

BERKSHIRE INCOME REALTY INC  
Form 4  
October 14, 2008

**FORM 4**

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

OMB APPROVAL

OMB Number: 3235-0287  
Expires: January 31, 2005  
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Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. See Instruction 1(b).

**STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES**

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person \*  
SHULER THOMAS R

2. Issuer Name and Ticker or Trading Symbol  
BERKSHIRE INCOME REALTY INC [BIR.PR.A]

5. Relationship of Reporting Person(s) to Issuer  
(Check all applicable)

(Last) (First) (Middle)

3. Date of Earliest Transaction (Month/Day/Year)  
10/08/2008

\_\_\_\_ Director \_\_\_\_\_ 10% Owner  
 Officer (give title below) \_\_\_\_\_ Other (specify below)  
Deemed Executive Officer

C/O BERKSHIRE INCOME REALTY, INC., ONE BEACON STREET, SUITE 1500

(Street)

4. If Amendment, Date Original Filed(Month/Day/Year)

6. Individual or Joint/Group Filing(Check Applicable Line)  
 Form filed by One Reporting Person  
\_\_\_\_ Form filed by More than One Reporting Person

BOSTON, MA 02108

(City) (State) (Zip)

**Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned**

| 1. Title of Security (Instr. 3)                   | 2. Transaction Date (Month/Day/Year) | 2A. Deemed Execution Date, if any (Month/Day/Year) | 3. Transaction Code (Instr. 8) | 4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5) | 5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4) | 6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4) | 7. Nature of Ownership (Instr. 4) |   |
|---|--------------------------------------|--|--------------------------------|---|---|--|-----------------------------------|---|
|   |                                      |  | Code                           | V   | Amount  | (D)  | Price                             |   |
| 9% Series A Cumulative Redeemable Preferred Stock | 10/08/2008                           |  | P                              |   | 37 <sup>(1)</sup>   | A  | \$ 19.5 4,997                     | D |
| 9% Series A Cumulative Redeemable Preferred Stock | 10/09/2008                           |  | P                              |   | 763 <sup>(2)</sup>  | A  | \$ 19.5 5,760                     | D |

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|   |            |   |                    |   |              |        |   |
|---|------------|---|--------------------|---|--------------|--------|---|
| 9% Series A<br>Cumulative<br>Redeemable<br>Preferred<br>Stock | 10/09/2008 | P | 800 <sup>(3)</sup> | A | \$ 19.5      | 6,560  | D |
| 9% Series A<br>Cumulative<br>Redeemable<br>Preferred<br>Stock | 10/10/2008 | P | 36 <sup>(4)</sup>  | A | \$<br>15.999 | 6,596  | D |
| 9% Series A<br>Cumulative<br>Redeemable<br>Preferred<br>Stock | 10/10/2008 | P | 164 <sup>(5)</sup> | A | \$ 16        | 6,760  | D |
| Class B<br>Common<br>Stock                                    |            |   |                    |   |              | 63,560 | D |

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

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SEC 1474  
(9-02)

**Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned**  
(e.g., puts, calls, warrants, options, convertible securities)

| 1. Title of<br>Derivative<br>Security<br>(Instr. 3) | 2. Conversion<br>or Exercise<br>Price of<br>Derivative<br>Security | 3. Transaction Date<br>(Month/Day/Year) | 3A. Deemed<br>Execution Date, if<br>any<br>(Month/Day/Year) | 4. Transaction<br>Code<br>(Instr. 8) | 5. Number<br>of<br>Derivative<br>Securities<br>Acquired<br>(A) or<br>Disposed<br>of (D)<br>(Instr. 3,<br>4, and 5) | 6. Date Exercisable and<br>Expiration Date<br>(Month/Day/Year) | 7. Title and<br>Amount of<br>Underlying<br>Securities<br>(Instr. 3 and 4) | 8. Price of<br>Derivative<br>Security<br>(Instr. 5) | 9. Nu<br>Deriv<br>Secur<br>Benef<br>Own<br>Follo<br>Repo<br>Trans<br>(Instr |
|---|--|---|---|--------------------------------------|--|--|---|---|---|
|   |  |   |   |                                      |  | Date<br>Exercisable  | Expiration<br>Date  | Title   | Amount<br>or<br>Number<br>of<br>Shares                                      |
|   |  |   |   |                                      |  | Code   | V   | (A)   | (D)   |

## Reporting Owners

Reporting Owner Name / Address

Relationships

Director    10% Owner    Officer    Other

SHULER THOMAS R  
C/O BERKSHIRE INCOME REALTY, INC.  
ONE BEACON STREET, SUITE 1500  
BOSTON, MA 02108

Deemed Executive Officer

## Signatures

/s/ Thomas  
Shuler

10/14/2008

\_\_Signature of  
Reporting Person

Date

## Explanation of Responses:

\* If the form is filed by more than one reporting person, *see* Instruction 4(b)(v).

\*\* Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

- (1) On October 8, 2008, Thomas Shuler purchased 37 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable Preferred Stock on the open market at a price of \$19.50 per share for a total purchase price of \$721.50.
- (2) On October 9, 2008, Thomas Shuler purchased 763 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable Preferred Stock on the open market at a price of \$19.50 per share for a total purchase price of \$14,878.50.
- (3) On October 9, 2008, Thomas Shuler purchased 800 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable Preferred Stock on the open market at a price of \$19.50 per share for a total purchase price of \$15,600.
- (4) On October 10, 2008, Thomas Shuler purchased 36 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable Preferred Stock on the open market at a price of \$15.999 per share for a total purchase price of \$575.96.
- (5) On October 10, 2008, Thomas Shuler purchased 164 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable Preferred Stock on the open market at a price of \$16.00 per share for a total purchase price of \$2,624.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.

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