

BERKSHIRE INCOME REALTY INC  
Form 10-Q  
November 12, 2010

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 September 30, 2010

or

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

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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  (Do not check if a smaller reporting company)

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 November 11, 2010.

## BERKSHIRE INCOME REALTY, INC.

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Part I FINANCIAL INFORMATION  
Item 1. CONSOLIDATED FINANCIAL STATEMENTS

BERKSHIRE INCOME REALTY, INC.  
CONSOLIDATED BALANCE SHEETS  
(unaudited)

	September 30, 2010	December 31, 2009
<b>ASSETS</b>		
Multifamily apartment communities, net of accumulated depreciation of \$192,317,345 and \$168,718,977, respectively	\$424,693,288	\$441,983,721
Cash and cash equivalents	13,768,360	17,956,617
Cash restricted for tenant security deposits	1,598,546	1,875,771
Cash restricted other	-	12,621,014
Replacement reserve escrow	4,185,195	3,938,646
Prepaid expenses and other assets	9,513,223	10,092,883
Investment in Multifamily Venture Limited Partnership	7,781,540	11,201,249
Acquired in place leases and tenant relationships, net of accumulated amortization of \$1,212,749 and \$1,108,269 respectively	57,330	161,810
Deferred expenses, net of accumulated amortization of \$2,129,822 and \$1,880,816, respectively	3,621,064	3,413,587
<b>Total assets</b>	<b>\$465,218,546</b>	<b>\$503,245,298</b>
<b>LIABILITIES AND DEFICIT</b>		
<b>Liabilities:</b>		
Mortgage notes payable	\$477,278,812	\$474,830,728
Note payable, affiliate	-	15,720,000
Due to affiliates, net	2,230,681	2,149,628
Dividend and distributions payable	837,607	837,607
Accrued expenses and other liabilities	11,656,935	11,086,062
Tenant security deposits	1,840,324	1,838,501
<b>Total liabilities</b>	<b>493,844,359</b>	<b>506,462,526</b>
Commitments and contingencies (Note 9)	-	-
<b>Deficit:</b>		
Noncontrolling interest in properties	(143,637 )	416,382
Noncontrolling interest in Operating Partnership (Note 10)	(58,506,183 )	(34,251,501 )
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 September 30, 2010 and December 31, 2009, respectively	70,210,830	70,210,830
Class A common stock, \$.01 par value, 5,000,000 shares authorized, 0 shares issued and outstanding at September 30, 2010 and December 31, 2009, respectively	-	-
Class B common stock, \$.01 par value, 5,000,000 shares authorized, 1,406,196 issued and outstanding at September 30, 2010 and December 31, 2009,	14,062	14,062

respectively

Excess stock, \$.01 par value, 15,000,000 shares authorized, 0 shares issued and outstanding at September 30, 2010 and December 31, 2009, respectively	-	-
Accumulated deficit	(40,200,885 )	(39,607,001 )
Total deficit	(28,625,813 )	(3,217,228 )
Total liabilities and deficit	\$465,218,546	\$503,245,298

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

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

	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Revenue:				
Rental	\$18,877,415	\$18,978,189	\$56,243,615	\$55,152,551
Interest	2,785	10,347	10,665	92,019
Utility reimbursement	463,689	430,504	1,312,265	1,215,602
Other	1,091,937	1,028,281	3,083,232	2,658,964
Total revenue	20,435,826	20,447,321	60,649,777	59,119,136
Expenses:				
Operating	4,670,181	4,941,356	14,410,249	14,944,595
Maintenance	1,410,435	1,358,994	4,079,628	3,643,027
Real estate taxes	2,149,371	2,133,677	6,438,603	6,651,627
General and administrative	1,025,223	990,714	3,171,056	4,576,468
Management fees	2,187,094	1,194,141	4,708,212	3,557,237
Depreciation	7,554,925	8,081,318	23,598,368	24,083,677
Interest, inclusive of amortization of deferred financing fees	6,825,935	6,732,894	20,622,465	19,684,864
Amortization of acquired in-place leases and tenant relationships	28,218	113,416	104,480	757,732
Total expenses	25,851,382	25,546,510	77,133,061	77,899,227
Loss before equity in loss of Multifamily Venture Limited Partnership and Mezzanine Loan Limited Liability Company and loss from discontinued operations	(5,415,556 )	(5,099,189 )	(16,483,284 )	(18,780,091 )
Equity in loss of Multifamily Venture Limited Partnership	(731,653 )	(1,046,676 )	(3,419,709 )	(3,257,561 )
Equity in loss of Mezzanine Loan Limited Liability Company	-	-	-	(947,293 )
Loss from continuing operations	(6,147,209 )	(6,145,865 )	(19,902,993 )	(22,984,945 )
Discontinued operations:				
Income (loss) from discontinued operations	-	2,097	-	(160,454 )
Net income (loss) from discontinued operations	-	2,097	-	(160,454 )
Net loss	(6,147,209 )	(6,143,768 )	(19,902,993 )	(23,145,399 )
Net (income) loss attributable to noncontrolling interest in properties	(18,305 )	26,899	80,006	273,465
Net loss attributable to noncontrolling interest in Operating Partnership (Note 10)	7,653,308	7,605,835	24,254,682	27,230,771
Net income attributable to Parent Company	1,487,794	1,488,966	4,431,695	4,358,837
Preferred dividend	(1,675,187 )	(1,675,197 )	(5,025,579 )	(5,025,589 )

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Net loss available to common shareholders	\$ (187,393 )	\$ (186,231 )	\$ (593,884 )	\$ (666,752 )
Net loss from continuing operations attributable to Parent Company per common share, basic and diluted	\$ (0.13 )	\$ (0.13 )	\$ (0.42 )	\$ (0.36 )
Net income (loss) from discontinued operations attributable to Parent Company per common share, basic and diluted	\$ 0.00	\$ 0.00	\$ 0.00	\$ (0.11 )
Net loss available to common shareholders per common share, basic and diluted	\$ (0.13 )	\$ (0.13 )	\$ (0.42 )	\$ (0.47 )
Weighted average number of common shares outstanding, basic and diluted	1,406,196	1,406,196	1,406,196	1,406,196
Dividend declared per common share	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

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

BERKSHIRE INCOME REALTY, INC.  
CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY (DEFICIT)  
FOR THE NINE MONTHS ENDED SEPTEMBER 30, 2010 AND 2009  
(unaudited)

Parent Company Shareholders

	Series A Preferred Stock		Class B Common Stock		Accumulated Deficit	Noncontrolling Interests – Operating Partnership		Total Equity
	Shares	Amount	Shares	Amount		–Properties	Partnership	
Balance at January 1, 2009	2,978,110	\$70,210,830	1,406,196	\$14,062	\$(38,768,323)	\$293,650	\$-	\$31,750,219
Net income (loss)	-	-	-	-	4,358,837	(273,465 )	(27,230,771)	(23,145,399)
Contributions	-	-	-	-	-	1,404,801	-	1,404,801
Distributions	-	-	-	-	-	(717,694 )	-	(717,694 )
Distributions to preferred shareholders	-	-	-	-	(5,025,589 )	-	-	(5,025,589 )
Balance at September 30, 2009	2,978,110	\$70,210,830	1,406,196	\$14,062	\$(39,435,075)	\$707,292	\$(27,230,771)	\$4,266,338

Parent Company Shareholders

	Series A Preferred Stock		Class B Common Stock		Accumulated Deficit	Noncontrolling Interests – Operating Partnership		Total Deficit
	Shares	Amount	Shares	Amount		–Properties	Partnership	
Balance at January 1, 2010	2,978,110	\$70,210,830	1,406,196	\$14,062	\$(39,607,001)	\$416,382	\$(34,251,501)	\$(3,217,228 )
Net income (loss)	-	-	-	-	4,431,695	(80,006 )	(24,254,682)	(19,902,993)
Distributions	-	-	-	-	-	(480,013)	-	(480,013 )
	-	-	-	-	(5,025,579 )	-	-	(5,025,579 )

Distributions  
to preferred  
shareholders

Balance at  
September

30, 2010	2,978,110	\$70,210,830	1,406,196	\$14,062	\$(40,200,885)	\$(143,637)	\$(58,506,183)	\$(28,625,813)
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The accompanying notes are an integral part of these financial statements.

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

	For the nine months ended September 30,	
	2010	2009
<b>Cash flows from operating activities:</b>		
Net loss	\$ (19,902,993)	\$ (23,145,399)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Amortization of deferred financing costs	439,035	529,964
Amortization of acquired in-place leases and tenant relationships	104,480	757,732
Amortization of fair value discount on mortgage debt	369,178	-
Depreciation	23,598,368	24,083,677
Equity in loss of Multifamily Venture Limited Partnership	3,419,709	3,257,561
Equity in loss of Mezzanine Loan Limited Liability Company	-	947,293
Gain on real estate assets related to involuntary conversion	-	(90,585 )
Increase (decrease) in cash attributable to changes in assets and liabilities:		
Tenant security deposits, net	279,048	(86,720 )
Prepaid expenses and other assets	579,660	(733,252 )
Due to/from affiliates	81,053	(173,797 )
Accrued expenses and other liabilities	633,765	(827,934 )
Net cash provided by operating activities	9,601,303	4,518,540
<b>Cash flows from investing activities:</b>		
Capital improvements	(6,370,827 )	(11,275,233 )
Acquisition of multifamily apartment communities	-	(849,719 )
Restricted cash	12,621,014	(12,621,014 )
Interest earned on replacement reserve deposits	(2,532 )	(22,498 )
Deposits to replacement reserve escrow	(513,176 )	(343,164 )
Withdrawals from replacement reserve escrow	269,159	3,463,158
Net cash provided by (used in) investing activities	6,003,638	(21,648,470)
<b>Cash flows from financing activities:</b>		
Borrowings from mortgage notes payable	17,013,537	10,501,605
Principal payments on mortgage notes payable	(14,934,631)	(2,348,914 )
Principal payments on note payable, affiliate	(15,720,000)	-
Deferred financing costs	(646,512 )	(251,005 )
Contribution from noncontrolling interest holders in properties	-	1,404,801
Distributions to noncontrolling interest holders in properties	(480,013 )	(717,694 )
Distributions to preferred shareholders	(5,025,579 )	(5,025,589 )
Net cash (used in) provided by financing activities	(19,793,198)	3,563,204
Net decrease in cash and cash equivalents	(4,188,257 )	(13,566,726)
Cash and cash equivalents at beginning of period	17,956,617	24,227,615

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Cash and cash equivalents at end of period	\$ 13,768,360	\$ 10,660,889
Supplemental disclosure:		
Cash paid for interest, net of amount capitalized	\$ 19,816,418	\$ 19,359,311

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

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

For the nine months ended  
September 30,  
2010                      2009

Supplemental disclosure (continued):		
Supplemental disclosure of non-cash investing and financing activities:		
Capital improvements included in accrued expenses and other liabilities	\$ 46,877	\$ 41,775
Dividends declared and payable to preferred shareholders	837,607	837,607
Capitalization of interest	-	152,188
Write-off of real estate assets – storm damage	-	278,988
Insurance proceeds receivable – storm damage	-	808,814
Acquisition of multifamily apartment communities:		
Assets purchased:		
Multifamily apartment communities	\$ -	\$ (41,602,373)
Acquired in-place leases	-	(607,893 )
Prepaid expenses and other assets	-	(1,083,422 )
Liabilities assumed:		
Accrued expenses	-	80,760
Tenant security deposit liability	-	159,936
Mortgage assumed	-	42,203,273
Net cash used for acquisition of multifamily apartment communities	\$ -	\$ (849,719 )

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

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 and rehabilitating multifamily apartment communities. As of September 30, 2010, the Company owned, or had an interest in, 26 multifamily apartment communities consisting of a total 6,781 apartment units.

Discussion of acquisitions for the nine months ended September 30, 2010

The Company did not acquire any properties during the nine-month period ended September 30, 2010.

Discussion of dispositions for the nine months ended September 30, 2010

The Company did not dispose of any properties during the nine-month period ended September 30, 2010.

Recent Accounting Pronouncements

Effective January 1, 2010, the Company adopted Accounting Standard Codification (“ASC”) 810-10 (“ASC 810-10”) and Amendments to ASC 810-10 which requires management to reassess their variable interest entities. The Company’s adoption of this guidance did not have any impact on its financial position and results of operations.

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, 2009.

Consolidated statements of Comprehensive Income (Loss)

For the nine months ended September 30, 2010 and 2009, comprehensive loss equaled net 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:

	September 30, 2010	December 31, 2009
Land	\$ 67,711,675	\$ 67,711,675
Buildings, improvement and personal property	549,298,958	542,991,023
Multifamily apartment communities	617,010,633	610,702,698
Accumulated depreciation	(192,317,345)	(168,718,977)
Multifamily apartment communities, net	\$ 424,693,288	\$ 441,983,721

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 and concluded that there are no impairment adjustments at September 30, 2010 or 2009.

## Discontinued Operations

The operating results of discontinued operations relate to adjustments for properties sold prior to January 1, 2009 for the three and nine months ended September 30, 2010 and 2009 are presented in the following table.

	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Revenue:				
Rental	\$ -	\$ -	\$ -	\$ 469
Other	-	10,412	-	10,412
Total revenue	-	10,412	-	10,881
Expenses:				
Operating	-	8,222	-	59,673
Maintenance	-	93	-	42,207
General and administrative	-	-	-	69,451
Management fees	-	-	-	4
Total expenses	-	8,315	-	171,335

Income (loss) from discontinued operations	\$ -	\$ 2,097	\$ -	\$ (160,454)
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### 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 totals \$23,400,000. BVF’s investment strategy is 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 the Financial Accounting Standards Board (“FASB”) 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 holders of the equity investment at risk lacking 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 variable interest entity, 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.

In relation to its investment in BVF, the Company has elected to adopt a three-month lag period in which it recognizes its share of the equity earnings of BVF in arrears. The lag period is allowed under the provisions of ASC 325-20, and is necessary in order for the Company to consistently meet its regulatory filing deadlines. As of September 30, 2010 and December 31, 2009, the Company has accounted for its share of the equity in BVF operating activity through June 30, 2010 and September 30, 2009, respectively.

As of September 30, 2010, the Company had invested 100% of its total committed capital amount of \$23,400,000 in BVF for an ownership interest of approximately 7%.

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

	June 30, 2010 (unaudited)	September 30, 2009 (unaudited)
<b>ASSETS</b>		
Multifamily apartment communities, net	\$ 1,077,347,089	\$ 1,160,175,575
Cash and cash equivalents	27,064,730	20,578,331
Other assets	23,551,406	27,894,742
Total assets	\$ 1,127,963,225	\$ 1,208,648,648
<b>LIABILITIES AND PARTNERS' CAPITAL</b>		
Mortgage notes payable	\$ 954,228,329	\$ 972,346,565
Revolving credit facility	38,400,000	38,400,000
Other liabilities	23,305,146	20,214,964
Noncontrolling interest	9,510,044	26,319,634
Partners' capital	102,519,706	151,367,485
Total liabilities and partners' capital	\$ 1,127,963,225	\$ 1,208,648,648
Company's share of partners' capital	\$ 7,177,145	\$ 10,596,854
Basis differential (1)	604,395	604,395
Carrying value of the Company's investment in Multifamily Venture Limited Partnership (2)	\$ 7,781,540	\$ 11,201,249

- (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) including the timing of the lag period, as described above. At September 30, 2010 and December 31, 2009, the differential related mainly to the \$583,240 which represents the Company's share of syndication costs incurred by BVF that the Company was not required to fund via a separate capital call.
- (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 and as of September 30, 2010, 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 September 30, 2010 and 2009, respectively.



The summarized statements of operations of BVF for the three and nine months ended June 30, 2010 and 2009 is as follows:

	Three months ended June 30,		Nine months ended June 30,	
	2010	2009	2010	2009
Revenue	\$36,938,658	\$36,644,790	\$110,218,963	\$108,662,185
Expenses (1)	(53,570,303)	(54,387,044)	(179,689,887)	(164,160,737)
Gain/(Loss) on property sales	3,475,272	-	3,475,272	-
Noncontrolling interest	2,705,291	2,791,336	17,147,871	8,966,934
Net loss attributable to investment	\$(10,451,082)	\$(14,950,918)	\$(48,847,781 )	\$(46,531,618 )
Equity in loss of Multifamily Venture Limited Partnership (1)	\$(731,653 )	\$(1,046,676 )	\$(3,419,709 )	\$(3,257,561 )

- (1) BVF recorded an impairment charge on their real estate in accordance with ASC 360-10 in the amount of \$16,813,090, which is included in Expenses on the summarized statement of operations of BVF. The Company's share was approximately \$590,000 and is reflected in the equity loss recognized for the nine months ended September 30, 2010.

#### 4. INVESTMENT IN MEZZANINE LOAN LIMITED LIABILITY COMPANY

On June 19, 2008, the Company through a wholly owned subsidiary BIR Blackrock, L.L.C., entered into a subscription agreement to invest in the Leggat McCall Hingham Mezzanine Loan LLC, a Massachusetts limited liability company (the "Mezzanine Loan LLC"). Under the terms of the agreement, the Company agreed to invest up to \$1,425,000, or approximately 41%, of the total capital of the investment in order to subscribe for 14.25 units of the Mezzanine Loan LLC. The Company had funded \$855,000, or 60%, of its commitment as of December 30, 2009.

The Company evaluated its investment in the Mezzanine Loan LLC and concluded that the investment, although subject to the requirements of ASC 810-10, did not require the Company to consolidate the activity of the Mezzanine Loan LLC as the Company had determined that it was not the primary beneficiary of the venture as defined in ASC 810-10. The Company accounted for its investment in the Mezzanine Loan LLC under the equity method of accounting in accordance with the provisions of ASC 325-20.

During the year ended December 31, 2009, the developer of the property securing the Mezzanine Loan LLC's investment suffered financial problems related to other projects it was working on. As a result of these issues, the managing member of the Mezzanine Loan LLC (the "Managing Member") negotiated with another developer to take over the project. The Managing Member also attempted to extend the maturity date of the underlying first mortgage on the real estate in conjunction with the hiring of the new developer. Neither of the strategies of the Managing Member were successful and as a result the lender required the replacement of the Managing Member. Due to the ongoing uncertainty of the investment and changes in the structure of the investment resulting from the actions of the

lender, the Company decided to distribute its interest in the investment to the common interest holder of the Operating Partnership.

During the nine months ended September 30, 2009 and prior to the Company deciding to distribute its interest in the investment to the common interest holder of the Operating Partnership, the Company recognized income related to its investment in the Mezzanine Loan LLC. The income represents interest accrued on the Company's investment and totaled \$127,899. The income increased the Company's carrying value of the investment prior to the write-down. Additionally, the Company recognized impairment charges which represented the other-than-temporary decline in the fair value below the carrying value of the Company's investment in the Mezzanine Loan LLC. In accordance with ASC 325-20, a loss in value of an investment under the equity method of accounting, which is other than a temporary decline, must be recognized. Unlike ASC 360-10, potential impairments under ASC 325-20 result from fair values derived based on discounted cash flows and other valuation techniques which are more sensitive to current market conditions. As a result, the Company recognized non-cash impairment charges of \$1,075,192 on its investment in the Mezzanine Loan LLC during the nine months ended September 30, 2009.

On December 30, 2009, as part of a special distribution to the common stockholders, the Company distributed its interest in the Mezzanine Loan LLC. The interests were valued at \$1,000 at the time of distribution. The carrying value of the investment prior to distribution was \$0.

## 5. MORTGAGE NOTES PAYABLE

On January 25, 2008, the Company, through its wholly owned subsidiary BIR Arboretum Development L.L.C., executed a fixed rate first mortgage note for \$13,650,000, which is collateralized by the related property. The proceeds of the loan were used to build a multifamily apartment community on a parcel of land adjacent to the Arboretum Place Apartments, a multifamily apartment community also owned by the Company. The interest rate on the note is fixed at 6.20% and has a term of seven years, including a two year construction period and five years of permanent financing. The loan was granted with equity requirements that provide for the Company to make an equity investment of \$5,458,671, inclusive of land equity of \$2,150,000, in the project. On April 23, 2010, the Company completed the conversion of the loan from the construction phase to the permanent phase which required the Company to return \$162,027 due to loan-to-value limitations. The final amount of the loan was \$12,950,000. As of September 30, 2010, the Company received proceeds pursuant to the loan of \$13,112,027, of which \$585,437 was received during the nine months ended September 30, 2010.

On February 24, 2009, the Company, through its joint venture, BIR Holland JV LLC, in connection with the acquisition of Glo Apartments, assumed a mortgage note payable with outstanding balances of \$47,500,000, which is collateralized by the related property. The note has a variable interest rate. As of September 30, 2010, the weighted-average variable interest rate is 1.56%. In accordance with ASC 805-10, the Company recorded this mortgage at fair value, which was determined by calculating the present value of the future payments at current interest rates. The fair market value at the acquisition date for the debt assumed on Glo Apartments was \$42,203,273. The mortgage note originally required two principal reductions during 2009 and 2010 in the amount of \$9,500,000 and \$2,710,000, respectively. On July 27, 2009, Fannie Mae granted a six-month extension for the amount originally due in 2009 of \$9,500,000 to March 15, 2010. On March 15, 2010, the supplemental mortgages outstanding and secured by the Glo Apartments in the amount of \$12,210,000 matured. As a requirement of the financing, the amounts maturing on March 15, 2010 were backed by irrevocable letters of credit which were used to retire the matured debt. Additionally, as a requirement of the bank that issued the irrevocable letters of credit, the Company was required to segregate cash in an amount sufficient to back the letters of credit. On March 15, 2010, the segregated cash was used to settle the letters of credit. Because the assumed mortgage was originally recorded at fair value, the Company is required to amortize the difference between the fair value and the face value of the mortgage over the life of the mortgage. During the nine months ended September 30, 2010, the Company recorded \$369,178 of amortization, resulting in an increase in the recorded mortgage balance and a charge to interest expense.

On May 20, 2010, the Company closed on \$16,428,100 of financing for the Citrus Park property insured by the U.S. Department of Housing and Urban Development ("HUD"). The all-in coupon rate is 5% and the term is 35 years. Proceeds from the closing were primarily used to repay the revolving credit facility balance of \$15,720,000 and accrued interest to an affiliate of the Company and applicable closing costs.

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 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 \$518,880,000 and \$477,547,000 at September 30, 2010 and December 31, 2009, respectively.

## 6. NOTE PAYABLE, AFFILIATE

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

During the nine months ended September 30, 2010 and 2009, the Company did not borrow any amounts under the revolving credit facility and repaid advances of \$15,720,000 and \$0, respectively, during the same periods. There was \$0 and \$15,720,000 outstanding as of September 30, 2010 and December 31, 2009, respectively, under the facility. The Company incurred interest and fees of \$321,212 and \$0 related to the facility during the nine months ended September 30, 2010 and 2009, respectively.

## 7. EQUITY / DEFICIT

On March 25, 2003, the Board of Directors (“Board”) declared a dividend at an annual rate of 9%, on the stated liquidation preference of \$25 per share of the outstanding Preferred Shares which is payable quarterly in arrears, on February 15, May 15, August 15, and November 15 of each year to shareholders of record in the amount of \$0.5625 per share per quarter. For the nine months ended September 30, 2010 and 2009, the Company’s aggregate dividends on the Preferred Shares totaled \$5,025,579 and \$5,025,589, respectively, of which \$837,607 was payable and included on the balance sheet in Dividends and Distributions Payable as of September 30, 2010 and December 31, 2009.

During the nine months ended September 30, 2010 and 2009, the Board did not authorize the general partner of the Operating Partnership to distribute any quarterly distributions to common general and common limited partners or a common dividend on the Company’s Class B Common Stock.

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

## 8. EARNINGS PER SHARE

Net income (loss) per common share, basic and diluted, is computed as net income (loss) available to common shareholders divided by the weighted average number of common shares outstanding during the applicable period, basic and diluted.

The reconciliation of the basic and diluted earnings per common share for the three and nine months ended September 30, 2010 and 2009 follows:

	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Net loss from continuing operations	\$(6,147,209)	\$(6,145,865)	\$(19,902,993)	\$(22,984,945)
Add: Net loss attributable to noncontrolling interest in properties	-	26,899	80,006	273,465
Net loss attributable to noncontrolling interest in Operating Partnership	7,653,308	7,605,835	24,254,682	27,230,771
Less: Preferred dividends	(1,675,187)	(1,675,197)	(5,025,579)	(5,025,589)
Net income attributable to noncontrolling interest in properties	(18,305)	-	-	-
Loss from continuing operations	\$(187,393)	\$(188,328)	\$(593,884)	\$(506,298)
Net income (loss) from discontinued operations	\$-	\$2,097	\$-	\$(160,454)
Net loss available to common shareholders	\$(187,393)	\$(186,231)	\$(593,884)	\$(666,752)
Net loss from continuing operations attributable to Parent Company per common share, basic and diluted	\$(0.13)	\$(0.13)	\$(0.42)	\$(0.36)
Net income (loss) from discontinued operations attributable to Parent Company per common share, basic and diluted	\$0.00	\$0.00	\$0.00	\$(0.11)
	\$(0.13)	\$(0.13)	\$(0.42)	\$(0.47)

Net loss available to common shareholders per  
common share, basic and diluted

Weighted average number of common shares outstanding, basic and diluted	1,406,196	1,406,196	1,406,196	1,406,196
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For the nine months ended September, 2010 and 2009, the Company did not have any common stock equivalents;  
therefore basic and dilutive earnings per share were the same.

## 9. COMMITMENTS AND CONTINGENCIES

The Company is party to certain legal actions arising in the ordinary course of its business, such as those relating to tenant issues. All such proceedings taken together are not expected to have a material adverse effect on the Company. 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.

The Company entered into two irrevocable letters of credit arrangements with a bank in relation to the JV BIR/Holland transaction. The irrevocable letters of credit were a requirement of the lender, who issued the debt secured by the property substantially owned by JV BIR/Holland, in order for the new ownership structure contemplated by the transaction to move forward. The irrevocable letters of credit were in place as a guarantee for two separate principal reduction payments of \$9,500,000 originally due in 2009 and \$2,710,000 due in 2010. On July 27, 2009, Fannie Mae granted a six-month extension for the amounts due in 2009 of \$9,500,000 to March 15, 2010. On March 15, 2010, the supplemental mortgages outstanding and secured by the Glo Apartments in the amount of \$12,210,000 matured. As a requirement of the financing, the amounts maturing on March 15, 2010 were backed by irrevocable letters of credit which were used to retire the matured debt. Additionally, as a requirement of the bank that issued the irrevocable letters of credit, the Company was required to segregate cash in an amount sufficient to back the letters of credit. On March 15, 2010, the segregated cash was used to settle the letters of credit.

On November 12, 2009, the Audit Committee of the Company (which committee is comprised of the three directors who are independent under applicable rules and regulations of the SEC and the American Stock Exchange) and the Board approved an amendment to the Advisory Services Agreement (the "Amendment") with Berkshire Advisor, an affiliate of the Company. The amendment includes a variable incentive fee component to the existing asset management fees paid to the Advisor (the "Incentive Advisory Fee"), which is based on the increase in value of the Company over a base value established as of December 31, 2009 ("Base Value"). The Amendment is effective as of January 1, 2010 and requires the Company to accrue Incentive Advisory Fees payable to the Advisor up to 12% of the increase in value of the Company above the established Base Value. Refer to Related Party Transactions on page 15 for further discussion.

## 10. NONCONTROLLING INTEREST IN OPERATING PARTNERSHIP

The following table sets forth the calculation of noncontrolling common interest in the Operating Partnership for the three and nine months ended September, 2010 and 2009:

	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Net loss	\$ (6,147,209)	\$ (6,143,768)	\$ (19,902,993)	\$ (23,145,399)
Adjust: Noncontrolling common interest in properties	(18,305 )	26,899	80,006	273,465
Loss before noncontrolling interest in Operating Partnership (1)	(6,165,514)	(6,116,869)	(19,822,987)	(22,871,934)
Preferred dividend	(1,675,187)	(1,675,197)	(5,025,579 )	(5,025,589 )
Loss available to common equity	(7,840,701)	(7,792,066)	(24,848,566)	(27,897,523)
	97.61 %	97.61 %	97.61 %	97.61 %

Common Operating Partnership units of noncontrolling interest Noncontrolling common interest in Operating Partnership	\$ (7,653,308)	\$ (7,605,835)	\$ (24,254,682)	\$ (27,230,771)
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The following table sets forth summaries of the items affecting the noncontrolling common interest in the Operating Partnership:

	For the nine months ended September 30,	
	2010	2009
Balance at beginning of period (1)	\$ (34,251,501)	\$ -
Noncontrolling common interest in Operating Partnership	(24,254,682)	(27,230,771)
Balance at end of period	\$ (58,506,183)	\$ (27,230,771)

(1) Prior to adoption of ASC 810-10 by the Company on January 1, 2009, noncontrolling common interest in the Operating Partnership was carried at zero on the balance sheet due to the noncontrolling interest having no obligation to fund losses/deficits.

As of September 30, 2010 and December 31, 2009, the noncontrolling interest in the Operating Partnership consisted of 5,242,223 Operating Partnership units held by parties other than the Company.

## 11. RELATED PARTY TRANSACTIONS

Amounts accrued or paid to the Company's affiliates are as follows:

	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Property management fees	\$ 760,198	\$ 756,668	\$ 2,282,230	\$ 2,263,611
Expense reimbursements	52,500	50,226	157,500	150,678
Salary reimbursements	2,199,672	2,234,748	7,048,671	6,846,839
Asset management fees	412,315	412,315	1,236,944	1,236,943
Incentive advisory fee	988,245	-	1,113,904	-
Acquisition fees	-	-	-	427,500
Construction management fees	117,170	142,660	162,423	346,690
Development fees	-	43,500	-	202,500
Interest on revolving credit facility	-	-	321,212	-
<b>Total</b>	<b>\$ 4,530,100</b>	<b>\$ 3,640,117</b>	<b>\$ 12,322,884</b>	<b>\$ 11,474,761</b>

Amounts due to affiliates of \$2,230,681 and \$2,149,628 are included in "Due to affiliates, net" at September 30, 2010 and December 31, 2009, respectively, represent intercompany development fees, expense reimbursements, incentive advisory fees, asset management fees and shared services.

Expense reimbursements due to affiliates of \$6,723,034 and \$5,540,487 are included in "Due to affiliates, net" at September 30, 2010 and December 31, 2009, respectively, in the accompanying Consolidated Balance Sheets.

Expense reimbursements due from affiliates of \$4,492,353 and \$3,390,859 are included in "Due to affiliates, net" at September 30, 2010 and December 31, 2009, respectively, in the accompanying Consolidated Balance Sheets.

The Company pays property management fees to an affiliate, Berkshire Advisor, for property management services. The fees are payable at a rate of 4% of gross income.

The Company pays asset management fees to an affiliate, Berkshire Advisor, for asset management services. These fees are payable quarterly, in arrears, and may be paid only after all distributions currently payable on the Company's Preferred Shares have been paid. Effective April 4, 2003, under the advisory services agreement, the Company will pay Berkshire Advisor a fixed annual asset management fee equal to 0.40%, up to a maximum of \$1,600,000 in any calendar year, as per an amendment to the management agreement, of the purchase price of real estate properties owned by the Company, as adjusted from time to time to reflect the then current fair market value of the properties. The purchase price is defined as the capitalized basis of an asset under GAAP, including renovation or new construction costs, or other items paid or received that would be considered an adjustment to basis. Annual asset management fees earned by the affiliate in excess of the \$1,600,000 maximum payable by the Company represent fees incurred and paid by the noncontrolling partners in the properties. In addition to the fixed fee, effective January 1,

2010, the Company may also pay Berkshire Property Advisor an Incentive Advisory Fee based on increases in value of the Company, as explained below, that would not be subject to the \$1,600,000 maximum. The Company also reimburses affiliates for certain expenses incurred in connection with the operation of the properties, including administrative expenses and salary reimbursements.

On November 12, 2009, the Audit Committee of the Company (which committee is comprised of the three directors who are independent under applicable rules and regulations of the SEC and the American Stock Exchange) and the Board approved The Amendment to the Advisory Services Agreement with Berkshire Advisor, an affiliate of the Company. The Amendment includes an Incentive Advisory Fee component to the existing asset management fees paid to the Advisor, which is based on the increase in value of the Company over the Base Value established as of December 31, 2009. The Amendment is effective as of January 1, 2010 and requires the Company to accrue Incentive Advisory Fees payable to the Advisor up to 12% of the increase in value of the Company above the established Base Value. The Incentive Advisory Fee is variable and generally to the extent the value of the Company decreases, the accrued Incentive Advisory Fee would be reduced accordingly. Like the Asset Management Fee, the Incentive Advisory Fee requires that all distributions currently payable on the Series A 9% Cumulative Redeemable Preferred Stock be paid prior to the payment of any Incentive Advisory Fee due.

As of September 30, 2010, the liability pursuant to the Amendment was \$1,113,904 and is included in Due to affiliates, net on the consolidated balance sheets. The Company incurred \$988,245 and \$1,113,904 of Incentive Advisory Fees in the three and nine month periods ended September 30, 2010, respectively. Any future liability will be based upon any increase in value of the Company over the Base Value. Payments from the plan will approximate the amounts the Advisor pay to its employee. Additional limits have been placed on the total amount of payments that can be made by the Company in any given year, with interest accruing at the rate of 7% on any payments due but not yet paid. The Company has not made any Incentive Advisory Fee payments as of September 30, 2010.

The Company pays acquisition fees to an affiliate, Berkshire Advisor, for acquisition services. These fees are payable upon the closing of an acquisition of real property. The fee is equal to 1% of the purchase price of any new property acquired directly or indirectly by the Company. The purchase price is defined as the capitalized basis of an asset under GAAP, including renovations or new construction costs, or other items paid or received that would be considered an adjustment to basis. The purchase price does not include acquisition fees and capital costs of a recurring nature. During the nine months ended September 30, 2009, the Company paid a fee on the acquisition of the Glo Apartments in the amount of \$427,500. Pursuant to the Company's adoption of ASC 805-10 as of January 1, 2009, the acquisition fee was charged to operating expenses for the nine months ended September 30, 2009. The Company did not make any acquisitions in the nine-month period ended September 30, 2010.

The Company pays a construction management fee to an affiliate, Berkshire Advisor, for services related to the management and oversight of renovation and rehabilitation projects at its properties. The Company paid or accrued \$162,423 and \$346,690 in construction management fees for the nine months ended September 30, 2010 and 2009, respectively. The fees are capitalized as part of the project cost in the year they are incurred.

The Company pays development fees to an affiliate, Berkshire Residential Development, for property development services. As of December 31, 2009, the Company has completed the development of the Arboretum Land development project and has incurred fees totaling \$902,500 for the project, of which \$202,500 were incurred during the nine months ended September 30, 2009. The fees were based on the project's development/construction costs. As of September 30, 2010 and December 31, 2009, \$0 and \$202,500, respectively remained payable related to the project.

During the nine months ended September 30, 2010 and 2009, the Company did not incur any borrowings under the revolving credit facility and repaid \$15,720,000 and \$0, respectively, during the same periods. There was \$0 and \$15,720,000 outstanding as of September 30, 2010 and December 31, 2009, respectively, under the facility. The Company incurred interest and fees of \$321,212 and \$0 related to the facility during the nine months ended September 30, 2010 and 2009, respectively.

Related party arrangements are approved by the independent directors of the Company and are evidenced by a written agreement between the Company and the affiliated entity providing the services.

## 12. LEGAL PROCEEDINGS

The Company and our properties are not subject to any material pending legal proceedings and we are not aware of any such proceedings contemplated by governmental authorities.



Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS OF BERKSHIRE INCOME REALTY, INC

You should read the following discussion in conjunction with the consolidated financial statements of Berkshire Income Realty, Inc (the "Company") and their related notes and other financial information included in this report. For further information please refer to the Company's consolidated financial statements and footnotes thereto included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2009.

Forward Looking Statements

Certain statements contained in this report, including information with respect to our future business plans, constitute "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). For this purpose, any statements contained herein that are not statements of historical fact may be deemed to be forward-looking statements, subject to a number of risks and uncertainties that could cause actual results to differ significantly from those described in this report. These forward-looking statements include statements regarding, among other things, our business strategy and operations, future expansion plans, future prospects, financial position, anticipated revenues or losses and projected costs, and objectives of management. Without limiting the foregoing, the words "may," "will," "should," "could," "expect," "plans," "anticipates," "believes," "estimates," "predicts," "potential" or "continue" or the negative of such terms and comparable terminology are intended to identify forward-looking statements. There are a number of important factors that could cause our results to differ materially from those indicated by such forward-looking statements. These factors include, but are not limited to, changes in economic conditions generally and the real estate and bond markets specifically, legislative/regulatory changes (including changes to laws governing the taxation of real estate investment trusts ("REITs")), possible sales of assets, the acquisition restrictions placed on the Company by an affiliated entity Berkshire Multifamily Value Fund II, LP, ("BVF II" or "Fund II"), availability of capital, interest rates and interest rate spreads, changes in GAAP and policies and guidelines applicable to REITs, those factors set forth in Part I, Item 1A "Risk Factors" of the Company's Annual Report on Form 10-K for the year ended December 31, 2009, as filed with the Securities and Exchange Commission (the "SEC") and other risks and uncertainties as may be detailed from time to time in our public announcements and our reports filed with the SEC.

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

As used herein, the terms "we", "us" or the "Company" refer to Berkshire Income Realty, Inc., a Maryland corporation, incorporated on July 19, 2002. The Company is in the business of acquiring, owning, operating and renovating multifamily apartment communities. Berkshire Property Advisors, L.L.C. ("Berkshire Advisor" or "Advisor") is an affiliated entity we have contracted with to make decisions relating to the day-to-day management and operation of our business, subject to the oversight of the Company's Board. Refer to Item 13 – Certain Relationships and Related Transactions and Director Independence and Notes to the Consolidated Financial Statements, Note 12 – Related Party Transactions of the Company's Annual Report on Form 10-K for the year ended December 31, 2009 as filed with the SEC for additional information about the Advisor.

Overview

The Company is engaged primarily in the ownership, acquisition, operation and rehabilitation of multifamily apartment communities in the Baltimore/Washington D.C., Southeast, Southwest, Northwest, Midwest and Western areas of the United States. We conduct substantially all of our business and own, either directly or through subsidiaries, substantially all of our assets through Berkshire Income Realty-OP, L.P. (the "Operating Partnership"), a Delaware limited partnership. The Company's wholly owned subsidiary, BIR GP, L.L.C., a Delaware limited liability company, is the sole general partner of the Operating Partnership.

As of November 11, 2010, the Company owns 100% of the preferred limited partner units of the Operating Partnership, whose terms mirror the terms of the Company's Series A 9% Cumulative Redeemable Preferred Stock and, through BIR GP, L.L.C., owns 100% of the general partner interest of the Operating Partnership, which represents approximately 2.39% of the common economic interest of the Operating Partnership.

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

Our highlights of the nine months ended September 30, 2010 included the following:

- § On March 15, 2010, the supplemental mortgages outstanding and secured by the Glo Apartments in the amount of \$12,210,000 matured. As a requirement of the financing, the amounts maturing on March 15, 2010 were backed by irrevocable letters of credit which were used to retire the matured debt. Additionally, as a requirement of the bank that issued the irrevocable letters of credit, the Company was required to segregate cash in an amount sufficient to back the letters of credit. On March 15, 2010, the segregated cash was used to settle the letters of credit.
- § On April 23, 2010, the Company completed the conversion of the Arboretum Development construction loan to permanent financing. The final loan amount is \$12,950,000 with a term of 5 years and interest at 6.20%.
- § On May 20, 2010, the Company closed on \$16,428,100 of financing for the Citrus Park property insured by HUD. The all-in coupon rate is 5% and the term is 35 years. Proceeds from the closing were primarily used to repay the revolving credit facility balance of \$15,720,000 and accrued interest to an affiliate of the Company and applicable closing costs.

## General

The Company detailed a number of significant trends and specific factors affecting the real estate industry in general and the Company's business in particular in Part II, Item 7 – "Management's Discussion and Analysis of Financial Condition and Results of Operations" of our Annual Report on Form 10-K for the year ended December 31, 2009. The Company believes those trends and factors continue to be relevant to the Company's performance and financial condition.

## Liquidity and Capital Resources

### Cash and Cash Flows

As of September 30, 2010 and December 31, 2009, the Company had \$13,768,360 and \$17,956,617 of cash and cash equivalents, respectively. Cash provided and used by the Company for the three- and nine-month periods ended September 30, 2010 and 2009 are as follows:

	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Cash provided by operating activities	\$ 4,298,097	\$ 389,207	\$ 9,601,303	\$ 4,518,540
Cash (used in) provided by investing activities	(2,875,699)	(1,203,895)	6,003,638	(21,648,470)
Cash (used in) provided by	(2,629,881)	(2,681,462)	(19,793,198)	3,563,204

financing activities

During the nine months ended September 30, 2010, cash decreased by \$4,188,257. The overall decrease was due primarily to principal payments on revolving credit facility of \$15,720,000, principal payments on mortgages of \$14,934,631, including \$12,210,000 of debt related to Glo, and capital expenditures of \$6,370,827, offset by borrowings from mortgage notes payable of \$17,013,537 and transfers of \$12,621,014 from restricted cash. Additionally, the Company paid its regular quarterly distributions to its preferred shareholders totaling \$5,025,579.

The Company's principal liquidity demands are expected to be distributions to our preferred and common shareholders and Operating Partnership unitholders based on availability of cash and approval of the Board, capital improvements, rehabilitation projects and repairs and maintenance for the properties, debt repayment, and acquisition of additional properties within the investment restrictions placed on it by BVF II.

The Company intends to meet its short-term liquidity requirements through net cash flows provided by operating activities and advances from the revolving credit facility. The Company considers its ability to generate cash to be adequate to meet all operating requirements and make distributions to its stockholders in accordance with the provisions of the Internal Revenue Code of 1986, as amended, applicable to REITs. Funds required to make distributions to our preferred and common shareholders and Operating Partnership unitholders that are not provided by operating activities will be supplemented by property debt financing and refinancing activities.

The Company intends to meet its long-term liquidity requirements through property debt financing and refinancing noting that possible interest rate increases resulting from current economic conditions could negatively impact the Company's ability to refinance existing debt at acceptable rates. As of September 30, 2010, approximately \$14,237,000 of principal, or 3.0% of the Company's outstanding mortgage debt is due to be repaid within the next three years. During that three-year period, principal of \$3,700,000 relates to a loan that is due to mature and be repaid in full in 2012. All other payments of principal during the three-year period are monthly payments in accordance with the loan amortization schedules. Additionally, the Company may seek to expand its purchasing power through the use of venture relationships with other companies with liquidity.

On March 15, 2010, the supplemental mortgages outstanding and secured by the Glo Apartments in the amount of \$12,210,000 matured. As a requirement of the financing, the amounts maturing on March 15, 2010 were backed by irrevocable letters of credit which were used to retire the matured debt. Additionally, as a requirement of the bank that issued the irrevocable letters of credit, the Company was required to segregate cash in an amount sufficient to back the letters of credit. On March 15, 2010, the segregated cash was used to settle the letters of credit.

On May 20, 2010, the Company closed on \$16,428,100 of financing for the Citrus Park property insured by HUD. The all-in coupon rate is 5% and the term is 35 years. Proceeds from the closing were primarily used to repay the revolving credit facility balance of \$15,720,000 and accrued interest to an affiliate of the Company, and applicable closing costs.

As of September 30, 2010, the Company has fixed interest rate mortgage financing on all properties in the portfolio with the exceptions of Glo Apartments, which has a variable interest rate mortgage that is capped at 6% through 2013.

The Company has a \$20,000,000 revolving credit facility in place with an affiliate of the Company. As of September 30, 2010, there was no outstanding balance on the facility.

#### Capital Expenditures

The Company incurred \$2,368,351 and \$8,877,221 in recurring capital expenditures during the nine months ended September 30, 2010 and 2009, respectively. Recurring capital expenditures typically include items such as appliances, carpeting, flooring, HVAC equipment, kitchen and bath cabinets, site improvements and various exterior building improvements.

The Company incurred \$4,002,476 and \$2,398,012 in renovation and development related capital expenditures during the nine months ended September 30, 2010 and 2009, respectively. Renovation related capital expenditures generally include capital expenditures of a significant non-recurring nature, including construction management fees payable to an affiliate of the Company, where the Company expects to see a financial return on the expenditure or where the Company believes the expenditure preserves the status of a property within its sub-market.

During 2007 the Company, as part of the decision to acquire the Hampton House property, approved a rehabilitation project at the 196-unit property of approximately \$6,150,000 for interior and exterior renovation improvements. The project includes rehabilitation of all apartment units, common areas including the lobby, central utility systems, replacement of all windows and painting of the exterior. As of September 30, 2010, the interior portion of the project was 93% complete as 183 of the 196 units had been renovated, of which 179 units, or 98% have been leased. The project is on track and spending is within budget. As of September 30, 2010, the Company had incurred approximately \$3,302,000 on the rehabilitation project.

The Company has not approved any additional renovation projects during the nine-month period ended September 30, 2010 and no other renovation projects are currently anticipated.

The Company has completed the development of one of the two parcels of vacant land that it owns. The property, known as The Reserves at Arboretum Place, was approved for development on November 1, 2007 and construction of the 143 units and clubhouse began in early 2008. The project development cost was estimated at approximately \$17,358,000 and was completed in early 2009. As of December 31, 2009, the project development costs incurred were approximately \$16,958,000 and included all costs, exclusive of land, with the exception of some minor costs to complete final items. Interest costs are capitalized on the development until construction is substantially complete. There was \$0 and \$152,188 of interest capitalized in the nine months ended September 30, 2010 and 2009, respectively. No development activities are currently planned for the other vacant parcel.

Pursuant to terms of the mortgage debt on certain properties in the Company's portfolio, lenders require the Company to fund repair or replacement escrow accounts. The funds in the escrow accounts are disbursed to the Company upon completion of the required repairs or renovations activities. The Company is required to provide to the lender documentation evidencing the completion of the repairs, and in some cases, such repairs are subject to inspection by the lender.

The Company's capital budgets for 2010 anticipate spending approximately \$8,249,000 for ongoing rehabilitation, including the Hampton House project. As of September 30, 2010, the Company has not committed to any new significant rehabilitation projects.

#### Discussion of acquisitions for the nine months ended September 30, 2010

The Company did not acquire any properties during the nine-month period ended September 30, 2010.

#### Discussion of dispositions for the nine months ended September 30, 2010

The Company did not dispose of any properties during the nine-month period ended September 30, 2010.

#### Declaration of Dividends and Distributions

On March 25, 2003, the Board declared a dividend at an annual rate of 9% on the stated liquidation preference of \$25 per share of the outstanding Preferred Shares which is payable quarterly in arrears, on February 15, May 15, August 15, and November 15 of each year to shareholders of record in the amount of \$0.5625 per share, per quarter. For the nine months ended September 30, 2010 and 2009, the Company's aggregate dividends on the Preferred Shares totaled \$5,025,579 and \$5,025,589, respectively, of which \$837,607 was payable and included on the balance sheet in Dividends and Distributions Payable as of September 30, 2010 and December 31, 2009.

During the nine months ended September 30, 2010 and 2009, the Board did not authorize the general partner of the Operating Partnership to distribute quarterly distributions to common general and common limited partners or a common dividend on the Company's Class B Common Stock.

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

#### Results of Operations and Financial Condition

During the nine months ended September 30, 2010, the Company's portfolio (the "Total Property Portfolio"), which consists of all properties acquired or placed in service and owned through September 30, 2010, remained unchanged. As a result of changes in the composition of the property holdings in the Total Property Portfolio over the nine-month period ended September 30, 2009, the consolidated financial statements show changes in revenue and expenses from period to period and as a result, the Company does not believe that its period-to-period financial data are comparable. Therefore, the comparison of operating results for the three and nine months ended September 30, 2010 and 2009 reflects the changes attributable to the properties owned by the Company throughout each period presented (the "Same Property Portfolio").

"Net Operating Income" ("NOI") falls within the definition of a "non-GAAP financial measure" as stated in Item 10(e) of Regulation S-K promulgated by the SEC and should not be considered as an alternative to net income (loss), the most directly comparable financial measure of our performance calculated and presented in accordance with GAAP. The Company believes NOI is a measure of operating results that is useful to investors to analyze the performance of a real estate company because it provides a direct measure of the operating results of the Company's multifamily apartment communities. The Company also believes it is a useful measure to facilitate the comparison of operating performance among competitors. The calculation of NOI requires classification of income statement items between operating and non-operating expenses, where operating items include only those items of revenue and expense which are directly related to the income producing activities of the properties. We believe that to achieve a more complete understanding of the Company's performance, NOI should be compared with our reported net income (loss). Management uses NOI to evaluate the operating results of properties without reflecting the effect of capital decisions such as the issuance of mortgage debt and investments in capital items; in turn, these capital decisions have

an impact on interest expense and depreciation and amortization.

The most directly comparable financial measure of the Company's NOI, calculated and presented in accordance with GAAP, is net income (loss), shown on the consolidated statement of operations. For the three-month period ended September 30, 2010 and 2009, net loss was \$(6,147,209) and \$(6,143,768), respectively. For the nine months ended September 30, 2010 and 2009, net loss was \$(19,902,993) and \$(23,145,399), respectively. A reconciliation of the Company's NOI to net loss for the three-month and nine-month period September 30, 2010 and 2009 is presented as part of the following tables.

Comparison of the three months ended September 30, 2010 to the three months ended September 30, 2009

The table below reflects selected operating information for the Same Property Portfolio. The Same Property Portfolio consists of the 24 properties acquired or placed in service on or prior to January 1, 2009 and owned through September 30, 2010.

	Same Property Portfolio				
	Three months ended September 30,				
	2010	2009	Increase/ (Decrease)	% Change	
Revenue:					
Rental	\$17,573,828	\$17,560,250	\$13,578	0.08	%
Interest, utility reimbursement and other	1,308,447	1,283,024	25,423	1.98	%
Total revenue	18,882,275	18,843,274	39,001	0.21	%
Operating Expenses:					
Operating	4,213,379	4,437,882	(224,503 )	(5.06)	%
Maintenance	1,335,158	1,326,306	8,852	0.67	%
Real estate taxes	1,957,678	1,950,736	6,942	0.36	%
General and administrative	430,507	488,845	(58,338 )	(11.93)	%
Management fees	732,572	736,860	(4,288 )	(0.58)	%
Total operating expenses	8,669,294	8,940,629	(271,335 )	(3.03)	%
Net Operating Income	10,212,981	9,902,645	310,336	3.13	%
Non-operating expenses:					
Depreciation	7,000,577	7,551,385	(550,808 )	(7.29)	%
Interest, inclusive of amortization of deferred financing fees	6,420,593	6,410,611	9,982	0.16	%
Amortization of acquired in-place leases and tenant relationships	14,850	34,417	(19,567 )	(56.85)	%
Total non-operating expenses	13,436,020	13,996,413	(560,393 )	(4.00)	%
Loss before equity in loss of Multifamily Venture Limited Partnership and Mezzanine Loan Limited Liability Company and loss from discontinued operations	(3,223,039 )	(4,093,768 )	870,729	21.27	%
Equity in loss of Multifamily Venture Limited Partnership	-	-	-	0.00	%
Equity in loss of Mezzanine Loan Limited Liability Company	-	-	-	0.00	%
Discontinued operations	-	-	-	0.00	%
Net loss	\$(3,223,039 )	\$(4,093,768 )	\$870,729	21.27	%



Comparison of the three months ended September 30, 2010 to the three months ended September 30, 2009

	Total Property Portfolio Three months ended September 30,			
	2010	2009	Increase/ (Decrease)	% Change
<b>Revenue:</b>				
Rental	\$18,877,415	\$18,978,189	\$(100,774 )	(0.53 )%
Interest, utility reimbursement and other	1,558,411	1,469,132	89,279	6.08 %
Total revenue	20,435,826	20,447,321	(11,495 )	(0.06 )%
<b>Operating Expenses:</b>				
Operating	4,670,181	4,941,356	(271,175 )	(5.49 )%
Maintenance	1,410,435	1,358,994	51,441	3.79 %
Real estate taxes	2,149,371	2,133,677	15,694	0.74 %
General and administrative	1,025,223	990,714	34,509	3.48 %
Management fees	2,187,094	1,194,141	992,953	83.15 %
Total operating expenses	11,442,304	10,618,882	823,422	7.75 %
Net Operating Income	8,993,522	9,828,439	(834,917 )	(8.49 )%
<b>Non-operating expenses:</b>				
Depreciation	7,554,925	8,081,318	(526,393 )	(6.51 )%
Interest, inclusive of amortization of deferred financing fees	6,825,935	6,732,894	93,041	1.38 %
Amortization of acquired in-place leases and tenant relationships	28,218	113,416	(85,198 )	(75.12 )%
Total non-operating expenses	14,409,078	14,927,628	(518,550 )	(3.47 )%
Loss before equity in loss of Multifamily Venture Limited Partnership and Mezzanine Loan Limited Liability Company and loss from discontinued operations	(5,415,556 )	(5,099,189 )	(316,367 )	(6.20 )%
Equity in loss of Multifamily Venture Limited Partnership	(731,653 )	(1,046,676 )	315,023	30.10 %
Equity in loss of Mezzanine Loan Limited Liability Company	-	-	-	0.00 %
Discontinued operations	-	2,097	(2,097 )	(100.00 )%
Net loss	\$(6,147,209 )	\$(6,143,768 )	\$(3,441 )	(0.06 )%

Comparison of the three months ended September 30, 2010 to the three months ended September 30, 2009  
(Same Property Portfolio)

#### Revenue

##### Rental Revenue

Rental revenue of the Same Property Portfolio increased slightly for the three-month period ended September 30, 2010 in comparison to the similar period of 2009. The increase is mainly attributable to increased occupancy at most of the properties, more specifically at the Hampton House property as a result of the completion and availability of renovated units from its ongoing rehabilitation project.

##### Interest, utility reimbursement and other revenue

Same Property Portfolio interest, utility reimbursement and other revenues increased for the three-month period ended September 30, 2010 as compared to the three-month period ended September 30, 2009, primarily as a result of increased revenues, due primarily to the continued expansion in use of utility bill back programs, increased fees charged to tenants and potential tenants, including late fees, cable, valet trash and other similar revenue items and income received from various cable service companies for their exclusive rights to service our properties.

#### Operating Expenses

##### Operating

Overall operating expenses decreased in the quarter ended September 30, 2010 as compared to the same period of 2009. Savings in marketing costs and utilities including gas, were partially offset by higher expenses in water and sewer. Group insurance expenses for the three months ended September 30, 2010 were lower compared to the same period ended September 30, 2009 as a result of the Company's property insurance coverage renewal in April 2010.

##### Maintenance

Maintenance expense increased slightly in the three months ended September 30, 2010 as compared to the same period of 2009, mainly due to normal operating expense fluctuations. Management continues to employ a proactive maintenance rehabilitation strategy at its apartment communities and considers the strategy an effective program that preserves, and in some cases increases, its occupancy levels through improved consumer appeal of the apartment communities, from both an interior and exterior perspective.

##### Real Estate Taxes

Real estate taxes increased slightly for the three months ended September 30, 2010 from the comparable period of 2009. The Company continually scrutinizes the assessed values of its properties and avails itself of arbitration or similar forums made available by the taxing authority for increases in assessed value that it considers to be unreasonable. The Company has been successful in achieving tax abatements for certain of its properties based on challenges made to the assessed values. Going forward, the Company anticipates a general upward trend in real estate tax expense as local and state taxing agencies continue to place significant reliance on property tax revenue.

##### General and Administrative

General and administrative expenses decreased in the three-month period ended September 30, 2010 compared to 2009, mainly due to higher legal expenses incurred in 2009 which relate to review of the cable contracts, in addition to normal operating expense fluctuations experienced throughout the properties of the Same Property Portfolio.

#### Management Fees

Management fees of the Same Property Portfolio decreased slightly for the three months ended September 30, 2010 compared to the three months ended September 30, 2009. Property management fees are assessed on the revenue stream of the properties managed by an affiliate of the Company.

## Non-Operating Expenses

### Depreciation

Depreciation expense of the Same Property Portfolio decreased for the three months ended September 30, 2010 as compared to the same period of the prior year. The decrease is a result of assets that have been fully depreciated, partially offset by the additions to the basis of fixed assets in the portfolio driven by substantial rehabilitation projects ongoing at the Hampton House property, and to a lesser degree, normal recurring capital spending activities over the remaining properties in the Same Property Portfolio.

### Interest, inclusive of amortization of deferred financing fees

Interest expense for the three months ended September 30, 2010 increased slightly over the comparable period of 2009. The increase is mainly attributable to mortgage insurance expense and amortization of deferred financing fees, which are components of interest expenses, on the HUD financing for the Citrus Park property which closed on May 20, 2010. Additionally, the new loan resulted in more proceeds than the old balance that matured in 2009.

### Amortization of acquired in-place leases and tenant relationships

Amortization of acquired in-place-leases and tenant relationships decreased in the three months ended September 30, 2010 as compared to the same period in 2009. The decrease is related mainly to the completion of amortization of the acquired-in-place lease intangible assets booked at acquisition and amortized over a 12-month period which did not extend into the three-month period ended September 30, 2010.

### Comparison of the three months ended September 30, 2010 to the three months ended September 30, 2009 (Total Property Portfolio)

Rental revenue for the Total Property Portfolio decreased during the three months ended September 30, 2010 as compared to the three months ended September 30, 2009 primarily as a result of decrease in rent concessions amortization recorded during the period. In addition to the reasons discussed above in the Same Property Portfolio, the decrease was partially offset by the fluctuations in the actual properties owned during the comparative periods, as 2 properties were acquired or developed during 2009. The increase in total operating expenses was mainly attributable to increased corporate-related legal costs, in addition to accrued Incentive Advisory Fee of \$988,245 pursuant to the Advisory Services Agreement recorded during the quarter ended September 30, 2010. (Refer to Related Party Transactions on page 15 for further discussion.)

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Comparison of the nine months ended September 30, 2010 to the nine months ended September 30, 2009

	Same Property Portfolio				
	Nine months ended September 30,		Increase/ (Decrease)	% Change	
	2010	2009			
<b>Revenue:</b>					
Rental	\$52,620,805	\$52,267,983	\$352,822	0.68	%
Interest, utility reimbursement and other	3,724,779	3,472,196	252,583	7.27	%
Total revenue	56,345,584	55,740,179	605,405	1.09	%
<b>Operating Expenses:</b>					
Operating	12,910,659	13,549,215	(638,556 )	(4.71 )	%
Maintenance	3,884,030	3,528,961	355,069	10.06	%
Real estate taxes	5,688,169	5,906,970	(218,801 )	(3.70 )	%
General and administrative	1,294,175	1,266,444	27,731	2.19	%
Management fees	2,190,720	2,204,842	(14,122 )	(0.64 )	%
Total operating expenses	25,967,753	26,456,432	(488,679 )	(1.85 )	%
Net Operating Income	30,377,831	29,283,747	1,094,084	3.74	%
<b>Non-operating expenses:</b>					
Depreciation	21,941,941	22,865,711	(923,770 )	(4.04 )	%
Interest, inclusive of amortization of deferred financing fees	18,790,620	19,096,095	(305,475 )	(1.60 )	%
Amortization of acquired in-place leases and tenant relationships	44,550	294,489	(249,939 )	(84.87 )	%
Total non-operating expenses	40,777,111	42,256,295	(1,479,184)	(3.50 )	%
Loss before equity in loss of Multifamily Venture Limited Partnership and Mezzanine Loan Limited Liability Company and loss from discontinued operations	(10,399,280)	(12,972,548)	2,573,268	19.84	%
Equity in loss of Multifamily Venture Limited Partnership	-	-	-	0.00	%
Equity in loss of Mezzanine Loan Limited Liability Company	-	-	-	0.00	%
Discontinued operations	-	-	-	0.00	%
Net loss	\$(10,399,280)	\$(12,972,548)	\$2,573,268	19.84	%

Comparison of the nine months ended September 30, 2010 to the nine months ended September 30, 2009

	Total Property Portfolio Nine months ended September 30,				% Change
	2010	2009	Increase/ (Decrease)		
<b>Revenue:</b>					
Rental	\$56,243,615	\$55,152,551	\$1,091,064	1.98	%
Interest, utility reimbursement and other	4,406,162	3,966,585	439,577	11.08	%
Total revenue	60,649,777	59,119,136	1,530,641	2.59	%
<b>Operating Expenses:</b>					
Operating	14,410,249	14,944,595	(534,346 )	(3.58)	)%
Maintenance	4,079,628	3,643,027	436,601	11.98	%
Real estate taxes	6,438,603	6,651,627	(213,024 )	(3.20)	)%
General and administrative	3,171,056	4,576,468	(1,405,412)	(30.71)	)%
Management fees	4,708,212	3,557,237	1,150,975	32.36	%
Total operating expenses	32,807,748	33,372,954	(565,206 )	(1.69)	)%
Net Operating Income	27,842,029	25,746,182	2,095,847	8.14	%
<b>Non-operating expenses:</b>					
Depreciation	23,598,368	24,083,677	(485,309 )	(2.02)	)%
Interest, inclusive of amortization of deferred financing fees	20,622,465	19,684,864	937,601	4.76	%
Amortization of acquired in-place leases and tenant relationships	104,480	757,732	(653,252 )	(86.21)	)%
Total non-operating expenses	44,325,313	44,526,273	(200,960 )	(0.45)	)%
Loss before equity in loss of Multifamily Venture Limited Partnership and Mezzanine Loan Limited Liability Company and loss from discontinued operations	(16,483,284)	(18,780,091)	2,296,807	12.23	%
Equity in loss of Multifamily Venture Limited Partnership	(3,419,709 )	(3,257,561 )	(162,148 )	(4.98)	)%
Equity in loss of Mezzanine Loan Limited Liability Company	-	(947,293 )	947,293	100.00	%
Discontinued operations	-	(160,454 )	160,454	100.00	%
Net loss	\$(19,902,993)	\$(23,145,399)	\$3,242,406	14.01	%

Comparison of the nine months ended September 30, 2010 to the nine months ended September 30, 2009  
(Same Property Portfolio)

#### Revenue

##### Rental Revenue

Rental revenue of the Same Property Portfolio increased for the nine-month period ended September 30, 2010 in comparison to the similar period of 2009. The increase is mainly attributable to increased occupancy at most of the properties, more specifically at the Hampton House property as a result of the completion and availability of renovated units from its ongoing rehabilitation project.

##### Interest, utility reimbursement and other revenue

Same Property Portfolio interest, utility reimbursement and other revenues increased for the nine months ended September 30, 2010 as compared to the nine-month period ended September 30, 2009, primarily as a result of increased revenues, due to increased income received from various cable service companies for their exclusive rights to service our properties.

#### Operating Expenses

##### Operating

Overall operating expenses decreased in the nine-month period ended September 30, 2010 as compared to the same period of 2009. Savings in marketing costs and utilities, including electricity and gas, were partially offset by higher expenses in payroll due to higher bonus payment, and water and sewer. Group insurance expenses for the nine months ended September 30, 2010 were lower compared to the same period ended September 30, 2009 as a result of the Company's property insurance coverage renewal in April 2010.

##### Maintenance

Maintenance expense increased in the nine months ended September 30, 2010 as compared to the same period of 2009, primarily due to the increase in snow removal costs at the Seasons and Berkshires of Columbia properties during the first quarter of 2010, partially offset by reduced turnover-related expenses as a result of increased occupancy at most of the properties. Management continues to employ a proactive maintenance rehabilitation strategy at its apartment communities and considers the strategy an effective program that preserves, and in some cases increases, its occupancy levels through improved consumer appeal of the apartment communities, from both an interior and exterior perspective.

##### Real Estate Taxes

Real estate taxes decreased for the nine months ended September 30, 2010 from the comparable period of 2009. The Company continually scrutinizes the assessed values of its properties and avails itself of arbitration or similar forums made available by the taxing authority for increases in assessed value that it considers to be unreasonable. The Company has been successful in achieving tax abatements for certain of its properties based on challenges made to the assessed values. Going forward, the Company anticipates a general upward trend in real estate tax expense as local and state taxing agencies continue to place significant reliance on property tax revenue.

##### General and Administrative

General and administrative expenses increased in the nine-month period ended September 30, 2010 compared to 2009. The overall increase is due mainly to normal operating expense fluctuations experienced throughout the properties of the Same Property Portfolio including legal expense related to tenant issues.

#### Management Fees

Management fees of the Same Property Portfolio decreased slightly for the nine months ended September 30, 2010 compared to the same period of 2009. Property management fees are assessed on the revenue stream of the properties managed by an affiliate of the Company.

## Non-Operating Expenses

### Depreciation

Depreciation expense of the Same Property Portfolio decreased for the nine months ended September 30, 2010 as compared to the same period of the prior year. The decrease is a result of assets that have been fully depreciated, offset by the additions to the basis of fixed assets in the portfolio driven by substantial rehabilitation projects ongoing at the Hampton House property, and to a lesser degree, normal recurring capital spending activities over the remaining properties in the Same Property Portfolio.

### Interest, inclusive of amortization of deferred financing fees

Interest expense for the nine months ended September 30, 2010 decreased over the comparable period of 2009. The decrease is primarily attributable to the pay off of the Berkshires at Citrus Park loan in November 2009. The decrease was partially offset by interest related to the replacement financing on the same Berkshires at Citrus Park property which closed in May 2010 on HUD insured debt totaling \$16,428,100.

### Amortization of acquired in-place leases and tenant relationships

Amortization of acquired in-place-leases and tenant relationships decreased in the nine months ended September 30, 2010 as compared to the same period in 2009. The decrease is related mainly to the completion of amortization of the acquired-in-place lease intangible assets booked at acquisition and amortized over a 12-month period which did not extend into the nine-month period ended September 30, 2010.

### Comparison of the nine months ended September 30, 2010 to the nine months ended September 30, 2009 (Total Property Portfolio)

In general, increase in revenues for the nine months ended September 30, 2010 as compared to the nine months ended September 30, 2009 is due mainly, in addition to the reasons discussed above, to the fluctuations in the actual properties owned during the comparative periods, as 2 properties were acquired or developed during 2009. The increase was partially offset by decreased rent concessions amortization recorded during the period. Decrease in total operating expenses for the nine months ended September 30, 2010 as compared to the same period in 2009 is mainly attributable to the transaction costs of \$1,183,299 associated with the acquisition of the Glo Apartments expensed pursuant to the guidance of ASC 805-10 adopted by the Company on January 1, 2009 and costs accrued for the judgment in the Lakeridge legal matter of \$774,990, which were included in the General and Administrative expense on the Consolidated Statement of Operations for the nine months ended September 30, 2009. The difference is partially offset by bond redemption fees of \$223,300 incurred related to the maturity of the Glo Apartments loans that matured on March 15, 2010. The fees were included in General and Administrative expenses for the nine-month period ended September 30, 2010. In addition, the Company recognized \$1,113,904 of accrued Incentive Advisory Fee pursuant to the Advisory Services Agreement. (Refer to Related Party Transactions on page 15 for further discussion.) Non-operating expenses decreased for the nine months ended September 30, 2010 as compared to the same period in 2009 mainly due to the reasons discussed in the Same Store Portfolio, partially offset by increases in interest expenses as a result of increases in the level of mortgage and revolving credit debt outstanding and \$369,178 of negatively amortized interest recorded on the Glo Apartments loans.

### Funds From Operations

The Company follows the revised definition of Funds from Operations (“FFO”) adopted by the Board of Governors of the National Association of Real Estate Investment Trusts (“NAREIT”). Management considers FFO to be an

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

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

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The following table presents a reconciliation of net loss to FFO for the three and nine months ended September 30, 2010 and 2009:

	Three months ended September 30,		Nine months ended September 30,	
	2010	2009	2010	2009
Net loss	\$ (6,147,209)	\$ (6,143,768)	\$ (19,902,993)	\$ (23,145,399)
Add:				
Depreciation of real property	6,779,235	7,077,324	21,161,292	21,089,283
Amortization of acquired in-place leases and tenant relationships	28,218	113,416	104,480	757,732
Equity in loss of Multifamily Venture Limited Partnership	731,653	1,046,676	3,419,709	3,257,561
Funds from operations of Multifamily Venture Limited Partnership	583,314	299,612	453,147	752,287
Less:				
Noncontrolling interest in properties share of funds from operations	(315,378 )	(241,899 )	(721,103 )	(587,854 )
Funds from Operations	\$ 1,659,833	\$ 2,151,361	\$ 4,514,532	\$ 2,123,610

FFO for the nine months ended September 30, 2010 increased as compared to FFO for the nine-month period ended September 30, 2009. The increase in FFO is due primarily to the transaction costs for the acquisition of Glo of \$1,183,299 and costs accrued for the judgment in the Lakeridge legal matter of \$774,990, which were included in General and Administrative expense on the Consolidated Statement of Operations during the nine months ended September 30, 2009, in addition to the other-than-temporary impairment write-off of the Company's investment in the Mezzanine Loan LLC in the amount of \$1,075,192 recorded during the same period. The increase was offset by \$1,113,904 of accrued Incentive Advisory Fee recorded during the nine months ended September 30, 2010 pursuant to the Advisory Services Agreement, of which \$988,245 was recorded during the three months ended September 30, 2010. FFO decreased \$491,528 for the three months ended September 30, 2010 compared to the three months ended September 30, 2009, primarily as a result of the \$988,245 accrued incentive advisory fee recorded during the three months ended September 30, 2010.

#### Environmental Issues

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

#### Inflation and Economic Conditions

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

While economists declared the worst recession to hit the United States since the 1930's to be over in late 2009, with policymakers efforts to stabilize the banking system and provide a fiscal stimulus to the economy, the high national unemployment rate remains a drag to a strong economic recovery. While there are many indications of stabilization in both domestic and foreign economies, the signs of robust recovery have yet to manifest themselves. Even if the recession is technically over, labor markets tend to recover with some lag, and it is only when labor markets stabilize that there will be an increase in household formation, which represents the greatest driver for rental apartments.

The Company both believes and recognizes that real estate goes through cycles and while the drivers of these cycles can vary greatly from cycle to cycle, the outcome is generally the same with periods of improving values and profit growth followed by periods of stagnant or declining values and profit stagnation. The Company recognizes, however, that real estate investing requires a long-term perspective and, as history suggests, a company's ability to remain resilient during tough economic times will often lead to opportunities. In general, multifamily real estate fundamentals of well located quality real estate remained relatively steady during the recent economic downturn. Occupancy rates continue to hover in the low to mid-90% range for well located, well managed properties though continued weakness in the economy and/or a lack of improvement in employment rates could have a negative impact on both occupancy and rent levels. Credit worthy borrowers in the multifamily sector have continued to be able to access capital through Fannie Mae and Freddie Mac, and other sources, through 2009 and into 2010 at historically attractive rates. Though there is no assurance that under existing or future regulatory restrictions this source of capital, unique to multifamily borrowers, will continue to be available.

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

## Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The Company's mortgage notes are primarily fixed rate instruments; therefore, the Company's outstanding mortgage debt is not sensitive to changes in the capital market except upon maturity. The Company's revolving credit facility is a variable rate arrangement tied to LIBOR and is therefore sensitive to changes in the capital market. The table below provides information about the Company's financial instruments, specifically debt obligations.

The table presents principal cash flows and related weighted average interest rates by expected maturity dates for the mortgage notes payable as of September 30, 2010.

	2010	2011	2012	2013	2014	Thereafter	Total
<b>Fixed Rate Debt</b>	\$811,305	\$4,172,769	\$8,587,250	\$60,571,170	\$65,769,590	\$307,004,278	\$446,916,362
<b>Average Interest Rate</b>	5.28 %	5.33 %	5.64 %	5.05 %	5.49 %	5.84 %	5.67 %
	2010	2011	2012	2013	2014	Thereafter	Total
<b>Variable Rate Debt</b>	\$ -	\$ -	\$ 665,886	\$ 810,561	\$ 823,290	\$ 28,062,713	\$ 30,362,450
<b>Average Interest Rate</b>	-	-	1.56 %	1.56 %	1.56 %	1.56 %	1.56 %

The level of market interest rate risk remained relatively consistent from December 31, 2009 to September 30, 2010. As of September 30, 2010, \$30,362,450 of the Company's debt outstanding is subject to variable interest rates. The Company's variable rate exposure is limited to 6% as the Company holds an interest rate cap contract for the related debt. The weighted-average variable interest rate on the debt was 1.56% at September 30, 2010. The Company estimates that the effect of a 1% increase or decrease in interest rates would not have a material impact on interest expense.

Item 4. CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

Based on their evaluation, as required by the Securities Exchange Act Rules 13a-15(b) and 15d-15(b), the Company's principal executive officer and principal financial officer have concluded that the Company's disclosure controls and procedures (as defined in Securities Exchange Act Rules 13a-15(e) and 15d-15(e)) were effective as of September 30, 2010 to ensure that information required to be disclosed by the Company in reports that it files or submits under the Securities Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission rules and forms and were effective as of September 30, 2010 to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Securities Exchange Act is accumulated and communicated to the Company's management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f) under the Exchange Act) identified in connection with the evaluation required by paragraph (d) of the Securities Exchange Act Rules 13a-15 or 15d-15 that occurred during the fiscal quarter ended September 30, 2010, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II.

OTHER INFORMATION

Item 1.

LEGAL PROCEEDINGS

- None

Item 1A. RISK FACTORS

Please read the risk factors disclosed in our Annual Report on Form 10-K for the Company's fiscal year ended December 31, 2009 as filed with the SEC on March 31, 2010. As of September 30, 2010, except for the inflation and economic condition risks discussed previously, there have been no material changes to the risk factors as presented therein. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our financial condition and/or operating results.

Item 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

- None

Item 3. DEFAULTS UPON SENIOR SECURITIES

- None

Item 4. REMOVED

Item 5. OTHER INFORMATION

- None

Item 6. EXHIBITS

31.1 Certification of Principal Executive Officer Pursuant of 18 U.S.C. Section 1350, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

31.2 Certification of Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

32.1 Certification of Principal Executive Officer Pursuant of 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

32.2 Certification of Principal Financial Officer Pursuant of 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

SIGNATURES

Pursuant to the requirements 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.

BERKSHIRE INCOME REALTY, INC.

November 12, 2010

/s/ David C. Quade  
David C. Quade  
President, Chief Financial Officer and  
Principal Executive Officer

November 12, 2010

/s/ Christopher M. Nichols  
Christopher M. Nichols  
Senior Vice President and Principal  
Financial Officer

