

BERKSHIRE INCOME REALTY, INC.

Form 10-Q

May 15, 2012

United States

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended March 31, 2012

or

TRANSITION REPORT PURSUANT TO THE SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission File number 001-31659

BERKSHIRE INCOME REALTY, INC.

Maryland

(State or other jurisdiction of incorporation or organization)

32-0024337

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

One Beacon Street, Boston, Massachusetts

(Address of principal executive offices)

02108

(Zip Code)

(617) 523-7722

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes No

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

Large Accelerated Filer

Accelerated Filer

Non-accelerated Filer

Smaller Reporting Company

(Do not check if a smaller reporting company)

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

Yes No

There were 1,406,196 shares of Class B common stock outstanding as of May 14, 2012.

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BERKSHIRE INCOME REALTY, INC.

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Part I FINANCIAL INFORMATION

Item 1. CONSOLIDATED FINANCIAL STATEMENTS

BERKSHIRE INCOME REALTY, INC.
CONSOLIDATED BALANCE SHEETS

	March 31, 2012 (unaudited)	December 31, 2011 (audited)
ASSETS		
Multifamily apartment communities, net of accumulated depreciation of \$230,851,815 and \$227,600,092, respectively	\$418,147,385	\$422,662,237
Cash and cash equivalents	8,759,118	9,645,420
Cash restricted for tenant security deposits	1,426,417	1,455,751
Replacement reserve escrow	1,406,472	1,361,997
Prepaid expenses and other assets	8,711,862	11,786,836
Investment in Multifamily Venture Limited Partnership and Multifamily Limited Liability Company	18,883,940	17,721,959
Acquired in-place leases and tenant relationships, net of accumulated amortization of \$551,390 and \$531,422, respectively	53,689	73,657
Deferred expenses, net of accumulated amortization of \$2,922,818 and \$2,840,437, respectively	4,061,182	4,041,785
Total assets	\$461,450,065	\$468,749,642
LIABILITIES AND DEFICIT		
Liabilities:		
Mortgage notes payable	\$485,545,320	\$484,748,358
Note payable, affiliate	1,000,000	8,349,422
Due to affiliates, net	2,617,969	1,245,147
Due to affiliate, incentive advisory fees	5,359,874	3,904,280
Dividend and distributions payable	837,607	837,607
Accrued expenses and other liabilities	13,728,622	16,030,287
Tenant security deposits	1,634,532	1,651,665
Total liabilities	510,723,924	516,766,766
Commitments and contingencies (Note 9)	—	—
Deficit:		
Noncontrolling interest in properties	326,102	346,524
Noncontrolling interest in Operating Partnership (Note 10)	(76,543,026	) (76,785,818
Series A 9% Cumulative Redeemable Preferred Stock, no par value, \$25 stated value, 5,000,000 shares authorized, 2,978,110 shares issued and outstanding at March 31, 2012 and December 31, 2011, respectively		70,210,830
Class A common stock, \$.01 par value, 5,000,000 shares authorized, 0 shares issued and outstanding at March 31, 2012 and December 31, 2011, respectively	—	—
Class B common stock, \$.01 par value, 5,000,000 shares authorized, 1,406,196 shares issued and outstanding at March 31, 2012 and December 31, 2011,	14,062	14,062

respectively

Excess stock, \$.01 par value, 15,000,000 shares authorized, 0 shares issued and outstanding at March 31, 2012 and December 31, 2011, respectively

Accumulated deficit

Total deficit

—	—
(43,281,827	) (41,802,722)
(49,273,859) (48,017,124)

Total liabilities and deficit

\$461,450,065	\$468,749,642
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The accompanying notes are an integral part of these financial statements.

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BERKSHIRE INCOME REALTY, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS
(unaudited)

	Three months ended	
	March 31,	
	2012	2011
Revenue:		
Rental	\$ 19,742,855	\$ 18,558,640
Interest	1,180	2,637
Utility reimbursement	867,167	778,278
Other	868,735	773,365
Total revenue	21,479,937	20,112,920
Expenses:		
Operating	5,586,310	6,049,934
Maintenance	1,279,284	1,103,799
Real estate taxes	2,096,299	1,774,399
General and administrative	524,987	647,082
Management fees	1,258,116	1,195,014
Incentive advisory fees	1,455,594	387,666
Depreciation	7,172,838	7,422,349
Interest, inclusive of amortization of deferred financing fees	6,764,131	6,933,867
Amortization of acquired in-place leases and tenant relationships	19,968	195,562
Total expenses	26,157,527	25,709,672
Loss before income (loss) in equity method investments	(4,677,590	) (5,596,752
Income (loss) in equity method investments:		
Equity in income (loss) of Multifamily Venture Limited Partnership	1,135,184	(1,336,826
Equity in loss of Multifamily Limited Liability Company	(12,373) —
Net income (loss) from equity method investments	1,122,811	(1,336,826
Loss from continuing operations	(3,554,779	) (6,933,578
Discontinued operations:		
Income (loss) from discontinued operations	(1,022,588	) 280,479
Gain on disposition of real estate assets	6,589,323	—
Net income from discontinued operations	5,566,735	280,479
Net income (loss)	2,011,956	(6,653,099
Net income attributable to noncontrolling interest in properties	(88,025	) (18,126
Net (income) loss attributable to noncontrolling interest in Operating Partnership (Note 10)	(242,792	) 8,146,933
Net income attributable to Parent Company	1,681,139	1,475,708
Preferred dividend	(1,675,194	) (1,675,187
Net income (loss) available to common shareholders	\$ 5,945	\$ (199,479
Net loss from continuing operations attributable to Parent Company per common share, basic and diluted	\$ (3.96	) \$ (0.34
Net income from discontinued operations attributable to Parent Company per common share, basic and diluted	\$ 3.96	\$ 0.20
Net income (loss) available to common shareholders per common share, basic and diluted	\$ —	\$ (0.14
Weighted average number of common shares outstanding, basic and diluted	1,406,196	1,406,196
Dividend declared per common share	\$ —	\$ —

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

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BERKSHIRE INCOME REALTY, INC.
 CONSOLIDATED STATEMENTS OF CHANGES IN DEFICIT
 FOR THE THREE MONTHS ENDED MARCH 31, 2012 AND 2011
 (unaudited)

	Parent Company Shareholders				Accumulated Deficit	Noncontrolling Interests – Properties	Noncontrolling Interests – Operating Partnership	Total Deficit
	Series A Preferred Stock		Class B Common Stock					
	Shares	Amount	Shares	Amount				
Balance at January 1, 2011	2,978,110	\$70,210,830	1,406,196	\$14,062	\$(41,533,880)	\$(191,881)	\$(65,806,083)	\$(37,306,952)
Net income (loss)	—	—	—	—	1,475,708	18,126	(8,146,933)	(6,653,099)
Contributions	—	—	—	—	—	783,997	—	783,997
Distributions	—	—	—	—	—	(147,002)	—	(147,002)
Distributions to preferred shareholders	—	—	—	—	(1,675,187)	—	—	(1,675,187)
Balance at March 31, 2011	2,978,110	\$70,210,830	1,406,196	\$14,062	\$(41,733,359)	\$463,240	\$(73,953,016)	\$(44,998,243)

	Parent Company Shareholders				Accumulated Deficit	Noncontrolling Interests – Properties	Noncontrolling Interests – Operating Partnership	Total Deficit
	Series A Preferred Stock		Class B Common Stock					
	Shares	Amount	Shares	Amount				
Balance at January 1, 2012	2,978,110	\$70,210,830	1,406,196	\$14,062	\$(41,802,722)	\$346,524	\$(76,785,818)	\$(48,017,124)
Net income (loss)	—	—	—	—	1,681,139	88,025	242,792	2,011,956
Contributions	—	—	—	—	—	—	—	—
Distributions	—	—	—	—	(1,485,050)	(108,447)	—	(1,593,497)
Distributions to preferred shareholders	—	—	—	—	(1,675,194)	—	—	(1,675,194)
Balance at March 31, 2012	2,978,110	\$70,210,830	1,406,196	\$14,062	\$(43,281,827)	\$326,102	\$(76,543,026)	\$(49,273,859)

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

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BERKSHIRE INCOME REALTY, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited)

	For the three months ended	
	March 31, 2012	2011
Cash flows from operating activities:		
Net income (loss)	\$2,011,956	\$(6,653,099)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Amortization of deferred financing costs	150,480	183,239
Amortization of acquired in-place leases and tenant relationships	19,968	204,478
Amortization of fair value discount on mortgage debt	—	58,851
Loss on extinguishment of debt	40,812	—
Depreciation	7,315,018	7,698,354
Net (income) loss from equity method investments	(1,122,811)	) 1,336,826
Gain on disposition of real estate assets	(6,589,323)) —
Increase (decrease) in cash attributable to changes in assets and liabilities:		
Tenant security deposits, net	12,201	14,525
Prepaid expenses and other assets	3,074,974	597,348
Due to/from affiliates	1,372,822	324,009
Due to affiliates, incentive advisory fees	1,455,594	387,666
Accrued expenses and other liabilities	(1,389,148)	) (1,528,869)
Net cash provided by operating activities	6,352,543	2,623,328
Cash flows from investing activities:		
Capital improvements	(11,020,463)	) (1,010,493)
Acquisition of multifamily apartment communities	—	) (53,558,329)
Proceeds from sale of properties	13,897,103	—
Investment in Multifamily Limited Liability Company	(39,170)	) (11,550,544)
Interest earned on replacement reserve deposits	(480)	) (1,147)
Deposits to replacement reserve escrow	(43,995)	) (99,637)
Net cash provided by (used in) investing activities	2,792,995	(66,220,150)
Cash flows from financing activities:		
Borrowings from mortgage notes payable	7,660,779	62,363,712
Principal payments on mortgage notes payable	(1,357,089)	) (1,032,213)
Prepayments of mortgage notes payable	(5,506,728)	) (26,500,000)
Borrowings from note payable, affiliate	—	32,100,000
Principal payments on note payable, affiliate	(7,349,422)) —
Deferred financing costs	(210,689)	) (1,370,265)
Contribution from noncontrolling interest holders in properties	—	783,997
Distributions to noncontrolling interest holders in properties	(108,447)	) (147,002)
Distribution on common operating partnership units	(1,485,050)) —
Distributions to preferred shareholders	(1,675,194)	) (1,675,187)
Net cash (used in) provided by financing activities	(10,031,840)) 64,523,042
Net (decrease) increase in cash and cash equivalents	(886,302)) 926,220

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Cash and cash equivalents at beginning of period	9,645,420	12,893,665
Cash and cash equivalents at end of period	\$8,759,118	\$13,819,885

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

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BERKSHIRE INCOME REALTY, INC.
 CONSOLIDATED STATEMENTS OF CASH FLOWS
 (unaudited)

	For the three months ended	
	March 31,	
	2012	2011
Supplemental disclosure:		
Cash paid for interest, net of capitalized interest	\$6,864,548	\$6,972,310
Capitalization of interest	\$291,855	\$—
Supplemental disclosure of non-cash investing and financing activities:		
Capital improvements included in accrued expenses and other liabilities	\$3,092,837	\$15,192
Dividends declared and payable to preferred shareholders	\$837,607	\$837,607
Write-off of fully amortized acquired in-place leases and tenant relationships	\$—	\$1,235,033
Acquisition of multifamily apartment communities:		
Assets acquired:		
Multifamily apartment communities	\$—	\$(50,872,722)
Acquired in-place leases	—	(605,080)
Replacement reserve escrow	—	(9,000)
Prepaid expenses and other assets	—	(2,193,901)
Liabilities acquired:		
Accrued expenses	—	67,859
Tenant security deposit liability	—	54,515
Net cash used for acquisition of multifamily apartment communities	\$—	\$(53,558,329)
Sale of real estate:		
Gross selling price	\$14,200,000	\$—
Cost of sale	\$(302,897)	\$—
Cash flows from sale of real estate assets	\$13,897,103	\$—

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

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BERKSHIRE INCOME REALTY, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(unaudited)

1. ORGANIZATION AND BASIS OF PRESENTATION

Berkshire Income Realty, Inc. (the "Company"), a Maryland corporation, was incorporated on July 19, 2002 and 100 Class B common shares were issued upon organization. The Company is in the business of acquiring, owning, operating, developing and rehabilitating multifamily apartment communities. As of March 31, 2012, the Company owned, or had an interest in, 27 multifamily apartment communities consisting of a total 6,577 apartment units and two multifamily development projects.

The Company elected to be treated as a real estate investment trust ("REIT") under Section 856 of the Tax Code (the "Code"), with the filing of its first tax return. As a result, the Company generally is not subject to federal corporate income tax on its taxable income that is distributed to its stockholders. A REIT is subject to a number of organizational and operational requirements, including a requirement that it currently distribute at least 90% of its annual taxable income. The Company's policy is to make sufficient distributions of its taxable income to meet the REIT distribution requirements. The Company must also meet other operational requirements with respect to its investments, assets and income. The Company monitors these various requirements on a quarterly basis and believes that as of and for the three months ended March 31, 2012 and March 31, 2011, it was in compliance on all such requirements. Accordingly, the Company has made no provision for federal income taxes in the accompanying consolidated financial statements. The Company is subject to certain state level taxes based on the location of its properties.

Discussion of acquisitions for the three months ended March 31, 2012

The Company did not acquire any properties during the three-month period ended March 31, 2012.

Discussion of dispositions for the three months ended March 31, 2012

On March 23, 2012, the Operating Partnership completed the sale of the Riverbirch property, a 210-unit multifamily apartment community located in Charlotte, North Carolina, to an unaffiliated buyer. The sale price of the property was \$14,200,000 and is subject to normal operating prorations and adjustments as provided for in the purchase and sale agreement. The proceeds were used to reduce the outstanding balance of the revolving credit facility and other general uses.

Recent Accounting Pronouncements

In May 2011, the Financial Accounting Standard Board ("FASB") issued ASU 2011-04, Fair Value Measurement (Topic 820): Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs. ASU 2011-04 clarifies some existing concepts, eliminates wording differences between U.S. GAAP and International Financial Reporting Standards ("IFRS"), and in some limited cases, changes some principles to achieve convergence between U.S. GAAP and IFRS. ASU 2011-04 results in a consistent definition of fair value and common requirements for measurement of and disclosure about fair value between U.S. GAAP and IFRS. ASU 2011-04 also expands the disclosures for fair value measurements that are estimated using significant unobservable (Level 3) inputs. ASU 2011-04 became effective for the Company on January 1, 2012. The adoption of ASU 2011-04 did not have a material effect on the Company's operating results or financial position.

In June 2011, the FASB issued ASU 2011-05, Presentation of Comprehensive Income, which requires an entity to present the total of comprehensive income, the components of net income, and the components of other comprehensive income either in a single continuous statement of comprehensive income, or in two separate but consecutive statements. ASU 2011-05 eliminates the option to present components of other comprehensive income as part of the statement of equity. In December 2011, the FASB issued ASU 2011-12, Deferral of the Effective Date for Amendments to the Presentation of Reclassifications of Items Out of Accumulated Other Comprehensive Income in ASU 2011-05, which deferred the new requirement to present components of reclassifications of other comprehensive income on the face of the income statement. Both ASU 2011-05 and ASU 2011-12 became effective for the Company on January 1, 2012. The adoption of ASU 2011-05 and ASU 2011-12 did not have a material effect on the Company's operating results or financial position.

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Unaudited interim consolidated financial statements

The accompanying interim consolidated financial statements of the Company are unaudited; however, the consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”) for interim financial information and in conjunction with the rules and regulations of the Securities and Exchange Commission (the “SEC”). Accordingly, certain disclosures accompanying annual financial statements prepared in accordance with GAAP are omitted. In the opinion of management, all adjustments (consisting solely of normal recurring matters) necessary for a fair statement for the interim periods have been included. The results of operations for the interim periods are not necessarily indicative of the results to be obtained for other interim periods or for the full fiscal year. The interim financial statements and notes thereto should be read in conjunction with the Company’s financial statements and notes thereto included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2011.

Consolidated statements of Comprehensive Income (Loss)

For the three months ended March 31, 2012 and 2011, comprehensive income (loss) equaled net income (loss). Therefore, the Consolidated Statement of Comprehensive Income and Loss required to be presented has been omitted from the consolidated financial statements.

Reclassifications

Certain prior period balances have been reclassified in order to conform to the current period presentation.

2. MULTIFAMILY APARTMENT COMMUNITIES

The following summarizes the carrying value of the Company’s multifamily apartment communities:

	March 31, 2012	December 31, 2011
Land	\$67,761,010	\$68,745,583
Buildings, improvement and personal property	581,238,190	581,516,746
Multifamily apartment communities	648,999,200	650,262,329
Accumulated depreciation	(230,851,815	) (227,600,092
Multifamily apartment communities, net	\$418,147,385	\$422,662,237

The Company accounts for its acquisitions of investments in real estate in accordance with ASC 805-10, which requires the fair value of the real estate acquired to be allocated to the acquired tangible assets, consisting of land, building, furniture, fixtures and equipment and identified intangible assets and liabilities, consisting of the value of the above-market and below-market leases, the value of in-place leases and the value of other tenant relationships, based in each case on their fair values. The value of in-place leases and tenant relationships are amortized over the specific expiration dates of the in-place leases over a period of 12 months and the tenant relationships are based on the straight-line method of amortization over a 24-month period.

The Company evaluated the carrying value of its multifamily apartment communities for impairment pursuant to ASC 360-10. The Company did not record an impairment adjustment during the three months ended March 31, 2012 or twelve months ended December 31, 2011.

Discontinued Operations

On December 22, 2011, the Company, through its joint venture, BIR Holland JV LLC, closed on the sale of the Glo property to Equity Residential for \$68.5 million.

On March 23, 2012, the Operating Partnership completed the sale of the Riverbirch property, a 210-unit multifamily apartment community located in Charlotte, North Carolina, to an unaffiliated buyer. The sale price of the property was \$14,200,000 and is subject to normal operating prorations and adjustments as provided for in the purchase and sale agreement.

The results of operations for the Glo and Riverbirch properties have been restated and are presented as results from discontinued operations in the statement of operations for the three months ended March 31, 2012 and 2011, respectively, pursuant to ASC 205-20.

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The operating results of discontinued operations for the three months ended March 31, 2012 and 2011 are presented in the following table.

	Three months ended March 31,	
	2012	2011
Revenue:		
Rental	\$368,705	\$1,289,641
Interest	1	55
Utility reimbursement	35,385	42,841
Other	20,498	163,302
Total revenue	424,589	1,495,839
Expenses:		
Operating	161,732	341,936
Maintenance	19,656	73,150
Real estate taxes	29,133	167,713
General and administrative	(7,705	) 26,415
Management fees	11,471	42,801
Depreciation	142,180	276,005
Interest, inclusive of deferred financing fees	1,090,710	278,424
Amortization of acquired in-place leases and tenant relationships	—	8,916
Total expenses	1,447,177	1,215,360
Income (loss) from discontinued operations	\$(1,022,588	) \$280,479

3. INVESTMENT IN MULTIFAMILY VENTURE LIMITED PARTNERSHIP

On August 12, 2005, the Company, together with affiliates and other unaffiliated parties, entered into a subscription agreement to invest in the Berkshire Multifamily Value Fund, L.P. (“BVF”), an affiliate of Berkshire Property Advisors, L.L.C. (“Berkshire Advisor” or the “Advisor”). Under the terms of the agreement and the related limited partnership agreement, the Company and its affiliates agreed to invest up to \$25,000,000, or approximately 7%, of the total capital of the partnership. The Company’s final commitment under the subscription agreement with BVF totaled \$23,400,000. BVF’s investment strategy was to acquire middle-market properties where there is an opportunity to add value through repositioning or rehabilitation.

In accordance with ASC 810-10 issued by FASB and related to the consolidation of variable interest entities, the Company has performed an analysis of its investment in BVF to determine whether it would qualify as a variable interest entity (“VIE”) and whether it should be consolidated or accounted for as an equity investment in an unconsolidated joint venture. As a result of the Company’s qualitative assessment to determine whether its investment in BVF is a VIE, the Company determined that the investment is a VIE based upon the fact that the holders of the equity investment at risk lack the power, through voting rights, or similar rights to direct the activities of BVF that most significantly impact BVF’s economic performance. Under the terms of the limited partnership agreement of BVF, the general partner of BVF has the full, exclusive and complete right, power, authority, discretion, obligation and responsibility to make all decisions affecting the business of BVF.

After making the determination that its investment in BVF was a VIE, the Company performed an assessment of which partner would be considered the primary beneficiary of BVF and therefore would be required to consolidate BVF’s balance sheets and result of operations. This assessment was based upon which entity (1) had the power to direct matters that most significantly impact the activities of BVF, and (2) had the obligation to absorb losses or the

right to receive benefits of BVF that could potentially be significant to the entity based upon the terms of the partnership and management agreements of BVF. As a result of fees paid to the general partner of BVF for asset management and other services, the Company has determined that the general partner of BVF has the obligation to absorb the losses or the right to receive benefits of BVF while retaining the power to make significant decisions for BVF. Based upon this understanding, the Company concluded that the general partner of BVF should consolidate BVF and as such, the Company accounts for its investment in BVF as an equity investment in an unconsolidated joint venture.

As of March 31, 2012, the Company had invested 100% of its total committed capital amount of \$23,400,000 in BVF for an ownership interest of approximately 7%.

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The summarized statement of assets, liabilities and partners' capital of BVF is as follows:

	March 31, 2012 (unaudited)	December 31, 2011 (audited)
ASSETS		
Multifamily apartment communities, net	\$848,017,378	\$951,400,492
Cash and cash equivalents	32,481,659	10,904,452
Other assets	16,204,753	21,751,914
Total assets	\$896,703,790	\$984,056,858
LIABILITIES AND PARTNERS' CAPITAL		
Mortgage notes payable	\$818,367,633	\$890,099,238
Revolving credit facility	16,300,000	39,000,000
Other liabilities	20,512,235	26,872,432
Noncontrolling interest	(5,089,608	) (2,313,162
Partners' capital	46,613,530	30,398,350
Total liabilities and partners' capital	\$896,703,790	\$984,056,858
Company's share of partners' capital	\$3,263,297	\$2,128,113
Basis differential (1)	604,395	604,395
Carrying value of the Company's investment in Multifamily Venture Limited Partnership (2)	\$3,867,692	\$2,732,508

(1) This amount represents the difference between the Company's investment in BVF and its share of the underlying equity in the net assets of BVF (adjusted to conform with GAAP). At March 31, 2012 and December 31, 2011, the differential related mainly to the \$583,240 which represents the Company's share of syndication costs incurred by BVF, was not an item required to be funded via a capital investment by the Company.

(2) Per the partnership agreement of BVF, the Company's liability is limited to its investment in BVF. The Company does not guarantee any third-party debt held by BVF. The Company has fully funded its obligations under the partnership agreement as of March 31, 2012 and has no commitment to make additional contributions to BVF.

The Company evaluates the carrying value of its investment in BVF for impairment periodically and records impairment charges when events or circumstances change indicating that a decline in the fair values below the carrying values has occurred and such decline is other-than-temporary. No such other-than-temporary impairment charges have been recognized as of March 31, 2012 and 2011, respectively.

The summarized statements of operations of BVF for the three months ended March 31, 2012 and 2011 is as follows:

	Three months ended	
	March 31, 2012	2011
Revenue	\$35,715,412	\$35,517,279
Expenses (1)	(49,605,861	) (62,630,090
Gain on property sales and extinguishment of debt (2)	28,273,345	—
Noncontrolling interest	1,832,285	8,017,332
Net income (loss) attributable to investment	\$16,215,181	\$(19,095,479
Equity in income (loss) of Multifamily Venture Limited Partnership (1)(2)	\$1,135,184	\$(1,336,826

- (1) During the three months ended March 31, 2011, BVF recorded an impairment charge on its real estate in accordance with ASC 360-10 in the amount of \$11,629,342, which is included in Expenses on the summarized statement of operations of BVF. The Company's share was approximately \$407,000 and is reflected in the equity loss recognized for the three months ended March 31, 2011.

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The Company has determined that its valuation of the real estate was categorized within Level 3 of the fair value hierarchy in accordance with ASC 820-10, as it utilized significant unobservable inputs in its assessment.

During the three months ended March 31, 2012, BVF recorded a net gain on the disposition of eight properties. (2) The gain on the sale was \$28,273,345, of which the Company's share was approximately \$1,979,000 and is reflected in the equity income recognized for the three months ended March 31, 2012.

4. INVESTMENT IN MULTIFAMILY LIMITED LIABILITY COMPANY

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

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

In accordance with ASC 810-10 related to the consolidation of variable interest entities, the Company has performed an analysis of its investment in NoMa JV to determine whether it would qualify as a variable interest entity ("VIE") and whether it should be consolidated or accounted for as an equity investment in an unconsolidated joint venture. As a result of the Company's qualitative assessment to determine whether its investment is a VIE, the Company determined that the investment is a VIE based upon the holders of the equity investment at risk lacking the power, through voting rights or similar rights to direct the activities of the entity that most significantly impact the entity's economic performance. Under the terms of the limited partnership agreement of NoMa JV, the managing member has the full, exclusive and complete right, power, authority, discretion, obligation and responsibility to make all decisions affecting the business of NoMa JV.

After making the determination that its investment in NoMa JV was a VIE, the Company performed an assessment of which partner would be considered the primary beneficiary of NoMa JV and would be required to consolidate the VIE's balance sheet and results of operations. This assessment was based upon which entity (1) had the power to direct matters that most significantly impact the activities of NoMa JV, and (2) had the obligation to absorb losses or the right to receive benefits of NoMa JV that could potentially be significant to the VIE based upon the terms of the partnership and management agreements of NoMa JV. Because the managing member owns roughly two-thirds of the entity and all profits and losses are split pro-rata in accordance with capital accounts, the Company has determined that the managing member has the obligation to absorb the losses or the right to receive benefits of the VIE while retaining the power to make significant decisions for NoMa JV. Based upon this understanding, the Company concluded that the managing member should consolidate NoMa JV and as such, the Company accounts for its investment in NoMa JV as an equity investment in an unconsolidated joint venture.

As of March 31, 2012, the Company had invested 100% of its total committed capital amount of \$14,520,000 in NoMa JV for an ownership interest of approximately 33% and had recorded \$623,287 of capitalized interest on the investment.

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The summarized statement of assets, liabilities and partners' capital of NoMa JV is as follows:

	March 31, 2012 (unaudited)	December 31, 2011 (audited)
ASSETS		
Multifamily apartment communities, net	\$72,427,334	\$62,699,213
Cash and cash equivalents	431,323	577,190
Other assets	1,173,536	1,215,989
Total assets	\$74,032,193	\$64,492,392
LIABILITIES AND PARTNERS' CAPITAL		
Mortgage notes payable	\$23,441,291	\$11,973,905
Other liabilities	2,614,360	4,500,703
Noncontrolling interest	4,797,654	4,801,778
Partners' capital	43,178,888	43,216,006
Total liabilities and partners' capital	\$74,032,193	\$64,492,392
Company's share of partners' capital	\$14,392,961	\$14,405,335
Basis differential (1)	\$623,287	\$584,116
Carrying value of the Company's investment in Multifamily Limited Liability Company	\$15,016,248	\$14,989,451

This amount represents capitalized interest, pursuant to ASC 835-20, related to the Company's equity investment in (1)NoMa JV. The capitalized interest was computed on the amounts borrowed by the Company to finance its investment in NoMa JV and was not an item required to be funded via a capital investment in the NoMa JV.

The Company evaluates the carrying value of its investment in NoMa JV for impairment periodically and records impairment charges when events or circumstances change indicating that a decline in the fair values below the carrying values has occurred and such decline is other-than-temporary. No such other-than-temporary impairment charges have been recognized as of March 31, 2012.

The summarized statements of operations of NoMa JV for the three months ended March 31, 2012 and 2011 is as follows:

	Three months ended March 31,	
	2012	2011
Revenue	\$—	\$—
Expenses	(41,242) —
Noncontrolling interest	4,124	—
Net loss attributable to investment	\$(37,118) \$—
Equity in loss of Multifamily Limited Liability Company	\$(12,373) \$—

5. MORTGAGE NOTES PAYABLE

On March 31, 2011, the Operating Partnership, through JV 2020 Lawrence, entered into an agreement for fixed rate construction-to-permanent financing totaling up to \$45,463,100, which will be collateralized by the related property and is insured by the U.S. Department of Housing and Urban Development ("HUD"). The construction loan will

convert to permanent financing at the completion of the development period and will continue for a term of 40 years from the date of conversion at a fixed interest rate of 5.00%. The proceeds of the financing will be used to develop a mid-rise multifamily apartment building in Denver, Colorado. JV 2020 Lawrence submitted the first construction loan draw to the lender at closing. As of March 31, 2012, the outstanding balance on the loan was approximately \$21,732,000.

The Company determines the fair value of the mortgage notes payable based on the discounted future cash flows at a discount rate that approximates the Company's current effective borrowing rate for comparable loans. For purposes of determining fair value the Company groups its debt by similar maturity date for purposes of obtaining comparable loan information in order to determine fair values. In addition, the Company also considers the loan-to-value percentage of individual loans to determine if

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further stratification of the loans is appropriate in the valuation model. If the loan-to-value percentage for any particular loan is in excess of the majority of the debt pool, debt in excess of 80% loan-to-value is considered similar to mezzanine debt and valued using a greater interest spread than the average debt pool. Based on this analysis, the Company has determined that the fair value of the mortgage notes payable approximates \$529,234,000 and \$528,295,000 at March 31, 2012 and December 31, 2011, respectively.

6. NOTE PAYABLE, AFFILIATE

The Company had a \$20,000,000 revolving credit facility commitment with an affiliate of the Company, which was amended on February 17, 2011. The credit facility is subject to a 60-day notice of termination provision by which the lender can affect a termination of the commitment.

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