CYTOGEN CORP
Form S-3/A
August 12, 2003

As filed with the Securities and Exchange Commission on August 12, 2003
Registration Statement No. 333-106797

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

AMENDMENT NO. 1 TO
FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

CYTOGEN CORPORATION

(Exact Name of Registrant as Specified in Its Charter)

Delaware	22-2322400
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification Number)

650 College Road East, 3rd Floor
Princeton, New Jersey 08540
(609) 750-8200

(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

Donald L. Novajosky, Esq.
Director, Legal
Cytogen Corporation
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(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

COPY TO:
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Princeton, New Jersey 08540
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Approximate date of commencement of proposed sale to public: As soon as practicable after this Registration Statement becomes effective.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. [ ]

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. [X]

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. _______.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. __________.

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. [ ]

CALCULATION OF REGISTRATION FEE

Title Of Shares To Be Registered	Amount To Be Registered	Proposed Maximum Aggregate Price Per Unit(1)	Proposed Maximum Aggregate Offering Price(1)	Amount Of Registration Fee(2)
Common stock, $.01 par value per share...........	1,368,422	$7.43	$10,167,375	$822.54

(1) Estimated solely for purposes of calculating the registration fee pursuant to Rule 457(c) under the Securities Act of 1933, as amended, and based upon the average of the high and low prices on the Nasdaq National Market on June 26, 2003.

(2) The Company has previously paid such filing fee to the Commission on July 3, 2003.

THE COMPANY HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE COMPANY SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(A) OF THE SECURITIES ACT OF 1933 OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(A), SHALL DETERMINE.

THE INFORMATION IN THIS PROSPECTUS IS NOT COMPLETE AND MAY BE CHANGED. THE SELLING STOCKHOLDERS NAMED IN THIS PROSPECTUS MAY NOT SELL THESE SECURITIES

UNTIL THE REGISTRATION STATEMENT FILED WITH THE SECURITIES AND EXCHANGE COMMISSION IS EFFECTIVE. THIS PROSPECTUS IS NOT AN OFFER TO SELL THESE SECURITIES AND THE SELLING STOCKHOLDERS ARE NOT SOLICITING OFFERS TO BUY THESE SECURITIES IN ANY JURISDICTION WHERE THE OFFER OR SALE IS NOT PERMITTED.

SUBJECT TO COMPLETION, DATED AUGUST 12, 2003

PROSPECTUS

CYTOGEN CORPORATION

1,368,422 SHARES OF COMMON STOCK

This prospectus relates to resales of shares of up to 1,368,422 shares of our common stock, $0.01 par value per share, all of which are being sold by certain institutional investors set forth in this prospectus under the section titled "Selling Stockholders" on page 19. We are not selling any shares under this prospectus. Accordingly, we will not receive any proceeds from the sale of shares hereunder.

Our common stock is traded on the Nasdaq National Market under the symbol "CYTO." On June 25, 2003, the closing sale price of our common stock on Nasdaq was $7.09 per share. You are urged to obtain current market quotations for our common stock.

INVESTING IN OUR COMMON STOCK INVOLVES A HIGH DEGREE OF RISK. SEE "RISK FACTORS" COMMENCING ON PAGE 4.

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES OR DETERMINED IF THIS PROSPECTUS IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

The date of this prospectus is August [ ], 2003.

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All of our potential oncology products will be subject to the risks of failure inherent in the development of diagnostic or therapeutic products based on new technologies....................

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We have limited sales, marketing and distribution capabilities for our products....................

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If we are unable to comply with applicable governmental regulation we may not be able to continue our operations....................

We could be negatively impacted by future interpretation or implementation of federal and state fraud and abuse laws, including anti-kickback laws, the Federal Stark Law and other federal and state anti-referral laws....................

We depend on attracting and retaining key personnel....................

Our business exposes us to potential liability claims that may exceed our financial resources, including our insurance coverage, and may lead to the curtailment or termination of our operations....................

Our business involves environmental risks that may result in liability....................

Our intellectual property is difficult to protect....................

Our security measures may not protect our unpatented proprietary technology...............

We are currently subject to patent litigation...

Our stock price has been and may continue to be volatile, and your investment in our stock could decline in value or fluctuate significantly...........................

We have adopted various anti-takeover provisions which may affect the market price of our common stock and prevent or frustrate attempts by our stockholders to replace or remove our management team..

The liquidity of our common stock could be adversely affected if we are delisted from The Nasdaq National Market...

A large number of our shares are eligible for future sale which may adversely impact the market price of our common stock...

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PROSPECTUS SUMMARY

THIS SUMMARY HIGHLIGHTS IMPORTANT FEATURES OF THIS OFFERING AND THE INFORMATION INCLUDED OR INCORPORATED BY REFERENCE IN THIS PROSPECTUS. THIS SUMMARY DOES NOT CONTAIN ALL OF THE INFORMATION THAT YOU SHOULD CONSIDER BEFORE INVESTING IN OUR COMMON STOCK. YOU SHOULD READ THE ENTIRE PROSPECTUS CAREFULLY, ESPECIALLY THE RISKS OF INVESTING IN OUR COMMON STOCK DISCUSSED UNDER "RISK FACTORS."

CYTOGEN CORPORATION

Cytogen Corporation is a product-driven, oncology-focused biopharmaceutical company with an established and growing product line in prostate cancer and other areas of oncology. Our FDA-approved products include ProstaScint(R) (a monoclonal antibody-based imaging agent used to image the extent and spread of prostate cancer); Quadramet(R) (a therapeutic agent marketed for the relief of bone pain in prostate and other types of cancer) and NMP22 BladderChek(TM) (a point-of-care, in vitro diagnostic test for bladder cancer). Our pipeline is comprised of product candidates at various stages of clinical development, including fully human monoclonal antibodies and cancer vaccines based on PSMA prostate specific membrane antigen technology, or PSMA technologies, which we exclusively licensed from Memorial Sloan-Kettering Cancer Center. We also conduct research in cellular signaling through our subsidiary, AxCell Biosciences.

In addition to the products listed above, in August, 2000, we expanded our product pipeline by entering into marketing, license and supply agreements with Advanced Magnetics, Inc. for Combidex(R), which is an investigational magnetic resonance imaging (MRI) contrast agent that assists in the differentiation of metastatic from non-metastatic lymph nodes. We hold exclusive United States marketing rights to Combidex. Advanced Magnetics is continuing its discussions with the FDA relating to outstanding issues regarding an approvable letter received from the FDA in June, 2000, in an effort to bring Combidex to market.

We have had a history of operating losses since our inception. We had a net loss of $2.0 million for the three months ended March 31, 2003 and had a net loss of $15.7 million for the year ended December 31, 2002. Although we continually look to expand our product pipeline, we currently rely on two products, ProstaScint and Quadramet, for substantially all of our revenues. In addition, we have, from time to time, ceased sales of certain products, such as BrachySeed and OncoScint CR/OV, that we previously believed would generate significant revenues for our business. Our products are subject to significant regulatory review by the FDA and other federal and state agencies, which requires significant time and expenditures in seeking product approvals. In addition, we rely on collaborative partners to a significant degree to manufacture our products, to secure raw materials, and to provide licensing rights to their proprietary products for us to sell and market to others.

We are a Delaware corporation. We were incorporated and began operations in 1980 under the name Hybridex, Inc. and changed our name to Cytogen Corporation in April 1980. Our executive offices are located at 650 College Road East, Suite 3100, Princeton, New Jersey 08540, our telephone number is (609) 750-8200 and our Internet address is http://www.cytogen.com The information on our Internet website is not incorporated by reference in this prospectus. Unless the context otherwise requires references in this prospectus to "Cytogen", the "Company," "we," "us," and "our" refer to Cytogen Corporation and our subsidiaries.

ProstaScint(R) and OncoScint(R) are registered United States trademarks of Cytogen Corporation. All other trade names, trademarks or service marks appearing in this Registration Statement on Form S-3 are the property of their respective owners, and not the property of Cytogen Corporation or any of our

subsidiaries. Quadramet(R) is a trademark of The Dow Chemical Company used under license by Cytogen.

THE OFFERING

Common Stock offered by selling stockholders........................	1,368,422 shares
Use of proceeds......................	Cytogen will not receive any proceeds from the sale of shares in this offering
Nasdaq National Market symbol........	CYTO

REVERSE STOCK SPLIT

On October 25, 2002, we received approval from our stockholders at a duly called and held special meeting of stockholders to effect a reverse split of our common stock. Our Board of Directors thereafter approved a one-for-ten reverse split of our outstanding, issued and authorized shares of common stock, which became effective on October 25, 2002. All numbers set forth in this Registration Statement on Form S-3 reflect the effect of such one-for-ten reverse stock split.

RISK FACTORS

INVESTING IN OUR COMMON STOCK INVOLVES A HIGH DEGREE OF RISK. YOU SHOULD CAREFULLY CONSIDER THE RISKS AND UNCERTAINTIES DESCRIBED BELOW BEFORE PURCHASING OUR COMMON STOCK. IF ANY OF THE FOLLOWING RISKS ACTUALLY OCCUR, OUR BUSINESS, FINANCIAL CONDITION OR RESULTS OF OPERATIONS WOULD LIKELY SUFFER. IN THAT CASE, THE TRADING PRICE OF OUR COMMON STOCK COULD FALL, AND YOU MAY LOSE ALL OR PART OF THE MONEY YOU PAID TO BUY OUR COMMON STOCK.

WE HAVE A HISTORY OF OPERATING LOSSES AND AN ACCUMULATED DEFICIT AND EXPECT TO INCUR LOSSES IN THE FUTURE.

Given the high level of research and development and related expenditures associated with our business and our inability to generate revenues sufficient to cover such expenditures, we have had a history of operating losses since our inception. We had a net loss of $2.0 million for the three months ended March 31, 2003 and had a net loss of $15.7 million for the year ended December 31, 2002. Beginning in December 2001, we began to equally share the costs of the PSMA Development Company LLC and we expect to incur significant and increasing costs in the future to fund our share of the joint venture. We had a net loss of $12.1 million for the year ended December 31, 2001. We had a net loss of $27.3 million for the year ended December 31, 2000 which included non-cash charges of $13.1 million for the acquisition of product candidate rights and $4.3 million for the cumulative effect of an accounting change following the adoption of Securities and Exchange Commission Staff Accounting Bulletin No. 101. We had an accumulated deficit of $358.3 million as of March 31, 2003.

In order to develop and commercialize our technologies, particularly our prostate specific membrane antigen, or PSMA, technology, and expand our oncology products, we expect to incur significant increases in our expenses over the next several years. As a result, we will need to generate significant additional

revenue to become profitable.

To date, we have taken affirmative steps to reduce our trend of operating losses. Such steps include, among other things: (i) the effective monitoring and management of expenses relating to research and development, selling and marketing, and other general and administrative matters; (ii) undergoing steps to realign and implement our focus as a product-driven, oncology-focused biopharmaceutical company; (iii) the establishment and maintenance of our in-house specialty sales force; (iv) enhancing our marketed product portfolio through marketing alliances and strategic arrangements such as we have done with the Combidex product, which we intend to market if this product is approved by the FDA; (v) the reacquisition of North American and Latin American marketing rights to Quadramet from Berlex Laboratories in August 2003; and (vi) the addition of NMP22 BladderChek to our marketed product portfolio.

Although we have taken these affirmative steps, we may never be able to successfully implement them, and our ability to generate and sustain significant additional revenues or achieve profitability will depend upon the factors discussed elsewhere in this "Risk Factors" section, as well as numerous other factors outside of our control, including:

- development of competing products that are more effective or less costly than ours;

- our ability to develop and commercialize our own products and technologies; and

- our ability to achieve increased sales for our existing products and sales for any new products.

As a result, we may never be able to generate or sustain significant additional revenue or achieve profitability.

WE DEPEND ON SALES OF PROSTASCINT AND QUADRAMET FOR THE MAJORITY OF OUR NEAR-TERM REVENUES.

We expect ProstaScint and Quadramet to account for a significant percentage of our product related revenues in the near future. For the year ended December 31, 2002, revenues from ProstaScint and royalties from Quadramet accounted for approximately 64% and 15%, respectively, of our product related revenues; and in the three-months ended March 31, 2003, revenues from ProstaScint and royalties from Quadramet accounted for approximately 69% and 19%, respectively, of our product related revenues. If ProstaScint or Quadramet do not achieve broader market acceptance, either because we fail to effectively market such products or our competitors introduce competing products, we may not be able to generate sufficient revenue to become profitable. In 2002, our product related revenue included revenue from BrachySeed, which accounted for 20% of our product related revenue. In January 2003, we served notice of termination for each of our License and Distribution Agreement and Product Manufacturing and Supply Agreement with Draximage with respect to both the BrachySeed I-125 and BrachySeed Pd-103 products. As a result, effective January 24, 2003, we no longer accept or fill new orders for the BrachySeed products. In April 2003, we entered into an agreement with Draximage formally terminating each of these agreements.

Generating market acceptance and sales of our products is difficult, time consuming and uncertain. We launched ProstaScint in October 1996, Quadramet in March 1997, OncoScint CR/OV in December 1992, BrachySeed I-125 in February 2001, BrachySeed Pd-103 in May 2002 and NMP22 BladderChek in November 2002. Revenues

for ProstaScint grew from $55,000 in 1996 to $7.9 million in 2002. Royalties from sales of Quadramet went from $3.3 million in 1997 to $1.8 million in 2002. Royalties from sales of Quadramet in the initial years of sales were supported by a guaranteed minimum revenue arrangement with the third party licensor of Quadramet. OncoScint CR/OV was discontinued in December 2002 and the BrachySeed products were discontinued in January 2003. NMP22 BladderChek is a relatively new product for us. Currently, all of our revenues are derived from sales of ProstaScint, Quadramet and NMP22 BladderChek products, as well as certain license and contract revenues.

WE DEPEND ON ACCEPTANCE OF OUR PRODUCTS BY THE MEDICAL COMMUNITY FOR THE CONTINUATION OF OUR REVENUES.

Because our marketed products contribute the majority of our product related revenues, our business, financial condition and results of operations depend on their acceptance as safe, effective and cost-efficient alternatives to other available treatment and diagnostic protocols by the medical community, including:

- health care providers, such as hospitals and physicians; and

- third-party payors, including Medicare, Medicaid, private insurance carriers and health maintenance organizations.

Our customers, including technologists and physicians, must successfully complete our Partners in Excellence Program, or PIE Program, a proprietary training program designed to promote the correct acquisition and interpretation of ProstaScint images. This product is technique dependent and requires a learning commitment by technologists and physicians and their acceptance of this product as part of their treatment practices. If ProstaScint or Quadramet do not achieve broader market acceptance, we may not be able to generate sufficient revenue to become profitable.

THE REDUCED WORKFORCE AT AXCELL MAY NOT BE ABLE TO IMPLEMENT AXCELL'S BUSINESS PLAN.

In September 2002, we implemented the restructuring of our subsidiary, AxCell Biosciences Corporation, in an effort to reduce expenses and position Cytogen

for stronger long-term growth in oncology. As a result, we reduced our staff at AxCell by seventy-five percent, suspended certain projects at AxCell and implemented other cost-saving measures.

The technologies under development at AxCell are complex and remain commercially unproven. Even if we are able to develop and commercialize a product through AxCell, there may be fewer than 100 pharmaceutical companies and biotechnology companies that are potential customers for such technology or product.

Although we believe that we have retained the AxCell personnel who are key to achieving AxCell's goals and implementing its strategies, such reduced workforce may not be able to implement AxCell's current business plan. The further loss of any of AxCell's personnel could have a material adverse effect on AxCell's ability to achieve its goals.

WE MAY NEED TO RAISE ADDITIONAL CAPITAL, WHICH MAY NOT BE AVAILABLE.

We have incurred negative cash flows from operations since inception. We expended, and will need to continue to expend, substantial funds to complete our

planned product development efforts, including our PSMA programs. Our future capital requirements and the adequacy of our available funds depend on many factors, including:

- successful commercialization of our products;
- acquisition of complementary products and technologies;
- magnitude, scope and results of our product development efforts;
- progress of preclinical studies and clinical trials;
- progress toward regulatory approval for our products;
- costs of filing, prosecuting, defending and enforcing patent claims and other intellectual property rights;
- competing technological and market developments; and
- expansion of strategic alliances for the sale, marketing and distribution of our products.

We may raise additional capital through public or private equity offerings, debt financings or additional collaborations and licensing arrangements. Additional financing may not be available to us when needed, or, if available, we may not be able to obtain financing on terms favorable to our stockholders or us. If adequate funds are not available, we may not be able to conduct research activities, preclinical studies, clinical trials or other activities relating to the successful commercialization of our products on a timely basis, if at all, with the result that our business could be significantly and adversely affected.

OUR CAPITAL RAISING EFFORTS MAY DILUTE STOCKHOLDER INTERESTS.

If we raise additional capital by issuing equity securities, the issuance will result in ownership dilution to our existing stockholders. The extent of such dilution will vary based upon the amount of capital raised.

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WE MAY NEED TO RAISE FUNDS OTHER THAN THROUGH THE ISSUANCE OF EQUITY SECURITIES.

If we raise additional funds through collaborations and licensing arrangements, we may be required to relinquish rights to certain of our technologies or product candidates or to grant licenses on unfavorable terms. If we relinquish rights or grant licenses on unfavorable terms, we may not be able to develop or market products in a manner that is profitable to us.

OUR PRODUCTS, GENERALLY, ARE IN THE EARLY STAGES OF DEVELOPMENT AND COMMERCIALIZATION AND WE MAY NEVER ACHIEVE THE REVENUE GOALS SET FORTH IN OUR BUSINESS PLAN.

We began operations in 1980 and have been engaged primarily in research directed toward the development, commercialization and marketing of products to improve diagnosis and treatment of cancer and other diseases. In December 1992, we introduced OncoScint CR/OV, and subsequently ceased selling and marketing this product in December 2002. In October 1996, we introduced for commercial use our ProstaScint imaging agent. In March 1997, we introduced for commercial use our Quadramet therapeutic product. In 2001, we launched the iodine version of BrachySeed. In May 2002, we launched the palladium version of BrachySeed. In January 2003, we discontinued our marketing and sale of the BrachySeed products. In November 2002, we began promoting NMP22 BladderChek to urologists in the

United States.

Our PSMA technologies are still in the early stages of development. We have significantly reduced operations at our AxCell subsidiary, which is responsible for the development certain of our technologies. We may be unable to develop or commercialize these products and technologies.

Our business is therefore subject to the risks inherent in the development of an early stage biopharmaceutical business enterprise, such as the need:

- to obtain sufficient capital to support the expenses of developing our technology and commercializing our products;

- to ensure that our products are safe and effective;

- to obtain regulatory approval for the use and sale of our products;

- to manufacture our products in sufficient quantities and at a reasonable cost;

- to develop a sufficient market for our products; and

- to attract and retain qualified management, sales, technical and scientific staff.

The problems frequently encountered using new technologies and operating in a competitive environment also may affect our business. If we fail to properly address these risks and attain our business objectives, our business could be significantly and adversely affected.

OUR PSMA PRODUCT DEVELOPMENT PROGRAM IS NOVEL AND, CONSEQUENTLY, INHERENTLY RISKY.

We are subject to the risks of failure inherent in the development of product candidates based on new technologies, including our PSMA technology. These risks include the possibility that:

- the technologies we use will not be effective;

- our product candidates will be unsafe;

- our product candidates will fail to receive the necessary regulatory approvals;

- the product candidates will be hard to manufacture on a large scale or will be uneconomical to market; and

- we will not successfully overcome technological challenges presented by our potential new products.

Our other research and development programs involve similarly novel approaches to human therapeutics. Consequently, there is no precedent for the successful commercialization of therapeutic products based on our PSMA technologies. If we fail to develop such products, our business could be significantly and adversely affected.

ALL OF OUR POTENTIAL ONCOLOGY PRODUCTS WILL BE SUBJECT TO THE RISKS OF FAILURE INHERENT IN THE DEVELOPMENT OF DIAGNOSTIC OR THERAPEUTIC PRODUCTS BASED ON NEW TECHNOLOGIES.

Product development for cancer treatment involves a high degree of risk. The product candidates we develop, pursue or offer may not prove to be safe and effective, may not receive the necessary regulatory approvals, may be precluded by proprietary rights of third parties or may not ultimately achieve market acceptance. These product candidates will require substantial additional investment, laboratory development, clinical testing and regulatory approvals prior to their commercialization. We may experience difficulties, such as inability to receive timely regulatory approvals, that could delay or prevent the successful development, introduction and marketing of new products.

Before we obtain regulatory approvals for the commercial sale of any of our products under development, we must demonstrate through preclinical studies and clinical trials that the product is safe and efficacious for use in each target indication. The results from preclinical studies and early clinical trials may not be predictive of results that will be obtained in large-scale testing. Our clinical trials may not demonstrate safety and efficacy of a proposed product, and therefore, may not result in marketable products. A number of companies in the biotechnology industry have suffered significant setbacks in advanced clinical trials, even after promising results in earlier trials. Clinical trials or marketing of any potential diagnostic or therapeutic products may expose us to liability claims for the use of these diagnostic or therapeutic products. We may not be able to maintain product liability insurance or sufficient coverage may not be available at a reasonable cost. In addition, as we develop diagnostic or therapeutic products internally, we will have to make significant investments in diagnostic or therapeutic product development, marketing, sales and regulatory compliance resources. We will also have to establish or contract for the manufacture of products, including supplies of drugs used in clinical trials, under the current Good Manufacturing Practices, or cGMP, of the FDA. In addition, the FDA may, among other things, subsequently disapprove or may recall our product candidates that were previously approved. We also cannot assure you that product issues will not arise following successful clinical trials and FDA approval.

The rate of completion of clinical trials also depends on the rate of patient enrollment. Patient enrollment depends on many factors, including the size of the patient population, the nature of the protocol, the proximity of patients to clinical sites and the eligibility criteria for the study. Delays in planned patient enrollment may result in increased costs and delays, which could have a harmful effect on our ability to develop the products in our pipeline. If we are unable to develop and commercialize products on a timely basis or at all, our business could be significantly and adversely affected.

COMPETITION IN OUR FIELD IS INTENSE AND LIKELY TO INCREASE.

We face, and will continue to face, intense competition from one or more of the following entities:

- pharmaceutical companies;
- biotechnology companies;
- bioinformatics companies;
- diagnostic companies;
- academic and research institutions; and
- government agencies.

All of our products and product candidate are subject to significant competition

from organizations that are pursuing technologies and products that are the same as or similar to our technology and products. Many of the organizations competing with us have greater capital resources, research and development staffs and facilities and marketing capabilities.

The markets for therapeutic and diagnostic products that address prostate and bladder cancers are large. Our most significant competitors include various pharmaceutical and medical device companies, radiopharmaceutical distributors and biotechnology companies.

Metastron (Strontium-89), manufactured by Amerhsam Health and marketed by Galliel Medical, competes with Quadramet (Samarium-153 Lexidronam). The FDA recently approved a generic version of Sr-89 for bone pain palliation, which is marketed by Bio-Nucleonics Pharma as Strontium Chloride Sr-89 Injection, USP.

A single agent, Positron Emission Tomography (PET), competes with ProstaScint (Capromab pendetide). PET imaging agent, 18-F fluorodeoxyglucose-PET (FDG), is produced and distributed by various radiopharmaceutical suppliers (such as PETnet and Cardinal Health Nuclear Pharmacy Services). PET (FDG) may also be used to image lymph node metastasis in cancer patients, which may prove competitive to Combidex, following FDA approval, if received, and subsequent market introduction of Combidex.

Polymedco manufactures BTAstat, a point of care urine-based test approved for monitoring bladder cancer patients. BTAstat, marketed by Mentor, competes with NMP22 BladderChek (which we have licensed from Matritech). NMP22 BladderChek is, however, the only point of care urine-based test approved for both monitoring and diagnosis of bladder cancer. Matritech has retained rights to market NMP22 BladderChek directly to physicians other than urologists and oncologists, such as primary care physicians.

Additionally, we face competition in the development of PSMA-related technology and products primarily from Millenium Pharmaceuticals, Inc. and Medarex, Inc.

Before we recover development expenses for our products and technologies, the products or technologies may become obsolete as a result of technological developments by others or us. Our products could also be made obsolete by new technologies, which are less expensive or more effective. We may not be able to make the enhancements to our technology necessary to compete successfully with newly emerging technologies and failure to do so could significantly and adversely affect our business.

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WE RELY HEAVILY ON OUR COLLABORATIVE PARTNERS.

Our success depends in significant part upon the success of our collaborative partners. We have entered into the following agreements for the sale, marketing, distribution and manufacture of our products, product candidates and technologies:

- license from The Dow Chemical Company relating to the Quadramet technology;

- agreement for manufacture of Quadramet by Bristol Myers Squibb (formerly The DuPont Pharmaceuticals Company);

- joint venture with Progenics Pharmaceuticals for the development of PSMA for in vivo immunotherapy for prostate and other cancers;

- licensing agreement with Molecular Staging for technology to be used in developing in vitro diagnostic tests using PSMA and prostate

specific antigen, or PSA;

- a Supply Agreement with Laureate Pharma L.P. for the production of ProstaScint;

- an agreement with Matritech to market and distribute NMP22 BladderChek to urologists and oncologists in the United States;

- marketing, license and supply agreements with Advanced Magnetics, Inc. related to Combidex and Code 7228;

- a License Agreement between our joint venture, PSMA Development Company LLC, and AlphaVax Human Vaccines, Inc.; and

- a Collaboration Agreement between our joint venture and Abgenix, Inc.

Because our collaborative partners are responsible for certain manufacturing and distribution activities, among others, these activities are outside our direct control and we rely on our partners to perform their obligations. For example, Matritech retained the ability to market its NMP22 BladderChek to primary care physicians and others and has begun such marketing efforts. In the event that our collaborative partners are entitled to enter into third party arrangements that may economically disadvantage us, or breach their obligations under our agreements, our products may not be commercially successful. As a result, any success may be delayed and new product development could be inhibited with the result that our business could be significantly and adversely affected.

OUR BUSINESS COULD BE HARMED IF CERTAIN AGREEMENTS EXPIRE OR ARE TERMINATED EARLY.

If our collaborative agreements expire or are terminated and we cannot renew or replace them on commercially reasonable terms, our business and financial results may suffer. For example, in January 2003, we provided Draximage Inc. with notice of our intent to terminate our Product Manufacturing and Supply Agreement and License Agreement with Draximage relating to the BrachySeed products which represented 20% of our product related revenues for the year ended December 31, 2002. In April 2003, we entered into an agreement with Draximage formally terminating each of these agreements. We no longer market and sell the BrachySeed products.

We are also a party to license agreements under which we have rights to use technologies owned by other companies in the manufacture of our products and in

our proprietary research, development and testing processes. We are the exclusive licensee of certain patents and patent applications held by the University of North Carolina at Chapel Hill covering part of the technology used in the proteomics program and of certain patents and patent applications held by the Memorial Sloan-Kettering Institute covering PSMA.

We also depend upon the enforceability of our license with The Dow Chemical Company with respect to Quadramet. If the licenses were terminated, we may not be able to find suitable alternatives to these technologies on a timely basis or on reasonable terms, if at all. The loss of the right to use these technologies that we have licensed would significantly and adversely affect our business.

WE HAVE LIMITED SALES, MARKETING AND DISTRIBUTION CAPABILITIES FOR OUR PRODUCTS.

We have established an internal sales force that is responsible for marketing and selling ProstaScint, Quadramet and NMP22 BladderChek. However, such internal

sales force has limited sales, marketing and distribution capabilities for our products, compared to those of many of our competitors. Effective August 1, 2003, we reacquired marketing rights to Quadramet from Berlex Laboratories, Inc. in North and Latin America, for an upfront payment of $8.0 million and the obligation to pay royalties to Berlex on future sales of Quadramet. If our internal sales force is unable to successfully market Quadramet, our business and financial condition may be adversely affected. If we are unable to establish and maintain significant sales, marketing and distribution efforts within the United States, either internally or through arrangements with third parties, our business may be significantly and adversely affected. In locations outside of the United States, we have not established a selling presence.

THERE ARE RISKS ASSOCIATED WITH THE MANUFACTURE AND SUPPLY OF OUR PRODUCTS.

If we are to be successful, our products will have to be manufactured by contract manufacturers in compliance with regulatory requirements and at costs acceptable to us. If we are unable to successfully arrange for the manufacture of our products and product candidates, either because potential manufacturers are not cGMP compliant, are not available or charge excessive amounts, we will not be able to successfully commercialize our products and our business will be significantly and adversely affected.

ProstaScint was manufactured at a cGMP compliant manufacturing facility operated by Laureate Pharma L.P. (formerly Bard BioPharma L.P.). We had access to Laureate's facility for continued manufacturing of the product until January 2002. We entered into a Development and Manufacturing Agreement with DSM Biologics Company B.V. in July 2000, which we intended would replace our arrangement with Laureate with respect to ProstaScint. Our relationship with DSM has subsequently terminated. We entered into a new Contract Manufacturing Agreement with Laureate Pharma L.P. in January 2003. Our failure to maintain a long term supply agreement on commercially reasonable terms will have a material adverse effect on our business, financial condition and results of operations.

Quadramet is manufactured by Bristol-Myers Squibb (BMS) (formerly DuPont), pursuant to an agreement with Cytogen. Some components of Quadramet, particularly Samarium153 and EDTMP, are provided to BMS by outside suppliers. Due to radioactive decay, Samarium153 must be produced on a weekly basis. BMS obtains its requirements for Samarium153 from one supplier. Alternative sources for these components may not be readily available. If BMS cannot obtain sufficient quantities of the components on commercially reasonable terms, or in a timely manner, it would be unable to manufacture Quadramet on a timely and cost-effective basis, which could have a material adverse effect on our business, financial condition and results of operations.

Pursuant to the terms of our distribution agreement with Matritech, we rely on Matritech as the sole supplier of NMP22 BladderChek. Matritech uses independent contractors to manufacture the product. If Matritech fails to, or is unable to

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provide the product, we could experience a material adverse effect on our business, financial condition and results of operations.

The Company, our contract manufacturers and testing laboratories are required to adhere to United States Food & Drug Administration regulations setting forth requirements for cGMP, and similar regulations in other countries, which include extensive testing, control and documentation requirements. Ongoing compliance with cGMP, labeling and other applicable regulatory requirements is monitored through periodic inspections and market surveillance by state and federal agencies, including the FDA, and by comparable agencies in other countries. Failure of our contract vendors or us to comply with applicable regulations could result in sanctions being imposed on us, including fines, injunctions,

civil penalties, failure of the government to grant premarket clearance or premarket approval of drugs, delays, suspension or withdrawal of approvals, seizures or recalls of products, operating restrictions and criminal prosecutions any of which could significantly and adversely affect our business.

FAILURE OF CONSUMERS TO OBTAIN ADEQUATE REIMBURSEMENT FROM THIRD-PARTY PAYORS COULD LIMIT MARKET ACCEPTANCE AND AFFECT PRICING OF OUR PRODUCTS.

Our business, financial condition and results of operations will continue to be affected by the efforts of governments and other third-party payors to contain or reduce the costs of healthcare. There have been, and we expect that there will continue to be, a number of federal and state proposals to implement government control of pricing and profitability of therapeutic and diagnostic imaging agents such as our products. In addition, an emphasis on managed care increases possible pressure on pricing of these products. While we cannot predict whether these legislative or regulatory proposals will be adopted, or the effects these proposals or managed care efforts may have on our business, the announcement of these proposals and the adoption of these proposals or efforts could affect our stock price or our business. Further, to the extent these proposals or efforts have an adverse effect on other companies that are our prospective corporate partners, our ability to establish necessary strategic alliances may be harmed.

Sales of our products depend in part on reimbursement to the consumer from third-party payors, including Medicare, Medicaid and private health insurance plans. Third-party payors are increasingly challenging the prices charged for medical products and services. If third-party payors determine that our products are not cost-effective, they may discontinue reimbursement to consumers. Alternatively, such reimbursement may not be sufficient to allow us to sell our products on a competitive basis. Approval of our products for reimbursement by a third-party payor may depend on a number of factors, including the payor's determination that our products are clinically useful and cost-effective, medically necessary and not experimental or investigational. Reimbursement is determined by each payor individually and in specific cases. The reimbursement process can be time consuming. If we cannot secure adequate third-party reimbursement for our products, our business could be significantly and adversely affected.

IF WE ARE UNABLE TO COMPLY WITH APPLICABLE GOVERNMENTAL REGULATION WE MAY NOT BE ABLE TO CONTINUE OUR OPERATIONS.

Any products tested, manufactured or distributed by us or on our behalf pursuant to FDA approvals are subject to pervasive and continuing regulation by numerous regulatory authorities, including primarily the FDA. We may be slow to adapt, or we may never adapt to changes in existing requirements or adoption of new requirements or policies. Our failure to comply with regulatory requirements could subject us to enforcement action, including product seizures, recalls, withdrawal, suspension, or revocation of approvals, restrictions on or injunctions against marketing our products based on our technology, and civil and criminal penalties. We may incur significant costs to comply with laws and regulations in the future or compliance with laws or regulations may create an unsustainable burden on our business.

Numerous federal, state and local governmental authorities, principally the FDA, and similar regulatory agencies in other countries, regulate the preclinical testing, clinical trials, manufacture and promotion of any compounds or agents we or our collaborative partners develop, and the manufacturing and marketing of any resulting drugs. The product development and regulatory approval process is lengthy, expensive, uncertain and subject to delays.

The regulatory risks we face also include the following:

- any compound or agent we or our collaborative partners develop must receive regulatory agency approval before it may be marketed as a drug in a particular country;

- the regulatory process, which includes preclinical testing and clinical trials of each compound or agent in order to establish its safety and efficacy, varies from country to country, can take many years and requires the expenditure of substantial resources;

- in all circumstances, approval of the use of previously unapproved radioisotopes in certain of our products requires approval of either the Nuclear Regulatory Commission or equivalent state regulatory agencies, which may be a lengthy process. A radioisotope is an unstable form of an element which undergoes radioactive decay, thereby emitting radiation which may be used, for example, to image or destroy harmful growths or tissue;

- data obtained from preclinical and clinical activities are susceptible to varying interpretations which could delay, limit or prevent regulatory agency approval; and

- delays or rejections may be encountered based upon changes in regulatory agency policy during the period of product development and/or the period of review of any application for regulatory agency approval. These delays could adversely affect the marketing of any products we or our collaborative partners develop, impose costly procedures upon our activities, diminish any competitive advantages we or our collaborative partners may attain and adversely affect our ability to receive royalties.

Regulatory agency approval for a product or agent may not be received and may entail limitations on the indicated uses that could limit the potential market for any such product. For example, as disclosed in our press releases and periodic filings, we have exclusive United States marketing rights to Combidex, an ultrasmall superparamagnetic iron oxide contrast agent for magnetic resonance imaging of lymph nodes, that is pending clearance by the United States Food and Drug Administration. In June 2000, Advanced Magnetics received an approvable letter from the FDA with respect to Combidex. We are awaiting further information from the FDA regarding Combidex.

Furthermore, if and when such approval is obtained, the marketing, manufacture, labeling, packaging, reporting, storage, advertising and promotion and record keeping related to our products would remain subject to extensive regulatory requirements. Discovery of previously unknown problems with a drug, its manufacture or its manufacturer may result in restrictions on such drug, manufacture or manufacturer, including withdrawal of the drug from the market. Failure to comply with regulatory requirements could result in fines, injunctions, seizures, recalls, suspension or withdrawal of regulatory approvals, operating restrictions and criminal prosecution.

The United States Food, Drug and Cosmetics Act requires (i) that our products be manufactured in FDA registered facilities subject to inspection, and (ii) that we comply with cGMP, which imposes certain procedural and documentation requirements upon us and our manufacturing partners with respect to manufacturing and quality assurance activities. If we or our contract partners do not comply with cGMP we may be subject to sanctions, including fines,

injunctions, civil penalties, recalls or seizures of products, total or partial

suspension of production, product recalls, failure of the government to grant premarket clearance or premarket approval for drugs, withdrawal of marketing approvals and criminal prosecution.

WE COULD BE NEGATIVELY IMPACTED BY FUTURE INTERPRETATION OR IMPLEMENTATION OF FEDERAL AND STATE FRAUD AND ABUSE LAWS, INCLUDING ANTI-KICKBACK LAWS, THE FEDERAL STARK LAW AND OTHER FEDERAL AND STATE ANTI-REFERRAL LAWS.

We are subject to various federal and state laws pertaining to health care fraud and abuse, including anti-kickback laws and physician self-referral laws. Violations of these laws are punishable by criminal and/or civil sanctions, including, in some instances, imprisonment and exclusion from participation in federal and state health care programs, including Medicare, Medicaid and Veterans Administration health programs. We have not been challenged by a governmental authority under any of these laws and believe that our operations are in compliance with such laws. However, because of the far-reaching nature of these laws, we may be required to alter one or more of our practices to be in compliance with these laws. Health care fraud and abuse regulations are complex and even minor, inadvertent irregularities can potentially give rise to claims that the statute has been violated. Any violations of these laws could result in a material adverse effect on our business, financial condition and results of operations. If there is a change in law, regulation or administrative or judicial interpretations, we may have to change our business practices or our existing business practices could be challenged as unlawful, which could have a material adverse effect on our business, financial condition and results of operations.

We could become subject to false claims litigation under federal statutes, which can lead to civil money penalties, criminal fines and imprisonment, and/or exclusion from participation in Medicare, Medicaid and other federal and state health care programs. These false claims statutes include the False Claims Act, which allows any person to bring suit alleging false or fraudulent claims under federal programs or contracts claims or other violations of the statute and to share in any amounts paid by the entity to the government in fines or settlement. Such suits, known as qui tam actions, have increased significantly in recent years and have increased the risk that a health care company, such as us, will have to defend a false claim action, pay fines or be excluded from the Medicare program, Medicaid programs or other federal and state health care programs as a result of an investigation arising out of such action. If we are unsuccessful in defending against any such action, such action may have a material adverse effect on our business, financial condition and results of operations.

WE DEPEND ON ATTRACTING AND RETAINING KEY PERSONNEL.

We are highly dependent on the principal members of our management and scientific staff. The loss of their services might significantly delay or prevent the achievement of development or strategic objectives. Our success depends on our ability to retain key employees and to attract additional qualified employees. Competition for personnel is intense, and therefore we may not be able to retain existing personnel or attract and retain additional highly qualified employees in the future.

During 2002, we announced numerous changes to members of our senior management. H. Joseph Reiser, Ph.D. who held the position of President and Chief Executive Officer of the Company from April 1998 until December 2002, resigned from his position for personal reasons. Michael D. Becker, our former Vice President of Business Development, was unanimously elected by our board of directors to serve as Dr. Reiser's replacement as President and Chief Executive Officer. Mr. Becker was also unanimously elected to serve on our Board of Directors. Dr. Reiser has remained a member of our Board of Directors. In addition, Lawrence R. Hoffman, our Vice President and Chief Financial Officer since July 2000, left the Company

to pursue other opportunities as of December 31, 2002. Ms. Thu Dang, our Director of Finance, was subsequently promoted to Vice President of Finance.

Additionally, in the first quarter of 2003: (i) William Goeckeler, our Vice President of Research and Development was promoted to Vice President, Operations; (ii) Deborah Kaminsky, our Vice President of Sales and Marketing, shifted her work focus, and serves as our Vice President, Business Development; (iii) Rita Auld, our Director of Human Resources, was promoted to Vice President, Human Resources and Administration and Corporate Secretary; (iv) Corey Jacklin assumed the responsibilities of Senior Director of Sales; and (v) June Gobern was promoted to Senior Director of Marketing.

On December 17, 2002, we entered into a letter agreement with Michael D. Becker in connection with Mr. Becker's promotion to President and Chief Executive Officer of the Company. Under the terms of such letter agreement, Mr. Becker receives an annual base salary of $250,000. Mr. Becker is also eligible to participate in our Cytogen Corporation Performance Bonus Plan, as and if approved by our Board of Directors, with a target bonus rate of 30% of base salary based upon performance objectives. Mr. Becker is also entitled to all existing Company benefits, at the sole discretion of the Board of Directors. In addition, Mr. Becker was granted options to purchase 200,000 shares of our common stock under our 1995 Stock Option Plan. Pursuant to the terms of the letter agreement, in the event we terminate Mr. Becker's employment for reasons other than for cause, as defined therein, Mr. Becker shall be entitled to receive twelve month's base pay and continuation of benefits under COBRA, and a pro rata portion of any incentive benefits earned through the date of termination.

Each of our executive officers is currently party to an Executive Change of Control Severance Agreement with Cytogen. Such agreements provide, generally, for the payment of twelve months' base salary, a pro-rata portion of such officer's bonus compensation, the continuation of all benefits, reasonable Company-paid outplacement assistance and certain other accrued rights, in the event such officer's employment with us is terminated in connection with certain changes in control.

We do not carry key person life insurance policies and we do not typically enter into long-term arrangements with our key personnel. If we are unable to hire and retain personnel in key positions, our business could be significantly and adversely affected unless qualified replacements can be found.

OUR BUSINESS EXPOSES US TO POTENTIAL LIABILITY CLAIMS THAT MAY EXCEED OUR FINANCIAL RESOURCES, INCLUDING OUR INSURANCE COVERAGE, AND MAY LEAD TO THE CURTAILMENT OR TERMINATION OF OUR OPERATIONS.

Our business is subject to product liability risks inherent in the testing, manufacturing and marketing of our products and product liability claims may be asserted against us, our collaborators or our licensees. While we currently maintain product liability insurance in the amount of $10.0 million, such coverage may not be adequate to protect us against future product liability claims. In addition, product liability insurance may not be available to us in the future on commercially reasonable terms, if at all. Although we have not had a history of claims payments that have exceeded our insurance coverage or available financial resources, if liability claims against us exceed our financial resources or coverage amounts, we may have to curtail or terminate our operations. In addition, while we currently maintain directors and officers liability insurance in the amount of $20.0 million, such coverage may not be available on commercially reasonable terms or be adequate to cover any claims that we may be required to satisfy in the future. Our insurance coverage is

subject to industry standard and certain other limitations.

OUR BUSINESS INVOLVES ENVIRONMENTAL RISKS THAT MAY RESULT IN LIABILITY.

We are subject to a variety of local, state, federal and foreign government regulations relating to storage, discharge, handling, emission, generation, manufacture and disposal of toxic, infectious or other hazardous substances used

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to manufacture our products. If we fail to comply with these regulations, we could be liable for damages, penalties, or other forms of censure and our business could be significantly and adversely affected. We currently do not carry insurance for contamination or injury resulting from the use of such materials.

Two of our marketed products, ProstaScint and Quadramet utilize radioactive materials. ProstaScint is not manufactured or shipped as a radioactive material because the radioactive component is not added until the product has arrived at its final destination (a radiopharmacy). Laureate Pharma, the contract manufacturer of ProstaScint, holds a radioactive materials license because such license is required for certain release and stability tests of the product.

Quadramet, however, is manufactured and shipped as radioactive, and therefore, the manufacturing and distribution of this product must comply with regulations promulgated by the U.S. Nuclear Regulatory Commission. Bristol Myers Squibb manufacturers and distributes Quadramet, and is, therefore, subject to these regulations.

OUR INTELLECTUAL PROPERTY IS DIFFICULT TO PROTECT.

Our business and competitive positions are dependent upon our ability to protect our proprietary technology. Because of the substantial length of time and expense associated with development of new products, we, like the rest of the biopharmaceutical industry, place considerable importance on obtaining and maintaining patent and trade secret protection for new technologies, products and processes. We have filed patent applications for our technology for diagnostic and therapeutic products and the methods for their production and use.

The patent positions of pharmaceutical, biopharmaceutical and biotechnology companies, including us, are generally uncertain and involve complex legal and factual questions. Our patent applications may not protect our technologies and products because, among other things:

- there is no guarantee that any of our pending patent applications will result in issued patents;
- we may develop additional proprietary technologies that are not patentable;
- there is no guarantee that any patents issued to us, our collaborators or our licensors will provide a basis for a commercially viable product;
- there is no guarantee that any patents issued to us or our collaborators will provide us with any competitive advantage;
- there is no guarantee that any patents issued to us or our collaborators will not be challenged, circumvented or invalidated by third parties; and

- there is no guarantee that any patents previously issued to others or issued in the future will not have an adverse effect on our ability to do business.

In addition, patent law in the technology fields in which we operate is uncertain and still evolving, the degree of protection that may be afforded any patents we are issued or license from others may not be sufficient to protect our commercial interests. Furthermore, others may independently develop similar or alternative technologies, duplicate our technologies, or, if patents are issued to us, design around the patented technologies developed by us. We could incur substantial costs in litigation if we are required to defend ourselves in patent suits by third parties or if we initiate such suits. In addition, if challenged by others in litigation, the patents we have been issued, or which we have been assigned or we have licensed from others may be found invalid. It is

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also possible that our activities may infringe patents owned by others. Defense and prosecution of patent matters can be expensive and time-consuming and, regardless of whether the outcome is favorable to us, can result in the diversion of substantial financial, managerial and other resources. An adverse outcome could:

- subject us to significant liability to third parties;

- require us to cease any related research and development activities and product sales; or

- require us to obtain licenses from third parties.

Any licenses required under any such third-party patents or proprietary rights may not be available on commercially reasonable terms, if at all. Moreover, the laws of certain countries may not protect our proprietary rights to the same extent as the laws of the United States. We cannot predict whether our or our competitors' pending patent applications will result in the issuance of valid patents which may significantly and adversely affect our business.

OUR SECURITY MEASURES MAY NOT PROTECT OUR UNPATENTED PROPRIETARY TECHNOLOGY.

We also rely upon trade secret protection for some of our confidential and proprietary information that is not subject matter for which patent protection is available. To help protect our rights, we require all employees, consultants, advisors and collaborators to enter into confidentiality agreements that require disclosure, and in most cases, assignment to us, of their ideas, developments, discoveries and inventions, and that prohibit the disclosure of confidential information to anyone outside Cytogen or our subsidiaries. Although we are unaware of any unauthorized use or disclosure of our unpatented proprietary technology to date, these agreements may not provide adequate protection for our trade secrets, know-how or other proprietary information or prevent such unauthorized use or disclosure.

WE ARE CURRENTLY SUBJECT TO PATENT LITIGATION.

On March 17, 2000, we were served with a complaint filed against us in the United States District Court for the District of New Jersey by M. David Goldenberg ("Goldenberg") and Immunomedics, Inc. (collectively "Plaintiffs"). The litigation claims that our ProstaScint product infringes a patent purportedly owned by Goldenberg and licensed to Immunomedics. We believe that ProstaScint does not infringe this patent, and that the patent is invalid and unenforceable. The patent sought to be enforced in the litigation has now expired; as a result, the claim, even if successful, would not result in an injunction barring the continued sale of ProstaScint or affect any other of our

products or technology. In addition, we have certain rights to indemnification against litigation and litigation expenses from the inventor of technology used in ProstaScint, which may be offset against royalty payments on sales of ProstaScint. However, given the uncertainty associated with litigation, we may incur material expenditures. On December 17, 2001, Cytogen filed a motion for summary judgment of non-infringement of the asserted claims of the patent-in-suit. The Plaintiffs opposed that motion and filed their own cross-motion for summary judgment of infringement. On July 3, 2002, the Court denied both parties' summary judgment motions, with leave to renew those motions after presenting expert testimony and legal argument based upon that testimony. The parties subsequently presented expert testimony and submitted additional briefing. On April 29, 2003, our motion for summary judgment of non-infringement of all asserted claims was granted, plaintiffs' motion for summary judgment of infringement was denied and the case was ordered closed. On May 12, 2003, Plaintiffs filed a Notice of Appeal regarding this decision to the U.S. Court of Appeals for the Federal Circuit and subsequently filed such appeal on August 4, 2003.

OUR STOCK PRICE HAS BEEN AND MAY CONTINUE TO BE VOLATILE, AND YOUR INVESTMENT IN OUR STOCK COULD DECLINE IN VALUE OR FLUCTUATE SIGNIFICANTLY.

The market prices for securities of biotechnology and pharmaceutical companies have historically been highly volatile, and the market has from time to time experienced significant price and volume fluctuations that are unrelated to the operating performance of particular companies. The market price of our common stock has fluctuated over a wide range and may continue to fluctuate for various reasons, including, but not limited to, announcements concerning our competitors or us regarding:

- results of clinical trials;
- technological innovations or new commercial products;
- changes in governmental regulation or the status of our regulatory approvals or applications;
- changes in earnings;
- changes in health care policies and practices;
- developments or disputes concerning proprietary rights;
- litigation or public concern as to safety of the our potential products; and
- changes in general market conditions.

These fluctuations may be exaggerated if the trading volume of our common stock is low. These fluctuations may or may not be based upon any of our business or operating results. Our common stock may experience similar or even more dramatic price and volume fluctuations which may continue indefinitely.

The following table sets forth the high and low sale prices for our common stock for each of the quarters in the period beginning July 1, 2000 through June 30, 2003 as reported on the Nasdaq National Market, and as adjusted for our one-for-ten reverse stock split effected October 25, 2002:

Quarter Ended	High	Low

September 30, 2000	$113.75	$55.00
December 31, 2000	$71.88	$20.00
March 31, 2001	$65.63	$23.13
June 30, 2001	$61.00	$21.88
September 30, 2001	$53.90	$19.00
December 31, 2001	$45.50	$20.50
March 31, 2002	$34.70	$21.10
June 30, 2002	$22.40	$9.10
September 30, 2002	$11.50	$3.20
December 31, 2002	$8.44	$2.68
March 31, 2003	$3.90	$2.51
June 30, 2003	$8.60	$2.80

WE HAVE ADOPTED VARIOUS ANTI-TAKEOVER PROVISIONS WHICH MAY AFFECT THE MARKET PRICE OF OUR COMMON STOCK AND PREVENT OR FRUSTRATE ATTEMPTS BY OUR STOCKHOLDERS TO REPLACE OR REMOVE OUR MANAGEMENT TEAM.

Our Board of Directors has the authority, without further action by the holders of common stock, to issue from time to time, up to 5,400,000 shares of preferred stock in one or more classes or series, and to fix the rights and preferences of the preferred stock. Pursuant to these provisions, we have implemented a stockholder rights plan by which one preferred stock purchase right is attached to each share of common stock, as a means to deter coercive takeover tactics and to prevent an acquirer from gaining control of us without some mechanism to secure a fair price for all of our stockholders if an acquisition was completed. These rights will be exercisable if a person or group acquires beneficial ownership of 20% or more of our common stock and can be made exercisable by action of our board of directors if a person or group commences a tender offer which would result in such person or group beneficially owning 20% or more of our common stock. Each right will entitle the holder to buy one one-thousandth of a share of a new series of our junior participating preferred stock for $20. If any person or group becomes the beneficial owner of 20% or more of our common stock (with certain limited exceptions), then each right not owned by the 20% stockholder will entitle its holder to purchase, at the right's then current exercise price, common shares having a market value of twice the exercise price. In addition, if after any person has become a 20% stockholder, we are involved in a merger or other business combination transaction with another person, each right will entitle its holder (other than the 20% stockholder) to purchase, at the right's then current exercise price, common shares of the acquiring company having a value of twice the right's then current exercise price.

We are subject to provisions of Delaware corporate law which, subject to certain exceptions, will prohibit us from engaging in any "business combination" with a person who, together with affiliates and associates, owns 15% or more of our common stock for a period of three years following the date that the person came to own 15% or more of our common stock unless the business combination is approved in a prescribed manner.

These provisions of the stockholder rights plan, our certificate of incorporation, and of Delaware law may have the effect of delaying, deterring or preventing a change in control of Cytogen, may discourage bids for our common stock at a premium over market price and may adversely affect the market price, and the voting and other rights of the holders, of our common stock. In addition, these provisions make it more difficult to replace or remove our current management team in the event our stockholders believe this would be in the best interest of the Company and our stockholders.

THE LIQUIDITY OF OUR COMMON STOCK COULD BE ADVERSELY AFFECTED IF WE ARE DELISTED FROM THE NASDAQ NATIONAL MARKET.

On August 14, 2002, we announced that we had received notification from the Nasdaq Stock Market, Inc. that our common stock had closed below the minimum $1.00 per share requirement for the previous 30 consecutive trading days as required under Marketplace Rule 4450(a)(5). In accordance with Marketplace Rule 4450 (e)(2), we were provided with 90 calendar days, or until November 12, 2002, to regain compliance by having the bid price for our common stock close at $1.00 or greater for a minimum period of 10 consecutive trading days.

On September 26, 2002, we announced that our Board of Directors unanimously approved, and recommended to our stockholders, a proposal that would give the Board of Directors authority to effect a reverse stock split of our common stock, at a ratio of up to one-for-ten at any time prior to December 31, 2002. A special meeting of our stockholders was held on October 25, 2002 to consider such recommendation. Pursuant to the authority granted to our Board of Directors

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at the special meeting, on October 25, 2002, we implemented a one-for-ten reverse split of our outstanding and authorized shares of common stock.

We subsequently achieved compliance with Nasdaq Marketplace Rule 4450(a)(5), and received a letter from Nasdaq notifying us of such compliance on November 11, 2002.

If we do not continue to maintain compliance with this Marketplace Rule, or any other Listing Standards which may apply to us, we may once again face delisting from the Nasdaq National Market in the future.

In the event that we are unable maintain compliance with all relevant Nasdaq Listing Standards, our securities may be subject to delisting from the Nasdaq National Market. If such delisting occurs, the market price and market liquidity of our common stock may be adversely affected.

Alternatively, if faced with such delisting, we may submit an application to transfer the listing of our common stock to the Nasdaq SmallCap Market. The Nasdaq SmallCap Market also has a $1.00 minimum bid price requirement.

If our common stock is delisted by Nasdaq, our common stock would be eligible to trade on the OTC Bulletin Board maintained by Nasdaq, another over-the-counter quotation system, or on the pink sheets where an investor may find it more difficult to dispose of or obtain accurate quotations as to the market value of our common stock. In addition, we would be subject to a rule promulgated by the Securities and Exchange Commission that, if we fail to meet criteria set forth in such rule, imposes various practice requirements on broker-dealers who sell securities governed by the rule to persons other than established customers and accredited investors. Consequently, such rule may deter broker-dealers from recommending or selling our common stock, which may further affect the liquidity of our common stock.

Delisting from Nasdaq will make trading our common stock more difficult for investors, potentially leading to further declines in our share price. It would also make it more difficult for us to raise additional capital. Further, if we are delisted we would also incur additional costs under state blue sky laws in connection with any sales of our securities. These requirements could severely limit the market liquidity of our common stock and the ability of our shareholders to sell our common stock in the secondary market.

A LARGE NUMBER OF OUR SHARES ARE ELIGIBLE FOR FUTURE SALE WHICH MAY ADVERSELY IMPACT THE MARKET PRICE OF OUR COMMON STOCK.

A large number of shares of our common stock are already outstanding, issuable upon exercise of options and warrants, or the achievement of certain milestones

under previously completed acquisitions and may be eligible for resale, which may adversely affect the market price of our common stock. As of June 18, 2003 we had 9,818,755 shares of common stock outstanding, which number of shares: (i) includes an aggregate of 241 shares of common stock to be issued to prior holders of securities of CytoRad Incorporated and Cellcor, Inc., which we acquired in 1995, upon each such holders respective exchange of such securities; (ii) excludes 50,000 shares of common stock previously issued by us and currently held in escrow pending release, upon certain conditions, to Advanced Magnetics, who currently maintains voting control of such securities; and (iii) excludes 28,589 shares previously issued by us and currently held for issuance by the custodian of our Employee Stock Purchase Plan to the participants thereunder, in the event they elect to purchase such shares. An additional 392,715 shares of common stock are issuable upon the exercise of outstanding stock options and an additional 422,153 shares of common stock are issuable upon the exercise of outstanding warrants, including the warrants issued to the selling stockholders in this prospectus. Substantially all of such shares subject to outstanding options and warrants will, when issued upon exercise thereof, be available for immediate resale in the public market pursuant to

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either a currently effective registration statement under the Securities Act of 1933, as amended, or pursuant to Rule 144 or Rule 701 promulgated thereunder. In addition, there are 167,951 additional shares of common stock reserved for future issuance under our current stock options plans, 3,630 additional shares of common stock reserved for issuance under our 401(k) Plan and 22,751 additional shares of common stock reserved for the future issuance under our employee bonus plan. All such reserved shares have been registered with the Securities and Exchange Commission pursuant to currently effective registration statements. In addition, there are 95,153 additional shares of common stock, subject to certain adjustments, reserved for future issuance in connection with the issuance of a convertible promissory note, having a seven (7) year maturity, to ELAN Corporation, plc in August 1998.

In connection with our acquisition of Prostagen, Inc. in June 1999, we issued 205,000 unregistered shares of our common stock to the then stockholders of Prostagen, which shares may be sold from time to time pursuant to Rule 144 under the Securities Act. Such stockholders also have certain piggyback registration rights with respect to these shares of common stock. An additional 127,699 shares have been issued in 2002 and were subsequently registered on a registration statement on Form S-3. An additional $2.0 million worth of Cytogen common stock, which we are obligated to register under the Securities Act of 1933, as amended, may be issued if certain milestones are achieved in the PSMA development programs.

On October 25, 2001, we filed with the Securities and Exchange Commission a shelf registration statement on Form S-3 covering 1,000,000 shares of our common stock. 297,066 and 416,670 of such registered shares were issued to the State of Wisconsin Investment Board in private offering transactions in each of January 2002 and June 2002, respectively.

Availability of a significant number of additional shares of our common stock for future sale and issuance could depress the price of our common stock.

BECAUSE WE DO NOT INTEND TO PAY, AND HAVE NOT PAID, ANY CASH DIVIDENDS ON OUR SHARES OF COMMON STOCK, OUR STOCKHOLDERS WILL NOT BE ABLE TO RECEIVE A RETURN ON THEIR SHARES UNLESS THE VALUE OF OUR SHARES APPRECIATES AND THEY SELL THEM.

We have never paid or declared any cash dividends on our common stock or other securities and intend to retain any future earnings to finance the development and expansion of our business. We do not anticipate paying any cash dividends on our common stock in the foreseeable future. Therefore, our stockholders will not

be able to receive a return on their shares unless the value of our shares appreciates and they sell them.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus includes or incorporates forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, as amended. All statements, other than statements of historical facts, included or incorporated in this prospectus regarding our strategy, future operations, financial position, future revenues, projected costs, prospects, plans and objectives of management are forward-looking statements. The words "anticipates," "believes," "estimates," "expects," "intends," "may," "plans," "projects," "will," "would" and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words. We cannot guarantee that we actually will achieve the plans, intentions or expectations disclosed in our forward-looking statements and you should not place undue reliance on our forward-looking statements. Actual results or events could differ materially from the plans, intentions and expectations disclosed in the forward-looking statements we make. We have included important factors in the cautionary statements included or incorporated in this prospectus, particularly under the heading "Risk Factors", that we believe could cause actual results or events to differ materially from the forward-looking statements that we make. Our forward-looking statements do not reflect the potential impact of any future acquisitions, mergers, dispositions, joint ventures or investments we may make. We do not assume any obligation to update any forward-looking statements. You should not unduly rely on forward-looking statements contained or incorporated by reference in this prospectus. Actual results or outcomes may differ materially from those predicted in our forward-looking statements due to the risks and uncertainties inherent in our business.

You should read and interpret any forward-looking statements together with the following documents:

- our most recent Annual Report on Form 10-K, as amended;
- our most recent quarterly report of Form 10-Q;
- the risk factors contained in this prospectus under the caption "Risk Factors"; and
- our other filings with the Securities and Exchange Commission.

Any forward-looking statement speaks only as of the date on which that statement is made. We will not update any forward-looking statement to reflect events or circumstances that occur after the date on which such statement is made.

USE OF PROCEEDS

We will not receive any proceeds from the sale of shares by the selling stockholders.

The selling stockholders will pay any underwriting discounts and commissions and expenses incurred by the selling stockholders for brokerage, accounting, tax or legal services or any other expenses incurred by the selling stockholders in disposing of the shares. We will bear all other costs, fees and expenses incurred in effecting the registration of the shares covered by this

prospectus, including, without limitation, all registration and filing fees, Nasdaq listing fees and fees and expenses of our counsel and our accountants.

SELLING STOCKHOLDERS

On June 6, 2003, we entered into a securities purchase agreement with certain institutional investors pursuant to which we issued and sold 1,052,632 shares of our common stock at $4.75 per share and issued warrants to purchase 315,790 shares of our common stock at an exercise price of $6.91 per share to the investors. Pursuant to the above private placement, we entered into a registration rights agreement with the institutional investors which requires us to register on a Form S-3, the shares issued to the investors and the shares issuable upon exercise of the warrants.

The following table sets forth, to our knowledge, certain information about the selling stockholders as of June 18, 2003.

Beneficial ownership is determined in accordance with the rules of the SEC, and includes voting or investment power with respect to shares. Shares of common stock issuable under stock options and warrants that are exercisable within 60 days after June 18, 2003 are deemed outstanding for computing the percentage ownership of the person holding the options and warrants but are not deemed outstanding for computing the percentage ownership of any other person. Unless otherwise indicated below, to our knowledge, all persons named in the table have sole voting and investment power with respect to their shares of common stock, except to the extent authority is shared by spouses under applicable law. The inclusion of any shares in this table does not constitute an admission of beneficial ownership for the person named below.

Name of Selling Stockholder	Shares of Common Stock Beneficially Owned Prior to Offering (1)		Number of Shares of Common Stock Being Offered(1)	Shares of C Beneficia Of
	Number	Percentage (2)		Number
Bonanza Master Fund Ltd.(3)........	684,211(5)	6.86%	684,211	0
BayStar Capital II LP(4)...........	684,211(5)	6.86%	684,211	0

* Less than one percent.

(1) We do not know when or in what amounts a selling stockholder may offer shares for sale. The selling stockholders might not sell any or all of the shares offered by this prospectus. Because the selling stockholders may offer all or some of the shares pursuant to this offering, and because there are currently no agreements, arrangements or understandings with respect to the sale of any of the shares, we cannot estimate the number of the shares that will be held by the selling stockholders after completion of the offering. However, for purposes of this table, we have assumed that, after completion of the offering, none of the shares covered by this prospectus will be held by the selling stockholders.

(2) Applicable percentage ownership is based on 9,818,755 shares of common stock outstanding as of June 18, 2003, plus any common stock equivalent or convertible securities held or shares beneficially owned by each such holder.

(3) Mr. Bernay Box, the General Partner of Bonanza Master Fund, Ltd., has voting, dispositive and investment powers over such securities. We have not previously had any material relationship with this selling stockholder.

(4) Mr. Steven Lamar, the Managing Partner of BayStar Capital II LP, has voting, dispositive and investment powers over such securities. We have not previously had any material relationship with this selling stockholder.

(5) Includes 526,316 shares of common stock held by each such selling stockholder and 157,895 shares of common stock issuable to the selling stockholders upon exercise of a warrant held by each such selling stockholder. The exercise price to purchase each share of common stock pursuant to each such warrant is $6.91 per share. Although the shares of common stock issuable upon exercise of the warrants are included herein, the terms of the warrants prohibit the exercise thereof in the event such exercise would cause the holder's beneficial ownership percentage to exceed 4.99%.

PLAN OF DISTRIBUTION

The selling stockholders and any of their pledgees, assignees and successors-in-interest may, from time to time, sell any or all of their shares of common stock on any stock exchange, market or trading facility on which the shares are traded or in private transactions. These sales may be at fixed or negotiated prices. The selling stockholders may use any one or more of the following methods when selling shares:

- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the shares as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- settlement of short sales;
- broker-dealers may agree with the selling stockholders to sell a specified number of such shares at a stipulated price per share;
- a combination of any such methods of sale; and
- any other method permitted pursuant to applicable law.

The selling stockholders may also sell shares under Rule 144 under the Securities Act, if available, rather than under this prospectus.

Broker-dealers engaged by the selling stockholders may arrange for other brokers-dealers to participate in sales. Broker-dealers may receive commissions or discounts from the selling stockholders (or, if any broker-dealer acts as agent for the purchaser of shares, from the purchaser) in amounts to be negotiated. The selling stockholders do not expect these commissions and discounts to exceed what is customary in the types of transactions involved.

The selling stockholders may from time to time pledge or grant a security interest in some or all of the shares of common stock owned by them and, if they default in the performance of their secured obligations, the

pledgees or secured parties may offer and sell the shares of common stock from time to time under this prospectus, or under an amendment to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act of 1933, as amended, amending the list of selling stockholders to include the pledgee, transferee or other successors in interest as selling stockholders under this prospectus.

The selling stockholders and any broker-dealers or agents that are involved in selling the shares may be deemed to be "underwriters" within the meaning of the Securities Act in connection with such sales. In such event, any commissions received by such broker-dealers or agents and any profit on the resale of the shares purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act. The selling stockholders have informed us that it does not have any agreement or understanding, directly or indirectly, with any person to distribute the common stock.

We are required to pay all fees and expenses incident to the registration of the shares. We have agreed to indemnify the selling stockholders against certain losses, claims, damages and liabilities, including liabilities under the Securities Act.

LEGAL MATTERS

The validity of the shares of common stock offered hereby has been passed upon by Hale and Dorr LLP, Princeton, New Jersey.

EXPERTS

The consolidated financial statements of Cytogen Corporation and subsidiaries as of December 31, 2002 and for the year then ended, have been incorporated by reference herein and in the registration statement in reliance upon the reports of KPMG LLP, independent accountants, and PricewaterhouseCoopers LLP, independent accountants, incorporated by reference herein, and upon the authority of said firms as experts in accounting and auditing. The audit report covering the December 31, 2002 consolidated financial statements refers to KPMG LLP's audit of the adjustments that were applied to restate the 2001 and 2000 consolidated financial statements, as more fully described in Note 1 to the consolidated financial statements. However, KPMG LLP was not engaged to and did not audit, review, or apply any procedures to the 2001 and 2000 consolidated financial statements other than with respect to such adjustments.

The consolidated balance sheet of Cytogen Corporation as of December 31, 2001 and the consolidated statements of operations, stockholders' equity and cash flows for each of the years in the two-year period ended December 31, 2001,

have been incorporated by reference in this prospectus, and in the registration statement of which this prospectus is a part, from the Annual Report on Form 10-K of Cytogen Corporation. The financial statements for the years ended December 31, 2001 and December 31, 2000 have been audited by Arthur Andersen LLP, independent public accountants, as indicated in their report with respect thereto, and are incorporated by reference herein. The Company has not received an updated or reissued copy of such report dated February 5, 2002, and is relying solely upon the manually-signed report of Arthur Andersen LLP previously provided to the Company in connection with the Company's Annual Report on Form 10-K for the year ended December 31, 2001. Arthur Andersen LLP has not consented to the inclusion of their report in this prospectus, and we have dispensed with the requirement to file their consent in reliance on Rule 437a promulgated under the Securities Act of 1933, as amended. Because Arthur Andersen has not consented to the inclusion of their report in this prospectus, you will not be able to recover against Arthur Andersen under Section 11 of the Securities Act of 1933, as amended, for any untrue statements of a material fact contained in the financial statements audited by Arthur Andersen or any omissions to state a material fact required to be stated therein.

WHERE YOU CAN FIND MORE INFORMATION

We file reports, proxy statements and other documents with the SEC. You may read and copy any document we file at the SEC's public reference room at Judiciary Plaza Building, 450 Fifth Street, N.W., Room 1024, Washington, D.C. 20549. You should call 1-800-SEC-0330 for more information on the public reference room. Our SEC filings are also available to you on the SEC's Internet site at http://www.sec.gov.

This prospectus is part of a registration statement that we filed with the SEC. The registration statement contains more information than this prospectus regarding us and our common stock, including certain exhibits and schedules. You can obtain a copy of the registration statement from the SEC at the address listed above or from the SEC's Internet site.

INFORMATION INCORPORATED BY REFERENCE

The SEC requires us to "incorporate" into this prospectus information that we file with the SEC in other documents. This means that we can disclose important information to you by referring to other documents that contain that information. The information incorporated by reference is considered to be part of this prospectus. Information contained in this prospectus and information that we file with the SEC in the future and incorporate by reference in this prospectus automatically updates and supersedes previously filed information. We incorporate by reference the documents listed below and any future filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, prior to the sale of all the shares covered by this prospectus.

(1) Our Annual Report on Form 10-K for the year ended December 31, 2002, as filed with the Securities and Exchange Commission on March 31, 2003 (File No. 000-14879);

(2) Amendment Number 1 to our Annual Report on Form 10-K/A for the year ended December 31, 2002, as filed with the Securities and Exchange Commission on March 31, 2003 (File No. 000-14879);

(3) Our Current Report on Form 8-K, dated April 8, 2003, as filed with the Securities and Exchange Commission on April 9, 2003 (File No. 000-14879);

(4) Our Current Report on Form 8-K, dated May 14, 2003, as filed with the Securities and Exchange Commission on May 14, 2003 (File No. 000-14879);

(5) Our Quarterly Report on Form 10-Q for the period ended March 31, 2003, as filed with the Securities and Exchange Commission on May 14, 2003 (File No. 000-14879);

(6) Our Current Report on Form 8-K, dated June 6, 2003, as filed with the Securities and Exchange Commission on June 9, 2003 (File No. 000-14879);

(7) Our Current Report on Form 8-K, dated June 18, 2003, as filed with the Securities and Exchange Commission on July 3, 2003 (File No. 000-14879);

(8) Our Current Report on Form 8-K, dated July 10, 2003, as filed with the Securities and Exchange Commission on July 11, 2003 (File No. 000-14879);

(9) Our Current Report on Form 8-K dated July 14, 2003, as filed with the Securities and Exchange Commission on July 14, 2003 (File No. 000-14879);

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(10) Our Current Report on Form 8-K, dated July 15, 2003, as filed with the Securities and Exchange Commission on July 15, 2003 (File No. 000-14879);

(11) Our Current Report on Form 8-K dated August 1, 2003, as filed with the Securities and Exchange Commission on August 1, 2003 (File No. 000-14879);

(12) The description of our common stock contained in our Registration Statement on Form 8-A, as supplemented by the disclosure set forth in Exhibit 3.1 to our Form 10-Q Quarterly Report for the quarter ended June 30, 2000 and Exhibit 3 to our Form 10-Q Quarterly Report for the quarter ended June 30, 1996 (File No. 000-14879);

(13) The description of our Series C Junior Participating Preferred Stock contained in Exhibit 1 to our Current Report on Form 8-K filed with the Securities and Exchange Commission on June 24, 1998 (File No. 333-020015); and

(14) All of our filings pursuant to the Exchange Act after the date of filing the initial registration statement and prior to effectiveness of the registration statement.

You may request a copy of these documents, which will be provided to you at no cost, by writing or telephoning us using the following contact information:

Cytogen Corporation
650 College Road East, 3rd Floor
Princeton, New Jersey 08540
Attention: Director, Legal
Telephone: 609-750-8222

YOU SHOULD RELY ONLY ON THE INFORMATION INCORPORATED BY REFERENCE OR PROVIDED IN THIS PROSPECTUS OR ANY PROSPECTUS SUPPLEMENT. WE HAVE NOT AUTHORIZED

ANYONE TO PROVIDE YOU WITH INFORMATION DIFFERENT FROM THAT CONTAINED OR INCORPORATED BY REFERENCE IN THIS PROSPECTUS. THE SELLING STOCKHOLDERS ARE OFFERING TO SELL, AND SEEKING OFFERS TO BUY, SHARES OF OUR COMMON STOCK ONLY IN JURISDICTIONS WHERE OFFERS AND SALES ARE PERMITTED. THE INFORMATION CONTAINED IN THIS PROSPECTUS IS ACCURATE ONLY AS OF THE DATE OF THIS PROSPECTUS, REGARDLESS OF THE TIME OF DELIVERY OF THIS PROSPECTUS OR OF ANY SALE OF COMMON STOCK.

INDEMNIFICATION OF DIRECTORS AND OFFICERS

Subsection (a) of Section 145 of the Delaware General Corporation Law empowers a corporation to indemnify any person who was or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

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Subsection (b) of Section 145 empowers a corporation to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

Section 145 further provides that to the extent a director or officer of a corporation has been successful in the defense of any action, suit or proceeding referred to in subsection (a) and (b) or in the defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith; that the indemnification provided by Section 145 shall not be deemed exclusive of any other rights to which the indemnified party may be entitled; and that the scope of indemnification extends to directors, officers, employees, or agents of a constituent corporation absorbed in a consolidation or merger and persons serving in that capacity at the request of the constituent corporation for another. Section 145 also empowers a corporation to purchase and maintain insurance on behalf of a director or officer of the corporation against any liability asserted against him or her or incurred by him or her in any such capacity or arising out of his or her status as such whether or not the

corporation would have the power to indemnify him or her against such liabilities under Section 145.

Section 102(b)(7) of the Delaware General Corporation Law enables a corporation in its certificate of incorporation to limit the personal liability of members of its board of directors for violation of a director's fiduciary duty of care. This section does not, however, limit the liability of a director for breaching his or her duty of loyalty, failing to act in good faith, engaging in intentional misconduct or knowingly violating a law, authorizing a payment of a dividend or approving a stock repurchase in violation of Delaware Corporate Law or from any transaction in which the director derived an improper personal benefit. This section also will have no effect on claims arising under the federal securities laws.

The Company's Certificate of Incorporation and By-Laws provide that the Company shall indemnify officers and directors and, to the extent permitted by the Board of Directors, employees and agents of the Company, to the full extent permitted by and in the manner permissible under the laws of the State of Delaware. In addition, the By-Laws permit the Board of Directors to authorize the Company to purchase and maintain insurance against any director, officer, employee or agent of the Company arising out of his capacity as such.

Cytogen has obtained liability insurance for the benefit of its directors and officers which provides coverage for losses of directors and officers for liabilities arising out of claims against such persons acting as directors or officers of Cytogen (or any subsidiary thereof) due to any breach of duty, neglect, error, misstatement, misleading statement, omission or act done by such directors and officers, except as prohibited by law.

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PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 14. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION.

The following table sets forth the various expenses to be incurred in connection with the sale and distribution of the securities being registered hereby, all of which will be borne by Cytogen Corporation (except any underwriting discounts and commissions and expenses incurred by the selling stockholders for brokerage, accounting, tax or legal services or any other expenses incurred by the selling stockholders in disposing of the shares). All amounts shown are estimates except the Securities and Exchange Commission registration fee.

Filing Fee - Securities and Exchange Commission	$ 822.54
Legal fees and expenses..................................	$30,000.00
Accounting fees and expenses............................	$12,000.00
Total Expenses.................................	$42,822.54

ITEM 15. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

Subsection (a) of Section 145 of the Delaware General Corporation Law empowers a corporation to indemnify any person who was or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding,

whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

Subsection (b) of Section 145 empowers a corporation to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

Section 145 further provides that to the extent a director or officer of a corporation has been successful in the defense of any action, suit or proceeding referred to in subsection (a) and (b) or in the defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith; that the indemnification provided by Section 145 shall not be deemed exclusive of any other rights to which the indemnified party may be entitled; and that the scope of indemnification extends to directors, officers, employees, or agents of a constituent corporation absorbed in a consolidation or merger and persons serving in that capacity at the request of the constituent corporation for another. Section 145 also empowers a corporation to purchase and maintain insurance on behalf of a director or officer of the corporation against any liability asserted against him or her or incurred by him or her in any such capacity or arising out of his or her status as such whether or not the corporation would have the power to indemnify him or her against such liabilities under Section 145.

Section 102(b)(7) of the Delaware General Corporation Law enables a corporation in its certificate of incorporation to limit the personal liability of members of its board of directors for violation of a director's fiduciary duty of care. This section does not, however, limit the liability of a director for breaching his or her duty of loyalty, failing to act in good faith, engaging in intentional misconduct or knowingly violating a law, authorizing a payment of a dividend or approving a stock repurchase in violation of Delaware Corporate Law or from any transaction in which the director derived an improper personal benefit. This section also will have no effect on claims arising under the federal securities laws.

The Company's Certificate of Incorporation and By-Laws provide that the Company shall indemnify officers and directors and, to the extent permitted by the Board of Directors, employees and agents of the Company, to the full extent permitted by and in the manner permissible under the laws of the State of Delaware. In addition, the By-Laws permit the Board of Directors to authorize the Company to purchase and maintain insurance against any director, officer, employee or agent of the Company arising out of his capacity as such.

Cytogen has obtained liability insurance for the benefit of its directors and officers which provides coverage for losses of directors and officers for liabilities arising out of claims against such persons acting as directors or officers of Cytogen (or any subsidiary thereof) due to any breach of duty, neglect, error, misstatement, misleading statement, omission or act done by such directors and officers, except as prohibited by law.

ITEM 16. EXHIBITS AND FINANCIAL SCHEDULES.

(a) Exhibits

5.1* Opinion of Hale and Dorr LLP.

10.1 Securities Purchase Agreement by and among the Company and the Purchasers dated July 10, 2003 (incorporated by reference to the Company's Current Report on Form 8-K, filed with the Securities and Exchange Commission on July 11, 2003) (Commission File No. 000-14879).

10.2 Form of Common Stock Purchase Warrant issued by the Company in favor of each Purchaser dated July 10, 2003 (incorporated by reference to the Company's Current Report on Form 8-K, filed with the Securities and Exchange Commission on July 11, 2003) (Commission File No. 000-14879).

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10.3 Registration Rights Agreement by and among the Company and the Purchasers dated July 10, 2003 (incorporated by reference to the Company's Current Report on Form 8-K, filed with the Securities and Exchange Commission on July 11, 2003) (Commission File No. 000-14879).

23.1* Consent of KPMG LLP.

23.2* Consent of PricewaterhouseCoopers LLP.

23.3* Consent of Hale and Dorr LLP (Included in Exhibit 5.1).

24.1* Power of Attorney (Included on signature page).

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* Filed herewith.

ITEM 17. UNDERTAKINGS.

The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933, as amended (the "Securities Act");

(ii) To reflect in the prospectus any facts or events arising after the effective date of this Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective Registration Statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement;

provided, however, that paragraphs (1)(i) and (1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), that are incorporated by reference in this Registration Statement.

(2) That, for the purposes of determining any liability under the Securities Act, each post-effective amendment shall be deemed to be a new

registration statement relating to the securities offered therein, and the offering of such securities at the time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

The Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the indemnification provisions described herein, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the

payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Amendment to the Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Princeton, State of New Jersey, on August 12, 2003.

CYTOGEN CORPORATION

By: /s/ Michael D. Becker

Michael D. Becker
President and Chief Executive Officer

SIGNATURES AND POWER OF ATTORNEY

Pursuant to the requirements of the Securities Act of 1933, as amended, this Amendment to the Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

SIGNATURE	TITLE	DATE
/s/ Michael D. Becker Michael D. Becker	President, Chief Executive Officer and Director (Principal Executive Officer)	August 12, 20
/s/ Thu A. Dang Thu A. Dang	Vice President, Finance (Principal Financial and Accounting Officer)	August 12, 20
* John E. Bagalay, Jr.	Director	August 12, 20
* Allen Bloom	Director	August 12, 20

Signature	Title	Date
* Stephen K. Carter	Director	August 12, 20
* James A. Grigsby	Director	August 12, 20
* Robert F. Hendrickson	Director	August 12, 20
* Kevin G. Lokay	Director	August 12, 20
* H. Joseph Reiser	Director	August 12, 20

* By the signature set forth below, the undersigned, pursuant to the duly authorized powers of attorney filed with the Securities and Exchange Commission has signed this Amendment to the Registration Statement on behalf of the person indicated.

/s/Michael D. Becker

Michael D. Becker
(Attorney-in-Fact)

EXHIBIT INDEX

EXHIBIT NUMBER	DESCRIPTION
5.1*	Opinion of Hale and Dorr LLP.
10.1	Securities Purchase Agreement by and among the Company and the Purchasers dated July 10, 2003 (incorporated by reference to the Company's Current Report on Form 8-K, filed with the Securities and Exchange Commission on July 11, 2003) (Commission File No. 000-14879).
10.2	Form of Common Stock Purchase Warrant issued by the Company in favor of each Purchaser dated July 10, 2003 (incorporated by reference to the Company's Current Report on Form 8-K, filed with the Securities and Exchange Commission on July 11, 2003) (Commission File No. 000-14879).
10.3	Registration Rights Agreement by and among the Company and the Purchasers dated July 10, 2003 (incorporated by reference to the Company's Current Report on Form 8-K, filed with the Securities and Exchange Commission on July 11, 2003) (Commission File No. 000-14879).

23.1*	Consent of KPMG LLP.
23.2*	Consent of PricewaterhouseCoopers LLP.
23.3*	Consent of Hale and Dorr LLP (Included in Exhibit 5.1).
24.1*	Power of Attorney (Included on signature page).

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* Filed herewith.

recoveries, the recurring repairs & maintenance expenses decreased $14, which reflects the diligent efforts of property management to control costs through the renegotiation of service contracts permitted by the competitive economic environment. The Company has provided guidance for 2010 which anticipates a 3.9% increase in repairs and maintenance.

Personnel expenses were up $1,269 or 2.9%, over 2008. Cost increases were partially offset by a $305 decrease in health and workers compensation reserves between periods. In 2009, reserves were lowered by $324 as compared to 2008, where we were able to lower these reserves by $19. The change in the reserves between periods reflects the variable nature of health and workers compensation claims, the settlement of nearly 25% of the open prior year claims during 2009 and the positive impacts of Company initiatives for emphasizing safety in the workplace which were launched in mid-2009. It is important to note that for 2009 and 2010, the Company has entered into guaranteed cost programs for workers compensation, which will eliminate the volatility of claims reserves sometimes experienced under partial self-insurance programs. The balance of the increase in personnel costs after the favorable reserve changes was $1,574, or 3.6%, which includes a 2.6% salary and wage increase between periods.

Advertising expenses were down $241, or 5.6%, in 2009 and is reflective of the resident marketing program which places less emphasis and spending on print media and more focus on referrals and internet-based methods which have resulted in a 1% increase in traffic in 2009 as compared to 2008.

Legal & professional expenses were down $225, or 12.6%, primarily due to 2008 including a nonrecurring specific reserve for pending litigation.

Property insurance costs decreased $2,379, or 19.7%, due in part to a favorable change of $1,191 in the self-insurance reserves. In 2009, we realized a reduction of $369 compared to an increase of $822 in 2008. The favorable reduction is attributable to the resolution of over 50% of the prior year's open general liability and property loss claims during 2009 at amounts less than previously estimated, along with the actuarially favorable impact of having fewer open claims. The decrease before reserve adjustments of $1,188, or 9.9%, is partially the result of settling $483 of subrogation claims in 2009 and increased emphasis on preventing losses at the communities through safety training programs and the installation of in-unit fire extinguishers for every apartment and townhome.

Real estate taxes were up $1,811, or 4.1%. A mitigating factor was $1,318 in refunds received in 2009 from successful tax assessment appeals compared to $590 in the 2008 period. Without the impact of refunds, recurring taxes were up $2,539, or 5.7%, reflecting increased assessments and typical rate increases in our markets.

Snow removal costs were up $485, or 69.7%. The year 2009 produced above normal snowfalls compared to below normal snowfalls in 2008. Trash removal costs were up $114, or 3.5%, driven by higher costs, including fuel surcharges, being passed through to the Company by trash haulers.

Property management general and administrative costs decreased $791, or 5.3%, primarily due to staff reductions as a result of efficiencies enabled through key application software investments and lower performance-based compensation.

The operating expense ratio (the ratio of operating and maintenance expense compared to rental and property other income) for the 2009 Core Properties was 41.6% and 41.7% for 2009 and 2008, respectively. The consistent performance despite a tough operating climate is the result of increases in rental rates achieved through ongoing efforts to upgrade and reposition properties for maximum potential, deliberate cost savings implemented at the communities, and Company-wide programs designed to reduce or maintain spending levels. In general, the Company's operating expense ratio is higher than that experienced in other parts of the country due to relatively high real estate taxes and heating costs in its markets.

General and administrative expenses ("G&A") decreased in 2009 by $1,012 or 4.0%, from $25,488 in 2008 to $24,476 in 2009. G&A as a percentage of total revenues (including discontinued operations) were 4.8% for 2009 as compared to 5.0% for 2008. The incentive bonus is down $2,015, or 50.1%, as compared to 2008, which reflects the decrease in the Company's operating performance as compared to the prior year. Stock based compensation expenses were up $1,296 in 2009 as compared to 2008, due in part to the change in estimated forfeitures from the 2004 grant year and the impact of the prescribed accounting rule changes in vesting period determination for retirement eligibility that took effect in 2006. In addition, the Company recorded $582 in nonrecurring severance costs in the 2009 period. A decrease of $130, or 11.1%, was realized in the external costs incurred for auditing, tax and consultation expense.

Interest expense increased by $3,484 in 2009 primarily as a result of interest expense on the new debt of the 2008 Acquisition Communities, partially offset by lower interest on the Senior Notes as a result of the $60,000 principal amount extinguishment in the fourth quarter 2008. In addition, amortization from deferred charges relating to the financing of properties totaled $3,373 and $2,933, and was included in interest expense for 2009 and 2008,

respectively.

Depreciation and amortization expense increased $8,379 due to the incremental depreciation on the capital expenditures for additions and improvements to the Core Properties of $69,541 and $100,751 in 2009 and 2008, respectively, as well as a full year of depreciation expense for the 2008 Acquisition Communities.

In the fourth quarter of 2008, the Company made a formal decision to pursue the sale of its general partnership interest in the VIE. This decision, and the resulting shortened holding period, resulted in a re-valuation of the underlying real estate and goodwill of the partnership. The Company performed a valuation analysis on the underlying real estate, and as a result, recorded a $4,000 impairment charge to reduce its long-term asset's net book value to fair market value including a $394 impairment charge to write off the goodwill associated with the management contract.

During October and November 2008, the Company repurchased and retired $60,000 principal amount (with a carrying value of $57,367) of its exchangeable senior notes for $45,360, in several privately-negotiated transactions resulting in a gain on early extinguishment of debt of $11,304, after the write off of $703 unamortized debt issuance costs.

Included in discontinued operations for 2009 are the operating results of the 2009 Disposed Communities. Included in discontinued operations for 2008 are the operating results of the 2009 and 2008 Disposed Communities. For purposes of the discontinued operations presentation, the Company only includes interest expense and losses from early extinguishment of debt associated with specific mortgage indebtedness of the properties that are sold or held for sale.

Included in the $24,314 gain on disposition of property reported for 2009 is the sale of five apartment communities. Included in the $51,560 gain on disposition of property reported for 2008 is the sale of fifteen apartment communities.

Net income decreased $46,127 in 2009 primarily due to there being no gain on early extinguishment of debt, a decrease in gain on disposition of property of $27,246 and $6,544 lower income from discontinued operations in 2009 compared to 2008.

Comparison of year ended December 31, 2008 to year ended December 31, 2007.

The Company owned 97 communities with 33,227 apartment units throughout 2007 and 2008 where comparable operating results are available for the years presented (the "2008 Core Properties"). For the year ended December 31, 2008, the 2008 Core Properties showed an increase in total revenues of 3.5% and a net operating income increase of 3.3% over the 2007 period. Property level operating expenses increased 3.7%. Average physical occupancy for the 2008 Core Properties increased from 94.8% to 95.0%, with average monthly rental rates increasing 2.8% to $1,141 per apartment unit.

A summary of the 2008 Core Properties NOI is as follows:

	2008	2007	$ Change	% Change
Rent	$426,788	$415,934	$10,854	2.6 %
Utility recovery revenue	19,649	16,920	2,729	16.1 %
Rent including recoveries	446,437	432,854	13,583	3.1 %
Other income	19,597	17,557	2,040	11.6 %
Total revenue	466,034	450,411	15,623	3.5 %
Operating and maintenance	(193,690)	(186,774)	(6,916)	(3.7 %)
Net operating income	$272,344	$263,637	$8,707	3.3 %

During 2008, the Company acquired and developed a total of 861 apartment units in three communities (the "2008 Acquisition Communities"). In addition, the Company experienced full-year results for the 1,709 apartment units in six apartment communities (the "2007 Acquisition Communities") acquired and developed during 2007. The inclusion of these acquired and developed communities generally accounted for the significant changes in operating results for the year ended December 31, 2008. In addition, the reported income from operations include the

consolidated results of one investment where the Company is the managing general partner that has been determined to be a Variable Interest Entity ("VIE").

A summary of the NOI from continuing operations for the Company as a whole is as follows:

	2008	2007	$ Change	% Change
Rent	$452,142	$434,475	$17,667	4.1 %
Utility recovery revenue	20,155	17,123	3,032	17.7 %
Rent including recoveries	472,297	451,598	20,699	4.6 %
Other income	21,181	18,288	2,893	15.8 %
Total revenue	493,478	469,886	23,592	5.0 %
Operating and maintenance	(207,517)	(196,121)	(11,396)	(5.8 %)
Net operating income	$285,961	$273,765	$12,196	4.5 %

During 2009, the Company disposed of five properties in three transactions with a total of 1,333 units, which had full year results for 2008 and 2007 (the "2009 Disposed Communities"). During 2008, the Company disposed of fifteen properties in six transactions with a total of 1,227 units, which had partial results for 2008 and full year results for 2007 (the "2008 Disposed Communities"). During 2007, the Company disposed of five properties with a total of 1,084 units, which had partial results for 2007 (the "2007 Disposed Communities"). The results of these disposed properties have been reflected in discontinued operations and are not included in the table above.

For the year ended December 31, 2008, income from continuing operations increased by $5,458 when compared to the year ended December 31, 2007. The increase was primarily attributable to the following factors: an increase in rental income of $17,667, an increase in property other income of $5,925, and a gain on early extinguishment of debt of $11,304. These increases were partially offset by a decrease in interest and other income of $2,521, an increase in operating and maintenance expense of $11,396, an increase in general and administrative expense of $2,076, an increase in interest expense of $1,771, an increase in depreciation and amortization of $7,673, and an impairment of assets held as general partner of $4,000. Each of the items are described in more detail below.

Of the $20,699 increase in rental income including utility recoveries, $5,003 is attributable to the 2007 Acquisition Communities, $2,137 is attributable to the 2008 Acquisition Communities partially offset by a $24 decrease attributable to the consolidation of the VIE. The balance of $13,583 relates to a 3.1% increase from the 2008 Core Properties due primarily to an increase of 2.8% in weighted average rental rates, accompanied by a decrease in economic occupancy from 93.9% to 93.8%, resulting in 2.6% rental growth before utility recovery revenue. Included in the Core increase is $2,729 which represents increased utility recovery revenue compared to 2007 attributable to the Company's water & sewer, heat, and electric recovery programs, which were initiated in the second quarter of 2005 and phased in through the third quarter of 2007.

The remaining property other income, which consists primarily of income from operation of laundry facilities, late charges, administrative fees, garage and carport rentals, revenue from corporate apartments, cable revenue, pet charges, and miscellaneous charges to residents, increased in 2008 by $2,893. Of this increase, $330 is attributable to the 2007 Acquisition Communities and $572 is attributable to the 2008 Acquisition Communities; partially offset by a $49 decrease attributable to the VIE. The balance of $2,040 relates to an 11.6% increase from the 2008 Core Properties resulting from increased emphasis on charging early termination fees and late charges as compared to 2007.

Interest income decreased $1,799 due to a lower level of invested excess cash on hand. The 2007 period realized higher interest income from proceeds of the fourth quarter 2006 and second half 2007 property dispositions and proceeds from exchangeable senior notes awaiting reinvestment into replacement and development property.

Other income, which is comprised of management and other real estate service fees recognized by the Company, decreased by $723, primarily due to a $612 reduction in post closing consultation fees recognized between periods. The first half of 2007 realized higher fees as a result of the significant fourth quarter 2006 property dispositions.

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Of the $11,396 increase in operating and maintenance expenses, $3,023 is attributable to the 2007 Acquisition Communities, $699 is attributable to the 2008 Acquisition Communities and a $758 increase attributable to the consolidation of the VIE reflecting an increase in repairs & maintenance that occurred in 2008. The balance for the 2008 Core Properties, a $6,916 increase in operating expenses or 3.7%, is primarily a result of increases in repairs and maintenance, property insurance and real estate taxes. These increases were offset in part by reductions in gas heating and snow removal costs.

The breakdown of operating and maintenance costs for the 2008 Core Properties by line item is listed below:

	2008	2007	$ Variance	% Variance
Electricity	$8,144	$7,737	$(407)	(5.3%)
Gas	18,131	18,943	812	4.3%
Water & sewer	12,873	12,403	(470)	(3.8%)
Repairs & maintenance	28,388	26,368	(2,020)	(7.7%)
Personnel expense	42,051	41,232	(819)	(2.0%)
Advertising	4,150	4,358	208	4.8%
Legal & professional	1,736	1,355	(381)	(28.1%)
Office & telephone	5,219	5,312	93	1.8%
Property insurance	11,582	9,733	(1,849)	(19.0%)
Real estate taxes	43,223	41,036	(2,187)	(5.3%)
Snow	662	1,034	372	36.0%
Trash	3,198	2,744	(454)	(16.5%)
Property management G&A	14,333	14,519	186	1.3%
Total	$193,690	$186,774	$(6,916)	(3.7%)

Natural gas heating costs were down $812, or 4.3%, from 2007, due mostly from decreases in natural gas pricing as a direct result of the Company's natural gas purchasing program. For 2008, our natural gas weighted average cost, including transportation of $3.00 per decatherm, was $11.38 per decatherm compared to $11.89 for the 2007 period, a 4.3% decrease. The savings on the commodity was partially offset by a slight increase in consumption during 2008.

Water & sewer costs were up $470, or 3.8% from 2007, due primarily to two properties realizing refunds of $223 during 2007 relating to the correction of metering issues that did not reoccur in 2008, with the balance of the increase, $247, or 2.0%, attributable to general cost increases being assessed by local municipalities; however, the water & sewer recovery program, which became fully phased in during 2006, enables the Company to recapture much of these cost increases from our residents.

Repairs & maintenance expenses were up $2,020, or 7.7%, primarily due to the 2007 period including $602 more in recoveries from insurance claims. Without the impacts of these insurance recoveries, the recurring repairs & maintenance expenses increased $1,418, or 5.4%, mostly in contract repairs and cleaning.

Personnel expenses were up $819 or 2.0% over 2007. Of the increase, $798 is reflective of changes in health and workers compensation reserves between periods. In 2007, reserves were increased by $779 as compared to 2008, where we were able to decrease these reserves by $19. The swing in the reserves between periods reflects the variable nature of health and workers compensation claims. The balance of the increase in personnel costs after reserve changes was $1,617, or 3.9%, which includes a 2.7% salary and wage increase between periods.

Advertising expenses were down $208, or 4.8% in 2008 and is reflective of the resident marketing program which places less emphasis and spending on print media and more focus on referrals and internet based methods which have

resulted in a 10% increase in traffic in 2008 as compared to 2007.

Legal & professional expenses were up $381, or 28.1%, primarily due to a specific reserve for pending litigation.

Property insurance costs increased $1,849, or 19.0%, primarily attributed to a change in how the Company is exposed to the self-insurance portion of the November 1, 2008 policy renewal. Historically, we had a $250 deductible per occurrence, so we were responsible for the first $250 on a large fire loss. For the 2008 policy year,

we were responsible for an aggregate retention amount of $2,250 for all losses before a smaller deductible of $100 on each occurrence thereafter. In looking at the year from an actuarial perspective, the new pricing should produce similar results over the 12-month policy period, but could produce volatility for the year. Less than two months into the policy period, we suffered a $1,300 loss from a large fire on Christmas night 2008, or almost 60% of the aggregate retention for the year. As we are 100% responsible for this loss, the entire $1,300 loss was recognized in December, 2008.

Real estate taxes were up $2,187, or 5.3%. The contributing factor was $1,081 in refunds received in 2007 from successful tax assessment appeals compared to $590 in the 2008 period. Without the impact of refunds, recurring taxes were up $1,696, or 4.1%.

Snow removal costs were down $372, or 36.0%. The year 2007 produced above normal snowfalls compared to below normal snowfalls in 2008.

Trash removal costs were up $454, or 16.5%, driven by higher costs, including fuel surcharges, being passed through to the Company by trash haulers.

The operating expense ratio (the ratio of operating and maintenance expense compared to rental and property other income) for the 2008 Core Properties was 41.6% for 2008 as compared to 41.5% for 2007. The consistent performance resulted from the 3.5% increase in total revenue achieved through ongoing efforts to upgrade and reposition properties for maximum potential and a full year impact of the Company's roll out of its heating cost recovery program, which began in 2005; partially offset by the 3.7% increase in operating and maintenance expense. In general, the Company's operating expense ratio is higher than that experienced in other parts of the country due to relatively high real estate taxes and heating costs in its markets.

General and administrative expenses ("G&A") increased in 2008 by $2,076 or 8.9% from $23,412 in 2007 to $25,488 in 2008. G&A as a percentage of total revenues (including discontinued operations and gain on early extinguishment of debt) were 4.8% for 2008 as compared to 4.6% for 2007. If not for $520 in one-time uncompleted transaction costs expensed in the third quarter of 2007, the G&A as a percentage of total revenues would have been 4.5% in 2007. Stock-based compensation expenses were up $1,016 in 2008 as compared to 2007. The 2008 stock plan contained vesting conditions that triggered a $388 increase in director restricted stock compensation recognized in the second quarter of 2008 as compared to the terms in the prior plans. It is important to note that this is a timing difference only and that the total value of the stock awards was similar between years. Also, the change in estimated forfeitures from the 2003 grant year added $195 more expense in the current period. Incentive bonus expense was up $835 in 2008 as compared to 2007, which was driven by the increases in the Company's operating performance and increases in base salaries as compared to prior year. The rollout, training and support of the new property management systems accounted for staff and consulting increases of $328 within the information systems department. Additionally, the ramp-up of the development department accounted for a $285 increase. A decrease of $312, or 21.0%, was realized in the external costs incurred for auditing, tax and consultation expense, including costs to comply with Section 404 of Sarbanes-Oxley.

Interest expense increased by $1,771 in 2008 primarily as a result of a full year of interest expense for the 2007 Acquisition Communities, increased borrowings on the line of credit and the increased borrowings for the 2008 Acquisition Communities. In addition, amortization from deferred charges relating to the financing of properties totaled $2,933 and $2,830, and was included in interest expense for 2008 and 2007, respectively.

Depreciation and amortization expense increased $7,673 due to the incremental depreciation on the capital expenditures for additions and improvements to the 2008 Core Properties of $90,530 and $76,084 in 2008 and 2007, respectively, a full year of depreciation expense for the 2007 Acquisition Communities as well as the additional depreciation expense on the 2008 Acquisition Communities.

In the fourth quarter of 2008, the Company made a formal decision to pursue the sale of its general partnership interest in the VIE. This decision, and the resulting shortened holding period, resulted in a re-valuation of the underlying real estate and goodwill of the partnership. The Company performed a valuation analysis on the underlying real estate, and as a result, recorded a $4,000 impairment charge to reduce its long-term asset's net book value to fair market value including a $394 impairment charge to write off the goodwill associated with the management contract.

During October and November 2008, the Company repurchased and retired $60,000 principal amount (with a carrying value of $57,367) of its exchangeable senior notes for $45,360, in several privately-negotiated transactions resulting in a gain on early extinguishment of debt of $11,304, after the write off of $703 unamortized debt issuance costs, which was recorded in the fourth quarter of 2008.

Included in discontinued operations for 2008 are the operating results, net of minority interest, of the 2009 and 2008 Disposed Communities. Included in discontinued operations for 2007 are the operating results, net of minority interest, of the 2009, 2008 and 2007 Disposed Communities. For purposes of the discontinued operations presentation, the Company only includes interest expense and losses from early extinguishment of debt associated with specific mortgage indebtedness of the properties that are sold or held for sale.

Included in the $51,560 gain on disposition of property reported for 2008 is the sale of fifteen apartment communities. Included in the $42,126 gain on disposition of property reported for 2007 is the sale of five apartment communities.

Net income increased $10,696 primarily due to the $11,304 gain of early extinguishment of debt and an increase in gain on sale of discontinued operations of $9,434 in 2008 compared to 2007; partially offset by $5,846 lower income from continuing operations before gain on early extinguishment of debt and $4,196 lower income from discontinued operations in 2008 compared to 2007.

Liquidity and Capital Resources

General

In 2000, the Company obtained an investment grade rating from Fitch, Inc. The rating in effect at December 31, 2009 (no change from initial rating) is a corporate credit rating of "BBB" (Triple-B).

The Company's principal liquidity demands are expected to be distributions to the common stockholders and holders of UPREIT Units, capital improvements and repairs and maintenance for its properties, acquisition and development of additional properties and debt repayments. The Company may also acquire equity ownership in other public or private companies that own and manage portfolios of apartment communities.

The Company intends to meet its short-term liquidity requirements through net cash flows provided by operating activities and its existing bank line of credit, described below. The Company considers its ability to generate cash to be adequate to meet all operating requirements, including availability to pay dividends to its stockholders and make distributions to its Unit holders in accordance with the provisions of the Internal Revenue Code, as amended, applicable to REITs.

Specific to 2009, and in response to the constrictions in the credit market, the Company pursued certain initiatives as follows: 1) The Company replaced the $140 million existing unsecured line of credit with a new $175 million facility which matures August 31, 2011. Pricing was more expensive, and moved from interest at 0.75% over the one-month LIBOR to a spread today of 3.00% with a LIBOR floor of 1.5%. In addition, up-front and on-going fees add another approximate 75 basis points to pricing. 2) During 2009, the Company had increased the level of the value of unencumbered properties in relationship to the total property portfolio from 19% to 20%. This higher level adds flexibility, allowing the Company to place secured financing on unencumbered assets if desired. 3) The Company benefits from its multifamily focus as the Government Sponsored Enterprises ("GSEs") Fannie Mae and Freddie Mac are still very active lending to apartment owners. The Company refinanced debt maturing in 2010 early, reducing the level of secured loans maturing in 2010 from $334 million to $146 million. 4) The Company initiated an

At-The-Market ("ATM") equity offering program through which it may sell up to 3.7 million shares of common stock, not to exceed $150 million of gross proceeds. Including trades which closed the first few days of January, 2010, the Company issued 1,041,200 shares generating net proceeds of $47 million.

For 2010, plans include increasing the level of the value of unencumbered properties to over 21% of the portfolio, maintaining the debt-to-total market capitalization ratio at a level equal to or slightly less than the level at December 31, 2009 and issuing the remainder of the dollar value authorized under the ATM program at levels above NAV.

Cash Flow Summary

The Company's net cash flow from operating activities decreased from $160 million in 2008, to $150 million in 2009. The $10 million decrease was principally due to $12 million lower accounts payable and other accrued expenses at the end of 2009 compared to 2008. The primary liability accounts showing a decrease between periods were: accrued bonuses which were $2 million lower at the 2009 year end as a result of lower operating performance, self-insurance reserves which decreased $2 million due to the emphasis in closing claims and the impact of safety measures leading to lower actuarially computed losses, accounts payable which decreased $8 million due to lower capital expenditures and taking advantage of early payment discounts during the fourth quarter of 2009, and $1 million lower accrued payroll as a result of there being fewer unpaid days at the end of 2009.

Cash used in investing activities was $48 million during 2009 compared to $81 million for 2008. Cash outflows for the purchase of properties and land for development were $35 million and $28 million, respectively for 2008 as compared to no spending during 2009. The lack of property and land acquisitions during 2009 is due to the acquisition environment not producing accretive acquisition opportunities. Cash outflows for capital improvements were $79 million during 2009 as compared to $107 million for 2008. The $28 million lower outflow in 2009 reflects management’s conscious efforts to conserve cash and focus only on selective rehabilitation in markets that are able to support rent increases. Cash outflows for additions to construction in progress were $74 million in 2009 as compared to $33 million in 2008. The higher spending on development in 2009 reflects the ongoing construction of two communities which will be placed into service in 2010. During 2009, the proceeds from the sale of five communities yielded $106 million or $81,000 per apartment unit as compared to $122 million or $101,000 per apartment unit in 2008 from the sale of fifteen properties. The lower sale price per unit in 2009 is reflective of the locations and cap rates of the sold properties as compared to the 2008 sales.

Net cash used in financing activities totaled $100 million in 2009, primarily as a result of net proceeds of the ATM common stock offering of $39 million and proceeds from stock option exercises of $8 million; more than offset by distributions paid to shareholders and UPREIT Unitholders of $122 million, a net paydown of $17 million on the line of credit and payments of borrowing costs of $7 million. Net cash used in financing activities totaled $79 million for 2008, primarily as a result of net borrowing under our line of credit of $69 million, net borrowing on mortgage notes of $64 million and proceeds from stock option exercises of $11 million, more than offset by distributions paid to shareholders and UPREIT Unitholders of $120 million, common stock repurchases of $54 million and $45 million for early extinguishment of exchangeable senior notes with a principal amount of $60 million.

Line of Credit

As of December 31, 2009, the Company had a $175 million unsecured line of credit agreement with M&T Bank, as administrative agent and lead bank, which expires August 31, 2011, with a one-year extension, at the Company’s option. The Company had $53.5 million outstanding under the credit facility on December 31, 2009. The line of credit agreement provides the ability to issue up to $20 million in letters of credit. While the issuance of letters of credit does not increase the borrowings outstanding under the line of credit, it does reduce the amount available. At December 31, 2009, the Company had outstanding letters of credit of $5.8 million. As of December 31, 2009, the amount available on the credit facility was $115.7 million (net of $5.8 million which was restricted to support letters of credit and net of $53.5 million in outstanding borrowings). Borrowings under the line of credit bear interest at rates ranging from 2.50% to 3.25% over the one-month LIBOR rate, increasing at higher levels of outstanding indebtedness, with a LIBOR floor of 1.50%. The one-month LIBOR was 0.23% at December 31, 2009, resulting in an effective rate of 4.75% for the Company.

Accordingly, increases in interest rates will increase the Company's interest expense and as a result will affect the Company's results of operations and financial condition.

Indebtedness

As of December 31, 2009, the weighted average interest rate on the Company's total indebtedness of $2.3 billion was 5.56% with staggered maturities averaging approximately six and one quarter years. Approximately 89% of total indebtedness is at fixed rates. This limits the exposure to changes in interest rates, minimizing the effect of interest rate fluctuations on the Company's results of operations and cash flows.

Unencumbered Assets

The Company increased the percentage of unencumbered assets of the total property pool. At the end of 2007, free and clear assets inclusive of unencumbered development properties, were 16% of the property portfolio. This grew to 19% at year end 2008 and to 20% as of December 31, 2009. Higher levels of unsecured assets add borrowing flexibility because more capacity is available for unsecured debt under the terms of the Company's unsecured line of credit agreement. The Company estimates that, under current underwriting standards, approximately $400 million borrowing capacity is available at December 31, 2009.

Exchangeable Senior Notes

In October 2006, the Company issued $200 million of exchangeable senior notes with a coupon rate of 4.125%, which generated net proceeds of $195.8 million. The net proceeds were used to repurchase 933,000 shares of common stock for a total of $58 million, pay down $70 million on the line of credit, with the balance used for redemption of the Series F Preferred Shares and property acquisitions. During the fourth quarter of 2008, the Company repurchased $60 million of the exchangeable senior notes for $45.4 million. The exchange terms and conditions are more fully described under "Contractual Obligations and Other Commitments", below.

UPREIT Units

The issuance of UPREIT Units for property acquisitions continues to be a source of capital for the Company. During 2008 and 2009, the Company did not issue any UPREIT Units as consideration for acquired properties.

Property Dispositions

During 2009, the Company sold five communities, with a total of 1,333 units, for $108.3 million. A gain on sale of approximately $24.3 million was realized from these sales. The weighted average first year capitalization rate projected on these dispositions was 7.8%.

During 2008, the Company sold 15 communities for a total sales price of $124.5 million. A gain on sale of approximately $51.6 million was realized from these sales. The Company was able to sell these properties at a weighted average first year capitalization rate of 6.8%.

Management has not specifically targeted additional communities for sale in 2010 but will continue to evaluate the sale of its communities. The Company has not anticipated closing on sales in its budget for 2010.

Universal Shelf Registration

On April 4, 2007, the Company filed a Form S-3 universal shelf registration statement with the SEC that registers the issuance, from time to time, of common stock, preferred stock or debt securities. The Company may offer and sell securities issued pursuant to the universal shelf registration statement after a prospectus supplement, describing the

type of security and amount being offered, is filed with the SEC. The registration statement expires in April 2010. The Company plans to file a new registration statement before the existing one expires.

Dividend Reinvestment and Direct Stock Purchase Plan ("DRIP")

The Company's DRIP provides the stockholders of the Company an opportunity to automatically invest their cash dividends in additional shares of common stock. In addition, eligible participants may make monthly payments or other voluntary cash investments in shares of common stock. The maximum monthly investment permitted without

prior Company approval is currently $10,000. The Company meets share demand under the DRIP through share repurchases by the transfer agent in the open market on the Company's behalf or new share issuances. Management monitors the relationship between the Company's stock price and its estimated net asset value ("NAV"). During times when the difference between these two values is small, resulting in little dilution of NAV by common stock issuances, the Company can choose to issue new shares. At times when the gap between NAV and stock price is greater, the Company has the flexibility to satisfy the demand for DRIP shares with stock repurchased by the transfer agent in the open market. In addition, the Company can issue waivers to DRIP participants to provide for investments in excess of the $10,000 maximum monthly investment. No such waivers were granted during 2008 or 2009.

Series F Preferred Shares

In March 2002, the Company issued 2,400,000 shares of its 9.00% Series F Cumulative Redeemable Preferred Stock ("Series F Preferred Shares"), with a $25.00 liquidation preference per share. This offering generated net proceeds of approximately $58.1 million. The net proceeds were used to fund the Series B preferred stock repurchase, property acquisitions, and property upgrades. Each Series F Preferred share received an annual dividend equal to 9.00% of the liquidation preference per share (equivalent to a fixed annual amount of $2.25 per share). The Series F Preferred Shares were redeemed by the Company on March 26, 2007 at a redemption price of $25.00 per share, plus accrued and unpaid dividends of $0.4 million. In accordance with the SEC's clarification of EITF Abstracts, Topic No. D-42, The Effect on the Calculation of Earnings per Share for the Redemption or Induced Conversion of Preferred Stock, the initial offering costs of $1.9 million associated with the issuance of the Series F Preferred Shares were written-off in the first quarter of 2007, and are reflected as a reduction of net income available to common stockholders in determining earnings per share for the year ended December 31, 2007.

Stock Repurchase Program

In 1997, the Company's Board of Directors (the "Board") approved a stock repurchase program under which the Company may repurchase shares of its common stock or UPREIT Units ("Company Program"). The shares/units may be repurchased through open market or privately negotiated transactions at the discretion of Company management. The Board's action did not establish a target stock price or a specific timetable for repurchase. At December 31, 2007, there was approval remaining to purchase 1,362,748 shares. During 2008, the Company repurchased 1,071,588 shares of its outstanding common stock at a cost of $50 million at a weighted average price of $46.66 per share. On May 1, 2008, the Board approved a 2,000,000-share increase in the stock repurchase program, resulting in a remaining authorization level of 2,291,160 shares as of December 31, 2008. There were no repurchases under the Company Program during 2009. The Company will continue to monitor stock prices, the NAV, and acquisition/development alternatives to determine the current best use of capital between the two major uses of capital – stock buybacks and acquisitions/development. At the present time, the Company has no intention of buying any stock back during 2010.

At-The-Market Equity Offering Program

On December 3, 2009, the Company initiated an "At-The-Market" ("ATM") equity offering program through which it may sell up to 3.7 million shares of common stock (not to exceed $150 million of gross proceeds), from time to time in ATM offerings or negotiated transactions. During the year ended December 31, 2009, the Company issued 871,600 shares of common stock at an average price per share of $45.70, for aggregate gross proceeds of $39.8 million. Aggregate net proceeds from such issuances, after deducting commissions and other transaction costs of $0.8 million were $39.0 million. In addition, the Company issued an additional 169,600 shares of common stock at an average price per share of $48.37, for aggregate proceeds of $8.2 million with a trade date in December 2009 and a settlement date in January 2010. Aggregate net proceeds from such issuances, after deducting commissions and other transaction costs of $0.2 million were $8.0 million.

Critical Accounting Policies–

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions in certain circumstances that affect amounts reported in the accompanying consolidated financial statements and related notes. In preparing these financial statements, management has utilized information available including industry practice and its own past

history in forming its estimates and judgments of certain amounts included in the financial statements, giving due consideration to materiality. It is possible that the ultimate outcome as anticipated by management in formulating its estimates inherent in these financial statements may not materialize. However, application of the accounting policies involves the exercise of judgment and use of assumptions as to future uncertainties and, as a result, actual results could differ from these estimates. In addition, other companies may utilize different estimates which may impact comparability of the Company's results of operations to those of companies in similar businesses.

Disclosure of critical and significant accounting policies is incorporated herein by reference to the discussion under Part IV, Item 15, Notes to Consolidated Financial Statements, Notes 2 and 3.

Variable Interest Entities (dollars in thousands, except unit data)

The Company is the general partner in one variable interest entity ("VIE") with a total of 868 units syndicated using low income housing tax credits under Section 42 of the Internal Revenue Code. As general partner, the Company manages the day-to-day operations of the partnership for a management fee. In addition, the Company has certain operating deficit and tax credit guarantees to the limited partner of that partnership. The Company is responsible for funding operating deficits to the extent there are any and can receive operating incentive awards if cash flows reach certain levels. The effect on the Consolidated Balance Sheets of including this VIE as of December 31, 2009 and 2008 includes total assets of $11,436 and $14,136, total liabilities of $17,060 and $18,056 and partners' deficit of $5,624 and $3,920, respectively. The VIE is included in the Consolidated Statement of Operations for the years ended December 31, 2009, 2008 and 2007.

During 2008, the Company determined to pursue a strategy to sell its general partner interest in the VIE as a result of continued deterioration in property performance and the surrounding market in general. In addition, the Limited Partner of the VIE agreed to allow the Company to pursue an exit strategy. The Company has the property under contract for sale with significant outstanding contingencies that need to be resolved, including limited partner approval and a pending refinancing, before the property can be sold. The decision to pursue a plan to exit the property lead to a re-evaluation of the holding period cash flows and resulting fair market value of the VIE's assets under the authoritative guidance for impairment of long-lived assets (ASC 360-10). Under the authoritative guidance, the Company estimated the undiscounted cash flows for the holding period along with a residual sales value. The undiscounted cash flows of the assets did not equal or exceed the assets net book value, which is indicative of an impairment of the asset. In order to determine the amount of the impairment, the Company calculated the fair value of the assets by using a weighted combination of a direct capitalization approach and a comparable sales approach, as this combination was deemed to be the most indicative of the Company's fair value in an orderly transaction between market participants. The data used to determine the fair market value included historical industry data for estimated capitalization rates, historical and budgeted NOI for the VIE, and recent comparable sales in the market in which the property is located. This resulted in an impairment charge of $4,000 (including $394 of goodwill), which is included in the impairment of assets held as general partner for the year ended December 31, 2008. The events leading to the impairment of the VIE and the pending contract contingencies do not satisfy the criteria for held for sale treatment, accordingly, the VIE is not included in discontinued operations for the periods presented.

Acquisitions and Dispositions (dollars in thousands, except unit and per unit data)

In 2009, the Company sold five properties with a total of 1,333 units for total consideration of $108,300, or an average of $81,250 per unit. The weighted average expected first year cap rate of the 2009 Disposed Communities was 7.8%. The weighted average unleveraged IRR during the Company's ownership for the properties sold was 9.6%.

In 2008, the Company acquired two communities with a total of 813 units for total consideration of $100,400, or an average of approximately $123,500 per unit. For the same time period, the Company sold fifteen properties with a total of 1,227 units for total consideration of $124,500, or an average of $101,400 per unit. The weighted average

expected first year cap rate of the 2008 Acquisition Communities was 6.8% and of the 2008 Disposed Communities was 6.8%. The weighted average unleveraged IRR during the Company's ownership for the properties sold was 13.3%.

Contractual Obligations and Other Commitments

The primary obligations of the Company relate to its borrowings under the line of credit, exchangeable senior notes and mortgage notes payable. The Company's line of credit matures in August 2011 (not including a one-year extension, at the option of the Company), and had $53.5 million outstanding at December 31, 2009. The $2.1 billion in mortgage notes payable have varying maturities ranging from 4 months to 25 years. The principal payments on the mortgage notes payable for the years subsequent to December 31, 2009, are set forth in the table below as "Long-term debt."

In October 2006, the Company issued $200 million of exchangeable senior notes with a coupon rate of 4.125%. The notes are exchangeable into cash equal to the principal amount of the notes and, at the Company's option, cash or common stock for the exchange value, to the extent that the market price of common stock exceeds the initial exchange price of $73.34 per share, subject to adjustment. The exchange price is adjusted for payments of dividends in excess of the reference dividend per the indenture of $0.64 per share. The adjusted exchange price at December 31, 2009 was $72.87 per share. Upon an exchange of the notes, the Company will settle any amounts up to the principal amount of the notes in cash and the remaining exchange value, if any, will be settled, at the Company's option, in cash, common stock or a combination of both. The notes are not redeemable at the option of the Company for five years, except to preserve the status of the Company as a REIT. Holders of the notes may require the Company to repurchase the notes upon the occurrence of certain designated events. In addition, prior to November 1, 2026, the holders may require the Company to repurchase the notes on November 1, 2011, 2016 and 2021. The notes will mature on November 1, 2026, unless previously redeemed, repurchased or exchanged in accordance with their terms prior to that date. During October and November 2008, the Company repurchased and retired $60 million principal amount (with a carrying value of $57.4 million) of its exchangeable senior notes for $45.4 million, in several privately-negotiated transactions at a 24.4% discount from the principal amount. An adjusted gain on debt extinguishment of $11.3 million (after the write off of $0.7 million unamortized debt issuance costs) was recorded in the fourth quarter of 2008, as compared to the originally reported gain of $13.9 million. The adjustment is as a result of recently adopted accounting standards as more fully described in Note 3.

The Company leases its corporate office space from an affiliate and the office space for its regional offices from non-affiliated third parties. The rent for the corporate office space is a gross rent that includes real estate taxes and common area maintenance. The regional office leases are net leases which require an annual base rent plus a pro-rata portion of real estate taxes. In July 2009, the Company extended the lease on its corporate office space through September 2019, plus two five-year renewal options. The new lease term commenced on October 1, 2009. These leases are set forth in the table below as "Operating leases."

Purchase obligations represent those costs that the Company is contractually obligated to pay in the future. The significant components of this caption are costs for capital improvements at the Company's properties, as well as costs for normal operating and maintenance expenses at the site level that are tied to contracts such as utilities, landscaping and grounds maintenance and advertising. The purchase obligations include amounts tied to contracts, some of which expire in 2010. It is the Company's intention to renew these normal operating contracts, however, there has been no attempt to estimate the length or future costs of these contracts.

Tabular Disclosure of Contractual Obligations:

	Payments Due by Period (in thousands)						
Contractual Obligations	Total	2010	2011	2012	2013	2014	Thereafter
Long-term debt (1)	$ 2,112,645	$ 173,084	$ 320,965	$ 144,996	$ 222,716	$ 106,351	$ 1,144,533
Exchangeable senior notes (1)	140,000	-	140,000	-	-	-	-
Line of credit (1)	53,500	-	53,500	-	-	-	-
Operating leases	10,636	1,835	1,629	1,579	1,390	1,414	2,789
Purchase obligations	10,655	10,623	30	2	-	-	-
Total (2)	$ 2,327,436	$ 185,542	$ 516,124	$ 146,577	$ 224,106	$ 107,765	$ 1,147,322

(1) Amounts include principal payments only. The Company will pay interest on outstanding indebtedness based on the rates and terms summarized in Notes 6, 7 and 8.

(2) The contractual obligations and other commitments in the table are set forth as required by Item 303(a)(5) of Regulation S-K promulgated by the SEC in January of 2003 and are not prepared in accordance with generally-accepted accounting principles.

As discussed in the section entitled "Variable Interest Entities," the Company, through its general partnership interest in an affordable property limited partnership, has guaranteed certain low income housing tax credits to limited partners in this partnership totaling approximately $3 million. With respect to the guarantee of the low income housing tax credits, the Company believes the property's operations conform to the applicable requirements and does not anticipate any payment on the guarantee. In addition, the Company, acting as general partner in this partnership, is obligated to advance funds to meet partnership operating deficits.

Capital Improvements (dollars in thousands, except unit and per unit data)

Effective January 1, 2009, the Company updated its estimate of the amount of recurring, non-revenue enhancing capital expenditures incurred on an annual basis for a standard garden style apartment. The Company now estimates that the amount of these capital expenditures is $800 per apartment unit compared to $780 per apartment unit in the prior year. This new amount better reflects current actual costs since the last update.

The Company's policy is to capitalize costs related to the acquisition, development, rehabilitation, construction 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 and tear by the resident are expensed on the turn. Recurring capital improvements typically include appliances, carpeting and flooring, HVAC equipment, kitchen/bath cabinets, new roofs, site improvements and various exterior building improvements. Non-recurring, revenue generating capital improvements include, among other items, community centers, new windows, and kitchen/bath apartment upgrades. Revenue generating capital improvements will directly result in rental earnings or expense savings. The Company capitalizes interest and certain internal personnel costs related to the communities under rehabilitation and construction.

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The table below is a list of the items that management considers recurring, non-revenue enhancing capital and maintenance expenditures for a standard garden style apartment. Included are the per unit replacement cost and the useful life that management estimates the Company incurs on an annual basis.

Category	Capitalized Cost per Unit	Useful Life(1)	Capitalized Expenditure Per Unit Per Year(2)	Maintenance Expense Cost per Unit Per Year(3)	Total Cost per Unit Per Year
Appliances	$ 1,436	9	$ 160	$ 13	$ 173
Blinds/shades	135	3	45	7	52
Carpets/cleaning	770	4	193	180	373
Computers, equipment, misc.(4)	120	6	20	18	38
Contract repairs	-	-	-	147	147
Exterior painting (5)	84	3	28	-	28
Flooring	250	9	28	-	28
Furnace/air (HVAC)	824	24	34	105	139
Hot water heater	260	7	37	-	37
Interior painting	-	-	-	205	205
Kitchen/bath cabinets upgrade	1,200	15	80	-	80
Landscaping site	-	-	-	131	131
New roof	800	24	33	-	33
Parking lot site	540	15	36	-	36
Pool/exercise facility	119	15	8	54	62
Windows major	1,505	20	75	-	75
Miscellaneous (6)	385	17	23	-	23
Total	$ 8,428		$ 800	$ 860	$ 1,660

(1) Estimated weighted average actual physical useful life of the expenditure capitalized.

(2) This amount is not necessarily incurred each and every year. Some years will be higher, or lower depending on the timing of certain longer life expenditures.

(3) These expenses are included in the Operating and Maintenance line item of the Consolidated Statement of Operations. Maintenance labor costs are not included in the $860 per unit estimate. All personnel costs for site supervision, leasing agents, and maintenance staff are combined and disclosed in the Company's Core Properties expense detail schedule.

(4) Includes computers, office equipment/furniture, and maintenance vehicles.

(5) The level of exterior painting may be lower than other similar titled presentations as the Company's portfolio has a significant amount of brick exteriors. In addition, the other exposed surfaces are most often covered in aluminum or vinyl.

(6) Includes items such as balconies, siding, and concrete/sidewalks.

In reviewing the breakdown of costs above, one must consider the Company's unique strategy in operating apartments which has been to improve every property every year regardless of age. Another part of its strategy is to purchase older properties and rehabilitate and reposition them to enhance internal rates of return. This strategy results in higher costs of capital expenditures and maintenance costs which is more than justified by higher revenue growth, higher net

operating income growth and a higher rate of property appreciation.

The Company estimates that approximately $800 and $780 per unit was spent on recurring capital expenditures in 2009 and 2008, respectively. The table below summarizes the breakdown of capital improvements by major categories between recurring and non-recurring, revenue generating capital improvements as follows:

	For the year ended December 31,							
	2009						2008	
	Recurring Cap Ex	(a) Per Unit	Non-recurring Cap Ex	(a) Per Unit	Total Capital Improvements	(a) Per Unit	Total Capital Improvements	(a) Per Unit
New buildings	$-	$-	$ 723	$20	$ 723	$20	$2,968	$85
Major bldg improvements	4,483	125	9,908	278	14,391	403	17,525	503
Roof replacements	1,174	33	1,591	45	2,765	78	4,477	128
Site improvements	1,566	44	3,974	112	5,540	156	10,462	300
Apartment upgrades	5,717	161	17,733	498	23,450	659	33,484	961
Appliances	4,430	125	82	2	4,512	127	5,670	163
Carpeting/flooring	7,863	221	2,817	79	10,680	300	12,595	361
HVAC/mechanicals	2,526	71	6,684	188	9,210	259	10,962	315
Miscellaneous	706	20	1,164	33	1,870	53	2,705	78
Totals	$28,465	$800	$ 44,676	$1,255	$ 73,141	$2,055	$100,848	$2,894

(a) Calculated using the weighted average number of units owned, including 34,768 core units and 2008 acquisition units of 813 for the year ended December 31, 2009 and 34,768 core units and 2008 acquisition units of 85 for the year ended December 31, 2008.

The schedule below summarizes the breakdown of total capital improvements between core and non-core:

	For the year ended December 31,							
	2009						2008	
	Recurring Cap Ex	(b) Per Unit	Non-recurring Cap Ex	(b) Per Unit	Total Capital Improvements	(b) Per Unit	Total Capital Improvements	(b) Per Unit
Core Communities	$27,815	$800	$ 41,726	$1,200	$ 69,541	$2,000	$100,751	$2,898
2008 Acquisition Communities	650	800	2,950	3,628	3,600	4,428	97	1,141
Subtotal	28,465	800	44,676	1,255	73,141	2,055	100,848	2,894
2009 Disposed Communities	418	776	216	401	634	1,177	3,483	2,613
2008 Disposed Communities	-	-	-	-	-	-	1,150	1,759
Corporate office (1)	-	-	-	-	1,959	-	3,656	-
Totals	$28,883	$800	$ 44,892	$1,243	$ 75,734	$2,043	$109,137	$2,863

(1) No distinction is made between recurring and non-recurring expenditures for corporate office. Corporate office expenditures include principally computer hardware, software, office furniture, fixtures and leasehold improvements.

(b) Calculated using the weighted average number of units owned, including 34,768 core units, 2008 acquisition units of 813 and 2009 disposed units of 539 for the year ended December 31, 2009; and 34,768 core units, 2008 acquisition units of 85, 2009 disposed units of 1,333 and 2008 disposed units of 654 for the year ended December 31, 2008.

Environmental Issues

Phase I environmental site assessments have been completed on substantially all of the Owned Properties. As of December 31, 2009, there were no recorded amounts resulting from environmental liabilities as there were no known contingencies with respect thereto. Furthermore, no condition is known to exist that would give rise to a material liability for site restoration or other costs that may be incurred with respect to the sale or disposal of a property.

During the past few years, there has been media attention given to the subject of mold in residential communities. The Company has responded to this attention by providing to its community management the Company's Operation and Maintenance Plan for the Control of Moisture ("O&M Plan"). The O&M Plan, designed to analyze and manage all exposures to mold, has been implemented at all of the Company's communities. There have been only limited cases of mold identified to management due to the application and practice of the O&M Plan. No condition is known to exist that would give rise to a material liability for site restoration or other costs that may be incurred with respect to mold.

Recent Accounting Pronouncements

Disclosure of recently adopted and recently issued accounting standards is incorporated herein by reference to the discussion under Part IV, Item 15, Notes to Consolidated Financial Statements, Note 3.

Economic Conditions

Substantially all of the leases at the communities are for a term of one year or less, which enables the Company to seek increased rents upon renewal of existing leases or commencement of new 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.

In the fourth quarter of 2007, throughout 2008, 2009 and continuing into 2010, the sub-prime issue put significant pressure on the mortgage lending industry. This led to problems in the financial system which developed into the worst recession since the Great Depression. The credit markets tightened, consumer confidence plunged and unemployment soared. The Company has continued to receive favorable financing at market rates of interest. Its occupancy at 95.0% in 2008 and 94.9% in 2009 was the highest it has been since 2000 and financial performance continued strong. However, a recessionary economy and increasing job losses typically slow household formations which could affect occupancy and decrease the Company's ability to raise rents. In light of this, we will continue to review our business strategy throughout the year. However, we believe that given our B-class property type and the geographic regions in which we are located, the Company's financial performance will be affected less negatively than its peers.

Contingencies

The Company is not a party to any legal proceedings which are expected to have a material adverse effect on the Company's liquidity, financial position or results of operations. The Company is subject to a variety of legal actions for personal injury or property damage arising in the ordinary course of its business, most of which are covered by liability and property insurance. Various claims of employment and resident discrimination are also periodically brought, most of which also are covered by insurance. While the resolution of these matters cannot be predicted with certainty, management believes that the final outcome of such legal proceedings and claims will not have a material adverse effect on the Company's liquidity, financial position or results of operations.

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Forward-Looking Statements

This Form 10-K contains "forward-looking statements" within the meaning of Section 27A of the Securities Exchange Act of 1933 and Section 21E of the Securities Exchange Act of 1934, both as amended. Some examples of forward-looking statements include statements related to acquisitions (including any related pro forma financial information), future capital expenditures, potential development and redevelopment opportunities, projected costs and rental rates for development and redevelopment projects, financing sources and availability, and the effects of environmental and other regulations. Although the Company believes that the expectations reflected in those forward-looking statements are based upon reasonable assumptions, it can give no assurance that its expectations will be achieved. Factors that may cause actual results to differ include general economic and local real estate conditions, the weather and other conditions that might affect operating expenses, the timely completion of repositioning activities and development within anticipated budgets, the actual pace of future development, acquisitions and sales, and continued access to capital to fund growth. For this purpose, any statements contained in this Form 10-K that are not statements of historical fact should be considered to be forward-looking statements. Some of the words used to identify forward-looking statements include "believes", "anticipates", "plans", "expects", "seeks", "estimates", and similar expressions. Readers should exercise caution in interpreting and relying on forward-looking statements since they involve known and unknown risks, uncertainties and other factors which are, in some cases, beyond the Company's control and could materially affect the Company's actual results, performance or achievements.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

The Company's primary market risk exposure is interest rate risk. At December 31, 2009 and December 31, 2008, approximately 89% and 95%, respectively, of the Company's debt bore interest at fixed rates. At December 31, 2009 and 2008, approximately 83% and 89%, respectively, of the Company's debt was secured and bore interest at fixed rates. The secured fixed rate debt had weighted average maturities of approximately 5.35 and 5.46 years and a weighted average interest rate of approximately 5.86% and 5.77% at December 31, 2009 and 2008, respectively. The remainder of the Company's secured debt bore interest at variable rates with a weighted average maturity of approximately 7.75 and 13.21 years and a weighted average interest rate of 2.92% and 2.02%, for 2009 and 2008, respectively. The Company does not intend to utilize a significant amount of permanent variable rate debt to acquire properties in the future. On occasion, the Company may use its line of credit in connection with a property acquisition or stock repurchase with the intention to refinance at a later date. The Company believes, however, that increases in interest expense as a result of inflation would not significantly impact the Company's distributable cash flow.

At December 31, 2009 and December 31, 2008, the fair value of the Company's fixed and variable rate secured debt amounted to a liability of $2.15 billion and $2.08 billion, respectively, compared to its carrying amount of $2.11 billion and $2.11 billion, respectively. The Company estimates that a 100 basis point increase in market interest rates at December 31, 2009 would have changed the fair value of the Company's fixed and variable rate secured debt to a liability of $2.06 billion and would result in $2 million higher interest expense on the variable rate secured debt. At December 31, 2009 and December 31, 2008, the fair value of the Company’s total debt, including the exchangeable senior notes and line of credit, amounted to a liability of $2.34 billion and $2.26 billion, respectively, compared to its carrying amount of $2.30 billion and $2.32 billion.

The Company intends to continuously monitor and actively manage interest costs on its variable rate debt portfolio and may enter into swap positions based upon market fluctuations. In addition, the Company believes that it has the ability to obtain funds through additional debt and/or equity offerings and/or the issuance of UPREIT Units. Accordingly, the cost of obtaining such interest rate protection agreements in relation to the Company's access to capital markets will continue to be evaluated. The Company has not, and does not plan to, enter into any derivative

financial instruments for trading or speculative purposes. As of December 31, 2009, the Company had no other material exposure to market risk.

Additional disclosure about market risk is incorporated herein by reference to the discussion under the heading "Results of Operations" in Item 7: Managements Discussion and Analysis of Financial Condition and Results of Operations.

Item 8. Financial Statements and Supplementary Data

The financial statements and supplementary data are listed under Item 15(a) and filed as part of this report on the pages indicated.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Disclosure Controls and Procedures.

The Company maintains disclosure controls and procedures that are designed to ensure that information required to be disclosed in the reports filed or submitted by the Company under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms, and that such information is accumulated and communicated to the officers who certify the Company's financial reports and to the other members of senior management and the Board of Directors.

The principal executive officer and principal financial officer evaluated, as of December 31, 2009, the effectiveness of the disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and have determined that such disclosure controls and procedures are effective.

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 such term is defined in Exchange Act Rule 13a-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 the United States of America generally accepted accounting principles.

Under the supervision and with the participation of management, including the Company's principal executive officer and principal financial officer, the Company conducted an evaluation of the effectiveness of its internal control over financial reporting based 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, management concluded that the Company's internal control over financial reporting was effective as of December 31, 2009. In addition, management has not identified any material weaknesses in the Company's internal controls.

The effectiveness of the Company's internal control over financial reporting as of December 31, 2009 has been audited by PricewaterhouseCoopers LLP, an independent registered public accounting firm, as stated in their report which appears herein.

Changes in Internal Control Over Financial Reporting

There were no changes in the internal controls over financial reporting that occurred during the fourth quarter of the year ended December 31, 2009, that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

Item 9B. Other Information

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

Except for information pertaining to the executive officers of the Company, the information required by this Item is incorporated herein by reference to the Company's Proxy Statement to be issued in connection with the Annual Meeting of the Stockholders of the Company to be held on May 4, 2010. The proxy statement will be filed within 120 days after the end of the Company's last fiscal year.

See Item 4A in Part I hereof for information regarding executive officers of the Company.

Item 11. Executive Compensation

The information required by this Item is incorporated herein by reference to the Company's Proxy Statement to be issued in connection with the Annual Meeting of the Stockholders of the Company to be held on May 4, 2010. The proxy statement will be filed within 120 days after the end of the Company's last fiscal year.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required by this Item is incorporated herein by reference to the Company's Proxy Statement to be issued in connection with the Annual Meeting of Stockholders of the Company to be held on May 4, 2010. The proxy statement will be filed within 120 days after the end of the Company's last fiscal year.

Item 13. Certain Relationships and Related Transactions, and Director Independence

The information required by this Item is incorporated herein by reference to the Company's Proxy Statement to be issued in connection with the Annual Meeting of Stockholders of the Company to be held on May 4, 2010. The proxy statement will be filed within 120 days after the end of the Company's last fiscal year.

Item 14. Principal Accounting Fees and Services

The information required by this Item is incorporated herein by reference to the Company's Proxy Statement to be issued in connection with the Annual Meeting of Stockholders of the Company to be held on May 4, 2010, under "Report of the Audit Committee" and "Principal Accounting Fees and Services." The proxy statement will be filed within 120 days after the end of the Company's fiscal year.

PART IV

Item 15. Exhibits, Financial Statement Schedules

(a) 1 and (a) 2. Financial Statements and Schedules

The financial statements and schedules listed below are filed as part of this annual report on the pages indicated.

HOME PROPERTIES, INC.

Consolidated Financial Statements

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Report of Independent Registered Public Accounting Firm	55
Consolidated Balance Sheets as of December 31, 2009 and 2008	56
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All other schedules are omitted because they are not applicable or the required information is shown in the financial statements or notes thereto.

(a) 3. Exhibits

See Exhibit Index. 89

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of Home Properties, Inc.:

In our opinion, the consolidated financial statements listed in the index appearing under Item 15(a)(1) present fairly, in all material respects, the financial position of Home Properties, Inc. and its subsidiaries (the "Company) at December 31, 2009 and 2008, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2009 in conformity with accounting principles generally accepted in the United States of America. In addition, in our opinion, the financial statement schedules listed in the index appearing under Item 15(a)(2) present fairly, in all material respects, the information set forth therein when read in conjunction with the related consolidated financial statements. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2009, based on criteria established in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Company's management is responsible for these financial statements and financial statement schedules, for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in Management's Annual Report on Internal Control Over Financial Reporting under Item 9A. Our responsibility is to express opinions on these financial statements, on the financial statement schedules, and on the Company's internal control over financial reporting based on our integrated audits. We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement and whether effective internal control over financial reporting was maintained in all material respects. Our audits of the financial statements included examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

As discussed in Note 3 to the consolidated financial statements, the Company changed the manner in which it accounts for convertible debt and the manner in which it accounts for noncontrolling interests in 2009.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

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.

/s/ PricewaterhouseCoopers LLP
Boston, Massachusetts
February 26, 2010

HOME PROPERTIES, INC.

CONSOLIDATED BALANCE SHEETS
DECEMBER 31, 2009 and 2008
(Dollars in thousands, except share and per share data)

	2009	2008
ASSETS		
Real estate:		
Land	$508,087	$515,610
Construction in progress	184,617	111,039
Buildings, improvements and equipment	3,223,275	3,245,741
	3,915,979	3,872,390
Less: accumulated depreciation	(733,142)	(636,970)
Real estate, net	3,182,837	3,235,420
Cash and cash equivalents	8,809	6,567
Cash in escrows	27,278	27,904
Accounts receivable, net	14,137	14,078
Prepaid expenses	16,783	16,277
Deferred charges, net	13,931	11,360
Other assets, net	4,259	5,488
Total assets	$3,268,034	$3,317,094
LIABILITIES AND STOCKHOLDERS' EQUITY		
Mortgage notes payable	$2,112,645	$2,112,331
Exchangeable senior notes, net	136,136	134,169
Line of credit	53,500	71,000
Accounts payable	19,695	23,731
Accrued interest payable	10,661	10,845
Accrued expenses and other liabilities	27,989	32,043
Security deposits	19,334	21,443
Total liabilities	2,379,960	2,405,562
Commitments and contingencies		
Equity:		
Common stock, $.01 par value; 80,000,000 shares authorized; 34,655,428 and 32,431,304 shares issued and outstanding at December 31, 2009 and 2008, respectively	347	324
Excess stock, $.01 par value; 10,000,000 shares authorized; no shares issued or outstanding	-	-
Additional paid-in capital	922,078	857,415
Distributions in excess of accumulated earnings	(261,313)	(206,961)
Total common stockholders' equity	661,112	650,778
Noncontrolling interest	226,962	260,754
Total equity	888,074	911,532
Total liabilities and equity	$3,268,034	$3,317,094

The accompanying notes are an integral part of these consolidated financial statements.

HOME PROPERTIES, INC.

CONSOLIDATED STATEMENTS OF OPERATIONS
FOR THE YEARS ENDED DECEMBER 31, 2009, 2008 AND 2007
(Dollars in thousands, except share and per share data)

	2009	2008	2007
Revenues:			
Rental income	$462,086	$452,142	$434,475
Property other income	40,764	41,336	35,411
Interest income	59	165	1,964
Other income	700	400	1,123
Total revenues	503,609	494,043	472,973
Expenses:			
Operating and maintenance	211,265	207,517	196,121
General and administrative	24,476	25,488	23,412
Interest	122,814	119,330	117,559
Depreciation and amortization	119,689	111,310	103,637
Impairment of assets held as general partner	-	4,000	-
Total expenses	478,244	467,645	440,729
Income from operations before gain on early extinguishment of debt	25,365	26,398	32,244
Gain on early extinguishment of debt	-	11,304	-
Income from continuing operations	25,365	37,702	32,244
Discontinued operations:			
Income (loss) from discontinued operations	(2,601)	3,943	8,139
Gain on disposition of property	24,314	51,560	42,126
Discontinued operations	21,713	55,503	50,265
Net income	47,078	93,205	82,509
Net income attributable to noncontrolling interest	(12,659)	(27,124)	(22,712)
Preferred dividends	-	-	(1,290)
Preferred stock issuance costs write-off	-	-	(1,902)
Net income attributable to common shareholders	$34,419	$66,081	$56,605
Basic earnings per share data:			
Income from continuing operations	$0.56	$0.84	$0.63
Discontinued operations	0.48	1.23	1.08
Net income attributable to common shareholders	$1.04	$2.07	$1.71
Diluted earnings per share data:			
Income from continuing operations	$0.56	$0.82	$0.61
Discontinued operations	0.48	1.22	1.06
Net income attributable to common shareholders	$1.04	$2.04	$1.67
Weighted average number of shares outstanding:			
Basic	33,040,839	31,991,817	33,130,067
Diluted	33,172,116	32,332,688	33,794,526
Dividends declared per share	$2.68	$2.65	$2.61

The accompanying notes are an integral part of these consolidated financial statements.

HOME PROPERTIES, INC.

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY AND COMPREHENSIVE INCOME
FOR THE YEARS ENDED DECEMBER 31, 2009, 2008 AND 2007
(Dollars in thousands, except share and per share data)

	Preferred Stock at Liquidation Preference	Common Stock Shares	Common Stock Amount	Additional Paid-In Capital	Distributions in Excess of Accumulated Earnings	Accumulated Other Comprehensive Income	Non-controlling Interest	Totals
Balance, December 31, 2006	$ 60,000	33,103,247	$ 331	$ 852,036	$ (156,921)	$ 171	$ 282,542	$ 1,038,159
Cumulative effect of change in accounting principle	-	-	-	9,753	(319)	-	3,776	13,210
Balance, December 31, 2006	60,000	33,103,247	331	861,789	(157,240)	171	286,318	1,051,369
Comprehensive income:								
Net income	-	-	-	-	59,797	-	22,712	82,509
Change in fair value of hedge instruments	-	-	-	-	-	(171)	(35)	(206)
Comprehensive income								82,303
Issuance of common stock, net	-	318,318	3	15,553	-	-		15,556
Issuance of UPREIT Units	-	-	-	-	-	-	36,290	36,290
Repurchase of common stock	-	(1,299,269)	(13)	(61,217)	-	-	-	(61,230)
Redemption of preferred stock	(60,000)	-	-	1,902	(1,902)	-	-	(60,000)
Conversion of UPREIT Units for common stock	-	478,318	5	26,495	-	-	(10,025)	16,475
Reallocation of noncontrolling interest	-	-	-	18,524	-	-	(18,524)	-
Preferred dividends	-	-	-	-	(1,290)	-	-	(1,290)
Dividends and distributions paid ($2.61 per share)	-	-	-	-	(87,054)	-	(34,537)	(121,591)
Balance, December 31, 2007	-	32,600,614	326	863,046	(187,689)	-	282,199	957,882
Comprehensive income:								

Net income	-	-	-	-	66,081	-	27,124	93,205
Issuance of common stock, net	-	370,714	3	16,824	-	-	-	16,827
Repurchase of common stock	-	(1,165,783)	(11)	(53,919)	-	-	-	(53,930)
Repurchase of convertible debt	-	-	-	88	(88)	-	-	-
Conversion of UPREIT Units for common stock	-	625,759	6	30,222	-	-	(12,435)	17,793
Reallocation of noncontrolling interest	-	-	-	1,154	-	-	(1,154)	-
Dividends and distributions paid ($2.65 per share)	-	-	-	-	(85,265)	-	(34,980)	(120,245)
Balance, December 31, 2008	-	32,431,304	324	857,415	(206,961)	-	260,754	911,532
Comprehensive income:								
Net income	-	-	-	-	34,419	-	12,659	47,078
Issuance of common stock, net	-	1,234,816	12	53,927	-	-	-	53,939
Repurchase of common stock	-	(97,304)	-	(2,935)	-	-	-	(2,935)
Conversion of UPREIT Units for common stock	-	1,086,612	11	21,321	-	-	(21,332)	-
Reallocation of noncontrolling interest	-	-	-	(7,650)	-	-	7,650	-
Dividends and distributions paid ($2.68 per share)	-	-	-	-	(88,771)	-	(32,769)	(121,540)
Balance, December 31, 2009	$ -	34,655,428	$347	$922,078	$(261,313)	$ -	$226,962	$888,074

The accompanying notes are an integral part of these consolidated financial statements.

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HOME PROPERTIES, INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS
FOR THE YEARS ENDED DECEMBER 31, 2009, 2008 AND 2007
(Dollars in thousands)

	2009	2008	2007
Cash flows from operating activities:			
Net income	$47,078	$93,205	$82,509
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	123,148	115,560	113,389
Amortization of senior note debt discount	1,967	2,519	2,509
Impairment of assets held as general partner	-	4,000	-
Gain on disposition of property and business	(24,314)	(51,560)	(42,126)
Gain on early extinguishment of debt	-	(11,304)	-
Issuance of restricted stock, compensation cost of stock options and deferred compensation	7,291	5,990	5,869
Changes in assets and liabilities:			
Cash held in escrows	1,359	2,086	993
Other assets	(372)	(6,307)	1,154
Accounts payable and accrued liabilities	(6,533)	5,892	(1,739)
Total adjustments	102,546	66,876	80,049
Net cash provided by operating activities	149,624	160,081	162,558
Cash flows from investing activities:			
Purchase of properties and other assets, net of mortgage notes assumed and UPREIT Units issued	-	(34,866)	(107,656)
Purchase of land for development	-	(28,320)	(46,540)
Additions to properties	(79,292)	(107,430)	(86,537)
Additions to construction in progress	(73,627)	(33,019)	(15,151)
Proceeds from sale of properties, net	105,930	121,975	126,557
Withdrawals from (additions to) cash held in escrow, net	(576)	1,076	41,774
Net cash used in investing activities	(47,565)	(80,584)	(87,553)
Cash flows from financing activities:			
Payments for early extinguishment of exchangeable senior notes	-	(45,360)	-
Proceeds from sale of common stock, net	46,648	10,837	9,687
Repurchase of Series F preferred stock	-	-	(60,000)
Repurchase of common stock	(2,935)	(53,930)	(61,230)
Proceeds from mortgage notes payable	266,483	242,862	244,797
Payments of mortgage notes payable	(264,248)	(178,621)	(198,405)
Proceeds from line of credit	481,500	490,500	248,000
Payments on line of credit	(499,000)	(422,000)	(245,500)
Payments of deferred loan costs	(6,592)	(3,021)	(1,908)
Withdrawals from (additions to) cash escrows, net	(133)	(61)	332
Dividends and distributions paid	(121,540)	(120,245)	(122,881)
Net cash used in financing activities	(99,817)	(79,039)	(187,108)
Net increase (decrease) in cash and cash equivalents	2,242	458	(112,103)
Cash and cash equivalents:			
Beginning of year	6,567	6,109	118,212
End of year	$8,809	$6,567	$6,109

The accompanying notes are an integral part of these consolidated financial statements.

HOME PROPERTIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands, except share and per share data)

1 ORGANIZATION

Organization

Home Properties, Inc. (the "Company") was formed in November 1993, as a Maryland corporation and is engaged primarily in the ownership, management, acquisition, rehabilitation and development of residential apartment communities primarily in select Northeast, Mid-Atlantic and Southeast Florida regions of the United States. The Company conducts its business through Home Properties, L.P. (the "Operating Partnership"), a New York limited partnership. As of December 31, 2009, the Company operated 107 apartment communities with 36,947 apartments. Of this total, the Company owned 105 communities, consisting of 35,797 apartments, managed as general partner one partnership that owned 868 apartments, and fee managed one community, consisting of 282 apartments, for a third party.

2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

FASB Accounting Standards Codification

In July 2009, the Financial Accounting Standards Board (the “FASB”) issued the FASB Accounting Standards Codification ("ASC") 105-10 ("ASC 105-10" or the "Codification"). ASC 105-10 establishes the exclusive authoritative reference for U.S. generally accepted accounting principles (“GAAP”) for use in financial statements, except for Securities and Exchange Commission (“SEC”) rules and interpretive releases, which are also authoritative GAAP for SEC registrants. The Codification supersedes all existing non-SEC accounting and reporting standards. We have included references to the Codification, as appropriate, in these consolidated financial statements. The Codification does not change GAAP and did not have an effect on our financial position and results of operations.

Basis of Presentation

The accompanying consolidated financial statements include the accounts of the Company and its ownership of 74.7% of the limited partnership units in the Operating Partnership ("UPREIT Units") at December 31, 2009 (71.7% at December 31, 2008). The remaining 25.3% is reflected as noncontrolling interest in these consolidated financial statements at December 31, 2009 (28.3% at December 31, 2008). The Company periodically adjusts the carrying value of noncontrolling interest to reflect its share of the book value of the Operating Partnership. Such adjustments are recorded to additional paid in capital as a reallocation of noncontrolling interest in the accompanying consolidated statements of stockholders’ equity and comprehensive income. The Company owns a 1.0% general partner interest in the Operating Partnership and the remainder indirectly as a limited partner through its wholly owned subsidiary, Home Properties I, LLC, which owns 100% of Home Properties Trust, which is the limited partner. Home Properties Trust was formed in September 1997, as a Maryland real estate trust and as a qualified REIT subsidiary ("QRS"), and owns the Company's share of the limited partner interests in the Operating Partnership. For financing purposes, the Company has formed a limited liability company (the "LLC") and a partnership (the "Financing Partnership"), which beneficially own certain apartment communities encumbered by mortgage indebtedness. The LLC is wholly owned by the Operating Partnership. The Financing Partnership is owned 99.9% by the Operating Partnership and 0.1% by

the QRS.

The accompanying consolidated financial statements include the accounts of Home Properties Resident Services, Inc. ("HPRS" or the "Management Company"). The Management Company is a wholly owned subsidiary of the Company. In addition, the Company consolidates one affordable housing limited partnership in accordance with the authoritative guidance for the consolidation of variable interest entities (ASC 810-10). All significant inter-company balances and transactions have been eliminated in these consolidated financial statements.

Real Estate

Real estate is recorded at cost. Costs related to the development, construction and improvement of properties are capitalized. Recurring capital replacements typically include carpeting and tile, appliances, HVAC equipment, new

roofs, site improvements and various exterior building improvements. Non-recurring upgrades include, among other items, community centers, new appliances, new windows, kitchens and bathrooms. Costs incurred on a lease turnover due to normal wear and tear by the resident are expensed on the turn. Ordinary repairs and maintenance that do not extend the life of the asset are expensed as incurred. When retired or otherwise disposed of, the related asset cost and accumulated depreciation are cleared from the respective accounts and the net difference, less any amount realized from disposition, is reflected in income.

Interest costs are capitalized until construction is substantially complete. The interest rate used for capitalization is the weighted average interest rate for all Company indebtedness, including amortization of debt issuance costs. There was $8,900, $5,472 and $3,441 of interest capitalized in 2009, 2008 and 2007, respectively. Salaries and related costs capitalized for the years ended December 31, 2009, 2008 and 2007 were $2,896, $3,537 and $1,967, respectively.

Management reviews its long-lived assets used in operations for impairment when, in accordance with the authoritative guidance for the accounting for the impairment or disposal of long-lived assets (ASC 360-10), there is an event or change in circumstances that indicates an impairment in value. An asset is considered impaired when the undiscounted future cash flows are not sufficient to recover the asset's carrying 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 Company records impairment losses and reduces the carrying amounts of assets held for sale when the carrying amounts exceed the estimated selling proceeds less the costs to sell.

The Company accounts for its acquisitions of investments in real estate in accordance with the authoritative guidance for the initial measurement (ASC 805-10), which requires the assets and liabilities acquired to be recognized using fair value. Typical assets and liabilities acquired include land, building, and personal property and identified intangible assets and liabilities, consisting of the value of above-market and below-market leases, value of in-place leases and value of resident relationships, based in each case on their fair values. Additionally, acquisition related costs are expensed in the periods in which the costs are incurred and the services are received. The Company considers acquisitions of operating real estate assets to be businesses as that term is defined in the authoritative guidance.

The Company determines the fair value of the tangible assets of an acquired property (which includes the land, building, and personal property) by valuing the property as if it were vacant. The as-if-vacant value is assigned to land, buildings, and personal property based on management's determination of the relative fair values of these assets.

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 included in other assets and 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 included in accrued expenses and other liabilities and are amortized as an increase to rental income over the initial term of the respective leases.

The fair value of in-place leases is based upon the Company's evaluation of the specific characteristics of the leases. Factors considered in these analyses include an estimate 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 the property acquired.

The fair value of resident relationships is based on management's evaluation of the specific characteristics of the residential leases and the Company's resident retention history.

HOME PROPERTIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands, except share and per share data)

The in-place leases and resident relationships are amortized and included in depreciation and amortization expense over the initial term of the respective leases.

Exchange of UPREIT Units for shares

In accordance with the revised authoritative guidance for noncontrolling interests (ASC 810-10), which was adopted on January 1, 2009, with respect to the exchanges of noncontrolling interests for shares, exchanges of UPREIT Units for shares of the Company's common stock are recorded under the historical cost method with UPREIT Units acquired reflected at their book value ("exchange value"). The exchange value of UPREIT Units is allocated to common stock and additional paid in capital.

In 2008 and prior periods, exchanges of UPREIT Units for shares of the Company's common stock were recorded under the purchase method with UPREIT Units acquired reflected at the fair market value of the Company's common stock on the date of exchange ("market value"). The exchange value of UPREIT Units was allocated to common stock and additional paid in capital, with the difference between the market value and exchange value ("basis step-up") allocated to the underlying real estate assets based on their estimated fair values.

There were 1,086,612 and 625,759 shares of UPREIT Units exchanged for common stock, during 2009 and 2008, respectively. The Company made adjustments within equity in the amount of $21,332 and $12,435, during 2009 and 2008, respectively, to record the exchange value of the transactions, and an adjustment to real estate assets in the amount of $17,793 to record the basis step-up of the conversions during 2008.

Costs Incurred for Stock Issuances

Costs incurred in connection with the Company's stock issuances are reflected as a reduction of additional paid in capital.

Discontinued Operations

The Company reports its property dispositions as discontinued operations as prescribed by the authoritative guidance. Pursuant to the definition of a component of an entity in the authoritative guidance for discontinued operations ("ASC 205-20"), assuming no significant continuing involvement by the former owner after the sale, the sale of an apartment community is considered a discontinued operation. In addition, apartment communities classified as held for sale are also considered a discontinued operation. The Company generally considers assets to be held for sale when all significant contingencies surrounding the closing have been resolved, which often corresponds with the actual closing date. For purposes of the discontinued operations presentation, the Company only includes interest expense and losses from early extinguishment of debt associated with specific mortgage indebtedness of the properties that are considered discontinued operations.

Depreciation

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.

Assets are depreciated using a straight-line method over the estimated useful lives as follows:

Land improvements	3-20 years
Buildings and improvements	3-40 years
Furniture, fixtures and equipment	5-10 years
Computer software	5 years

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Depreciation expense charged to operations was $118,801, $110,404 and $101,327 from continuing operations and $1,240, $5,407 and $8,914 from discontinued operations for the years ended December 31, 2009, 2008 and 2007, respectively.

Cash and Cash Equivalents

Cash and cash equivalents include all cash and highly liquid investments purchased with original maturities of three months or less. The Company estimates that the fair value of cash equivalents approximates the carrying value due to the relatively short maturity of these instruments. The majority of the Company's cash and cash equivalents are held at major commercial banks which at times may exceed the Federal Deposit Insurance Corporation limit of $250. The Company has not experienced any losses to date on its invested cash.

Cash in Escrows

Cash in escrows consists of cash restricted under the terms of various loan agreements to be used for the payment of property taxes and insurance as well as required replacement reserves, resident security deposits for residential properties and occasionally funds held in escrow from tax-free exchanges.

Accounts Receivable and Allowance for Doubtful Receivables

Accounts receivable are generally comprised of amounts receivable from residents and other miscellaneous receivables from non-affiliated entities. We evaluate the collectability of accounts receivable from residents and establish an allowance for accounts greater than 60 days past due for current residents and all receivables due from former residents, after the application of security deposits. The allowance for doubtful resident receivables was $2,993, $2,925 and $1,699 as of December 31, 2009, 2008 and 2007, respectively.

Deferred Charges

Costs relating to the financing of properties are deferred and amortized over the life of the related financing agreement. The straight-line method, which approximates the effective interest method, is used to amortize all financing costs; such amortization is reflected as interest expense in the consolidated statement of operations. The financing agreement terms range from 1-25 years. Accumulated amortization was $11,703, $10,663 and $9,079, as of December 31, 2009, 2008 and 2007, respectively.

Intangible Assets

Intangible assets of $8,982, $9,262 and $8,994 at December 31, 2009, 2008 and 2007, respectively, included in Other Assets, consist primarily of intangible assets recorded in connection with the authoritative guidance for the acquisition of real estate assets (ASC 805-10). These intangible assets are amortized on the straight-line basis over their estimated useful lives of 6 months to 3 years. Accumulated amortization of intangible assets was $8,526, $7,926 and $7,038 as of December 31, 2009, 2008 and 2007, respectively. Amortization expense charged to operations was $888, $906 and $2,310 from continuing operations and $1, $3 and $34 from discontinued operations for the years ended December 31, 2009, 2008 and 2007, respectively. The carrying value of intangible assets is periodically reviewed by the Company and impairments are recognized when the expected future operating cash flows derived from such intangible assets are less than their carrying value. During 2008, the Company wrote off the goodwill associated with its variable interest entity ("VIE") of $394 which is included in impairment of assets held as general partner.

Insurance Reserves

The Company has self insured retentions and aggregates up to certain limits for general liability and property claims. Reserves are currently funded for the estimated cost of claims incurred, both reported and unreported.

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HOME PROPERTIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands, except share and per share data)

Fair Value of Financial Instruments

The Company follows the authoritative guidance for fair value measurements (“ASC 820-10”), when valuing its financial instruments for disclosure purposes. The valuation of financial instruments requires the Company to make estimates and judgments that affect the fair value of the instruments. The Company determined the fair value of its mortgage notes payable and line of credit facility using a discounted future cash flow technique that incorporates a market interest yield curve with adjustments for duration, loan to value, and risk profile (level 2 inputs, as defined by ASC 820-10). In determining the market interest yield curve, the Company considered its BBB credit rating. The Company based the fair value of its exchangeable senior notes using quoted prices (level 1 inputs, as defined by ASC 820-10).

At December 31, 2009 and 2008, the fair value of the Company’s total debt, including the exchangeable senior notes and line of credit, amounted to a liability of $2,337,866 and $2,257,917, respectively, compared to its carrying amount of $2,302,281 and $2,317,500.

Revenue Recognition

The Operating Partnership leases its residential apartment units under leases with terms generally one year or less. Rental income is recognized on a straight-line basis over the related lease term. As a result, deferred rents receivable are created when rental income is recognized during the concession period of certain negotiated leases and amortized over the remaining term of the lease. In accordance with the authoritative guidance for business combinations (ASC 805-10), the Company recognizes rental revenue of acquired in-place "above and below" market leases at their fair value over the weighted average remaining lease term. Property other income, which consists primarily of income from operation of laundry facilities, utility recovery, administrative fees, garage and carport rentals and miscellaneous charges to residents, is recognized when earned (when the services are provided, or when the resident incurs the charge).

Property management fees are recognized when earned based on a contractual percentage of net monthly cash collected on rental income.

Other Income

Other income for the years ended December 31, 2009, 2008 and 2007 is primarily comprised of management and other real estate service fees.

Gains on Real Estate Sales

Gains on disposition of properties are recognized using the full accrual method in accordance with the authoritative guidance (ASC 360-20), provided that various criteria relating to the terms of sale and any subsequent involvement by the Company with the properties sold are met.

Advertising

Advertising expenses are charged to operations during the year in which they were incurred. Advertising expenses incurred and charged to operations were $4,355, $4,474 and $4,598 from continuing operations, and $83, $282 and $524 from discontinued operations, for the years ended December 31, 2009, 2008 and 2007, respectively.

HOME PROPERTIES, INC.

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Federal Income Taxes

The Company has elected to be taxed as a real estate investment trust ("REIT") under the Internal Revenue Code of 1986, as amended, commencing with the taxable year ended December 31, 1994. As a result, the Company generally is not subject to Federal or State income taxation at the corporate level to the extent it distributes annually at least 90% of its REIT taxable income to its shareholders and satisfies certain other requirements. For the years ended December 31, 2009, 2008 and 2007, the Company distributed in excess of 100% of its taxable income; accordingly, no provision has been made for federal income taxes in the accompanying consolidated financial statements. Stockholders of the Company are taxed on dividends and must report distributions from the Company as either ordinary income, capital gains, or as return of capital (Note 9).

The Company adopted the provisions of the authoritative guidance for accounting for uncertainty in income taxes ("ASC 740-10") on January 1, 2007, which addresses the recognition and measurement of assets and liabilities associated with tax positions taken or expected to be taken in a tax return. As a result of the adoption of the authoritative guidance, the Company reviewed its potential uncertain tax positions and made no adjustments to its existing financial and tax accounting treatment. ASC 740-10 also requires a public enterprise to disclose the aggregate difference in the basis of its net assets for financial and tax reporting purposes. The tax basis of assets is less than the amounts reported in the accompanying consolidated financial statements by approximately $501,616 and $569,437 at December 31, 2009 and 2008, respectively.

The following table reconciles net income to taxable income for the years ended December 31, 2009, 2008 and 2007:

	2009	2008	2007
Net income	$47,078	$93,205	$82,509
Deduct: Net income attributable to noncontrolling interest	(12,659)	(27,124)	(22,712)
Add back: Net loss of taxable REIT Subsidiaries included in net income	38	52	122
Add back: Net loss of taxable VIE, including impairment of real property	1,244	3,897	756
Net income from REIT operations	35,701	70,030	60,675
Add: Book depreciation and amortization	87,424	81,835	78,369
Less: Tax depreciation and amortization	(86,594)	(82,562)	(79,880)
Book/tax difference on gains/losses from capital transactions	(3,131)	(6,176)	12,579
Book/tax difference on carrying value of mortgages	(2,095)	(4,291)	(2,283)
Book/tax difference on equity compensation	2,057	(2,295)	(3,343)
Book/tax difference on amortization of debt discount	1,438	1,757	1,747
Book/tax difference on gain on early extinguishment of debt	-	1,828	-
Other book/tax differences, net	(1,042)	54	(2,422)
Adjusted taxable income subject to 90% REIT dividend requirement	$33,758	$60,180	$65,442

The Company made actual distributions in excess of 100% of taxable income before capital gains. All adjustments to net income from REIT operations are net of amounts attributable to noncontrolling interest and the taxable REIT subsidiary, HPRS.

Included in total assets on the Consolidated Balance Sheets are deferred tax assets of $10,195 and $10,176 as of December 31, 2009 and 2008, respectively. The deferred tax assets were a result of the net losses associated with the

affordable property portfolio sales during 2004 and 2003. Management does not believe it is more likely than not that these deferred assets will be used, and accordingly has recorded a reserve against the deferred tax assets of $10,195 and $10,176 for the years ended December 31, 2009 and 2008, respectively. The deferred tax assets are associated with HPRS who performs certain of the residential and development activities of the Company. HPRS historically provided commercial management services and provided loan advances to affordable housing entities owned through general partnership interests. As these activities are no longer provided, Management does not currently believe there is a source for future material taxable earnings for HPRS that would give rise to value for the deferred tax assets.

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Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amount of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

3 RECENTLY ADOPTED AND RECENTLY ISSUED ACCOUNTING STANDARDS

Retrospective Application of Changes in Accounting Principles

On January 1, 2009, the Company adopted FASB authoritative guidance for debt with conversion and other options, ("ASC 470-20"); noncontrolling interests in consolidated financial statements ("ASC 810-10"); and determining whether instruments granted in share-based payment transactions are participating securities ("ASC 260-10").

ASC 470-20 requires the liability and equity components of convertible debt instruments that may be settled in cash upon conversion (including partial cash settlement) to be separately accounted for in a manner that reflects the issuer's nonconvertible debt borrowing rate on the date of issue. The difference between the principal amount of the debt and the amount of proceeds allocated to the liability component is reported as a debt discount and subsequently amortized to earnings over the instrument’s expected life using the effective interest method. The adoption of this authoritative guidance affects the accounting for the Company’s 4.125% exchangeable senior notes ("Senior Notes") which were issued in October 2006 with an initial principal amount of $200,000. The initial debt component of the $200,000 Senior Notes was determined to be $186,050, based on the fair value of similar nonconvertible debt. The aggregate initial debt discount of $13,950 was recorded in additional paid-in capital. The Company is amortizing the discount using the effective interest method over the period the debt is expected to remain outstanding (through the first optional redemption date of November 1, 2011) as additional non-cash interest expense. During the fourth quarter of 2008, the Company repurchased $60,000 principal amount (with a carrying value of $57,367) of the Senior Notes for $45,360. The gain on early extinguishment of debt originally recorded in the fourth quarter of 2008 of $13,884 has been adjusted for the impact of this authoritative guidance, which requires a revaluation of the extinguished debt and equity components at the date of extinguishment and resulted in a restated gain on early extinguishment of debt of $11,304 (after the write off of $703 unamortized debt issuance costs). Refer to Note 7 for additional information about the Senior Notes.

ASC 810-10 establishes accounting and reporting standards that require the ownership interests in subsidiaries held by parties other than the parent be clearly identified, labeled, and presented in the consolidated balance sheet within equity, but separate from the parent’s equity; the amount of consolidated net income attributable to the parent and to the noncontrolling interests be clearly identified and presented on the face of the consolidated statement of income; changes in a parent’s ownership interest while the parent retains its controlling financial interest in its subsidiary be accounted for consistently; and that entities provide sufficient disclosures that clearly identify and distinguish between the interests of the parent and the interests of the noncontrolling owners. The Company has reviewed the authoritative guidance and determined that the noncontrolling interest held by the UPREIT Unitholders meets the criteria to be considered permanent equity.

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The following tables set forth the effect of the retroactive application of ASC 470-20 and ASC 810-10 on certain previously reported line items.

Consolidated Balance Sheet: December 31, 2008

	Originally Reported	As Adjusted	Effect of Change	Impact of ASC 470-20	Impact of ASC 810-10
Deferred charges	$11,473	$11,360	$(113)	$(113)	$-
Total assets	3,317,207	3,317,094	(113)	(113)	-
Exchangeable senior notes	140,000	134,169	(5,831)	(5,831)	-
Total liabilities	2,411,393	2,405,562	(5,831)	(5,831)	-
Minority interest	259,136	-	(259,136)	-	(259,136)
Additional paid-in capital	847,576	857,415	9,839	9,839	-
Distributions in excess of accumulated earnings	(201,222)	(206,961)	(5,739)	(5,739)	-
Total stockholders' equity	646,678	650,778	4,100	4,100	-
Noncontrolling interest	-	260,754	260,754	1,618	259,136
Total equity	646,678	911,532	264,854	5,718	259,136
Total liabilities and stockholders' equity	3,317,207	3,317,094	(113)	(113)	-

Consolidated Statement of Operations: Year Ended December 31, 2008

	Originally Reported [1]	As Adjusted	Effect of Change	Impact of ASC 470-20	Impact of ASC 810-10
Interest	$116,867	$119,330	$2,463	$2,463	$-
Total expense	465,182	467,645	2,463	2,463	-
Income from continuing operations before gain on early extinguishment of debt	28,861	26,398	(2,463)	(2,463)	-
Gain on early extinguishment of debt	13,884	11,304	(2,580)	(2,580)	-
Income from operations	42,745	37,702	(5,043)	(5,043)	-
Minority interest in operating partnership	(12,448)	-	12,448	1,458	10,990
Income from continuing operations	30,297	37,702	7,405	(3,585)	10,990
Income from discontinued operations	2,797	3,943	1,146	-	1,146
Gain on disposition of property	36,572	51,560	14,988	-	14,988
Discontinued operations	39,369	55,503	16,134	-	16,134
Net income	69,666	93,205	23,539	(3,585)	27,124
Net income attributable to noncontrolling interest	-	(27,124)	(27,124)	-	(27,124)
Net income attributable to common shareholders	69,666	66,081	(3,585)	(3,585)	-
Basic earnings per share	2.18	2.07	(0.11)	(0.11)	-
Diluted earnings per share	2.15	2.04	(0.11)	(0.11)	-

[1] Adjusted for discontinued operations as discussed in Note 15.

Consolidated Statement of Operations: Year Ended December 31, 2007

	Originally Reported [1]	As Adjusted	Effect of Change	Impact of ASC 470-20	Impact of ASC 810-10
Interest	$115,109	$117,559	$2,450	$2,450	$-
Total expense	438,279	440,729	2,450	2,450	-
Income from operations	34,694	32,244	(2,450)	(2,450)	-
Minority interest in operating partnership	(9,034)	-	9,034	703	8,331
Income from continuing operations	25,660	32,244	6,584	(1,747)	8,331
Income from discontinued operations	5,807	8,139	2,332	-	2,332
Gain on disposition of property	30,077	42,126	12,049	-	12,049
Discontinued operations	35,884	50,265	14,381	-	14,381
Net income	61,544	82,509	20,965	(1,747)	22,712
Net income attributable to noncontrolling interest	-	(22,712)	(22,712)	-	(22,712)
Net income attributable to common shareholders	58,352	56,605	(1,747)	(1,747)	-
Basic earnings per share	1.76	1.71	(0.05)	(0.05)	-
Diluted earnings per share	1.73	1.67	(0.06)	(0.06)	-

[1] Adjusted for discontinued operations as discussed in Note 15.

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Consolidated Statement of Equity:	December 31, 2008				
	Originally Reported	As Adjusted	Effect of Change	Impact of ASC 470-20	Impact of ASC 810-10
Additional paid-in-capital	$847,576	$857,415	$9,839	$9,839	$-
Distributions in excess of accumulated earnings	(201,222)	(206,961)	(5,739)	(5,739)	-
Noncontrolling interest	-	260,754	260,754	1,618	259,136

Consolidated Statement of Equity:	December 31, 2007				
	Originally Reported	As Adjusted	Effect of Change	Impact of ASC 470-20	Impact of ASC 810-10
Additional paid-in-capital	$853,358	$863,046	$9,688	$9,688	$-
Distributions in excess of accumulated earnings	(185,623)	(187,689)	(2,066)	(2,066)	-
Noncontrolling interest	-	282,199	282,199	3,138	279,061

The impact of ASC 470-20 on the January 1, 2007 balances of additional paid-in capital, distributions in excess of accumulated earnings and noncontrolling interest have been reflected as a cumulative effect of change in accounting principle on our consolidated statements of equity.

Consolidated Statement of Cash Flows:	Year Ended December 31, 2008				
	Originally Reported	As Adjusted	Effect of Change	Impact of ASC 470-20	Impact of ASC 810-10
Net income	$69,666	$93,205	$23,539	$(3,585)	$27,124
Income allocated to minority interest	28,581	-	(28,581)	(1,457)	(27,124)
Depreciation and amortization	115,617	115,560	(57)	(57)	-
Amortization of debt discount	-	2,519	2,519	2,519	-
Gain on early extinguishment of debt	(13,884)	(11,304)	2,580	2,580	-
Net cash provided by operating activities	160,081	160,081	-	-	-

Consolidated Statement of Cash Flows:	Year Ended December 31, 2007				
	Originally Reported	As Adjusted	Effect of Change	Impact of ASC 470-20	Impact of ASC 810-10
Net income	$61,544	$82,509	$20,965	$(1,747)	$22,712
Income allocated to minority interest	23,415	-	(23,415)	(703)	(22,712)
Depreciation and amortization	113,448	113,389	(59)	(59)	-
Amortization of debt discount	-	2,509	2,509	2,509	-
Net cash provided by operating activities	162,558	162,558	-	-	-

ASC 260-10 provides that unvested share-based payment awards that contain non-forfeitable rights to dividends are participating securities and shall be included in the computation of earnings per share pursuant to the two-class method. The two-class method of computing earnings per share is an earnings allocation formula that determines earnings per share for common stock and any participating securities according to dividends declared (whether paid or unpaid) and participation rights in undistributed earnings. The Company determined that its restricted stock granted under its stock plans are considered participating securities since the share-based awards contain a non-forfeitable right to dividends irrespective of whether the awards ultimately vest. Prior to the adoption of this authoritative guidance, the Company's restricted stock was included in the calculation of diluted earnings per share using the treasury stock method. ASC 260-10 became effective on January 1, 2009 and required all prior period earnings per share data presented to be adjusted retroactively. The adoption of this authoritative guidance did not have a material effect on our computation of earnings per share.

Recently Adopted Accounting Standards

On January 1, 2009, the Company adopted the revised authoritative guidance for business combinations (ASC 805-10), which establishes principles and requirements for how the acquirer recognizes and measures in its financial statements the identifiable assets acquired, liabilities assumed, any noncontrolling interests in the acquiree and goodwill acquired in a business combination. Additionally, the revised authoritative guidance requires acquisition-related costs to be expensed in the period in which the costs are incurred and the services received instead of including such costs as part of the acquisition price. This statement is effective for business combinations for which the acquisition date is on or after January 1, 2009. The Company's adoption of the revised authoritative guidance did not have any impact on its financial position and results of operations.

On January 1, 2009, the Company adopted the authoritative guidance for fair value measurements (ASC 820-10) for all non-financial assets and non-financial liabilities except for those that are recognized or disclosed at fair value in the financial statements on a recurring basis. The authoritative guidance defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles, and expands disclosures about fair value measurements. This guidance applies to accounting pronouncements that require or permit fair value measurements; the FASB having previously concluded in those accounting pronouncements that fair value is the relevant measurement attribute. Accordingly, this guidance does not require any new fair value measurements for the Company. The Company's adoption of the authoritative guidance for non-financial assets and non-financial liabilities did not have any impact on its financial position and results of operations.

On April 1, 2009, the Company adopted the authoritative guidance for subsequent events (ASC 855-10). This guidance is intended to establish general standards of accounting for and disclosures of events that occur after the balance sheet date but before financial statements are issued or are available to be issued. The Company's adoption of this authoritative guidance did not have any impact on its financial position and results of operations.

Recently Issued Accounting Standards

In June 2009, the FASB issued amended guidance related to the consolidation of variable interest entities ("SFAS 167"). These amendments require an enterprise to perform an analysis to determine whether the enterprise's variable interest or interests give it a controlling financial interest in a variable interest entity. This analysis identifies the primary beneficiary of a variable interest entity as the enterprise that has both of the following characteristics: a) the power to direct the activities of a variable interest entity that most significantly impact the entity's economic performance, and b) the obligation to absorb losses of the entity that could potentially be significant to the variable interest entity or the right to receive benefits from the entity that could potentially be significant to the variable interest entity. Additionally, the amendments require ongoing reassessments of whether an enterprise is the primary beneficiary of a variable interest entity. This guidance will be effective for the Company on January 1, 2010, with earlier application prohibited. The Company is currently assessing the potential impact that the adoption of this

guidance will have on its financial position and results of operations.

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4 VARIABLE INTEREST ENTITIES

The Company is the general partner in one variable interest entity ("VIE") with a total of 868 units syndicated using low income housing tax credits under Section 42 of the Internal Revenue Code. As general partner, the Company manages the day-to-day operations of the partnership for a management fee. In addition, the Company has certain operating deficit and tax credit guarantees to the limited partner of that partnership. The Company is responsible for funding operating deficits to the extent there are any and can receive operating incentive awards if cash flows reach certain levels. The Company consolidates the VIE in accordance with the authoritative guidance for the consolidation of VIE's (810-10). The effect on the Consolidated Balance Sheets of consolidating this VIE as of December 31, 2009 and 2008 includes total assets of $11,436 and $14,136, total liabilities of $17,060 and $18,056 and partners' deficit of $5,624 and $3,920, respectively. The VIE is included in the Consolidated Statement of Operations for the years ended December 31, 2009, 2008 and 2007.

During 2008, the Company determined to pursue a strategy to sell its general partner interest in the VIE as a result of continued deterioration in property performance and the surrounding market in general. In addition, the Limited Partner of the VIE agreed to allow the Company to pursue an exit strategy. This decision to pursue a plan to exit the property lead to a re-evaluation of the holding period cash flows and resulting fair market value of the VIE's assets under the authoritative guidance for impairment of long-lived assets (ASC 360-10). Under the authoritative guidance, the Company estimated the undiscounted cash flows for the hold period along with a residual sales value. The undiscounted cash flows of the assets did not equal or exceed the assets net book value, which is indicative of an impairment of the asset. In order to determine the amount of the impairment, the Company calculated the fair value of the assets by using a weighted combination of a direct capitalization approach and a comparable sales approach, as this combination was deemed to be the most indicative of the Company's fair value in an orderly transaction between market participants. The data used to determine the fair market value included historical industry data for estimated capitalization rates, historical and budgeted net operating income for the VIE, and recent comparable sales in the market in which the property is located. This resulted in an impairment charge of $4,000 (including $394 of goodwill), which is included in the impairment of assets held as general partner for the year ended December 31, 2008. The events leading to the impairment of the VIE and the pending contract contingencies do not satisfy the criteria for held for sale treatment, accordingly, the VIE is not included in discontinued operations for the periods presented.

5 PROPERTY ACQUISITIONS AND DEVELOPMENT

For the years ended December 31, 2009, 2008 and 2007, the Company acquired the communities listed below:

Apartment Community	Market Area	Date Acquired	Year Constructed	Number of Units	Cost of Acquisition	Cost of Acquisition Per Unit
The Townhomes of Beverly	Boston	2/15/07	1974	204	$36,434	$179
Jacob Ford Village	New Jersey	2/15/07	1948	270	26,680	99
Fox Hall Apartments (1)	Baltimore	3/28/07	1976-1982	720	62,234	86
Westwoods	Boston	4/30/07	1988	35	3,995	114
Dunfield Townhomes (1)	Baltimore	11/1/07	1986	312	32,155	103
Saddle Brooke	Baltimore	10/29/08	1973	468	51,459	110

Westchester West	Northern VA	12/30/08	1972	345	48,969	142

(1) Properties fee-managed by the Company prior to acquisition.

During 2006, the Company started construction on a 216 unit apartment community located in Allentown, PA (Trexler Park West). During 2006 and 2007, the Company completed construction and placed into service 84 units in each of the years. The remaining 48 units were completed and placed into service during the third quarter of 2008. The total cost for this community was $25,748 for an overall average cost per unit of $119.

During 2007, the Company started construction on a project in Silver Spring, Maryland (1200 East West Highway), a 14-story high rise with 247 apartment units and 10,600 square feet of retail space that is expected to be completed in the second quarter of 2010 at a total cost of $82,000. The costs associated with construction in progress for this development were $72,872 as of December 31, 2009.

During 2008, the Company started construction on a project located in Fairfax County, Virginia, consisting of four, four-story buildings with 421 units (The Courts at Huntington Station), with anticipated initial occupancy in the second quarter of 2010 and expected completion in 2011 at a total cost of $127,000. The costs associated with construction in progress for this development were $79,624 as of December 31, 2009.

During 2008, the Company purchased entitled land and entered the pre-construction phase for a high rise project located in Silver Spring, Maryland (Ripley Street), with approximately 300 apartment units. The costs associated with construction in progress for this development were $18,580 as of December 31, 2009.

During 2008, the Company purchased entitled land and entered the pre-construction phase for a garden style project located in Fredericksburg, VA (Cobblestone Square), with approximately 300 apartment units. The costs associated with construction in progress for this development were $13,541 as of December 31, 2009.

6 MORTGAGE NOTES PAYABLE

The Company's mortgage notes payable are summarized as follows:

	2009	2008
Fixed rate mortgage notes payable	$1,908,172	$2,056,176
Variable rate mortgage notes payable	204,473	56,155
Mortgage notes payable	$2,112,645	$2,112,331

For 2009 and 2008, mortgage notes payable are collateralized by certain apartment communities. The mortgage notes payable outstanding as of December 31, 2009 mature at various dates from 2010 through 2034, with a weighted average remaining term of five and one-third years. The weighted average interest rate of the Company's fixed rate notes was 5.86% and 5.77% at December 31, 2009 and 2008, respectively. The weighted average interest rate of the Company's variable rate notes was 2.92% and 2.02% at December 31, 2009 and 2008, respectively.

Principal payments on the mortgage notes payable for years subsequent to December 31, 2009 are as follows:

2010	$173,084
2011	320,965
2012	144,996
2013	222,716
2014	106,351
Thereafter	1,144,533
	$2,112,645

At December 31, 2009 and 2008, the consolidated mortgage balance of $2,112,645 and $2,112,331, respectively, included mortgage notes payable related to the Company's VIE in the amount of $15,999 and $16,269, respectively.

Prepayment penalties of $5,610, $4,746 and $759 were incurred for the years ended December 31, 2009, 2008 and 2007, respectively. For 2009, 2008 and 2007, prepayment penalties of $4,717, $1,266 and $754, respectively, were incurred in connection with the sale of property and are included in discontinued operations. For 2009, 2008 and 2007, penalties of $893, $3,480 and $5, respectively, were incurred in connection with the repayment of mortgages and are included in interest expense.

Deferred financing costs of $285, $164 and $218 were written off for the years ended December 31, 2009, 2008 and 2007, respectively. For 2009, 2008 and 2007, deferred financing costs written off of $210, $147 and $92, respectively, were incurred in connection with the sale of property and are included in discontinued operations. For 2009, 2008 and 2007, deferred financing costs written off of $75, $17 and $126, respectively, were incurred in connection with the repayment of mortgages and are included in interest expense.

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7 EXCHANGEABLE SENIOR NOTES

In October 2006, the Company issued $200,000 of exchangeable senior notes under an Indenture Agreement (the "Indenture"), with a coupon rate of 4.125% ("Senior Notes"). The Senior Notes are exchangeable into cash equal to the principal amount of the notes and, at the Company's option, cash or common stock for the exchange value, to the extent that the market price of common stock exceeds the initial exchange price of $73.34 per share, subject to adjustment. The exchange price is adjusted for payments of dividends in excess of the reference dividend per the Indenture of $0.64 per share. The adjusted exchange price at December 31, 2009 was $72.87 per share. Upon an exchange of the notes, the Company will settle any amounts up to the principal amount of the notes in cash and the remaining exchange value, if any, will be settled, at the Company's option, in cash, common stock or a combination of both. The notes are not redeemable at the option of the Company for five years, except to preserve the status of the Company as a REIT. Holders of the notes may require the Company to repurchase the notes upon the occurrence of certain designated events. In addition, prior to November 1, 2026, the holders may require the Company to repurchase the notes on November 1, 2011, 2016 and 2021. The notes will mature on November 1, 2026, unless previously redeemed, repurchased or exchanged in accordance with their terms prior to that date. Noteholders may also require an exchange of the notes subsequent to December 31, 2006 if the closing sale price of common stock exceeds 130% of the exchange price for a certain period of time or if the trading price on the notes is less than 98% of the product of the closing sales price of common stock multiplied by the applicable exchange rate for a certain period of time. The notes are structurally subordinated to the secured indebtedness of the Company. The Company is not subject to any financial covenants under the Indenture. In addition, the Indenture will not restrict the ability to pay distributions, incur debt or issue or repurchase securities.

The following table provides additional information about the Senior Notes as of December 31, 2009 and 2008:

	2009	2008
Principal amount of liability component	$140,000	$140,000
Unamortized discount	(3,864)	(5,831)
Carrying amount of liability component	$136,136	$134,169
Carrying amount of equity component	$13,950	$13,950

The following table provides additional information about the Senior Notes for the years ended December 31, 2009, 2008 and 2007:

	2009	2008	2007
Coupon interest	$5,775	$7,902	$8,250
Amortization - issuance costs	547	742	781
Discount amortization	1,968	2,519	2,509
Total interest expense – Senior Notes	$8,290	$11,163	$11,540
Effective interest rate	5.75%	5.75%	5.75%
Conversion price per share, as adjusted	$72.87	$73.11	$73.25

8 LINE OF CREDIT

As of December 31, 2008, the Company had an unsecured line of credit agreement with M&T Bank, as administrative agent and lead bank, for $140,000 which expired September 1, 2009. The Company had $71,000 outstanding under

the credit facility and $7,441 outstanding in letters of credit on December 31, 2008. Borrowings under the line of credit bore interest at 0.75% over the one-month LIBOR, which was 0.44% at December 31, 2008, resulting in an effective rate of 1.19%.

As of December 31, 2009, the Company had an unsecured line of credit agreement with M&T Bank, as administrative agent and lead bank, of $175,000 which expires August 31, 2011, not including a one-year extension, at the Company's option. The credit facility succeeds the $140,000 credit facility that matured on September 1, 2009. The Company had $53,500 outstanding under the credit facility on December 31, 2009. The Company's line of credit agreement provides the ability to issue up to $20,000 in letters of credit. While the issuance of letters of credit does not increase the borrowings outstanding under the line of credit, it does reduce the amount available. At December 31, 2009, the Company had outstanding letters of credit of $5,783. As of December 31, 2009, the amount available on the credit facility was $115,717 (net of $5,783 which was restricted to support letters of credit and net of $53,500 in outstanding borrowings). Borrowings under the line of credit bear interest at rates ranging from 2.50% to 3.25% over the one-month LIBOR rate, increasing at higher levels of outstanding indebtedness, with a LIBOR floor of 1.50%. The one-month LIBOR was 0.23% at December 31, 2009 resulting in an effective rate of 4.75% for the Company.

The credit agreement relating to this line of credit requires the Company to maintain certain financial ratios and measurements. The Company was in compliance with these financial covenants for the year ended December 31, 2009.

9 STOCKHOLDERS' EQUITY

Preferred Stock

In March 2002, the Company issued 2,400,000 shares of its 9.00% Series F Cumulative Redeemable Preferred Stock ("Series F Preferred Shares"), with a $25.00 liquidation preference per share. This offering generated net proceeds of approximately $58,098. Each Series F Preferred share received an annual dividend equal to 9.00% of the liquidation preference per share (equivalent to a fixed annual amount of $2.25 per share). The Series F Preferred Shares were redeemed by the Company on March 26, 2007 at a redemption price of $25.00 per share, plus accrued and unpaid dividends of $390. In accordance with the SEC's clarification of EITF Abstracts, Topic No. D-42, The Effect on the Calculation of Earnings per Share for the Redemption or Induced Conversion of Preferred Stock, the initial offering costs of $1,902 associated with the issuance of the Series F Preferred Shares were written-off in the first quarter of 2007, and are reflected as a reduction of net income available to common stockholders in determining earnings per share for the year ended December 31, 2007.

Common Stock

In 1997, the Company's Board of Directors approved a stock repurchase program under which the Company may repurchase shares of its outstanding common stock and UPREIT Units ("Company Program"). The shares/units may be repurchased through open market or privately negotiated transactions at the discretion of Company management. The Board's action did not establish a target price or a specific timetable for repurchase. At December 31, 2006 the Company had authorization to repurchase 2,606,448 shares of common stock and UPREIT Units under the Company Program. On May 1, 2008, the Board of Directors approved a 2,000,000-share increase in the stock repurchase program. During 2008 and 2007 the Company repurchased 1,071,588 and 1,243,700 additional shares at a cost of $49,998 and $58,285, respectively. There were no share repurchases in 2009. The Company has authorization to repurchase 2,291,160 shares/units as of December 31, 2009.

At-The-Market Equity Offering Program

On December 3, 2009, the Company initiated an “At-The-Market” ("ATM") equity offering program through which it may sell up to 3.7 million shares of common stock (not to exceed $150,000 of gross proceeds), from time to time in ATM offerings or negotiated transactions. During the year ended December 31, 2009, the Company issued 871,600 shares of common stock at an average price per share of $45.70, for aggregate gross proceeds of $39,830. Aggregate net proceeds from such issuances, after deducting commissions and other transaction costs of $798 were $39,032. In addition, the Company issued an additional 169,600 shares of common stock at an average price per share of $48.37, for aggregate proceeds of $8,204 with a trade date in December 2009 and a settlement date in January 2010. Aggregate net proceeds from such issuances, after deducting commissions and other transaction costs of $164 were $8,040. The Company includes only share issuances that have settled in the calculation of shares outstanding at December 31, 2009.

HOME PROPERTIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands, except share and per share data)

Dividend Reinvestment Plan

The Company has a Dividend Reinvestment Plan (the "DRIP"). The DRIP provides the stockholders of the Company an opportunity to automatically invest their cash dividends in common stock. In addition, eligible participants may make monthly payments or other voluntary cash investments in shares of common stock. The maximum monthly investment without prior Company approval is currently $10. There is no discount offered on the investment. The Company meets share demand under the DRIP through share repurchases by the transfer agent in the open market on the Company's behalf or new share issuance.

Dividends

Stockholders are taxed on dividends and must report such dividends as either ordinary income, capital gains, or as return of capital. The Company has declared a $2.68 distribution per common share (CUSIP 437306103) during its most recent fiscal year. Pursuant to Internal Revenue Code Section 857 (b) (3) (C), for the years ended December 31, 2009, 2008 and 2007, the Company designated the taxable composition of the following cash distributions to holders of common and preferred shares in the amounts set forth in the tables below:

Common				Distribution Type				
Declaration Dates	Record Dates	Payable Dates	Distributions Per Share	Ordinary Taxable Dividend	Qualified Dividend	Return of Capital	Long-Term Capital Gain	Unrecaptured Sec. 1250 Gain
2/9/2009	2/20/2009	2/27/2009	$ 0.67	39.44 %	0.00 %	44.02 %	2.75 %	13.79 %
5/5/2009	5/15/2009	5/27/2009	0.67	39.44 %	0.00 %	44.02 %	2.75 %	13.79 %
8/5/2009	8/17/2009	8/26/2009	0.67	39.44 %	0.00 %	44.02 %	2.75 %	13.79 %
10/28/2009	11/12/2009	11/24/2009	0.67	39.44 %	0.00 %	44.02 %	2.75 %	13.79 %
		TOTALS	$ 2.68	39.44 %	0.00 %	44.02 %	2.75 %	13.79 %

The taxable composition of cash distributions for each common share for 2008 and 2007 is as follows:

		Distribution Type				
Year	Distributions Per Share	Ordinary Taxable Dividend	Qualified Dividend	Return of Capital	Long-Term Capital Gain	Unrecaptured Sec. 1250 Gain
2008	$ 2.65	51.12 %	0.00 %	12.68 %	22.51 %	13.69 %
2007	$ 2.61	33.94 %	0.00 %	18.14 %	30.55 %	17.37 %

The taxable composition of cash distributions for each preferred share for 2007 is as follows:

Series F Cumulative Preferred				Distribution Type				
Declaration Dates	Record Dates	Payable Dates	Distributions Per Share	Ordinary Taxable Dividend	Qualified Dividend	Return of Capital	Long-Term Capital Gain	Unrecaptured Sec. 1250 Gain
2/7/2007	2/16/2007	2/28/2007	$ 0.5625	41.46 %	0.00 %	0.00 %	37.32 %	21.22 %
Redemption	Redemption	3/26/2007	0.1625	41.46 %	0.00 %	0.00 %	37.32 %	21.22 %

TOTALS	$ 0.7250	41.46	%	0.00	%	0.00	%	37.32	%	21.22	%

There were no preferred shares outstanding as of December 31, 2009 and 2008.

Total Shares/Units Outstanding

At December 31, 2009, 34,655,428 common shares, and 11,734,558 UPREIT Units were outstanding for a total of 46,389,986 common share equivalents.

HOME PROPERTIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands, except share and per share data)

Earnings Per Share

In accordance with the authoritative guidance for earnings per share (ASC 260-10), the Company's basic Earnings Per Share ("EPS") is computed as net income attributable to common shareholders divided by the weighted average number of common shares outstanding for the period. Diluted EPS reflects the potential dilution that could occur from common shares issuable through stock-based compensation including stock options (using the treasury stock method) and the conversion of any cumulative convertible preferred stock or exchangeable senior notes. The exchange of an UPREIT Unit for a share of common stock will have no effect on diluted EPS as unitholders and shareholders effectively share equally in the net income of the Operating Partnership. Income from continuing operations and discontinued operations is the same for both the basic and diluted calculation.

The reconciliation of the basic and diluted earnings per share for the years ended December 31, 2009, 2008 and 2007, is as follows:

	2009	2008	2007
Numerator:			
Income from continuing operations	$25,365	$37,702	$32,244
Less: Income from continuing operations attributable to noncontrolling interest	(6,853)	(10,988)	(8,330)
Less: Preferred dividends	-	-	(1,290)
Less: Preferred stock issuance costs write-off	-	-	(1,902)
Income from continuing operations attributable to common shareholders	$18,512	$26,714	$20,722
Discontinued operations	$21,713	$55,503	$50,265
Less: Discontinued operations attributable to noncontrolling interest	(5,806)	(16,136)	(14,382)
Discontinued operations attributable to common shareholders	$15,907	$39,367	$35,883
Denominator:			
Basic weighted average number of common shares outstanding	33,040,839	31,991,817	33,130,067
Effect of dilutive stock options	100,519	325,473	537,703
Effect of phantom and restricted shares	30,758	15,398	126,756
Diluted weighted average number of common shares outstanding	33,172,116	32,332,688	33,794,526
Earnings per common share:			
Basic earnings per share:			
Income from continuing operations	$0.56	$0.84	$0.63
Discontinued operations	0.48	1.23	1.08
Net income attributable to common shareholders	$1.04	$2.07	$1.71
Diluted earnings per share:			
Income from continuing operations	$0.56	$0.82	$0.61
Discontinued operations	0.48	1.22	1.06
Net income attributable to common shareholders	$1.04	$2.04	$1.67

Unexercised stock options to purchase 2,828,018, 1,462,713 and 1,028,597 shares of the Company's common stock were not included in the computations of diluted EPS because the options' exercise prices were greater than the average market price of the Company's stock during the years ended December 31, 2009, 2008 and 2007,

respectively. In conjunction with the issuance of the Senior Notes, there were 331,257, 337,653 and 487,783 potential shares issuable under certain circumstances, none of which are considered dilutive as of December 31, 2009, 2008 and 2007, respectively.

HOME PROPERTIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands, except share and per share data)

10 STOCK BENEFIT PLAN

Description of Stock Benefit Plans

The Company has established a Stock Benefit Plan for the purpose of attracting and retaining experienced employees and non-employee directors and to provide incentive for them to exert their best efforts on behalf of the Company.

The Company's 1994 Stock Benefit Plan (the "1994 Plan") was adopted by the Company at the time of its initial public offering. On February 1, 2000, the Company adopted the 2000 Stock Benefit Plan, which was subsequently amended (the "2000 Plan"). On May 6, 2003, the Company adopted the 2003 Stock Benefit Plan and on May 6, 2005, the shareholders approved the Amended and Restated 2003 Stock Benefit Plan (the "2003 Plan"). On May 1, 2008, the Company adopted the 2008 Stock Benefit Plan (the "2008 Plan"), as a successor to the 2003 Plan. Participants in each of the above referenced plans (the "Stock Plans") include officers, non-employee directors, and key employees of the Company. The Stock Plans allow for the award of options, stock appreciation rights and restricted stock. No stock appreciation rights have been awarded. No additional awards will be issued under the 1994 Plan, 2000 Plan, and the 2003 Plan.

The 2008 Plan limits the number of shares issuable under the plan to 2,450,000. Stock options awarded reduce the number of shares available for awards by one share for every one share granted. Awards of restricted stock reduce the number of shares available for award by one share for every one share awarded, up to 250,000; beyond that, restricted stock reduces the number of shares available for award by 3.5 shares for every one share awarded. As of December 31, 2009, in accordance with the 2008 Plan, awards of 28,516 shares which have been forfeited or cancelled have been returned to the Plan and are available for future grants. Director awards for 2008 were limited to a number of options and shares of restricted stock equal to a value of $26,000 and $55,000, respectively. During 2009, and for 2010, the number of options and shares of restricted stock issued to each non-employee director may not exceed 6,000 options and 2,000 shares.

Awards granted to employees and non-employee directors under the various plans are as follows:

	Employee Awards			Non-Employee Director Awards			
Name of Plan	Stock Options Granted	Restricted Stock Granted	Total Granted	Stock Options Granted	Restricted Stock Granted	Total Granted	Available for Future Grant of Awards
1994 Plan	1,542,381	-	1,542,381	153,654	-	153,654	-
2000 Plan	2,101,220	350,702	2,451,922	163,760	2,700	166,460	-
2003 Plan	2,737,142	96,822	2,833,964	217,723	28,935	246,658	-
2008 Plan	1,002,383	181,879	1,184,262	85,656	23,553	109,209	1,185,045

Options granted under the Stock Plans vest 20% for each year of service until 100% vested on the fifth anniversary, except that options issued to certain officers (276,000) and all of the options issued to non-employee directors under the 1994 Plan and 2000 Plan vested immediately upon grant. The exercise price per share for stock options issued under all of the Stock Plans may not be less than 100% of the closing price of a share of common stock on the date the stock option is granted. Options granted to non-employee directors under the 1994 Plan and the 2000 Plan expired

after five years from the date of grant. All other options expire after ten years from the date of grant. Restricted stock awards granted to directors vest 100% on the fifth anniversary of the date of grant. All of the 114,078, 67,801 and 43,756 restricted stock awards granted to employees during 2009, 2008 and 2007 vest 25% on each anniversary of the date of grant for a period of four years. The Company has a policy of issuing new shares upon the exercise of stock options and upon the vesting of restricted stock.

HOME PROPERTIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands, except share and per share data)

Stock Options

Stock-based compensation cost for stock options is estimated at the grant date based on each option's fair value as calculated using the Black-Scholes option pricing model ("BSM"). The BSM incorporates various assumptions including expected dividend yields, volatility, lives and interest rates. The Company recognizes stock-based compensation cost as expense ratably on a straight-line basis over the requisite service period. In determining the service period, the Company considers service requirements, the vesting period and retirement eligibility of the grantee. Accounting principles require the estimation of forfeitures when recognizing compensation expense and that this estimate of forfeitures be adjusted over the requisite service period should actual forfeitures differ from such estimates. Changes in estimated forfeitures are recognized through a cumulative catch-up adjustment, which is recognized in the period of change, and impacts the amount of unamortized compensation expense to be recognized in future periods.

The following weighted average assumptions are used for the years ended December 31, 2009, 2008 and 2007:

Assumption	2009	2008	2007
Expected dividend yields	6.93 %	5.48 %	5.27 %
Expected volatility	31.33 %	20.97 %	19.25 %
Expected lives of the options with a lifetime of ten years	5.7 Years	5.7 Years	5.7 Years
Expected lives of the options with a lifetime of five years	4.9 Years	4.6 Years	4.6 Years
Risk free interest rate	2.46 %	3.35 %	4.59 %
Fair value of granted options, per share	$4.75	$5.85	$6.79

The expected dividend yield was based on the historical dividend growth rates and the historical annual dividends. The expected volatility was based on the historical volatility of the Company's common stock. The weighted average expected option lives, for both options with a lifetime of ten and five years, was based on the Company's historical data for prior period stock option exercise and cancellation activity. The risk free interest rates for the expected life of the options were based on the implied U.S. Treasury yield curve.

A summary of stock option activity for the year ended December 31, 2009 is as follows:

	Number of Options	Weighted Average Exercise Price Per Option	Weighted Average Remaining Contractual Term in Years	Aggregate Intrinsic Value
Options outstanding at December 31, 2008	2,855,128	$45.25		
Granted	589,056	33.89		
Exercised	(165,322)	35.71		
Cancelled	(56,412)	46.58		
Options outstanding at December 31, 2009	3,222,450	$43.64	6.4	$ 13,115
Options exercisable at December 31, 2009	1,708,829	$42.30	4.8	$ 9,245

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HOME PROPERTIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands, except share and per share data)

A summary of unvested stock option activity for the year ended December 31, 2009 is as follows:

	Number of Options	Weighted Average Exercise Price Per Option
Unvested stock options at December 31, 2008	1,422,479	$51.00
Granted	589,056	33.89
Vested	(441,502)	48.79
Cancelled	(56,412)	46.58
Unvested stock options at December 31, 2009	1,513,621	$45.15

As of December 31, 2009, there was $4,120 of total unrecognized compensation cost related to unvested stock options that is expected to be recognized over a weighted average period of 1.83 years.

A summary of stock option activity for the years ended December 31, 2009, 2008 and 2007 is as follows:

	2009	2008	2007
Stock-based compensation costs recognized	$3,289	$2,411	$1,938
Fair value of options vested	2,385	2,065	1,687
Cash received from the exercise of options	5,904	7,933	6,293
Intrinsic value of options exercised	1,348	3,422	2,971

Restricted Stock

Stock-based compensation cost for restricted stock is measured based on the closing price of the Company's common stock on the date of grant and is recognized ratably on a straight-line basis over the requisite service period. In determining the service period, the Company considers service requirements, the vesting period and retirement eligibility of the grantee.

A summary of restricted stock activity for the year ended December 31, 2009 is as follows:

	Number of Shares	Weighted Average Grant Date Fair Value Per Share
Restricted stock outstanding and unvested at December 31, 2008	169,313	$50.44
Granted	128,847	33.90
Vested and issued	(50,473)	49.43
Cancelled	(4,188)	44.70
Restricted stock outstanding and unvested at December 31, 2009	243,499	$42.00

As of December 31, 2009, there was $5,345 of total unrecognized compensation cost related to unvested restricted stock that is expected to be recognized over a weighted-average period of 2.45 years.

A summary of restricted stock activity for the years ended December 31, 2009, 2008 and 2007 is as follows:

	2009	2008	2007
Stock-based compensation costs recognized	$3,549	$3,133	$2,592
Fair value of restricted shares vested	1,749	5,378	6,032
Number of restricted shares granted to employees	114,078	67,801	43,756
Number of restricted shares granted to directors	14,769	8,784	8,460
Weighted average price of shares granted, per share	$33.90	$50.09	$55.70

HOME PROPERTIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands, except share and per share data)

11 EMPLOYEE BENEFIT PLAN

401(k) Savings Plan

The Company sponsors a defined contribution plan. Under the plan, the Company will match 75% of the first 4% of each participant's contributions not to exceed 3% of that participant's eligible compensation. The matching expense under this plan was $886, $844 and $794 for the years ended December 31, 2009, 2008 and 2007, respectively.

12 SEGMENT REPORTING

The Company is engaged in the ownership and management of market rate apartment communities. Each apartment community is considered a separate operating segment. Each segment on a stand alone basis is less than 10% of the revenues, net operating income, and assets of the combined reported operating segments and meets all of the aggregation criteria under the authoritative guidance (ASC 280-10). The operating segments are aggregated as Core and Non-core properties.

Non-segment revenue to reconcile to total revenue consists of interest income and other income. Non–segment assets to reconcile to total assets include cash and cash equivalents, cash in escrows, accounts receivable, prepaid expenses, deferred charges, and other assets.

Core properties consist of all apartment communities owned throughout 2008 and 2009 where comparable operating results are available. Therefore, the Core Properties represent communities owned as of January 1, 2008. Non-core properties consist of apartment communities acquired and developed during 2008 and 2009, such that full year comparable operating results are not available.

The Company assesses and measures segment operating results based on a performance measure referred to as net operating income. Net operating income is defined as total revenues less operating and maintenance expenses. The accounting policies of the segments are the same as those described in Notes 1, 2 and 3.

The revenues and net operating income for each of the reportable segments are summarized as follows for the years ended December 31, 2009, 2008 and 2007:

	2009	2008	2007
Revenues			
Apartments owned			
Core properties	$484,492	$484,910	$469,886
Non-core properties	18,358	8,568	-
Reconciling items	759	565	3,087
Total revenues	$503,609	$494,043	$472,973
Net operating income			
Apartments owned			
Core properties	$282,790	$282,782	$273,765
Non-core properties	8,795	3,179	-
Reconciling items	759	565	3,087

Net operating income, including reconciling items	292,344	286,526	276,852
General and administrative expenses	(24,476)	(25,488)	(23,412)
Interest expense	(122,814)	(119,330)	(117,559)
Depreciation and amortization	(119,689)	(111,310)	(103,637)
Impairment of assets held as general partner	-	(4,000)	-
Gain on early extinguishment of debt	-	11,304	-
Income from continuing operations	$25,365	$37,702	$32,244

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HOME PROPERTIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands, except share and per share data)

The assets for each of the reportable segments are summarized as follows as of December 31, 2009 and 2008:

Assets	2009	2008
Apartments owned		
Core properties	$2,852,470	$2,894,288
Non-core properties	330,367	341,132
Reconciling items	85,197	81,674
Total assets	$3,268,034	$3,317,094

13 TRANSACTIONS WITH AFFILIATES

The Company and HPRS recognized management and development fee revenue, interest income and other miscellaneous income from affiliated entities of $7, $19 and $24 for the years ended December 31, 2009, 2008 and 2007, respectively.

The Company leases its corporate office space from an affiliate. The rent for the corporate office space is a gross rent that includes real estate taxes and common area maintenance. In July 2009, the Company extended the lease on its corporate office space through September 2019, plus two five-year renewal options. Rental expense was $1,432, $1,711 and $1,711 for each of the years ended December 31, 2009, 2008 and 2007, respectively.

14 COMMITMENTS AND CONTINGENCIES

Lease Commitments

The Company has entered into operating leases for office space and office equipment with remaining terms of 1 to 6 years. Future minimum rental payments under non-cancelable operating leases in effect as of December 31, 2009 were as follows:

2010	$1,835
2011	1,629
2012	1,579
2013	1,390
2014	1,414
Thereafter	2,789
	$10,636

The Company incurred $1,934, $1,985 and $1,839 of rent expense under operating leases in 2009, 2008 and 2007, respectively.

Letters of Credit

As of December 31, 2009 the Company had issued $5,783 in letters of credit, which were provided under the Company's $175,000 unsecured line of credit agreement. The letters of credit were required to be issued under certain tax escrow agreements, workers compensation and health insurance policies, and construction projects.

Debt Covenants

The line of credit agreement contains restrictions which, among other things, require maintenance of certain financial ratios.

Tax Protection Obligations

In connection with various UPREIT transactions, the Company has agreed to maintain certain levels of nonrecourse debt for a period of 5 to 10 years associated with the contributed properties acquired. In addition, the Company is restricted in its ability to sell certain contributed properties (29% of the owned portfolio) for a contract period of 7 to 15 years except through a tax deferred Internal Revenue Code Section 1031 like-kind exchange. The remaining terms on the sale restrictions range from 1 to 6 years.

Limited Partnership

The Company, through its general partnership interest in an affordable property limited partnership, has guaranteed certain low income housing tax credits to limited partners for a remaining period of six years totaling approximately $3,000. As of December 31, 2009, there were no known conditions that would make such payments necessary relating to these guarantees. In addition, the Company, acting as general partner in this partnership, is obligated to advance funds to meet partnership operating deficits.

Executive Retention Plan

The Executive Retention Plan provides for severance benefits and other compensation to be paid to certain employees in the event of a change in control of the Company and a subsequent termination of their employment.

15 DISCONTINUED OPERATIONS

Included in discontinued operations for the three years ended December 31, 2009 are the operating results of 25 apartment community dispositions (5 sold in 2009, 15 sold in 2008 and 5 sold in 2007).

A summary of community dispositions is as follows:

Year	Number of Disposed Communities	Number of Disposed Units	Number of Transactions	Total Sales Price	Sales Price Per Unit	Total Gain On Sale
2009	5	1,333	3	$108,300	$81	$24,314
2008	15	1,227	6	124,500	101	51,560
2007	5	1,084	5	129,500	119	42,126

The operating results of discontinued operations are summarized as follows for the years ended December 31, 2009, 2008 and 2007:

	2009	2008	2007
Revenues:			
Rental income	$5,314	$22,821	$38,991
Property other income	545	2,294	2,988
Total revenues	5,859	25,115	41,979
Expenses:			
Operating and maintenance	2,723	11,641	18,912
Interest expense, including prepayment penalties	4,497	4,121	5,980
Depreciation and amortization	1,240	5,410	8,948
Total expenses	8,460	21,172	33,840
Income (loss) from discontinued operations	$(2,601)	$3,943	$8,139

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16 SUPPLEMENTAL CASH FLOW DISCLOSURES

Supplemental cash flow information including non-cash financing and investing activities for the years ended December 31, 2009, 2008 and 2007 are as follows:

	2009	2008	2007
Supplemental disclosures:			
Cash paid for interest, net of capitalized interest	$122,154	$118,137	$117,648
Interest capitalized	8,900	5,472	3,441
Non-cash investing and financing activities:			
Mortgage loans assumed associated with property acquisitions	-	65,517	16,878
Issuance of UPREIT Units associated with property acquisitions	-	-	36,290
Increase in real estate associated with the purchase of UPREIT Units (1)	-	17,793	16,475
Exchange of UPREIT Units for common shares	21,332	12,435	10,025
Additions to properties included in accounts payable	2,210	5,764	3,684
Fair value of hedge instruments	-	-	(206)
Preferred stock issuance costs written off	-	-	1,902
Exchangeable senior notes issuance cost written off in connection with early extinguishment	-	1,260	-
Mortgage note premium written off	1,921	4,218	792

(1) Refer to Note 2 for discussion on the required change in accounting for the exchanges of UPREIT Units for common shares that became effective January 1, 2009.

17 QUARTERLY FINANCIAL STATEMENT INFORMATION (UNAUDITED)

Quarterly financial information for the years ended December 31, 2009 and 2008 are as follows:

2009	First	Second	Third	Fourth
Total revenue	$ 127,853	$ 125,116	$ 124,828	$ 125,812
Net income attributable to common shareholders	10,901	6,020	5,264	12,233
Basic earnings per share data:				
Net income attributable to common shareholders	0.33	0.18	0.16	0.36
Diluted earnings per share data:				
Net income attributable to common shareholders	0.33	0.18	0.16	0.36

2008	First	Second	Third	Fourth
Total revenue	$ 123,365	$ 122,531	$ 122,293	$ 125,854
Net income attributable to common shareholders	25,652	8,451	6,839	25,139
Basic earnings per share data:				
Net income attributable to common shareholders	0.80	0.27	0.21	0.78
Diluted earnings per share data:				
Net income attributable to common shareholders	0.79	0.26	0.21	0.78

The sum of the quarterly earnings per common share amounts may not equal the annual earnings per common share amounts due primarily to changes in the number of common shares outstanding quarter to quarter. The quarterly reports for the years ended December 31, 2009 and 2008 have been reclassified to reflect discontinued operations in accordance with ASC 205-20.

18 SUBSEQUENT EVENTS

On February 13, 2010, the Board of Directors declared a dividend of $0.58 per share for the quarter ended December 31, 2009. This is the equivalent of an annual distribution of $2.32 per share. The dividend is payable March 5, 2010 to shareholders of record on March 1, 2010.

SCHEDULE II

HOME PROPERTIES, INC.

VALUATION AND QUALIFYING ACCOUNTS
FOR THE YEARS ENDED DECEMBER 31:
(Dollars in thousands)

	Balance at Beginning of Year	Charged to Costs and Expenses	Adjustments/ Amounts Written Off	Balance at End of Year
Allowance for Doubtful Receivables				
2009:	$2,925	$6,403	$ (6,108)	$3,220
2008:	1,699	6,378	(5,152)	2,925
2007:	984	4,063	(3,348)	1,699
Deferred Tax Asset Valuation Allowance				
2009:	10,176	-	19	10,195
2008:	10,149	-	27	10,176
2007:	10,078	-	71	10,149

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III
HOME PROPERTIES, INC.
REAL ESTATE AND ACCUMULATED DEPRECIATION
DECEMBER 31, 2009
(Dollars in thousands)

Community	Encum- brances	Land	UPREIT Unit Alloc. Land(a)	Initial Cost Buildings, Improvements & Equipment	UPREIT Unit Alloc. Bldg.(a)	Costs Capitalized Subsequent to Acquisition	Land	Total Cost Buildings, Improvements & Equipment	Total(b)	A D
Barrington Gardens	$11,181	$888	$35	$6,556	$296	$5,115	$923	$11,967	$12,890	
Bayview & Colonial	10,883	1,600	71	8,471	709	4,790	1,671	13,970	15,641	
Blackhawk Apartments	-	2,968	83	14,568	858	6,361	3,051	21,787	24,838	
Bonnie Ridge Apartments	55,573	4,830	411	42,769	4,147	32,934	5,241	79,850	85,091	
Braddock Lee Apartments	-	3,810	152	8,842	1,488	7,241	3,962	17,571	21,533	
Cambridge Village Associates	-	2,460	54	3,188	520	2,272	2,514	5,980	8,494	
Canterbury Apartments	44,194	4,944	235	21,384	2,353	11,455	5,179	35,192	40,371	
Castle Club Apartments	6,318	948	57	8,909	566	5,098	1,005	14,573	15,578	
Chatham Hill Apartments	45,000	1,848	286	46,150	2,434	11,527	2,134	60,111	62,245	
Chesterfield Apartments	10,341	1,482	89	8,206	869	7,233	1,571	16,308	17,879	
Cider Mill	64,000	15,552	464	65,938	4,549	11,736	16,016	82,223	98,239	
Cinnamon Run Apartments	56,119	7,731	231	59,646	1,934	5,357	7,962	66,937	74,899	
Country Village Apartments	19,008	2,236	113	11,149	1,120	10,112	2,349	22,381	24,730	
Courtyards Village	-	3,360	53	9,824	525	3,909	3,413	14,258	17,671	
Curren Terrace	23,705	1,908	109	10,957	1,082	7,733	2,017	19,772	21,789	
Cypress Place	10,324	2,304	45	7,861	479	4,340	2,349	12,680	15,029	
Devonshire Hills	46,318	14,850	317	32,934	3,172	7,098	15,167	43,204	58,371	

Dunfield Townhomes	12,311	1,683	-	30,302	-	3,326	1,683	33,628	35,311
East Hill Gardens	-	231	24	1,560	241	1,258	255	3,059	3,314
East Meadow Apartments	13,074	2,250	89	10,803	863	2,612	2,339	14,278	16,617
Elmwood Terrace	27,136	6,048	155	14,680	1,561	10,435	6,203	26,676	32,879
Falcon Crest Townhomes	18,893	2,772	160	11,116	1,590	8,872	2,932	21,578	24,510
Falkland Chase Apartments	36,931	9,000	327	49,705	3,008	4,973	9,327	57,686	67,013
Fox Hall Apartments	47,000	9,959	-	51,874	-	7,911	9,959	59,785	69,744
Gardencrest Apartments	-	24,674	507	61,525	4,974	21,954	25,181	88,453	113,634
Gateway Village Apartments	6,510	1,320	71	6,621	695	2,450	1,391	9,766	11,157
Glen Brook Apartments	-	1,414	45	4,816	452	3,692	1,459	8,960	10,419
Glen Manor Apartments	8,024	1,044	44	4,564	440	2,957	1,088	7,961	9,049
Golf Club Apartments	33,306	3,990	187	21,236	1,840	13,076	4,177	36,152	40,329
Hackensack Gardens	8,822	2,376	50	10,916	423	4,744	2,426	16,083	18,509
Hawthorne Court	35,250	8,940	260	23,447	2,521	16,400	9,200	42,368	51,568
Heritage Square	-	2,000	58	4,805	566	2,456	2,058	7,827	9,885
Heritage Woods Apartments	4,847	1,640	-	12,455	-	3,107	1,640	15,562	17,202
Highland House	6,092	3,414	-	14,761	-	1,657	3,414	16,418	19,832
Hill Brook Place Apartments	13,115	2,192	85	9,118	848	6,573	2,277	16,539	18,816
Holiday Square	-	3,575	77	6,109	722	1,788	3,652	8,619	12,271
Home Properties of Bryn Mawr	17,451	3,160	154	17,907	1,537	10,893	3,314	30,337	33,651
Home Properties of Devon	28,892	6,280	332	35,545	3,280	25,197	6,612	64,022	70,634
Jacob Ford Village	-	6,750	-	20,022	-	5,022	6,750	25,044	31,794
	35,175	7,360	254	11,952	2,557	14,751	7,614	29,260	36,874

Lake Grove Apartments									
Lakeview Apartments	9,225	636	59	4,552	590	3,483	695	8,625	9,320
Liberty Commons	-	1,330	15	-	125	13,302	1,345	13,427	14,772
Liberty Place Apartments	6,044	2,033	-	13,125	-	2,201	2,033	15,326	17,359
Mid-Island Apartments	19,735	4,160	128	6,567	1,268	5,756	4,288	13,591	17,879
Mill Towne Village	24,239	3,840	154	13,747	1,486	12,120	3,994	27,353	31,347
Morningside Heights Apartments	-	6,147	406	28,699	4,000	28,374	6,553	61,073	67,626
Mount Vernon Square Apartments	85,677	55,810	-	86,923	-	10,673	55,810	97,596	153,406
New Orleans Park Apartments	18,146	2,920	124	13,215	1,227	10,628	3,044	25,070	28,114
Northwood Apartments	10,675	804	71	14,286	602	3,264	875	18,152	19,027
Oak Manor Apartments	7,050	616	70	4,111	690	2,890	686	7,691	8,377
Orleans Village	65,993	8,528	429	58,912	4,286	22,101	8,957	85,299	94,256
Owings Run Consolidation	42,704	5,533	255	32,622	2,538	6,484	5,788	41,644	47,432
Park Shirlington Apartments	21,480	4,410	157	10,180	1,581	8,350	4,567	20,111	24,678
Peppertree Farm Apartments	80,186	12,571	317	83,751	2,654	11,851	12,888	98,256	111,144
Pleasant View Gardens	62,433	5,710	499	47,816	5,021	25,183	6,209	78,020	84,229
Pleasure Bay Apartments	-	1,620	124	6,234	1,210	8,028	1,744	15,472	17,216
Racquet Club East Apartments	30,075	1,868	218	23,107	2,137	9,701	2,086	34,945	37,031
Racquet Club South	-	309	35	3,891	353	2,245	344	6,489	6,833
Redbank Village Apartments	15,737	2,000	164	14,030	1,686	10,505	2,164	26,221	28,385
Ridgeview at Wakefield Valley	18,559	2,300	72	17,107	635	3,835	2,372	21,577	23,949
	13,321	1,952	74	7,719	748	4,077	2,026	12,544	14,570

Ridley Brook Apartments									
Royal Gardens Apartment	47,000	5,500	258	14,067	2,603	15,049	5,758	31,719	37,477
Saddle Brooke Apartments	30,437	7,609	-	44,060	-	2,191	7,609	46,251	53,860
Sayville Commons	40,565	8,005	187	55,379	1,599	796	8,192	57,774	65,966
Selford Townhomes	8,496	1,224	57	4,200	565	2,623	1,281	7,388	8,669
Seminary Hill Apartments	20,141	2,960	135	10,194	1,344	9,666	3,095	21,204	24,299
Seminary Towers Apartments	53,515	5,480	292	19,348	2,868	18,654	5,772	40,870	46,642
Sherry Lake Apartments	18,305	2,428	165	15,618	1,617	9,882	2,593	27,117	29,710
South Bay Manor	13,629	1,098	45	1,958	440	4,932	1,143	7,330	8,473
Southern Meadows	41,388	9,040	343	31,874	3,397	8,856	9,383	44,127	53,510
Stone Ends Apartments	-	5,600	166	28,428	1,554	3,463	5,766	33,445	39,211
Stratford Greens Associates	31,583	12,565	255	33,779	2,555	9,795	12,820	46,129	58,949
Tamarron Apartments	12,784	1,320	92	8,474	896	2,413	1,412	11,783	13,195
The Apts at Wellington Trace	24,380	3,060	167	23,904	1,418	2,947	3,227	28,269	31,496
The Brooke at Peachtree	12,530	992	51	15,145	437	2,512	1,043	18,094	19,137
The Colony	-	7,830	197	34,121	2,025	12,628	8,027	48,774	56,801
The Coves at Chesapeake	-	8,915	-	57,953	-	6,113	8,915	64,066	72,981
The Hamptons	51,775	5,749	303	50,647	2,599	9,780	6,052	63,026	69,078
The Heights at Marlborough	24,050	6,253	-	44,264	-	3,815	6,253	48,079	54,332
The Landings	26,550	2,459	162	16,753	1,595	9,984	2,621	28,332	30,953
The Manor Apartments (MD)	25,401	8,700	257	27,703	2,513	10,050	8,957	40,266	49,223
The Manor Apartments (VA)	12,237	1,386	85	5,738	832	4,745	1,471	11,315	12,786
The Meadows at Marlborough	19,852	6,598	-	28,736	-	2,468	6,598	31,204	37,802
	18,737	1,680	151	21,350	1,545	11,622	1,831	34,517	36,348

The New Colonies									
The Sycamores	21,640	4,625	136	15,725	1,283	2,722	4,761	19,730	24,491
The Townhomes of Beverly	-	5,820	-	30,465	-	3,500	5,820	33,965	39,785
The Village at Marshfield	-	3,158	134	28,351	1,158	2,881	3,292	32,390	35,682
Timbercroft Consolidation	4,475	1,704	87	6,826	842	5,409	1,791	13,077	14,868
Top Field	6,012	1,635	-	16,684	-	2,898	1,635	19,582	21,217
Trexler Park Apartments	10,140	2,490	114	13,802	1,129	7,135	2,604	22,066	24,670
Trexler Park West	-	2,684	-	-	-	23,132	2,684	23,132	25,816
Village Square Townhomes Apts.	39,285	2,590	191	13,306	1,900	8,449	2,781	23,655	26,436
Vinings at Hampton Village	-	1,772	77	12,214	657	3,007	1,849	15,878	17,727
Virginia Village	30,695	5,160	207	21,918	2,027	10,999	5,367	34,944	40,311
Wayne Village	26,680	1,925	177	12,895	1,744	7,667	2,102	22,306	24,408
West Springfield Terrace	21,214	2,440	194	31,758	1,845	2,964	2,634	36,567	39,201
Westchester West Apartments	34,457	6,978	-	41,738	-	1,259	6,978	42,997	49,975
Westwood Village Apts	47,423	7,260	270	22,757	2,629	10,315	7,530	35,701	43,231
Westwoods	3,596	1,260	-	2,694	-	390	1,260	3,084	4,344
William Henry Apartments	21,238	4,666	187	22,220	1,839	13,190	4,853	37,249	42,102
Windsor Realty Company	-	402	34	3,300	337	2,157	436	5,794	6,230
Woodholme Manor Apartments	3,513	1,232	59	4,599	576	4,811	1,291	9,986	11,277
Woodleaf Apartments	-	2,862	122	17,716	1,028	2,467	2,984	21,211	24,195
Woodmont Village Apartments	-	2,880	63	5,699	622	2,609	2,943	8,930	11,873
	-	1,200	27	2,016	260	1,206	1,227	3,482	4,709

Yorkshire Village Apartments									
Other Assets (c)	5,851	297	3	5,915	-	211,676	300	217,591	217,891
VIE	15,999	1,203	-	9,963	-	16,226	1,203	26,189	27,392
	$2,112,645	$493,582	$14,505	$2,230,039	$140,334	$1,037,519	$508,087	$3,407,892	$3,915,979

(a) See discussion in Note 2 concerning exchange of noncontrolling interests (UPREIT Units) for shares

(b) The aggregate cost for Federal Income Tax purposes was approximately $3,414,363.

(c) Includes construction in progress of $184,617 and corporate office assets of $33,274.

SCHEDULE III

HOME PROPERTIES, INC.

REAL ESTATE AND ACCUMULATED DEPRECIATION
DECEMBER 31, 2009
(Dollars in thousands)

Depreciation and amortization of the Company's investments in real estate assets reflected in the consolidated statements of operations are calculated over the estimated useful lives of the assets as follows:

Land improvements	3-20 years
Buildings and improvements	3-40 years
Furniture, fixtures and equipment	5-10 years
Computer software	5 years

The changes in total real estate assets are as follows:

	2009	2008	2007
Balance, beginning of year	$3,872,390	$3,680,155	$3,451,762
New property acquisitions	-	128,704	207,366
Additions	149,134	142,529	105,450
Increase in real estate associated with the conversion of UPREIT Units (1)	-	17,793	16,475
Disposals, retirements and impairments	(105,545)	(96,791)	(100,898)
Balance, end of year	$3,915,979	$3,872,390	$3,680,155

The changes in accumulated depreciation are as follows:

	2009	2008	2007
Balance, beginning of year	$636,970	$543,917	$450,129
Depreciation	120,002	115,794	110,200
Disposals and retirements	(23,830)	(22,741)	(16,412)
Balance, end of year	$733,142	$636,970	$543,917

(1) Refer to Note 2 for discussion on the required change in accounting for the exchanges of UPREIT Units for shares that became effective January 1, 2009.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

HOME PROPERTIES, INC.

By:	/s/ Edward J. Pettinella Edward J. Pettinella President and Chief Executive Officer
Date:	February 26, 2010

Pursuant to the requirements of the Securities Exchange Act of 1934, the report has been signed by the following persons on behalf of Home Properties, Inc. and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Edward J. Pettinella Edward J. Pettinella	Director, President and Chief Executive Officer	February 26, 2010
/s/ David P. Gardner David P. Gardner	Executive Vice President, Chief Financial Officer (Principal Financial Officer)	February 26, 2010
/s/ Robert J. Luken Robert J. Luken	Senior Vice President, Chief Accounting Officer and Treasurer (Principal Accounting Officer)	February 26, 2010
/s/ Kenneth O. Hall Kenneth O. Hall	Vice President and Controller	February 26, 2010
/s/ Norman P. Leenhouts Norman P. Leenhouts	Director, Co-Chairman of the Board of Directors	February 26, 2010
/s/ Nelson B. Leenhouts Nelson B. Leenhouts	Director, Co-Chairman of the Board of Directors	February 26, 2010
/s/ Stephen R. Blank Stephen R. Blank	Director	February 26, 2010
/s/ Josh E. Fidler	Director	February 26, 2010

Josh E. Fidler

/s/ Alan L. Gosule Alan L. Gosule	Director	February 26, 2010
/s/ Leonard F. Helbig, III Leonard F. Helbig, III	Director	February 26, 2010
/s/ Clifford W. Smith, Jr. Clifford W. Smith, Jr.	Director	February 26, 2010
/s/ Paul L. Smith Paul L. Smith	Director	February 26, 2010
/s/ Amy L. Tait Amy L. Tait	Director	February 26, 2010

HOME PROPERTIES, INC.
FORM 10-K
For The Year Ended December 31, 2009
Exhibit Index

Except as otherwise indicated, the exhibits listed below are filed as part of this report. References to exhibits or other filings under the caption "Location" indicate that exhibit or other filing has been filed, that the indexed exhibit and the exhibit referred to are the same and that the exhibit referred to is incorporated by reference.

Exhibit Number	Exhibit	Location
2.1	Agreement among Home Properties of New York, Inc. and Philip J. Solondz, Daniel Solondz and Julia Weinstein Relating to Royal Gardens I, together with Amendment No. 1	Incorporated by reference to the Form 8- K filed by Home Properties of New York, Inc. dated 6/6/97 (the "6/6/97 8-K")
2.2	Agreement among Home Properties of New York, Inc and Philip Solondz and Daniel Solondz relating to Royal Gardens II, together with Amendment No. 1	Incorporated by reference to the 6/6/97 8-K
2.3	Contribution Agreement dated March 2, 1998 among Home Properties of New York, L.P., Braddock Lee Limited Partnership and Tower Construction Group, LLC	Incorporated by reference to the Form 8-K filed by Home Properties of New York, Inc., dated 3/24/98 (the "3/24/98 8-K")
2.4	Contribution Agreement dated March 2, 1998 among Home Properties of New York, L.P., Park Shirlington Limited Partnership and Tower Construction Group, LLC	Incorporated by reference to the 3/24/98 8-K
2.5	Form of Contribution Agreement among Home Properties of New York, L.P. and Strawberry Hill Apartment Company LLLP, Country Village Limited Partnership, Morningside Six, LLLP, Morningside North Limited Partnership and Morningside Heights Apartment Company Limited Partnership with schedule setting forth material details in which documents differ from form	Incorporated by reference to the Form 8-K filed by Home Properties of New York, Inc. on 5/22/98
2.6	Form of Contribution Agreement dated June 7, 1999, relating to the CRC Portfolio with schedule setting forth material details in which documents differ from form	Incorporated by reference to the Form 8-K filed by Home Properties of New York, Inc. on 7/2/99 (the "7/2/99 8-K")
2.7	Form of Contribution Agreement relating to the Mid-Atlantic Portfolio with schedule setting forth material details in which documents differ from form	Incorporated by reference to the Form 8-K filed by Home Properties of New York, Inc. on 7/30/99
2.8	Contribution Agreement among Home Properties of New York, L.P., Leonard Klorfine, Ridley Brook Associates and the Greenacres Associates	Incorporated by reference to the Form 8-K filed by Home Properties of New York, Inc. on 10/5/99
2.9	Contribution Agreement among Home Properties of New York, L.P., Gateside-Bryn Mawr Company, L.P.,	Incorporated by reference to the Form 8-K filed by

	Willgold Company, Gateside-Trexler Company, Gateside-Five Points Company, Stafford Arms, Gateside-Queensgate Company, Gateside Malvern Company, King Road Associates and Cottonwood Associates	Home Properties of New York, Inc. on 4/5/00
2.10	Contribution Agreement between Deerfield Woods Venture Limited Partnership and Home Properties of New York, L.P.	Incorporated by reference to the Form 8-K/A filed by Home Properties of New York, Inc. on 12/5/00 (the "12/5/00 8-K/A")

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2.11	Contribution Agreement between Macomb Apartments Limited Partnership and Home Properties of New York, L.P.	Incorporated by reference to the 12/5/00 8-K/A
2.12	Contribution Agreement between Home Properties of New York, L.P. and Elmwood Venture Limited Partnership	Incorporated by reference to the 12/5/00 8-K/A
2.13	Contribution Agreement between Home Properties of New York, L.P., Home Properties of New York, Inc. and S&S Realty, a New York General Partnership (South Bay)	Incorporated by reference to the 12/5/00 8-K/A
2.14	Contribution Agreement between Hampton Glen Apartments Limited Partnership and Home Properties of New York, L.P.	Incorporated by reference to the 12/5/00 8-K/A
2.15	Contribution Agreement between Home Properties of New York, L.P. and Axtell Road Limited Partnership	Incorporated by reference to the 12/5/00 8-K/A
2.16	Contribution Agreement between Elk Grove Terrace II and III, L.P., Elk Grove Terrace, L.P. and Home Properties of New York, L.P.	Incorporated by reference to the Form 8-K filed by Home Properties of New York, Inc. on 1/10/01
2.17	Agreement for Purchase and Sale of Interests Southeast Michigan Portfolio, dated April 26, 2006, together with Second Amendment thereto (First Amendment superseded)	Incorporated by reference to the Form 8-K filed by Home Properties, Inc. on 6/30/06
3.1	Articles of Amendment and Restatement of Articles of Incorporation of Home Properties of New York, Inc.	Incorporated by reference to Home Properties of New York, Registration Statement on Form S-11, File No. 33-78862 (the "S-11 Registration Statement")
3.2	Articles of Amendment of the Articles of Incorporation of Home Properties of New York, Inc.	Incorporated by reference to the Home Properties of New York, Inc. Registration Statement on Form S-3 File No. 333-52601 filed 5/14/98
3.3	Articles of Amendment of the Articles of Incorporation of Home Properties of New York, Inc.	Incorporated by reference to 7/2/99 8-K
3.4	Articles of Amendment of the Articles of Incorporation of Home Properties of New York, Inc.	Incorporated by reference to the Form 10-Q filed by Home Properties, Inc. for the quarter ended 3/31/04
3.5	Second Amended and Restated By-laws of Home Properties, Inc.	Incorporated by reference to the Form 8-K filed by Home Properties, Inc. dated 11/2/07
3.6	Series F Cumulative Redeemable Preferred Stock Articles Supplementary to the Amended and Restated Articles of Incorporation of Home Properties of New York, Inc.	Incorporated by reference to the Form 8-A12B filed by Home Properties of New York, Inc. on 3/20/02

3.7	Articles of Incorporation of Home Properties Management, Inc.	Incorporated by reference to the S-11 Registration Statement
3.8	By-Laws of Home Properties Management, Inc.	Incorporated by reference to S-11 Registration Statement
3.9	Articles of Incorporation of Conifer Realty Corporation	Incorporated by reference to Form 10-K filed by Home Properties of New York, Inc. for the period ended 12/31/95 (the "12/31/95 10-K")

3.10	Articles of Amendment to the Articles of Incorporation of Conifer Realty Corporation Changing the name to Home Properties Resident Services, Inc.	Incorporated by reference to the Form 10-K filed by Home Properties of New York, Inc. for the annual period ended 12/31/00
3.11	By-Laws of Conifer Realty Corporation (now Home Properties Resident Services, Inc.)	Incorporated by reference to the 12/31/95 10-K
3.12	Home Properties Trust Declaration of Trust, dated September 19, 1997	Incorporated by reference to the Form 8-K filed by Home Properties of New York, Inc. dated 9/26/97 (the "9/26/97 8-K")
4.1	Form of certificate representing Shares of Common Stock	Incorporated by reference to the Form 10- K filed by Home Properties of New York, Inc. for the period ended 12/31/94 (the "12/31/94 10-K")
4.2	Agreement of Home Properties of New York, Inc. to file instruments defining the rights of holders of long-term debt of it or its subsidiaries with the Commission upon request	Incorporated by reference to the 12/31/94 10-K
4.3	Indenture, dated October 24, 2006 between Home Properties, Inc., Home Properties, L.P. and Wells Fargo Bank, N.A., as trustee including the form of 4.125% Exchangeable Senior Notes due 2026 of Home Properties, L.P. and the Guarantee of Home Properties, Inc. with respect thereto	Incorporated by reference to the Form 8-K filed by Home Properties, Inc. on 10/25/06 (the "10/25/06 8-K")
4.4	Registration Rights Agreement, dated October 24, 2006, between Home Properties, Inc., Home Properties, L.P. and Merrill Lynch & Co., Merrill Lynch, Pierce, Fenner & Smith Incorporated and Bear Stearns & co., Inc.	Incorporated by reference to the 10/25/06 8-K
10.1	Second Amended and Restated Agreement Limited Partnership of Home Properties of New York, L.P.	Incorporated by reference to the 9/26/97 8-K
10.2	Amendment No. Four to the Second Amended and Restated Agreement of Limited Partnership of Home Properties of New York, L.P.	Incorporated by reference to Form 10-K filed by Home Properties of New York, Inc. for the annual period ended 12/31/97
10.3	Amendment No. Sixty-Two to the Second Amended and Restated Limited Partnership Agreement	Incorporated by reference to Form 10-K filed by Home Properties of New York, Inc. for the annual period ended 12/31/03
10.4	Indemnification Agreement between Home Properties of New York, Inc. and certain officers and directors*	Incorporated by reference to the Form 10-Q filed by Home Properties of New York, Inc. for the quarter ended 6/30/94
10.5		

Indemnification Agreement between Home Properties of New York, Inc. and Alan L. Gosule*	Incorporated by reference to the Form 10-K filed by Home Properties of New York, Inc. for the annual period ended 12/31/96

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10.6	Master Credit Facility Agreement by and among Home Properties of New York, Inc., Home Properties of New York, L.P., Home Properties WMF I LLC and Home Properties of New York, L.P. and P-K Partnership doing business as Patricia Court and Karen Court and WMF Washington Mortgage Corp., dated as of August 28, 1998	Incorporated by reference to Form 10-Q filed by the Home Properties of New York, Inc. for the quarter ended 9/30/98
10.7	First Amendment to Master Credit Facility Agreement, dated as of December 11, 1998 among Home Properties of New York, Inc., Home Properties of New York, L.P., Home Properties WMF I LLC and Home Properties of New York, L.P. and P-K Partnership doing business as Patricia Court and Karen Court and WMF Washington Mortgage Corp. and Fannie Mae	Incorporated by reference to the Form 10-K filed by Home Properties of New York, Inc. for the annual period ended 12/31/98
10.8	Second Amendment to Master Credit Facility Agreement, dated as of August 30, 1999 among Home Properties of New York, Inc., Home Properties of New York, L.P., Home Properties WMF I LLC and Home Properties of New York, L.P. and P-K Partnership doing business as Patricia Court and Karen Court and WMF Washington Mortgage Corp. and Fannie Mae	Incorporated by reference to Form 10-K filed by Home Properties of New York, Inc. for the annual period ended 12/31/99 (the "12/31/99 10-K")
10.9	Amended and Restated Employment Agreement, dated November 20, 2006 between Edward J. Pettinella and Home Properties, Inc.*	Incorporated by reference to the Form 8-K filed by Home Properties, Inc. on 11/21/06
10.10	Amendment No. One to Employment Agreement between Edward J. Pettinella and Home Properties, Inc.*	Incorporated by reference to the Form 10-Q filed by Home Properties, Inc. for the period ended 9/30/2008 (the "9/30/2008 10-Q")
10.11	Amendment No. 2 to Employment Agreement between Edward J. Pettinella and Home Properties, Inc.*	Incorporated by reference to the Form 8-K filed by Home Properties, Inc. on 11/2/09
10.12	Articles of Merger of Home Properties Management, Inc. into Home Properties Resident Services, Inc.	Incorporated by reference to the Form 10-K filed by Home Properties, Inc. for the annual period ended 12/31/06
10.13	Purchase Agreement, dated October 18, 2006 between Home Properties, Inc., Home Properties, L.P. and Merrill Lynch & Co., Merrill Lynch, Pierce Fenner & Smith and Bear Stearns & Co., Inc.	Incorporated by reference to the Form 8-K filed by Home Properties, Inc. on 10/19/06
10.14	Directors' Stock Grant Plan*	Incorporated by reference to the Form 8-K filed by Home Properties of New York, Inc. on 5/22/98
10.15	Amended and Restated Stock Benefit Plan of Home Properties of New York, Inc.*	Incorporated by reference to the Form 8-K filed by Home Properties of New

		York, Inc. on 6/6/97
10.16	Home Properties of New York, Inc. Amendment Number One to the Amended and Restated Stock Benefit Plan*	Incorporated by reference to the Form 10-Q of Home Properties of New York, Inc. for the quarter ended 3/31/00 (the "3/31/00 10-Q")
10.17	Home Properties of New York, Inc. Amendment Number Two to the Amended and Restated Stock Benefit Plan*	Incorporated by reference to the Form 10-K filed by Home Properties of New York, Inc. for the annual period ended 12/31/01
10.18	Amendment No. Three to Home Properties, Inc. Amended and Restated Stock Benefit Plan*	Incorporated by reference to the 9/30/08 10-Q
10.19	2000 Stock Benefit Plan*	Incorporated by reference to the 12/31/99 10-K
10.20	Home Properties of New York, Inc. Amendment No. One to 2000 Stock Benefit Plan*	Incorporated by reference to the Form 10-K filed by Home Properties of New York, Inc. for the annual period ended 12/31/01 (the "12/31/01 10-K")
10.21	Home Properties of New York, Inc. Amendment No. Two to 2000 Stock Benefit Plan*	Incorporated by reference to the 12/31/01 10-K
10.22	Home Properties of New York, Inc. Amendment No. Three to 2000 Stock Benefit Plan*	Incorporated by reference to the Form 10-K filed by Home Properties of New York, Inc. for the annual period ended 12/31/03
10.23	Amendment No. Four to Home Properties, Inc. 2000 Stock Benefit Plan*	Incorporated by reference to the 9/30/08 10-Q
10.24	Amended and Restated 2003 Stock Benefit Plan*	Incorporated by reference to the Form 8-K filed by Home Properties, Inc. dated 5/6/05
10.25	Amendment No. One to Amended and Restated Home Properties, Inc. 2003 Stock Benefit Plan*	Incorporated by reference to the 9/30/08 10-Q
10.26	Home Properties, Inc. 2008 Stock Benefit Plan*	Incorporated by reference to the Schedule 14A filed on 3/24/08
10.27	Amendment No. One to Home Properties, Inc. 2008 Stock Benefit Plan*	Incorporated by reference to the 9/30/08 10-Q
10.28	Seventh Amended and Restated Dividend Reinvestment and Direct Stock Purchase Plan	Incorporated by reference to the Form 8-K filed by Home Properties, Inc. on 9/28/06
10.29	Home Properties of New York, Inc., Home Properties of New York, L.P. Executive Retention Plan*	Incorporated by reference to the 7/2/99 8-K
10.30	Home Properties of New York, L.P. Amendment Number One to Executive Retention Plan*	Incorporated by reference to the 3/31/00 10-Q

10.31	Amendment Number Two to Home Properties of New York, Inc. and Home Properties of New York, L.P. Executive Retention Plan*	Incorporated by reference to the Form 10-K filed by Home Properties, Inc. for the period ended 12/31/03 (the "12/31/03 10-K")
10.32	Amendment No. Three to Home Properties, Inc. and Home Properties, L.P. Executive Retention Plan*	Incorporated by reference to the 9/30/08 10-Q
10.33	Purchase and Sale Agreement, dated as of January 1, 2004 among Home Properties of New York, L.P., Home Properties Management, Inc. and Home Leasing, LLC, dated January 1, 2004*	Incorporated by reference to 12/31/03 10-K

10.34	Second Amended and Restated Incentive Compensation Plan	Incorporated by reference to the Form 8-K filed by Home Properties, Inc. on 2/16/07
10.35	Amendment No. One to Home Properties, Inc. Second Amended and Restated Incentive Compensation Plan*	Incorporated by reference to the 9/30/08 10-Q
10.36	Deferred Bonus Plan (Amended and Restated as of January 1, 2008)*	Incorporated by reference to the Form 10-K filed by Home Properties, Inc. for the period ended 12/31/07 (the "12/31/07 10-K")
10.37	Director Deferred Compensation Plan (Amended and Restated as of January 1, 2008)*	Incorporated by reference to the 12/31/07 10-K
10.38	Amendment No. One to Home Properties, Inc. Deferred Bonus Plan (Amended and Restated January 1, 2008)*	Filed herewith
10.39	Indemnification Agreement between Home Properties, Inc. and Stephen R. Blank	Incorporated by reference to the Form 10-K filed by Home Properties, Inc. for the period ended 12/31/08 (the “12/31/08 10-K”)
10.40	Indemnification Agreement between Home Properties, Inc. and Josh E. Fidler	Incorporated by reference to the 12/31/08 10-K
10.41	Changes to Compensation Arrangements for Named Executive Officers in 2009*	Incorporated by reference to the Form 10-Q filed by Home Properties, Inc. for the quarter ended 3/31/09 (the “3/31/09 10-Q”)
10.42	Equity Grant for Non-Employee Directors in 2009*	Incorporated by reference to the 3/31/09 10-Q
10.43	Amended and Restated Lease Agreement Between Clinton Square Asset Holding Associates, L.P. and Home Properties, L.P. dated July 6, 2009	Incorporated by reference to the Form 10-Q filed by Home Properties, Inc. for the quarter ended 6/30/09
10.44	Credit Agreement, dated as of September 1, 2009 among Home Properties, L.P., Home Properties, Inc. and Manufacturers and Traders Trust Company, RBS Citizens, N.A., d/b/a/ Charter One, Chevy Chase Bank, a Division of Capital One, N.A. and Bank of Montreal	Incorporated by reference to the Form 8-K filed by Home Properties, Inc. on September 2, 2009 (the “9/2/09 8-K”)
10.45	Guaranty, dated September 1, 2009 from Home Properties, Inc. and certain affiliates to Manufacturers Traders Trust Company as agent for the lenders under the Credit Agreement of the same date.	Incorporated by reference to the 9/2/09 8-K.
10.46	ATM Equity Offering Sales Agreement, dated December 3, 2009 between Home Properties, Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated and BMO Capital Markets Corp.	Incorporated by reference to the Form 8-K filed by Home Properties on 12/3/09.
10.47	Amendment No. One Hundred Three to the Second Amended and Restated Limited Partnership Agreement	Filed herewith
10.48	Amendment No. Eighty-Nine to Second Amended and Restated Limited Partnership Agreement	Filed herewith

10.49	Indemnification Agreement between Home Properties, Inc. and Charles J. Koch	Filed herewith
11	Computation of Per Share Earnings Schedule	Filed herewith
21	List of Subsidiaries of Home Properties, Inc.	Filed herewith
23	Consent of PricewaterhouseCoopers LLP	Filed herewith
31.1	Section 302 Certification of Chief Executive Officer	Filed herewith
31.2	Section 302 Certification of Chief Financial Officer	Filed herewith
32.1	Section 906 Certification of Chief Executive Officer**	Furnished herewith
32.2	Section 906 Certification of Chief Financial Officer**	Furnished herewith
99	Additional Exhibits - Debt Summary Schedule	Filed herewith

*Management contract or compensatory plan or arrangement required to be filed as an exhibit to this Form 10-K pursuant to Item 15(b) of Form 10-K.

**These exhibits are not incorporated by reference in any registration statement or report which incorporates this Annual Report on Form 10-K for the year ended December 31, 2009.