BERKSHIRE INCOME REALTY, INC.
Form 10-K
March 30, 2012
United States
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-K

ý ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2011
or
o TRANSITION REPORT PURSUANT TO THE SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission File number 001-31659
BERKSHIRE INCOME REALTY, INC.

State of Incorporation - Maryland
Internal Revenue Service - Employer Identification No. 32-0024337
One Beacon Street, Boston, Massachusetts 02108
(617) 523-7722

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

Title of Class	Name of each exchange on which registered
Series A 9% Cumulative Redeemable Preferred Stock	NYSE Amex Equities

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

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

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

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

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ý

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

Large Accelerated Filer o	Accelerated Filer o
Non-accelerated Filer ý	Smaller Reporting Company o

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

Aggregate market value of voting and non-voting common equity held by non-affiliates: Not applicable.

There were 1,406,196 shares of Class B common stock outstanding as of March 29, 2012.

There are no documents required to be incorporated by reference to this Annual Report on Form 10-K.

1

BERKSHIRE INCOME REALTY, INC.

TABLE OF CONTENTS

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

Certain statements contained in this report, including information with respect to our future business plans, constitute "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended (the "33 Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "34 Act"). For this purpose, any statements contained herein that are not statements of historical fact may be deemed to be forward-looking statements, subject to a number of risks and uncertainties that could cause actual results to differ significantly from those described in this report. These forward-looking statements include statements regarding, among other things, our business strategy and operations, future expansion plans, future prospects, financial position, anticipated revenues or losses and projected costs, and objectives of management. Without limiting the foregoing, the words "may," "will," "should," "could," "expects," "plans," "anticipates," "believes," "estimates," "predicts," "potential" or "continue" or the negative of such terms and other comparable terminology are intended to identify forward-looking statements. There are a number of important factors that could cause our results to differ materially from those indicated by such forward-looking statements. These factors include, but are not limited to, changes in economic conditions generally and the real estate and bond markets specifically, legislative/regulatory changes (including changes to laws governing the taxation of real estate investment trusts ("REITs")), possible sales of assets, the acquisition restrictions placed on the Company by an affiliated entity, Berkshire Multifamily Equity Fund, LP ("BMEF"), availability of capital, interest rates and interest rate spreads, changes in accounting principles generally accepted in the United States of America ("GAAP") and policies and guidelines applicable to REITs, those factors set forth herein in Part I, Item 1A - Risk Factors and other risks and uncertainties as may be detailed from time to time in our public announcements and our reports filed with the Securities and Exchange Commission (the "SEC").

The risks listed here are not exhaustive. Other sections of this report may include additional factors that could adversely affect our business and financial performance. Moreover, the Company operates in a competitive and rapidly changing environment. New risk factors emerge from time to time and it is not possible for management to predict all such risks factors, nor can it assess the impact of all such risk factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements. Given these risks and uncertainties, undue reliance should not be placed on forward-looking statements as a prediction of actual results.

As used herein, the terms "we", "us", "BIR" or the "Company" refer to Berkshire Income Realty, Inc., a Maryland corporation, incorporated on July 19, 2002. The Company is in the business of acquiring, owning, operating, developing and renovating multifamily apartment communities. Berkshire Property Advisors, L.L.C. ("Berkshire Advisor" or "Advisor") is an affiliated entity we have contracted with to make decisions relating to the day-to-day management and operation of our business, subject to the Board of Directors ("Board") oversight. Refer to Part III, Item 13 - Certain Relationships and Related Transactions and Director Independence and Part IV, Item 15 - Notes to the Consolidated Financial Statements, Note 14 - Related Party Transactions of this Form 10-K for additional information about the Advisor.

Table of contents

PART I

ITEM 1. BUSINESS

EXECUTIVE SUMMARY

During 2011, the Company continued to monitor its mortgage debt in order to manage its existing debt, obtain new debt for acquisitions and development projects and manage loans with upcoming maturity dates. The Company assesses its outstanding debt to determine if refinancing any loans is desirable in order to take advantage of current low interest rates in the improving capital markets as well as manage upcoming maturity events. During 2011, the Company was successful in obtaining replacement financing for a second mortgage that had an upcoming maturity date that predated that of the first mortgage on the property. The loan was refinanced to a term that is now coterminous with the primary debt on the property. The Company also obtained a bridge loan in the amount of $26,500,000 that was used to acquire the Estancia Townhomes property in Dallas, Texas which was later replaced with permanent debt of $29,004,000. The Company also obtained a construction to permanent loan in the amount of $45,463,100 with very favorable terms for the 2020 Lawrence development project in Denver, Colorado.

The Company continued to focus on maintaining occupancy levels at all properties throughout the portfolio in an effort to maximize operating revenue. Occupancy levels remained stable in the mid-90% range for most properties which approximates average occupancy levels from the prior year at the Company's Same Portfolio Properties ("Same Store"). As in past years when the rental market exhibits signs of softness, the Company has offered short-term rental concessions to new and renewing tenants at properties within markets experiencing the slowdown to maintain occupancy without producing significant fluctuations in market rental rates. The Company utilizes revenue management software at most properties in the portfolio which has proven beneficial in the process of maximizing rental revenue. Additionally, the Company continues to employ a strategy of increasing the value of its portfolio by implementing property management efficiencies, physical asset improvements at its properties and replacement of existing properties with higher quality assets through acquisitions and dispositions. The Company's efforts to execute these strategies continued to provide the desired operating results during the year.

In 2011, the national economy continued to show signs of improvement evidenced by strong growth in rental rates and improved occupancies. Demand for apartments increased due to limited new supply of units due to lack of construction of multifamily and single family houses and decreases in home ownership due to foreclosures and stricter lending requirements. Changes in the Company's operating model made over the past few years have yielded and continued to yield positive results during 2011. With the improvements in the economy, the Company was able to start to modify its operating model and was able to implement increases in rental rates in select sub-markets that exhibited economic indicators that suggested increased rental rates would be accepted by tenants.

The Company will continue to take advantage of acquisition and disposition investment opportunities as they become available that meet the desired investment parameters of the portfolio. The Company's investment strategy will continue to focus on transactions that yield higher quality properties utilizing sourcing strategies that include market, non-market/seller direct, bank and lender owned real estate and foreclosure auctions within limitations of the credit and equity markets. The Company will consider placing funds, as available, in qualifying investment opportunities in the form of acquisition of new properties, property development projects, renovation of established properties and other qualifying investments including the acquisition of debt secured by real estate. During 2011, the Company acquired a Class A operating property in Dallas, Texas, entered into three new development joint ventures in Washington, D.C., Denver, Colorado and Walnut creek, California, and sold its interest in the Glo property located in Los Angeles, California. Additionally, the Company recently sold the Riverbirch property in Charlotte, North Carolina. Proceeds from the sales of the Glo and Riverbirch properties were used to reduce outstanding debt on the Company's revolving credit facility. The advances on the facility were used to fund the acquisitions of the Dallas property and capital contributions to the development joint ventures. The Company will continue to assess investment opportunities as they arise.

BUSINESS

In 2002, the Company filed a registration statement on Form S-11 with the SEC with respect to its offers (the "Offering") to issue its 9% Series A Cumulative Redeemable Preferred Stock ("Preferred Shares") in exchange for interests ("Interests") in various mortgage funds (collectively, the "Mortgage Funds"). For each Interest in the Mortgage Funds validly tendered and not withdrawn in the Offering, the Company offered to issue its Preferred Shares based on an exchange ratio applicable to each Mortgage Fund. The registration statement was declared effective on January 9, 2003. Offering costs incurred in connection with the Offering have been reflected as a reduction of Preferred Shares reflected in the financial statements of the Company. On April 4, 2003 and April 18, 2003, the Company issued 2,667,717 and 310,393 Preferred Shares, respectively, with a $25.00 liquidation preference per share. Simultaneously with the completion of the Offering on April 4, 2003, KRF Company contributed its ownership interests in five multifamily apartment communities (the "Properties") to our operating partnership, Berkshire Income Realty-OP, L.P. (the

Table of contents

"Operating Partnership"), in exchange for common limited partner interests in the Operating Partnership. KRF Company then contributed an aggregate of $1,283,213, or 1% of the fair value of the total net assets of the Operating Partnership, to the Company, which together with the $100 contributed prior to the Offering, resulted in the issuance of 1,283,313 shares of common stock of the Company to KRF Company. This amount was contributed by the Company to its wholly owned subsidiary, BIR GP, L.L.C., who then contributed the cash to the Operating Partnership in exchange for the sole general partner interest in the Operating Partnership.

The Company's financial statements include the accounts of the Company, its subsidiary, the Operating Partnership, as well as the various subsidiaries of the Operating Partnership. The Company owns preferred and general partner interests in the Operating Partnership. The remaining common limited partnership interests in the Operating Partnership owned by KRF Company and affiliates are reflected as Noncontrolling Interest in Operating Partnership in the financial statements of the Company.

The Company does not have any employees. Its day-to-day business is managed by Berkshire Advisor, an affiliate of KRF Company, the holder of the majority of our common stock, which has been retained pursuant to the advisory services agreement described under Part III, Item 13 - Certain Relationships and Related Transactions, and Director Independence. Our principal executive offices are located at One Beacon Street, Suite 1500, Boston, Massachusetts 02108 and our telephone number at that address is (617) 523-7722.

We are required to file annual, quarterly, current reports, and other documents with the SEC under the Securities Exchange Act of 1934, as amended. The public may read and copy any materials that we file with the SEC at the SEC's Public Reference Room at 100 F Street, NE, Washington, DC 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. Also, the SEC maintains an internet website that contains reports, proxy and information statements, and other information regarding issuers, including the Company, that file electronically with the SEC. The public can obtain any documents that we file with the SEC at http://www.sec.gov. The Company voluntarily provides, free of charge, paper or electronic copies of all filings upon request. Additionally, all filings are available free of charge on our website. Our Internet address is http://www.berkshireincomerealty.com.

Table of contents

ITEM 1A. RISK FACTORS

RISK FACTORS

The following risk factors should be read carefully in connection with evaluating our business and the forward-looking statements contained in this report and other statements we or our representatives make from time to time. Any of the following risks could materially adversely affect our business, our operating results, our financial condition and the actual outcome of matters as to which forward-looking statements are made in this report. In connection with the forward-looking statements that appear in this report, you should also carefully review the cautionary statement referred to herein under "Special Note Regarding Forward-Looking Statements."

Risk Factors Relating to Our Business

Operating risks and lack of liquidity may adversely affect our investments in real property.

Varying degrees of risk affect real property investments. The investment returns available from equity investments in real estate depend in large part on the amount of income earned and capital appreciation generated by the related properties as well as the expenses incurred. If our assets do not generate revenue sufficient to meet operating expenses, including debt service and capital expenditures, our income and ability to service our debt and other obligations could be adversely affected. Some significant expenditures associated with an investment in real estate, such as mortgage and other debt payments, real estate taxes and maintenance costs, generally are not reduced when circumstances cause a reduction in revenue from the investment. In addition, income from properties and real estate values are also affected by a variety of other factors, such as interest rate levels, governmental regulations and applicable laws and the availability of financing.

Equity real estate investments, such as ours, are relatively illiquid. This illiquidity limits our ability to vary our portfolio in response to changes in economic or other conditions. We cannot be certain that we will recognize full value for any property that we are required to sell for liquidity reasons. Our inability to respond rapidly to changes in the performance of our investments could adversely affect our financial condition and results of operations.

Our properties are subject to operating risks common to apartment ownership in general. These risks include: our ability to rent units at the properties; competition from other apartment communities; excessive building of comparable properties that might adversely affect apartment occupancy or rental rates; increases in operating costs due to inflation and other factors, which increases may not necessarily be offset by increased rents; increased affordable housing requirements that might adversely affect rental rates; inability or unwillingness of residents to pay rent increases; and future enactment of rent control laws or other laws regulating apartment housing, including present and possible future laws relating to access by disabled persons or the right to convert a property to other uses, such as condominiums or cooperatives. If operating expenses increase, the local rental market may limit the extent to which rents may be increased to meet increased expenses without decreasing occupancy rates. If any of the above were to occur, our ability to meet our debt service and other obligations could be adversely affected.

In order to achieve or enhance our desired financial results, we may make investments that involve more risk than market rate core and core-plus acquisitions.

In many of the markets where we may seek to acquire multifamily apartment communities, we may face significant competition from well capitalized real estate investors, including private investors, publicly traded REITs and institutional investors. This competition can result in sellers obtaining premiums on their real estate, which sometimes pushes the price beyond what we may consider to be a prudent purchase price. To mitigate these factors, our sourcing strategy also includes non-market/seller direct deals, bank and lender owned real estate and foreclosure auctions.

Some of these acquisition strategies can involve more risk than market rate core and core-plus acquisitions. The additional risks associated with these broader sourcing strategies could result in lower profits, or higher losses, than would be realized in market rate acquisitions.

We may renovate our properties, which could involve additional operating risks.

We expect to be working on the renovation of multifamily properties that we may acquire. We may also acquire completed multifamily properties. The renovation of real estate involves risks in addition to those involved in the ownership and operation of established multifamily properties, including the risks that specific project approvals may take longer to obtain than expected, that construction may not be completed on schedule or budget and that the properties may not achieve anticipated rent or occupancy levels.

Table of contents

We may not be able to pay the costs of necessary capital improvements on our properties, which could adversely affect our financial condition.

We anticipate funding any required capital improvements on our properties using cash flow from operations, cash reserves or additional financing if necessary. However, the anticipated sources of funding may not be sufficient to make the necessary improvements. If our cash flow from operations and cash reserves proves to be insufficient, we might have to fund the capital improvements by borrowing money. If we are unable to borrow money on favorable terms, or at all, we may not be able to make necessary capital improvements, which could harm our financial condition.

Our tenants-in-common or future venture partners may have interests or goals that conflict with ours, which may restrict our ability to manage some of our investments and adversely affect our results of operations.

One or more of the properties that we own, or properties we acquire in the future may be owned through tenancies-in-common or by venture partnerships between us and the seller of the property, an independent third party or another investment entity sponsored by our affiliates. Our investment through tenancies-in-common or in venture partnerships that own properties may, under certain circumstances, involve risks that would not otherwise be present. For example, our tenant-in-common or venture partner may experience financial difficulties and may at any time have economic or business interests or goals that are inconsistent with our economic or business interests or our policies or goals. In addition, actions by, or litigation involving, any tenant-in-common or venture partner might subject the property owned through a tenancy-in-common or by the venture to liabilities in excess of those contemplated by the terms of the tenant-in-common or venture agreement. Also, there is a risk of impasse between the parties since generally either party may disagree with a proposed transaction involving the property owned through a tenancy-in-common or venture partnership and impede any proposed action, including the sale or other disposition of the property.

Our inability to dispose of a property we own or may acquire in the future without the consent of a tenant-in-common or venture partner would increase the risk that we could be unable to dispose of the property, or dispose of it promptly, in response to economic or other conditions. The inability to respond promptly to changes in performance of the property could adversely affect our financial condition and results of operations.

We may face significant competition and we may not compete successfully.

We may face significant competition in seeking investments including competition from our affiliate BMEF or other entities formed by our affiliates in the future. Acquisition restrictions placed on the Company by BMEF are applicable during the investment period of BMEF. The investment period of BMEF ends in September 2014. In addition, we may be unable to acquire a desired property because of competition from other well capitalized real estate investors, such as publicly traded REITs, institutional investors and other investors, including companies that may be affiliated with the Advisor. When we are successful in acquiring a desired property, competition from other real estate investors may significantly increase our purchase price. Some of our competitors may have greater financial and other resources than us and may have better relationships with lenders and sellers, and we may not be able to compete successfully for investments.

We plan to borrow, which may adversely affect our return on our investments and may reduce income available for distribution.

Where possible, we may seek to borrow funds to increase the rate of return on our investments and to allow us to make more investments than we otherwise could. Borrowing by us presents an element of risk if the cash flow from our properties and other investments is insufficient to meet our debt service and other obligations. A property encumbered by debt increases the risk that the property will operate at a loss and may ultimately be forfeited upon foreclosure by the lender. Loans that do not fully amortize during the term, such as “bullet” or “balloon-payment” loans, present refinancing risks. Variable rate loans increase the risk that the property may become unprofitable in adverse economic conditions. Loans that require guaranties, including full principal and interest guaranties, master leases, debt service guaranties and indemnities for liabilities such as hazardous waste, may result in significant liabilities for us.

Under our current investment policies, we may not incur indebtedness if by doing so our ratio of debt to total assets, at fair market value, exceeds 75%. However, we may reevaluate our borrowing policies from time to time, and the Board may change our investment policies without the consent of our stockholders.

Our insurance on our real estate may not cover all losses.

We carry comprehensive liability, fire, terrorism, extended coverage and rental loss insurance covering all of our properties, with policy specifications and insured limits that we believe are adequate and appropriate under the circumstances. Many insurance

Table of contents

carriers are excluding asbestos-related claims and mold remediation-related claims from standard policies, pricing asbestos and mold remediation endorsements at prohibitively high rates or adding significant restrictions to this coverage. Because of our inability to obtain specialized coverage at rates that correspond to the perceived level of risk, we have not obtained insurance for asbestos-related claims or mold remediation-related risks. We continue to evaluate the availability and cost of additional insurance coverage from the insurance market. If we decide in the future to purchase coverage for asbestos or mold remediation insurance, the cost could have a negative impact on our results of operations. If an uninsured loss or a loss in excess of insured limits occurs on a property, we could lose our capital invested in the property, as well as the anticipated future revenues from the property and, in the case of debt that is recourse to us, we would remain obligated for any mortgage debt or other financial obligations related to the property. Any loss of this nature could adversely affect us.

Additionally, the policy specifications of our insurance coverage on our properties include deductibles related to an insured loss. The deductibles applicable to an insured loss caused by "Named Storms", a term as defined in the insurance policy, which are usually in the form of a hurricane, at certain properties we operate, are higher than deductibles for other insured losses covered by the policy. Specifically, the deductibles for "Named Storms" are based on a percentage of the insured property value with a specific minimum amount. Both the percentage and the related minimum amounts are higher than the standard policy deductibles for insured losses caused by a "Named Storm" in certain higher risk counties of certain states, including Florida, North Carolina, Texas and Virginia and even higher amounts for insured losses caused by a "Named Storm" in the counties of Dade, Broward and Palm Beach, Florida. Losses resulting from "Named Storms" could adversely affect us.

As part of our risk management program, our property and general liability insurance loss coverage is subject to a deductible amount, which varies by type of claims. In addition to the deductible exposure, the Company has elected to balance insurance costs by assuming limited amounts of additional loss risk in the form of self insurance. The self insurance participation is in the form of a primary layer of loss coverage which is subject to exposure prior to the traditional insurance coverage becoming applicable. Additionally, the property and general liability insurance coverage is provided by policies that cover a pool of operating real estate properties and administrative activities owned by multiple ownership funds but under the common management of Berkshire Advisor. The pooling of the insurance activities results in the sharing of any loss exposure among the larger group, as the self insurance layer covers the total operating portfolio and administrative pool of Berkshire Advisor.

Environmental compliance costs and liabilities with respect to our real estate may adversely affect our results of operations.

Our operating costs may be affected by our obligation to pay for the cost of complying with existing environmental laws, ordinances and regulations, as well as the cost of complying with future legislation with respect to the assets, or loans collateralized by assets, with environmental problems that materially impair the value of assets. Under various federal, state or local environmental laws, ordinances and regulations, an owner of real property may be liable for the costs of removal or remediation of hazardous or toxic substances located on or in the property. These laws often impose liability without regard to whether the owner knew of, or was responsible for, the presence of the hazardous or toxic substances.

The costs of any required remediation or removal of these substances may be substantial. In addition, the owner's liability as to any property is generally not limited under these laws, ordinances and regulations and could exceed the value of the property and/or the aggregate assets of the owner. The presence of hazardous or toxic substances, or the failure to remediate properly, may also adversely affect the owner's ability to sell or rent the property or to borrow using the property as collateral. Under these laws, ordinances and regulations, an owner or any entity who arranges for the disposal of hazardous or toxic substances, such as asbestos, at a disposal facility may also be liable for the costs of any required remediation or removal of the hazardous or toxic substances at the facility, whether or not the facility is owned or operated by the owner or entity. In connection with the ownership of any of our properties, or participation in ventures, or the disposal of hazardous or toxic substances, we may be liable for any of these costs.

Other federal, state and local laws may impose liability for the release of hazardous material, including asbestos-containing materials, into the environment, or require the removal of damaged asbestos containing materials in the event of remodeling or renovation, and third parties may seek recovery from owners of real property for personal injury associated with exposure to released asbestos-containing materials or other hazardous materials. We do not currently have insurance for asbestos-related claims.

Recently there has been an increasing number of lawsuits against owners and managers of multifamily properties alleging personal injury and property damage caused by the presence of mold in residential real estate. Some of these lawsuits have resulted in substantial monetary judgments or settlements. We do not currently have insurance for all mold-related risks. Environmental laws may also impose restrictions on the manner in which a property may be used or transferred or in which businesses may be operated, and these restrictions may require additional expenditures. In connection with the ownership of properties, we may be potentially liable for any of these costs. The cost of defending against claims of liability or remediating contaminated property

Table of contents

and the cost of complying with environmental laws could materially adversely affect our results of operations and financial condition.

We have been notified of the presence of asbestos in certain structural elements in our properties, which we are addressing in accordance with various operations and maintenance plans. The asbestos operations and maintenance plans require that all structural elements that contain asbestos not be disturbed. In the event the asbestos containing elements are disturbed either through accident, such as a fire, or as a result of planned renovations at the property, those elements would require removal by a licensed contractor, who would provide for containment and disposal in an authorized landfill. The property managers of our properties have been directed to work proactively with licensed ablation contractors whenever there is any question regarding possible exposure.

We are not aware of any environmental liability relating to our properties that we believe would have a material adverse effect on our business, assets or results of operations. Nevertheless, it is possible that there are material environmental liabilities of which we are unaware with respect to our properties. Moreover, we cannot be certain that future laws, ordinances or regulations will not impose material environmental liabilities or that the current environmental condition of our properties will not be affected by residents and occupants of our properties, by the uses or condition of properties in the vicinity of our properties, such as leaking underground storage tanks, or by third parties unaffiliated with us.

We face risks associated with climate change regulations.

Growing concerns about the change in the climate have resulted in new laws and regulations that are intended to limit the amount of carbon emission into the atmosphere. The Company believes that the proposal and enactment of such laws and regulations could increase operating costs of our properties, including energy costs for electricity, heating and cooling as well as increased cost of waste removal at our properties. The Company does not currently believe that increased costs, if any, would have a material impact on the results of operations and anticipates that any increased costs would be passed through to our residents by use of the utility recovery programs employed by the Company.

Our failure to comply with various regulations affecting our properties could adversely affect our financial condition.

Various laws, ordinances, and regulations affect multifamily residential properties, including regulations relating to recreational facilities, such as activity centers and other common areas. We believe that each of our properties has all material permits and approvals to operate its business.

Our multifamily residential properties must comply with Title II of the Americans with Disabilities Act (the "ADA") to the extent that such properties are public accommodations and/or commercial facilities as defined by the ADA. Compliance with the ADA requires removal of structural barriers to handicapped access in certain public areas of our properties where such removal is readily achievable. The ADA does not, however, consider residential properties to be public accommodations or commercial facilities, except to the extent portions of such facilities, such as a leasing office, are open to the public. We believe that our properties comply in all material respects with all current requirements under the ADA and applicable state laws. Noncompliance with the ADA could result in imposition of fines or an award of damages to private litigants. The cost of defending against any claims of liability under the ADA or the payment of any fines or damages could adversely affect our financial condition.

The Fair Housing Act (the "FHA") requires, as part of the Fair Housing Amendments Act of 1988, apartment communities first occupied after March 13, 1990 to be accessible to the handicapped. Noncompliance with the FHA could result in the imposition of fines or an award of damages to private litigants. We believe that our properties that are subject to the FHA are in compliance with such law. The cost of defending against any claims of liability under the FHA or the payment of any related fines or damages could adversely affect our financial condition.

We face risks associated with property acquisitions.

We intend to acquire additional properties in the future, either directly or by acquiring entities that own properties. These acquisition activities are subject to many risks. We may acquire properties or entities that are subject to liabilities or that have problems relating to environmental condition, state of title, physical condition or compliance with zoning laws, building codes, or other legal requirements. In each case, our acquisition may be without any recourse, or with only limited recourse, with respect to unknown liabilities or conditions.

As a result, if any liability were asserted against us relating to those properties or entities, or if any adverse condition existed with respect to the properties or entities, we might have to pay substantial sums to settle or cure it, which could adversely affect our cash flow and operating results. Unknown liabilities to third parties with respect to properties or entities acquired might include: liabilities for clean-up of undisclosed environmental contamination; claims by tenants, vendors or other persons dealing with the

Table of contents

former owners of the properties; liabilities incurred in the ordinary course of business; and claims for indemnification by general partners, directors, officers and others indemnified by the former owners of the properties.

We may acquire multifamily apartment communities through foreclosure auctions, which limit our ability to perform due diligence.

One of our acquisition strategies seeks to acquire multifamily apartment communities through foreclosure auctions. Generally when a property is foreclosed on by a lender, there is minimal time between the announcement of foreclosure and the auction to dispose of the property and access to the property for due diligence is either severely limited or unavailable. The lack of time and access for due diligence can result in only limited knowledge of problems, including environmental issues, that are identified after the acquisition has taken place. While the Company generally includes provisions for unforeseen problems into its underwriting models, there is no assurance that these provisions will be sufficient to remediate all of the issues identified after closing. If significant issues are identified after closing, which were not provided for during the underwriting, this sourcing strategy could result in lower profits, or higher losses, than would be realized in market rate acquisitions, where full due diligence is available.

Development risks could affect available capital and operating profitability.

We intend to develop new apartment units on property that we own or may acquire in the future. These development projects are subject to many risks including governmental approvals, which we have no assurance will be obtained. We may develop properties that have problems relating to environmental conditions, compliance with zoning laws, building codes, or other legal requirements or may be subject to unknown liabilities to third parties with respect to undisclosed environmental contamination, claims by vendors or claims by other persons. The cost to construct the projects may require capital in excess of projected amounts and possibly render the economic viability of the project unfeasible. The apartment units in the completed project may command rents and occupancy rates at less than anticipated levels and result in operating expenses at higher than forecasted levels.

We may also develop properties with joint venture partners. Joint ventures, as previously discussed, have their own risks and those risks may compound the risks associated with a development.

We face valuation and liquidity risk.

The Company may invest in real estate and real estate related investments for which no liquid market exists. The market prices for such investments may be volatile and may not be readily ascertainable. In addition, the economy has not yet fully recovered from the significant disruptions in the global capital, credit and real estate markets. These disruptions have led to, among other things, a significant decline in the volume of transaction activity, in the fair value of many real estate and real estate related investments, and a significant contraction in short-term and long-term debt and equity funding sources. This contraction in capital includes sources that the Company may depend on to finance certain investments. Although transaction activity has increased in the past year, the decline in prices of real estate and real estate related investments in prior periods, as well as the availability of observable transaction data and inputs, may have made it more difficult to determine the fair value of such investments. As a result, amounts ultimately realized by the Company from investments sold may differ from the fair values presented, and the differences could be material.

We face financing and/or refinancing risk.

There is no guarantee that the Company's borrowing arrangements or other arrangements for obtaining leverage will continue to be available, or if available, will be available on terms and conditions acceptable to the Company. Unfavorable economic conditions also could increase funding costs, limit access to the capital markets or result in a decision by lenders not to extend credit to the Company. In addition, a decline in market value of the Company's assets may have particular adverse consequences in instances where the Company borrowed money based on the fair value of those assets. A decrease in market value of those assets may result in the lender requiring the Company to post additional collateral or otherwise sell assets at a time when it may not be in the Company's best interest to do so. In the event the Company is required to liquidate all or a portion of its portfolio quickly, the Company may realize significantly less than the value at which it previously recorded those investments. As of December 31, 2011, the Company does not have significant exposure to financing in which the lender can require the Company to post additional collateral or otherwise sell assets to settle the financing obligations.

We face loan covenant risk.

In the normal course of business, the Company enters into loan agreements with certain lenders to finance its real estate investment transactions. These loan agreements contain, among other conditions, events of default and various covenants and representations. The Company believes it was in compliance with all these covenants during 2011. However, if the lenders determine we were

Table of contents

not in compliance, the lenders may decide to curtail or limit extension of credit, and the Company may be forced to repay its loans. For the year ended December 31, 2011, no loan agreements were terminated as a result of non-compliance with covenants. In the event the Company's current credit facilities are not extended and/or the Company is forced to repay its loans, the Company may be required to sell assets at potentially unfavorable prices. In addition, if the Company is required to liquidate all or a portion of its portfolio quickly, the Company may realize significantly less than the value at which it previously recorded those investments.

We face development financing risk.

In order to fund new real estate investments, as well as refurbish and improve existing investments, both the Company as well as potential owners must periodically spend money. The availability of funds for new investments and maintenance of existing investments depends in large measure on capital markets and liquidity factors over which management can exert little control. Events over the past several years, including failures and near failures of a number of large financial service companies, have made the capital markets increasingly volatile, a state from which they have not fully recovered. As a result, many current and prospective owners are finding financing to be increasingly difficult to obtain. In addition, such failures may prevent some projects that are in construction or development from drawing on existing financing commitments, and replacement financing may not be available or may only be available on less favorable terms. Delays, increased costs and other impediments to restructuring such projects may affect our ability to execute our investment strategy in connection with such projects. This contraction in capital sources has not had a significant adverse impact on the Company's liquidity position, results of operations and financial condition but may adversely impact the Company if market conditions continue to deteriorate.

We face diversification risk.

The assets of the Company are concentrated in the real estate sector, specifically garden style and mid-rise multifamily apartment communities. Accordingly, the investment portfolio of the Company may be subject to more rapid change in value than would be the case if the Company were to maintain a wide diversification among investments or industry sectors. Furthermore, even within the real estate sector, the investment portfolio may be relatively concentrated in terms of geography and type of real estate investment. The Company is engaged primarily in the acquisition, ownership, operations, development and rehabilitation of multifamily apartment communities in the Baltimore/Washington, D.C., Southeast, Southwest, Northwest and Midwest areas of the United States. This lack of diversification may subject the investments of the Company to more rapid change in value than would be the case if the assets of the Company were more widely diversified.

We face concentrations of market, interest rate and credit risk.

Concentrations of market, interest rate and credit risk may exist with respect to the Company's investments and its other assets and liabilities. Market risk is a potential loss the Company may incur as a result of changes in the fair value of its investment. The Company may also be subject to risk associated with concentrations of investments in geographic regions and industries. Interest rate risk includes the risk associated with changes in prevailing interest rates. Derivatives may be used for managing interest rate risk associated with the Company's portfolio of investments. Credit risk includes the possibility that a loss may occur from the failure of counterparties or issuers to make payments according to the terms of a contract. The Company's exposure to credit risk at any point in time is generally limited to amounts recorded as assets on the consolidated balance sheet.

Certain Federal Income Tax Risks

Our failure to qualify as a REIT would result in higher taxes and reduced cash available for distribution to our stockholders.

We intend to operate in a manner to allow us to qualify as a REIT for federal income tax purposes. Although we believe that we have been organized and will operate in this manner, we cannot be certain that we will be able to operate so as to qualify as a REIT under the Tax Code, or to remain so qualified. Qualification as a REIT involves the application of highly technical and complex provisions of the Tax Code for which there are only limited judicial or administrative interpretations. The determination of various factual matters and circumstances, not entirely within our control, may affect our ability to qualify as a REIT.

The complexity of these provisions and of the applicable income tax regulations under the Tax Code is greater in the case of a REIT that holds its assets through a partnership, as we do. Moreover, our qualification as a REIT depends upon the qualification of certain of our investments as REITs. In addition, we cannot be certain that legislation, new regulations, administrative interpretations or court decisions will not significantly change the tax laws with respect to the qualification as a REIT or the federal income tax consequences of this qualification. We are not aware of any proposal currently being considered by Congress to amend the tax laws in a manner that would materially and adversely affect our ability to operate as a REIT.

Table of contents

If for any taxable year we fail to qualify as a REIT, we would not be allowed a deduction for distributions to our stockholders in computing our taxable income and we would be subject to federal income tax (including any applicable alternative minimum tax) on our taxable income at regular corporate rates. In addition, we would normally be disqualified from treatment as a REIT for the four taxable years following the year of losing our REIT status. This would likely result in significant increased costs to us. Any corporate tax liability could be substantial and would reduce the amount of cash available for distribution to our stockholders and for investment, which in turn could have an adverse impact on the value of, and trading prices for, our publicly traded securities.

Although we intend to operate in a manner designed to qualify as a REIT, future economic, market, legal, tax or other considerations may cause our Board and the holders of our common stock to determine that it is in the best interests of the Company and our stockholders to revoke our REIT election.

We believe that our operating partnership will be treated for federal income tax purposes as a partnership and not as a corporation or an association taxable as a corporation. If the Internal Revenue Service were to determine that our operating partnership were properly to be treated as a corporation, our operating partnership would be required to pay federal income tax at corporate rates on its net income, its partners would be treated as stockholders of the operating partnership and distributions to partners would constitute dividends that would not be deductible in computing the operating partnership's taxable income. In addition, we would fail to qualify as a REIT, with the resulting consequences described above.

As of December 31, 2011, the Company is in compliance under the Tax Code to qualify as a REIT.

REIT distribution requirements could adversely affect our liquidity.

To obtain the favorable tax treatment for REITs qualifying under the Tax Code, we generally are required each year to distribute to our stockholders at least 90% of our real estate investment trust taxable income, determined without regard to the deduction for dividends paid and by excluding net capital gains. We are subject to a 4% nondeductible excise tax on the amount, if any, by which distributions paid by us with respect to any calendar year are less than the sum of: (1) 85% of our ordinary income for the calendar year; (2) 95% of our capital gain net income for the calendar year, unless we elect to retain and pay income tax on those gains; and (3) 100% of our undistributed amounts from prior years.

Failure to comply with these requirements would result in our income being subject to tax at regular corporate rates.

We intend to distribute our income to our stockholders in a manner intended to satisfy the distribution requirement and to avoid corporate income tax and the 4% excise tax. Differences in timing between the recognition of income and the related cash receipts or the effect of required debt amortization payments could require us to borrow money or sell assets to distribute enough of our taxable income to satisfy the distribution requirement and to avoid corporate income tax and the 4% excise tax in a given year.

Legislative or regulatory action could adversely affect holders of our securities.

In recent years, numerous legislative, judicial and administrative changes have been made to the federal income tax laws applicable to investments in REITs and similar entities. Additional changes to tax laws are likely to continue to occur in the future, and we cannot be certain that any such changes will not adversely affect the taxation of a holder of our securities.

Risk Factors Relating to Our Management

We are dependent on Berkshire Advisor and may not find a suitable replacement at the same cost if Berkshire Advisor terminates the advisory services agreement.

We have entered into a contract with Berkshire Advisor (which we refer to as the advisory services agreement) under which Berkshire Advisor is obligated to manage our portfolio and identify investment opportunities consistent with our investment policies and objectives, as the Board may adopt from time to time.

Although the Board has continuing exclusive authority over our management, the conduct of our affairs and the management and disposition of our assets, the Board initially has delegated to Berkshire Advisor, subject to the supervision and review of our Board, the power and duty to make decisions relating to the day-to-day management and operation of our business. We generally utilize officers of Berkshire Advisor to provide our services and employ only a few individuals as our officers, none of whom are compensated by us for their services to us as our officers. We believe that our success depends to a significant extent upon the experience of Berkshire Advisor's officers, whose continued service is not guaranteed. We have no separate facilities and are completely reliant on Berkshire Advisor, which has significant discretion as to the implementation of our operating policies and strategies. We face the risk that Berkshire Advisor could terminate the advisory services agreement and we may not find a suitable replacement at the same cost with similar experience and ability. However, we believe that so long as KRF Company, which is an affiliate of Berkshire Advisor, continues to own a significant amount of our common stock, Berkshire Advisor will not terminate the advisory services agreement. Although KRF Company currently owns most of our common stock, we cannot be certain that KRF Company will continue to do so.

Our relationship with Berkshire Advisor may lead to general conflicts of interest that adversely affect the interests of holders of our Series A Preferred Stock.

Berkshire Advisor is an affiliate of KRF Company, which owns the majority of our common stock. All of our directors and executive officers, other than our three independent directors, are also officers or directors of Berkshire Advisor. As a result, our advisory services agreement with Berkshire Advisor was not negotiated at arm's-length and its terms, including the fees payable to Berkshire Advisor, may not be as favorable to us as if it had been negotiated with an unaffiliated third party. Asset management fees and acquisition fees for new investments are payable to Berkshire Advisor under the advisory services agreement regardless of the performance of our portfolio and may create conflicts of interest. Conflicts of interest also may arise in connection with any decision to renegotiate, renew or terminate our advisory services agreement. In order to mitigate these conflicts, the renegotiation, renewal or termination of the advisory services agreement requires the approval of the Audit Committee (which committee is comprised of our three directors who are independent under applicable rules and regulations of the SEC and the NYSE AMEX Equities).

Berkshire Advisor and its affiliates may engage in other businesses and business ventures, including business activities relating to real estate or other investments, whether similar or dissimilar to those made by us, or may act as advisor to any other person or entity (including other REITs). The ability of Berkshire Advisor and its officers and employees to engage in these other business activities may reduce the time Berkshire Advisor spends managing us. Berkshire Advisor and its affiliates may have conflicts of interest in the allocation of management and staff time, services and functions among us and its other investment entities presently in existence or subsequently formed. However, under our advisory services agreement with Berkshire Advisor, Berkshire Advisor is required to devote sufficient resources as may be required to discharge its obligations to us under the advisory services agreement.

Our advisory services agreement with Berkshire Advisor provides that neither Berkshire Advisor nor any of its affiliates is obligated to present to us all investment opportunities that come to their attention, even if any of those opportunities might be suitable for investment by us. It is within the sole discretion of Berkshire Advisor to allocate investment opportunities to us as it deems advisable. However, it is expected that, to the extent possible, the resolution of conflicting investment opportunities between us and others will be based upon differences in investment objectives and policies, the makeup of investment portfolios, the amount of cash and financing available for investment and the length of time the funds have been available, the estimated income tax effects of the investment, policies relating to leverage and cash flow, the effect of the investment on diversification of investment portfolios and any regulatory restrictions on investment policies.

Our Board of Directors has approved investment guidelines for Berkshire Advisor, but might not approve each multifamily residential property investment decision made by Berkshire Advisor within those guidelines.

Berkshire Advisor is authorized to follow investment guidelines adopted from time to time by the Board in determining the types of assets it may decide to recommend to the Board as proper investments for us. The Board periodically reviews our investment guidelines and our investment portfolio. In conducting periodic reviews, the Board relies primarily on information provided by Berkshire Advisor. However, Berkshire Advisor may make investments in multifamily residential property on our behalf within the Board approved guidelines without the approval of the Board.

We may change our investment strategy without stockholder consent, which could result in our making different and potentially riskier investments.

We may change our investment strategy at any time without the consent of our stockholders, which could result in our making investments that are different from, and possibly riskier than, our initial plan to primarily acquire, own, operate, develop and rehabilitate multifamily residential properties. In addition, the methods of implementing our investment policies may vary as new investment techniques are developed. A change in our investment strategy may increase our exposure to interest rate and real estate market fluctuations.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

Table of contents

ITEM 2. PROPERTIES

A summary of the multifamily apartment communities in which the Company had an interest as of December 31, 2011 is presented below. Schedule III included in Item 15 to this report contains additional detailed information with respect to individual properties consolidated by the Company in the financial statements contained herein and is incorporated by reference herein.

Description	Location	Year Acquired		Total Units (Unaudited)	Ownership Interest		2011 Occupancy (1) (Unaudited)	
Berkshires of Columbia	Columbia, Maryland	1983		316	91.38	%	96.88	%
Seasons of Laurel	Laurel, Maryland	1985		1,088	100.00	%	94.62	%
Walden Pond/Gables	Houston, Texas	1983/2003		556	100.00	%	95.66	%
Laurel Woods	Austin, Texas	2004		150	100.00	%	98.00	%
Bear Creek	Dallas, Texas	2004		152	100.00	%	96.24	%
Bridgewater	Hampton, Virginia	2004		216	100.00	%	94.50	%
Arboretum	Newport News, Virginia	2004		184	100.00	%	96.15	%
Reserves at Arboretum	Newport News, Virginia	2009	(2)	143	100.00	%	95.82	%
Silver Hill	Newport News, Virginia	2004		153	100.00	%	94.55	%
Arrowhead	Palatine, Illinois	2004		200	58.00	%	95.06	%
Moorings	Roselle, Illinois	2004		216	58.00	%	97.72	%
Country Place I	Burtonsville, Maryland	2004		192	58.00	%	97.05	%
Country Place II	Burtonsville, Maryland	2004		120	58.00	%	95.68	%
Yorktowne	Millersville, Maryland	2004		216	100.00	%	96.18	%
Berkshires on Brompton	Houston, Texas	2005		362	100.00	%	97.62	%
Riverbirch	Charlotte, North Carolina	2005		210	100.00	%	96.45	%
Lakeridge	Hampton, Virginia	2005		282	100.00	%	96.43	%
Berkshires at Citrus Park	Tampa, Florida	2005		264	100.00	%	94.54	%
Briarwood Village	Houston, Texas	2006		342	100.00	%	96.18	%
Chisholm Place	Dallas, Texas	2006		142	100.00	%	96.32	%
Standard at Lenox Park	Atlanta, Georgia	2006		375	100.00	%	96.56	%
Berkshires at Town Center	Towson, Maryland	2007		199	100.00	%	93.34	%
Sunfield Lakes	Sherwood, Oregon	2007		200	100.00	%	94.33	%
Executive House	Philadelphia, Pennsylvania	2008		302	100.00	%	96.69	%
Estancia	Dallas, Texas	2011		207	100.00	%	95.09	%
2020 Lawrence	Denver, Colorado	2011	(3)	N/A	91.08	%	N/A	
Walnut Creek	Walnut Creek, California	2011	(3)	N/A	98.00	%	N/A	
				6,787				

All of the properties in the above table are encumbered by mortgages as of December 31, 2011.

(1) Represents the average year-to-date physical occupancy.

(2) Property was acquired as raw land in 2004. Development of the multifamily apartment community on the land was completed and the property was fully leased during the year ended December 31, 2009.

(3) Properties are under development as of December 31, 2011.

ITEM 3. LEGAL PROCEEDINGS

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

Table of contents

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER REPURCHASES OF EQUITY SECURITIES

There is no established public trading market for the outstanding common stock of the Company, the majority of which is held by KRF Company. As of March 29, 2012, there were 0 and 3 holders of shares of our Class A Common Stock and Class B Common Stock, respectively. No shares of the Class A Common Stock have been issued as of December 31, 2011. The Company did not declare a dividend on its common stock for any quarter during 2010 or 2011 but plans to declare cash dividends on its outstanding common stock in the future as operations allow. Refer to Declaration of Dividends and Distributions in Part II, Item 7 - Management's Discussion and Analysis of financial Condition and Results of Operations of Berkshire Income Realty, Inc.

Refer to Part III, Item 12 - Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters herein for disclosures relating to the Company's equity compensation plans.

During the period from October 1, 2011 to December 31, 2011, no purchases of any of the Company's securities registered pursuant to Section 12 of the 34 Act, were made by or on behalf of the Company or any affiliated purchaser.

ITEM 6. SELECTED FINANCIAL DATA

The following table sets forth selected financial data regarding the financial position and operating results of the Company. See "Management's Discussion and Analysis of Financial Condition and Results of Operations of Berkshire Income Realty, Inc." for a discussion of the entities that comprise the Company. The following financial data should be read in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations of Berkshire Income Realty, Inc." and the financial statements of the Company (including the related notes contained therein). See the "Index to Financial Statements and Financial Statement Schedules" on page 52 to this report.

Table of contents

Selected financial data for the years ended December 31, 2010, 2009, 2008 and 2007 have been revised to reflect the sale of Glo in 2011, Century, St. Marin/Karrington ("St. Marin"), Westchester West and Berkshires at Westchase ("Westchase") in 2008, Dorsey's Forge and Trellis at Lee's Mill in 2007. The operating results of Glo from 2009 to 2010, Century, St. Marin, Westchase and Westchester West from 2007 through 2009 have been reclassed to discontinued operations to provide comparable information to 2011.

	Berkshire Income Realty, Inc. December 31,				
	2011	2010	2009	2008	2007
Operating Data:					
Total Revenue	$84,690,881	$77,428,659	$76,228,288	$70,205,385	$65,838,354
Depreciation	30,167,972	29,858,741	30,990,501	28,277,756	25,838,371
Loss before equity in loss of Multifamily Venture Limited Partnership, Multifamily Limited Liability Company and Mezzanine Loan Limited Liability Company and loss from discontinued operations	(18,602,182)	(21,172,788)	(22,189,715)	(18,950,782)	(18,371,334)
Loss from continuing operations	(22,032,197)	(25,253,013)	(27,280,079)	(23,179,972)	(21,326,981)
Income (loss) from discontinued operations	23,954,496	(473,498)	(1,405,155)	77,179,208	30,191,208
Net income attributable to Parent Company	6,435,839	5,926,204	5,864,070	35,781,455	2,928,632
Net income (loss) available to common shareholders	(264,924)	(774,561)	(836,715)	29,080,773	(3,772,160)
Net income (loss) from continuing operations attributable to Parent Company per common share, basic and diluted	$(17.22)	$(0.21)	$0.40	$(34.21)	$(24.15)
Net income (loss) from discontinued operations attributable to Parent Company per common share, basic and diluted	$17.03	$(0.34)	$(1.00)	$54.89	$21.47
Net income (loss) available to common shareholders per common share, basic and diluted	$(0.19)	$(0.55)	$(0.60)	$20.68	$(2.68)
Weighted average common shares outstanding, basic and diluted	1,406,196	1,406,196	1,406,196	1,406,196	1,406,196
Cash dividends declared on common OP Units and Shares	—	—	$—	$12,000,000	$4,000,000
Balance Sheet Data, at year end:					
Real estate, before accumulated depreciation	$650,262,329	$619,577,347	$610,702,698	$555,681,036	$608,505,122
Real estate, after accumulated depreciation	422,662,237	419,531,860	441,983,721	419,002,572	464,265,061
Cash and cash equivalents	9,645,420	12,893,665	17,956,617	24,227,615	22,479,937
Total assets	468,749,642	456,866,429	502,172,132	479,263,174	528,062,630

Total long term obligations	484,748,358	476,386,979	474,830,728	432,013,999	506,903,882
Noncontrolling interest in properties	346,524	(191,881)	416,382	293,650	—
Noncontrolling interest in Operating Partnership	(76,785,818)	(65,806,083)	(34,172,349)	—	—
Stockholders' equity (deficit)	28,422,170	28,691,012	29,465,573	30,302,313	2,061,803
Other Data:					
Total multifamily apartment communities (at end of year)	26	26	26	24	27
Total apartment units (at end of year)	6,787	6,781	6,781	6,434	7,869
Funds from operations (1)	8,005,947	5,800,453	4,798,371	7,355,092	6,983,249
Cash flows provided by operating activities	16,146,661	13,953,330	9,596,978	12,464,803	13,545,647
Cash flows (used in) provided by investing activities	(52,324,348)	3,520,272	(25,744,815)	21,304,954	(30,113,455)
Cash flows (used in) provided by financing activities	32,929,442	(22,536,554)	9,876,839	(32,022,079)	23,654,496
Cumulative effect of change in accounting principle	—	—	—	(529,563)	—

Table of contents

(1) The Company has adopted the revised definition of Funds from Operations ("FFO") adopted by the Board of Governors of the National Association of Real Estate Investment Trusts ("NAREIT"). Management considers FFO to be an appropriate measure of performance of an equity REIT. We calculate FFO by adjusting net income (loss) (computed in accordance with GAAP, including non-recurring items), for gains (or losses) from sales of properties, impairments, real estate related depreciation and amortization, and adjustment for unconsolidated partnerships and ventures. Management believes that in order to facilitate a clear understanding of the historical operating results of the Company, FFO should be considered in conjunction with net income (loss) as presented in the consolidated financial statements included elsewhere herein. Management considers FFO to be a useful measure for reviewing the comparative operating and financial performance of the Company because, by excluding gains and losses related to sales of previously depreciated operating real estate assets and excluding real estate asset depreciation and amortization (which can vary among owners of identical assets in similar condition based on historical cost accounting and useful life estimates), FFO can help one compare the operating performance of a company's real estate between periods or as compared to different companies.

The Company's calculation of FFO may not be directly comparable to FFO reported by other REITs or similar real estate companies that have not adopted the term in accordance with the current NAREIT definition or that interpret the current NAREIT definition differently. FFO is not a GAAP financial measure and should not be considered as an alternative to net income (loss), the most directly comparable financial measure of our performance calculated and presented in accordance with GAAP, as an indication of our performance. FFO does not represent cash generated from operating activities determined in accordance with GAAP and is not a measure of liquidity or an indicator of our ability to make cash distributions. We believe that to further understand our performance, FFO should be compared with our reported net income (loss) and considered in addition to cash flows in accordance with GAAP, as presented in our consolidated financial statements.

The following table presents a reconciliation of net income (loss) to FFO for the years ended December 31, 2011, 2010 and 2009:

	December 31,		
	2011	2010	2009
Net income (loss)	$1,922,299	$(25,726,511)	$(28,685,234)
Add:			
Depreciation of real property	26,930,325	26,747,230	27,157,267
Depreciation of real property included in results of discontinued operations	896,219	1,317,638	1,050,239
Amortization of acquired in-place leases and tenant relationships	531,422	44,550	302,251
Amortization of acquired in-place leases and tenant relationships included in results of discontinued operations	8,916	73,298	525,679
Equity in loss of Multifamily Venture Limited Partnership, net of impairments	3,355,950	3,532,305	4,143,070
Equity in loss of Multifamily Limited Liability Company	114,665	—	—
Funds from operations of Multifamily Venture Limited Partnership and Limited Liability Company, net of impairments	1,286,493	860,673	1,061,362
Less:			
Noncontrolling interest in properties share of funds from operations	(3,123,395)	(1,048,730)	(756,263)
Gain on disposition of real estate assets	(23,916,947)	—	—
Funds from Operations	$8,005,947	$5,800,453	$4,798,371

FFO for the year ended December 31, 2011 increased as compared to FFO for the year ended December 31, 2010. The increase in FFO is due primarily to the increased revenue, general and administrative expenses related to the bond redemption fees of $223,300 incurred during the year ended December 31, 2010, as well as an one-time adjustment to record $196,552 of prior period negatively amortized interest on the Glo loans during the year ended December 31, 2010 for which there were no comparative adjustments recorded in 2011. The increase was partially offset by transaction costs for the acquisition of Estancia Townhomes of $620,779, which were included in Operating expense on the Consolidated Statement of Operations during the year ended December 31, 2011 and increased interest expense incurred as a result of higher revolving credit balance outstanding during the year ended December 31, 2011 when compared to the same period ended December 31, 2010.

Table of contents

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS OF BERKSHIRE INCOME REALTY, INC.

Management's Discussion and Analysis of Financial Condition and Results of Operation of Berkshire Income Realty, Inc. is intended to facilitate an understanding of the Company's business and results of operations. It should be read in conjunction with the Consolidated Financial Statements, the accompanying notes to the Consolidated Financial Statements and the selected financial data included in this Form 10K. This Form 10K, including the following discussion, contains forward looking statements regarding future events or trends as described more fully under "Special Note Regarding Forward-Looking Statements" on page 3. Actual results could differ materially from those projected in such statements as a result of the risk factors described in Part I, Item 1A - Risk Factors of this Form 10K.

Overview

The Company is engaged primarily in the acquisition, ownership, operation, development and rehabilitation of multifamily apartment communities in the Baltimore/Washington D.C., Southeast, Southwest, Northwest and Midwest areas of the United States. We conduct substantially all of our business and own, either directly or through subsidiaries, substantially all of our assets through the Operating Partnership, a Delaware limited partnership. The Company's wholly owned subsidiary, BIR GP, L.L.C., a Delaware limited liability company, is the sole general partner of the Operating Partnership. As of March 29, 2012, the Company is the owner of 100% of the preferred limited partner units of the Operating Partnership, whose terms mirror the terms of the Company's Preferred Shares and, through BIR GP, L.L.C., owns 100% of the general partner interest of the Operating Partnership, which represents approximately 2.39% of the common economic interest of the Operating Partnership.

Our general and limited partner interests in the Operating Partnership entitle us to share in cash distributions from, and in the profits and losses of, the Operating Partnership in proportion to our percentage interest therein. The other partners of the Operating Partnership are affiliates of the Company that contributed their direct or indirect interests in certain properties to the Operating Partnership in exchange for common units of limited partnership interest in the Operating Partnership.

Our highlights for the year ended December 31, 2011 included the following:

- On January 31, 2011, the Operating Partnership, through its subsidiary, BIR Estancia Limited Partnership, completed the acquisition of Estancia Townhomes, a 207-unit townhome style apartment community located in Dallas, Texas. The sellers were unaffiliated third parties. The purchase price for the property was $42,000,000 and was subject to normal operating prorations as provided for in the purchase and sale agreement. Simultaneously with the acquisition, the Company closed on a $26,500,000 bridge loan used to acquire the property. The loan had an interest rate of 6.5% and a term of three months with a one month extension available. On March 25, 2011, the Company closed on a $29,004,000 first mortgage on the Estancia Townhomes property. The loan is a non-recourse first mortgage note collateralized by the property with a fixed interest rate of 5.15% and a term of 10 years. Proceeds from the loan were used to repay the $26,500,000 bridge loan used to acquire the property, pay expenses related to the new loan and for other general operating activities of the Company.

- On February 10, 2011, the Operating Partnership, through its subsidiary, BIR 2020 Lawrence, L.L.C., entered into an agreement to acquire approximately 90% of the ownership interests in a development project to build a 231-unit multifamily mid-rise community in Denver, Colorado. Total capital committed to the project is $8,000,000. As of December 31, 2011, the Company has made capital contributions of $5,570,519, or 69.6% of the total commitment.

- On February 17, 2011, the Operating Partnership executed an amendment to the revolving credit facility (the "Credit Facility Amendment") which provides for a temporary modification of certain provisions of the revolving credit facility during a period commencing with the date of execution and ending on July 31, 2012 (the "Amendment Period"), subject to extension. During the Amendment Period, certain provisions of the revolving credit facility are modified including: an increase in the amount of the commitment from $20,000,000 to $40,000,000; elimination of the leverage ratio covenant and clean-up requirement (each as defined in the revolving credit facility agreement) and computation and payment of interest on a quarterly basis. At the conclusion of the Amendment Period, including any extensions thereof, the provisions modified pursuant to the Credit Facility Amendment will revert back to the provisions of the revolving credit facility agreement prior to the Amendment Period.

On March 2, 2011, the Operating Partnership executed an agreement with Berkshire Multifamily Value Fund II ("BVF-II"), an affiliated entity, to create a joint venture, BIR/BVF-II NoMa JV, L.L.C. ("NoMa JV"), to participate in and take an ownership position in a real estate development project. BVF-II is the managing member of NoMa JV and has a percentage ownership interest of approximately 67% while the Operating Partnership has a percentage ownership interest of approximately 33%.

Table of contents

- Additionally, on March 2, 2011, NoMa JV acquired a 90% interest in NOMA Residential West I, LLC. ("NOMA Residential"). NOMA Residential will develop and subsequently operate a 603-unit multifamily apartment community in Washington, D.C. The remaining 10% interest in NOMA Residential is owned by the developer, an unrelated third party (the "Developer"). The governing agreements for NOMA Residential give the Developer the authority to manage the construction and development of, and subsequent to completion, the day-to-day operations of NOMA Residential. The agreement also provides for fees to the Developer, limits the authority of the Developer and provides for distributions based on percentage interest and thereafter in accordance with achievement of economic hurdles. As of December 31, 2011, the Company had invested 100% of its total committed capital amount of $14,520,000 in NoMa JV.

- On March 25, 2011, the Company entered into a letter of credit agreement with a bank for the issuance of two irrevocable unconditional letters of credit related to the development project of its BIR 2020 Lawrence, L.L.C. subsidiary. The letters of credit support the working capital and initial operating deficit reserve requirements of the project. The letters amount to $582,000 and $1,100,000, respectively.

- On March 31, 2011, the Operating Partnership, through JV 2020 Lawrence, entered into an agreement for fixed rate construction-to-permanent financing totaling up to $45,463,100, which will be collateralized by the related property and is insured by the U.S. Department of Housing and Urban Development ("HUD"). The construction loan will convert to permanent financing at the completion of the development period and will continue for a term of 40 years from the date of conversion at a fixed interest rate of 5.00%. The proceeds of the financing will be used to develop a mid-rise multifamily apartment building in Denver, Colorado. JV 2020 Lawrence submitted the first construction loan draw to the lender at closing. As of December 31, 2011, the outstanding balance on the loan was $14,070,892.

- On May 24, 2011, the Company executed an amendment to the revolving credit facility which limits the total commitment fee provided for in the agreement to be no greater than $400,000 in the aggregate.

- On December 12, 2011, the Company executed an LLC agreement with an unrelated entity for the development of a 154-unit apartment building in Walnut Creek, California. Once fully committed, the Company's ownership percentage in the project will be 98%. Total capital committed to the venture is $16,872,863. As of December 31, 2011, the Company has made capital contributions of $253,105, or 1.5% of the total commitment.

- On December 22, 2011, the Company, through its joint venture, BIR Holland JV, LLC, closed on the sale of the Glo property to Equity Residential for $68.5 million. The outstanding bonds were assumed by the buyer. The Company's share of the proceeds from the transaction were used to reduce the outstanding balance of the revolving credit facility.

- On December 28, 2011, the Company repaid $25,679,078 on the revolving credit facility outstanding from the Company's share of the proceeds from the sale of the GLO property.

- On December 29, 2011, the Company closed on the refinancing of the second mortgage on the Executive House property so that the new loan will be coterminous with its current first mortgage maturity on April 1, 2016.

- During the year ended December 31, 2011, the Company borrowed an aggregate of $34,028,500 under the revolving credit facility available from an affiliate of the Company for use in its acquisition and investing activities and repaid $25,679,078 during the same period.

Acquisition Strategy

The Company continues to seek out market rate core and core-plus acquisitions as it grows its portfolio. However, it is facing significant competition in many of the markets where it intends to invest. To broaden the scope of its acquisition sourcing efforts the Company continues to seek non-market/seller direct deals, bank and lender owned real estate, foreclosure auctions and development. We believe that this broadened approach will provide additional opportunities to acquire multifamily apartment communities that otherwise would not exist in the highly competitive markets in which we are seeking to buy.

Financing and Capital Strategy

In select instances the Company evaluates opportunities available through venture relationships with institutional real estate investors on certain acquisitions. We believe this strategy allows the Company to enhance its returns on core and core-plus properties, without increasing the risk that is otherwise inherent in real estate investments. We believe a venture strategy allows us to acquire more multifamily apartment communities than our current capital base would otherwise allow, thereby achieving greater diversification and a larger portfolio to support the operating overhead inherent in a public company.

Table of contents

On January 28, 2005, the Board approved the investment of up to $25,000,000 in, or 10% of the total equity raised by Berkshire Multifamily Value Fund, L.P. ("BVF"). The investment was also approved by the Audit Committee, which is composed solely of directors who are independent under applicable rules and regulations of the SEC and the NYSE Amex Equities. BVF, which was sponsored by our affiliate, Berkshire Advisors, was formed in August of 2005 and successfully raised equity in excess of expectations. The Company has committed to invest $23,400,000, or approximately 7%, in BVF and made all contributions of its commitment of $23,400,000 as of December 31, 2008. The Company has evaluated its investment in BVF and concluded that the investment, although subject to the requirements of ASC 810-10 "Consolidation of Variable Interest Entities", does not require the Company to consolidate the activity of BVF. Additionally, the Company has determined, pursuant to the guidance promulgated in ASC 810-20, that the Company does not have a controlling interest in the BVF and is not required to consolidate the activity of BVF. The Company accounts for its investment in BVF under ASC 970-323, as an equity method investment.

BVF II, an investment fund formed during 2007, was sponsored by our affiliate, Berkshire Advisors. The Company did not make an investment in BVF II, but as an affiliate, is subject to certain investment restrictions. The investment objectives of BVF II are similar to those of the Company and under the terms of BVF II, Berkshire Advisors is generally required to present investment opportunities, which meet BVF II's investment criteria, only to BVF II. Under the terms of BVF II, the Company has the right to acquire assets that: (i) satisfy the requirements of Section 1031 of the Internal Revenue Code for like-kind exchanges for properties held by the Company or (ii) involve less than $8,000,000 of equity capital in any 12-month period if such capital is generated as a result of refinancing of debts of the Company. The restrictions of BVF II are only applicable during the commitment phase of BVF II and the $8,000,000 equity capital limit can be carried over from any prior 12-month period and can accumulate to a total of $16,000,000. As of December 31, 2011, BVF II was fully committed and the investment restrictions are no longer applicable.

In 2011, the Company, through various joint venture agreements, committed to participate in the development of three apartment building projects. The first is a 231-unit multifamily mid-rise community in Denver, Colorado. The Company owns a 90% interest in the project and has committed $8,000,000 of capital to the venture, of which $5,570,519 was funded during the year ended December 31, 2011.

The second project is a 603-unit multifamily mid-rise community in Washington, D.C. The Company owns a one-third interest in a joint venture with an affiliated entity that owns a 90% interest in the project. The Company had invested 100% of its total committed capital amount of $14,520,000 as of December 31, 2011.

The third project is a 154-unit apartment building in Walnut Creek, California. The Company owns a 98% interest in the project and has committed $16,872,863 to the venture. As of December 31, 2011, the Company has made capital contributions of $253,105, or 1.5% of the total commitment.

Interest costs are capitalized on these developments until construction is complete. There was $1,066,074 of interest capitalized during the year ended December 31, 2011.

Critical Accounting Policies

The discussion below describes what we believe are the critical accounting policies that affect the Company's more significant judgments and the estimates used in the preparation of its financial statements. The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America ("GAAP") requires us to make estimates and judgments that affect the reported amounts of assets and liabilities, revenues and expenses, and related disclosures of contingent assets and liabilities in the Company's financial statements and related notes. We believe that the following critical accounting policies affect significant judgments and estimates used in the preparation of the Company's financial statements.

Purchase Accounting for Acquisition of Real Estate

The Company accounts for its acquisitions of investments in real estate in accordance with Accounting Standards Codification ("ASC") 805-10, which requires the fair value of the real estate acquired to be allocated to the acquired tangible assets, consisting of land, building, furniture, fixtures and equipment and identified intangible assets and liabilities, consisting of the value of the above-market and below-market leases, the value of in-place leases and value of other tenant relationships, based in each case on their fair values. The Company considers acquisitions of operating real estate assets to be businesses as that term is contemplated in ASC 810-10.

The Company allocates purchase price to the fair value of the tangible assets of an acquired property (which includes land, building, furniture, fixtures and equipment) determined by valuing the property as if it were vacant. The as-if-vacant value is allocated to land and buildings, furniture, fixtures and equipment based on management's determination of the relative fair values of these assets.

Table of contents

Above-market and below-market in-place lease values for acquired properties are recorded based on the present value (using an interest rate which reflects the risks associated with the leases acquired) of the difference between (i) the contractual amounts to be paid pursuant to the in-place leases and (ii) management's estimate of fair market lease rates for the corresponding in-place leases, measured over a period equal to the remaining non-cancelable term of the lease. The capitalized above-market lease values are amortized as a reduction of rental income over the remaining non-cancelable terms of the respective leases. The capitalized below-market lease values are amortized as an increase to rental income over the initial term and any fixed-rate renewal periods in the respective leases.

Management may engage independent third-party appraisers to perform these valuations and those appraisals use commonly employed valuation techniques, such as discounted cash flow analyses. Factors considered in these analyses may include estimates of carrying costs during hypothetical expected lease-up periods considering current market conditions, and costs to execute similar leases. The Company also considers information obtained about each property as a result of its pre-acquisition due diligence, marketing and leasing activities in estimating the fair value of the tangible and intangible assets acquired. In estimating carrying costs, management also includes real estate taxes, insurance and other operating expenses and estimates of lost rentals at market rates during the expected lease-up periods depending on specific local market conditions and depending on the type of property acquired.

The total amount of other intangible assets acquired is further allocated to in-place leases and tenant relationships, which includes other tenant relationship intangible values based on management's evaluation of the specific characteristics of the residential leases and the Company's tenant retention history. The value of in-place leases and tenant relationships are amortized over the initial term of the respective leases and any expected renewal period.

Impairment of Long-Lived Assets

The Company reviews its long-lived assets used in operations for impairment when there is an event or change in circumstances that indicates an impairment in value. If such impairment is present, an impairment loss is recognized based on the excess of the carrying amount of the asset over its fair value. The evaluation of anticipated cash flows is highly subjective and is based in part on assumptions regarding future rental occupancy, rental rates and capital requirements that could differ materially from actual results in future periods. No such losses have been recognized to date.

Impairment of Investments in Unconsolidated Joint Ventures

Our investments in unconsolidated joint ventures are reviewed for impairment periodically and we record impairment charges when events or circumstances change indicating that a decline in the fair values below the carrying values has occurred and such decline is other-than-temporary. The ultimate realization of our investment in unconsolidated joint ventures is dependent on a number of factors, including the performance of each investment and market conditions. We will record an impairment charge if we determine that a decline in the value of an investment in an unconsolidated joint venture is other-than-temporary. The Company did not recognize an other-than-temporary impairment charge in 2011 or 2010.

Capital Improvements

The Company's policy is to capitalize the cost of acquisitions (exclusive of transaction costs), rehabilitation and improvement of properties. Capital improvements are costs that increase the value and extend the useful life of an asset. Ordinary repair and maintenance costs that do not extend the useful life of the asset are expensed as incurred. Costs incurred on a lease turnover due to normal wear by the resident are expensed on the turn. Recurring capital improvements typically include items such as appliances, carpeting, flooring, HVAC equipment, kitchen and bath cabinets, site improvements and various exterior building improvements. Non-recurring upgrades include kitchen and bath upgrades, new roofs, window replacements and the development of on-site fitness, business and community centers.

The Company is required to make subjective assessments as to the useful lives of its properties and improvements for purposes of determining the amount of depreciation to reflect on an annual basis. These assessments have a direct impact on the Company's net income.

Investments in Multifamily Venture Limited Partnership

The Company's investments in the Multifamily Venture Limited Partnership, or ownership arrangements with unaffiliated third parties, were evaluated pursuant to the requirements of ASC 810-10 and none were determined to require the Company to consolidate the operating results of the investee. Additionally, the Company has determined, pursuant to the guidance promulgated in ASC 810-20 that the Company does not have a controlling interest in the Multifamily Venture Limited Partnership and is not required to consolidate the activity of the fund. The Company has accounted for the investments in accordance with ASC 970-323 as an equity method investment. The investments are carried as an asset on the balance sheet as Investment in Multifamily Venture Limited Partnership and Multifamily Limited Liability Company and the Company's equity in the income or loss of the venture is reflected as a single line item in the income statement as Equity in loss of Multifamily Venture Limited Partnership.

Investments in Multifamily Limited Liability Company

The Company's investments in the Multifamily Limited Liability Company, or ownership arrangements with unaffiliated third parties, were evaluated pursuant to the requirements of ASC 810-10 and none were determined to require the Company to consolidate the operating results of the investee. Additionally, the Company has determined, pursuant to the guidance promulgated in ASC 810-20 that the Company does not have a controlling interest in the Multifamily Limited Liability Company and is not required to consolidate the activity of the fund. The Company has accounted for the investments in accordance with ASC 970-323 as an equity method investment. The investments are carried as an asset on the balance sheet as Investment in Multifamily Venture Limited Partnership and Multifamily Limited Liability Company and the Company's equity in the income or loss of the venture is reflected as a single line item in the income statement as Equity in loss of Multifamily Limited Liability Company.

Corporate Governance

Since the incorporation of our Company, we have implemented the following corporate governance initiatives to address certain legal requirements promulgated under the Sarbanes-Oxley Act of 2002, as well as NYSE Amex Equities corporate governance listing standards:

We have elected annually three independent directors, Messrs. Robert Kaufman, Richard Peiser and Randolph Hawthorne, each of whom the Board determined to be independent under applicable SEC and NYSE Amex Equities rules and regulations;

The Board has determined annually that Robert Kaufman, the Chairman of our Audit Committee, qualifies as an "audit committee financial expert" under applicable rules and regulations of the SEC;

The Board's Audit Committee adopted our Audit and Non-Audit Services Pre-Approval Policy, which sets forth the procedures and the conditions pursuant to which permissible services to be performed by our independent public accountants must be pre-approved;

The Board's Audit Committee established "Audit Committee Complaint Procedures" for the receipt, retention and treatment of complaints regarding accounting, internal accounting controls or auditing matters, including the anonymous submission by employees of concerns regarding questionable accounting or auditing matters;

The Board adopted a Code of Business Conduct and Ethics, which governs business decisions made and actions taken by our directors, officers and employees and a copy of which is available in print to stockholders upon written request addressed to the Company, c/o Investor Relations, One Beacon Street, Suite 1500, Boston, MA 02108; and

The Board established an Ethics Hotline that employees may use to anonymously report possible violations of the Code of Business Conduct and Ethics, including concerns regarding questionable accounting, internal accounting controls or auditing matters.

Recent Accounting Pronouncements

In May 2011, the Financial Accounting Standard Board ("FASB") issued ASU 2011-04, Fair Value Measurement (Topic 820): Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs. ASU 2011-04 clarifies some existing concepts, eliminates wording differences between U.S. GAAP and International Financial Reporting Standards ("IFRS"), and in some limited cases, changes some principles to achieve convergence between U.S. GAAP and IFRS. ASU 2011-04 results in a consistent definition of fair value and common requirements for measurement of and disclosure about fair value between U.S. GAAP and IFRS. ASU 2011-04 also expands the disclosures for fair value measurements that are estimated using significant unobservable (Level 3) inputs. ASU 2011-04 will be effective for the Company beginning after December 15, 2011. The Company does not expect the adoption of ASU 2011-04 to have a material effect on its operating results or financial position.

Table of contents

In June 2011, the FASB issued ASU 2011-05, Presentation of Comprehensive Income, which requires an entity to present the total of comprehensive income, the components of net income, and the components of other comprehensive income either in a single continuous statement of comprehensive income, or in two separate but consecutive statements. ASU 2011-05 eliminates the option to present components of other comprehensive income as part of the statement of equity. ASU 2011-05 will be effective for the Company on January 1, 2012. The Company does not expect the adoption of ASU 2011-05 to have a material effect on its operating results or financial position.

Liquidity and Capital Resources

Cash and Cash Flows

As of December 31, 2011, 2010 and 2009, the Company had approximately, $9,645,000, $12,894,000 and $17,957,000 of cash and cash equivalents, respectively.

	Year ended December 31,		
	2011	2010	2009
Cash provided by operating activities	$16,146,661	$13,953,330	$9,596,978
Cash (used in) provided by investing activities	(52,324,348)	3,520,272	(25,744,815)
Cash provided by (used in) financing activities	32,929,442	(22,536,554)	9,876,839

During the year ended December 31, 2011, cash decreased by $3,248,245. The overall decrease was due primarily to the acquisition of Estancia Townhomes and investments in 2020 Lawrence and Walnut Creek totaling $54,487,297 and Multifamily Limited Liability Company of $15,104,116, which were funded by borrowings from mortgage notes payable of $73,192,682 and proceeds from the revolving credit facility of $34,028,500. In addition, cash decreased by prepayments of mortgage notes payable of $30,009,982, capital expenditures of $18,000,511, distributions to noncontrolling interest in properties of $6,851,145 and the Company's regular quarterly distributions to its preferred shareholders totaling $6,700,763. The decrease was partially offset by proceeds from the sale of the Glo property of $32,629,649. The Company's share of the proceeds was $25,679,078 from the sale which was used to reduce the outstanding balance of the revolving credit facility.

The Company's principal liquidity demands are expected to be distributions to our preferred shareholders, distributions to common shareholders and Operating Partnership unitholders, subject to sufficient liquidity, capital improvements, rehabilitation projects and repairs and maintenance for the properties, acquisition of additional properties within the investment restrictions placed on it by BMEF and debt repayment. Debt repayment in 2011 represented normal monthly amortization of the mortgage debt.

The Company intends to meet its short-term liquidity requirements through net cash flows provided by operating activities and advances from the revolving credit facility. The Company considers its ability to generate cash to be adequate to meet all operating requirements and make distributions to its preferred stockholders in accordance with the provisions of the Tax Code, applicable to REITs. Funds required to make distributions to our preferred and common shareholders and Operating Partnership unitholders that are not provided by operating activities will be supplemented by property debt financing and refinancing activities and advances on the revolving credit facility. As circumstances dictate and depending on the availability of funds, the Board may vote to forgo quarterly distributions to the Company's common shareholders and Operating Partnership unitholders as it has done during 2011.

The Company intends to meet its long-term liquidity requirements through property debt financing and refinancing noting that possible interest rate increases resulting from current economic conditions could negatively impact the Company's ability to refinance existing debt at acceptable rates. In 2013 and 2014, approximately $55,995,000 and $62,069,000, respectively, of the Company's outstanding mortgage debt is due to mature and be repaid. The Company may seek to expand its ability to purchase properties through the use of venture relationships with other companies.

There is no guarantee that the Company's borrowing arrangements or other arrangements for obtaining liquidity will continue to be available, or if available, will be available on terms and conditions acceptable to the Company. Unfavorable economic conditions also could increase funding costs, limit access to the capital markets or result in a decision by lenders not to extend credit to the Company. In addition, a decline in market value of the Company's assets may have particular adverse consequences in instances where the Company borrowed money based on the fair value of those assets. A decrease in market value of those assets may result in the lender requiring the Company to post additional collateral at a time when it may not be in the Company's best interest to do so. As of December 31, 2011, the Company does not have significant exposure to financing in which the lender can require the Company to post additional collateral or otherwise sell assets to settle the financing obligations.

Table of contents

On January 31, 2011, the Operating Partnership, through its subsidiary, BIR Estancia Limited Partnership, completed the acquisition of Estancia Townhomes, a 207-unit townhome style apartment community located in Dallas, Texas. The sellers were unaffiliated third parties. The purchase price for the property was $42,000,000 and was subject to normal operating prorations as provided for in the purchase and sale agreement. Simultaneously with the acquisition, the Company closed on a $26,500,000 bridge loan used to acquire the property. The loan had an interest rate of 6.5% and a term of three months with a one-month extension available. On March 25, 2011, the Company closed on a $29,004,000 first mortgage on the Estancia Townhomes property. The loan is an unsecured first mortgage note collateralized by the property with a fixed interest rate of 5.15% and a term of 10 years. Proceeds from the loan were used to repay the $26,500,000 bridge loan used to acquire the property, pay expenses related to the new loan and for other general operating activities of the Company.

On March 31, 2011, the Operating Partnership, through JV 2020 Lawrence, entered into an agreement for fixed rate construction-to-permanent financing totaling up to $45,463,100, which will be collateralized by the related property and is insured by the U.S. Department of Housing and Urban Development ("HUD"). The construction loan will convert to permanent financing at the completion of the development period and will continue for a term of 40 years from the date of conversion at a fixed interest rate of 5.00%. The proceeds of the financing will be used to develop a mid-rise multifamily apartment building in Denver, Colorado. JV 2020 Lawrence submitted the first construction loan draw to the lender at closing. As of December 31, 2011, the outstanding balance on the loan was $14,070,892.

On December 29, 2011, the Company closed on the refinancing of the second mortgage on the Executive House property so that the new loan will be coterminous with current first mortgage on April 1, 2016.

As of December 31, 2011, the Company has fixed interest rate mortgage financing on all properties in the portfolio.

The Company had a $20,000,000 revolving credit facility in place with an affiliate of the Company, which was amended on February 17, 2011. The facility provides for interest on borrowings at a rate of 5% above the 30-day LIBOR rate, as announced by Reuters, and fees based on borrowings under the facility and various operational and financial covenants, including a maximum leverage ratio and a maximum debt service ratio. The facility provides for a 60-day notice of termination by which the lender can affect a termination of the commitment under the facility and render all outstanding amounts due and payable. Additionally, the facility also contains a clean-up requirement which requires the borrower to repay in full all outstanding loans and have no outstanding obligations under the Agreement for a 14 consecutive day period during each 365-day period.

On February 17, 2011, the Company executed an amendment to the facility (the "Credit Facility Amendment") which provides for a temporary modification of certain provisions of the facility during a period commencing with the date of execution and ending on July 31, 2012 (the "Amendment Period"), subject to extension. During the Amendment Period, certain provisions of the facility are modified and include: an increase in the amount of the commitment from $20,000,000 to $40,000,000; elimination of the leverage ratio covenant and clean-up requirement (each as defined in the revolving credit facility agreement) and computation and payment of interest on a quarterly basis. At the conclusion of the Amendment Period, including extensions, the provisions modified pursuant to the Credit Facility Amendment will revert back to the provisions of the revolving credit facility agreement prior to the Amendment Period.

During the years ended December 31, 2011 and 2010, the Company borrowed $34,028,500 and $0, respectively, under the revolving credit facility and repaid $25,679,078 and $15,720,000, respectively, during the same periods. As of December 31, 2011 and 2010, there was $8,349,422 and $0 outstanding on the facility, respectively.

Indebtedness

The following table provides summary information with respect to the mortgage debt incurred by the Company during the year ended December 31, 2011:

Property Name	New Balance	Closing Date	Interest Rate		Term
Fixed Rate Mortgages:					
Estancia (1)	$29,004,000	March 25, 2011	5.15	%	10 Years
2020 Lawrence (2)	14,070,892	March 31, 2011	5.00	%	40 Years
Executive House (2nd Note)	3,617,790	December 29, 2011	4.24	%	51 Months
Total (3)	$46,692,682				

(1) The acquisition of Estancia Townhomes was originally financed with a $26,500,000 bridge loan which was refinanced in March 2011.

Table of contents

(2) The loan is a construction loan for 2 years and permanent financing for 40 years. The total amount available under the construction loan is $45,463,100. There were funding advances totaling $14,070,892 during the year ended December 31, 2011.

(3) Refer to Part IV, Item 15 - Notes to the Consolidated Financial Statements, Note 7 - Mortgage Notes Payable for a complete list of indebtedness of the Company.

Capital Expenditures

The Company incurred $3,647,992 and $3,286,267 in recurring capital expenditures during the years ended December 31, 2011 and 2010, respectively. Recurring capital expenditures typically include items such as appliances, carpeting, flooring, HVAC equipment, kitchen and bath cabinets, site improvements and various exterior building improvements.

The Company incurred $14,352,519 and $5,762,197 in renovation-related and development capital expenditures during the years ended December 31, 2011 and 2010, respectively. Renovation related capital expenditures generally include capital expenditures of a significant non-recurring nature, including construction management fees payable to an affiliate of the Company, where the Company expects to see a financial return on the expenditure or where the Company believes the expenditure preserves the status of a property within its sub-market.

During 2007, the Company, as part of the decision to acquire the Hampton House property, contemplated a rehabilitation project at the 196-unit property of approximately $6,150,000 for interior and exterior renovation improvements. The project includes rehabilitation of interior common areas including the lobby and central utility systems and replacement of all windows and painting of the exterior. As of December 31, 2011, the project was 99% complete as 195 of the 196 units had been completed, of which 195 units, or 100% have been leased. The project is on track and spending is within budget. As of December 31, 2011, the Company had incurred approximately $3,526,000 on the rehabilitation project.

On February 10, 2011, the Operating Partnership, through its subsidiary, BIR 2020 Lawrence, L.L.C., entered into an agreement to acquire approximately 90% of the ownership interests in a development project to build a 231-unit multifamily mid-rise community in Denver, Colorado. As of December 31, 2011, the project development cost incurred were approximately $17.8 million of the total budgeted costs of approximately $55.5 million, of which $45.5 million is being funded by HUD-insured financing. There was $481,958 of interest capitalized in the year ended December 31, 2011.

On December 12, 2011, the Company executed an LLC agreement with an unrelated entity for the development of a 154-unit apartment building in Walnut Creek, California. Once fully committed, the Company's ownership percentage will be 98%. Total capital committed to the venture is $16,872,863. As of December 31, 2011, the Company has made capital contributions of $253,105, or 1.5% of the total commitment.

Pursuant to terms of the mortgage debt on certain properties in the Company's portfolio, lenders require the Company to fund repair or replacement escrow accounts. The funds in the escrow accounts are disbursed to the Company upon completion of the required repairs or renovations activities. The Company is required to provide to the lender documentation evidencing the completion of the repairs, and in some cases, are subject to inspection by the lender. Refer to Part IV, Item 15 - Notes to the Consolidated Financial Statements, Note 11 - Commitments and Contingencies.

The Company's capital budgets for 2012 anticipate spending approximately $7,922,000 for ongoing capital needs. As of December 31, 2011, the Company has not committed to any new significant rehabilitation projects.

Off-Balance Sheet Arrangements

The Company's investment in BVF obligated the Company to make capital contributions to BVF in the amount of $23,400,000 during the investment period of BVF. As of December 31, 2011, the Company has made 100% of the capital contributions required by BVF. The Company has no obligation to make any additional contributions of capital to BVF.

Acquisitions and Dispositions

Discussion of acquisitions for the year ended December 31, 2011

On January 31, 2011, the Operating Partnership, through its subsidiary, BIR Estancia Limited Partnership, completed the acquisition of Estancia Townhomes, a 207-unit townhome style apartment community located in Dallas, Texas. The sellers were unaffiliated third parties. The purchase price for the property was $42,000,000 and was subject to normal operating prorations as provided

Table of contents

for in the purchase and sale agreement. Simultaneously with the acquisition, the Company closed on a $26,500,000 bridge loan used to acquire the property. The loan had an interest rate of 6.5% and a term of three months with a one month extension available. On March 25, 2011, the Company closed on a $29,004,000 first mortgage on the Estancia Townhomes property. The loan is an unsecured first mortgage note collateralized by the property with a fixed interest rate of 5.15% and a term of 10 years. Proceeds from the loan were used to repay the $26,500,000 bridge loan used to acquire the property, pay expenses related to the new loan and for other general operating activities of the Company.

On February 10, 2011, the Operating Partnership, through a newly formed subsidiary, BIR 2020 Lawrence, L.L.C. ("BIR 2020"), entered into the Amended and Restated Limited Liability Company Agreement of 2020 Lawrence Street, L.L.C. joint venture agreement ("JV 2020 Lawrence") with Zocalo Community Development, Inc. ("Zocalo") and JB 2020, LLC ("JB 2020"), unrelated third parties, to acquire a 91.075% ownership interests in a development project to build a 231-unit multifamily mid-rise apartment community in Denver, Colorado. Total budgeted development costs are approximately $55.5 million of which approximately $45.5 million is being financed by a HUD-insured construction loan that will convert to permanent financing with a term of 40 years at the completion of the development construction period. The investment is consistent with the Company's desire to acquire or develop well located Class A multifamily apartment communities and building at attractive prices. The capital commitment of BIR 2020 to the project is $8,000,000.

Under the terms of the limited liability company agreement governing JV 2020 Lawrence, BIR 2020 owns a 91.075% interest and Zocalo and JB 2020 own a 5.282% and 3.643%, respectively, interest in JV 2020 Lawrence. Zocalo is entitled to perform property management services and receive fees in payment thereof. The Company evaluated its investment in JV 2020 Lawrence and concluded that the investment was not a variable interest entity under ASC 810-10 and therefore accounts for the investment based on its controlling interest in the venture.

On December 12, 2011, the Company executed an LLC agreement with an unrelated entity for the development of a 154-unit apartment building in Walnut Creek, California. The ownership percentage is 98%. Total capital committed to the venture is $16,872,863. As of December 31, 2011, the Company has made capital contributions of $253,105, or 1.5% of the total commitment.

Discussion of dispositions for the year ended December 31, 2011

On December 22, 2011, the Company, through its joint venture, BIR Holland JV LLC, closed on the sale of the Glo property to Equity Residential for $68.5 million. The outstanding bonds were assumed by the buyer. The Company's share of the proceeds from the transaction were used to reduce the outstanding balance of the revolving credit facility.

Contractual Obligations and Other Commitments

On January 31, 2011, the Operating Partnership, through its subsidiary, BIR Estancia Limited Partnership, completed the acquisition of Estancia Townhomes, a 207-unit townhome style apartment community located in Dallas, Texas. The sellers were unaffiliated third parties. The purchase price for the property was $42,000,000 and was subject to normal operating prorations as provided for in the purchase and sale agreement. Simultaneously with the acquisition, the Company closed on a $26,500,000 bridge loan used to acquire the property. The loan had an interest rate of 6.5% and a term of three months with a one-month extension available. On March 25, 2011, the Company closed on a $29,004,000 first mortgage on the Estancia Townhomes property. The loan is an unsecured first mortgage note collateralized by the property with a fixed interest rate of 5.15% and a term of 10 years. Proceeds from the loan were used to repay the $26,500,000 bridge loan used to acquire the property, pay expenses related to the new loan and for other general operating activities of the Company.

On March 31, 2011, the Operating Partnership, through JV 2020 Lawrence, entered into an agreement for fixed rate construction-to-permanent financing totaling up to $45,463,100, which will be collateralized by the related property and is insured by the U.S. Department of Housing and Urban Development ("HUD"). The construction loan will convert to permanent financing at the completion of the development period and will continue for a term of 40 years from the date of conversion at a fixed interest rate of 5.00%. The proceeds of the financing will be used to develop a mid-rise multifamily apartment building in Denver, Colorado. JV 2020 Lawrence submitted the first construction loan draw to the lender at closing. As of December 31, 2011, the outstanding balance on the loan was $14,070,892.

On December 29, 2011, the Company closed on the refinancing of the second mortgage on the Executive House property so that the new loan will be coterminous with its current first mortgage maturity on April 1, 2016.

The Company expects to continue to take advantage of the low interest rate mortgage environment as it acquires additional properties. The Company expects to use leverage amounts up to 75% of the fair market value on a portfolio basis.

Table of contents

The primary obligations of the Company relate to its borrowings under the mortgage notes payable. The $484,748,358 in mortgage notes payable has varying maturities ranging from 1 to 40 years. The following table summarizes our contractual obligations as of December 31, 2011:

	2012	2013	2014	2015	2016	Thereafter
Long Term Debt Obligations (1)	$5,427,845	$61,157,327	$66,405,551	$63,464,577	$78,377,143	$209,915,915
Capital Lease Obligations	—	—	—	—	—	—
Operating Lease Obligations	—	—	—	—	—	—
Purchase Obligations (2)	—	—	—	—	—	—
Other Long-Term Liabilities Reflected on Balance Sheet under GAAP	—	—	—	—	—	—

(1) Amounts include principal payments only. The Company will pay interest on outstanding indebtedness based on the rates and terms as summarized in Part IV, Item 15 - Notes to the Consolidated Financial Statements, Note 7 - Mortgage Notes Payable.

(2) The Company has obligations under numerous contracts with various service providers at its properties. None of these contracts are for periods greater than one year or are material either individually or in aggregate to the Company's operations.

Competition

The Company competes with other multifamily apartment community owners and operators and other real estate companies in seeking properties for acquisition and in attracting potential residents. The Company's properties are in developed areas where there are other properties of the same type, which directly compete for residents. The Company believes that its focus on resident service and satisfaction gives it a competitive advantage when competing against other communities for tenants.

Market Environment

Though the United States' economy continues to be challenged by the high unemployment rate, slow but reasonably steady growth is still seen in many parts of the economy. The multifamily sector continues to exhibit strong fundamentals and improved performance on a national basis, evidenced by improved occupancy levels and increases in effective rents. These improvements are due, in large part, to favorable supply and demand dynamics, as construction of new apartment units and single family homes has decreased significantly, home ownership has declined, and the home buying market has weakened due to stricter mortgage qualification standards and declining home values.

Credit worthy borrowers in the multifamily sector continue to be able to access capital through Fannie Mae and Freddie Mac and other sources, at historically attractive rates. There is no assurance that under existing or future regulatory restrictions this source of capital, unique to multifamily borrowers will continue to be available.

The Company continues to believe that projected demographic trends will favor the multifamily sector, driven primarily by the continued flow of echo boomers (children of baby boomers, age 20 to 29), the fastest growing segment of the population, and an increasing number of immigrants who are often renters by necessity. In many cases, the current economic climate has delayed many would-be residents from entering the rental market and instead choosing to remain at home or to share rental units instead of renting their own space. This trend may be creating a backlog of potential residents who will enter the market as the economy begins to rebound and unemployment rates begin to trend back to historical norms. The Company's properties are generally located in markets where zoning restrictions, scarcity of land and high construction costs create significant barriers to new development. The Company believes it is well positioned to manage its portfolio through the remainder of this economic downturn and is prepared to take advantage of opportunities that present themselves during such times.

Declaration of Dividends and Distributions on Class B Common Stock

On May 6, 2008, the Board authorized the general partner of the Operating Partnership to distribute quarterly distributions of $1,000,000 each, in the aggregate, from its operating cash flows to common general and common limited partners, payable on August 15, 2008 and November 15, 2008. On the same day, the Board also declared a common dividend of $0.016996 per share on the Company's Class B common stock payable concurrently with the Operating Partnership distributions. Also on May 6, 2008, the Board authorized the general partner of the Operating Partnership to distribute a special distribution of $10,000,000 from its operating cash flows to common general and common limited partners, payable on May 15, 2008. On the same day, the

Table of contents

Board also declared a common dividend of $0.169963 per share on the Company's Class B common stock payable concurrently with the Operating Partnership distribution.

For the years ended December 31, 2011 and 2010, the Company did not declare distributions to its common shareholders. There was no common dividend payable outstanding at December 31, 2011 or December 31, 2010.

The Company's policy to provide for common distributions is based on available cash and Board approval.

Results of Operations and Financial Condition

During the year ended December 31, 2011, the Company's portfolio (the "Total Property Portfolio"), which consists of all properties acquired or placed in service and owned through December 31, 2011, increased by the acquisition of Estancia Townhomes and decreased by the sale of Glo. As a result of changes in the Total Portfolio over time, including the change in the portfolio holdings during 2011, the financial statements show considerable changes in revenue and expenses from period to period. The Company does not believe that its period-to-period financial data are comparable. Therefore, the comparison of operating results for the years ended December 31, 2011 and 2010 reflect changes attributable to the properties that were owned by the Company throughout each period presented (the "Same Property Portfolio").

Net Operating Income ("NOI") falls within the definition of a "non-GAAP financial measure" as stated in Item 10(e) of Regulation S-K promulgated by the SEC. The Company believes NOI is a measure of operating results that is useful to investors to analyze the performance of a real estate company because it provides a direct measure of the operating results of the Company's multifamily apartment communities. The Company also believes it is a useful measure to facilitate the comparison of operating performance among competitors. The calculation of NOI requires classification of income statement items between operating and non-operating expenses, where operating items include only those items of revenue and expense which are directly related to the income producing activities of the properties. We believe that to achieve a more complete understanding of the Company's performance, NOI should be compared with our reported net income (loss). Management uses NOI to evaluate the operating results of properties without reflecting the effect of capital decisions such as the issuance of mortgage debt and investments in capital items, in turn these capital decisions have an impact on interest expense and depreciation and amortization.

The most directly comparable financial measure of our NOI, calculated and presented in accordance with GAAP, is net income (loss), shown on the statement of operations. For the years ended December 31, 2011, 2010 and 2009, the net income (loss) was $1,922,299, $(25,726,511) and $(28,685,234), respectively. A reconciliation of our NOI to net income (loss) for the years ended December 31, 2011, 2010 and 2009 are presented as part of the following tables on pages 30 and 34.

Table of contents

Comparison of year ended December 31, 2011 to the year ended December 31, 2010

The tables below reflect selected operating information for the Same Property Portfolio and the Total Property Portfolio for the years ended December 31, 2011 and 2010. The Same Property Portfolio consists of the 25 properties acquired or placed in service on or prior to January 1, 2010 and owned through December 31, 2011. The Total Property Portfolio includes the effect of the change in the one property acquired during the year ended December 31, 2011, Estancia Townhomes, and the sale of one property, Glo, during the same period. (The 2010 activity for Glo has been removed from the presentation as the results have been reflected as discontinued operations in the consolidated statements of operations.)

	Same Property Portfolio Year ended December 31,			
	2011	2010	Increase/ (Decrease)	% Change
Revenue:				
Rental	$74,147,478	$72,249,994	$1,897,484	2.63 %
Interest, utility reimbursement and other	6,499,535	5,736,523	763,012	13.30 %
Total revenue	80,647,013	77,986,517	2,660,496	3.41 %
Operating Expenses:				
Operating	20,651,476	20,292,862	358,614	1.77 %
Maintenance	5,254,127	4,992,421	261,706	5.24 %
Real estate taxes	7,214,480	7,364,482	(150,002)	(2.04)%
General and administrative	—	—	—	— %
Management fees	3,087,218	3,009,595	77,623	2.58 %
Total operating expenses	36,207,301	35,659,360	547,941	1.54 %
Net Operating Income	44,439,712	42,327,157	2,112,555	4.99 %
Non-operating expenses:				
Depreciation	28,307,834	29,858,741	(1,550,907)	(5.19)%
Interest, inclusive of amortization of deferred financing fees	26,228,314	26,096,606	131,708	0.50 %
Amortization of acquired in-place leases and tenant relationships	—	44,550	(44,550)	(100.00)%
Total non-operating expenses	54,536,148	55,999,897	(1,463,749)	(2.61)%
Loss before equity in loss of Multifamily Venture Limited Partnership and Multifamily Limited Liability Company	(10,096,436)	(13,672,740)	3,576,304	26.16 %
Equity in loss of Multifamily Venture Limited Partnership	—	—	—	— %
Equity in loss of Multifamily Limited Liability Company	—	—	—	— %
Net loss	$(10,096,436)	$(13,672,740)	$3,576,304	26.16 %

Table of contents

Comparison of the year ended December 31, 2011 to the year ended December 31, 2010

	Total Property Portfolio Year ended December 31, 2011	2010	Increase/ (Decrease)	% Change
Revenue:				
Rental	$78,047,186	$71,682,274	$6,364,912	8.88 %
Interest, utility reimbursement and other	6,643,695	5,746,385	897,310	15.62 %
Total revenue	84,690,881	77,428,659	7,262,222	9.38 %
Operating Expenses:				
Operating	22,484,717	21,125,259	1,359,458	6.44 %
Maintenance	5,439,948	4,992,421	447,527	8.96 %
Real estate taxes	7,741,992	7,394,122	347,870	4.70 %
General and administrative	1,686,985	1,859,034	(172,049)	(9.25)%
Management fees	4,942,020	4,701,706	240,314	5.11 %
Incentive advisory fees	1,696,485	2,207,795	(511,310)	(23.16)%
Total operating expenses	43,992,147	42,280,337	1,711,810	4.05 %
Net Operating Income	40,698,734	35,148,322	5,550,412	15.79 %
Non-operating expenses:				
Depreciation	30,167,972	29,858,741	309,231	1.04 %
Interest, inclusive of amortization of deferred financing fees	28,601,522	26,417,819	2,183,703	8.27 %
Amortization of acquired in-place leases and tenant relationships	531,422	44,550	486,872	1,092.87 %
Total non-operating expenses	59,300,916	56,321,110	2,979,806	5.29 %
Loss before equity in loss of Multifamily Venture Limited Partnership and Multifamily Limited Liability Company	(18,602,182)	(21,172,788)	2,570,606	12.14 %
Equity in loss of Multifamily Venture Limited Partnership	(3,315,350)	(4,080,225)	764,875	18.75 %
Equity in loss of Multifamily Limited Liability Company	(114,665)	—	(114,665)	(100.00)%
Discontinued operations	23,954,496	(473,498)	24,427,994	5,159.05 %
Net income (loss)	$1,922,299	$(25,726,511)	$27,648,810	107.47 %

Table of contents

Comparison of the year ended December 31, 2011 to the year ended December 31, 2010
(Same Property Portfolio)

Revenue

Rental Revenue

Rental revenue for the Same Property Portfolio increased for the year ended December 31, 2011 in comparison to the same period in 2010. The increase is mainly attributable to increased occupancy and rents at most of the properties. Market conditions remain stable in the majority of the sub-markets in which the Company owns and operates apartments. The Company continues to benefit from its focus on resident retention in the Same Property Portfolio. Improving economic conditions and the continued strength in the apartment markets has allowed the Company to implement rent increases at properties in strong markets while retaining high levels of quality tenants throughout the portfolio.

Interest, utility reimbursement and other revenue

Same Property Portfolio interest, utility reimbursement and other revenues increased for the year ended December 31, 2011 as compared to the year ended December 31, 2010 due primarily to the continued expansion of the Company's utility bill back programs, increased fees charged to tenants and potential tenants, including pet fees, parking, valet trash and other similar revenue items.

Operating Expenses

Operating

Overall operating expenses increased for the year ended December 31, 2011 as compared to the same period of 2010. Higher utility expenses including water and sewer charges related to fluctuations in comparable usage at properties and increased state income taxes related to municipal taxes at a property not previously incurred, were partially offset by savings in payroll expenses related to bonus, benefits costs and property insurance.

Maintenance

Maintenance expense increased for the year ended December 31, 2011 as compared to the same period of 2010, primarily due to various small incidents at properties which were less than the insurance deductible and included water intrusion related events at Berkshire at Town Center and Berkshires at Lenox Park. The increase was partially offset by lower snow removal costs at the Seasons and Berkshire of Columbia properties as compared to 2010. Management continues to employ a proactive maintenance rehabilitation strategy and its apartment communities and considers the strategy an effective program that preserves, and in some cases increases, its occupancy levels through improved consumer appeal of the apartment communities, from both an interior and exterior perspective.

Real Estate Taxes

Real estate taxes decreased for the year ended December 31, 2011 from the comparable period of 2010. The Company continually scrutinizes the assessed values of its properties and avails itself of arbitration or similar forums made available by the taxing authority for increases in assessed value that it considers to be unreasonable. The Company has been successful in achieving tax abatements for certain of its properties based on challenges made to the assessed values. Going forward, the Company anticipates a general upward trend in real estate tax expense as local and state taxing agencies continue to place significant reliance on property tax revenue.

Management Fees

Management fees of the Same Property Portfolio increased for the year ended December 31, 2011 compared to the same period of 2010. Property management fees are assessed on the revenue stream of the properties managed by an affiliate of the Company.

Table of contents

Non-Operating Expenses

Depreciation

Depreciation expense of the Same Property Portfolio decreased for the year ended December 31, 2011 as compared to the same period of the prior year. The decrease is a result of assets that have been fully depreciated, offset by the additions to the basis of fixed assets in the portfolio driven by substantial rehabilitation projects ongoing at the Berkshire at Town Center property and to a lesser degree, normal recurring capital spending activities over the remaining properties in the Same Property Portfolio.

Interest, inclusive of amortization of deferred financing fees

Interest expense for the year ended December 31, 2011 increased over the comparable period of 2010. The increase is primarily attributable to higher interest expenses for the Savannah at Citrus Park property. The Citrus Park loan was paid off in November 2009 and refinancing of the property was closed in May 2010. As a result, interest expense at Citrus Park is significantly higher for the first half of 2011 compared to 2010.

Amortization of acquired in-place leases and tenant relationships

Amortization of acquired in-place-leases and tenant relationships decreased for the year ended December 31, 2011 as compared to the same period in 2010. The decrease is related mainly to the completion of amortization of the acquired in-place lease intangible assets booked at acquisition and amortized over a twelve-month period which did not extend into the year ended December 31, 2011.

Comparison of the year ended December 31, 2011 to the year ended December 31, 2010
(Total Property Portfolio)

In general, increases in revenues and total operating expenses and non-operating expenses of the Total Property Portfolio for the year ended December 31, 2011 as compared to the year ended December 31, 2010 are due mainly, in addition to the reasons discussed above, to the fluctuations in the actual properties owned during the comparative periods, as properties were acquired, began development or sold during 2011. The increase in total operating expenses was also attributable to transaction costs of $620,779 associated with the acquisition of the Estancia Townhomes expensed pursuant to the guidance of ASC 805-10, which were included in Operating expenses for year ended December 31, 2011, as well as increased corporate-related legal costs recorded during the year ended December 31, 2011, offset by decreased Incentive Advisory Fees accrued pursuant to the Advisory Services Agreement recorded during the same period. (Refer to Part IV, Item 15 - Notes to the Consolidated Financial Statements, Note 14 - Related Party Transactions on page 75 for further discussion.) The increase in total non-operating expenses was mainly attributable to higher interest expenses incurred as a result of higher revolving credit balance outstanding during the year ended December 31, 2011 when compared to the same period ended December 31, 2010.

Table of contents

Comparison of year ended December 31, 2010 to the year ended December 31, 2009

The tables below reflect selected operating information for the Same Property Portfolio and the Total Property Portfolio for the years ended December 31, 2010 and 2009. The Same Property Portfolio consists of the 24 properties acquired or placed in service on or prior to January 1, 2009 and owned through December 31, 2010. The Total Property Portfolio includes the effect of the change in the one property acquired during the year ended December 31, 2009, Glo, and the completion of development of one property, the Reserves at Arboretum, during the same period. (The 2010 activity for Glo and 2009 activity for Glo, Century, St Marin, Westchester West and Westchase has been removed from the presentation as the results have been reflected as discontinued operations in the consolidated statements of operations.)

	Same Property Portfolio Year ended December 31,			
	2010	2009	Increase/ (Decrease)	% Change
Revenue:				
Rental	$70,268,796	$69,975,083	$293,713	0.42 %
Interest, utility reimbursement and other	5,532,766	4,851,521	681,245	14.04 %
Total revenue	75,801,562	74,826,604	974,958	1.30 %
Operating Expenses:				
Operating	19,776,244	20,532,081	(755,837)	(3.68)%
Maintenance	4,890,072	3,970,056	920,016	23.17 %
Real estate taxes	7,174,239	7,534,411	(360,172)	(4.78)%
General and administrative	—	—	—	— %
Management fees	2,924,039	2,940,387	(16,348)	(0.56)%
Total operating expenses	34,764,594	34,976,935	(212,341)	(0.61)%
Net Operating Income	41,036,968	39,849,669	1,187,299	2.98 %
Non-operating expenses:				
Depreciation	29,017,214	30,389,055	(1,371,841)	(4.51)%
Interest, inclusive of amortization of deferred financing fees	25,227,588	25,405,106	(177,518)	(0.70)%
Amortization of acquired in-place leases and tenant relationships	44,550	309,339	(264,789)	(85.60)%
Total non-operating expenses	54,289,352	56,103,500	(1,814,148)	(3.23)%
Loss before equity in loss of Multifamily Venture Limited Partnership and Mezzanine Loan Limited Liability Company	(13,252,384)	(16,253,831)	3,001,447	18.47 %
Equity in loss of Multifamily Venture Limited Partnership	—	—	—	— %
Equity in loss of Mezzanine Loan Limited Liability Company	—	—	—	— %
Net loss	$(13,252,384)	$(16,253,831)	$3,001,447	18.47 %

33

Table of contents

Comparison of the year ended December 31, 2010 to the year ended December 31, 2009

	Total Property Portfolio Year ended December 31, 2010	2009	Increase/ (Decrease)	% Change
Revenue:				
Rental	$71,682,274	$71,197,277	$484,997	0.68 %
Interest, utility reimbursement and other	5,746,385	5,031,011	715,374	14.22 %
Total revenue	77,428,659	76,228,288	1,200,371	1.57 %
Operating Expenses:				
Operating	21,125,259	22,471,545	(1,346,286)	(5.99)%
Maintenance	4,992,421	4,027,295	965,126	23.96 %
Real estate taxes	7,394,122	7,949,344	(555,222)	(6.98)%
General and administrative	1,859,034	2,423,958	(564,924)	(23.31)%
Management fees	4,701,706	4,690,496	11,210	0.24 %
Incentive advisory fees	2,207,795	—	2,207,795	100.00 %
Total operating expenses	42,280,337	41,562,638	717,699	1.73 %
Net Operating Income	35,148,322	34,665,650	482,672	1.39 %
Non-operating expenses:				
Depreciation	29,858,741	30,990,501	(1,131,760)	(3.65)%
Interest, inclusive of amortization of deferred financing fees	26,417,819	25,562,613	855,206	3.35 %
Amortization of acquired in-place leases and tenant relationships	44,550	302,251	(257,701)	(85.26)%
Total non-operating expenses	56,321,110	56,855,365	(534,255)	(0.94)%
Loss before equity in loss of Multifamily Venture Limited Partnership and Mezzanine Loan Limited Liability Company	(21,172,788)	(22,189,715)	1,016,927	4.58 %
Equity in loss of Multifamily Venture Limited Partnership	(4,080,225)	(4,143,070)	62,845	1.52 %
Equity in loss of Mezzanine Loan Limited Liability Company	—	(947,294)	947,294	100.00 %
Discontinued Operations	(473,498)	(1,405,155)	931,657	66.30 %
Net loss	$(25,726,511)	$(28,685,234)	$2,958,723	10.31 %

Table of contents

Comparison of the year ended December 31, 2010 to the year ended December 31, 2009
(Same Property Portfolio)

Revenue

Rental Revenue

Rental revenue for the Same Property Portfolio increased for the year ended December 31, 2010 in comparison to the same period in 2009. The increase is mainly attributable to increased occupancy at most of the properties, more specifically at the Hampton House and Executive House properties as a result of the completion and availability of renovated units from its ongoing rehabilitation project. Market conditions during the period remained stable in the majority of the sub-markets in which the Company owns and operates apartments however the current economic environment has resulted in increased bad debts at certain properties in the portfolio. The Company continues to benefit from its focus on resident retention and property rehabilitation projects at various properties in the Same Property Portfolio where successful projects improve the consumer appeal and historically have yielded increased rental revenues as rehabilitated units become available for occupancy at the incrementally higher rental rates than the pre-rehabilitation levels. Given current economic conditions, the Company is prioritizing the retention of quality tenants in properties throughout the portfolio.

Interest, utility reimbursement and other revenue

Same Property Portfolio interest, utility reimbursement and other revenues increased for the year ended December 31, 2010 as compared to the year ended December 31, 2009. Increase in utility reimbursement is mainly due to successful increases in usage of bill back programs to tenants. Other revenue increased is mainly attributable to increased income received from various cable service companies for their exclusive rights to service our properties.

Operating Expenses

Operating

Overall operating expenses decreased for the year ended December 31, 2010 as compared to the same period of 2009. Savings in marketing costs and utilities, including electricity and gas, were partially offset by higher expenses in payroll due to higher bonus payment, and water and sewer. Group insurance expenses for the year ended December 31, 2010 were lower compared to the same period ended December 31, 2009 as a result of the Company's property insurance coverage renewal in April 2010. Savings in marketing costs is primarily as a result of the Company's overall direction to focus on internet-based advertising in place of print advertising.

Maintenance

Maintenance expense increased for the year ended December 31, 2010 as compared to the same period of 2009, primarily due to increase in snow removal costs at the Seasons and Berkshire of Columbia properties during the first quarter of 2010, partially offset by reduced unit turnover-related expenses as a result of increased occupancy at most of the properties. Management continues to employ a proactive maintenance rehabilitation strategy at its apartment communities and considers the strategy an effective program that preserves, and in some cases increases, its occupancy levels through improved consumer appeal of the apartment communities, from both an interior and exterior perspective.

Real Estate Taxes

Real estate taxes decreased for the year ended December 31, 2010 from the comparable period of 2009. The Company continually scrutinizes the assessed values of its properties and avails itself of arbitration or similar forums made available by the taxing authority for increases in assessed value that it considers to be unreasonable. The Company has been successful in achieving tax abatements for certain of its properties based on challenges made to the assessed values. Going forward, the Company anticipates a general upward trend in real estate tax expense as local and state taxing agencies continue to place significant reliance on property tax revenue.

Management Fees

Management fees of the Same Property Portfolio decreased slightly for the year ended December 31, 2010 compared to the same period of 2009. Property management fees are assessed on the revenue stream of the properties managed by an affiliate of the Company.

Table of contents

Non-Operating Expenses

Depreciation

Depreciation expense of the Same Property Portfolio decreased for the year ended December 31, 2010 as compared to the same period of the prior year. The decrease is a result of assets that have been fully depreciated, offset by the additions to the basis of fixed assets in the portfolio driven by substantial rehabilitation projects ongoing at the Hampton House property and to a lesser degree, normal recurring capital spending activities over the remaining properties in the Same Property Portfolio.

Interest, inclusive of amortization of deferred financing fees

Interest expense for the year ended December 31, 2010 decreased over the comparable period of 2009. The decrease is primarily attributable to the pay off of the Citrus Park loan in November 2009 and is partially offset by interest related to the HUD-insured replacement financing on the same property totaling $16,428,100 which closed in May 2010 and was at a more favorable rate than the previous loan.

Amortization of acquired in-place leases and tenant relationships

Amortization of acquired in-place-leases and tenant relationships decreased for the year ended December 31, 2010 as compared to the same period in 2009. The decrease is related mainly to the completion of amortization of the acquired-in-place-lease intangible assets booked at acquisition and amortized over a twelve-month period which did not extend into the year ended December 31, 2010.

Comparison of the year ended December 31, 2010 to the year ended December 31, 2009
(Total Property Portfolio)

In general, increases in revenues and total operating expenses and the related losses of the Total Property Portfolio for the year ended December 31, 2010 as compared to the year ended December 31, 2009 are due mainly, in addition to the reasons discussed above, to the fluctuations in the actual properties owned during the comparative periods, as two properties were acquired or developed during 2009. The increase was partially offset by decreased rent concessions amortization recorded during the period. Increase in total operating expenses for the year ended December 31, 2010 as compared to the same period in 2009 is mainly attributable to the transaction costs of $1,183,299 associated with the acquisition of Glo expensed pursuant to the guidance of ASC 805-10 adopted by the Company on January 1, 2009 and cost accrued for the judgment in the Lakeridge legal matter of $774,990, which were included in Operating expense and General and Administrative expense on the Consolidated Statement of Operations for the year ended December 31, 2009, respectively. The difference is partially offset by bond redemption fees of $223,300 incurred related to the maturity of the Glo property loans which matured in March 2010. The fees were included in Operating expenses for the year ended December 31, 2010. In addition, the Company recognized $2,207,795 of accrued Incentive Advisory Fee pursuant to the Advisory Services Agreement. (Refer to Part IV, Item 15 - Notes to the Consolidated Financial Statements, Note 14 - Related Party Transactions on page 75 for further discussion.) Non-operating expenses decreased for the twelve months ended December 31, 2010 as compared to the same period in 2009 mainly due to the reasons discussed in the Same Property Portfolio, partially offset by increases in interest expenses as a result of increases in the level of mortgage and revolving credit debt outstanding and $427,589 of negatively amortized interest recorded on the Glo property loans.

Funds From Operations

The Company has adopted the revised definition of Funds from Operations ("FFO") adopted by the Board of Governors of the National Association of Real Estate Investment Trusts ("NAREIT"). FFO falls within the definition of a "non-GAAP financial measure" as stated in Item 10(e) of Regulation S-K promulgated by the SEC. Management considers FFO to be an appropriate measure of performance of an equity REIT. We calculate FFO by adjusting net income (loss) (computed in accordance with GAAP, including non-recurring items), for gains (or losses) from sales of properties, impairments, real estate related depreciation and amortization, and adjustment for unconsolidated partnerships and ventures. Management believes that in order to facilitate a clear understanding of the historical operating results of the Company, FFO should be considered in conjunction with net income (loss) as presented in the consolidated financial statements included elsewhere herein. Management considers FFO to be a useful measure for reviewing the comparative operating and financial performance of the Company because, by excluding gains and losses related to sales of previously depreciated operating real estate assets and excluding real estate asset depreciation and amortization (which can vary among owners of identical assets in similar condition based on historical cost accounting and useful life estimates), FFO can help one compare the operating performance of a company's real estate between periods or as compared to different companies.

Table of contents

The Company's calculation of FFO may not be directly comparable to FFO reported by other REITs or similar real estate companies that have not adopted the term in accordance with the current NAREIT definition or that interpret the current NAREIT definition differently. FFO is not a GAAP financial measure and should not be considered as an alternative to net income (loss), the most directly comparable financial measure of our performance calculated and presented in accordance with GAAP, as an indication of our performance. FFO does not represent cash generated from operating activities determined in accordance with GAAP and is not a measure of liquidity or an indicator of our ability to make cash distributions. We believe that to further understand our performance; FFO should be compared with our reported net income (loss) and considered in addition to cash flows in accordance with GAAP, as presented in our consolidated financial statements.

The following table presents a reconciliation of net income (loss) to FFO for the years ended December 31, 2011, 2010 and 2009:

	Year ended December 31,		
	2011	2010	2009
Net income (loss)	$1,922,299	$(25,726,511)	$(28,685,234)
Add:			
Depreciation of real property	26,930,325	26,747,230	27,157,267
Depreciation of real property included in results of discontinued operations	896,219	1,317,638	1,050,239
Amortization of acquired in-place leases and tenant relationships	531,422	44,550	302,251
Amortization of acquired in-place leases and tenant relationships included in results of discontinued operations	8,916	73,298	525,679
Equity in loss of Multifamily Venture Limited Partnership, net of impairments	3,355,950	3,532,305	4,143,070
Equity in loss of Multifamily Limited Liability Company	114,665	—	—
Funds from operations of Multifamily Venture Limited Partnership and Multifamily Limited Liability Company, net of impairments	1,286,493	860,673	1,061,362
Less:			
Noncontrolling interest in properties share of funds from operations	(3,123,395)	(1,048,730)	(756,263)
Gain on disposition of real estate assets	(23,916,947)	—	—
Funds from Operations	$8,005,947	$5,800,453	$4,798,371

FFO for the year ended December 31, 2011 increased as compared to FFO for the year ended December 31, 2010. The increase in FFO is due primarily to the increased revenue, general and administrative expenses related to the bond redemption fees of $223,300 incurred during the year ended December 31, 2010, as well as an one-time adjustment to record $196,552 of prior period negatively amortized interest on the Glo loans during the year ended December 31, 2010 for which there were no comparative adjustments recorded in 2011. The increase was partially offset by transaction costs for the acquisition of Estancia Townhomes of $620,779, which were included in Operating expense on the Consolidated Statement of Operations during the year ended December 31, 2011 and increased interest expenses incurred as a result of higher revolving credit balance outstanding during the year ended December 31, 2011 when compared to the same period ended December 31, 2010.

Environmental Issues

There are no recorded amounts resulting from environmental liabilities because there are no known contingencies with respect to environmental liabilities. The Company obtains environmental audits, through various sources including lender evaluations and acquisition due diligence, for each of its properties at various intervals throughout a property's life. The Company has not been advised by any third party as to the existence of, nor has it identified on its own, any material liability for site restoration or other costs that may be incurred with respect to any of its properties. The

Company reevaluates potential environmental liabilities on an annual basis by reviewing the current properties in the portfolio at year end as the portfolio continues to change with the sale and acquisition of properties.

Inflation and Economic Conditions

Substantially all of the leases at our properties are for a term of one year or less, which enables the Company to seek increased rents for new leases or upon renewal of existing leases. These short-term leases minimize the potential adverse effect of inflation on rental income, although residents may leave without penalty at the end of their lease terms and may do so if rents are increased significantly.

Though the United States' economy continues to be challenged by the high unemployment rate, slow but reasonably steady growth is still seen in many parts of the economy. The multifamily sector continues to exhibit strong fundamentals and improved

Table of contents

performance on a national basis, evidenced by improved occupancy levels and increases in effective rents. These improvements are due, in large part, to favorable supply and demand dynamics, as construction of new apartment units and single family homes has decreased significantly, home ownership has declined, and the home buying market has weakened due to stricter mortgage qualification standards and declining home values.

Credit worthy borrowers in the multifamily sector continue to be able to access capital through Fannie Mae and Freddie Mac and other sources, at historically attractive rates. Though there is no assurance that under existing or future regulatory restrictions this source of capital, unique to multifamily borrowers, will continue to be available.

The Company continues to believe that projected demographic trends will favor the multifamily sector, driven primarily by the continued flow of echo boomers (children of baby boomers, age 20 to 29), the fastest growing segment of the population, and an increasing number of immigrants who are often renters by necessity. In many cases, the current economic climate has delayed many would-be residents from entering the rental market and instead choosing to remain at home or to share rental units instead of renting their own space. This trend may be creating a backlog of potential residents who will enter the market as the economy begins to rebound and unemployment rates begin to trend back to historical norms. The Company's properties are generally located in markets where zoning restrictions, scarcity of land and high construction costs create significant barriers to new development. The Company believes it is well positioned to manage its portfolio through the remainder of this economic downturn and is prepared to take advantage of opportunities that present themselves during such times.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The table below provide information about the Company's financial instruments that are sensitive to changes in interest rates, specifically debt obligations. The tables present principal cash flows and related weighted average interest rates by expected maturity dates for mortgage notes payable as of December 31, 2011.

The following table reflects the mortgage notes payable as of December 31, 2011.

	2012	2013	2014	2015	2016	Thereafter	Total
Fixed Rate Debt	$5,427,845	$61,157,327	$66,405,551	$63,464,577	$78,377,143	$209,915,915	$484,748,358
Average Interest Rate	5.38 %	5.05 %	5.48 %	5.67 %	5.66 %	5.78 %	5.61 %

	2012	2013	2014	2015	2016	Thereafter	Total
Variable Rate Debt	$—	$—	$—	$—	$—	$—	$—
Average Interest Rate	—	— %	— %	— %	— %	— %	— %

The level of market rate interest risk experienced in 2011 remained consistent with the level of risk seen during 2010. While the level of outstanding mortgage debt payable of $484,748,358 at December 31, 2011 was incrementally higher than the December 31, 2010 balance of outstanding debt of $476,386,979, the average interest rate on the fixed rate debt decreased slightly to 5.61% at December 31, 2011 from 5.67% at December 31, 2010. Additionally, the outstanding amount of variable rate debt is reduced from $30,420,861 to $0 over the same period due to the sale of Glo. At December 31, 2011, all properties were encumbered by mortgage debt.

The Company manages its interest rate risk on mortgage debt by monitoring the funding markets and the related changes in prevailing mortgage debt interest levels. Financing on new acquisitions, if applicable, is obtained at prevailing market rates while mortgage debt interest rates on existing properties is monitored to determine if refinancing at current prevailing rates would be appropriate. The Company has been successful in obtaining new financing during the 2011 and 2010, a period in which the debt market has been challenged by unfavorable national economic conditions as well as declines in property values and the tightening of lending guidelines by creditors. The Company continues to take advantage of all opportunities to acquire long term debt at favorable interest rates via first mortgage refinancing, supplemental mortgage financing and assumption of debt with favorable terms pursuant to the acquisition of new properties.

As of December 31, 2011 and 2010, respectively, the Company had $0 and $30,420,861 of variable interest rate debt outstanding.

The level of market interest rate risk remained relatively consistent from December 31, 2010 to December 31, 2011 as evidenced by the stability in the multifamily housing mortgage interest rates over the same period. As of December 31, 2011, none of the

Table of contents

Company’s mortgage debt outstanding is subject to variable interest rates.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

See "Index to Consolidated Financial Statements and Financial Statement Schedules" on page 52 to this report.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A(T). CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

Based on their evaluation, required by the Securities Exchange Act Rules 13a-15(b) and 15d-15(b), the Company's principal executive officer and principal financial officer have concluded that the Company's disclosure controls and procedures (as defined in Securities Exchange Act Rules 13a-15(e) and 15d-15(e)) were effective as of December 31, 2011 to ensure that information required to be disclosed by the Company in reports that it files or submits under the Securities Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission rules and forms and were effective as of December 31, 2011 to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Securities Exchange Act is accumulated and communicated to the Company's management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

Management's Annual Report on Internal Control Over Financial Reporting

The Company's management is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)). Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. The Company's internal control over financial reporting is a process designed under the supervision of the Company's principal executive officer and principal financial officer to provide reasonable assurance regarding the reliability of financial reporting and the preparation of the Company's financial statements for external reporting purposes in accordance with accounting principles generally accepted in the United States of America.

The Company's management, with oversight and input from the Company's principal executive officer and principal financial officer, conducted an assessment of the effectiveness of its internal control over financial reporting as of December 31, 2011. The Company's management based its assessment on the framework in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on its evaluation under that framework, the Company's management concluded that the Company's internal control over financial reporting was effective as of December 31, 2011.

This annual report does not include an attestation report of the Company's registered public accounting firm regarding internal control over financial reporting. The Company's management's report was not subject to attestation by the Company's registered public accounting firm pursuant to temporary rules of the Securities and Exchange Commission that permit the Company to provide only it's management's report in this annual report.

Changes in Internal Control over Financial Reporting

There were no other changes in the Company's internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f)), identified in connection with the evaluation required by paragraph (d) of the Securities Exchange Act Rules 13a-15 or 15d-15 that occurred during the quarter ended December 31, 2011 that affected, or were reasonably likely to affect, the Company's internal control over financial reporting.

ITEM 9B. OTHER INFORMATION

None.

Table of contents

PART III

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

The Company's executive officers and directors are as follows:

Name and Age	Position or Offices Held
Douglas Krupp (65)	Chairman of the Board of Directors
David C. Quade (68)	President, Principal Executive Officer and Director
Shereen Jones (50)	Chief Financial Officer and Treasurer
Randolph G. Hawthorne (62)	Director
Robert M. Kaufman (62)	Director
Richard B. Peiser (63)	Director
Christopher M. Nichols (47)	Senior Vice President, Principal Financial Officer and Assistant Secretary
Mary Beth Bloom (38)	Vice President and Secretary

Douglas Krupp, Director and Chairman of the Board of Berkshire Income Realty, Inc. since January 28, 2005. Mr. Krupp is also the co-founder and Vice-Chairman of our affiliate, the Berkshire Group, an integrated real estate and financial services firm engaged in real estate acquisitions, property management and investment sponsorship. The Berkshire Group was established as The Krupp Companies in 1969. Mr. Krupp served as Chairman of the Board of Trustees of both Krupp Government Income Trust I & Krupp Government Income Trust II from 1991-2005. Formerly, Mr. Krupp served as Chairman of the Board of Directors of Berkshire Realty Company, Inc. and Harborside Healthcare Company, two publicly traded companies on the NYSE Amex Equities. Mr. Krupp is a member of the Anti-Defamation League's National Executive Committee, a member of its Board of Trustees and Vice President of the ADL Foundation. Mr. Krupp is on the Board of Directors for The Commonwealth Shakespeare Company, a Member of the Corporation of Partners HealthCare System and a past member of the Board of Directors for Brigham & Women's Hospital. Mr. Krupp is a graduate of Bryant College. In 1989, he received an Honorary Doctorate of Science in Business Administration from this institution and was elected trustee in 1990.

David C. Quade, Director, President of Berkshire Income Realty, Inc. since July 19, 2002. Until the appointment of Ms. Jones in March 2011, Mr. Quade was also Chief Financial Officer of Berkshire Income Realty, Inc. since July 19, 2002. Since December of 1998, Mr. Quade has been Executive Vice President and Chief Financial Officer of The Berkshire Group and Berkshire Property Advisors, LLC, both affiliates of Berkshire Income Realty. During that period, he led the efforts to acquire, finance and asset manage the initial properties contributed by KRF Company in connection with the Offering. Previously, Mr. Quade was a Principal and Executive Vice President and Chief Financial Officer of Leggat McCall Properties from 1981-1998, where he was responsible for strategic planning, corporate and property financing and asset management. Before that, Mr. Quade worked in senior financial capacities for two NYSE Amex listed real estate investment trusts, North American Mortgage Investors and Equitable Life Mortgage and Realty Investors. He also worked at Coopers & Lybrand, LLP (now known as PricewaterhouseCoopers, LLP), an international accounting and consulting firm. He has a Professional Accounting Program degree from Northwestern University Graduate School of Business. Mr. Quade also holds a Bachelor of Science degree and a Master of Business Administration degree from Central Michigan University. Mr. Quade also serves as Chairman of the Board of Directors of the Marblehead/Swampscott YMCA and Director of the North Shore YMCA.

Shereen P. Jones, Chief Financial Officer of Berkshire Income Realty, Inc. since March 15, 2011 and Treasurer since February 2012. Most recently, Ms. Jones was Chief Financial Officer of Boykin Lodging Company, a NYSE-listed REIT. Previously, Ms. Jones held senior positions with the investment banking firms Credit Suisse First Boston, Lehman Brothers, Kidder, Peabody and Oppenheimer, specializing in real estate finance and mergers and acquisitions. Ms. Jones' involvement with Berkshire began in the early 1990's, having served as banker on multiple transactions with the Company's affiliates. Ms. Jones is a graduate of Duke University and holds an MBA from the Harvard Business School.

Randolph G. Hawthorne, Director of Berkshire Income Realty, Inc. since October 15, 2002. Mr. Hawthorne is currently the Principal of a private investment and consulting firm known as RGH Ventures and has served as such since January of 2001. Mr. Hawthorne is a member of the Multifamily Council Gold Flight of the Urban Land Institute, and is active in the National Multi Housing Council, which he led as the Chairman from 1996-1997. He also presently serves on the Board of Directors of the National Housing Conference and is a member of the Harvard Real Estate Academic Initiative Alumni Advisory Board. He previously served as an independent member of the Advisory Board of Berkshire Mortgage Finance, a former affiliate of Berkshire Income Realty, Inc. Mr. Hawthorne also previously served as President of the National Housing and Rehabilitation Association

Table of contents

and has served on the Editorial Board of the Tax Credit Advisor and Multi-Housing News. From 1973-2001, Mr. Hawthorne was a Principal and Owner of Boston Financial, a full service real estate firm, which was acquired in 1999 by Lend Lease, a major global real estate firm, which at that time was the largest U.S. manager of tax-exempt real estate assets. During his 28 years with Boston Financial and then Lend Lease, Mr. Hawthorne served in a variety of senior leadership roles including on the Boston Financial Board of Directors. Mr. Hawthorne holds a Master of Business Administration degree from Harvard University and a Bachelor of Science degree from the Massachusetts Institute of Technology. Mr. Hawthorne is a Trustee of The Berkshire Theatre Festival, and serves on the Board of Directors of the Celebrity Series of Boston and The Boston Home.

Robert M. Kaufman, Director of Berkshire Income Realty, Inc. since October 15, 2002. Mr. Kaufman is currently the Senior Vice President and Chief Operating Officer of Outcome Sciences, Inc. (a wholly owned subsidiary of Quintiles, Inc. since October 2011) since April 1, 2007 and was formerly the President and Chief Operating Officer of Oakley Investment, Inc., a private investment firm. Mr. Kaufman was a founder and the Chief Executive Officer of Medeview, Inc., a healthcare technology company, from 2000-2002. From 1996-1999, Mr. Kaufman served as Chief Executive Officer of a senior housing company known as Carematrix Corp. and in 1999 served as a consultant to Carematrix Corp. Prior to that, Mr. Kaufman worked for Coopers & Lybrand, LLP (now known as PricewaterhouseCoopers, LLP), an international accounting and consulting firm, from 1972-1996. During his tenure at Coopers & Lybrand, he was a partner from 1982-1996 primarily servicing real estate and healthcare industry clients and served as a member of the National Board of Partners. In addition, while a partner at Coopers & Lybrand, Mr. Kaufman was a member of the Mergers and Acquisitions and Real Estate Groups, the Associate Chairman of the National Retail and Consumer Products Industry Group and was a National Technical Consulting Partner. Mr. Kaufman received his Bachelor of Arts from Colby College and his Master of Business Administration degree from Cornell University.

Richard B. Peiser, Director of Berkshire Income Realty, Inc. since October 15, 2002. Mr. Peiser is currently the Michael D. Spear Professor of Real Estate Development at Harvard University and has worked in that position since 1998. Mr. Peiser is also a member of the Department of Urban Planning and Design in the Harvard University Graduate School of Design and has served as such since 1998. Before joining the faculty of Harvard University in 1998, Mr. Peiser served as Director of the Lusk Center of Real Estate Development from 1987-1998 as well as Founder and Academic Director of the Master of Real Estate Development Program at the University of Southern California from 1986-1998. Mr. Peiser has also worked as a real estate developer and consultant since 1978. In addition, Mr. Peiser has published numerous articles relating to various aspects of the real estate industry. Mr. Peiser taught at Southern Methodist University from 1978-1984, the University of Southern California from 1985-1998 and at Stanford University in the fall of 1981. Mr. Peiser is the Chairman of Kailong REI, a real estate investment and asset management company based in Shanghai, China. Mr. Peiser served as a trustee of the Urban Land Institute from 1997 to 2004 and as a Director of the firm American Realty Advisors from 1998 to 2005. Additionally, Mr. Peiser served as a faculty representative on the Harvard University Board of Overseer's Committee on Social Responsibility from 1999-2002 and as co-editor of the Journal of Real Estate Portfolio Management from 2003 to 2007. Mr. Peiser holds a Bachelor of Arts degree from Yale University, a Master of Business Administration degree from Harvard University and a Ph.D. in land economics from Cambridge University.

Christopher M. Nichols, Senior Vice President, Principal Financial Officer and Assistant Secretary of Berkshire Income Realty, Inc. since July 19, 2002. Mr. Nichols currently holds the position of Vice President, Controller and Assistant Secretary of Berkshire Income Realty, Inc. Mr. Nichols is also the Company's Principal Accounting Officer. Mr. Nichols joined The Berkshire Group in 1999 as the Assistant Corporate Controller. Before joining the Company, Mr. Nichols served as the Accounting Manager and then as the Corporate Controller for Mac-Gray Corporation from 1997-1999, a NYSE-listed company. At Mac-Gray, Mr. Nichols had primary oversight of the accounting and financial reporting systems. Mr. Nichols worked as a Senior Staff Auditor for Mullen & Company from 1994-1997. Mr. Nichols has a Bachelor of Science degree in Accountancy from Bentley College (now Bentley University) as well as

Associate Degrees in Computer Information Systems and in Electrical Engineering. Mr. Nichols is a Certified Public Accountant.

Mary Beth Bloom, Vice President and Secretary of Berkshire Income Realty, Inc. since August 9, 2005. Ms. Bloom currently serves and has served as Vice President and General Counsel to The Berkshire Group, an affiliate of Berkshire Income Realty, Inc, since 2005. From 2000-2005, Ms. Bloom served as the Assistant General Counsel to The Berkshire Group and from 2003-2005, she served as Assistant Secretary to Berkshire Income Realty, Inc. Prior to joining The Berkshire Group, Ms. Bloom was an attorney with John Hancock Financial Services. She received a Bachelor of Arts from the College of the Holy Cross and a Juris Doctor from New England School of Law. Ms. Bloom is admitted to practice law in Massachusetts and New York and is a member of the American, Massachusetts and New York Bar Associations.

The Board has determined that Robert Kaufman, Randolph Hawthorne and Richard Peiser, a majority of our directors, are independent under applicable SEC and NYSE Amex Equities rules and regulations. Such persons act as the Company's Audit Committee. The Board has determined that Robert Kaufman qualifies as an “audit committee financial expert” under applicable SEC rules and regulations.

Table of contents

The Company does not currently have a nominating committee as the Board has determined, given its relatively small size, that Robert Kaufman, Randolph Hawthorne and Richard Peiser, (the "Independent Directors") shall perform this function. Nominees for positions on the Board are identified and recommended by a majority of the Independent Directors on the Board (as defined in the NYSE Amex Equities listing requirements). Director candidates, including Directors up for re-election and those nominated by Shareholders entitled to vote for the election of directors, are considered based upon various criteria, including broad-based business and professional skills and experience, personal integrity, sound business judgment, community involvement, and time available to devote to Board activities. The 5 nominees approved by the Board are Directors standing for re-election. The Company has not paid a fee to any third party to identify or evaluate or assist in identifying or evaluating potential nominees. The Board did not receive a Director candidate recommendation from a shareholder that beneficially owned more than 5% of the Company's common voting shares or from a group of shareholders that beneficially owned, in the aggregate, more than 5% of the Company's common voting shares. The Board will consider Director candidates recommended by shareholders entitled to vote for the election of directors.

A shareholder entitled to vote for the election of directors, who wishes to recommend a prospective nominee for the Board should notify the Company