweigh the potential detriments associated with the mergers.

Conduct of Business if the Mergers are not Completed

If we do not complete the mergers for any reason, we will continue to pursue our strategic business plan intended to deliver further sustainable growth in revenues and enhanced value for our stockholders over time.

Opinion of Our Financial Advisor

We retained Banc of America Securities to act as our financial advisor in connection with the merger. Banc of America Securities is an internationally recognized investment banking firm which is regularly engaged in the valuation of businesses and securities in connection with mergers and acquisitions, negotiated underwritings, secondary distributions of listed and unlisted securities, private placements and valuations for corporate and other purposes. We selected Banc of America Securities to act as our financial advisor in connection with the merger on the basis of Banc of America Securities experience in transactions similar to the merger and its reputation in the REIT sector and investment community.

On August 30, 2006, at a meeting of our board of directors held to evaluate the merger, Banc of America Securities delivered to our board of directors an oral opinion, which was confirmed by delivery of a written opinion, dated August 30, 2006, to the effect that, as of the date of the opinion and based on and subject to various assumptions and limitations described in its opinion, the merger consideration to be received by holders of our common stock was fair, from a financial point of view, to such holders.

The full text of Banc of America Securities written opinion to our board of directors, which describes, among other things, the assumptions made, procedures followed, factors considered and limitations on the review undertaken, is attached as Exhibit B to this proxy statement and is incorporated by reference in its entirety into this proxy statement. Holders of our common stock are encouraged to read the opinion carefully in its entirety. The following summary of Banc of America Securities opinion is qualified in its entirety by reference to the full text of the opinion. Banc of America Securities delivered its opinion to our board of directors for the benefit and use of our board of directors in connection with and for purposes of its evaluation of the merger consideration from a financial point of view. Banc of America Securities opinion does not address any other aspect of the merger and does not constitute a recommendation to any stockholder as to how to vote or act in connection with the merger.

For purposes of its opinion, Banc of America Securities:

- reviewed publicly available financial statements and other business and financial information of BNP;
- reviewed internal financial statements and other financial and operating data concerning BNP;
- reviewed financial forecasts relating to BNP prepared by BNP s management;

discussed the past and current operations, financial condition and prospects of BNP with BNP s senior executives;

reviewed the reported prices and trading activity for BNP common stock;

compared the financial performance of BNP and the prices and trading activity of BNP common stock with that of other publicly traded companies that Banc of America Securities deemed relevant;

compared the financial terms of the merger to financial terms, to the extent publicly available, of other business combination transactions that Banc of America Securities deemed relevant;

participated in discussions and negotiations among representatives of the parties to the merger agreement and their respective advisors;

reviewed a draft dated August 30, 2006 of the original merger agreement, referred to as the draft merger agreement ;

considered the results of Banc of America Securities efforts to solicit, at BNP s direction, indications of interest and proposals from third parties with respect to a possible acquisition of BNP; and

performed other analyses and considered other factors as Banc of America Securities deemed appropriate.

Banc of America Securities assumed and relied on, without independent verification, the accuracy and completeness of the financial and other information it reviewed for the purposes of its opinion. With respect to the financial forecasts relating to BNP prepared by BNP s management, Banc of America Securities assumed, at BNP s direction, that they were reasonably prepared on bases reflecting the best currently available estimates and good faith judgments of BNP s management as to BNP s future financial performance. Banc of America Securities did not make any independent valuation or appraisal of BNP s assets or liabilities, and Banc of America Securities was not furnished with any such valuations or appraisals. Banc of America Securities assumed, at BNP s direction, that the final executed merger agreement would not differ in any material respect from the draft merger agreement reviewed by Banc of America Securities and assumed, with BNP s consent, that the merger and related transactions (including the partnership merger) would be consummated as provided in the draft merger agreement, with full satisfaction of all covenants and conditions set forth in the draft merger agreement and without any waivers.

Banc of America Securities expressed no view or opinion as to any terms or aspects of the merger or any related transaction, other than the merger consideration to the extent expressly specified in its opinion, including, without limitation, the form or structure of the merger, tax or accounting aspects of the merger or any aspects of the partnership merger. In addition, Banc of America

Securities expressed no opinion as to the relative merits of the merger in comparison to other transactions available to BNP or in which BNP might engage or as to whether any transaction might be more favorable to BNP as an alternative to the merger, nor did Banc of America Securities express any opinion as to the underlying business decision of BNP s board of directors to proceed with or effect the merger. Except as described above, we imposed no other limitations on the investigations made or procedures followed by Banc of America Securities in rendering its opinion.

Banc of America Securities opinion was necessarily based on economic, market and other conditions as in effect on, and the information made available to Banc of America Securities as of, the date of its opinion. Accordingly, although subsequent developments may affect its opinion, Banc of America Securities did not assume any obligation to update, revise or reaffirm its opinion.

The following represents a brief summary of the material financial analyses presented by Banc of America Securities to BNP s board of directors in connection with its opinion. **The financial analyses summarized below include information presented in tabular format. In order to fully understand the financial analyses performed by Banc of America Securities, the tables must be read together with the text of each summary. The tables alone do not constitute a complete description of the financial analyses performed by Banc of America Securities. Considering the data set forth in the tables below without considering the full narrative description of the financial analyses, including the methodologies and assumptions underlying the analyses, could create a misleading or incomplete view of the financial analyses Banc of America Securities performed.**

Net Asset Valuation. Banc of America Securities performed a net asset valuation of BNP based on the estimated value of BNP s income-producing properties and other assets. The estimated value of BNP s income-producing apartment properties was calculated by applying a range of capitalization rates of 6.0% to 6.75% to the next 12 months estimated net operating income of the properties based on internal estimates of BNP s management. The estimated value of the management income generated from such properties was calculated by applying a multiple of 5.0x to BNP s next 12 months estimated management income based on internal estimates of BNP s management. Other asset values were estimated based on book values, lessee or other third-party indications of interest, the purchase prices of such assets and/or internal estimates of BNP s management. This analysis indicated the following implied per share equity reference range for BNP, as compared to the per share merger consideration:

Implied Per Share Equity Reference Range for BNP	Merger Consideration
$19.00 - $25.00	$24.00

Analysis of Selected Publicly Traded Companies. Banc of America Securities reviewed publicly available financial and stock market information for the following three publicly traded REITs in the apartment real estate industry:

Associated Estates Realty Corporation

Home Properties, Inc.

Mid-America Apartment Communities, Inc.

Banc of America Securities reviewed, among other things, equity values of the selected publicly traded REITs, based on closing stock prices on August 30, 2006, as a multiple of calendar years 2006 and 2007 estimated funds from operations, referred to as FFO, per share. Banc of America Securities then applied a range of selected multiples of calendar years 2006 and 2007 estimated FFO per share derived from the selected publicly traded REITs to corresponding data of BNP. Estimated financial data of the selected publicly traded REITs were based on publicly available research analysts estimates. Estimated financial data for BNP were based on internal estimates of BNP s management. This analysis indicated the following implied per share equity reference ranges for BNP, as compared to the per share merger consideration:

Implied Per Share		
Equity Reference Range for BNP Based on		**Merger**
2006E FFO	**2007E FFO**	**Consideration**
$20.00 - $25.25	$16.75 - $25.50	$24.00

No company or business used in this analysis is identical or directly comparable to our company or business. Accordingly, an evaluation of the results of this analysis is not entirely mathematical. Rather, this analysis involves complex considerations and judgments concerning differences in financial and operating characteristics and other factors that could affect the public trading or other values of the companies or business segments to which our company was compared.

Analysis of Selected Transactions. Banc of America Securities reviewed, to the extent publicly available, financial information relating to the following six selected transactions in the apartment real estate industry:

Announcement Date	Acquiror	Target
6/28/06	Empire Group Holdings LLC	Equity Residential s Lexford Portfolio
10/24/05	Morgan Stanley Real Estate Fund	AMLI Residential Properties Trust
6/7/05	ING Clarion Partners	Gables Residential Trust
10/22/04	Colonial Properties Trust	Cornerstone Realty Income Trust, Inc.
10/4/04	Camden Property Trust	Summit Properties Inc.
9/7/04	United Dominion Realty Trust, Inc.	Portfolio from the Essex Apartment Value Fund of Essex Property Trust, Inc.

Banc of America Securities reviewed, among other things, purchase prices in the selected transactions as a multiple of one-year forward estimated FFO per share for the target company at the time of announcement of the selected transaction. Banc of America Securities then applied a range of selected multiples of one-year forward estimated FFO per share derived from the selected transactions to BNP s calendar year 2007 estimated FFO per share based on internal estimates of BNP s management. Estimated financial data of the selected transactions were based on public filings and other publicly available information. This analysis indicated the following implied per share equity reference range for BNP, as compared to the per share merger consideration:

Implied Per Share Equity Reference Range for BNP	Merger Consideration
$20.50 - $26.25	$24.00

No company, business or transaction used in this analysis is identical or directly comparable to our company or business or the merger. Accordingly, an evaluation of the results of this analysis is not entirely mathematical. Rather, this analysis involves complex considerations and judgments concerning differences in financial and operating characteristics and other factors that could affect the acquisition or other values of the companies, business segments or transactions to which our company and the merger were compared.

Miscellaneous. As noted above, the discussion set forth above is a summary of the material financial analyses Banc of America Securities presented to BNP s board of directors in connection with its opinion and is not a comprehensive description of all analyses Banc of America Securities undertook in connection with its opinion. The preparation of a financial opinion is a complex analytical process involving various determinations as to the most appropriate and relevant methods of financial analysis and the application of those methods to the particular circumstances and, therefore, a financial opinion is not readily susceptible to partial analysis or summary description. Banc of America Securities believes that its analyses summarized above must be considered as a whole. Banc of America Securities further believes that selecting portions of its analyses and the factors considered or focusing on information presented in tabular format, without considering all analyses and factors or the narrative description of the analyses, could create a misleading or incomplete view of the processes underlying Banc of America Securities analyses and opinion. Banc of America Securities did not assign any specific weight to any of the analyses described above. The fact that any specific analysis has been referred to in the summary above is not meant to indicate that such analysis was given greater weight than any other analysis referred to in the summary.

In performing its analyses, Banc of America Securities considered industry performance, general business and economic conditions and other matters, many of which are beyond BNP s control. The estimates of BNP s future performance, which BNP s management provided to Banc of America Securities, in or underlying Banc of America Securities analyses are not necessarily indicative of actual values or actual future results, which may be significantly more or less favorable than those estimates or those suggested by Banc of America Securities analyses. These analyses were prepared solely as part of Banc of America Securities analysis of the fairness of the merger consideration from a financial point of view, and were provided to BNP s board of directors in connection with the delivery of Banc of America Securities opinion. The analyses do not purport to be appraisals or to reflect the prices at which a company might actually be sold or the prices at which any securities have traded or may trade at any time in the future. Accordingly, the estimates used in, and the ranges of valuations resulting from, any particular analysis described above are inherently subject to substantial uncertainty and should not be taken to be Banc of America Securities view of the actual value of BNP.

The type and amount of consideration payable in the merger were determined through negotiations between our company and Babcock & Brown, rather than by any financial advisor, and were approved by our board of directors. The decision to enter into the merger agreement was solely that of our board of directors. As described above, Banc of America Securities opinion and analyses were only one of many factors our board of directors considered in evaluating the proposed merger and should not be viewed as determinative of our board of directors or management s views with respect to the merger or the merger consideration.

We agreed to pay Banc of America Securities for its services in connection with the merger an aggregate fee of approximately $5.5 million, a portion of which was payable upon the rendering of Banc of America Securities opinion and a significant portion of which is contingent upon the consummation of the merger. We also agreed to reimburse Banc of America Securities for all reasonable expenses (including any reasonable fees and disbursements of Banc of America Securities counsel) incurred in connection with Banc of America Securities engagement, and to indemnify Banc of America Securities, any controlling person of Banc of America Securities and each of their respective directors, officers, employees, agents, affiliates and representatives against specified liabilities, including liabilities under the federal securities laws.

In the ordinary course of Banc of America Securities businesses, Banc of America Securities and its affiliates may actively trade or hold BNP s securities or loans or those of Babcock & Brown and its affiliates for Banc of America Securities own accounts or for the accounts of customers and, accordingly, Banc of America Securities or its affiliates may at any time hold long or short positions in these securities or loans.

Financing by Babcock & Brown of the Mergers and Related Transactions

The Babcock & Brown transaction entities have represented to us that they will have the merger consideration available at the effective time of the merger. There is no financing contingency in the merger agreement.

In connection with the merger agreement, Babcock & Brown International Pty Ltd (an affiliate of Babcock & Brown Limited) provided us and our operating partnership with a guarantee of certain obligations of Babcock & Brown and its subsidiaries under the merger agreement.

Legal Proceedings

We, our operating partnership and our other subsidiaries and affiliates (whether or not wholly owned) are not presently subject to any material litigation nor, to our knowledge, has any material litigation been threatened. We are a party to routine litigation and administrative proceedings arising in the ordinary course of business, most of which are expected to be covered by liability insurance and none of which, individually or in the aggregate, are expected to have a material effect on us.

Interests of Our Directors and Executive Officers in the Mergers

In considering the recommendation of our board of directors in connection with the mergers, you should be aware that, as described below, some of our directors and executive officers have interests in, and will receive benefits from, the mergers that differ from, or are in addition to, the interests of our stockholders generally. These additional interests may be in conflict with your interests as a stockholder and are described below. In addition, the number of our shares of common stock and operating partnership common units owned by our directors and some of our executive officers appears below under the section captioned Security Ownership of Certain Beneficial Owners and Management. Our board of directors is aware of these interests and considered them in approving the mergers.

Indemnification and Insurance. The merger agreement provides that following the merger the surviving company will indemnify and hold harmless any person who is a director or officer of our company or any of our subsidiaries at or before the effective time of the merger, in respect of liabilities arising out of actions or omissions arising out of such party s service as a director or officer before the effective time of the merger, to the fullest extent required by a Maryland corporation under Maryland law and by our charter and bylaws before the merger. The merger agreement further provides that, subject to certain limitations, for a period of six years after the effective time of the merger, Babcock & Brown and the surviving company will maintain with respect to actions and omissions occurring at or prior to the effective time of the merger, directors and officers liability insurance policies of not less coverage and not less favorable terms than those maintained by our company as of August 31, 2006, provided that annual premiums are no more than 250% of premiums paid by us for such coverage for fiscal year 2006. For a more complete discussion of these provisions of the merger agreement, see the section captioned Description of the Merger Agreement Indemnification; Directors and Officers Insurance.

Options. Certain of our employees, including our executive officers, hold options to purchase shares of common stock, all of which are currently vested and exercisable. In accordance with the terms of the merger agreement, any unexercised options to purchase our shares held by any such holders, whether or not then vested or exercisable as of the closing of the merger, will be exchanged for cash in an amount equal to the product of (1) the number of shares such holder could have purchased under our option plan (assuming full vesting) had such holder exercised such option in full immediately prior to the merger becoming effective and (2) the excess of $24.00 over the exercise price per share of such option, which cash payment will be treated as compensation and will be subject to applicable withholding. The exercise price of each outstanding option is less than $24.00.

Our executive officers will be entitled to receive the following amounts with respect to their existing options to purchase our common stock (based on the difference between $24.00 and the exercise price of the options assuming that no additional vested options are exercised prior to the merger s consummation) upon completion of the merger (less applicable withholding):

Executive Officer/	**Share Option**
Non-employee Director	**Amount**
Philip S. Payne	$ 1,131,250
D. Scott Wilkerson	543,750
Pamela B. Bruno	311,500
Eric Rohm	
Total	$ 1,986,500

Restricted Stock. Restricted stock issued to certain of our officers as long-term incentive compensation is subject to forfeiture if certain service and holding periods are not met. As a result of the merger, any restrictions or forfeiture provisions will terminate or lapse and the restricted stock will be treated under the merger agreement in the same manner as our other shares, including receipt of the per share merger consideration.

Our executive officers will be entitled to receive the following amounts with respect to their restricted stock (based on the receipt of merger consideration equal to $24.00 and without regard to any future vesting of restricted stock prior to the merger s consummation) upon completion of the merger (less applicable withholding):

Executive Officer/ **Non-employee Director**		**Value of** **Restricted Shares**
Philip S. Payne	$	1,512,000
D. Scott Wilkerson		1,512,000
Pamela B. Bruno		648,000
Eric Rohm		648,000
Total	$	4,320,000

Change in Control Payments to Executive Officers. We are a party to employment agreements with each of Philip S. Payne, Chairman of the Board of Directors, D. Scott Wilkerson, President and Chief Executive Officer, Pamela B. Bruno, Vice President, Treasurer and Chief Financial Officer, and Eric S. Rohm, Vice President, Secretary and General Counsel. The merger agreement provides that each of these executive officers will receive the amounts due to such executive officers under their respective employment agreements. These employment agreements provide for a cash payment immediately prior to the effective time of the merger equal to:

a lump sum equal to his/her current base salary for the remaining employment term (unless the executive is offered and accepts employment with the acquirer, which each person has done); and

a lump sum equal to $3,600,000 each for Messrs. Payne and Wilkerson, and $600,000 each for Ms. Bruno and Mr. Rohm.

Annual, Completion and Other Bonuses. In addition, we may agree to pay certain of our other employees retention bonuses, which would be payable following the effective time of the merger.

Employment of Certain Executive Officers. As of the date of this proxy statement and in connection with the merger, Philip S. Payne, Chairman of the Board of Directors, D. Scott Wilkerson, President and Chief Executive Officer, Pamela B. Bruno, Vice President, Treasurer and Chief Financial Officer, and Eric S. Rohm, Vice President, Secretary and General Counsel have signed revised definitive employment agreements, which only become effective if and when the mergers are effective, and which provide for each of their employment by the surviving company from the effective time of the merger.

The term of each agreement for Messrs. Payne and Wilkerson is three years. For each of Ms. Bruno and Mr. Rohm, the term is two years. Each agreement automatically renews for one additional year on the expiration of the initial term and on each subsequent anniversary thereof unless prior written notice is given. Messrs. Payne and Wilkerson will each be paid a base salary of $350,000 per year. Ms. Bruno and Mr. Rohm will each be paid a base salary of $250,000 per year. The surviving company s manager may grant an annual bonus to each executive at its discretion. The executives are also entitled to other customary employment benefits including health, life and supplemental insurance and paid time off.

Upon termination without cause or by the executive for good reason (as those terms are defined below), each executive will receive:

in the case of Messrs. Payne and Wilkerson, (A) a lump sum payment equal to $900,000 minus any cash or equity-based compensation paid to the executive following the merger in excess of $300,000 per year, and (B) health, dental, life and disability insurance benefits for three years following employment termination on terms and conditions at least equal to those provided before termination; and

in the case of Ms. Bruno and Mr. Rohm, a lump sum payment equal to $200,000 minus any cash or equity-based compensation paid to the executive following the merger in excess of $200,000 per year, and (B) health, dental, life and disability insurance benefits for two years following employment termination on terms and conditions at least equal to those provided before termination.

For purposes of the agreements, cause means a deliberate or intentional material misrepresentation by the executive; the commission of a crime by the executive which constitutes a felony or a misdemeanor that involves moral turpitude or that has a material adverse effect on the employer, its business, reputation or interests; a material breach of any contract or agreement between the executive and the employer or a material breach by the executive of a fiduciary duty or responsibility to the employer, which has not been cured; the executive s abuse of drugs or alcohol which affects the executive s ability to perform the executive s duties; or the willful, negligent or wanton misconduct of the executive which results in material damage to the employer, its business, reputation or interests.

For purposes of the agreements, good reason means the assignment to the executive of any duties, responsibilities or status materially and adversely inconsistent with, or which constitute a material adverse change in, the executive s current position, duties, responsibilities or status with the employer (other than an assignment of or a change in duties or responsibilities resulting solely by virtue of the merger); a material adverse change in the executive s current reporting responsibilities, title or office, other than a change in reporting responsibilities resulting solely by virtue of the merger; a reduction by the employer of the executive s base salary; a material violation of the provisions of the agreement governing benefits and life insurance; or a change in the executive s principal work location by more than 50 miles.

During the term of the agreements and, in the case of a termination of employment by the surviving company for cause or by the executive for any reason other than for good reason, for one year following employment termination, Messrs. Payne and Wilkerson are subject to non-competition and non-solicitation covenants.

Common Units. Two of our independent directors, Messrs. Chrysson and Gilley, own 276,766 and 292,145 common units in our operating partnership, respectively. Babcock & Brown recently decided to offer all holders of common units in our operating partnership an opportunity to elect to exchange each common unit for (i) $24.00 in cash or (ii) if the holder qualifies as an accredited investor under U.S. securities laws, a preferred unit in the operating partnership. As holders of common units, Messrs. Chrysson and Gilley will have this opportunity as well. If they do not elect to exchange their units for cash, they will be entitled to defer the taxable gain they would otherwise recognize if they were to receive cash in respect of their common units. At the time of the board s consideration of the original merger agreement, it was not known whether Babcock & Brown would offer holders of common units the option to elect any consideration other than $24.00 per share although we believed that there could be benefits to doing so under tax protection agreements to which we are a party. As of the date of this proxy statement, the terms of the preferred units have not been determined.

Voting and Proxy Agreement. Concurrently with the execution of the original merger agreement, Paul Chrysson, W. Michael Gilley, Philip S. Payne, D. Scott Wilkerson, Peter J. Weidhorn, Pamela B. Bruno and Eric S. Rohm, all of whom are officers and/or directors of our company, entered into a Voting and Proxy Agreement, dated as of August 31, 2006, with Babcock & Brown. We refer to this Voting and Proxy Agreement in this proxy statement as the voting agreement. These individuals are stockholders of our company, and some of them are limited partners of our operating partnership. We collectively refer to these individuals as the voting securityholders. As of August 31, 2006, the voting securityholders, collectively, beneficially owned approximately 8.0% of our outstanding common stock and 4.4% of the outstanding operating partnership units. Under the voting agreement, the voting securityholders have agreed to vote their shares of our common stock and their operating partnership common units in favor of the merger and the partnership merger, respectively. Following is a summary of the material provisions of the voting agreement. This summary is qualified in its entirety by reference to the complete text of the voting agreement, attached as Exhibit C to this proxy statement and which we incorporate by reference into this proxy statement.

Voting. Under the voting agreement, the voting securityholders irrevocably and unconditionally agreed that, at any meeting (whether annual or special and each adjourned or postponed meeting) of our stockholders or our operating partnership s partners, as applicable, however called, or in connection with any written consent of our stockholders or the partners of our operating partnership, as applicable, the voting securityholders will vote (1) for approval of the merger, (2) against any alternative acquisition proposal (without regard to any recommendation of our board of directors to our stockholders concerning such acquisition proposal) or the terms of any such acquisition proposal or any proposal inconsistent with the mergers, (3) against any agreement, amendment of any agreement or any other action that is intended or would reasonably be expected to prevent, impede, or, in any material respect, interfere with, delay, postpone or discourage the transactions contemplated by the merger agreement, other than those specifically contemplated by the voting agreement or the merger agreement and (4) against any action, agreement, transaction or proposal that would result in a breach of any representation, warranty, covenant, agreement or other obligation of our company in the merger agreement.

Irrevocable Proxy. In addition, the voting securityholders revoked any and all previous proxies granted with respect to their shares of our common stock and operating partnership units, as applicable, and irrevocably appointed Babcock & Brown or its designee as the voting securityholders agent, attorney and proxy, to vote (or cause to be voted) their shares and units, as applicable, if the voting securityholders fail to vote as the voting securityholders have agreed to vote (as described above).

Restrictions on Transfer. Under the voting agreement, the voting securityholders agreed that, while the voting agreement is in effect, the voting securityholders will not (with only limited exceptions) sell, transfer, pledge or dispose of any shares of our common stock or operating partnership units owned by the voting securityholders.

No Shop. Except as permitted under the merger agreement, the voting securityholders agreed not to, and to use reasonable best efforts to cause their representatives not to, directly or indirectly, (1) solicit, initiate or knowingly facilitate or encourage any acquisition proposal, (2) participate in any negotiations regarding, or furnish to any person any material nonpublic information in connection with, such acquisition proposal, (3) engage in discussions with respect to any acquisition proposal, (4) approve or recommend any acquisition proposal, or (5) enter into any letter of intent or similar document or any agreement or commitment providing for any acquisition proposal.

In addition, the voting securityholders agreed to promptly advise Babcock & Brown of (1) any acquisition proposal or any inquiry, proposal or offer, request for information or request for discussions or negotiations with respect to or that would reasonably be expected to lead to any acquisition proposal and (2) the identity of any person making the acquisition proposal or inquiry, proposed offer or request.

Term. The voting agreement terminates upon the termination of the merger agreement in accordance with its terms or upon the closing of the merger.

Description of the Merger Agreement

This section describes the material terms of the merger agreement. It is not intended to provide any other factual information about us. Such information can be found elsewhere in this proxy statement and in the other public filings we make with the Securities and Exchange Commission, which are available without charge at www.sec.gov. We refer to the Securities and Exchange Commission in this proxy statement as the SEC. The description of the merger agreement in this section and elsewhere in this proxy statement is qualified in its entirety by reference to the merger agreement, a copy of which is attached to this proxy statement as Exhibit A and which we incorporate by reference into this proxy statement. We encourage you to read carefully the merger agreement in its entirety because it is the legal document that governs the merger.

The Merger. In accordance with the merger agreement and each of the Maryland General Corporation Law, which we refer to in this proxy statement as the MGCL and the Delaware Limited Liability Company Act, which we refer to this in the proxy statement

as the DLLCA, we will merge with and into B&B Acquisition Sub. As a result of the merger, our separate corporate existence will cease, and B&B Acquisition Sub will continue as the surviving company and a subsidiary of Babcock & Brown. All of our company s and B&B Acquisition Sub s properties, assets, rights, privileges, powers, purposes and liabilities will become those of the surviving company.

The Partnership Merger. In accordance with the merger agreement and the Delaware Revised Uniform Limited Partnership Act, which we refer to in this proxy statement as DRULPA, Babcock & Brown Operating Partnership LP will merge with and into our operating partnership. As a result of the merger, the separate existence of Babcock & Brown Operating Partnership LP will cease, and our operating partnership will continue as the surviving partnership, and we will be the general partner of the surviving partnership.

Effective Times. The merger will become effective at such time as we and Babcock & Brown agree after the filing of (1) the articles of merger with the State Department of Assessments and Taxation of Maryland and (2) the certificate of merger with the Secretary of State of the State of Delaware. The closing will occur on a date specified by the parties to the merger agreement, but such date shall be no later than five business days following the satisfaction (or to the extent permitted by law, waiver) of all of the conditions set forth in the merger agreement (other than those conditions that must be satisfied or waived at the closing, but subject to the satisfaction or waiver of those conditions), or at such other time as the parties to the merger agreement may agree in writing, except that Babcock & Brown is not obligated to effect the merger and consummate the transactions contemplated by the merger agreement prior to June 30, 2007 if we have not received certain consents to the merger on terms satisfactory to Babcock & Brown or if any consent received before such date shall no longer be in effect.

The partnership merger will become effective at (1) such time as the partnership certificate of merger has been accepted for record by the Delaware Secretary of State, (2) such other time specified in the partnership certificate of merger or (3) such other time as we and Babcock & Brown agree. The partnership merger will become effective before the merger.

Merger Consideration. The merger agreement provides that each share of our common stock issued and outstanding immediately before the effective time of the merger and the associated preferred stock purchase rights granted pursuant to the Rights Agreement, as amended, dated as of March 18, 1999, between us and the rights agent (currently American Stock Transfer and Trust Company), will be converted at the effective time of the merger into the right to receive an amount equal to $24.00, without interest and less any applicable withholding taxes. All common shares of our company held directly or indirectly by us or B&B Acquisition Sub will be canceled and will cease to exist, without payment of any consideration for such shares, at the effective time of the merger.

Partnership Merger Consideration. The merger agreement provides that each common unit of our operating partnership issued and outstanding immediately before the effective time of the partnership merger, at the partnership merger effective time, will remain a common unit in the surviving partnership; provided, however, that, subject to certain conditions, each limited partner of our operating partnership may elect to receive, in lieu of continuing to hold such common units, for each common unit in our operating partnership, (1) $24.00, without interest and less any applicable withholding taxes, or (2) a preferred unit in the surviving partnership with terms specified by Babcock & Brown. A unitholder who makes this election must make such election as to all of such unitholder s units. Substantially concurrently with the mailing of the proxy statement to our stockholders, Babcock & Brown will deliver a form of election, together with any other materials we and Babcock & Brown determine to be necessary or prudent, to each holder of common units of our operating partnership. All common units of our operating partnership that we hold (we are the general partner of our operating partnership) will remain an equal number of common units in the surviving partnership at the effective time of the partnership merger.

A limited partner of our operating partnership will only be entitled to receive preferred units in the surviving partnership if such limited partner (1) represents to Babcock & Brown that such limited partner is an accredited investor within the meaning of Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended, (2) agrees to be bound by the limited partnership agreement of the surviving partnership, as in effect immediately following the effective time of the partnership merger, and (3) delivers a properly executed form of election that is received by Babcock & Brown prior to 5:00 p.m. EST on the business day preceding the special meeting. If a unitholder fails to return a form of election, or if Babcock & Brown reasonably determines that such form has not been properly executed and delivered within the specified time period, such unitholder s units will remain common units in the surviving partnership in the partnership merger. This proxy statement does not constitute any solicitation of consents in respect of the partnership merger. Nor does it constitute an offer to exchange or convert the operating partnership units that you may own into cash consideration or preferred units in the surviving partnership.

Treatment of Stock Options and Restricted Shares. In connection with the merger and pursuant to the merger agreement, each outstanding option to purchase our common shares issued under our Amended and Restated 1994 Stock Option and Incentive Plan, which we refer to as the Stock Option Plan, or under any agreement to which we or any of our subsidiaries is a party, will become fully vested (to the extent not otherwise vested) at the effective time of the merger. At the effective time of the merger, all existing options will be canceled in exchange for the right to receive a cash payment, without interest and less applicable withholding taxes, equal to the amount by which $24.00 exceeds the per share exercise or purchase price of such option, multiplied by the number of shares of our common stock subject to such option. Prior to the effective time of the merger, we and Babcock & Brown will establish a procedure by which option holders may surrender such options.

At the effective time of the merger, any restrictions with respect to outstanding restricted shares awarded under the Stock Option Plan or otherwise will lapse. These shares will be automatically converted into the right to receive $24.00 per share, without interest and less any applicable withholding taxes. These shares will also receive the regular quarterly dividend and special dividend we expect to pay.

At the effective time of the merger, the Stock Option Plan will terminate and all awards issued under the Stock Option Plan will be terminated. Thereafter, no holder of an option issued under the Stock Option Plan or any participant in the Stock Option Plan will have any right to acquire any securities of our company, the surviving company or any of their subsidiaries, or receive any payment or benefit with respect to any award previously granted under the Stock Option Plan except as provided above.

Dividends; Special Dividend. Until the completion of the merger, the merger agreement provides that we may continue to pay regular quarterly dividends on our common stock of not more than $0.26 per share. We expect to continue paying regular quarterly dividends at that rate for each full fiscal quarter ended before the merger s closing date. Immediately before the effective time of the partnership merger, our board of directors will set a record date for and declare a special dividend on each outstanding share of our common stock and each outstanding unit of our operating partnership. The amount of the special dividend per common share or unit will be the amount of our distributable funds from operations (as of the last business day prior to the anticipated closing date and as we determine, modified by any mutual agreement between us and Babcock & Brown), divided by the aggregate number of shares of common stock and units we do not own outstanding on the record date for the special dividend. However, the special dividend may not exceed an amount per share of common stock or per common unit, as applicable, equal to $0.26 multiplied by the quotient of (1) the number of days between the last day of the last quarter for which we paid a full quarterly dividend and the closing date (including the closing date) divided by (2) the total number of days in the quarter in which the closing date occurs.

Exchange and Payment Procedures. Before the effective time of the partnership merger, Babcock & Brown will designate a bank or trust company to act as paying agent for holders of our shares of common stock (other than shares held directly or indirectly by Babcock & Brown or B&B Acquisition Sub), options, restricted stock and preferred stock purchase rights of the company and holders of common units of our operating partnership (other than (1) units we own and (2) units that are to remain common units or be converted to preferred units in the surviving partnership pursuant to a properly executed and delivered form of election). Promptly following the effective time of the partnership merger, the surviving company will provide to the paying agent cash in an amount sufficient to make payment for the common stock, options, restricted stock, preferred stock purchase rights and common units.

At or before the effective time of the partnership merger, we will provide to the paying agent cash in an amount sufficient to satisfy the special dividend to be distributed to the holders of our common stock and of common units of our operating partnership in a manner consistent with the payment of our regular quarterly dividend.

As soon as practicable after the effective time of the merger or partnership merger, as applicable, but in no event later than five business days following such effective time, the paying agent will provide appropriate transmittal materials to each holder of record of our common stock and to each holder of common units of our operating partnership registered on the transfer books of our operating partnership, in each case, immediately before the merger effective time or partnership merger effective time, as applicable. The letter of transmittal and instructions will tell you how to surrender your common stock certificates, restricted stock, options, preferred stock purchase rights and any interest in common units of our operating partnership, as applicable, in exchange for the merger consideration or partnership merger consideration.

You should not deliver your stock certificates with the enclosed proxy card, and you should not forward your stock certificates to the paying agent without a letter of transmittal.

Any portion of the funds (including any interest or other income received with respect thereto) deposited with the paying agent that remains undistributed to holders of shares of common stock, restricted stock, options, preferred stock purchase rights or units of our operating partnership on the first anniversary of the effective time of the merger shall be delivered to Babcock & Brown upon demand. Any such holders who have not received the consideration to which they are entitled under the merger agreement shall thereafter look only to the surviving company or surviving partnership, as applicable, for payment of their claims with respect thereto. None of the Babcock & Brown transaction entities will be liable to any former holder of our common stock or units of our operating partnership for any amount properly paid or property properly delivered to a public official pursuant to applicable abandoned property, escheat or similar laws.

We, our operating partnership, Babcock & Brown, the surviving company, the surviving partnership and the paying agent will be entitled to deduct and withhold from any payment pursuant to the merger agreement such amounts as may be required to be deducted and withheld with respect to the making of such payment under any applicable law.

Organizational Documents of our Company and Our Operating Partnership. The certificate of formation and limited liability company agreement of B&B Acquisition Sub in effect immediately before the effective time of the merger will be the certificate of formation and limited liability company agreement of the surviving company until amended or repealed.

The agreement of limited partnership and certificate of limited partnership of our operating partnership will continue to be the agreement of limited partnership and certificate of limited partnership of the surviving partnership following the effective time of the partnership merger until further amended in accordance with DRULPA.

Directors and Officers of the Surviving Company Following the Merger. The directors and officers of B&B Acquisition Sub immediately before the effective time of the merger will be the directors and officers of the surviving company from and after the effective time of the merger until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal. Additionally, certain of our executive officers have signed employment contracts and will become officers of the surviving company after the merger as described above under The Mergers Interests of Our Directors and Executive Officers in the Mergers Employment of Certain Executive Officers.

Representations and Warranties. The merger agreement contains customary representations and warranties of the parties made to and solely for the benefit of each other. The assertions embodied in those representations and warranties are qualified by information in a confidential disclosure schedule that the parties have exchanged in connection with signing the merger agreement and that modifies, qualifies and creates exceptions to the representations and warranties contained in the merger agreement. Moreover, various representations and warranties were subject to specified exceptions and qualifications, including the occurrence of a material adverse effect (as defined below). Accordingly, you should not rely on the representations and warranties as characterizations of the actual state of facts because (1) they were made only as of August 31, 2006 or a prior specified date, (2) in some cases they are subject to qualifications with respect to materiality and knowledge and (3) they are modified in part by the underlying disclosure schedules. The disclosure schedules contain information that has been included in our prior public disclosures, as well as non-public information. Moreover, information concerning the subject matter of the representations and warranties may have changed since August 31, 2006, which subsequent information may not be fully reflected in our public disclosures.

The representations and warranties we made relate to, among other things:

- our and our operating partnership s due organization, valid existence, good standing and qualification to do business;
- our charter and bylaws and the organizational documents of our operating partnership;
- our and our operating partnership s power and authority to enter into the merger agreement and to consummate the transactions contemplated by the merger agreement;
- the approval of the merger agreement and the transactions contemplated by the merger agreement by our board of directors on behalf of us as a company and on behalf of us in our capacity as the general partner of our operating partnership;
- the resolution of our board of directors to recommend that our stockholders approve the merger;
- our and our operating partnership s capitalization, including the number of issued and outstanding shares of our common stock and the number of outstanding common units of our operating partnership;
- the absence of certain specified violations of, or conflicts with, our or our operating partnership s governing documents, applicable law or certain agreements as a result of entering into the merger agreement and consummating the merger;
- the required consents and approvals of, and filings, recordations, declarations and other actions with respect to, governmental entities in connection with consummation of the merger and the other transactions contemplated by the merger agreement;
- our subsidiaries;
- our SEC forms, proxy statements, registration statements, reports, schedules and other documents filed since January 1, 2003, including the financial statements contained therein and the certifications required to be accompanied therewith, and the absence of unresolved violations with respect to our SEC reports;

the absence of certain undisclosed liabilities with respect to us and our subsidiaries;

the absence of certain changes or events with respect to us and our subsidiaries since June 30, 2006;

tax matters affecting us and our subsidiaries, including our qualification as a REIT;

real property owned and leased by us and our subsidiaries, including acquisition agreements in connection with any pending real property acquisitions;

personal property owned and leased in connection with the development and operation of our real property;

environmental matters affecting us and our subsidiaries;

our and our subsidiaries possession of all necessary governmental approvals, consents, authorizations, licenses and permits necessary for the operation of our and our subsidiaries businesses and the absence of any conflict with, violation of, or default or breach under any applicable laws, orders approvals, consents, authorizations, licenses and permits;

employment and labor matters affecting us and our subsidiaries, including matters relating to our and our subsidiaries employee benefits plans;

our and our subsidiaries material contracts and the absence of any conflict with, violation of, or default or breach under any material contract;

the absence of any tax protection agreement to which we or our subsidiaries are subject, directly or indirectly (other than tax protection agreements existing as of August 31, 2006 and disclosed to Babcock & Brown);

the absence of certain legal proceedings and investigations against us or our subsidiaries;

the inapplicability to the merger agreement, the mergers and the other transactions contemplated by the merger agreement of certain antitakeover provisions, including specified provisions of the MGCL, any other control share acquisition, fair price, moratorium or other antitakeover laws and the rights agreements of our company and of our operating partnership with respect to preferred stock and preferred unit purchase rights, respectively;

regulatory approvals required for the consummation of the merger and the other transactions contemplated by the merger agreement;

the receipt by our board of directors of an opinion from our financial advisor;

our and our subsidiaries status under the Investment Company Act, as amended;

the absence of certain transactions and agreements between us or our subsidiaries and certain parties related to us and our subsidiaries;

our and our subsidiaries insurance policies;

intellectual property owned and used by us and our subsidiaries;

the exemption of the mergers and the other transactions contemplated by the merger agreement from filing requirements under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended;

our disclosure controls and procedures and internal controls over financial reporting; and

our and our subsidiaries obligations to make contributions and other payments to certain entities in which we or our subsidiaries own equity interests.

The merger agreement also contains various representations and warranties made by the Babcock & Brown transaction entities that are subject, in some cases, to specified exceptions and qualifications, including the occurrence of a material adverse effect. Their representations and warranties relate to, among other things:

their due formation, valid existence, good standing and organization;

their power and authority to enter into the merger agreement and to consummate the transactions contemplated by the merger agreement;

the absence of certain specified violations of, or conflicts with, their governing documents, applicable law or certain agreements as a result of entering into the merger agreement and consummating the merger;

the required consents and approvals of, and filings, recordations, declarations and other actions with respect to, governmental entities in connection with consummation of the merger and the other transactions contemplated by the merger agreement;

the absence of certain legal proceedings and investigations against them or their subsidiaries;

the accuracy and completeness of information they supply for inclusion in the proxy statement and any supplements and amendments thereto;

compliance with laws with respect to any regulatory filings for which they are responsible; and

Babcock & Brown s possession of or access to sufficient funds to pay the merger consideration.

The representations and warranties of the parties to the merger agreement will terminate upon completion of the merger.

For the purposes of the merger agreement, material adverse effect means an event, change, occurrence, effect, fact, violation, development or circumstance that, individually or together with any and all other events, changes, occurrences, effects, facts, violations, developments or circumstances, has had or is reasonably likely to have a material adverse impact on (1) the condition (financial or otherwise), business, properties, assets, results of operations of us and our subsidiaries, taken as a whole, or (2) our ability to perform our obligations under the merger agreement or to consummate the merger or the other transactions contemplated by the merger agreement.

A material adverse effect will not have occurred however, as a result of events, changes, occurrences, effects, facts, violations, developments or circumstances resulting from or relating to:

changes in laws of general applicability or interpretations thereof by courts or governmental authorities;

changes in generally accepted accounting principles;

the direct effects of any unreasonable refusal by Babcock & Brown to grant its consent to exceptions to the conduct of business covenant relating to us or our subsidiaries;

changes in general economic conditions nationally or regionally (unless and to the extent that such changes affect us in a materially disproportionate manner relative to other participants in the multifamily residential industry);

changes affecting the multifamily residential industry generally (unless and to the extent that such changes affect us in a materially disproportionate manner relative to other participants in the multifamily residential industry);

the commencement, continuation or escalation of a war, material armed hostilities or another material international or national calamity or act of terrorism directly or indirectly involving or affecting the United States of America (unless and to the extent that such commencement, continuation or escalation affects us in a materially disproportionate manner relative to other participants in the multifamily residential industry); or

earthquakes, hurricanes, or other natural disasters or acts of God (unless and to the extent that such natural disasters affect us in a materially disproportionate manner relative to other participants in the multifamily residential industry).

Conduct of Business Pending the Merger. Under the merger agreement, we have agreed that, subject to certain exceptions, between August 31, 2006 and the earlier of the completion of the merger or termination of the merger agreement, unless Babcock & Brown gives its prior written consent, we and our subsidiaries will:

- operate our business only in (1) such a manner to permit us to continue to operate as a REIT for our taxable year that includes the effective time of the merger and (2) the usual, regular and ordinary course of business and substantially consistent with past practice;

- use our reasonable best efforts to conduct our operations in compliance with applicable laws and regulations and maintain and preserve intact our business organization (corporate or otherwise), goodwill and assets (in good repair and condition) and maintain our rights and franchises and our current relationships with lessees, suppliers and other parties with whom we have significant business relations;

- keep available the services of our and our subsidiaries present officers, employees and consultants who are integral to the operation of the businesses as presently conducted;

- prepare and file all tax returns (or obtain extensions thereof) we are required to file on or before the closing date and fully and timely pay all taxes due and payable in respect of such returns;

- properly reserve (and reflect such reserve in our books and records and financial statements), for all taxes payable by us for which no tax return is due prior to the effective time of the merger in a manner consistent with past practice;

- terminate all tax sharing agreements (except for tax protection agreements existing as of August 31, 2006) to which we are a party such that there are no further liabilities thereunder; and

- take no action that would (1) materially adversely affect the ability of any party to the merger agreement to obtain any consents or approvals required for the transactions contemplated by the merger agreement, (2) materially adversely affect the ability of any party to the merger agreement to perform its covenants and agreements under the merger agreement or (3) be intended to result in any of the conditions to the merger not being satisfied, except in every case as may be required by applicable law.

We have also agreed that, subject to certain exceptions, between August 31, 2006 and the earlier of the completion of the partnership merger or termination of the merger agreement, unless Babcock & Brown gives its prior written consent, we and our subsidiaries will not do and will not commit to do any of the following:

- amend our charter or bylaws or the organizational documents of any of our subsidiaries;

incur, assume, guarantee or otherwise become liable for any indebtedness or other obligation, including any guarantee obligations, for borrowed money (directly, contingently or otherwise) or refinance or prepay any of our or our subsidiaries indebtedness or make any loan or advance to any other person (other than loans or advances to our wholly owned subsidiaries);

directly or indirectly repurchase, redeem, or otherwise acquire or exchange any securities we or our subsidiaries issued, other than:

> in connection with the redemption of common units of our operating partnership in accordance with the limited partnership agreement of our operating partnership;
>
> exchanges in the ordinary course under employee benefit plans sponsored or maintained by us or our subsidiaries upon the exercise of any stock option or other award outstanding on August 31, 2006 and issued pursuant to the Stock Option Plan; or
>
> the use of our common stock by participants in equity-based employee benefit plans we or one of our subsidiaries sponsors or maintains to pay the exercise price or tax withholding relating to an award;

declare, set aside or pay any dividend or make any other distribution in respect of our stock or the equity interests of any of our subsidiaries that we or our operating partnership do not indirectly wholly own;

issue, sell, pledge, encumber, authorize the issuance of, enter into any agreement to issue, sell, pledge, encumber, or authorize the issuance of, or otherwise permit to become outstanding or cause to become exercisable any otherwise unexercisable right granted for, any additional shares of capital stock of our company or voting securities or any capital stock or voting securities of any of our subsidiaries (including any units of our operating partnership), or any stock appreciation rights, or any option, warrant, convertible or exchangeable security or other equity right relating to us or any of our subsidiaries;

adjust, split, combine, classify, or reclassify any shares of stock or any other equity interests or equity rights of our company or any of our subsidiaries or authorize the issuance of any securities in respect of or in substitution for such shares of stock, equity interests or other equity rights;

sell, lease, mortgage or otherwise dispose of or encumber any shares of our stock or any other equity interests of ours or of any of our subsidiaries or amend the terms of any security we have issued;

purchase any securities or make any material investment, either by purchase of stock or securities, contributions to capital, asset transfers, or purchase of any assets, in any person other than in our wholly owned subsidiaries, or otherwise acquire direct or indirect control over any person other than in connection with (1) foreclosures in the ordinary course of business, or (2) the creation of new wholly owned subsidiaries organized to conduct or continue activities otherwise permitted by the merger agreement;

grant any increase in compensation or benefits to our employees or officers, except as required by law or any agreement in effect on August 31, 2006 and except for increases in the ordinary course of business and consistent with past practice to employees with a salary less than $100,000 per year;

pay any severance or termination pay or any bonus other than:

in the ordinary course of business provided the severance or termination payment or bonus payment to any single individual does not exceed $25,000; or

pursuant to written policies or written agreements in effect on August 31, 2006.

enter into or amend any contractual obligation with any of our or our subsidiaries officers or affiliates;

enter into any contractual obligation with any new employee or consultant except for obligations entered into in the ordinary course of business and consistent with past practice that involve or may involve annual payments not in excess of $100,000;

grant any increase in fees or other increases in compensation or other benefits to our directors or directors of any of our subsidiaries;

adopt any new employee benefit plan or terminate or withdraw from, or make any material change in or to, any existing employee benefit plans other than any such change that is required by law or that, in the opinion of counsel, is necessary or advisable to maintain the tax qualified status of any such plan, or make any distributions from such employee benefit plans, except as required by law or the terms of such plans;

make any change in any tax accounting method or any material change in any accounting methods or systems of internal accounting controls, except as may be required to conform to changes in tax laws or United States generally accepted accounting principles;

make, change or rescind any express or deemed election relative to taxes, unless such election or rescission is required by law or necessary (1) to preserve our status as a REIT, or (2) to qualify or preserve the status of any of our subsidiaries as a partnership for federal income tax purposes, as a qualified REIT subsidiary or as a taxable REIT subsidiary under the Internal Revenue Code, as the case may be (in which event we must promptly notify Babcock & Brown of such election and we or our applicable subsidiary must make such election in a timely manner);

amend any material tax return, or settle or compromise any material federal, state, local or foreign tax liability, audit, claim or assessment;

waive or extend the statute of limitations with respect to our or any of our subsidiaries   taxes;

enter into any material closing agreement related to taxes;

surrender any right to claim any material tax refund;

take any action that could reasonably be expected to cause us to fail to continue to qualify as a REIT;

enter into, amend or modify any tax protection agreement or take any action that would, or could reasonably be expected to, violate any tax protection agreement or otherwise give rise to any liability to us or any of our subsidiaries with respect thereto;

pay, discharge or satisfy any claim, liability, lien or obligation with respect to, or settle or compromise any litigation pending, threatened against or affecting us or any of our subsidiaries, including litigation relating to the transactions contemplated by the merger agreement brought by any current, former or purported holder of any of our, our operating partnership s or any other of our subsidiaries   securities (except that routine claims, liabilities, obligations and litigation in the ordinary course of business may be paid, discharged, settled or compromised for monetary amounts not exceeding $50,000 for any single matter and $250,000 in the aggregate for all such matters);

make capital expenditures other than capital expenditures made in the ordinary course of business and consistent with past practice in an amount not exceeding $50,000 in each instance and $2,000,000 in the aggregate for all instances;

enter into any material agreement (including any tax protection agreement) or any agreement with a term longer than one year that cannot be terminated without material penalty upon notice of 60 days or less;

terminate or amend any material contract or waive, release, compromise or assign any material rights or claims;

sell, lease, mortgage, subject to any material lien or otherwise dispose of any real property and related improvements and rights we or any of our subsidiaries own or modify or waive any rights under any agreements that created a permitted title exception or enter into any contract or agreement to acquire any real property assets or enter into any contract for any broker, promoter or similar agent to market or otherwise offer for sale or refinance any of our or our subsidiaries   real property assets;

sell, lease, license, transfer, exchange, swap, acquire, mortgage, subject to any material lien or otherwise dispose of any personal property or intangible property, except sales or acquisitions of equipment which are not material to us and our subsidiaries or our respective businesses or operations taken as a whole and which are made in the ordinary course of business;

enter into or make any loans to any of our officers, directors, employees, agents or consultants or make any change in existing borrowing or lending arrangements for or on behalf of any of such persons;

except as necessary in the ordinary conduct of our and our subsidiaries businesses and consistent with past practice, dispose of, grant or obtain, or permit to lapse, any rights to any intellectual property, or dispose of or disclose any trade secret to any person other than representatives of Babcock & Brown;

adopt or authorize a plan of complete or partial liquidation, dissolution, consolidation, recapitalization or bankruptcy reorganization;

enter into certain transactions, agreements or arrangements between (1) us or any of our subsidiaries on the one hand and (2) any of our affiliates (other than any of our subsidiaries) on the other hand;

permit any insurance policy to terminate or lapse without replacing such policy with comparable coverage or amend or cancel any insurance policy;

initiate or consent to any material zoning reclassification of any of our or our subsidiaries properties or any other material change to any approved site plan, special use permit, planned unit development approval or other land use entitlement affecting any such property;

fail to use our commercially reasonable efforts to comply or remain in compliance with the material terms of any agreement relating to any of our or our subsidiaries outstanding indebtedness;

consummate any transaction for the acquisition of certain properties; or

agree, commit or arrange to take any of the foregoing actions.

Adverse Change in Condition. We and Babcock & Brown have each agreed to give written notice promptly to the other upon becoming aware of the occurrence or impending occurrence of any event or circumstance relating to each party or any of its respective subsidiaries that:

is reasonably likely to have, individually or in the aggregate, a material adverse effect; or

if unremedied by the effective time of the merger, would cause or constitute a material breach of any of its representations, warranties or covenants contained in the merger agreement, and to use its reasonable best efforts to prevent or promptly to remedy the same.

Reports. We, our operating partnership and the Babcock & Brown transaction entities have each agreed to file all reports required to be filed with regulatory authorities between August 31, 2006 and the effective time of the merger, and will promptly deliver to the applicable counterparties copies of all of those reports.

Certain Affirmative Covenants of Babcock & Brown. Babcock & Brown has agreed that, subject to certain exceptions, from August 31, 2006 until the earlier of the effective time of the merger or the termination of the merger agreement, unless we give our prior written consent or except as may be required by law, Babcock & Brown will take no action, and will cause its subsidiaries to take no action, that would:

materially adversely affect the ability of any party to the merger agreement to obtain any consent or approvals required for the transactions contemplated by the merger agreement;

materially adversely affect the ability of any party to the merger agreement to perform its covenants and agreements under the merger agreement; or

be intended to result in any of the conditions to the merger agreement not being satisfied.

No Solicitation. We agreed that we and our subsidiaries will immediately cease any existing negotiations or discussions with any third party that may be ongoing with respect to any other acquisition proposal (as defined below). We and our subsidiaries agreed to use our commercially reasonable efforts to cause any such third parties in possession of confidential information about us that was furnished by or on behalf of our company to return or destroy all such information in their possession or in the possession of their officers, directors, affiliates, employees or representatives. Additionally, we and our subsidiaries agreed that we will cause each of our respective affiliates and each of our respective officers and directors to cease any existing negotiations or discussion with respect to any acquisition proposal. We and our subsidiaries also agreed to use our commercially reasonable efforts to cause our respective employees and representatives to cease any such negotiations or discussions.

We and our subsidiaries may not take any action directly or indirectly to:

solicit, initiate or induce the making or submission of any acquisition proposal;

enter into any letter of intent, agreement, arrangement or understanding with respect to any acquisition proposal (other than a confidentiality agreement as described below);

approve, endorse or recommend any acquisition proposal (or publicly announce an intention to approve, endorse or recommend any acquisition proposal);

enter into any agreement, arrangement or understanding that would require us to abandon, terminate or fail to consummate the merger or any other transaction contemplated by the merger agreement;

initiate or participate in any way in any discussions or negotiations with, or furnish or disclose any nonpublic information to, or afford access to any of our or our subsidiaries   properties or information to, any person in connection with or in furtherance of any proposal that constitutes, or would reasonably be expected to lead to, any acquisition proposal; or

release any individual from any standstill or similar provision with respect to us or any of our subsidiaries other than a waiver or release limited to permitting another person to initiate (by means of written correspondence to our board of directors) nonpublic negotiations or discussions that are otherwise permitted by the merger agreement.

In addition, we and our subsidiaries have agreed to cause our affiliates and their respective officers and directors not to take any of the foregoing actions. We also agreed to use our commercially reasonable efforts to cause our, our subsidiaries , and our affiliates   respective employees and representatives not to take any of the foregoing actions.

For purposes of the merger agreement and the voting agreement, an   acquisition proposal   means any proposal or offer (other than the transactions contemplated by the merger agreement) relating to:

any direct or indirect acquisition or purchase of 15% or more of any class of our securities or that of any of our subsidiaries;

any tender offer (including a self-tender offer or tender offer by any of our subsidiaries) or exchange offer that, if consummated, would result in any person or group beneficially owning 15% or more of any class of our securities or that of any of our subsidiaries, or any filing with the SEC in connection with such tender offer or exchange offer;

any merger, consolidation, business combination, recapitalization, liquidation, dissolution or similar transaction involving us or any of our subsidiaries;

any sale or lease, or exchange, transfer, license, acquisition or disposition of 15% or more of our consolidated assets;

any other transaction the consummation of which would reasonably be expected to impede, interfere with, prevent or materially delay the merger or which would reasonably be expected to materially dilute the benefits to Babcock & Brown of the transactions contemplated by the merger agreement; or

any public announcement by or on behalf of our company, any of our subsidiaries, or any of our respective affiliates or any of our or their respective officers, directors, employees or representatives, or by any third-party of a proposal, plan or intention to do any of the foregoing or any agreement to engage in any of the foregoing.

We have agreed to promptly (and in any event within two days) notify Babcock & Brown, in writing, of any acquisition proposal, amendment to a previously disclosed acquisition proposal or request for information by any person that has made an inquiry that could reasonably be expected to lead to an acquisition proposal, including the identity of the person making such acquisition proposal, request or inquiry, and to provide Babcock & Brown with a copy (if in writing) or a summary of the terms of such acquisition proposal or amendment. In addition, we have agreed to, within two days, (1) inform Babcock & Brown of any material development relating to such acquisition proposal, including the entering into of discussions or negotiations, and any results of any discussions or negotiations and (2) provide Babcock & Brown with all material information or access provided to any third party that we have not previously provided to Babcock & Brown.

Despite these restrictions, after receiving an acquisition proposal (that did not result from a breach of our non-solicitation obligations set forth above) between August 31, 2006 and the date of the stockholders meeting, we may request clarifications from, furnish information to, or enter into negotiations or discussions with, any person that makes such unsolicited acquisition proposal if:

such action is taken subject to a confidentiality agreement containing customary terms and conditions and which does not contain any terms that would prevent us from complying with the notification obligations described above;

we comply with the notification obligations to Babcock & Brown described above; and

our board of directors reasonably determines in good faith, after consultation with an independent nationally recognized investment bank and our outside legal advisors, that such acquisition proposal constitutes a superior proposal (as defined below) or is reasonably likely to result in a superior proposal.

Additionally, neither our board of directors nor any committee of our board may withdraw, withhold or modify, or propose to withdraw, withhold or modify, in a manner adverse to Babcock & Brown, the approval, adoption or recommendation to our stockholders (or resolve to do any of the foregoing), of the merger or the other transactions contemplated by the merger agreement. We refer to any such action as a change of recommendation. However, before the stockholders meeting our board of directors may effect a change of recommendation if:

we have given Babcock & Brown two business days written notice of our intention to effect a change of recommendation; and

our board of directors, in its good faith judgment and after being advised by reputable outside counsel experienced in such matters, has determined that the failure to take such action would result in a breach of our board s duties to our stockholders.

If we make a change of recommendation, we have agreed to provide Babcock & Brown with our stockholder lists and to allow and facilitate Babcock & Brown s contact with our stockholders and prospective investors.

The parties to the merger agreement have acknowledged and agreed that we may accept a superior proposal (as defined below), enter into an agreement for such superior proposal and terminate the merger agreement as long as we abide by the termination provisions in the merger agreement, including paying a $12.5 million termination fee.

Superior proposal means an acquisition proposal that is reasonably capable of being consummated for all of the shares of outstanding common stock and all of the common units of our operating partnership or a purchase of all or substantially all of our and our subsidiaries assets, which our board of directors reasonably determines in good faith, after consultation with an independent nationally recognized investment bank and our outside legal advisors, to be (1) on terms more favorable from a financial point of view to us and our stockholders than the mergers, taking into account such factors as our board of directors in good faith deems relevant, including all legal, financial, regulatory and other aspects of such proposal and the terms of the merger agreement (including the terms of any financing and the likelihood that the transaction would be consummated) and the identity of the person making such proposal, (2) not subject to any financing or due diligence condition or other related contingency, and (3) supported by fully committed and available financing and for which such person has received executed financing commitment letters from reputable financing sources.

Indemnification; Directors and Officers Insurance. The merger agreement provides for indemnification arrangements for each of our and our subsidiaries present and former directors and officers.

For a period of six years after the effective time of the merger, the surviving corporation will indemnify current and former officers and directors of our company and each of our subsidiaries for liabilities arising out of acts or omissions in their capacity as officers or directors, subject to certain limitations and conditions.

In addition, with respect to acts or omissions occurring before the effective time of the merger, Babcock & Brown and the surviving company will maintain directors and officers liability insurance policies until the sixth anniversary of the effective time of the merger (and for so long thereafter as any claim for insurance coverage asserted on or prior to such date has not been fully adjudicated), to the extent that such insurance would not exceed 250% of the annual premium for our current insurance policies, in which case coverage will be the greatest amount available for an amount not exceeding 250% of the current premium.

Employee Benefits and Contracts. We have agreed that we will, immediately before the closing date, pay amounts due to certain of our senior executives under such senior executive officers employment agreements (to the extent such agreements are not superseded effective as of the closing date). See Interests of Our Directors and Executive Officers in the Mergers Restricted Stock and Interests of Our Directors and Executive Officers in the Mergers Change in Control Payments to Executive Officers.

We and our subsidiaries have agreed to take all necessary actions to (1) effect the cancellations contemplated by the merger agreement with respect to our Stock Option Plan and (2) cause such plan to be terminated at or before the effective time of the partnership merger, and reasonably satisfy Babcock & Brown that no holder of existing options or other awards under such plans or programs or participant in the Stock Option Plan will have any right to acquire any interest in the surviving company, Babcock & Brown or any subsidiary of Babcock & Brown at or after the effective time of the merger as a result of exercise of options or other awards or rights.

Babcock & Brown has agreed that it will, and will cause the surviving company to, for a period of one year, provide to each of our and our subsidiaries employees who remain employed by any of the Babcock & Brown transaction entities after the effective time of the merger compensation and employee benefits (other than equity-based compensation) that are substantially equivalent, in the aggregate, to the compensation and employee benefits (other than equity-based compensation and certain other payments and awards) we provided immediately before the merger s effectiveness.

If any of our or our subsidiaries employees becomes a participant in an employee benefit plan sponsored or maintained by Babcock & Brown or its affiliates, which we refer to as the Buyer Plans, in accordance with the eligibility criteria of such Buyer Plans:

such participants will receive full credit for all service with us and our subsidiaries before the mergers for purposes of eligibility and vesting (but not benefit accrual), to the extent such service is taken into account under such Buyer Plans;

such participants will participate in the Buyer Plans on terms no less favorable than those offered by Babcock & Brown or its significant affiliates to their similarly situated employees; and

with respect to any Buyer Plan that provides medical or health benefits, such employees (and their eligible dependents) shall be given credit for co-payments made, amounts credited towards deductibles, co-insurance and out-of-pocket maximums under our or our subsidiaries corresponding employee benefit plan in the year in which such employee becomes a participant in such Buyer Plans. Babcock & Brown will preserve and provide all vacation, sick leave and paid time off accrued by each such employee under our employee benefits plans before the mergers.

Other Agreements. We and the other parties to the merger agreement have made various other agreements in the merger agreement. Some of the agreements are mutual, while others have been made either only by us and/or our operating partnership (and, in certain cases, our subsidiaries) or only by one or more of the Babcock & Brown transaction entities (and, in certain cases, their subsidiaries).

The mutual covenants include:

cooperating and using reasonable best efforts to promptly prepare and make all necessary filings and to obtain as promptly as practicable the necessary consents and approvals of all regulatory authorities and other persons;

- using reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other party in doing, all things necessary, proper or advisable under applicable laws to consummate and make effective, as soon as reasonably practicable, the mergers and the other transactions contemplated by the merger agreement, including using all reasonable best efforts to lift or rescind any order adversely affecting its ability to consummate the transactions contemplated by the merger agreement and to cause the conditions to consummation of the mergers to be satisfied; and

- cooperating with regard to delisting our common stock from the AMEX and terminating the registration of our common stock under the Securities Exchange Act of 1934, as amended, which we refer to in this proxy statement as the Exchange Act ; provided, that such delisting and termination shall not be effective until the merger is complete.

The agreements to which we and/or our operating partnership agreed include:

- promptly notifying Babcock & Brown of any action, suit, charge, complaint, grievance or proceeding commenced or threatened against us or any of our subsidiaries which, if pending on the day we executed the merger agreement, would have been required to have been disclosed under the terms of the merger agreement or which relates to the consummation of the transactions contemplated by the merger agreement;

- giving Babcock & Brown the opportunity to participate in the defense or settlement of any stockholder litigation against us and our directors relating to the merger or any transaction contemplated by the merger agreement (provided, however, that we may not agree to any settlement without Babcock & Brown s consent, which consent may be granted or withheld in Babcock & Brown s sole discretion); and

- reasonably cooperating with Babcock & Brown in connection with the arrangement of the merger financing as Babcock & Brown may reasonably request.

Conditions to the Merger. The respective obligations of each of the parties to complete the merger are subject to the satisfaction or waiver, at or before the effective time of the partnership merger, of the following conditions:

- *Stockholder and Unitholder Approval*. Our stockholders shall have approved the merger in accordance with the MGCL, our charter and bylaws and the rules and regulations of the AMEX. The holders of common units in our operating partnership shall have approved the merger agreement and the transactions contemplated thereby, including the partnership merger, in accordance with the DRULPA and the limited partnership agreement governing our operating partnership. We own a controlling interest in the operating partnership and have the ability to approve the merger agreement on behalf of our operating partnership.

- *Regulatory Approvals*. All material consents and approvals of, filings and registrations with, and notifications to all governmental authorities required for consummation of the merger and the other transactions contemplated by the merger agreement, must be obtained or made and be in full force and effect, and all waiting periods required by law must have expired.

No Injunctions. No governmental authority of competent jurisdiction may have enacted, issued, promulgated, enforced or entered any law or order (whether temporary, preliminary or permanent) or taken any other action that, as of the closing date, prohibits, restricts or makes illegal the consummation of the merger or any of the other transactions contemplated by the merger agreement, including the partnership merger.

The obligations of Babcock & Brown to effect the merger and consummate the other transactions contemplated by the merger agreement are also subject to the satisfaction or waiver, at or before the effective time of the partnership merger, of each of the following conditions:

Representations and Warranties. Our representations and warranties shall be true and correct as of August 31, 2006 and as of the closing date (except for representations and warranties that speak as of a specified date, which need only be true as of such date and, in general, without giving effect to any knowledge, materiality or material adverse effect qualifier), except where failure of (1) such representations and warranties to be true and correct would not reasonably be expected to result in a material adverse effect and (2) our representations and warranties with respect to real property and environmental matters to be true and correct would not and would not reasonably be expected to have an aggregate effect or impact in excess of $15,000,000.

Covenants. We must have performed or complied in all material respects with all material obligations, agreements or covenants required to be performed under the merger agreement on or before the closing date.

Closing Certificate. We must deliver to Babcock & Brown a certificate, signed on our behalf by our chief executive officer, with respect to the satisfaction of the conditions relating to our representations, warranties, covenants and agreements.

Tax Opinion. DLA Piper US LLP must deliver to Babcock & Brown and B&B Acquisition Sub a tax opinion, dated as of the closing date and reasonably satisfactory to Babcock & Brown, opining that we have been organized and have operated in conformity with the requirements for qualification as a REIT under the Internal Revenue Code for all taxable periods commencing with our taxable year ended December 31, 2001 through and including the closing date (which opinion will be based, in part, on customary assumptions and customary factual representations we and our subsidiaries will make).

Our obligations to effect the merger and consummate the other transactions contemplated by the merger agreement are also subject to the satisfaction or waiver, on or before the closing date, of each of the following conditions:

Representations and Warranties. Babcock & Brown s representations and warranties shall be true and correct as of August 31, 2006 and as of the closing date (except for representations and warranties that speak as of a specified date, which need only be true as of such date and, in general, without giving effect to any knowledge, materiality or material adverse effect qualifier), except where failure of such representations and warranties to be so true and correct would not reasonably be expected to result in a buyer material adverse effect (as defined below).

Covenants. Babcock & Brown must have performed or complied in all material respects with all material obligations, agreements or covenants required to be performed under the merger agreement on or before the closing date.

Closing Certificate. Babcock & Brown must deliver to us a certificate, signed on behalf of Babcock & Brown by its chief executive officer, with respect to the satisfaction of the conditions relating to Babcock & Brown s representations, warranties, covenants and agreements.

Buyer material adverse effect means an event, change, occurrence, effect, fact, violation, development or circumstance that, individually or together with any other event, change, occurrence, effect, fact, violation, development or circumstance has or results in a material adverse impact on Babcock & Brown s ability to consummate the merger or the transactions contemplated by the merger agreement.

Babcock & Brown is not obligated to effect the merger and consummate the transactions contemplated by the merger agreement prior to June 30, 2007, if we have not received certain consents to the merger on terms satisfactory to Babcock & Brown or if any consent received before June 30, 2007 shall no longer be in effect.

Termination

We and Babcock & Brown may jointly terminate the merger agreement at any time. The merger agreement may also be terminated before the effective time of the partnership merger, whether before or after the required stockholder approval is obtained:

by either us or Babcock & Brown, if:

the merger is not consummated by June 30, 2007, provided that this termination right will not be available to any party whose material failure to perform any of its obligations under the merger agreement results in the failure of the merger to be consummated by such time;

the merger is not approved by the required vote of our stockholders; or

(1) any consent or approval of any governmental authority required for the consummation of the merger and the other transactions contemplated by the merger agreement has been denied and such action has become final and non-appealable, or (2) any law or governmental order permanently restraining, enjoining or prohibiting the consummation of the merger has become final and non-appealable; provided, in each case, that this termination right will not be available to any party whose material failure to perform any of its obligations under the merger agreement results in the failure of the foregoing events.

by us, if:

Babcock & Brown has breached or failed or perform any representation, warranty, covenant or agreement contained in the merger agreement, which breach or failure to perform (1) would give rise to the failure of a closing condition, and (2) is incapable of being cured by Babcock & Brown or is not cured by Babcock & Brown within the earlier of 30 days following receipt of written notice from us of such breach and the closing date; or

before our stockholders approve the merger, our board of directors reasonably determines in good faith after consultation with an independent nationally recognized investment bank and our outside legal advisors that an acquisition proposal is a superior proposal, and we enter into an agreement to effect the superior proposal, but only if we give Babcock & Brown three business days prior written notice of the material terms of the superior proposal, during which notice period our board of directors has taken into account any revised proposal made by Babcock & Brown and has determined in good faith after consultation with an independent nationally recognized investment bank and our outside legal advisors that the acquisition proposal remains a superior proposal (but if the acquisition proposal is modified or amended during the notice period, a new three business day period will begin), and only if we concurrently pay to Babcock & Brown the termination fee described below under The Merger Agreement Termination Fee and Expenses and we simultaneously or substantially simultaneously enter into a definitive agreement to effect the superior proposal.

by Babcock & Brown, if:

we have breached or failed or perform any representation, warranty, covenant or agreement contained in the merger agreement, which breach or failure to perform (1) would give rise to the failure of a closing condition with respect to our representations, warranties, covenants or other agreements, and (2) we do not cure, or are incapable of curing, such breach or failure to perform within the earlier of (A) 30 days following receipt of written notice from Babcock & Brown of such breach and (B) the closing date;

our board of directors (1) withdraws, withholds or modifies, or resolves or proposes to withdraw, withhold or modify, in a manner adverse to Babcock & Brown, its approval, adoption or recommendation of the merger agreement or any of the transactions contemplated by the merger agreement, including the merger, or (2) fails to solicit proxies in favor of the merger;

we deliver a notice with respect to our receipt of, and intent to enter into a definitive agreement to effect, a superior proposal;

we fail, within ten days after Babcock & Brown s request, to recommend against an acquisition proposal that is publicly announced, is the subject of public rumor or speculation or is communicated to us;

we materially breach our obligations with respect to (1) the non-solicitation of an acquisition proposal, as described above under The Merger Agreement No Solicitation or (2) the preparation, filing and contents of the proxy statement and use of commercially reasonable efforts to obtain stockholder approval of the merger;

we approve, recommend or enter into any agreement or arrangement (other than a permitted confidentiality agreement) with respect to any acquisition proposal;

if our board of directors resolves to take any of the actions described in the five preceding bullet points; or

if a tender offer or exchange offer constituting an acquisition proposal is commenced and we have not sent to our stockholders, within 10 business days after such tender or exchange offer is first published, a statement disclosing that we recommend rejecting such tender or exchange offer.

Termination Fee and Expenses. We must pay Babcock & Brown a termination fee of $12.5 million if the merger agreement is terminated:

by Babcock & Brown, if we willfully breach or fail to perform any representation, warranty, covenant or agreement contained in the merger agreement, which breach or failure to perform (1) would give rise to the failure of a closing condition with respect to our representations, warranties, covenants or other agreements, and (2) is not cured, or is incapable of being cured, within the earlier of (A) 30 days following receipt of written notice from Babcock & Brown of such breach and (B) the closing date;

by us or Babcock & Brown, because any consent or approval of any governmental authority required for the consummation of the merger and the other transactions contemplated by the merger agreement has been denied, such action has become final and non-appealable, and the failure of the foregoing is not the result of any material failure to fulfill any obligation under the merger agreement by the party seeking termination;

by us or Babcock & Brown, because the merger is not consummated by June 30, 2007 and the failure of the merger to be consummated by such time is not the result of any material failure to fulfill any obligation under the merger agreement by the party seeking termination; or by us or Babcock & Brown, because the merger is not approved by the required vote of our stockholders at the special meeting where such matters were presented to such stockholders for approval and voted upon;

and, in each case above, at any time after August 31, 2006, an acquisition proposal is publicly disclosed, publicly proposed or otherwise communicated to our board of directors and within 12 months after such termination (1) we consummate a qualifying transaction (as defined below), or (2) we enter into or approve such qualifying transaction, in which case such termination fee will be paid upon the earlier to occur of entering into the agreement with respect to, or the consummation of, a qualifying transaction.

A qualifying transaction is any transaction or series of related transactions (other than the transactions contemplated by the merger agreement) involving:

- any direct or indirect acquisition or purchase by any person or group (other than Babcock & Brown or any of its affiliates) of 33% or more in interest of any class of securities of the company or any of our subsidiaries;

- any tender offer (including a self tender offer) or exchange offer that if consummated would result in any person or group beneficially owning 33% or more in interest of the total outstanding class of any securities of our company or any of our subsidiaries, or the filing with the SEC of a registration statement or any statement, schedule or report in connection therewith;

- any merger, consolidation, business combination, recapitalization, liquidation, dissolution or similar transaction involving us or any of our subsidiaries, including any acquisition we or any of our subsidiaries make of a third party, in which the stockholders of such third party own 33% or more of any class of securities of our company or any of our subsidiaries following such transaction;

- any sale or lease, or exchange, transfer, license, acquisition or disposition of 50% or more of our consolidated assets; or

- any public announcement by or on behalf of us or any of our subsidiaries or any affiliates or officers, directors, employees or representatives of us or our subsidiaries of a proposal, plan or intention to do any of the foregoing or any agreement to engage in any of the foregoing.

In addition, we must pay to Babcock & Brown (concurrently with termination of the merger agreement) a termination fee of $12.5 million, if the merger agreement is terminated:

- by Babcock & Brown, due to our board of directors (1) withdrawing, withholding or modifying, or resolving or proposing to withdraw, withhold or modify, in a manner adverse to Babcock & Brown, its approval, adoption or recommendation of the merger agreement or any of the transactions contemplated by the merger agreement, including the merger, or (2) failing to solicit proxies in favor of the merger (or if our board of directors has resolved to not solicit such proxies);

by Babcock & Brown, based on our delivering a notice with respect to our receipt of, and intent to enter into a definitive agreement to effect, a superior proposal, or upon our board of directors resolving to deliver such notice and enter into such agreement;

by Babcock & Brown, based on our failure, within 10 days after Babcock & Brown s request, to recommend against an acquisition proposal that is publicly announced, is the subject of public rumor or speculation or is communicated to us, or upon our board of directors resolving not to make such recommendation;

by Babcock & Brown, based on our materially breaching our obligations with respect to (1) the non-solicitation of an acquisition proposal, as described above under The Merger Agreement No Solicitation or (2) the preparation, filing and contents of the proxy statement and use of commercially reasonable efforts to obtain stockholder approval of the merger;

by Babcock & Brown, based on our approval, recommendation or entry into an agreement or arrangement (other than a permitted confidentiality agreement) with respect to any acquisition proposal, or upon our board of directors resolving to make any such approval or recommendation or to enter into any such agreement or arrangement.

by Babcock & Brown, based upon our the board of directors resolving to take any of the actions described in the five preceding bullet points;

by Babcock & Brown, if a tender offer or exchange offer constituting an acquisition proposal is published or commenced and we fail to promptly (within 10 business days after such publication or commencement) send to our stockholders a statement disclosing that we recommend rejecting such tender or exchange offer; or

by us, if before our stockholders approve the merger, our board of directors reasonably determines in good faith, after consultation with an independent nationally recognized investment bank and our outside legal advisors, that an acquisition proposal is a superior proposal and we enter into an agreement to effect the superior proposal in accordance with the procedures described above under The Merger Agreement Termination.

We also have agreed that if we fail to promptly pay the termination fee in accordance with the provisions described above and, in order to obtain such payment, Babcock & Brown commences a suit that results in a judgment against us for the payment of the termination fee, we will pay to Babcock & Brown its costs and expenses (including attorneys fees) in connection with such suit, together with interest on any unpaid amount of the termination fee at a rate equal to 2% plus the prime lending rate.

Amendment and Waiver. The merger agreement may be amended by a mutual written agreement of the parties, whether before or after our stockholders approve the merger. However, if our stockholders approve the merger, the agreement may not be amended if such amendment would reduce or modify in any material respect the consideration our common stockholders will receive without their further approval.

The merger agreement also provides that, at any time before the effective time of the merger, either we or Babcock & Brown may, with respect to the other:

- waive any default in the performance of any term of the merger agreement;
- waive or extend the time for the compliance or performance of any and all of the obligations under merger agreement; or
- waive compliance with any or all of the conditions under the merger agreement, except any condition which, if not satisfied, would result in the violation of any law.

No such waiver will be effective unless in writing and signed by an authorized officer of the party executing the waiver.

Guarantee. In connection with the merger agreement, Babcock & Brown International Pty Ltd (an affiliate of Babcock & Brown), we and our operating partnership entered into a Guarantee pursuant to which, among other things, Babcock & Brown International Pty Ltd is providing us and our operating partnership a guarantee of payment of the obligations of Babcock & Brown and its subsidiaries under the merger agreement.

Regulatory Approvals

No material federal or state regulatory approvals are required to be obtained by us or the other parties to the merger agreement in connection with either the merger or the partnership merger.

Fees and Expenses

We estimate that our company will incur, and will be responsible for paying, transaction-related fees and expenses, consisting primarily of filing fees, fees and expenses of investment bankers, attorneys and accountants and other related charges, totaling approximately $6.2 million, assuming the mergers and the related transactions are completed.

Material United States Federal Income Tax Consequences of the Merger

The following is a general summary of the material federal income tax considerations that you should take into account in determining whether to vote for or against the merger. This summary is based upon interpretations of the Internal Revenue Code, Treasury Regulations promulgated under the Internal Revenue Code, judicial decisions and administrative rulings as of the date of this proxy statement, all of which are subject to change or differing interpretations, including changes and interpretations with retroactive effect. We have not requested, and do not plan to request, any rulings from the Internal Revenue Service, which we refer to in this proxy statement as the IRS, concerning our tax treatment or the tax treatment of the merger, and the statements in this proxy are not binding on the IRS or any court. We can provide no assurance that the tax consequences contained in this summary will not be challenged by the IRS, or if challenged, sustained by a court. The discussion below does not address all federal income tax considerations, or any state, local or foreign tax consequences of the mergers. Your tax treatment may vary depending upon your particular situation. This discussion assumes that our common shares are held as a capital asset and does not address various tax rules that may apply if you are a stockholder subject to special treatment under the Internal Revenue Code, including, for example:

- banks and other financial institutions;
- insurance companies;
- tax-exempt entities;
- mutual funds;
- cooperatives;
- subchapter S corporations;
- dealers in securities or currencies;
- traders in securities that elect to use a mark-to-market method of accounting for their securities holdings;
- persons whose functional currency is not the U.S. dollar;
- persons holding our common shares as part of a hedging or conversion transaction or as part of a straddle or a constructive sale transaction;
- U.S. expatriates;
- persons subject to the alternative minimum tax;
- holders who acquired our common shares through the exercise of employee stock options or warrants or otherwise as compensation;

holders that are properly classified as a partnership or otherwise as a pass-through entity for federal income tax purposes (and persons holding their common shares through a partnership or other pass-through entity);

holders that hold more than 5% or more of our common shares; and

non-U.S. stockholders, as defined below (except to the extent discussed below).

If any entity that is treated as a partnership for federal income tax purposes holds our common shares, the tax treatment of its partners or members generally will depend upon the status of the partner or member and the activities of the entity. If you are a partner of a partnership or a member of a limited liability company or other entity classified as a partnership for federal income tax purposes and that entity holds our common shares, you should consult your tax advisor.

For purposes of this discussion, a U.S. stockholder is a beneficial owner of our common shares that is for federal income tax purposes one of the following: a U.S. citizen or resident alien individual as defined in the Internal Revenue Code, a domestic corporation or entity that has elected to be treated as a domestic corporation for federal income tax purposes, an estate the income from which is includable in its gross income for federal income tax purposes without regard to its source, or a trust if a U.S. court is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all of the substantial decisions of the trust.

For purposes of this discussion, a non-U.S. stockholder is a beneficial owner of our common shares that is an individual, corporation, estate or trust that is not a U.S. stockholder as described above.

THIS FEDERAL INCOME TAX DISCUSSION IS FOR GENERAL INFORMATION PURPOSES ONLY AND MAY NOT ADDRESS ALL TAX CONSIDERATIONS THAT MAY BE SIGNIFICANT TO YOU. YOU ARE URGED TO CONSULT YOUR TAX ADVISOR WITH RESPECT TO THE PARTICULAR TAX CONSEQUENCES TO YOU OF THE MERGER, INCLUDING THE APPLICABILITY AND EFFECT OF ANY STATE, LOCAL OR FOREIGN LAWS.

Consequences to Us of the Merger. For federal income tax purposes, we will treat the merger as if we had sold all of our assets to B&B Acquisition Sub in exchange for the merger consideration and then made a liquidating distribution of the merger consideration to our stockholders in exchange for shares of our common stock.

Consequences to You of the Merger - U.S. Stockholders. The merger will be treated as a taxable sale by you of your shares of our common stock in exchange for the merger consideration. As a result, if you are a U.S. stockholder, you will recognize capital gain or loss with respect to your shares, measured by the difference between your adjusted tax basis in the shares exchanged and the amount of cash received for those shares. Your gain or loss will constitute long-term capital gain or loss if you held your shares for more than one year as of the effective time of the merger. However, if you have held our shares for six months or less at the effective time of the merger, taking into account the holding period rules of Sections 246(c)(3) and (4) of the Internal Revenue Code, and you recognize a loss with respect to those shares, you will be treated as recognizing long-term capital loss to the extent of any capital gain dividends you previously received from us, or your share of any designated retained capital gains, with respect to those shares. If you are an individual holder of our common shares, you will be subject to tax on net long-term capital gain at a maximum federal income tax rate of 15%. Capital gains of corporate U.S. stockholders generally are taxable at the regular rates applicable to corporations. The deductibility of any capital loss recognized as a result of the merger is subject to limitations under the Internal Revenue Code. In addition, the IRS has the authority to prescribe, but has not yet prescribed, regulations that would apply a capital gain tax rate of 25%, which is generally higher than the long-term capital gain tax rates for noncorporate stockholders, to a portion of capital gain realized by a noncorporate stockholder on the sale of REIT shares that would correspond to the REIT s unrecaptured Section 1250 gain.

If you hold blocks of shares which were acquired separately at different times and/or prices, you must separately calculate your gain or loss for each block of shares. Stockholders are urged to consult with their own tax advisors with respect to their capital gain tax liability.

Consequences to You of the Merger Non-U.S. Stockholders. If you are a non-U.S. stockholder, generally you will recognize capital gain or loss with respect to your shares of our common stock calculated in the same manner as for U.S. stockholders above. The manner in which you will be subject to tax on your capital gain or loss is complex and will depend on various factors, including the treatment of the merger for purposes of the Foreign Investment in Real Property Tax Act of 1980, which we refer to in this proxy statement as FIRPTA. In particular, the consequences to non-U.S. stockholders will depend on whether their receipt of the merger consideration is taxed under the provisions of FIRPTA governing sales of REIT shares, consistent with the treatment of the merger as a sale of shares for purposes of determining the tax consequences to U.S. stockholders, or whether their receipt of the merger consideration is taxed under the provisions of FIRPTA governing distributions from REITs. The provisions governing distributions from REITs could apply because, for federal income tax purposes, the merger will be treated as a sale of our assets followed by a liquidating distribution from us to our stockholders of the proceeds from the asset sale. Current law is unclear as to which provisions should apply, and both sets of provisions are discussed below. In general, the provisions governing the taxation of distributions by REITs are less favorable to non-U.S. stockholders, and non-U.S. stockholders should consult with their tax advisors regarding the possible application of those provisions.

Taxable Sale of Shares. Subject to the discussions of backup withholding and of distributions of gain from the disposition of U.S. real property interests below, if the merger is treated as a taxable sale of shares, then you should not be subject to federal income taxation on any gain or loss from the merger unless (a) the gain is effectively connected with a trade or business that you conduct in the United States, (b) you are an individual who has been present in the United States for 183 days or more during the taxable year of the merger and certain other conditions are satisfied or (c) your shares constitute a U.S. real property interest under FIRPTA.

If your gain is effectively connected with a U.S. trade or business, then you will be subject to federal income tax on your gain on a net basis in the same manner as U.S. stockholders. In addition, if you are a non-U.S. corporation, you will be subject to the 30% branch profits tax.

If you are an individual non-U.S. stockholder and have been present in the United States for 183 days or more during the taxable year of the merger and certain other conditions are satisfied, you will be subject to a flat 30% tax on the gross amount of your capital gains, which may be offset by U.S. source capital losses. In addition, non-U.S. stockholders may be subject to applicable alternative minimum taxes.

If your shares constitute a U.S. real property interest under FIRPTA, you will be subject to federal income tax on your gain on a net basis in the same manner as U.S. stockholders. In addition, if you are a non-U.S. corporation, you may be subject to the 30% branch profits tax. Your shares generally will constitute a U.S. real property interest if (a) we are not a domestically-controlled qualified investment entity at the effective time of the merger, and (b) you hold more than 5% of the total fair market value of our shares at any time during the shorter of (x) the five-year period ending with the effective date of the merger and (y) your holding period for your shares. A qualified investment entity includes a REIT. Assuming we qualify as a REIT, we will be a domestically-controlled qualified investment entity at the effective time of the merger if non-U.S. stockholders held directly or indirectly less than 50% of the value of our common stock at all times during the five-year period ending with the effective time of the merger. No assurances can be given that the actual ownership of shares of our common stock has been or will be sufficient for us to qualify as a domestically-controlled qualified investment entity at the effective time of the merger.

In addition, our common shares will not constitute a U.S. real property interest if (1) as of the effective date of the merger, we did not hold any U.S. real property interests and (2) all of the U.S. real property interests held by us during the five-year holding period ending with the effective date of the merger were disposed of in transactions in which the full amount of the gain (if any) was recognized. The application of this rule in a transaction such as the merger is not entirely clear. You should consult your tax advisor regarding the possible FIRPTA tax consequences to you of the merger.

Distribution of Gain from the Disposition of U.S. Real Property Interests. The tax treatment described above assumes that the receipt of the merger consideration in the deemed liquidating distribution will be treated as a sale or exchange of shares of our common stock for purposes of FIRPTA, which is consistent with the general treatment of the merger for other federal income tax purposes. It is possible, however, that the IRS may assert that the merger consideration you receive is subject to tax as a distribution from us that is attributable to gain from the deemed sale of our U.S. real estate assets in the merger, and not as a sale of shares of our common stock. If the IRS were successful in making this assertion, then such distribution would be taxed under FIRPTA, unless a special exception (the 5% Exception, discussed below) applies. If the distribution were taxed under FIRPTA, gain recognized by you generally would be subject to federal income tax on a net basis to the extent attributable to gain from the sale of our U.S. real estate assets and, if you are a corporation, you could be subject to the branch profits tax on such FIRPTA gain. On the other hand, the 5% Exception would apply to you if (a) the distribution is attributable to a class of our common stock that is regularly traded on an established securities market located in the United States and (b) you do not own more than 5% of such class of our common stock (after the application of certain constructive ownership rules) at any time during the one-year period ending on the distribution date. If the 5% Exception were to apply to you, the FIRPTA tax would not apply, but there is some risk that the merger consideration could be treated as an ordinary dividend distribution from us, in which case the merger consideration you receive would be subject to federal income tax at a 30% rate.

Income Tax Treaties. If you are eligible for treaty benefits under an income tax treaty with the United States, you may be able to reduce or eliminate certain of the federal income tax consequences discussed above, such as the branch profits tax. You should consult your tax advisor regarding possible relief under an applicable income tax treaty.

U.S. Withholding Tax Under FIRPTA. As described above, it is unclear whether the receipt of the merger consideration will be treated as a sale or exchange of our common shares or as a distribution from us that is attributable to gain from the deemed sale of our U.S. real estate assets in the merger. Accordingly, we intend to withhold federal income tax at a rate of 35% from the portion of the merger consideration that is, or is treated as, attributable to the gain from the sale of U.S. real property interests unless you qualify for the 5% Exception, in which case we intend to withhold federal income tax at a 30% rate unless reduced by an applicable income tax treaty.

You may be entitled to a refund or credit against your U.S. tax liability, if any, with respect to any amount withheld pursuant to FIRPTA, provided that the required information is furnished to the IRS on a timely basis. You should consult your tax advisor regarding withholding tax considerations.

Information Reporting and Backup Withholding. Under certain circumstances you may be subject to information reporting and backup withholding at a rate of 28% with respect to your merger consideration. Backup withholding generally will not apply if you are a corporation or other exempt entity, or you furnish a correct taxpayer identification number and certify that you are not subject to backup withholding on IRS Form W-9 if you are a U.S. stockholder, or on the applicable Form(s) W-8 if you are a non-U.S. stockholder, or an appropriate substitute form. If you are subject to backup withholding, the amount withheld is not an additional tax, but rather is credited against your federal income tax liability. You should consult your tax advisor to ensure compliance with the procedures for exemption from backup withholding.

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MARKET PRICE OF OUR COMMON STOCK

Our common stock is traded on the AMEX under the symbol BNP. There were 1,164 common stockholders of record on October 20, 2006. The table below shows, for the periods indicated, the range of high, low and closing sale prices of our common stock as reported by the AMEX and the dividends paid per share.

	Market Price Range			
				Dividends Paid
	High	Low	Close	Per Share
2006:				
Fourth Quarter (through November 3, 2006)	$ 24.15	$ 23.74	$ 23.88	$
Third Quarter	23.80	16.71	23.75	*
Second Quarter	17.29	16.12	17.05	0.26
First Quarter	17.50	15.90	16.80	0.26
2005:				
Fourth Quarter	16.05	13.53	16.00	0.25
Third Quarter	16.04	13.75	14.35	0.25
Second Quarter	16.10	15.45	16.00	0.25
First Quarter	16.29	15.65	16.00	0.25
2004:				
Fourth Quarter	16.20	13.62	16.10	0.25
Third Quarter	13.90	12.80	13.68	0.25
Second Quarter	13.24	12.35	13.14	0.25
First Quarter	13.35	11.50		