

RETAIL PROPERTIES OF AMERICA, INC.  
Form S-11/A  
March 12, 2012  
Table of Contents

As filed with the Securities and Exchange Commission on March 9, 2012

Registration No. 333-172237

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

**Amendment No. 5 to**  
**Form S-11**  
**FOR REGISTRATION UNDER THE SECURITIES ACT OF 1933**  
**OF SECURITIES OF CERTAIN REAL ESTATE COMPANIES**  
**RETAIL PROPERTIES OF AMERICA, INC.**  
(Exact Name of Registrant as Specified in its Governing Instruments)

2901 Butterfield Road

Oak Brook, Illinois 60523

(630) 218-8000

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

**Steven P. Grimes**

**Chief Executive Officer**

**Retail Properties of America, Inc.**

**2901 Butterfield Road**

**Oak Brook, Illinois 60523**

**(630) 218-8000**

(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

*Copies to:*

**Gilbert G. Menna**

**Dennis K. Holland**

**David W. Bonser**

**Daniel P. Adams**

**General Counsel and Secretary**

**David P. Slotkin**

**Goodwin Procter LLP**

**Retail Properties of America, Inc.**

**Hogan Lovells US LLP**

**Exchange Place, 53 State Street**

**2901 Butterfield Road**

**555 Thirteenth Street, NW**

**Boston, MA 02109**

**Oak Brook, Illinois 60523**

**Washington, DC 20004**

**(617) 570-1000**

**(630) 218-8000**

**(202) 637-5600**

**Approximate date of commencement of proposed sale to the public:** As soon as practicable after this registration statement becomes effective.

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box. "

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

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

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

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

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

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. (Check one):

Large accelerated filer "

Accelerated filer "

Non-accelerated filer  (Do not check if a smaller reporting company)

Smaller reporting company "

**The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to Section 8(a), may determine.**

**Table of Contents**

**The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and we are not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.**

**SUBJECT TO COMPLETION, DATED MARCH 9, 2012**

**PROSPECTUS**

**Shares**

**RETAIL PROPERTIES OF AMERICA, INC.**

**Class A Common Stock**

Retail Properties of America, Inc. is a fully integrated, self administered and self-managed real estate company that owns and operates high quality, strategically located shopping centers across 35 states. We are one of the largest owners and operators of shopping centers in the United States.

We are offering \_\_\_\_\_ shares of our Class A Common Stock as described in this prospectus. All of the shares of Class A Common Stock offered by this prospectus are being sold by us. We currently expect the public offering price to be between \$ \_\_\_\_\_ and \$ \_\_\_\_\_ per share. We have applied to have our Class A Common Stock listed on the New York Stock Exchange, or the NYSE, under the symbol **RPAI**. Currently, our Class A Common Stock is not traded on a national securities exchange, and this will be our first listed public offering.

We are a Maryland corporation, and we have elected to qualify as a real estate investment trust, or REIT, for U.S. federal income tax purposes. Shares of our Class A Common Stock are subject to ownership limitations that are primarily intended to assist us in maintaining our qualification as a REIT. Our charter contains certain restrictions relating to the ownership and transfer of our Class A Common Stock, including, subject to certain exceptions, a 9.8% ownership limit of common stock by value or number of shares, whichever is more restrictive. See **Description of Capital Stock Restrictions on Ownership and Transfer** beginning on page 143 of this prospectus.

**Investing in our Class A Common Stock involves risk. See Risk Factors beginning on page 16 of this prospectus.**

	<b>Per Share</b>	<b>Total</b>
Public offering price	\$ _____	\$ _____
Underwriting discount	\$ _____	\$ _____
Proceeds, before expenses, to us	\$ _____	\$ _____

We have granted the underwriters the option to purchase an additional \_\_\_\_\_ shares of our Class A Common Stock on the same terms and conditions set forth above within 30 days after the date of this prospectus solely to cover overallocments, if any.

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

The underwriters expect to deliver the shares of our Class A Common Stock on or about \_\_\_\_\_, 2012.

**J.P. Morgan   Citigroup   Deutsche Bank Securities   KeyBanc Capital Markets**

**The date of this prospectus is                      , 2012.**

**Table of Contents**

**[PICTURE, TEXT AND/OR GRAPHICS FOR INSIDE COVER]**

**Table of Contents****TABLE OF CONTENTS**

	<b>Page</b>
<u>Prospectus summary</u>	1
<u>Risk factors</u>	16
<u>Forward-looking statements</u>	42
<u>Use of proceeds</u>	44
<u>Recapitalization</u>	45
<u>Distribution policy</u>	46
<u>Capitalization</u>	48
<u>Dilution</u>	49
<u>Selected consolidated financial and operating data</u>	50
<u>Management's discussion and analysis of financial condition and results of operations</u>	56
<u>Industry overview</u>	86
<u>Our business and properties</u>	92
<u>Management</u>	114
<u>Principal stockholders</u>	133
<u>Certain relationships and related transactions</u>	135
<u>Policies with respect to certain activities</u>	139
<u>Description of capital stock</u>	142
<u>Certain provisions of Maryland law and of our charter and bylaws</u>	147
<u>Shares eligible for future sale</u>	154
<u>Material U.S. federal income tax considerations</u>	158
<u>ERISA considerations</u>	178
<u>Underwriting</u>	181
<u>Legal matters</u>	186
<u>Experts</u>	186
<u>Where you can find more information</u>	187
<u>Index to financial statements</u>	F-1

**You should rely only upon the information contained in this prospectus, or in any free writing prospectus prepared by us or information to which we have referred you. No dealer, salesperson or other person is authorized to give any information or to represent anything not contained in this prospectus. You must not rely on any unauthorized information or representations. This prospectus is an offer to sell only the shares offered hereby, but only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this prospectus is current only as of its date, regardless of the time of delivery of this prospectus or of any sale of our Class A Common Stock. Our business, financial condition, liquidity, results of operations and prospects may have changed since those dates. We will update this prospectus as required by law.**

We use market data throughout this prospectus. We have obtained the information under Prospectus Summary Industry Overview and Industry Overview from the market study prepared for us by Rosen Consulting Group, or Rosen, a nationally recognized real estate consulting firm, and such information is included in this prospectus in reliance on Rosen's authority as an expert in such matters. See Experts. In addition, we have obtained certain market data from publicly available information and industry publications. These sources generally state that the information they provide has been obtained from sources believed to be reliable, but the accuracy and completeness of the information are not guaranteed. The forecasts and projections are based on industry surveys and the preparers' experience in the industry, and there is no assurance that any of the projections or forecasts will be achieved. We believe that the surveys and market research others have performed are reliable, but we have not independently verified this information.





## Table of Contents

On February 24, 2011, our shareholders approved an amendment and restatement of our charter that is intended to facilitate the listing of our Class A Common Stock on the NYSE. The amendment and restatement of our charter will become effective upon the filing of the amendment and restatement of our charter with the Maryland State Department of Assessments and Taxation. We expect to file the proposed amendment and restatement of our charter prior to the completion of this offering. Unless otherwise indicated, the information contained in this prospectus assumes that the amendment and restatement of our charter has become effective.

### *Recapitalization*

Prior to the completion of this offering, we intend to declare a stock dividend pursuant to which each then outstanding share of our common stock will receive:

one share of our Class B-1 Common Stock; plus

one share of our Class B-2 Common Stock; plus

one share of our Class B-3 Common Stock.

In connection with this stock dividend, we intend to redesignate our then outstanding common stock as Class A Common Stock. Prior to the declaration of the stock dividend, we intend to effectuate a ten to one reverse stock split of our common stock outstanding.

In this prospectus, we refer to these transactions as the Recapitalization, we refer to Class B-1 Common Stock, Class B-2 Common Stock and Class B-3 Common Stock collectively as our Class B Common Stock, and we refer to Class A and Class B Common Stock collectively as our common stock. We are offering our Class A Common Stock in this offering, and we intend to list our Class A Common Stock on the NYSE. Our Class B Common Stock will be identical to our Class A Common Stock except that (i) we do not intend to list our Class B Common Stock on a national securities exchange and (ii) shares of our Class B Common Stock will convert automatically into shares of our Class A Common Stock at specified times. Subject to the provisions of our charter, shares of our Class B-1, Class B-2 and Class B-3 Common Stock will convert automatically into shares of our Class A Common Stock six months following the Listing, 12 months following the Listing and 18 months following the Listing, respectively. On the 18 month anniversary of the listing of our Class A Common Stock on the NYSE (the Listing), all shares of our Class B Common Stock will have converted into our Class A Common Stock. The terms of our Class A and Class B Common Stock are described more fully under Description of Capital Stock in this prospectus.

The Recapitalization also will have the effect of reducing the total number of outstanding shares of our common stock. As of March 2, 2012, without giving effect to the Recapitalization, we had approximately 485.5 million shares of common stock outstanding. As of March 2, 2012, after giving effect to the Recapitalization, we would have had an aggregate of approximately 194.2 million shares of our Class A and Class B Common Stock outstanding, divided equally among our Class A, Class B-1, Class B-2 and Class B-3 Common Stock.

The Recapitalization will be effected prior to the completion of this offering. Unless otherwise indicated, all information in this prospectus gives effect to, and all share and per share amounts have been retroactively adjusted to give effect to, the Recapitalization. Unless otherwise indicated, share and per share amounts have not been adjusted to give effect to any exercise by the underwriters of their option to purchase up to shares of our Class A Common Stock solely to cover overallotments, if any.

In this prospectus:

annualized base rent as of a specified date means monthly base rent as of the specified date, before abatements, under leases which have commenced as of the specified date multiplied by 12. Annualized base rent (i) does not include tenant reimbursements or

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

expenses borne by the tenants in triple net or modified gross leases, such as the expenses for real estate taxes and insurance and common area and

iii

**Table of Contents**

other operating expenses, (ii) does not reflect amounts due per percentage rent lease terms, where applicable, and (iii) is calculated on a cash basis and differs from how we calculate rent in accordance with generally accepted accounting principles in the United States of America, or GAAP, for purposes of our financial statements;

community center means a shopping center that we believe meets the International Council of Shopping Centers' s, or ICSC' s, definition of community center. ICSC, generally, defines a community center as a shopping center similar to a neighborhood center, defined below, but which offers a wider range of apparel and other soft goods than a neighborhood center. Community centers are usually configured as a strip, or may be laid out in an L or U shape, and are commonly anchored by supermarkets, super drugstores and discount department stores;

lifestyle center means a shopping center that we believe meets ICSC' s definition of lifestyle center. ICSC, generally, defines a lifestyle center as a shopping center that is most often located near affluent residential neighborhoods and caters to the retail needs and lifestyle pursuits of consumers in its trading area. Lifestyle centers typically have open-air configurations, include at least 50,000 square feet of retail space occupied by upscale national chain specialty stores and include other elements serving its role as a multi-purpose leisure-time destination, such as restaurants and entertainment;

neighborhood center means a shopping center that we believe meets ICSC' s definition of neighborhood center. ICSC, generally, defines a neighborhood center as a shopping center designed to provide convenience shopping for the day-to-day needs of consumers in the immediate neighborhood, which is usually configured as a straight-line strip with parking in the front and no enclosed walkway or mall area. Neighborhood centers are frequently anchored by a grocer or drug store and supported by stores offering drugs, sundries, snacks and personal services;

power center means a shopping center that we believe meets ICSC' s definition of power center. ICSC, generally, defines a power center as a shopping center dominated by several large anchors, including discount department stores, off-price stores, warehouse clubs, or category killers, i.e., stores that offer tremendous selection in a particular merchandise category at low prices. Power centers typically consist of several anchors, some of which may be freestanding (unconnected) and only a minimum amount of small specialty tenants; and

shadow anchors means one or more retailers situated on parcels that are owned by unrelated third parties but, due to their location within or immediately adjacent to our shopping center, to the consumer appear as another retail tenant of the shopping center and, as a result, attract additional customer traffic to the center.

Unless otherwise indicated, references in this prospectus to our properties or portfolio include information with respect to properties held by us on a consolidated basis as of December 31, 2011. Information with respect to our operating properties excludes non-stabilized operating properties, which are properties that have not achieved 90% or greater occupancy since their development and have been operational for less than one year.

**Table of Contents**

**PROSPECTUS SUMMARY**

*This summary highlights some of the information in this prospectus. It does not contain all of the information that you should consider before investing in our Class A Common Stock. You should read carefully the more detailed information set forth under the heading Risk Factors and the other information included in this prospectus. Except where the context suggests otherwise, the terms our company, we, us and our refer to Retail Properties of America, Inc., a Maryland corporation, together with its consolidated subsidiaries. Unless otherwise indicated, the information contained in this prospectus assumes that the Class A Common Stock to be sold in the offering is sold at \$ per share, the midpoint of the pricing range set forth on the cover page of this prospectus, and that the underwriters do not exercise their option to purchase up to an additional shares solely to cover overallocments, if any. Unless otherwise indicated, all property information contained in this prospectus is for our retail operating properties as of December 31, 2011 excluding seasonal leases.*

**Company Overview**

We are one of the largest owners and operators of shopping centers in the United States. As of December 31, 2011, our retail operating portfolio consisted of 259 properties with 34.6 million square feet of gross leasable area, or GLA. Our retail operating portfolio is geographically diversified across 35 states and includes power centers, community centers, neighborhood centers and lifestyle centers, as well as single-user retail properties. Our retail properties are primarily located in retail districts within densely populated areas in highly visible locations with convenient access to interstates and major thoroughfares. Our retail properties have a weighted average age, based on annualized base rent, of approximately 9.8 years since the initial construction or most recent major renovation. As of December 31, 2011, our retail operating portfolio was 90.4% leased, including leases signed but not commenced. In addition to our retail operating portfolio, as of December 31, 2011, we also held interests in 12 office properties, three industrial properties, one non-stabilized retail operating property, 24 retail operating properties held by three unconsolidated joint ventures and three retail properties under development.

As of December 31, 2011, over 90% of our shopping centers, based on GLA, were anchored or shadow anchored by a grocer, discount department store, wholesale club or retailer that sells basic household goods or clothing. Overall, we have a broad and highly diversified retail tenant base that includes approximately 1,500 tenants with no one tenant representing more than 3.3% of the total annualized base rent generated from our retail operating properties, or our retail annualized base rent.

We are a client-focused organization, maintaining very active relationships with our key tenants. We have 19 property management offices strategically located across the country and over 180 employees primarily dedicated to our leasing, asset management and property management activities. Our senior management team applies a hands-on approach to leasing our portfolio and is supported by over 80 property managers and senior leasing agents who have an average of 15 years of experience in the industry. We believe that the size and scale of our property management and leasing organization, the breadth of our tenant relationships and the scale of our retail portfolio provides us with a competitive advantage in dealing with national and large regional grocers and retailers. Through the efforts of our leasing team since the beginning of 2009, we have renewed approximately 78% of our expiring leases based on GLA at aggregate base rental rates that reflected modest increases from the base rental rates of the expiring leases and have signed 575 new leases for 4.7 million square feet of GLA, representing approximately 14% of the total GLA in our retail operating portfolio.

## **Table of Contents**

### **Competitive Strengths**

We believe that we distinguish ourselves from other owners and operators of shopping centers through the following competitive strengths:

#### *Large, Diversified, High Quality Retail Portfolio*

We own a national portfolio of high quality retail properties that is well diversified both geographically and by property type. We have retail operating properties in 35 states with no one metropolitan statistical area, or MSA, accounting for more than 4.6% of our retail annualized base rent, other than the Dallas-Fort Worth-Arlington area, which accounts for 15.0% of our retail annualized base rent. Our retail operating portfolio is also well diversified by type, including 63 power centers with 15.3 million square feet of GLA, 60 community centers with 9.3 million square feet of GLA, 43 neighborhood centers with 3.3 million square feet of GLA and seven lifestyle shopping centers with 3.3 million square feet of GLA, as well as 86 single-user retail properties with 3.5 million square feet of GLA. We believe the scale of our retail portfolio gives us an advantage in working with national and large regional grocers and retailers, as we offer many potential locations within a selected area from which to choose and can address multiple needs for space in different geographic areas for tenants with multiple locations.

Our shopping centers are well located within strong retail districts in densely populated areas. They have high quality anchors and shadow anchors that consistently drive traffic to our centers and make them more attractive to other potential tenants. Consistent with our entire retail operating portfolio, our shopping centers are also generally recently constructed, which makes them more appealing to shoppers and potential tenants and reduces redevelopment and renovation costs. As of December 31, 2011, 67.2% of our shopping centers, based on annualized base rent, were located in the 50 largest MSAs. These shopping centers are positioned in highly attractive markets with favorable demographics, including a weighted average population of 92,274, expected population growth of 7.5% per year and household income of approximately \$83,545 within a three-mile radius, based on information derived and interpreted by us as a result of our own analysis from data provided by The Nielsen Company. We believe our shopping centers located in markets outside of the 50 largest MSAs are among the most attractive shopping centers in each of the markets in which they are located based on location, age and overall quality. As of December 31, 2011, approximately 89.5% of these shopping centers, based on annualized base rent, were anchored or shadow anchored by either Best Buy (13 locations), Target (11 locations), Home Depot (ten locations), Kohl's (ten locations), Wal-Mart (five locations), Lowe's (two locations), or a national or regional grocer, such as Publix (nine locations), Stop & Shop (three locations), Kroger (four locations) and Giant Foods (one location).

#### *Diversified Base of Value-Oriented Retail Tenants*

Our retail portfolio has a broad and highly diversified tenant base that primarily consists of grocers, drug stores, discount retailers and other retailers that provide basic household goods or services. As of December 31, 2011, our total retail tenant base included approximately 1,500 tenants with approximately 3,200 leases at our retail properties, and our largest shopping center tenants include Best Buy, TJX Companies, Stop & Shop, Bed Bath & Beyond, Home Depot, PetSmart, Ross Dress for Less, Kohl's, Wal-Mart and Publix. As of December 31, 2011, no single retail tenant represented more than 3.3% of our retail annualized base rent, and our top 20 retail tenants, with 389 locations across our portfolio, represented an aggregate of 36.9% of our retail annualized base rent. We believe that maintaining a diversified tenant base with a value-oriented focus limits the impact of economic cycles and our exposure to any single tenant.

We generally have long-term leases with our tenants. As of December 31, 2011, the weighted average lease term of our existing retail leases, based on annualized base rent, was 6.1 years, with leases constituting less than 17.9% of our retail annualized base rent expiring before 2014. We believe the limited near-term expirations of

## Table of Contents

our existing retail leases will allow us to more aggressively pursue leasing of space that is currently vacant and provide for more stable cash flows from operations.

### *Demonstrated Leasing and Property Management Platform*

We believe that our national leasing platform overseen by our focused executive team dedicated to leasing provides us with a distinct competitive advantage. Our executive team applies a hands-on approach and capitalizes upon a network of relationships to aggressively lease-up vacant space, maintain high tenant retention rates and creatively address the needs of our retail properties. Since the beginning of 2009, we have demonstrated our leasing capabilities through our success in addressing a significant portion of the 3.2 million square feet of vacant space in our portfolio created by the bankruptcies of Mervyns, Linens in Things and Circuit City in 2008. Primarily as a result of these vacancies, the percentage of our retail operating portfolio that was leased decreased from 96.8% as of December 31, 2007. However, as a result of our strong leasing platform, as of December 31, 2011, we have been able to lease approximately 2.3 million square feet of this vacant space, primarily to existing tenants, and in total we have leased, sold or are in negotiations for 2.7 million square feet, or 82.5%, of the 3.2 million square feet of GLA that was vacated as a result of these bankruptcies.

As a large, national owner of retail properties, we believe that we offer national and large regional grocers and retailers a greater level of service and credibility with respect to property management than our smaller competitors. We believe that tenants value our commitment to consistently maintain the high standards of our retail properties through our in-house handling of property management and day-to-day operational functions, which has translated into tenant retention rates of approximately 78%, based on expiring GLA, since the beginning of 2009.

### *Capital Structure Positioned for Growth*

Upon completion of this offering, our aggregate indebtedness will consist primarily of fixed rate debt, which will have staggered maturities and a weighted average maturity of approximately 5 years based on balances as of December 31, 2011, as adjusted for our recently amended and restated credit agreement and the completion of this offering and the application of proceeds from both. We also will have a conservative leverage structure with less than \$ 100 million of debt maturing in any one year, a weighted average interest rate of 6% per annum and \$ 100 million of availability under our \$350.0 million senior unsecured revolving line of credit. Overall, we believe our capital structure will provide us with significant financial flexibility to fund future growth.

### *Experienced Management Team with a Proven Track Record*

Our senior management team has on average over 22 years of real estate industry experience through several real estate, credit and retail cycles. They have proven themselves by successfully managing our large, geographically diverse portfolio through the severe economic recession that began in December 2007. Since the beginning of 2009, without accessing the public equity markets, we refinanced or repaid \$3.0 billion of mortgage indebtedness, excluding indebtedness assumed through asset dispositions. This equates to the refinancing or repayment of greater than 63% of our total indebtedness at the beginning of 2009, which was accomplished in severely constrained credit markets, and in the process we reduced our total indebtedness by over \$1.1 billion. Our senior management team also has significant transactional experience, having acquired, disposed of, contributed to joint ventures and developed billions of dollars of real estate throughout their careers. We believe that our senior management team's property management, leasing and operating expertise, combined with their acquisition and financing experience, provide us with a distinct competitive advantage.

## **Table of Contents**

### **Business and Growth Strategies**

Our primary objective is to provide attractive risk-adjusted returns for our shareholders by executing on internal and external business and growth initiatives, which include:

#### *Maximizing Net Operating Income ( NOI ) through Internal Growth*

We believe that we will be able to generate same store NOI growth through the leasing of currently vacant space in our retail operating portfolio. As of December 31, 2011, our retail operating portfolio was 90.4% leased, including leases signed but not commenced, and had 3.3 million square feet of available space. The 843,000 square feet of GLA of signed leases that had not commenced as of December 31, 2011 represented approximately \$9.9 million in contractually obligated annualized base rent, which we expect to begin realizing over the next 18 months. As of December 31, 2011, our remaining available space was comprised of 1.7 million square feet of available small shop space (under 10,000 square feet) and 1.6 million square feet of available anchor space (over 10,000 square feet), the re-leasing of which would increase our NOI. Additionally, as of December 31, 2011, 42.8% of the leases in our retail operating portfolio, based on annualized base rent, have remaining contractual rent increases, which is expected to increase our future NOI.

#### *Preserving and Strengthening Our Portfolio through Active Property Management and Leasing*

We actively manage our portfolio through 19 property management offices across the country, concentrating primarily on leasing opportunities, but also on redevelopment, expansion and remerchandising opportunities. We focus on increasing operating income and cash flows, active risk mitigation and tenant retention as well as other value enhancing strategies including cost reductions, long-term capital planning and asset sustainability initiatives. Examples of how we execute these strategies include Gurnee Town Center, where we completed a series of transactions designed to stabilize the asset following a period of disruption related to bankruptcy activity and downsizing requests by certain tenants, and Tollgate Marketplace, where we were able to anticipate that an existing grocery store tenant would not renew its lease due to the expected opening of a new Wal-Mart Supercenter in the area and re-lease the vacated space within nine months to Ashley Furniture for more than double the base rent per square foot that the grocer had been paying.

#### *Recycling Capital through Dispositions of Non-Core and Non-Strategic Assets*

We believe that one of our primary strengths is the effective and efficient operation of multi-tenant retail assets. Accordingly, we plan to pursue opportunistic dispositions of non-core assets, which include our non-retail properties and our free-standing triple net retail properties, as well as select multi-tenant retail properties that we view as non-strategic in nature. We view non-strategic assets as those assets that are in markets where we do not have a significant presence or where we do not anticipate building a significant presence over time, or assets in markets identified as strategic, but where management believes that long-term demographic trends within the individual asset's submarket no longer justify continued investment. For example, in addition to our retail operating portfolio, as of December 31, 2011, we held interests in 12 office properties and three industrial properties, which had a total of 4.7 million square feet of GLA and represented 9.6% of our operating portfolio based on annualized based rent. From the end of 2007 through December 31, 2011, we have sold 31 non-core and non-strategic properties for an aggregate sales price of \$857.8 million. We anticipate using the proceeds from future dispositions to further improve our balance sheet, reinvest in our existing asset base, and selectively acquire multi-tenant retail properties that meet our underwriting criteria.

#### *Acquiring High Quality, Multi-Tenant Retail Properties*

Although we anticipate remaining a net seller of assets for the next 12 months, we intend to pursue a disciplined and targeted acquisition program focusing on high quality, multi-tenant retail properties. In evaluating potential acquisitions, we will focus on, among other things, projected returns on investment, geographic location, submarket demographics, anchor tenant type and credit-worthiness, and other identified asset specific attributes. Management has an extensive relationship with tenants and public and private owners of real estate and intends to utilize this network to source attractive opportunities going forward.

**Table of Contents***Pursuing Strategic Joint Ventures to Leverage Management Platform*

We intend to leverage our leasing and property management platform through the formation, capitalization and management of joint ventures. In the past, we have partnered with strong institutional investors to supplement our capital base in a manner accretive to our shareholders. For example, in 2010, we formed a joint venture with a wholly-owned subsidiary of RioCan Real Estate Investment Trust, or RioCan, a real estate investment trust based in Canada. The RioCan joint venture has purchased nine properties from us since its formation for a total purchase price of \$280.0 million, including \$9.7 million in post-closing earnout proceeds, and also has purchased four multi-tenant retail properties from third parties for a combined purchase price of \$246.0 million. We earn property management, asset management and other customary fees from the RioCan joint venture and a separate joint venture with a large state pension fund, which totaled \$1.8 million and \$1.3 million in 2011 and 2010, respectively. We remain active in evaluating opportunities to further grow and enhance our existing joint ventures and believe that we are well positioned to strategically pursue additional joint ventures with high quality capital partners going forward.

**Our Properties**

The following table sets forth summary information regarding our operating portfolio as of December 31, 2011. Dollars (other than per square foot information) and square feet of GLA are presented in thousands in the table. This information is grouped into geographic regions based on the manner in which we have structured our property management and leasing operations.

Property Type/Region	Number of Properties	GLA	Percent of Total GLA <sup>(1)</sup>	Percent Leased <sup>(2)</sup>	ABR <sup>(3)</sup>	Percent of ABR <sup>(1)</sup>	ABR Per Leased Sq. Ft. <sup>(4)</sup>
<b>Consolidated:</b>							
<b>Retail:</b>							
North	83	10,626	30.7%	90.5%	\$ 136,163	31.6%	\$ 14.16
East	68	8,628	24.9%	90.5%	101,404	23.6%	12.98
West	50	7,806	22.5%	83.2%	91,276	21.2%	14.06
South	58	7,589	21.9%	86.4%	101,572	23.6%	15.50
<b>Total Retail<sup>(5)</sup></b>	<b>259</b>	<b>34,649</b>	<b>100.0%</b>	<b>87.9%</b>	<b>\$ 430,415</b>	<b>100.0%</b>	<b>\$ 14.13</b>
Total Retail including leases signed but not commenced <sup>(6)</sup>	259	34,649		90.4%	\$ 440,353		\$ 14.06
Office	12	3,335		96.5%	\$ 39,081		\$ 12.15
Industrial	3	1,323		100.0%	6,844		5.17
<b>Total Office and Industrial</b>	<b>15</b>	<b>4,658</b>		<b>97.5%</b>	<b>\$ 45,925</b>		<b>\$ 10.12</b>
<b>Total Consolidated Operating Portfolio</b>	<b>274</b>	<b>39,307</b>		<b>89.1%</b>	<b>\$ 476,340</b>		<b>\$ 13.61</b>
<b>Total Unconsolidated Operating Portfolio<sup>(7)</sup></b>	<b>24</b>	<b>4,508</b>		<b>91.4%</b>	<b>\$ 63,874</b>		<b>\$ 15.50</b>

(1) Percentages are only provided for our retail operating portfolio.

(2) Except as otherwise noted, based on leases commenced as of December 31, 2011, and calculated as leased GLA divided by total GLA.

(3) Excludes \$1.4 million of annualized base rent from our consolidated development properties. Rental abatements for leases commenced as of December 31, 2011, which are excluded, were \$0.1 million for our retail operating portfolio for the 12 months ending December 31, 2012. Annualized base rent does not reflect scheduled lease expirations for the 12 months ending December 31, 2012. The portion of the annualized base rent of our consolidated operating portfolio attributable to leases scheduled to expire during the 12 months ending December 31, 2012, including month-to-month leases, is approximately \$33.6 million.





## **Table of Contents**

- (4) Represents annualized base rent divided by leased GLA.
- (5) Includes (i) 55 properties with 6.5 million square feet of GLA representing \$84.1 million of annualized base rent held in one joint venture in which we have a 77% interest. Regarding the 55 properties held in the joint venture in which we have a 77% interest, we currently anticipate using a portion of the net proceeds from this offering to exercise our option to repurchase the 23% interest held by others. As a result, following this offering we anticipate that we will own 100% of those properties. Excludes one non-stabilized operating property.
- (6) Includes leases signed but not commenced as of December 31, 2011 for approximately 843,000 square feet of GLA representing \$9.9 million of annualized base rent as of lease commencement.
- (7) Includes 20 properties with 4.3 million square feet of GLA representing \$62.5 million of annualized base rent held in two separate joint ventures in which we have a 20% interest and four properties with 0.2 million square feet of GLA representing \$1.4 million of annualized base rent held in one joint venture in which we have a 95.9% interest.

## **Industry Overview**

Rosen believes that positive job growth combined with higher consumer confidence will continue to improve retail market conditions in 2012. Rosen forecasts that this growth in employment and consumer confidence is expected to boost retail demand, leading to increased retail sales. As demand increases, retailers are expected to absorb new space, and landlords should be able to increase rents at an accelerating pace because of the limited new supply entering the market. Rosen forecasts these factors to cause the national retail occupancy rate to continue to improve through 2015.

Since bottoming in February 2010, the economy has added more than 3.4 million jobs in the private sector through December 31, 2011. According to a January 2012 survey by Challenger Gray & Christmas, the number of hirings anticipated by surveyed firms totaled approximately 237,000 in the fourth quarter of 2011, up from about 161,000 anticipated hirings when surveyed one year earlier, highlighting businesses' higher confidence in the economic recovery. Rosen expects the annual rate of job creation to increase to 1.4% in 2012, followed by 0.9%, 1.3% and 1.5% growth in 2013, 2014 and 2015, respectively. In total, Rosen expects 6.85 million new jobs to be created between 2012 and 2015. Accordingly, the unemployment rate is forecasted to decline from 8.7% in 2011 to 7.0% in 2015.

Consumer confidence levels have increased from recessionary lows, even as uncertainty stemming from the European debt crisis and U.S. credit downgrade prevented the indices from improving more significantly in 2011. Consumers at year-end 2011 were much more positive regarding future economic conditions than about their current situations, as evidenced by the consumer confidence index measured by The Conference Board. The consumer expectation component of the index has increased significantly from its low of 27.3 in February 2009 to 76.4 in December 2011. Further, Rosen expects real per capita disposable income, a key metric for the retail industry, to grow by 2.8% annually between 2012 and 2015, compared with an estimated 3.0% average annual increase in 2010 and 2011.

Retail sales continued to recover in 2011, increasing at an average annual rate of 7.3% per month, bolstered by a strong 2011 holiday season. Although sales growth is unlikely to return to peak rates, Rosen believes that annual retail sales growth (including online sales made by brick and mortar retailers) will average 2.8% during the next four years, bringing total fourth-quarter sales in 2015 to more than \$1.1 trillion, an increase of more than \$115 billion from the fourth quarter of 2011. Moreover, Rosen believes that the recession caused a lasting shift in consumer behavior, providing a boost to value-oriented grocers, discount retailers and other retailers that provide basic household goods and/or clothing. Therefore, Rosen expects sales at these grocers and retailers to remain strong going forward.

## **Table of Contents**

Even as the economy recovered, retail construction activity, as measured by the value of construction put-in-place, remained very low in 2011 because of the high vacancy rate and a lack of available construction financing. In the fourth quarter of 2011, the value of put-in-place construction totaled a seasonally adjusted annual rate of \$17.5 billion, compared with fourth-quarter averages of \$42.2 billion between 2002 and 2008. As demand rebounds, tenant competition for existing space is expected to increase due to the limited new supply entering the market. Rosen forecasts the value of inflation-adjusted, put-in-place construction to increase slightly to \$20.0 billion in 2012, and continue to remain well below the recent peak of \$46.8 billion in 2007.

As job growth and higher consumer confidence levels boost demand, Rosen expects retail market conditions to continue to improve in 2012. Rosen forecasts the national retail vacancy rate to continue to improve through 2015, and as vacant space is absorbed, landlords should be able to increase rents at an accelerating pace.

## **Summary Risk Factors**

An investment in shares of our Class A Common Stock involves various risks. You should consider carefully the risks discussed below and under the heading **Risk Factors** beginning on page 16 of this prospectus before purchasing our Class A Common Stock. If any of these risks occur, our business, prospects, financial condition, liquidity, results of operations and ability to make distributions to our shareholders could be materially and adversely affected. In that case, the trading price of our Class A Common Stock could decline and you could lose some or all of your investment.

Real estate investments are subject to various risks and fluctuations and cycles in value and demand, many of which are beyond our control. Our financial performance and the value of our properties can be affected by many of these factors, including, among others, the following:

adverse changes in financial conditions of buyers, sellers and tenants of our properties, including bankruptcies, financial difficulties, or lease defaults by our tenants;

the national, regional and local economy, which may be negatively impacted by concerns about inflation, deflation and government deficits, including the European sovereign debt crisis, high unemployment rates, decreased consumer confidence, industry slowdowns, reduced corporate profits, liquidity concerns in our markets and other adverse business concerns;

local real estate conditions, such as an oversupply of, or a reduction in demand for, retail space or retail goods, and the availability and creditworthiness of current and prospective tenants;

vacancies or ability to rent space on favorable terms, including possible market pressures to offer tenants rent abatements, tenant improvements, early termination rights or below-market renewal options;

changes in operating costs and expenses, including, without limitation, increasing labor and material costs, insurance costs, energy prices, environmental restrictions, real estate taxes, and costs of compliance with laws, regulations and government policies, which we may be restricted from passing on to our tenants;

fluctuations in interest rates, which could adversely affect our ability, or the ability of buyers and tenants of properties, to obtain financing on favorable terms or at all; and

competition from other real estate investors with significant capital, including other real estate operating companies, publicly traded REITs and institutional investment funds.

We may be unable to complete acquisitions and even if acquisitions are completed, we may fail to successfully operate acquired properties.

**Table of Contents**

We may be unable to sell a property at the time we desire and on favorable terms or at all, which could inhibit our ability to utilize our capital to make strategic acquisitions and could adversely affect our results of operations, financial condition and ability to make distributions to our shareholders.

We have experienced aggregate net losses attributable to Company shareholders for the years ended December 31, 2011, 2010 and 2009, and we may experience future losses.

Our development and construction activities have inherent risks, which could adversely impact our results of operations and cash flow.

We had approximately \$3.5 billion of consolidated indebtedness outstanding as of December 31, 2011, which could adversely affect our financial health and operating flexibility.

We have a high concentration of properties in the Dallas-Fort Worth-Arlington area, and adverse economic and other developments in that area could have a material adverse effect on us.

Our financial condition and ability to make distributions to our shareholders could be adversely affected by financial and other covenants and other provisions under the credit agreement governing our senior unsecured revolving line of credit and unsecured term loan or other debt agreements.

We depend on external sources of capital that are outside of our control, which may affect our ability to seize strategic opportunities, satisfy our debt obligations and make distributions to our shareholders.

Certain provisions of Maryland law could inhibit changes in control of us, which could lower the value of our Class A Common Stock.

Failure to qualify as a REIT would cause us to be taxed as a regular corporation, which would substantially reduce funds available for distributions to our shareholders and materially and adversely affect our financial condition and results of operations.

Complying with REIT requirements may cause us to forego otherwise attractive opportunities or to liquidate otherwise attractive investments.

Because we have a large number of shareholders and our shares have not been listed on a national securities exchange prior to this offering, there may be significant pent-up demand to sell our shares. Significant sales of our Class A Common Stock, or the perception that significant sales of such shares could occur, may cause the price of our Class A Common Stock to decline significantly.

**Recapitalization**

Prior to the completion of this offering, we intend to declare a stock dividend pursuant to which each then outstanding share of our common stock will receive:

## Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

one share of our Class B-1 Common Stock; plus

one share of our Class B-2 Common Stock; plus

one share of our Class B-3 Common Stock.

In connection with this stock dividend, we intend to redesignate our then outstanding common stock as Class A Common Stock. Prior to the declaration of the stock dividend, we intend to effectuate a ten to one reverse stock split of our common stock.

Subject to the provisions of our charter, shares of our Class B-1, B-2 and B-3 Common Stock will convert automatically into shares of our Class A Common Stock six months following the Listing, 12 months following the Listing and 18 months following the Listing, respectively. In addition, if they have not otherwise converted, all shares of our Class B Common Stock will convert automatically into shares of our Class A Common Stock on the date that is 18 months following the Listing.

## **Table of Contents**

Our Class B Common Stock will be identical to our Class A Common Stock except that (i) we do not intend to list our Class B Common Stock on a national securities exchange and (ii) shares of our Class B Common Stock will convert automatically into shares of our Class A Common Stock at specified times. As of March 2, 2012, without giving effect to the Recapitalization, we had approximately 485.5 million shares of common stock outstanding. As of March 2, 2012, the aggregate number of shares of our common stock outstanding (including all shares of our Class A and Class B Common Stock) immediately following the Recapitalization will be approximately 194.2 million, all of which (except for certain shares described in Shares Eligible for Future Sale ) will be freely tradable upon the completion of this offering except as otherwise provided in the restrictions on ownership and transfer of stock set forth in our charter. Of this amount, approximately 48.55 million shares of our Class A Common Stock will be outstanding and approximately 145.65 million shares of our Class B Common Stock, representing 75% of our total outstanding common stock, will be outstanding.

## **Distribution Policy**

The Internal Revenue Code of 1986, as amended, or the Code, generally requires that a REIT distribute annually at least 90% of its REIT taxable income, determined without regard to the deduction for dividends paid and excluding net capital gains, and imposes tax on any taxable income retained by a REIT, including capital gains. To satisfy the requirements for qualification as a REIT and generally not be subject to U.S. federal income and excise tax, we intend to make regular quarterly distributions of all or substantially all of our REIT taxable income to holders of our common stock out of assets legally available for such purposes. Our future distributions will be at the sole discretion of our board of directors.

Our senior unsecured revolving line of credit and unsecured term loan limit our distributions to the greater of 95% of funds from operations, or FFO, as defined in the credit agreement (which equals FFO, as set forth in Management's Discussion and Analysis of Financial Condition and Results of Operations Funds from Operations, excluding gains or losses from extraordinary items, impairment charges not already excluded from FFO and other non-cash charges) or the amount necessary for us to maintain our qualification as a REIT. To the extent these limits prevent us from distributing 100% of our REIT taxable income, we will be subject to income tax, and potentially excise tax, on the retained amounts. If our operations do not generate sufficient cash flow to allow us to satisfy the REIT distribution requirements, we may be required to fund distributions from working capital, borrow funds, sell assets or reduce such distributions. Our distribution policy enables us to review the alternative funding sources available to us from time to time.

## **Our REIT Status**

We have elected to be taxed as a REIT under Sections 856 through 860 of the Code. We believe that we have been organized, owned and operated in conformity with the requirements for qualification and taxation as a REIT under the Code beginning with our taxable year ended December 31, 2003, and that our intended manner of ownership and operation will enable us to continue to meet the requirements for qualification and taxation as a REIT for federal income tax purposes. To maintain our qualification as a REIT, we must meet a number of organizational and operational requirements, including a requirement that we annually distribute at least 90% of our REIT taxable income to our shareholders, determined without regard to the deduction for dividends paid and excluding net capital gains. As a REIT, we generally are not subject to U.S. federal income tax on the taxable income we currently distribute to our shareholders. If we fail to qualify as a REIT in any taxable year, we will be subject to U.S. federal income tax at regular corporate rates. Even if we qualify for taxation as a REIT, we may be subject to some U.S. federal, state and local taxes on our income or property, and the taxable income of our taxable REIT subsidiaries, or TRSs, will be subject to taxation at regular corporate rates.

## **Restrictions on Ownership of Our Common Stock**

To assist us in complying with the limitations on the concentration of ownership of a REIT imposed by the Code, among other purposes, our charter generally prohibits, with certain exceptions, any shareholder from

## **Table of Contents**

beneficially or constructively owning, applying certain attribution rules under the Code, more than 9.8% by value or number of shares, whichever is more restrictive, of the outstanding shares of our common stock, or 9.8% by value of the outstanding shares of our capital stock. Our board of directors may, in its sole discretion, waive (prospectively or retroactively) the 9.8% ownership limits with respect to a particular shareholder if it receives certain representations and undertakings required by our charter and is presented with evidence satisfactory to it that such ownership will not then or in the future cause us to fail to qualify as a REIT. See Description of Capital Stock Restrictions on Ownership and Transfer.

## **Certain Relationships and Related Transactions**

The Inland Group and its affiliates were our initial sponsor, and Daniel L. Goodwin, who has not been one of our directors but beneficially owns approximately 5.0% of our common stock prior to this offering, Brenda G. Gujral, one of our current directors, and Robert D. Parks, one of our former directors, are significant shareholders and/or principals of the Inland Group and/or hold directorships and are executive officers of affiliates of the Inland Group.

We have ongoing agreements with affiliates of the Inland Group, including an office sublease for our corporate headquarters and various service agreements. With the exception of the sublease, the majority of these service agreements are non-exclusive and cancellable by providing not less than 180 days prior written notice and specifying the effective date of said termination. These service agreements are generally for administrative services. We primarily use these service agreements in situations where it is more efficient for us to obtain services from an outside party than it would be for us to obtain the dedicated internal resources necessary to provide similar quality services. During the year ended December 31, 2011, we paid a total of \$5.9 million to Inland Group affiliates under these arrangements, of which \$4.1 million was generally for the reimbursement of our portion of shared administrative costs and \$1.0 million was for amounts payable pursuant to our office sublease.

In addition, in 2009, in connection with a \$625 million debt refinancing transaction, we raised additional capital of \$50 million from an affiliate of the Inland Group in exchange for a 23% noncontrolling interest in a newly formed joint venture to which we contributed 55 of our properties. We currently anticipate using a portion of the net proceeds from this offering to exercise our option to repurchase this noncontrolling interest for , as a result of which we would again own 100% of these properties. In 2009, we also sold three single-user office buildings to Inland American Real Estate Trust, Inc., or IARETI, with an aggregate sales price of \$161.6 million, which resulted in net sales proceeds of \$52.6 million and a gain on sale of \$9.3 million. IARETI is externally managed by an affiliate of the Inland Group.

All related person transactions must be approved or ratified by a majority of the disinterested directors on our board of directors, and we continue to monitor our ongoing agreements with affiliates of the Inland Group to ensure that it is in the best interests of our shareholders to maintain these agreements. See Certain Relationships and Related Transactions.

## **Background and Corporate Information**

We are a Maryland corporation formed in March 2003, and we have been publicly held and subject to Securities and Exchange Commission, or SEC, reporting obligations since the completion of our first public offering in 2003. We were initially formed as Inland Western Retail Real Estate Trust, Inc. and were sponsored by The Inland Group, Inc. and its affiliates, but we have not been affiliated with The Inland Group, Inc. since the internalization of our management in November 2007. On March 8, 2012, we filed Articles of Amendment to our Fifth Articles of Amendment and Restatement with the Maryland State Department of Assessments and Taxation effecting a change of our name from Inland Western Retail Real Estate Trust, Inc. to Retail Properties of America, Inc. Our principal executive office is located at 2901 Butterfield Road, Oak Brook, Illinois 60523, and our telephone number is (630) 218-8000. We maintain an internet website at [www.inland-western.com](http://www.inland-western.com) that contains information concerning us. The information included or referenced to on, or otherwise accessible through, our website is not intended to form a part of or be incorporated by reference into this prospectus.







**Table of Contents**

**Summary Consolidated Financial and Operating Data**

The summary consolidated financial data set forth below as of December 31, 2011 and 2010 and for the years ended December 31, 2011, 2010 and 2009 have been derived from our audited consolidated financial statements included elsewhere in this prospectus. The audited consolidated financial statements as of December 31, 2011 and 2010 and for the years ended December 31, 2011, 2010 and 2009 have been audited by Deloitte & Touche LLP, an independent registered public accounting firm. The selected consolidated financial and operating data set forth below as of December 31, 2009 has been derived from our audited consolidated financial statements not included in this prospectus. Certain amounts presented for the years ended December 31, 2010 and 2009 have been reclassified to conform to our presentation of discontinued operations in our audited consolidated financial statements as of and for the year ended December 31, 2011.

Because the information presented below is only a summary and does not provide all of the information contained in our historical consolidated financial statements, including the related notes, you should read it in conjunction with Management's Discussion and Analysis of Financial Condition and Results of Operations and our historical consolidated financial statements, including the related notes, included elsewhere in this prospectus. The amounts in the table are dollars in thousands except for share and per share information. The share and per share information set forth below gives effect to the Recapitalization.

**Table of Contents**

	Year Ended December 31,		
	2011	2010	2009
(in thousands except for per share data)			
<b>Statements of Operations Data:</b>			
Rental income	\$ 485,783	\$ 500,636	\$ 508,012
Tenant recovery income	109,745	113,326	119,805
Other property income	10,155	15,471	18,520
Insurance captive income		2,996	2,261
<b>Total revenues</b>	<b>605,683</b>	<b>632,429</b>	<b>648,598</b>
Property operating expenses	\$ 102,373	\$ 104,413	\$ 120,370
Real estate taxes	79,543	84,330	91,844
Depreciation and amortization	235,598	240,720	243,571
Provision for impairment of investment properties	38,023	11,030	27,600
Loss on lease terminations	8,712	13,812	13,681
Insurance captive expenses		3,392	3,655
General and administrative expenses	20,605	18,119	21,191
<b>Total expenses</b>	<b>484,854</b>	<b>475,816</b>	<b>521,912</b>
Operating income	\$ 120,829	\$ 156,613	\$ 126,686
Dividend income	2,538	3,472	10,132
Interest income	663	740	1,483
Gain on extinguishment of debt, net	16,705		
Equity in (loss) income of unconsolidated joint ventures, net	(6,437)	2,025	(11,299)
Interest expense	(232,400)	(257,208)	(228,271)
Co-venture obligation expense	(7,167)	(7,167)	(597)
Recognized gain on marketable securities, net	277	4,007	18,039
Impairment of notes receivable			(17,322)
Gain on interest rate locks			3,989
Other income (expense), net	1,861	(4,302)	(10,370)
Loss from continuing operations	(103,131)	(101,820)	(107,530)
Income (loss) from discontinued operations	24,647	7,113	(7,879)
Gain on sales of investment properties	5,906		
<b>Net loss</b>	<b>(72,578)</b>	<b>(94,707)</b>	<b>(115,409)</b>
Net (income) loss attributable to noncontrolling interests	(31)	(1,136)	3,074
<b>Net loss attributable to Company shareholders</b>	<b>\$ (72,609)</b>	<b>\$ (95,843)</b>	<b>\$ (112,335)</b>
(Loss) earnings per common share basic and diluted:			
Continuing operations	\$ (0.51)	\$ (0.53)	\$ (0.54)
Discontinued operations	0.13	0.03	(0.04)
<b>Net loss per common share attributable to Company shareholders</b>	<b>\$ (0.38)</b>	<b>\$ (0.50)</b>	<b>\$ (0.58)</b>
Comprehensive loss	\$ (75,130)	\$ (83,725)	\$ (96,158)
Comprehensive (income) loss attributable to noncontrolling interests	(31)	(1,136)	3,074
<b>Comprehensive loss attributable to Company shareholders</b>	<b>\$ (75,161)</b>	<b>\$ (84,861)</b>	<b>\$ (93,084)</b>



**Table of Contents**

	December 31, 2011		December 31,	
	As Adjusted <sup>(1)</sup>	Actual	2010	2009
(in thousands except for share and per share data)				
<b>Selected Balance Sheet Data:</b>				
Net investment properties less accumulated depreciation		\$ 5,260,788	\$ 5,686,473	\$ 6,103,782
Total assets		\$ 5,941,894	\$ 6,386,836	\$ 6,928,365
Mortgages and notes payable		\$ 2,926,218	\$ 3,602,890	\$ 4,003,985
Total liabilities		\$ 3,804,851	\$ 4,090,244	\$ 4,482,119
Common stock and additional paid-in-capital		\$ 4,428,171	\$ 4,383,758	\$ 4,350,966
Total shareholders' equity		\$ 2,135,024	\$ 2,294,902	\$ 2,441,550
<b>Ratio Data:</b>				
Total net debt to Adjusted EBITDA <sup>(2)(6)</sup>		8.3x	8.4x	9.1x
Combined net debt to combined Adjusted EBITDA <sup>(2)(6)</sup>		8.3x	8.5x	8.9x
<b>Year Ended December 31,</b>				
	<b>2011</b>	<b>2010</b>	<b>2009</b>	
(in thousands except for number of properties, share and per share data)				
<b>Other Data:</b>				
Number of consolidated operating properties		274 <sup>(3)</sup>	284	299
Total GLA (in thousands)		39,307	42,491	44,496
Distributions declared per common share	\$	0.63	\$ 0.49	\$ 0.39
Funds from operations <sup>(4)</sup>	\$	195,105	\$ 168,390	\$ 216,567
Total net operating income <sup>(5)</sup>	\$	425,499	\$ 435,785	\$ 431,420
Combined net operating income <sup>(5)</sup>	\$	435,060	\$ 441,274	\$ 435,206
Adjusted EBITDA <sup>(6)</sup>	\$	400,646	\$ 429,734	\$ 438,891
Combined Adjusted EBITDA <sup>(6)</sup>	\$	415,614	\$ 436,164	\$ 456,578
Cash flows provided by (used in):				
Operating activities	\$	174,607	\$ 184,072	\$ 249,837
Investing activities	\$	107,471	\$ 154,400	\$ 193,706
Financing activities	\$	(276,282)	\$ (321,747)	\$ (438,806)

- (1) Presents historical information as of December 31, 2011 as adjusted to give effect to (i) the amendment and restatement of our existing credit agreement to provide for a senior unsecured credit facility in the aggregate amount of \$650.0 million, without adjusting the December 31, 2011 balance of the senior unsecured credit facility, and (ii) this offering and the use of the net proceeds from this offering as set forth in Use of Proceeds.
- (2) Total net debt to Adjusted EBITDA represents (i) our total debt less cash and cash equivalents divided by (ii) Adjusted EBITDA for the prior 12 months. Combined net debt to combined Adjusted EBITDA represents (i) the sum of (A) our total debt less cash and cash equivalents plus (B) our pro rata share of our investment property unconsolidated joint ventures' total debt less our pro rata share of these joint ventures' cash and cash equivalents divided by (ii) combined Adjusted EBITDA for the prior 12 months. For a reconciliation of total net debt to Adjusted EBITDA and combined net debt to combined Adjusted EBITDA and a statement disclosing the reasons why our management believes that presentation of these ratios provides useful information to investors and, to the extent material, any additional purposes for which our management uses these ratios, see Selected Consolidated Financial Operating Data.
- (3) Excludes one non-stabilized operating property.

**Table of Contents**

- (4) For a definition and reconciliation of FFO and a statement disclosing the reasons why our management believes that presentation of FFO provides useful information to investors and, to the extent material, any additional purposes for which our management uses FFO, see Management's Discussion and Analysis of Financial Condition and Results of Operations Funds from Operations.
- (5) Total NOI represents operating revenues (rental income, tenant recovery income, other property income, excluding straight-line rental income and amortization of acquired above and below market lease intangibles) less property operating expenses (real estate tax expense and property operating expense, excluding straight-line ground rent expense and straight-line bad debt expense). Combined NOI, represents NOI plus our pro rata share of NOI from our investment property unconsolidated joint ventures. For a reconciliation of total net operating income, or NOI, and a statement disclosing the reasons why our management believes that presentation of NOI provides useful information to investors and, to the extent material, any additional purposes for which our management uses NOI, which is also applicable to combined NOI, see Management's Discussion and Analysis of Financial Condition and Results of Operations Results of Operations. For a reconciliation of combined NOI, see Selected Consolidated Financial Operating Data.
- (6) Adjusted EBITDA represents net income (loss) before interest, income taxes, depreciation and amortization, as further adjusted to eliminate the impact of certain items that we do not consider indicative of our ongoing operating performance. Combined Adjusted EBITDA represents Adjusted EBITDA plus our pro rata share of the EBITDA adjustments from our investment property unconsolidated joint ventures. For a reconciliation of Adjusted EBITDA and combined Adjusted EBITDA and a statement disclosing the reasons why our management believes that presentation of Adjusted EBITDA and combined Adjusted EBITDA provides useful information to investors and, to the extent material, any additional purposes for which our management uses Adjusted EBITDA and combined Adjusted EBITDA, see Selected Consolidated Financial Operating Data.

**Table of Contents**

**RISK FACTORS**

*An investment in our Class A Common Stock involves a high degree of risk. Before making an investment decision, you should carefully consider the following risk factors, which address the material risks concerning our business and an investment in our Class A Common Stock, together with the other information contained in this prospectus. If any of the risks discussed in this prospectus occur, our business, prospects, financial condition, results of operations and our ability to make distributions to our shareholders could be materially and adversely affected. In that case, the trading price of our Class A Common Stock could decline significantly and you could lose all or a part of your investment. Some statements in this prospectus, including statements in the following risk factors constitute forward-looking statements. Please refer to the section entitled *Forward-Looking Statements*.*

**RISKS RELATING TO OUR BUSINESS AND OUR PROPERTIES**

*There are inherent risks associated with real estate investments and with the real estate industry, each of which could have an adverse impact on our financial performance and the value of our retail properties.*

Real estate investments are subject to various risks and fluctuations and cycles in value and demand, many of which are beyond our control. Our financial performance and the value of our properties can be affected by many of these factors, including the following:

adverse changes in financial conditions of buyers, sellers and tenants of our properties, including bankruptcies, financial difficulties, or lease defaults by our tenants;

the national, regional and local economy, which may be negatively impacted by concerns about inflation, deflation and government deficits (including the European sovereign debt crisis), high unemployment rates, decreased consumer confidence, industry slowdowns, reduced corporate profits, liquidity concerns in our markets and other adverse business concerns;

local real estate conditions, such as an oversupply of, or a reduction in demand for, retail space or retail goods, and the availability and creditworthiness of current and prospective tenants;

vacancies or ability to rent space on favorable terms, including possible market pressures to offer tenants rent abatements, tenant improvements, early termination rights or below-market renewal options;

changes in operating costs and expenses, including, without limitation, increasing labor and material costs, insurance costs, energy prices, environmental restrictions, real estate taxes, and costs of compliance with laws, regulations and government policies, which we may be restricted from passing on to our tenants;

fluctuations in interest rates, which could adversely affect our ability, or the ability of buyers and tenants of properties, to obtain financing on favorable terms or at all;

competition from other real estate investors with significant capital, including other real estate operating companies, publicly traded REITs and institutional investment funds;

the convenience and quality of competing retail properties and other retailing options such as the Internet;



perceptions by retailers or shoppers of the safety, convenience and attractiveness of the retail property;

inability to collect rent from tenants;

our ability to secure adequate insurance;

our ability to provide adequate management services and to maintain our properties;

## **Table of Contents**

changes in, and changes in enforcement of, laws, regulations and governmental policies, including, without limitation, health, safety, environmental, zoning and tax laws, government fiscal policies and the Americans with Disabilities Act of 1990, or the ADA; and

civil unrest, acts of war, terrorist attacks and natural disasters, including earthquakes and floods, which may result in uninsured and underinsured losses.

In addition, because the yields available from equity investments in real estate depend in large part on the amount of rental income earned, as well as property operating expenses and other costs incurred, a period of economic slowdown or recession, declining demand for real estate, or the public perception that any of these events may occur, could result in a general decline in rents or an increased incidence of defaults among our existing leases, and, consequently, our properties, including those held by joint ventures, may fail to generate revenues sufficient to meet operating, debt service and other expenses. As a result, we may have to borrow amounts to cover fixed costs, and our financial condition, results of operations, cash flow, per share trading price of our Class A Common Stock and our ability to satisfy our principal and interest obligations and to make distributions to our shareholders may be adversely affected.

***Continued economic weakness from the severe economic recession that the U.S. economy recently experienced may materially and adversely affect our financial condition and results of operations.***

The U.S. economy is still experiencing weakness from the recent severe recession, which resulted in increased unemployment, the bankruptcy or weakened financial condition of a number of large retailers, decreased consumer spending, a decline in residential and commercial property values and reduced demand and rental rates for retail space. Although the U.S. economy has emerged from the recent recession, high levels of unemployment have persisted, and rental rates and valuations for retail space have not fully recovered to pre-recession levels and may not for a number of years. If the economic recovery slows or stalls, we may continue to experience downward pressure on the rental rates we are able to charge as leases signed prior to the recession expire, and tenants may declare bankruptcy, announce store closings or fail to meet their lease obligations, any of which could adversely affect our cash flow, financial condition and results of operations.

***Substantial international, national and local government spending and increasing deficits may adversely impact our business, financial condition and results of operations.***

The values of, and the cash flows from, the properties we own are affected by developments in global, national and local economies. As a result of the recent severe recession and the significant government interventions, federal, state and local governments have incurred record deficits and assumed or guaranteed liabilities of private financial institutions or other private entities. These increased budget deficits and the weakened financial condition of federal, state and local governments may lead to reduced governmental spending, tax increases, public sector job losses, increased interest rates, currency devaluations or other adverse economic events, which may directly or indirectly adversely affect our business, financial condition and results of operations.

***We face significant competition in the leasing market, which may decrease or prevent increases in the occupancy and rental rates of our properties.***

We have acquired and intend to continue to acquire properties located in developed areas. Consequently, we compete with numerous developers, owners and operators of retail properties, many of which own properties similar to, and in the same market areas as, our properties. If our competitors offer space at rental rates below current market rates, or below the rental rates we currently charge our tenants, we may lose existing or potential tenants and we may be pressured to reduce our rental rates below those we currently charge in order to attract new tenants and retain existing tenants when their leases expire. Also, if our competitors develop additional retail properties in locations near our properties, there may be increased competition for customer traffic and creditworthy tenants, which may result in fewer tenants or decreased cash flow from tenants, or both, and may

## **Table of Contents**

require us to make capital improvements to properties that we would not have otherwise made. As a result, our financial condition and our ability to make distributions to our shareholders may be adversely affected.

***We may be required to make rent or other concessions and/or significant capital expenditures to improve our properties in order to retain and attract tenants, which could adversely affect our financial condition, results of operations and cash flow.***

In order to attract new tenants and retain existing tenants, we may be required to offer more substantial rent abatements, tenant improvements and early termination rights or accommodate requests for renovations, build-to-suit remodeling and other improvements or provide additional services to our tenants. As a result, we may have to make significant capital or other expenditures in order to retain tenants whose leases expire and to attract new tenants in sufficient numbers, which could adversely affect our results of operations and cash flow. Additionally, if we need to raise capital to make such expenditures and are unable to do so, or such capital is otherwise unavailable, we may be unable to make the required expenditures. This could result in non-renewals by tenants upon expiration of their leases, which could adversely affect to our financial condition, results of operations and cash flow.

***Rents associated with new leases for the properties in our portfolio may be less than expiring rents (lease roll-down), which may adversely affect our financial condition, results of operations and cash flow.***

Our operating results depend upon our ability to maintain and increase rental rates at our properties while also maintaining or increasing occupancy. As a result of various factors, including competitive pricing pressure in our markets and the recent severe recession, the rental rates that we charge tenants have generally declined and our ability to maintain our current rental rates or increase those rates in the future may be limited. Since current rental rates have declined as compared to expiring leases in our portfolio, the rental rates for expiring leases may be higher than starting rental rates for new leases and we may also be required to offer greater rental concessions than we have historically. The rental rate spread between expiring leases and new leases may vary both from property to property and among different leased spaces within a single property. If we are unable to obtain sufficient rental rates across our portfolio, our results of operations and cash flow and our ability to satisfy our debt obligations and make distributions to our shareholders will be adversely affected.

***We have experienced aggregate net losses attributable to Company shareholders for the years ended December 31, 2011, 2010 and 2009, and we may experience future losses.***

We had net losses attributable to Company shareholders of approximately \$72.6 million, \$95.8 million, and \$112.3 million for the years ended December 31, 2011, 2010 and 2009, respectively. If we continue to incur significant net losses in the future or such losses increase, our financial condition, results of operations, cash flow and our ability to service our indebtedness and make distributions to our shareholders could be materially and adversely affected, any of which could adversely affect the market price of our Class A Common Stock.

***We have a high concentration of properties in the Dallas-Fort Worth-Arlington area, and adverse economic and other developments in that area could have a material adverse effect on us.***

As of December 31, 2011, approximately 11.8% of the GLA and approximately 15.0% of the annualized base rent from our retail operating portfolio were represented by properties located in the Dallas-Fort Worth-Arlington area. As a result, we are particularly susceptible to adverse economic and other developments in this area, including increased unemployment, industry slowdowns, business layoffs or downsizing, decreased consumer confidence, relocations of businesses, changes in demographics, increases in real estate and other taxes, increased regulation, and natural disasters, any of which could have a material adverse effect on us.

## **Table of Contents**

***Our inability to collect rents from tenants may negatively impact our financial condition and our ability to make distributions to our shareholders.***

Substantially all of our income is derived from rentals of real property. Therefore, our financial condition, results of operations and cash flow materially depend on the financial stability of our tenants, any of which may experience a change in their business at any time, and our ability to continue to lease space in our properties on economically favorable terms. If the sales of stores operating in our centers decline sufficiently, tenants might be unable to pay their existing minimum rents or expense recovery charges, since these rents and charges would represent a higher percentage of their sales, and new tenants might be less willing to pay minimum rents as high as they would otherwise pay. Further, tenants may delay lease commencements, decline to extend or renew a lease upon its expiration or on terms favorable to us, or exercise early termination rights (to the extent available). If a number of our tenants are unable to make their rental payments to us and otherwise meet their lease obligations, our ability to meet debt and other financial obligations and to make distributions to our shareholders may be adversely affected.

***We may be unable to renew leases, lease vacant space or re-let space as leases expire, which could adversely affect our financial condition and results of operations.***

Approximately 12.1%, excluding leases signed but not commenced, of the total GLA in our retail operating portfolio was vacant as of December 31, 2011. In addition, leases accounting for approximately 32.2% of the annualized base rent in our retail operating portfolio as of December 31, 2011 are scheduled to expire between 2012 and 2014. We cannot assure you that leases will be renewed or that our properties will be re-let at net effective rental rates equal to or above the current average net effective rental rates or that substantial rent abatements, tenant improvements, early termination rights or below-market renewal options will not be offered to attract new tenants or retain existing tenants. If the rental rates for our properties decrease, our existing tenants do not renew their leases or we do not re-let a significant portion of our available space and space for which leases will expire, our financial condition, results of operations, cash flow, cash available for distributions and per share trading price of our Class A Common Stock could be adversely affected.

***If any of our anchor tenants experience a downturn in their business or terminate their leases, our financial condition and results of operations could be adversely affected.***

Our financial condition and results of operations could be adversely affected in the event of a downturn in the business, or the bankruptcy or insolvency, of any anchor store or anchor tenant, particularly an anchor tenant with multiple store locations. Anchor tenants generally occupy large amounts of square footage, pay a significant portion of the total rents at a property and contribute to the success of other tenants by drawing significant numbers of customers to a property. The closing of one or more anchor stores at a property could adversely affect that property and result in lease terminations by, or reductions in rent from, other tenants whose leases permit termination or rent reduction in those circumstances or whose own operations may suffer as a result of the anchor store closing. For example, in 2008 and 2009, three of our anchor tenants, Mervyn's, Linens 'n Things and Circuit City, declared bankruptcy, resulting in approximately 3.2 million square feet of vacant retail space and a decrease in rental income of approximately \$34.8 million. Additional bankruptcies or insolvencies of, or store closings by, our anchor tenants could significantly increase vacancies and reduce our rental income. If we are unable to re-let such space on similar terms and in a timely manner, our financial condition, results of operations and ability to make distributions to our shareholders could be materially and adversely affected.

***Many of the leases at our retail properties contain co-tenancy or go-dark provisions, which, if triggered, may allow tenants to pay reduced rent, cease operations or terminate their leases, any of which could adversely affect our financial condition and results of operations and/or the value of the applicable property.***

Many of the leases at our retail properties contain co-tenancy provisions that condition a tenant's obligation to remain open, the amount of rent payable by the tenant or the tenant's obligation to continue occupancy on certain conditions, including: (i) the presence of a certain anchor tenant or tenants; (ii) the continued operation of an anchor tenant's store; and (iii) minimum occupancy levels at the applicable property. If

## **Table of Contents**

a co-tenancy provision is triggered by a failure of any of these or other applicable conditions, a tenant could have the right to cease operations at the applicable property, terminate its lease early or have its rent reduced. In periods of prolonged economic decline such as the recent recession, there is a higher than normal risk that co-tenancy provisions will be triggered due to the higher risk of tenants closing stores or terminating leases during these periods. For example, the effects of recent tenant bankruptcies triggered some co-tenancy clauses in certain other tenant leases, which provided certain of these tenants with immediate reductions in their annual rents and permitted them to terminate their leases if an appropriate replacement was not found within the allotted time period. In addition to these co-tenancy provisions, certain of the leases at our retail properties contain go-dark provisions that allow the tenant to cease operations at the applicable property while continuing to pay rent. This could result in decreased customer traffic at the applicable property, thereby decreasing sales for our other tenants at that property, which may result in our other tenants being unable to pay their minimum rents or expense recovery charges. These provisions also may result in lower rental revenue generated under the applicable leases. To the extent co-tenancy or go-dark provisions in our retail leases result in lower revenue or tenant sales or in tenants' rights to terminate their leases early or to have their rent reduced, our financial condition and results of operations and the value of the applicable property could be adversely affected.

***We may be unable to collect balances due on our leases from any tenants in bankruptcy, which could adversely affect our cash flow and the amount of cash available for distribution to our shareholders.***

Our leases generally do not contain provisions designed to ensure the creditworthiness of the tenant, and a number of companies in the retail industry, including some of our tenants, have declared bankruptcy or voluntarily closed certain of their stores in recent years. We cannot assure you that any tenant that files for bankruptcy protection will continue to pay us rent. Any or all of the tenant's or a guarantor of a tenant's lease obligations could be subject to a bankruptcy proceeding pursuant to Chapter 11 or Chapter 7 of the bankruptcy laws of the United States. Such a bankruptcy filing would bar all efforts by us to collect pre-bankruptcy rents from these entities or their properties, unless we receive an order from the bankruptcy court permitting us to do so. A tenant or lease guarantor bankruptcy could delay our efforts to collect past due balances under the relevant leases, and could ultimately preclude collection of these sums. If a lease is rejected by a tenant in bankruptcy, we would only have a general unsecured claim for damages. This claim could be paid only in the event funds were available, and then only in the same percentage as that realized on other unsecured claims, and our claim would be capped at the rent reserved under the lease, without acceleration, for the greater of one year or 15% of the remaining term of the lease, but not greater than three years, plus rent already due but unpaid. Therefore, if a lease is rejected, it is unlikely we would receive any payments from the tenant, or we would receive substantially less than the full value of any unsecured claims we hold, which would result in a reduction in our rental income, cash flow and in the amount of cash available for distribution to our shareholders. On February 16, 2011, Borders Group, Inc., or Borders, a national retailer, which, as of December 31, 2010, leased from us approximately 220,000 square feet at 10 locations representing \$2.6 million of annualized base rent, filed for bankruptcy. On July 18, 2011, Borders announced that it was seeking approval for the liquidation of its remaining store assets, which was approved on July 21, 2011. As of December 31, 2011, all Borders stores at locations within our portfolio had closed following completion of liquidation sales.

***Our expenses may remain constant or increase, even if income from our properties decreases, causing our financial condition and results of operations to be adversely affected.***

Costs associated with our business, such as mortgage payments, real estate and personal property taxes, insurance, utilities and corporate expenses, are relatively inflexible and generally do not decrease, and may increase, when a property is not fully occupied, rental rates decrease, a tenant fails to pay rent or other circumstances cause our revenues to decrease. If we are unable to decrease our operating costs when our revenue declines, our financial condition, results of operations and ability to make distributions to our shareholders may be adversely affected. In addition, inflationary price increases could result in increased operating costs for us and our tenants and, to the extent we are unable to pass along those price increases or are unable to recover operating expenses from tenants, our operating expenses may increase, which could adversely affect our financial condition, results of operations and ability to make distributions to our shareholders.

**Table of Contents**

***Real estate related taxes may increase and if these increases are not passed on to tenants, our net income will be reduced.***

Even if we qualify as a REIT for U.S. federal income tax purposes, we will be required to pay state and local taxes on our properties. The real property taxes may increase as property values or assessment rates change or as our properties are assessed or reassessed by taxing authorities. An increase in the assessed valuation of a property for real estate tax purposes will result in an increase in the related real estate taxes on that property. Although some leases may permit us to pass through such tax increases to our tenants, there is no assurance that renewal leases or future leases will be negotiated on the same basis. If our property taxes increase and we are unable to pass those increases through to our tenants, our net income and cash available for distribution to our shareholders could be adversely affected.

***We may be unable to complete acquisitions and, even if acquisitions are completed, we may fail to successfully operate acquired properties.***

We continue to evaluate the market of available properties and may acquire properties when we believe strategic opportunities exist. Our ability to acquire properties on favorable terms and successfully operate or develop them is subject to the following risks:

we may be unable to acquire a desired property because of competition from other real estate investors with substantial capital, including from other REITs and institutional investment funds;

even if we are able to acquire a desired property, competition from other potential acquirers may significantly increase the purchase price;

even if we enter into agreements for the acquisition of properties, these agreements are subject to customary conditions to closing, including completion of due diligence investigations to our satisfaction;

we may incur significant costs and divert management attention in connection with evaluation and negotiation of potential acquisitions, including ones that we are subsequently unable to complete;

we may acquire properties that are not initially accretive to our results upon acquisition, and we may not successfully manage and lease those properties to meet our expectations;

we may be unable to finance the acquisition on favorable terms in the time period we desire, or at all;

even if we are able to finance the acquisition, our cash flow may be insufficient to meet our required principal and interest payments;

we may spend more than budgeted to make necessary improvements or renovations to acquired properties;

we may be unable to quickly and efficiently integrate new acquisitions, particularly the acquisition of portfolios of properties, into our existing operations;

market conditions may result in higher than expected vacancy rates and lower than expected rental rates; and

## Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

we may acquire properties subject to liabilities and without any recourse, or with only limited recourse, with respect to unknown liabilities for clean-up of undisclosed environmental contamination, claims by tenants or other persons dealing with former owners of the properties and claims for indemnification by general partners, directors, officers and others indemnified by the former owners of the properties.

If we cannot finance property acquisitions in a timely manner and on favorable terms, or operate acquired properties to meet our financial expectations, our financial condition, results of operations, cash flow, per share trading price of our Class A Common Stock and ability to satisfy our principal and interest obligations and to make distributions to our shareholders could be adversely affected.

## **Table of Contents**

*We depend on external sources of capital that are outside of our control, which may affect our ability to seize strategic opportunities, satisfy our debt obligations and make distributions to our shareholders.*

In order to maintain our qualification as a REIT, we are generally required under the Code to annually distribute at least 90% of our REIT taxable income, determined without regard to the dividends paid deduction and excluding any net capital gain. In addition, as a REIT, we will be subject to income tax at regular corporate rates to the extent that we distribute less than 100% of our REIT taxable income, including any net capital gains. Because of these distribution requirements, we may not be able to fund future capital needs (including redevelopment, acquisition, expansion and renovation activities, payments of principal and interest on and the refinancing of our existing debt, tenant improvements and leasing costs), from operating cash flow. Consequently, we may rely on third-party sources to fund our capital needs. We may not be able to obtain the necessary financing on favorable terms, in the time period we desire, or at all. Any additional debt we incur will increase our leverage, expose us to the risk of default and may impose operating restrictions on us, and any additional equity we raise could be dilutive to existing shareholders. Our access to third-party sources of capital depends, in part, on:

general market conditions;

the market's view of the quality of our assets;

the market's perception of our growth potential;

our current debt levels;

our current and expected future earnings;

our cash flow and cash distributions; and

the market price per share of our Class A Common Stock.

If we cannot obtain capital from third-party sources, we may not be able to acquire or develop properties when strategic opportunities exist, satisfy our principal and interest obligations or make the cash distributions to our shareholders necessary to maintain our qualification as a REIT.

*We may be unable to sell a property at the time we desire and on favorable terms or at all, which could inhibit our ability to utilize our capital to make strategic acquisitions and could adversely affect our results of operations, financial condition and ability to make distributions to our shareholders.*

Real estate investments generally cannot be sold quickly. Our ability to dispose of properties on advantageous terms depends on factors beyond our control, including competition from other sellers and the availability of attractive financing for potential buyers of our properties, and we cannot predict the various market conditions affecting real estate investments that will exist at any particular time in the future. In addition, the Code generally imposes a 100% tax on gain recognized by REITs upon the disposition of assets if the assets are held primarily for sale in the ordinary course of business, rather than for investment, which may cause us to forego or defer sales of properties that otherwise would be attractive from a pre-tax perspective. As a result of such tax laws and the uncertainty of market conditions, our ability to promptly make changes to our portfolio as necessary to respond to economic and other conditions may be limited, and we cannot provide any assurance that we will be able to sell such properties at a profit, or at all. Accordingly, our ability to access capital through dispositions may be limited which could limit our ability to acquire properties strategically and pay down indebtedness and would limit our ability to make distributions to our shareholders.

In addition, certain of our leases contain provisions giving the tenant a right to purchase the property, which can take the form of a fixed price purchase option, a fair market value purchase option, a put option, a right of first refusal or a right of first offer. When acquiring a property in the future, we may also agree to restrictions that prohibit the sale of that property for a period of time or impose other restrictions, such as a



limitation on the amount of debt that can be placed or repaid on that property. These provisions may restrict our ability to sell a property at opportune times or on favorable terms and, as a result, may adversely impact our cash flows and results of operations.

## **Table of Contents**

Furthermore, we may be required to expend funds to correct defects or to make improvements before a property can be sold. We cannot assure our shareholders that we will have funds available to correct such defects or to make such improvements and, therefore, we may be unable to sell the asset or may have to sell it at a reduced cost.

*Joint venture investments could be adversely affected by our lack of sole decision-making authority, our reliance on co-venturers financial condition and disputes between us and our co-venturers.*

We have made and may continue to make investments in joint ventures or other partnership arrangements between us and our joint venture partners. As of December 31, 2011, we held 55 operating properties with 6.5 million square feet of GLA and a portion of one other property with 0.3 million square feet of GLA in two consolidated joint ventures (excluding an operating phase of one recently developed operating property that has not yet reached initial stabilization held in one consolidated joint venture) and 24 operating properties with 4.5 million square feet of GLA in three unconsolidated joint ventures. Investments in joint ventures or other partnership arrangements involve risks not present were a third party not involved, including the following:

we do not have exclusive control over the development, financing, leasing, management and other aspects of the property or joint venture, which may prevent us from taking actions that are in our best interest but opposed by our partners or co-venturers;

prior consent of our joint venture partners or co-venturers may be required for a sale or transfer to a third party of our interest in the joint venture, which would restrict our ability to dispose of our interest in the joint venture;

two of our unconsolidated operating joint venture agreements have, and future joint venture agreements may contain, buy-sell provisions pursuant to which one partner may initiate procedures requiring the other partner to choose between buying the other partner's interest or selling its interest to that partner;

our partners or co-venturers might become bankrupt or fail to fund their share of required capital contributions necessary to refinance debt or to fund tenant improvements or development or renovation projects for the joint venture properties, which may force us to contribute more capital than we anticipated to cover the joint venture's liabilities;

our partners or co-venturers may have competing interests in our markets that could create conflict of interest issues;

our partners or co-venturers may have economic or business interests or goals that are inconsistent with our interests or goals and may take actions contrary to our instructions, requests, policies or objectives;

two of our joint venture agreements have, and future joint venture agreements may contain, provisions limiting our ability to solicit or otherwise attempt to persuade any tenant to relocate to another property not owned by the joint venture;

our partners or co-venturers may take actions that could jeopardize our REIT status or require us to pay tax;

actions by partners or co-venturers might subject properties owned by the joint venture to liabilities greater than those contemplated by the terms of the joint venture or other adverse consequences that may reduce our returns;

## Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

disputes between us and partners or co-venturers may result in litigation or arbitration that would increase our expenses and prevent our officers and/or directors from focusing their time and effort on our business and could result in subjecting properties owned by the partnership or joint venture to additional risk; and

we may in certain circumstances be liable for the actions of our third-party partners or co-venturers.

If any of the foregoing were to occur, our financial condition, results of operations and cash available for distribution to our shareholders could be adversely affected.

## **Table of Contents**

*Our development and construction activities have inherent risks, which could adversely impact our results of operations and cash flow.*

Our construction and development activities include risks that are different and, in most cases, greater than the risks associated with our acquisition of fully developed and operating properties. We may provide a completion of construction and principal guaranty to the construction lender. As a result of such a guaranty, we may subject a property to liabilities in excess of those contemplated and thus reduce our return to investors. As of December 31, 2011, we had guaranteed \$18.6 million of construction loans associated with certain of our wholly-owned and consolidated joint venture properties.

In addition to the risks associated with real estate investments in general as described elsewhere, the risks associated with our development activities include:

significant time lag between commencement and stabilization subjects us to greater risks due to fluctuations in the general economy, including national, regional and local economic downturns, and shifts in demographics;

expenditure of money and time on projects that may never be completed;

occupancy rates and rents at a newly completed property may not be sufficient to make the property profitable;

inability to achieve projected occupancy and/or rental rates per square foot within the projected time frame, if at all;

failure or inability to obtain construction or permanent financing on favorable terms or at all;

higher than estimated construction or operating costs, including labor and material costs;

inability to complete construction and lease-up on schedule, resulting in increased debt service expense and construction costs; and

possible delay in completion of a project because of a number of factors, including weather, labor disruptions, construction delays or delays in receipt of zoning or other regulatory approvals, acts of terror or other acts of violence, or acts of God (such as fires, earthquakes or floods).

Additionally, the time frame required for development and lease-up of these properties means that we may not realize a significant cash return for several years. If any of the above events occur, the development of the properties may hinder our growth and have an adverse effect on our results of operations and cash flow. In addition, new development activities, regardless of whether or not they are ultimately successful, typically require substantial time and attention from management.

*Bankruptcy of our developers could impose delays and costs on us with respect to the development of retail properties and may adversely affect our financial condition and results of operations.*

The bankruptcy of one of the developers in any of our development joint ventures could materially and adversely affect the relevant property or properties. If the relevant joint venture through which we have invested in a property has incurred recourse obligations, the discharge in bankruptcy of the developer may require us to honor a completion guarantee and therefore might result in our ultimate liability for a greater portion of those obligations than we would otherwise bear.

*A number of properties in our portfolio are subject to ground leases; if we are found to be in breach of a ground lease or are unable to renew a ground lease, we could be materially and adversely affected.*

## Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

We have 17 properties in our portfolio that are either completely or partially on land subject to ground leases. Accordingly, we only own a long-term leasehold or similar interest in those properties. If we are found to be in breach of a ground lease, we could lose the right to use the property. In addition, unless we can purchase a fee interest in the underlying land and improvements or extend the terms of these leases before their expiration, as to which no assurance can be given, we will lose our right to operate these properties and our interest in the

**Table of Contents**

improvements upon expiration of the leases. Assuming that we exercise all available options to extend the terms of our ground leases, all of our ground leases will expire between 2018 and 2105. However, in certain cases, our ability to exercise such options is subject to the condition that we are not in default under the terms of the ground lease at the time that we exercise such options, and we can provide no assurances that we will be able to exercise our options at such time. Furthermore, we can provide no assurances that we will be able to renew our ground lease upon expiration. If we were to lose the right to use a property due to a breach or non-renewal of the ground lease, we would be unable to derive income from such property, which could materially and adversely affect us.

***Uninsured losses or losses in excess of insurance coverage could materially and adversely affect our financial condition and results of operations.***

Each tenant is responsible for insuring its goods and premises and, in some circumstances, may be required to reimburse us for a share of the cost of acquiring comprehensive insurance for the property, including casualty, liability, fire and extended coverage customarily obtained for similar properties in amounts which we determine are sufficient to cover reasonably foreseeable losses. Tenants on a net lease typically are required to pay all insurance costs associated with their space. However, material losses may occur in excess of insurance proceeds with respect to any property and we may not have sufficient resources to fund such losses. In addition, we may be subject to certain types of losses, generally of a catastrophic nature, such as losses due to wars, acts of terrorism, earthquakes, floods, hurricanes, pollution or environmental matters, which are either uninsurable or not economically insurable, or may be insured subject to limitations, such as large deductibles or co-payments. If we experience a loss that is uninsured or that exceeds policy limits, we could lose all or a significant portion of the capital we have invested in the damaged property, as well as the anticipated future revenue of the property, which could materially and adversely affect our financial condition and results of operations. Inflation, changes in building codes and ordinances, environmental considerations and other factors also might make it impractical or undesirable to use insurance proceeds to replace a property after it has been damaged or destroyed. In addition, if the damaged properties are subject to recourse indebtedness, we would continue to be liable for the indebtedness, even if these properties were irreparably damaged. Furthermore, we may not be able to obtain adequate insurance coverage at reasonable costs in the future, as the costs associated with property and casualty renewals may be higher than anticipated.

In addition, insurance risks associated with potential terrorist acts could sharply increase the premium we pay for coverage against property and casualty claims. Further, mortgage lenders, in some cases, insist that specific coverage against terrorism be purchased by commercial property owners as a condition for providing mortgage loans. It is uncertain whether such insurance policies will be available, or available at reasonable costs, which could inhibit our ability to finance or refinance our properties. In such instances, we may be required to provide other financial support, either through financial assurances or self-insurance, to cover potential losses. We cannot assure our shareholders that we will have adequate coverage for such losses and, to the extent we must pay unexpectedly large amounts for insurance, our financial condition, results of operations and ability to make distributions to our shareholders could be materially and adversely affected.

***Some of our properties are subject to potential natural or other disasters, which could cause significant damage to our properties and adversely affect our financial condition and results of operations.***

A number of our properties are located in areas which are susceptible to, and could be significantly affected by, natural disasters that could cause significant damage to our properties. For example, many of our properties are located in coastal regions, and would therefore be affected by any future increases in sea levels or in the frequency or severity of hurricanes and tropical storms. In addition, a number of our properties are located in California and other regions that are especially susceptible to earthquakes. If we experience a loss, due to such natural disasters or other relevant factors, that is uninsured or which exceeds our policy limits, we could incur significant costs and lose the capital invested in the damaged properties, as well as the anticipated future revenue from those properties, which could adversely affect our financial condition and results of operations. In addition, if the damaged properties are subject to recourse indebtedness, we would continue to be liable for the indebtedness, even if these properties were irreparably damaged.

## **Table of Contents**

***We may incur liability with respect to contaminated property or incur costs to comply with environmental laws, which may negatively impact our financial condition and results of operations.***

Under various federal, state and local laws, ordinances and regulations, as a current or former owner or operator of real property, we may be liable for costs and damages resulting from the presence or release of hazardous substances, waste, or petroleum products at, on, in, under or from such property, including costs for investigation, remediation, natural resource damages or third party liability for personal injury or property damage. These laws often impose liability without regard to whether the owner or operator knew of, or was responsible for, the presence or release of such materials, and the liability may be joint and several. In addition, the presence of contamination or the failure to remediate contamination at our properties may adversely affect our ability to sell, redevelop, or lease such property or to borrow using the property as collateral. Environmental laws also may create liens on contaminated sites in favor of the government for damages and costs it incurs to address such contamination. Moreover, if contamination is discovered on our properties, environmental laws may impose restrictions on the manner in which that property may be used or how businesses may be operated on that property. Some of our properties have been or may be impacted by contamination arising from current or prior uses of the property or adjacent properties for commercial or industrial purposes. Such contamination may arise from spills of petroleum or hazardous substances or releases from tanks used to store such materials. We also may be liable for the costs of remediating contamination at off-site disposal or treatment facilities when we arrange for disposal or treatment of hazardous substances at such facilities, without regard to whether we comply with environmental laws in doing so.

In addition, our properties are subject to various federal, state and local environmental, health and safety laws, including laws governing the management of waste and underground and aboveground storage tanks. Noncompliance with these environmental, health and safety laws could subject us or our tenants to liability. These environmental liabilities could affect a tenant's ability to make rental payments to us. Moreover, changes in laws could increase the potential costs of compliance with environmental laws, health and safety laws or increase liability for noncompliance. This may result in significant unanticipated expenditures or may otherwise materially and adversely affect our operations, or those of our tenants, which could in turn have a material adverse effect on us.

As the owner or operator of real property, we may also incur liability based on various building conditions. For example, buildings and other structures on properties that we currently own or operate or those we acquire or operate in the future contain, may contain, or may have contained, asbestos-containing material, or ACM. Environmental, health and safety laws require that ACM be properly managed and maintained and may impose fines or penalties on owners, operators or employers for non-compliance with those requirements. These requirements include special precautions, such as removal, abatement or air monitoring, if ACM would be disturbed during maintenance, renovation or demolition of a building, potentially resulting in substantial costs. In addition, we may be subject to liability for personal injury or property damage sustained as a result of exposure to ACM or releases of ACM into the environment.

We cannot assure you that costs or liabilities incurred as a result of environmental issues will not affect our ability to make distributions to our shareholders or that such costs or liabilities will not have a material adverse effect on our financial condition and results of operations.

***Our properties may contain or develop harmful mold or suffer from other indoor air quality issues, which could lead to liability for adverse health effects or property damage or cost for remediation and may adversely impact our financial condition and results of operations.***

When excessive moisture accumulates in buildings or on building materials, mold growth may occur, particularly if the moisture problem remains undiscovered or is not addressed over a period of time. Some molds may produce airborne toxins or irritants. Indoor air quality issues can also stem from inadequate ventilation, chemical contamination from indoor or outdoor sources, and other biological contaminants such as pollen,

## **Table of Contents**

viruses and bacteria. Indoor exposure to airborne toxins or irritants can be alleged to cause a variety of adverse health effects and symptoms, including allergic or other reactions. As a result, the presence of significant mold or other airborne contaminants at any of our properties could require us to undertake a costly remediation program to contain or remove the mold or other airborne contaminants or to increase ventilation. In addition, the presence of significant mold or other airborne contaminants could expose us to liability from our tenants, employees of our tenants, or others if property damage or personal injury occurs.

***We may incur significant costs complying with the ADA and similar laws, which could adversely affect our financial condition, results of operations, cash flows and trading price of our Class A Common Stock.***

Under the ADA, all public accommodations must meet federal requirements related to access and use by disabled persons. Although we believe the properties in our portfolio substantially comply with present requirements of the ADA, we have not conducted an audit or investigation of all of our properties to determine our compliance. If one or more of the properties in our portfolio is not in compliance with the ADA, we would be required to incur additional costs to bring the property into compliance. Additional federal, state and local laws also may require modifications to our properties, or restrict our ability to renovate our properties. We cannot predict the ultimate cost of compliance with the ADA or other legislation. If we incur substantial costs to comply with the ADA and any other legislation, our financial condition, results of operations, cash flow, per share trading price of our Class A Common Stock and our ability to satisfy our debt obligations and to make distributions to our shareholders could be adversely affected.

***We may experience a decline in the fair value of our assets and be forced to recognize impairment charges, which could materially and adversely impact our financial condition, liquidity and results of operations and the price of our Class A Common Stock.***

A decline in the fair value of our assets may require us to recognize an impairment against such assets under GAAP if we were to determine that, with respect to any assets in unrealized loss positions, we do not have the ability and intent to hold such assets to maturity or for a period of time sufficient to allow for recovery to the amortized cost of such assets. If such a determination were to be made, we would recognize unrealized losses through earnings and write down the amortized cost of such assets to a new cost basis, based on the fair value of such assets on the date they are considered to be unrecoverable. Such impairment charges reflect non-cash losses at the time of recognition; subsequent disposition or sale of such assets could further affect our future losses or gains, as they are based on the difference between the sale price received and adjusted amortized cost of such assets at the time of sale. In addition, there may be significant uncertainty in the valuation, or in the stability of the value, of our properties or any other asset and those of our unconsolidated joint ventures, that could result in a substantial decrease in the value of our properties and those of our unconsolidated joint ventures. As a result, we may not be able to recover the carrying amount of our properties and/or our investments in our unconsolidated joint ventures and we may be required to recognize an impairment charge. For the years ended December 31, 2011, 2010 and 2009, we recognized aggregate impairment charges related to investment properties and notes receivable of \$40.0 million, \$23.1 million and \$82.0 million, respectively (including \$2.0 million, \$12.0 million and \$37.1 million, respectively, reflected in discontinued operations). We may be required to recognize additional asset impairment charges in the future, which could materially and adversely affect our financial condition, liquidity, results of operations and the per share trading price of our Class A Common Stock.

***Our investment in marketable securities has negatively impacted our results of operations and may do so in the future.***

Currently, our investment in marketable securities consists of preferred and common stock that are classified as available-for-sale and recorded at fair value. We have recognized other-than-temporary impairments related to our investment in these securities primarily as a result of the severity of the decline in market value and the length of time over which these securities experienced such declines. For example, other-than-temporary impairments were none for the years ended December 31, 2011 and 2010 and \$24.8 million for the year ended December 31, 2009. As



## **Table of Contents**

of December 31, 2011, our net investment in marketable securities totaled \$30.4 million, which included \$18.3 million of accumulated unrealized net gain. If our stock positions decline in value, we could take additional other-than-temporary impairments, which could materially and adversely affect our results of operations. In addition, we purchase a portion of our securities through a margin account. If the value of those securities declines and we face a margin call, we may be required to sell those securities at unfavorable times and record a loss or to post additional cash as collateral, which could adversely affect our financial condition, results and operations and our ability to satisfy our debt obligations and make distributions to our shareholders.

Further, we may continue to invest in marketable securities in the future. Investments in marketable securities are subject to specific risks relating to the particular issuer of the securities, including the financial condition and business outlook of the issuer, which may result in significant losses to us. Marketable securities are generally unsecured and may also be subordinated to other obligations of the issuer. As a result, investments in marketable securities are subject to risks of: (i) limited liquidity in the secondary trading market; (ii) substantial market price volatility resulting from changes in prevailing interest rates; (iii) subordination to the prior claims of banks and other senior lenders to the issuer; (iv) the possibility that earnings of the issuer may be insufficient to meet its debt service and distribution obligations; and (v) the declining creditworthiness and potential for insolvency of the issuer during periods of rising interest rates and economic downturn. These risks may adversely affect the value of outstanding marketable securities and the ability of the issuer to make distribution payments.

*Our success depends on key personnel whose continued service is not guaranteed.*

We depend on the efforts and expertise of our senior management team to manage our day-to-day operations and strategic business direction. We do not, however, have employment agreements with the members of our senior management team. Therefore, we cannot guarantee their continued service. Moreover, among other things, it would constitute an event of default under the credit agreement governing our senior unsecured revolving line of credit and unsecured term loan if certain members of management (or a reasonably satisfactory replacement) ceased to continue to be active on a daily basis in our management. The loss of their services, and our inability to find suitable replacements, could have an adverse effect on our operations.

## **RISKS RELATED TO OUR DEBT FINANCING**

*We had approximately \$3.5 billion of consolidated indebtedness outstanding as of December 31, 2011, which could adversely affect our financial health and operating flexibility.*

We have a substantial amount of indebtedness. As of December 31, 2011, we had approximately \$3.5 billion of aggregate consolidated indebtedness outstanding, substantially all of which was secured by one or more of our properties or our equity interests in our joint ventures. As a result of this substantial indebtedness, we are required to use a material portion of our cash flow to service principal and interest on our debt, which limits the cash flow available to pursue desirable business opportunities, pay operating expenses and make distributions to our shareholders.

Our substantial indebtedness could have important consequences to us and the trading price of our Class A Common Stock, including:

limiting our ability to borrow additional amounts for working capital, capital expenditures, debt service requirements, execution of our growth strategy or other purposes;

limiting our ability to use operating cash flow in other areas of our business because we must dedicate a substantial portion of these funds to service the debt;

increasing our vulnerability to general adverse economic and industry conditions, including increases in interest rates;

limiting our ability to capitalize on business opportunities, including the acquisition of additional properties, and to react to competitive pressures and adverse changes in government regulation;



**Table of Contents**

limiting our ability or increasing the costs to refinance indebtedness, including the \$527.4 million and \$879.3 million of our indebtedness maturing in 2012 and 2013, respectively;

limiting our ability to enter into marketing and hedging transactions by reducing the number of counterparties with whom we can enter into such transactions as well as the volume of those transactions;

we may be forced to dispose of one or more properties, possibly on disadvantageous terms;

we may be forced to sell additional equity securities at prices that may be dilutive to existing shareholders;

we may default on our obligations or violate restrictive covenants, in which case the lenders or mortgagees may accelerate our debt obligations, foreclose on the properties that secure their loans and/or take control of our properties that secure their loans and collect rents and other property income;

in the event of a default under any of our recourse indebtedness, we would be liable for any deficiency between the value of the property securing such loan and the principal and accrued interest on the loan; and

our default under any one of our mortgage loans with cross-default provisions, which could result in a default on other indebtedness. If any one of these events were to occur, our financial condition, results of operations, cash flow, per share trading price of our Class A Common Stock and our ability to satisfy our principal and interest obligations and to make distributions to our shareholders could be materially and adversely affected.

***Our financial condition and ability to make distributions to our shareholders could be adversely affected by financial and other covenants and other provisions under the credit agreement governing our senior unsecured revolving line of credit and unsecured term loan or other debt agreements.***

On February 24, 2012, we amended and restated our existing credit agreement to provide for a senior unsecured credit facility in the aggregate amount of \$650.0 million, consisting of a \$350.0 million senior unsecured revolving line of credit and a \$300.0 million unsecured term loan from a number of financial institutions. The credit agreement governing this senior unsecured revolving line of credit and unsecured term loan requires compliance with certain financial and operating covenants, including, among other things, a leverage ratio, certain coverage ratios and net worth covenants, a covenant regarding maximum secured indebtedness, limitations on our ability to incur unhedged variable rate debt or recourse indebtedness, limitations on our investments in unimproved land, unconsolidated joint ventures, construction in progress and mortgage notes receivable. For a more detailed discussion regarding our covenants under the senior unsecured credit facility and our compliance with our leverage and fixed coverage charge ratios, see Management's Discussion and Analysis of Financial Condition and Results of Operations—Senior Unsecured Line of Credit—Financial Covenants. The credit agreement also requires us to obtain consent prior to selling assets above a certain value or increasing our total assets by more than a certain amount as a result of a merger. In addition, our senior unsecured revolving line of credit and unsecured term loan limit our distributions to the greater of 95% of FFO as defined in the credit agreement (which equals FFO, as set forth in Management's Discussion and Analysis of Financial Condition and Results of Operations—Funds From Operations, excluding gains or losses from extraordinary items, impairment charges not already excluded from FFO and other non-cash charges) or the amount necessary for us to maintain our qualification as a REIT. The senior unsecured revolving line of credit and unsecured term loan also contain customary events of default, including but not limited to, non-payment of principal, interest, fees or other amounts, breaches of covenants, defaults on any recourse indebtedness of Retail Properties of America, Inc. in excess of \$20.0 million or any non-recourse indebtedness in excess of \$100.0 million in the aggregate (subject to certain carveouts, including \$50.8 million of non-recourse indebtedness that is currently in default), failure of certain members of management (or a reasonably satisfactory replacement) to continue to be active on a daily basis in our management and bankruptcy or other insolvency events. These provisions could limit our ability to make distributions to our shareholders, obtain additional funds needed to

## **Table of Contents**

address cash shortfalls or pursue growth opportunities or transactions that would provide substantial returns to our shareholders. In addition, a breach of these covenants or other event of default would allow the lenders to accelerate payment of advances under the credit agreement. If payment is accelerated, our assets may not be sufficient to repay such debt in full and, as a result, such an event may have a material adverse effect on our financial condition.

In addition, and in connection with the debt refinancing transaction of IW JV, a consolidated joint venture that owns a portfolio of investment properties, we entered into a lockbox and cash management agreement pursuant to which substantially all of the income generated by the IW JV properties is deposited directly into a lockbox account established by the lender. In the event of a default or the debt service coverage ratio falling below a set amount, the cash management agreement provides that excess cash flow will be swept into a cash management account, for the benefit of the lender and held as additional security after the payment of interest and approved property operating expenses. Cash will not be distributed to us from these accounts until the earlier of a cash sweep event cure or the repayment of the mortgage loan, senior mezzanine note and junior mezzanine note. As of December 31, 2011, we were in compliance with the terms of the cash management agreement; however, if an event of default were to occur, we may be forced to borrow funds in order to make distributions to our shareholders and maintain our qualification as a REIT.

Given the restrictions in our debt covenants on these and other activities, we may be significantly limited in our operating and financial flexibility and may be limited in our ability to respond to changes in our business or competitive activities in the future.

***We incur mortgage indebtedness and other borrowings, which reduces the funds available for distributions required to maintain our status as a REIT and to avoid income and excise tax.***

We have historically incurred mortgage indebtedness and other borrowings in order to finance acquisitions or ongoing operations and we intend to continue to do so in the future. Our debt service and repayment requirements will not be reduced regardless of our actual cash flows. In addition, in order to maintain our qualification as a REIT, we must annually distribute to our shareholders at least 90% of our REIT taxable income, determined without regard to the deduction for dividends paid and excluding net capital gains, and we are generally subject to corporate tax on any retained income. As a result, if our future cash flow is not sufficient to meet our debt service and repayment requirements and the REIT distribution requirements, we may be required to use cash reserves, incur additional debt, sell equity securities or liquidate assets in order to meet those requirements. However, we cannot provide assurance that capital will be available from such sources on favorable terms or at all, which may negatively impact our financial condition, results of operations and ability to make distributions to our shareholders.

***Substantially all of the mortgage indebtedness we incur is secured, which increases our risk of loss since defaults may result in foreclosure. In addition, mortgages sometimes include cross-collateralization or cross-default provisions that increase the risk that more than one property may be affected by a default.***

As of December 31, 2011, we had a total of \$3.3 billion, net of premium of \$10.9 million and discount of \$2.0 million, of indebtedness secured by 265 of our 274 operating properties and one non-stabilized operating property. Because substantially all of our properties are mortgaged to secure payments of indebtedness, we are subject to the risk of property loss since defaults on indebtedness secured by properties may result in foreclosure actions initiated by lenders and ultimately our loss of the property securing the loan for which we are in default.

As of March 2, 2012, we were in default on \$50.8 million of mortgage loans that had matured, which were secured by a total of two properties with 788,134 square feet of GLA representing \$7.3 million of annualized base rent as of December 31, 2011. We can provide no assurance that we will be able to restructure our current obligations under the mortgage loans that matured or that our negotiations with the lenders will result in favorable outcomes to us. Failure to restructure our mortgage obligations could result in default and foreclosure

## **Table of Contents**

actions and loss of the underlying properties. In the event that we default on other mortgages in the future, either as a result of ceasing to make debt service payments or the failure to meet applicable covenants, we may have additional properties that are subject to potential foreclosure. In addition, as a result of cross-collateralization or cross-default provisions contained in certain of our mortgage loans, a default under one mortgage loan could result in a default on other indebtedness and cause us to lose other better performing properties, which could materially and adversely affect our financial condition and results of operations.

Further, for tax purposes, a foreclosure of any nonrecourse mortgage on any of our properties would be treated as a sale of the property for a purchase price equal to the outstanding balance of the debt secured by the mortgage. If the outstanding balance of the debt secured by the mortgage exceeds our tax basis in the property, we would recognize taxable income on the foreclosure without accompanying cash proceeds, a circumstance which could hinder our ability to meet the REIT distribution requirements imposed by the Code. As a result, we may be required to identify and utilize other sources of cash for distributions to our shareholders of that income.

***Dislocations in the credit markets, including the continuing effects of the severe dislocation experienced in 2008 and 2009, may adversely affect our ability to obtain debt financing at favorable rates or at all.***

Dislocations in the credit markets, generally or relating to the real estate industry specifically, may adversely affect our ability to obtain debt financing at favorable rates or at all. The credit markets experienced a severe dislocation during 2008 and 2009, which, for certain periods of time, resulted in the near unavailability of debt financing for even the most creditworthy borrowers. Although the credit markets have since stabilized, there are a number of continuing effects, including a weakening of many traditional sources of debt financing, a reduction in the overall amount of debt financing available, lower loan to value ratios, a tightening of lender underwriting standards and terms and higher interest rate spreads. As a result, we may not be able to refinance our existing debt when it comes due or to obtain new debt financing for acquisitions or development projects, or we may be forced to accept less favorable terms, including increased collateral to secure our indebtedness, higher interest rates and/or more restrictive covenants. If we are not successful in refinancing our debt when it becomes due, we may default under our loan obligations, enter into foreclosure proceedings, or be forced to dispose of properties on disadvantageous terms, any of which might adversely affect our ability to service other debt and meet our other obligations. In addition, if a dislocation similar to that which occurred in 2008 and 2009 occurs in the future, the values of our properties may decline further, which could limit our ability to obtain future debt financing, refinance existing debt or utilize existing debt commitments and thus materially and adversely affect our financial condition, particularly if it occurs at a time when we have significant debt maturities coming due.

***Future increases in interest rates may adversely affect any future refinancing of our debt, may require us to sell properties and could adversely affect our ability to make distributions to our shareholders.***

If we incur debt in the future and do not have sufficient funds to repay such debt at maturity, it may be necessary to refinance the debt through additional debt or additional equity financings. If, at the time of any refinancing, prevailing interest rates or other factors result in higher interest rates on refinancings, our net income could be reduced and any increases in interest expense could adversely affect our cash flows. Consequently, our cash available for distribution to our shareholders would be reduced and we may be prevented from borrowing more money. Any such future increases in interest rates would result in higher interest rates on new debt and our existing variable rate debt and may adversely impact our financial condition.

Further, if we are unable to refinance our debt on acceptable terms, we may be forced to dispose of properties on disadvantageous terms, potentially resulting in losses. We may place mortgages on properties that we acquire to secure a revolving line of credit or other debt. To the extent we cannot meet future debt service obligations, we will risk losing some or all of our properties that may be pledged to secure our obligations. Also, covenants applicable to any future debt could impair our planned investment strategy, and, if violated, result in default.

**Table of Contents**

**RISKS RELATED TO OUR ORGANIZATIONAL STRUCTURE**

***Our board of directors may change significant corporate policies without shareholder approval.***

Our investment, financing, borrowing and distribution policies and our policies with respect to all other activities, including growth, debt, capitalization and operations, are determined by our board of directors. These policies may be amended or revised at any time and from time to time at the discretion of the board of directors without a vote of our shareholders. As a result, the ability of our shareholders to control our policies and practices is extremely limited. We could make investments and engage in business activities that are different from, and possibly riskier than, the investments and businesses described in this prospectus. In addition, our board of directors may change our policies with respect to conflicts of interest provided that such changes are consistent with applicable legal and regulatory requirements, including the listing standards of the NYSE. A change in these policies could have an adverse effect on our financial condition, results of operations, cash flows, per share trading price of our Class A Common Stock and ability to satisfy our debt service obligations and to make distributions to our shareholders.

***We could increase the number of authorized shares of stock and issue stock without shareholder approval.***

Subject to applicable legal and regulatory requirements, our charter authorizes our board of directors, without shareholder approval, to increase the aggregate number of authorized shares of stock or the number of authorized shares of stock of any class or series, to authorize us to issue authorized but unissued shares of our common stock or preferred stock and to classify or reclassify any unissued shares of our common stock or preferred stock and to set the preferences, rights and other terms of such classified or unclassified shares. As a result, we may issue series or classes of common stock or preferred stock with preferences, dividends, powers and rights, voting or otherwise, that are senior to, or otherwise conflict with, the rights of holders of our common stock. In addition, our board of directors could establish a series of preferred stock that could, depending on the terms of such series, delay, defer or prevent a transaction or a change of control that might involve a premium price for our common stock or that our shareholders may believe is in their best interests.

***Provisions of our charter may limit the ability of a third party to acquire control of our company.***

Our charter provides that no person may beneficially own more than 9.8% in value or number of shares, whichever is more restrictive, of our outstanding common stock or 9.8% in value of the aggregate outstanding shares of our capital stock. These ownership limitations may prevent an acquisition of control of our company by a third party without our board of directors' approval, even if our shareholders believe the change in control is in their best interests.

***Certain provisions of Maryland law could inhibit changes in control of us, which could lower the value of our Class A Common Stock.***

Certain provisions of the Maryland General Corporation Law, or MGCL, may have the effect of inhibiting or deterring a third party from making a proposal to acquire us or of impeding a change of control under circumstances that otherwise could provide the holders of shares of our common stock with the opportunity to realize a premium over the then-prevailing market price of such shares, including:

business combination provisions that, subject to limitations, prohibit certain business combinations between us and an interested shareholder (defined generally as any person who beneficially owns 10% or more of the voting power of our shares or an affiliate or associate of ours who, at any time within the two-year period prior to the date in question, was the beneficial owner of 10% or more of our then outstanding voting shares) or an affiliate of an interested shareholder for five years after the most recent date on which the shareholder becomes an interested shareholder, and thereafter may impose special shareholder voting requirements unless certain minimum price conditions are satisfied; and

---

**Table of Contents**

control share provisions that provide that control shares of our company (defined as shares which, when aggregated with other shares controlled by the shareholder, entitle the shareholder to exercise one of three increasing ranges of voting power in electing directors) acquired in a control share acquisition (defined as the direct or indirect acquisition of ownership or control of outstanding control shares) have no voting rights except to the extent approved by our shareholders by the affirmative vote of at least two-thirds of all the votes entitled to be cast on the matter, excluding all interested shares.

Prior to the completion of this offering, we intend to opt out of these provisions of the MGCL, in the case of the business combination provisions of the MGCL by resolution of our board of directors, and in the case of the control share provisions of the MGCL pursuant to a provision in our bylaws. However, following our opt out, in the future, only upon the approval of our shareholders, our board of directors may by resolution elect to opt in to the business combination provisions of the MGCL and we may, only upon the approval of our shareholders, by amendment to our bylaws, opt in to the control share provisions of the MGCL.

Title 3, Subtitle 8 of the MGCL permits our board of directors, without shareholder approval and regardless of what is currently provided in our charter or bylaws, to implement certain takeover defenses, including adopting a classified board. Such takeover defenses may have the effect of inhibiting a third party from making an acquisition proposal for us or of delaying, deferring or preventing a change in control of us under the circumstances that otherwise could provide our common shareholders with the opportunity to realize a premium over the then current market price.

In addition, the provisions of our charter on removal of directors and the advance notice provisions of our bylaws could delay, defer or prevent a transaction or a change of control of our company that might involve a premium price for holders of our common stock or that our shareholders may believe to be in their best interests. Likewise, if our company's board of directors were to opt in to the business combination provisions of the MGCL or the provisions of Title 3, Subtitle 8 of the MGCL, or if the provision in our bylaws opting out of the control share acquisition provisions of the MGCL were rescinded by our board of directors and our shareholders, these provisions of the MGCL could have similar anti-takeover effects. See Certain Provisions of Maryland Law and of Our Charter and Bylaws Business Combinations and Certain Provisions of Maryland Law and of Our Charter and Bylaws Control Share Acquisitions and Certain Provisions of Maryland Law and of Our Charter and Bylaws Certain Elective Provisions of Maryland Law .

***Our rights and the rights of our shareholders to take action against our directors and officers are limited, which could limit your recourse in the event of actions that you do not believe are in your best interests.***

Maryland law provides that a director or officer has no liability in that capacity if he or she satisfies his or her duties to us and our shareholders. Upon completion of this offering, as permitted by the MGCL, our charter will limit the liability of our directors and officers to us and our shareholders for money damages, except for liability resulting from:

actual receipt of an improper benefit or profit in money, property or services; or

a final judgment based upon a finding of active and deliberate dishonesty by the director or officer that was material to the cause of action adjudicated.

In addition, our charter will authorize us to obligate us, and our bylaws will require us, to indemnify our directors for actions taken by them in those capacities to the maximum extent permitted by Maryland law. Our charter and bylaws will also authorize us to obligate us, and indemnification agreements that we have entered into with certain of our officers will require us, to indemnify these officers for actions taken by them in those capacities to the maximum extent permitted by Maryland law. As a result, we and our shareholders may have more limited rights against our directors and officers than might otherwise exist. Accordingly, in the event that actions taken in good faith by any of our directors or officers impede the performance of our company, your ability to recover damages from such director or officer will be limited. In addition, we will be obligated to

---

## **Table of Contents**

advance the defense costs incurred by our directors and our officers with indemnification agreements, and may, in the discretion of our board of directors, advance the defense costs incurred by our employees and other agents, in connection with legal proceedings.

***Our charter contains provisions that make removal of our directors difficult, which could make it difficult for our shareholders to effect changes to our management.***

Our charter provides that a director may only be removed for cause upon the affirmative vote of holders of a majority of the votes entitled to be cast in the election of directors. Vacancies may be filled only by a majority of the remaining directors in office, even if less than a quorum. These requirements make it more difficult to change our management by removing and replacing directors and may prevent a change in control of our company that is in the best interests of our shareholders.

## **RISKS RELATING TO OUR REIT STATUS**

***Failure to qualify as a REIT would cause us to be taxed as a regular corporation, which would substantially reduce funds available for distributions to our shareholders and materially and adversely affect our financial condition and results of operations.***

We believe that we have been organized, owned and operated in conformity with the requirements for qualification and taxation as a REIT under the Code beginning with our taxable year ended December 31, 2003, and that our intended manner of ownership and operation will enable us to continue to meet the requirements for qualification and taxation as a REIT for U.S. federal income tax purposes. However, we cannot assure you that we have qualified or will qualify as such. Shareholders should be aware that qualification as a REIT involves the application of highly technical and complex provisions of the Code as to which there are only limited judicial and administrative interpretations and involves the determination of facts and circumstances not entirely within our control. In particular, we have become aware that a company that intended to qualify as a REIT that we had invested in during part of 2005 and 2006 may not have satisfied certain REIT requirements during the period we held its shares and such failure to qualify as a REIT would have caused us to lose our status as a REIT unless specific relief provisions are available to us. Although we believe we satisfied the requirements of those relief provisions and Goodwin Procter LLP has advised us that, although the issue is not free from doubt, based on, among other things, certain representations from us regarding the relevant facts and circumstances, we should be treated as having met these requirements, it is possible that the IRS or a court could disagree with these conclusions. In addition, future legislation, new regulations, administrative interpretations or court decisions may significantly change the tax laws or the application of the tax laws with respect to qualification as a REIT or the U.S. federal income tax consequences of such qualification.

If we fail to qualify as a REIT in any taxable year, we will face serious tax consequences that will substantially reduce the funds available for distributions to our shareholders because:

we would not be allowed a deduction for dividends paid to shareholders in computing our taxable income and would be subject to U.S. federal income tax at regular corporate rates;

we could be subject to the U.S. federal alternative minimum tax;

we could be subject to increased state and local taxes; and

unless we are entitled to relief under certain U.S. federal income tax laws, we could not re-elect REIT status until the fifth calendar year after the year in which we failed to qualify as a REIT.

In addition, if we fail to qualify as a REIT, we will not be required to make distributions and could default under certain of our indebtedness agreements. As a result of all these factors, our failure to qualify as a REIT could impair our ability to expand our business and raise capital, and it would adversely affect the value of our stock. See **Material U.S. Federal Income Tax Considerations** for a discussion of material U.S. federal income tax consequences relating to us and our Class A Common Stock.

***Even if we qualify as a REIT, we may face other tax liabilities that reduce our cash flows.***



## Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Even if we qualify for taxation as a REIT, we may be subject to certain U.S. federal, state and local taxes on our income and assets, including taxes on any undistributed income, taxes on net income from certain prohibited transactions, taxes on income from certain activities conducted as a result of a foreclosure, and state or local income, franchise, property and transfer taxes. In addition, we could, in certain circumstances, be required to pay

## **Table of Contents**

an excise or penalty tax (which could be significant in amount) in order to utilize one or more relief provisions under the Code to maintain our qualification as a REIT. Also, our subsidiaries that are TRSs will be subject to regular corporate U.S. federal, state and local taxes. To the extent that we conduct operations outside of the United States, our operations would subject us to applicable foreign taxes as well. Any of these taxes would decrease our earnings and our cash available for distributions to shareholders.

### ***Failure to make required distributions would subject us to U.S. federal corporate income tax.***

In order to qualify as a REIT, we generally are required to distribute at least 90% of our REIT taxable income, determined without regard to the dividends paid deduction and excluding net capital gains, each year to our shareholders. To the extent that we satisfy this distribution requirement, but distribute less than 100% of our REIT taxable income, we will be subject to U.S. federal corporate income tax on our undistributed taxable income. In addition, we will be subject to a 4% nondeductible excise tax if the actual amount that we pay out to our shareholders for a calendar year is less than the minimum amount specified under the Code. Moreover, our senior unsecured revolving line of credit and unsecured term loan may limit our distributions to the minimum amount required to maintain REIT status. Specifically, they limit our distributions to the greater of 95% of FFO as defined in the credit agreement (which equals FFO, as set forth in Management's Discussion and Analysis of Financial Condition and Results of Operations Funds from Operations, excluding gains or losses from extraordinary items, impairment charges not already excluded from FFO and other non-cash charges) or the amount necessary for us to maintain our qualification as a REIT. To the extent these limits prevent us from distributing 100% of our REIT taxable income, we will be subject to income tax, and potentially excise tax, on the retained amounts.

### ***We may be required to borrow funds or sell assets to satisfy our REIT distribution requirements.***

In order to maintain our qualification as a REIT and to meet the REIT distribution requirements, we may need to borrow funds on a short-term basis or sell assets, even if the then-prevailing market conditions are not favorable for these borrowings or sales. Our cash flows from operations may be insufficient to fund required distributions as a result of differences in timing between the actual receipt of income and the recognition of income for U.S. federal income tax purposes, or the effect of non-deductible expenditures, such as capital expenditures, payments of compensation for which Section 162(m) of the Code denies a deduction, the creation of reserves or required debt service or amortization payments. The insufficiency of our cash flows to cover our distribution requirements could have an adverse impact on our ability to raise short- and long-term debt or to sell equity securities in order to fund distributions required to maintain our qualification as a REIT.

### ***We may in the future choose to pay dividends in the form of our stock instead of cash, in which case shareholders may be required to pay income taxes in excess of the cash dividends they receive.***

We may, in the future, distribute taxable dividends that are payable in cash and stock at the election of each shareholder or distribute other forms of taxable stock dividends. There is no Internal Revenue Service, or IRS, guidance upon which we currently can rely regarding the minimum cash component of such dividends that will be required to achieve taxable treatment. The terms of any such cash and stock dividend, including the proportion of cash payable, would depend on our business needs and would take into account any guidance, public or private, that may be issued by the IRS in the future. No assurance can be given that the IRS will issue any future guidance in this area. Taxable shareholders receiving such dividends or other forms of taxable stock dividends will be required to include the full amount of the dividend as ordinary income to the extent of our current and accumulated earnings and profits for U.S. federal income tax purposes. As a result, shareholders may be required to pay income taxes with respect to such dividends in excess of the cash dividends received. If a shareholder sells the stock that it receives as a dividend in order to pay this tax, the sales proceeds may be less than the amount included in income with respect to the dividend, depending on the market price of our stock at the time of the sale. Furthermore, in the case of certain non-U.S. shareholders, we may be required to withhold U.S. federal income tax with respect to such dividends, including with respect to all or a portion of such dividend that is payable in stock. In addition, if a significant number of our shareholders decide to sell their shares in order to pay taxes owed on dividends, it may put downward pressure on the trading price of our stock.

---

**Table of Contents**

***Dividends payable by REITs generally do not qualify for reduced tax rates.***

Certain dividends paid by corporations to individuals, trusts and estates that are U.S. shareholders, as defined in Material U.S. Federal Income Tax Considerations below, are currently subject to U.S. federal income tax at a maximum rate of 15% and are scheduled to be taxed at ordinary income rates for taxable years beginning after December 31, 2012. Dividends payable by REITs, however, are generally not eligible for the current reduced rates. The more favorable rates applicable to regular corporate dividends could cause investors who are individuals, trusts and estates to perceive investments in REITs to be relatively less attractive than investments in the stock of non-REIT corporations that pay dividends, which could adversely affect the value of the stock of REITs, including our Class A Common Stock.

***Complying with REIT requirements may cause us to forego otherwise attractive opportunities or to liquidate otherwise attractive investments.***

To qualify as a REIT, we must continually satisfy tests concerning, among other things, the sources of our income, the nature and diversification of our assets, the amounts we distribute to our shareholders and the ownership of our capital stock. In order to meet these tests, we may be required to forego investments we might otherwise make and refrain from engaging in certain activities as discussed under Material U.S. Federal Income Tax Considerations below. Thus, compliance with the REIT requirements may hinder our performance.

In addition, if we fail to comply with certain asset ownership tests described under Material U.S. Federal Income Tax Considerations, below, at the end of any calendar quarter, we must correct the failure within 30 days after the end of the calendar quarter or qualify for certain statutory relief provisions to avoid losing our REIT qualification. As a result, we may be required to liquidate otherwise attractive investments. These actions could have the effect of reducing our income and amounts available for distribution to our shareholders.

***We may be subject to adverse legislative or regulatory tax changes that could reduce the market price of our stock.***

At any time, the U.S. federal income tax laws governing REITs or the administrative interpretations of those laws may be amended. We cannot predict if or when any new U.S. federal income tax law, regulation, or administrative interpretation, or any amendment to any existing U.S. federal income tax law, Treasury regulation or administrative interpretation, will be adopted, promulgated or become effective and any such law, regulation, or interpretation may take effect retroactively. We and our shareholders could be adversely affected by any such change in, or any new, U.S. federal income tax law, Treasury regulation or administrative interpretation.

***You may be restricted from acquiring or transferring certain amounts of our stock.***

In order to maintain our REIT qualification, among other requirements, no more than 50% in value of our outstanding stock may be owned, directly or indirectly, by five or fewer individuals, as defined in the Code to include certain kinds of entities, during the last half of any taxable year, other than the first year for which we made a REIT election. To assist us in qualifying as a REIT, our charter contains an aggregate stock ownership limit of 9.8% and a common stock ownership limit of 9.8%. Generally, any shares of our stock owned by affiliated owners will be added together for purposes of the aggregate stock ownership limit, and any shares of common stock owned by affiliated owners will be added together for purposes of the common stock ownership limit.

If anyone attempts to transfer or own shares of stock in a way that would violate the aggregate stock ownership limit or the common stock ownership limit, unless such ownership limits have been waived by our board of directors, or in a way that would prevent us from continuing to qualify as a REIT, those shares instead will be transferred to a trust for the benefit of a charitable beneficiary and will be either redeemed by us or sold to a person whose ownership of the shares will not violate the aggregate stock ownership limit or the common stock ownership limit. If this transfer to a trust fails to prevent such a violation or our disqualification as a REIT, then the initial intended transfer or ownership will be null and void from the outset. Anyone who acquires or owns shares of stock in violation of the aggregate stock ownership limit or the common stock ownership limit, unless

---

**Table of Contents**

such ownership limit or limits have been waived by our board of directors, or in violation of the other restrictions on transfer or ownership in our charter bears the risk of a financial loss when the shares of stock are redeemed or sold if the market price of our stock falls between the date of purchase and the date of redemption or sale.

***Complying with REIT requirements may limit our ability to hedge effectively and may cause us to incur tax liabilities.***

The REIT provisions of the Code limit our ability to hedge our liabilities. Generally, income from a hedging transaction we enter into to manage risk of interest rate fluctuations with respect to borrowings made or to be made to acquire or carry real estate assets does not constitute gross income for purposes of the 75% or 95% gross income tests, provided we properly identify the hedge pursuant to the applicable sections of the Code and Treasury regulations. To the extent that we enter into other types of hedging transactions, the income from those transactions is likely to be treated as non-qualifying income for purposes of both gross income tests. As a result of these rules, we may need to limit our use of advantageous hedging techniques or implement those hedges through a TRS. This could increase the cost of our hedging activities because our TRS would be subject to tax on income or gains resulting from hedges entered into by it or expose us to greater risks associated with changes in interest rates than we would otherwise want to bear. In addition, losses in any of our TRSs will generally not provide any tax benefit, except for being carried forward for use against future taxable income in the TRSs.

***The ability of our board of directors to revoke our REIT qualification without shareholder approval may cause adverse consequences to our shareholders.***

Our charter provides that our board of directors may revoke or otherwise terminate our REIT election, without the approval of our shareholders, if it determines that it is no longer in our best interest to continue to qualify as a REIT. If we cease to be a REIT, we will not be allowed a deduction for dividends paid to shareholders in computing our taxable income and will be subject to U.S. federal income tax at regular corporate rates and state and local taxes, which may have adverse consequences on our total return to our shareholders.

***The anticipated opinion of our tax counsel regarding our status as a REIT does not guarantee our qualification as a REIT.***

Our tax counsel, Goodwin Procter LLP, is expected to render an opinion to us to the effect that, commencing with our taxable year ended December 31, 2003, we have been organized and operated in conformity with the requirements for qualification and taxation as a REIT under the Code and our prior, current and proposed ownership and method of operations will allow us to satisfy the requirements for qualification and taxation as a REIT under the Code for subsequent taxable years. The opinion of Goodwin Procter LLP would be based upon various assumptions, our closing agreement with the IRS, and our representations as to our past and contemplated future ownership, investments, distributions, share valuations and operations, among other things, including our representation that we are entitled to utilize, and will utilize, certain relief provisions, if necessary, to cure a possible failure of certain REIT requirements resulting from our investment in another company that intended to qualify (but may not have qualified) as a REIT. The validity of the opinion of Goodwin Procter LLP and our qualification as a REIT will also depend on our satisfaction of certain asset, income, organizational, distribution, shareholder ownership and other requirements on a continuing basis, the results of which will not be monitored by Goodwin Procter LLP. Accordingly, no assurances can be given that we have satisfied or will satisfy the REIT requirements in any taxable year. Also, the opinion of Goodwin Procter LLP would represent counsel's legal judgment based on the law in effect as of the date of the opinion (or, with respect to past years, the law in effect for such years), would not be binding on the IRS or any court and could be subject to modification or withdrawal based on future legislative, judicial or administrative changes to the U.S. federal income tax laws, any of which could be applied retroactively. Goodwin Procter LLP will have no obligation to advise us or the holders of our stock of any subsequent change in the matters stated, represented or assumed in its opinion or of any subsequent change in applicable law.

***Your investment has various tax risks.***

Although the provisions of the Code generally relevant to an investment in shares of our Class A Common Stock are described in Material U.S. Federal Income Tax Considerations, we urge you to consult your tax advisor concerning the U.S. federal, state, local and foreign tax consequences to you with regard to an investment in shares of our Class A Common Stock.

## Table of Contents

### **RISKS RELATED TO THIS OFFERING**

*There is currently no public market for our Class A Common Stock, and we cannot assure you that a public market will develop.*

Prior to this offering, there has been no public market for our shares of Class A Common Stock, and we cannot assure you that an active trading market will develop or be sustained. In the absence of a public trading market, a shareholder may be unable to liquidate an investment in our Class A Common Stock. The initial public offering price for our Class A Common Stock will be determined by agreement among us and the underwriters, and we cannot assure you that our Class A Common Stock will not trade below the initial public offering price following the completion of this offering. Whether a public market for our Class A Common Stock will develop will depend on a number of factors including the extent of institutional investor interest in us, the general reputation of REITs and the attractiveness of their equity securities in comparison to other equity securities (including securities issued by other real estate-based companies), our financial performance and general stock and bond market conditions. If a robust public market for our Class A Common Stock does not develop, you may have difficulty selling shares of our Class A Common Stock, which could adversely affect the price that you receive for such shares.

*The market price and trading volume of our Class A Common Stock may be volatile.*

The U.S. stock markets, including the NYSE, on which we have applied to have our Class A Common Stock listed under the symbol **RPAI**, have experienced significant price and volume fluctuations. As a result, the market price of shares of our Class A Common Stock is likely to be similarly volatile, and investors in shares of our Class A Common Stock may experience a decrease in the value of their shares, including decreases unrelated to our operating performance or prospects. We cannot assure you that the market price of our Class A Common Stock will not fluctuate or decline significantly in the future.

In addition to the risks listed in this **Risk Factors** section, a number of factors could negatively affect our share price or result in fluctuations in the price or trading volume of our Class A Common Stock, including:

the annual yield from distributions on our Class A Common Stock as compared to yields on other financial instruments;

equity issuances by us, or future sales of substantial amounts of our Class A Common Stock by our existing or future shareholders, or the perception that such issuances or future sales may occur;

conversions of our Class B Common Stock into shares of our Class A Common Stock or sales of our Class B Common Stock;

increases in market interest rates or a decrease in our distributions to shareholders that lead purchasers of our shares to demand a higher yield;

changes in market valuations of similar companies;

fluctuations in stock market prices and volumes;

additions or departures of key management personnel;

our operating performance and the performance of other similar companies;

actual or anticipated differences in our quarterly operating results;

changes in expectations of future financial performance or changes in estimates of securities analysts;

publication of research reports about us or our industry by securities analysts;

failure to qualify as a REIT;

adverse market reaction to any indebtedness we incur in the future;

---

**Table of Contents**

strategic decisions by us or our competitors, such as acquisitions, divestments, spin-offs, joint ventures, strategic investments or changes in business strategy;

the passage of legislation or other regulatory developments that adversely affect us or our industry;

speculation in the press or investment community;

changes in our earnings;

failure to satisfy the listing requirements of the NYSE;

failure to comply with the requirements of the Sarbanes-Oxley Act;

actions by institutional shareholders;

changes in accounting principles; and

general market conditions, including factors unrelated to our performance.

In the past, securities class action litigation has often been instituted against companies following periods of volatility in the price of their common stock. This type of litigation could result in substantial costs and divert our management's attention and resources, which could have a material adverse effect on our cash flows, our ability to execute our business strategy and our ability to make distributions to our shareholders.

***Because we have a large number of shareholders and our shares have not been listed on a national securities exchange prior to this offering, there may be significant pent-up demand to sell our shares. Significant sales of our Class A Common Stock, or the perception that significant sales of such shares could occur, may cause the price of our Class A Common Stock to decline significantly.***

As of March 2, 2012, we had approximately 194.2 million shares of common stock issued and outstanding after giving effect to the Recapitalization, consisting of approximately 48.55 million shares of our Class A Common Stock and 145.65 million shares of our Class B Common Stock. Prior to this offering, our common stock was not listed on any national securities exchange and the ability of shareholders to liquidate their investments was limited. Additionally, our share repurchase program, which, in any event, only allowed us to repurchase up to 5% of the weighted average number of shares of our common stock outstanding during the prior calendar year in any 12-month period, has been suspended as of November 19, 2008. As a result, there may be significant pent-up demand to sell shares of our common stock. A large volume of sales of shares of our Class A Common Stock (whether they are Class A shares that are issued in the offering, Class A shares that are held by our existing shareholders upon the closing of the offering, or Class A shares created by the automatic conversion of our Class B shares over time) could decrease the prevailing market price of our Class A Common Stock and could impair our ability to raise additional capital through the sale of equity securities in the future. Even if a substantial number of sales of our Class A shares are not effected, the mere perception of the possibility of these sales could depress the market price of our Class A Common Stock and have a negative effect on our ability to raise capital in the future.

***Although our Class B Common Stock will not be listed on a national securities exchange following the closing of this offering, sales of such shares or the perception that such sales could occur could have a material adverse effect on the trading price of our Class A Common Stock.***

After giving effect to this offering and the Recapitalization, approximately \_\_\_\_\_ million shares (or \_\_\_\_\_ million shares if the underwriters exercise their overallotment option in full) of our common stock will be issued and outstanding, of which approximately 145.65 million, or \_\_\_\_\_% ( \_\_\_\_\_% if the underwriters exercise their overallotment option in full), will be shares of our Class B Common Stock, which is divided equally among our Class B-1, Class B-2 and Class B-3 Common Stock. Although our Class B Common Stock will not be listed on a

national securities exchange, it is not subject to transfer restrictions (other than the restrictions on ownership and transfer of stock set forth in our charter); therefore, such stock will be freely tradable. As a result, it is possible that a market may develop for shares of our Class B Common Stock, and sales of such shares, or the perception that such sales could occur, could have a material adverse effect on the trading price of our Class A Common Stock.



## **Table of Contents**

Additionally, all of our Class B Common Stock will be converted into Class A Common Stock over time. As a result, holders of shares of Class B Common Stock seeking to immediately liquidate their investment in our common stock could engage in immediate short sales of our Class A Common Stock prior to the date on which the Class B Common Stock converts into Class A Common Stock and use the shares of Class A Common Stock that they receive upon conversion of their Class B Common Stock to cover these short sales in the future. Such short sales could depress the market price of our Class A Common Stock and limit the effectiveness of the Recapitalization as a strategy for limiting the number of shares of our common stock held by our shareholder prior to this offering that may be sold shortly after this offering.

***Future conversions of our Class B Common Stock could adversely affect the market price of our Class A Common Stock.***

After giving effect to the Recapitalization, we will have 48.55 million shares of each of our Class B-1, Class B-2 and Class B-3 Common Stock outstanding immediately following this offering. Although our Class B Common Stock will not be listed on a national securities exchange, our Class B-1 Common Stock, Class B-2 Common Stock and Class B-3 Common Stock will convert automatically into Class A Common Stock six months, 12 months and 18 months, respectively, following the initial listing of our Class A Common Stock on the NYSE. We cannot predict the effect that the conversion of shares of our Class B Common Stock into our Class A Common Stock will have on the market price of our Class A Common Stock, but these ongoing conversions may place constant downward pressure on the price of our Class A Common Stock, particularly at the time of each conversion.

***Future offerings of debt securities, which would be senior to our common stock, or equity securities, which would dilute our existing shareholders and may be senior to our common stock, may adversely affect the market price of our common stock.***

In the future, we may attempt to increase our capital resources by offering debt or equity securities, including medium term notes, senior or subordinated notes and classes of preferred or common stock. Debt securities or shares of preferred stock will generally be entitled to receive interest payments or distributions, both current and in connection with any liquidation or sale, prior to the holders of our common stock. We are not required to offer any such additional debt or equity securities to existing common shareholders on a preemptive basis. Therefore, offerings of common stock or other equity securities may dilute the holdings of our existing shareholders. Future offerings of debt or equity securities, or the perception that such offerings may occur, may reduce the market price of our common stock and/or the distributions that we pay with respect to our common stock. Because we may generally issue any such debt or equity securities in the future without obtaining the consent of our shareholders, you will bear the risk of our future offerings reducing the market price of our common stock and diluting your proportionate ownership.

***Our distributions to shareholders may change, which could adversely affect the market price of our Class A Common Stock.***

All distributions will be at the sole discretion of our board of directors and will depend upon our actual and projected financial condition, results of operations, cash flows, liquidity and FFO, maintenance of our REIT qualification and such other matters as our board of directors may deem relevant from time to time. We may not be able to make distributions in the future or may need to fund such distributions from external sources, as to which no assurances can be given. In addition, we may choose to retain operating cash flow for investment purposes, working capital reserves or other purposes, and these retained funds, although increasing the value of our underlying assets, may not correspondingly increase the market price of our Class A Common Stock. Our failure to meet the market's expectations with regard to future cash distributions likely would adversely affect the market price of our Class A Common Stock.

**Table of Contents**

***Increases in market interest rates may result in a decrease in the value of our Class A Common Stock.***

One of the factors that may influence the price of our Class A Common Stock will be the dividend distribution rate on the Class A Common Stock (as a percentage of the price of our Class A Common Stock) relative to market interest rates. If market interest rates rise, prospective purchasers of shares of our Class A Common Stock may expect a higher distribution rate. Higher interest rates would not, however, result in more funds being available for distribution and, in fact, would likely increase our borrowing costs and might decrease our funds available for distribution. We therefore may not be able, or we may not choose, to provide a higher distribution rate. As a result, prospective purchasers may decide to purchase other securities rather than our Class A Common Stock, which would reduce the demand for, and result in a decline in the market price of, our Class A Common Stock.

**Table of Contents**

**FORWARD-LOOKING STATEMENTS**

This prospectus contains forward-looking statements within the meaning of the safe harbor from civil liability provided for such statements by the Private Securities Litigation Reform Act of 1995 (set forth in Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act). In particular, statements pertaining to our capital resources, portfolio performance, dividend policy and results of operations contain forward-looking statements. Likewise, all our statements regarding anticipated growth in our portfolio from operations, acquisitions and anticipated market conditions, demographics and results of operations are forward-looking statements. Forward-looking statements involve numerous risks and uncertainties and you should not rely on them as predictions of future events. Forward-looking statements depend on assumptions, data or methods which may be incorrect or imprecise and we may not be able to realize them. We do not guarantee that the transactions and events described will happen as described (or that they will happen at all). You can identify forward-looking statements by the use of forward-looking terminology such as believes, expects, may, will, should, seeks, intends, plans, pro forma, estimates, contemplates, aims, continues, would or anticipates or the negative of those phrases or similar words or phrases. You can also identify forward-looking statements by discussions of strategies, plans or intentions. The following factors, among others, could cause actual results and future events to differ materially from those set forth or contemplated in the forward-looking statements:

the factors included in this prospectus, including those set forth under the headings Risk Factors, Management's Discussion and Analysis of Financial Condition and Results of Operations and Our Business and Properties;

general economic, business and financial conditions, and changes in our industry and changes in the real estate markets in particular;

adverse economic and other developments in the Dallas-Fort Worth-Arlington area, where we have a high concentration of properties;

use of proceeds of this offering;

general volatility of the capital and credit markets and the market price of our common stock;

changes in our business strategy;

defaults on, early terminations of or non-renewal of leases by tenants;

bankruptcy or insolvency of a major tenant or a significant number of smaller tenants;

increased interest rates and operating costs;

declining real estate valuations and impairment charges;

availability, terms and deployment of capital;

our failure to obtain necessary outside financing;

our expected leverage;

decreased rental rates or increased vacancy rates;

our failure to generate sufficient cash flows to service our outstanding indebtedness;

difficulties in identifying properties to acquire and completing acquisitions;

risks of real estate acquisitions, dispositions and redevelopment, including the cost of construction delays and cost overruns;

our failure to successfully operate acquired properties and operations;

**Table of Contents**

our projected operating results;

our ability to manage our growth effectively;

our failure to successfully redevelop properties;

impact of changes in governmental regulations, tax law and rates and similar matters;

our failure to qualify as a REIT;

future terrorist attacks in the U.S.;

environmental uncertainties and risks related to natural disasters;

lack or insufficient amounts of insurance;

availability of and our ability to attract and retain qualified personnel;

retention of our senior management team;

our understanding of our competition;

changes in real estate and zoning laws and increases in real property tax rates; and

our ability to comply with the laws, rules and regulations applicable to companies.

For a further discussion of these and other factors that could impact our future results, performance or transactions, see the section above entitled Risk Factors. You should not place undue reliance on any forward-looking statements, which are based only on information currently available to us (or to third parties making the forward-looking statements). We undertake no obligation to publicly release any revisions to such forward-looking statements to reflect events or circumstances after the date of this prospectus, except as required by applicable law.

**Table of Contents**

**USE OF PROCEEDS**

We estimate that the net proceeds we will receive from this offering, after deducting the underwriting discount and estimated expenses of the offering payable by us, will be approximately \$        million (or approximately \$        million if the underwriters exercise their overallotment option in full), assuming a public offering price of \$        per share, which is the midpoint of the range set forth on the cover of this prospectus.

We intend to use approximately \$        million of the net proceeds received from this offering to repay amounts outstanding under our senior unsecured revolving line of credit. Our senior unsecured revolving line of credit matures on February 24, 2015, with a one-year extension option that we may exercise in certain circumstances, and bears interest at a variable rate equal to the London Interbank Offered Rate or, LIBOR, plus a margin of between 1.75% and 2.50% per annum or the alternative base rate plus a margin of between 0.75% and 1.50% per annum, both based on our leverage ratio as calculated under the credit agreement. The weighted average interest rate under the senior unsecured revolving line of credit and the unsecured term loan was 2.80% as of March 2, 2012. We used the amounts that we borrowed under our senior unsecured revolving line of credit to repay other indebtedness and for general corporate purposes. See Management's Discussion and Analysis of Financial Condition and Results of Operations Liquidity and Capital Resources Senior Unsecured Revolving Line of Credit and Unsecured Term Loan for a further discussion of the terms of our senior unsecured revolving line of credit.

Affiliates of J.P. Morgan Securities LLC, Citigroup Global Markets Inc., Deutsche Bank Securities Inc. and KeyBanc Capital Markets Inc. are lenders under our senior unsecured revolving line of credit, and will receive their pro rata portion of the \$        million of the net proceeds from this offering used to repay amounts outstanding under our senior unsecured revolving line of credit. Accordingly, more than 5% of the net proceeds of this offering are intended to be used to repay amounts owed to affiliates of these underwriters.

We intend to use \$        million of net proceeds received from this offering to repurchase Inland Equity's interest in IW JV. Pursuant to IW JV's organizational documents, we have the option to call Inland Equity's interest in IW JV for an amount which is the greater of either: (a) fair market value of Inland Equity's interest or (b) \$50 million, plus an additional distribution of \$5 million and any unpaid preferred return or promote, as defined therein. As a result, following this offering we anticipate that we will own 100% of IW JV. See Certain Relationships and Related Transactions Joint Ventures with Inland Equity for a further discussion of IW JV and our relationship with Inland Equity.

We intend to use the remainder of the net proceeds received from this offering for general corporate and working capital purposes.

**Table of Contents**

**RECAPITALIZATION**

Prior to the completion of this offering, we intend to declare a stock dividend pursuant to which each outstanding share of our common stock will receive:

one share of our Class B-1 Common Stock; plus

one share of our Class B-2 Common Stock; plus

one share of our Class B-3 Common Stock.

In connection with this stock dividend, we intend to redesignate our then outstanding common stock as Class A Common Stock. Prior to the declaration of the stock dividend, and as part of the Recapitalization, we intend to effectuate a ten to one reverse stock split of our common stock.

Our Class B Common Stock will be identical to our Class A Common Stock except that (i) we do not intend to list our Class B Common Stock on a national securities exchange and (ii) shares of our Class B Common Stock will convert automatically into shares of our Class A Common Stock, pursuant to provisions of our charter, on the following schedule:

six months following the Listing, in the case of our Class B-1 Common Stock;

12 months following the Listing, in the case of our Class B-2 Common Stock; and

18 months following the Listing, in the case of our Class B-3 Common Stock.

In addition, if they have not otherwise converted, all shares of our Class B Common Stock will convert automatically into shares of our Class A Common Stock on the date that is 18 months following the Listing.

The Recapitalization also will have the effect of reducing the total number of outstanding shares of our common stock. As of March 2, 2012, without giving effect to the Recapitalization, we had approximately 485.5 million shares of common stock outstanding. As of March 2, 2012, after giving effect to the Recapitalization, we would have had an aggregate of approximately 194.2 million shares of our Class A and Class B Common Stock outstanding, divided equally among Class A, Class B-1, Class B-2 and Class B-3. All of these shares (except for certain shares described in Shares Eligible for Future Sale ) will be freely tradable upon the completion of this offering except as otherwise provided in the restrictions on ownership and transfer of stock set forth in our charter. Of this amount, approximately 48.55 million shares of our Class A Common Stock will be outstanding and approximately 145.65 million shares of our Class B Common Stock, representing 75% of our total outstanding common stock, will be outstanding.

The Recapitalization will be effected on a pro rata basis with respect to all of our shareholders. Accordingly, it will not affect any shareholder's proportionate ownership of our outstanding shares. We will not complete this offering unless we complete the Recapitalization.

**Table of Contents****DISTRIBUTION POLICY**

We intend to continue to qualify as a REIT for U.S. federal income tax purposes. The Code generally requires that a REIT annually distribute at least 90% of its REIT taxable income, determined without regard to the deduction for dividends paid and excluding any net capital gain, and imposes tax on any taxable income retained by a REIT, including capital gains.

To satisfy the requirements for qualification as a REIT and generally not be subject to U.S. federal income and excise tax, we intend to make regular quarterly distributions of all or substantially all of our REIT taxable income to holders of our common stock out of assets legally available for such purposes. Our future distributions will be at the sole discretion of our board of directors. When determining the amount of future distributions, we expect that our board of directors will consider, among other factors, (i) the amount of cash generated from our operating activities, (ii) our expectations of future cash flows, (iii) our determination of near-term cash needs for debt repayments, existing or future share repurchases, and selective acquisitions of new properties, (iv) the timing of significant re-leasing activities and the establishment of additional cash reserves for anticipated tenant improvements and general property capital improvements, (v) our ability to continue to access additional sources of capital, (vi) the amount required to be distributed to maintain our status as a REIT and to reduce any income and excise taxes that we otherwise would be required to pay and (vii) any limitations on our distributions contained in our credit or other agreements, including, without limitation, in our senior unsecured revolving line of credit and unsecured term loan, which limit our distributions to the greater of 95% of FFO as defined in the credit agreement (which equals FFO, as set forth in Management's Discussion and Analysis of Financial Condition and Results of Operations Funds from Operations, excluding gains or losses from extraordinary items, impairment charges not already excluded from FFO and other non-cash charges) or the amount necessary for us to maintain our qualification as a REIT.

If our operations do not generate sufficient cash flow to allow us to satisfy the REIT distribution requirements, we may be required to fund distributions from working capital, borrow funds, sell assets or reduce such distributions. Our distribution policy enables us to review the alternative funding sources available to us from time to time. Our actual results of operations will be affected by a number of factors, including the revenues we receive from our properties, our operating expenses, interest expense, the ability of our tenants to meet their obligations and unanticipated expenditures. For more information regarding risk factors that could materially adversely affect our actual results of operations, please see Risk Factors beginning on page 16.

The table below sets forth the quarterly dividend distributions per common share for the years ended December 31, 2011, 2010 and 2009.

	Year Ended December 31,		
	2011	2010	2009
First Quarter	\$ 0.14844	\$ 0.10938	\$ 0.12188
Second Quarter	0.15625	0.11563	0.125
Third Quarter	0.15938	0.125	0.0625
Fourth Quarter	0.1625	0.14063	0.08125
<b>Total</b>	<b>\$ 0.62657</b>	<b>\$ 0.49064</b>	<b>\$ 0.39063</b>



**Table of Contents**

The following table compares cash flows provided by operating activities to distributions declared for the years ended December 31, 2011, 2010 and 2009:

	Years Ended December 31,		
	2011	2010	2009
Cash flows provided by operating activities	\$ 174,607	\$ 184,072	\$ 249,837
Distributions declared	120,647	94,579	75,040
Excess	\$ 53,960	\$ 89,493	\$ 174,797

For each of these periods, our cash flows provided by operating activities exceeded the amount of our distributions declared.

**Table of Contents****CAPITALIZATION**

The following table sets forth our capitalization as of December 31, 2011 on a historical basis and on an as adjusted basis to give effect to (i) the amendment and restatement of our existing credit agreement to provide for a senior unsecured credit facility in the aggregate amount of \$650.0 million, without adjusting the December 31, 2011 balance of the senior unsecured credit facility, and (ii) this offering and the use of the net proceeds from this offering as set forth in Use of Proceeds. All information in the following table has been adjusted to reflect the Recapitalization, which will be effected prior to the completion of this offering.

You should read this table together with Use of Proceeds, Selected Consolidated Financial and Operating Data, Management's Discussion and Analysis of Financial Condition and Results of Operations and our consolidated financial statements and notes thereto included elsewhere in this prospectus.

	<b>As of December 31, 2011</b>
	<b>Historical</b>
	<b>As Adjusted</b>
	(in thousands, except per share data)
Mortgages and notes payable	\$ 2,926,218
Secured credit facility <sup>(1)</sup>	555,000
Unsecured credit facility	
Shareholders' equity:	
Preferred stock, \$0.001 par value, 10,000 shares authorized, none outstanding, historical, as adjusted and as further adjusted	
Class A Common Stock, \$0.001 par value per share, 475,000 shares authorized, 48,382 shares issued and outstanding, historical and shares issued and outstanding, as adjusted	48
Class B-1 Common Stock, \$0.001 par value per share, 55,000 shares authorized, 48,382 shares issued and outstanding, historical and as adjusted	48
Class B-2 Common Stock, \$0.001 par value per share, 55,000 shares authorized, 48,382 shares issued and outstanding, historical and as adjusted	49
Class B-3 Common Stock, \$0.001 par value per share, 55,000 shares authorized, 48,383 shares issued and outstanding, historical and as adjusted	49
Additional paid-in capital	4,427,977
Accumulated distributions in excess of earnings	(2,312,877)
Accumulated other comprehensive income	19,730
<b>Total shareholders' equity</b>	<b>2,135,024</b>
Noncontrolling interests	1,494
<b>Total equity</b>	<b>2,136,518</b>
<b>Total Capitalization</b>	<b>\$ 5,617,736</b>

- (1) Our credit facility was amended and restated on February 24, 2012 to provide for a senior unsecured credit facility in the aggregate amount of \$650,000, consisting of a \$350,000 senior unsecured revolving line of credit, which matures in February 2015, and a \$300,000 unsecured term loan, which matures in February 2016.

**Table of Contents**

**DILUTION**

If you invest in our Class A Common Stock, your interest will be diluted immediately to the extent of the difference between the public offering price per share you will pay in this offering and the net tangible book value per share of our common stock immediately after this offering. References to our common stock include our Class A and Class B Common Stock collectively.

Our net tangible book value as of December 31, 2011 was approximately \$2.0 billion, or \$10.56 per share. Net tangible book value per share represents the amount of our total tangible assets minus total liabilities, divided by the total number of shares of common stock outstanding as of , after giving effect to the Recapitalization.

After giving effect to the sale of the shares of our Class A Common Stock we are offering at the public offering price of \$ per share, and after deducting the underwriting discount and our estimated offering expenses, our as adjusted net tangible book value as of December 31, 2011 would have been approximately \$ million, or \$ per share. This represents an immediate increase in pro forma net tangible book value of \$ per share and an immediate dilution of \$ per share to new investors. The following table illustrates this calculation on a per share basis:

Public offering price per share of Class A Common Stock	\$
Net tangible book value per share of common stock as of December 31, 2011	\$ 10.56
Increase per share attributable to this offering	

As adjusted net tangible book value per share of common stock after this offering

Dilution per share to new investors	\$
-------------------------------------	----

If the underwriters exercise their overallotment option in full, as adjusted net tangible book value will increase to \$ per share, representing an increase to existing holders of \$ per share, and an immediate dilution of \$ per share to new investors.

The tables and calculations above are based on 193.5 million shares of our common stock outstanding as of December 31, 2011, on an actual basis after giving effect to the Recapitalization, and excludes:

69,400 shares of our common stock issuable upon the exercise of outstanding stock options as of December 31, 2011, at a weighted average exercise price per share of \$20.83; and

4,066,387 shares of our common stock reserved for future issuance under our incentive award plans as of December 31, 2011.

**Table of Contents**

**SELECTED CONSOLIDATED FINANCIAL AND OPERATING DATA**

The selected consolidated financial and operating data set forth below as of December 31, 2011 and 2010 and for the years ended December 31, 2011, 2010 and 2009 have been derived from our audited consolidated financial statements included elsewhere in this prospectus. The audited consolidated financial statements as of December 31, 2011 and 2010 and for the years ended December 31, 2011, 2010 and 2009 have been audited by Deloitte & Touche LLP, an independent registered public accounting firm. The selected consolidated financial and operating data set forth below as of December 31, 2009, 2008 and 2007 and for the years ended December 31, 2008 and 2007 have been derived from our audited consolidated financial statements not included in this prospectus. Certain amounts presented for the years ended December 31, 2010, 2009, 2008 and 2007 have been reclassified to conform to our presentation of discontinued operations in our audited consolidated financial statements as of and for the year ended December 31, 2011.

Because the information presented below is only a summary and does not provide all of the information contained in our historical consolidated financial statements, including the related notes, you should read it in conjunction with Management's Discussion and Analysis of Financial Condition and Results of Operations and our historical consolidated financial statements, including the related notes, included elsewhere in this prospectus. The amounts in the table are dollars in thousands except for share and per share information. The share and per share information set forth below gives effect to the Recapitalization.

**Table of Contents**

	Year Ended December 31,				
	2011	2010	2009	2008	2007
	(in thousands except for per share data)				
<b>Statements of Operations Data:</b>					
Rental income	\$ 485,783	\$ 500,636	\$ 508,012	\$ 541,392	\$ 524,680
Tenant recovery income	109,745	113,326	119,805	128,059	138,166
Other property income	10,155	15,471	18,520	19,568	14,318
Insurance captive income		2,996	2,261	1,938	1,890
<b>Total revenues</b>	<b>605,683</b>	<b>632,429</b>	<b>648,598</b>	<b>690,957</b>	<b>679,054</b>
Property operating expenses	\$ 102,373	\$ 104,413	\$ 120,370	\$ 138,622	\$ 129,844
Real estate taxes	79,543	84,330	91,844	85,839	83,330
Depreciation and amortization	235,598	240,720	243,571	243,659	234,513
Provision for impairment of investment properties	38,023	11,030	27,600	51,600	13,560
Loss on lease terminations	8,712	13,812	13,681	64,531	11,766
Insurance captive expenses		3,392	3,655	2,874	1,598
General and administrative expenses	20,605	18,119	21,191	19,997	16,535
Advisor asset management fee					23,750
<b>Total expenses</b>	<b>484,854</b>	<b>475,816</b>	<b>521,912</b>	<b>607,122</b>	<b>514,896</b>
Operating income	\$ 120,829	\$ 156,613	\$ 126,686	\$ 83,835	\$ 164,158
Dividend income	2,538	3,472	10,132	24,010	23,729
Interest income	663	740	1,483	4,329	13,649
Gain on contribution of investment properties					11,749
Gain on extinguishment of debt, net	16,705				2,486
Equity in (loss) income of unconsolidated joint ventures, net	(6,437)	2,025	(11,299)	(4,939)	96
Interest expense	(232,400)	(257,208)	(228,271)	(205,149)	(196,886)
Co-venture obligation expense	(7,167)	(7,167)	(597)		
Recognized gain (loss) on marketable securities, net	277	4,007	18,039	(160,888)	(19,967)
Impairment of goodwill				(377,916)	
Impairment of investment in unconsolidated entity				(5,524)	
Impairment of notes receivable			(17,322)		
Gain (loss) on interest rate locks			3,989	(16,778)	
Other income (expense), net	1,861	(4,302)	(10,370)	(1,062)	237
Loss from continuing operations	(103,131)	(101,820)	(107,530)	(660,082)	(749)
Income (loss) from discontinued operations	24,647	7,113	(7,879)	(23,131)	43,783
Gain on sales of investment properties	5,906				
<b>Net (loss) income</b>	<b>(72,578)</b>	<b>(94,707)</b>	<b>(115,409)</b>	<b>(683,213)</b>	<b>43,034</b>
Net (income) loss attributable to noncontrolling interests	(31)	(1,136)	3,074	(514)	(1,365)
Net (loss) income attributable to Company shareholders	\$ (72,609)	\$ (95,843)	\$ (112,335)	\$ (683,727)	\$ 41,669
(Loss) earnings per common share basic and diluted:					
Continuing operations	\$ (0.51)	\$ (0.53)	\$ (0.54)	\$ (3.43)	\$ (0.01)
Discontinued operations	0.13	0.03	(0.04)	(0.12)	0.24
Net (loss) earnings per common share attributable to Company shareholders	\$ (0.38)	\$ (0.50)	\$ (0.58)	\$ (3.55)	\$ 0.23
Comprehensive loss	\$ (75,130)	\$ (83,725)	\$ (96,158)	\$ (643,557)	\$ (5,963)

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Comprehensive (income) loss attributable to noncontrolling interests	(31)	(1,136)	3,074	(514)	(1,365)
Comprehensive loss attributable to Company shareholders	\$ (75,161)	\$ (84,861)	\$ (93,084)	\$ (644,071)	\$ (7,328)

**Table of Contents**

	December 31,					
	2011	2010	2009	2008	2007	
	As Adjusted <sup>(1)</sup>	Actual				
(in thousands except for share and per share data)						
<b>Selected Balance Sheet Data:</b>						
Net investment properties less accumulated depreciation		\$ 5,260,788	\$ 5,686,473	\$ 6,103,782	\$ 6,631,506	\$ 6,727,154
Total assets		\$ 5,941,894	\$ 6,386,836	\$ 6,928,365	\$ 7,606,664	\$ 8,305,831
Mortgages and notes payable		\$ 2,926,218	\$ 3,602,890	\$ 4,003,985	\$ 4,402,602	\$ 4,271,160
Total liabilities		\$ 3,804,851	\$ 4,090,244	\$ 4,482,119	\$ 5,011,276	\$ 4,685,539
Common stock and additional paid-in-capital		\$ 4,428,171	\$ 4,383,758	\$ 4,350,966	\$ 4,313,640	\$ 4,387,188
Total shareholders' equity		\$ 2,135,024	\$ 2,294,902	\$ 2,441,550	\$ 2,572,348	\$ 3,598,765
<b>Ratio Data:</b>						
Total net debt to Adjusted EBITDA <sup>(2)(6)</sup>		8.3x	8.4x	9.1x		
Combined net debt to combined Adjusted EBITDA <sup>(2)(6)</sup>		8.3x	8.5x	8.9x		
Year Ended December 31,						
	2011	2010	2009	2008	2007	
(in thousands except for number of properties, share and per share data)						
<b>Other Data:</b>						
Number of consolidated operating properties		274 <sup>(3)</sup>	284	299	305	302
Total GLA (in thousands)		39,307	42,491	44,496	45,957	44,845
Distributions declared per common share		\$ 0.63	\$ 0.49	\$ 0.39	\$ 1.60	\$ 1.61
Funds from operations <sup>(4)</sup>		\$ 195,105	\$ 168,390	\$ 216,567	\$ (265,896)	\$ 301,161
Total net operating income <sup>(5)</sup>		\$ 425,499	\$ 435,785	\$ 431,420	\$ 464,021	
Combined net operating income <sup>(5)</sup>		\$ 435,060	\$ 441,274	\$ 435,206	\$ 467,141	
Adjusted EBITDA <sup>(6)</sup>		\$ 400,646	\$ 429,734	\$ 438,891		
Combined Adjusted EBITDA <sup>(6)</sup>		\$ 415,614	\$ 436,164	\$ 456,578		
Cash flows provided by (used in):						
Operating activities		\$ 174,607	\$ 184,072	\$ 249,837	\$ 309,351	\$ 318,641
Investing activities		\$ 107,471	\$ 154,400	\$ 193,706	\$ (178,555)	\$ (511,676)
Financing activities		\$ (276,282)	\$ (321,747)	\$ (438,806)	\$ (126,989)	\$ 82,644

- (1) Presents historical information as of December 31, 2011 as adjusted to give effect to (i) the amendment and restatement of our existing credit agreement to provide for a senior unsecured credit facility in the aggregate amount of \$650.0 million, without adjusting the December 31, 2011 balance of the senior unsecured credit facility, and (ii) this offering and the use of the net proceeds from this offering as set forth in Use of Proceeds.

**Table of Contents**

- (2) Total net debt to Adjusted EBITDA represents (i) our total debt less cash and cash equivalents divided by (ii) Adjusted EBITDA for the prior 12 months. Combined net debt to combined Adjusted EBITDA represents (i) the sum of (A) our total debt less cash and cash equivalents plus (B) our pro rata share of our investment property unconsolidated joint ventures' total debt less our pro rata share of these joint ventures' cash and cash equivalents divided by (ii) combined Adjusted EBITDA for the prior 12 months. These ratios are not presented as of December 31, 2008 or 2007. Our management believes that the ratios total net debt to Adjusted EBITDA and combined net debt to combined Adjusted EBITDA are useful because they provide investors with information regarding total debt net of cash and cash equivalents, which could be used to repay debt, compared to our performance as measured using Adjusted EBITDA and combined Adjusted EBITDA, which are described in footnote 5 below. The following table shows the reconciliation for net debt and combined net debt:

**Reconciliation of Total Debt to Net Debt and Combined Net Debt**

	2011 As Adjusted	As of December 31, Actual		2010	2009
		(in thousands)			
Total debt		\$ 3,481,218	\$ 3,757,237		\$ 4,110,985
Less: cash and cash equivalents		(136,009)	(130,213)		(125,904)
<b>Net debt</b>		<b>\$ 3,345,209</b>	<b>\$ 3,627,024</b>		<b>\$ 3,985,081</b>
Adjusted EBITDA <sup>(6)</sup>		400,646	429,734		438,891
Net debt to Adjusted EBITDA		8.3x	8.4x		9.1x
Net debt		\$ 3,345,209	\$ 3,627,024		\$ 3,985,081
Add: pro rata share of our investment property unconsolidated					
joint ventures total debt		114,382	79,475		62,998
Less: pro rata share of our investment property					
unconsolidated joint ventures cash and cash equivalents		(13,238)	(1,527)		(4,116)
<b>Combined net debt</b>		<b>\$ 3,446,353</b>	<b>\$ 3,704,972</b>		<b>\$ 4,043,963</b>
Combined Adjusted EBITDA <sup>(6)</sup>		415,614	436,164		456,578
Combined net debt to combined Adjusted EBITDA		8.3x	8.5x		8.9x

- (3) Excludes one non-stabilized operating property.
- (4) For a definition and reconciliation of funds from operations, or FFO, and a statement disclosing the reasons why our management believes that presentation of FFO provides useful information to investors and, to the extent material, any additional purposes for which our management uses FFO, see Management's Discussion and Analysis of Financial Condition and Results of Operations' Funds from Operations.



**Table of Contents**

- (5) Total NOI represents operating revenues (rental income, tenant recovery income, other property income, excluding straight-line rental income and amortization of acquired above and below market lease intangibles) less property operating expenses (real estate tax expense and property operating expense, excluding straight-line ground rent expense and straight-line bad debt expense) from our consolidated investments. Total NOI is not presented for the year ended December 31, 2007. Combined NOI represents NOI plus our pro rata share of NOI from our investment property unconsolidated joint ventures. Combined NOI is not presented for the year ended December 31, 2007. For a reconciliation of total net operating income, or NOI, and a statement disclosing the reasons why our management believes that presentation of NOI provides useful information to investors and, to the extent material, any additional purposes for which our management uses NOI, which is also applicable to combined NOI, see Management's Discussion and Analysis of Financial Condition and Results of Operations Results of Operations. The following table shows the reconciliation between net loss from investment property unconsolidated joint ventures and combined NOI:

**Reconciliation of Net Loss from Investment Property Unconsolidated Joint Ventures to Combined NOI**

	2011	Year Ended December 31,		2008
		2010	2009	
		(in thousands)		
Total net loss from investment property unconsolidated joint ventures	\$ (16,683)	\$ (3,373)	\$ (14,393)	\$ (9,108)
Adjustments:				
Straight-line rental income	\$ (686)	\$ (979)	\$ (638)	\$ (527)
Amortization of acquired above and below market lease intangibles	391	55	50	(124)
Interest income	(8)	(2,361)	(2,430)	(2,675)
Straight-line ground rent expense			50	40
Straight-line bad debt expense	(54)	56		
Depreciation and amortization	32,462	14,355	12,501	12,633
Provisions for impairment	4,128		9,411	3,639
Loss on lease terminations	2,636	658	718	3,316
General and administrative expenses	1,230	1,092	411	237
Interest expense	17,007	12,951	13,431	12,279
Loss/(gain) on sale of investment properties	29	(451)	701	
Other expense	850	16	15	
Total NOI from investment property unconsolidated joint ventures	\$ 41,302	\$ 22,019	\$ 19,827	\$ 19,710
Pro rata share of NOI from investment property unconsolidated joint ventures	\$ 9,561	\$ 5,489	\$ 3,786	\$ 3,120
Total NOI	\$ 425,499	\$ 435,785	\$ 431,420	\$ 464,021
Combined NOI	\$ 435,060	\$ 441,274	\$ 435,206	\$ 467,141

**Table of Contents**

- (6) Adjusted EBITDA represents net income (loss) before interest, income taxes, depreciation and amortization, as further adjusted to eliminate the impact of certain items that we do not consider indicative of our ongoing performance. Combined Adjusted EBITDA represents Adjusted EBITDA plus our pro rata share of the EBITDA adjustments from our investment property unconsolidated joint ventures. The further adjustments that we make to Adjusted EBITDA and combined Adjusted EBITDA are itemized in the reconciliation below. Loss on lease terminations in the reconciliation below excludes the write-off of tenant-related above and below market lease intangibles that are otherwise included in Loss on lease terminations in our consolidated statements of operations and other comprehensive loss. In evaluating these measures, you should be aware that in the future we may incur expenses that are the same as or similar to some of the adjustments in this presentation. Our presentation of these measures should not be construed as an inference that our future results will be unaffected by unusual or non-recurring items. Adjusted EBITDA and combined Adjusted EBITDA are not presented for the years ended December 31, 2008 or 2007. Our management believes that Adjusted EBITDA and combined Adjusted EBITDA are useful because they allow investors and management to evaluate and compare our performance from period to period in a meaningful and consistent manner in addition to standard financial measurements under GAAP. Adjusted EBITDA and combined Adjusted EBITDA are not measurements of financial performance under GAAP and should not be considered as alternatives to net income, as an indicator of operating performance or any measure of performance derived in accordance with GAAP. Our calculation of Adjusted EBITDA and combined Adjusted EBITDA may be different from the calculation used by other companies and, accordingly, comparability may be limited. The following table shows the reconciliation between net loss and Adjusted EBITDA and combined Adjusted EBITDA:

**Reconciliation of Net Loss to Adjusted EBITDA and Combined Adjusted EBITDA**

	Year Ended December 31,		
	2011	2010	2009
	(in thousands)		
Net loss	\$ (72,578)	\$ (94,707)	\$ (115,409)
Interest expense	232,400	257,208	228,271
Interest expense (discontinued operations)	490	7,708	16,222
Depreciation and amortization	235,598	240,720	243,571
Depreciation and amortization (discontinued operations)	2,422	7,368	15,021
Loss on partial sales of investment properties		385	
Gain on sales of investment properties	(5,906)		
Gain on sales of investment properties, net (discontinued operations)	(24,509)	(23,806)	(26,383)
Gain on extinguishment of debt, net	(16,705)		
Loss on lease terminations	9,704	15,523	17,550
Loss on lease terminations (discontinued operations)	26	285	54
Provision for impairment of investment properties	38,023	11,030	27,600
Provision for impairment of investment properties (discontinued operations)	1,958	12,027	37,100
Impairment of notes receivable			17,322
Recognized gain on marketable securities, net	(277)	(4,007)	(18,039)
Gain on interest rate locks			(3,989)
<b>Adjusted EBITDA</b>	<b>\$ 400,646</b>	<b>\$ 429,734</b>	<b>\$ 438,891</b>
Pro rata share of adjustments from investment property unconsolidated joint ventures:			
Interest expense	\$ 3,310	\$ 2,804	\$ 4,294
Depreciation and amortization	7,466	3,781	3,372
Loss (gain) on sales of investment properties	28	(432)	675
Provision for impairment of investment properties	3,959		9,062
Amortization of basis (not pro rated)	205	277	284
<b>Combined Adjusted EBITDA</b>	<b>\$ 415,614</b>	<b>\$ 436,164</b>	<b>\$ 456,578</b>

**Table of Contents****MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

*This prospectus contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from those anticipated in forward-looking statements for many reasons, including the risks described in Risk Factors and elsewhere in this prospectus. Our results of operations and financial condition, as reflected in the accompanying financial statements and related notes, are subject to management's evaluation and interpretation of business conditions, changing capital market conditions and other factors that could affect the ongoing viability of our tenants. You should read the following discussion with Forward-Looking Statements, Our Business and Properties and the financial statements and related notes included elsewhere in this prospectus. Throughout this Management's Discussion and Analysis of Financial Condition and Result of Operations section, dollars, except per share and per square foot amounts, and share amounts are presented in thousands.*

**Executive Summary**

We are one of the largest owners and operators of shopping centers in the United States. As of December 31, 2011, our retail operating portfolio consisted of 259 properties with approximately 34.6 million square feet of GLA, was geographically diversified across 35 states and includes power centers, community centers, neighborhood centers and lifestyle centers, as well as single-user retail properties. Our retail properties are primarily located in retail districts within densely populated areas in highly visible locations with convenient access to interstates and major thoroughfares. Our retail properties have a weighted average age, based on annualized base rent, of approximately 9.8 years since the initial construction or most recent major renovation. As of December 31, 2011, our retail operating portfolio was 90.4% leased, including leases signed but not commenced. In addition to our retail operating portfolio, as of December 31, 2011, we also held interests in 12 office properties, three industrial properties, one non-stabilized retail operating property, 24 retail operating properties held by three unconsolidated joint ventures and three retail properties under development. The following summarizes our consolidated operating portfolio as of December 31, 2011:

Description	Number of Properties	GLA (in thousands)	Percent Leased	Percent Leased and Leases Signed <sup>(1)</sup>
<b>Retail</b>				
Wholly-owned	204	28,108	87.4%	90.2%
Consolidated joint venture <sup>(2)(3)</sup>	55	6,541	90.2%	91.3%
Total retail operating portfolio	259	34,649	87.9%	90.4%
<b>Office/Industrial</b>				
Wholly-owned	15	4,658	97.5%	97.5%
Total consolidated operating portfolio	274	39,307	89.1%	91.2%

(1) Includes leases signed but not commenced.

(2) Represents 55 properties held in one joint venture in which we have a 77% interest. We currently anticipate using a portion of the net proceeds from this offering to exercise our option to repurchase the 23% interest held by others. As a result, following this offering we anticipate that we will own 100% of those properties.

(3) Excludes one non-stabilized operating property.

## **Table of Contents**

As of December 31, 2011, over 90% of our shopping centers, based on GLA, were anchored or shadow anchored by a grocer, discount department store, wholesale club or retailer that sells basic household goods or clothing. Overall, we have a broad and highly diversified retail tenant base that includes approximately 1,500 tenants with no one tenant representing more than 3.3% of our retail annualized base rent.

### **2011 Company Highlights**

#### *Leasing Activity*

We are encouraged by the leasing activity we achieved in our retail operating portfolio during 2011, having signed 189 new leases for approximately 1,616,000 square feet and 333 renewal leases for approximately 2,505,000 square feet, representing a renewal rate of 86.6%. For new leases, rental rates have generally been below the previous rates and we have continued to see demands for rent abatement and capital investment, in the form of tenant improvements and leasing commissions, required from us. However, such rental spreads for new leases appear to be stabilizing and rental rates on renewal leases signed during 2011 increased by 4.0% over previous rental rates.

#### *Asset Dispositions and Debt Transactions*

In 2011, we continued to focus on strengthening our balance sheet by deleveraging through asset dispositions and debt refinancing transactions. Specifically, we:

sold eleven operating properties aggregating 2,792,200 square feet, including five single-user retail properties and three single-user industrial properties aggregating 2,522,800 square feet, for a combined sales price of \$144,342, resulting in net proceeds of \$98,088;

partially sold a 654,200 square foot multi-tenant retail property to our RioCan joint venture for a sales price of \$110,799, resulting in net proceeds of \$39,935;

borrowed \$150,000 on our secured term loan and an additional \$250,653 on our senior secured revolving line of credit;

obtained mortgage payable proceeds of \$91,579, of which \$60,000 was subsequently assumed by our RioCan joint venture in conjunction with the partial sale transaction noted above; and

made mortgages payable repayments of \$637,474, excluding principal amortization of \$40,597, and received forgiveness of debt of \$15,798.

In 2012, we plan to continue to pursue opportunistic dispositions of non-retail properties, free standing triple-net retail properties and non-strategic multi-tenant properties to maintain the focus of our portfolio on well located, high quality shopping centers.

#### *Asset Acquisitions*

In 2011, consistent with our business and growth strategies, we also took advantage of opportunities to increase our core portfolio of high quality multi-tenant retail properties. Specifically, we acquired additional phases of two existing properties in our portfolio aggregating 120,100 square feet for a combined acquisition price of \$16,805. No debt was assumed in either acquisition, but both properties were added as collateral to our secured credit facility subsequent to closing.

#### *Joint Ventures*

During 2011, our RioCan joint venture continued to acquire additional properties. Specifically, the RioCan joint venture acquired five additional properties aggregating 1,839,000 square feet, including the one property acquired from our portfolio as described above. For the four acquisitions from third parties, we made net cash contributions of \$32,173, which represents our share of the acquisition prices, net of customary prorations and mortgage proceeds.



## **Table of Contents**

In 2011, we dissolved a partnership with a partner in three of our development joint ventures resulting in increases to our ownership interests to 100% in Parkway Towne Crossing, 100% in three fully occupied outlots at Wheatland Towne Crossing and 50% in Lake Mead Crossing. The remaining property of Wheatland Towne Crossing (excluding the three outlots, which we subsequently sold in separate transactions during 2011) was conveyed to our partner and our partner simultaneously repaid the related \$5,730 construction loan. Such conveyance of property resulted in a \$14,235 decrease in *Developments in progress* in our consolidated balance sheets. Concurrently with this transaction, we also acquired a 36.7% ownership interest in Lake Mead Crossing from another partner in that joint venture, increasing our total ownership interest in the property to 86.7%. We accounted for this transaction, including the conveyance of property, as a nonmonetary distribution of \$8,483, reflected in the consolidated financial statements as an increase to *Accumulated distributions in excess of earnings*. Subsequent to December 31, 2011, we paid a nominal amount to acquire the remaining 13.3% ownership interest, increasing our total ownership interest in the property to 100%.

On September 30, 2011, we paid \$300 to our partner in a consolidated development joint venture to simultaneously settle the outstanding development fee liability of the joint venture and fully redeem our partner's ownership interest in the joint venture. The transaction resulted in an increase in our ownership interest in South Billings Center from 40.0% as of December 31, 2010 to 100%.

### *Distributions*

We declared quarterly distributions totaling \$0.63 per share during 2011. We have increased the quarterly distribution rate for nine consecutive quarters.

### **Economic Conditions and Outlook**

For a discussion of economic conditions and the outlook regarding the retail industry, see *Industry Overview*.

### **Results of Operations**

We believe that property NOI is a useful measure of our operating performance. We define NOI as operating revenues (rental income, tenant recovery income, other property income, excluding straight-line rental income, amortization of lease inducements and amortization of acquired above and below market lease intangibles) less property operating expenses (real estate tax expense and property operating expense, excluding straight-line ground rent expense and straight-line bad debt expense). Other REITs may use different methodologies for calculating NOI, and accordingly, our NOI may not be comparable to other REITs.

We believe that this measure provides an operating perspective not immediately apparent from GAAP operating income or net (loss) income. We use NOI to evaluate our performance on a property-by-property basis because NOI allows us to evaluate the impact that factors such as lease structure, lease rates and tenant base, which vary by property, have on our operating results. However, NOI should only be used as an alternative measure of our financial performance. For reference and as an aid in understanding our computation of NOI, a reconciliation of NOI to net (loss) income as computed in accordance with GAAP has been presented.

**Table of Contents**

*Comparison of the years ended December 31, 2011 and 2010*

The table below presents operating information for our same store portfolio consisting of 273 operating properties acquired or placed in service prior to January 1, 2010, along with reconciliation to net operating income. The properties in the same store portfolio as described were owned for the years ended December 31, 2011 and 2010. The properties in Other investment properties include our development properties, some of which became operational during the periods presented, and the properties that were partially sold to our RioCan joint venture during 2010 and 2011, none of which qualified for discontinued operations accounting treatment.

	2011	2010	Impact	Percentage
<b>Revenues:</b>				
Same store investment properties (273 properties):				
Rental income	\$ 472,162	\$ 466,623	\$ 5,539	1.2
Tenant recovery income	107,839	107,491	348	0.3
Other property income	10,084	14,692	(4,608)	(31.4)
Other investment properties:				
Rental income	11,606	24,631	(13,025)	
Tenant recovery income	1,906	5,835	(3,929)	
Other property income	71	779	(708)	
<b>Expenses:</b>				
Same store investment properties (273 properties):				
Property operating expenses	(95,474)	(94,675)	(799)	(0.8)
Real estate taxes	(76,959)	(79,931)	2,972	3.7
Other investment properties:				
Property operating expenses	(3,152)	(5,261)	2,109	
Real estate taxes	(2,584)	(4,399)	1,815	
<b>Net operating income:</b>				
Same store investment properties	417,652	414,200	3,452	0.8
Other investment properties	7,847	21,585	(13,738)	
<b>Total net operating income</b>	<b>425,499</b>	<b>435,785</b>	<b>(10,286)</b>	<b>(2.4)</b>
<b>Other income (expense):</b>				
Straight-line rental income	404	7,513	(7,109)	
Amortization of acquired above and below market lease intangibles, net	1,702	1,929	(227)	
Amortization of lease inducements	(91)	(60)	(31)	
Straight-line ground rent expense	(3,801)	(4,109)	308	
Straight-line bad debt expense	54	(368)	422	
Insurance captive income		2,996	(2,996)	
Depreciation and amortization	(235,598)	(240,720)	5,122	
Provision for impairment of investment properties	(38,023)	(11,030)	(26,993)	
Loss on lease terminations	(8,712)	(13,812)	5,100	
Insurance captive expenses		(3,392)	3,392	
General and administrative expenses	(20,605)	(18,119)	(2,486)	
Dividend income	2,538	3,472	(934)	
Interest income	663	740	(77)	
Gain on extinguishment of debt, net	16,705		16,705	
Equity in (loss) income of unconsolidated joint ventures, net	(6,437)	2,025	(8,462)	
Interest expense	(232,400)	(257,208)	24,808	
Co-venture obligation expense	(7,167)	(7,167)		
Recognized gain on marketable securities, net	277	4,007	(3,730)	
Other income (expense), net	1,861	(4,302)	6,163	
<b>Total other expense</b>	<b>(528,630)</b>	<b>(537,605)</b>	<b>8,975</b>	<b>1.7</b>
<b>Loss from continuing operations</b>	<b>(103,131)</b>	<b>(101,820)</b>	<b>(1,311)</b>	<b>(1.3)</b>

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Discontinued operations:				
Operating income (loss), net	138	(16,693)	16,831	
Gain on sales of investment properties, net	24,509	23,806	703	
Income from discontinued operations	24,647	7,113	17,534	246.5
Gain on sales of investment properties	5,906		5,906	
Net loss	(72,578)	(94,707)	22,129	23.4
Net income attributable to noncontrolling interests	(31)	(1,136)	1,105	97.3
Net loss attributable to Company shareholders	\$ (72,609)	\$ (95,843)	\$ 23,234	24.2



## Table of Contents

Total net operating income decreased by \$10,286, or 2.4%. Total rental income, tenant recovery and other property income decreased by \$16,383, or 2.6%, and total property operating expenses and real estate taxes decreased by \$6,097, or 3.3%, for the year ended December 31, 2011, as compared to December 31, 2010.

*Rental income.* Rental income increased \$5,539, or 1.2%, on a same store basis from \$466,623 to \$472,162. The same store increase is primarily due to:

an increase of \$8,099 consisting of \$24,958 resulting from contractual rent increases and new tenant leases replacing former tenants, partially offset by a decrease of \$16,859 from early terminations and natural expirations of certain tenant leases, partially offset by

a decrease of \$2,647 due to reduced rent as a result of co-tenancy provisions in certain leases, reduced percentage rent as a result of decreased tenant sales, and increased rent abatements as a result of efforts to increase occupancy.

Although same store rental income increased, overall rental income decreased \$7,486, or 1.5%, from \$491,254 to \$483,768, due to a rental income decrease of \$13,025 in other investment properties, which primarily consisted of a decrease of \$14,474 related to properties partially sold to our RioCan joint venture during the third and fourth quarters of 2010 and the third quarter of 2011. This decrease was partially offset by the same store increase discussed above and an increase of \$1,437 from two additional phases of existing properties acquired in 2011 as well as increased occupancy at our non-stabilized operating and development properties.

*Tenant recovery and other property income.* Tenant recovery and other property income decreased \$4,260, or 3.5%, on a same store basis from \$122,183 to \$117,923, primarily due to reductions in the 2010 tenant recovery income estimates as a result of common area maintenance and real estate tax expense reconciliations completed during the year ended December 31, 2011.

Total tenant recovery and other property income decreased \$8,897, or 6.9%, from \$128,797 to \$119,900, primarily due to the decrease in the same store portfolio described above and a decrease in recovery income of \$3,798 resulting from properties partially sold to our RioCan joint venture during the third and fourth quarters of 2010 and the third quarter of 2011.

*Property operating expenses.* Property operating expenses increased \$799, or 0.8%, on a same store basis from \$94,675 to \$95,474. The same store increase is primarily due to an increase in certain non-recoverable property operating expenses and bad debt expense of \$1,295 and \$556, respectively, partially offset by a decrease in certain recoverable property operating expenses of \$1,052.

Total property operating expenses decreased \$1,310, or 1.3%, from \$99,936 to \$98,626, primarily due to decreases in certain recoverable and non-recoverable property operating expenses in other investment properties of \$1,678 and \$518, respectively, partially offset by the same store increase described above and an increase in bad debt expense of \$87 in other investment properties.

*Real estate taxes.* Real estate taxes decreased \$2,972, or 3.7%, on a same store basis from \$79,931 to \$76,959. This decrease is primarily due to:

a decrease of \$2,039 in prior year estimates adjusted during 2011, based on actual real estate taxes paid;

a net decrease of \$715 over 2010 real estate tax expense primarily due to decreases in assessed values; and

a \$134 increase in real estate tax refunds received during 2011 resulting from our successful appeal of prior year tax assessments. Overall, real estate taxes decreased \$4,787, or 5.7%, from \$84,330 to \$79,543 primarily due to the decrease in the same store portfolio described above and a decrease in real estate tax expense of \$2,521 related to properties partially sold to our RioCan joint venture during the third and fourth quarters of 2010 and the third quarter of 2011.



**Table of Contents**

*Other income (expense).* Total other expense decreased \$8,975, or 1.7%, from \$537,605 to \$528,630, primarily due to:

a \$24,808 decrease in interest expense primarily consisting of:

a \$26,211 decrease in interest on mortgages payable due to the repayment of mortgage debt;

the acceleration of mortgage premium amortization in conjunction with the debt repayment on one property in the amount of \$4,750;

a decrease in prepayment penalties and other costs associated with refinancings of \$1,942;

an \$853 decrease in interest on notes payable as a result of the repayment of a \$50,000 note payable that bore interest at 4.80% to MS Inland in December 2010, partially offset by

an increase in interest on our secured credit facility of \$9,464 due to increased borrowings used to repay 2011 mortgage debt maturities.

a \$16,705 increase in net gain on extinguishment of debt primarily resulting from debt forgiveness of \$14,438 related to three properties which were added as collateral to our secured credit facility (see Note 10 to the consolidated financial statements), a \$991 gain realized on the partial sale of one property to the RioCan joint venture and a \$1,360 gain realized on the purchase of a matured mortgage payable note, partially offset by an \$84 loss on debt extinguishment related to the modification of a \$7,137 mortgage payable;

a \$6,163 change in other income (expense) from net expense of \$4,302 in 2010 to net income of \$1,861 in 2011, as 2010 includes \$4,000 related to a settled litigation matter and \$3,044 related to rate lock extension fees, partially offset by

a \$26,993 increase in provision for impairment of investment properties. Based on the results of our evaluations for impairment (see Notes 15 and 16 to the consolidated financial statements), we recognized impairment charges of \$38,023 and \$11,030 for the years ended December 31, 2011 and 2010, respectively. In addition to those properties that were impaired, 22 of our properties at December 31, 2011 had impairment indicators driven by factors such as low occupancy rate, difficulty in leasing space and related cost of re-leasing, reduced anticipated holding periods and financially troubled tenants. The undiscounted future cash flows for those 22 properties exceeded their respective carrying values by a weighted average of 44%. Accordingly, no additional impairment provisions were warranted for these properties. As of December 31, 2010, 39 of our properties had impairment indicators, the undiscounted future cash flows for those properties exceeded their respective carrying value by a weighted average of 51%;

an \$8,462 change from equity in income of unconsolidated joint ventures to equity in loss of unconsolidated joint ventures primarily as a result of impairment charges of \$4,128, of which our share was \$3,956, at our Hampton joint venture, as well as losses incurred at each of our other unconsolidated joint ventures during the year ended December 31, 2011, and

an \$7,109 decrease in straight-line rental income due to the terms of, modifications to and early terminations of tenant leases within our portfolio.

## Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

*Discontinued operations.* Discontinued operations consist of amounts related to 11 properties and eight properties that were sold during the years ended December 31, 2011 and 2010, respectively. We closed on the sale of five single-user retail properties, three single-user industrial properties and three multi-tenant retail properties during the year ended December 31, 2011 aggregating 2,792,200 square feet, for a combined sales price of \$144,342, net sales proceeds totaling \$98,088, extinguishment or repayment of debt of \$43,250 and total gains of \$24,509. We closed on eight properties during the year ended December 31, 2010, aggregating 894,500 square feet, for a combined sales price of \$104,635, the extinguishment or repayment of \$106,791 of debt, net sales proceeds totaling \$21,024 and total gains of \$23,806. The properties disposed of during 2010 included two office buildings, five single-user retail properties and one medical center. Included in this was an office building aggregating 382,600 square feet that was transferred through a deed in lieu of foreclosure to the property's lender resulting in a gain on sale of \$19,841. There were no properties that qualified for held for sale accounting treatment as of December 31, 2011 or December 31, 2010.

**Table of Contents**

*Comparison of the years ended December 31, 2010 to December 31, 2009*

The table below presents operating information for our same store portfolio consisting of 274 operating properties acquired or placed in service prior to January 1, 2009, along with a reconciliation to net operating income. The properties in the same store portfolio as described were owned for the years ended December 31, 2010 and 2009. The properties in Other investment properties include our development properties and the properties that were partially sold to our RioCan joint venture during 2010, none of which qualified for discontinued operations accounting treatment. The property that was partially sold to our RioCan joint venture in 2011 is included in the same store portfolio in the table below.

	2010	2009	Impact	Percentage
<b>Revenues:</b>				
Same store investment properties (274 properties):				
Rental income	\$ 473,744	\$ 479,428	\$ (5,684)	(1.2)
Tenant recovery income	109,669	114,833	(5,164)	(4.5)
Other property income	15,014	18,429	(3,415)	(18.5)
Other investment properties:				
Rental income	17,510	18,486	(976)	
Tenant recovery income	3,657	4,972	(1,315)	
Other property income	457	91	366	
<b>Expenses:</b>				
Same store investment properties (274 properties):				
Property operating expenses	(96,073)	(108,500)	12,427	11.5
Real estate taxes	(81,413)	(87,802)	6,389	7.3
Other investment properties:				
Property operating expenses	(3,863)	(4,475)	612	
Real estate taxes	(2,917)	(4,042)	1,125	
<b>Net operating income:</b>				
Same store investment properties	420,941	416,388	4,553	1.1
Other investment properties	14,844	15,032	(188)	
<b>Total net operating income</b>	<b>435,785</b>	<b>431,420</b>	<b>4,365</b>	<b>1.0</b>
<b>Other income (expense):</b>				
Straight-line rental income	7,513	7,873	(360)	
Amortization of acquired above and below market lease intangibles, net	1,929	2,285	(356)	
Amortization of lease inducements	(60)	(60)		
Straight-line ground rent expense	(4,109)	(3,987)	(122)	
Straight-line bad debt expense	(368)	(3,408)	3,040	
Insurance captive income	2,996	2,261	735	
Depreciation and amortization	(240,720)	(243,571)	2,851	
Provision for impairment of investment properties	(11,030)	(27,600)	16,570	
Loss on lease terminations	(13,812)	(13,681)	(131)	
Insurance captive expenses	(3,392)	(3,655)	263	
General and administrative expenses	(18,119)	(21,191)	3,072	
Dividend income	3,472	10,132	(6,660)	
Interest income	740	1,483	(743)	
Equity in income (loss) of unconsolidated joint ventures, net	2,025	(11,299)	13,324	
Interest expense	(257,208)	(228,271)	(28,937)	
Co-venture obligation expense	(7,167)	(597)	(6,570)	
Recognized gain on marketable securities, net	4,007	18,039	(14,032)	
Impairment of notes receivable		(17,322)	17,322	
Gain on interest rate locks		3,989	(3,989)	
Other expense, net	(4,302)	(10,370)	6,068	
<b>Total other expense</b>	<b>(537,605)</b>	<b>(538,950)</b>	<b>1,345</b>	<b>0.2</b>
<b>Loss from continuing operations</b>	<b>(101,820)</b>	<b>(107,530)</b>	<b>5,710</b>	<b>5.3</b>
<b>Discontinued operations:</b>				
Operating loss, net	(16,693)	(34,262)	17,569	
Gain on sales of investment properties, net	23,806	26,383	(2,577)	

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Income (loss) from discontinued operations	7,113	(7,879)	14,992	190.3
Net loss	(94,707)	(115,409)	20,702	17.9
Net (income) loss attributable to noncontrolling interests	(1,136)	3,074	(4,210)	(137.0)
Net loss attributable to Company shareholders	\$ (95,843)	\$ (112,335)	\$ 16,492	14.7

**Table of Contents**

Total net operating income increased by 4,365, or 1.0%. Total rental income, tenant recovery and other property income decreased by \$16,188, or 2.5%, and total property operating expenses and real estate taxes decreased by \$20,553, or 10.0%, for the year ended December 31, 2010, as compared to December 31, 2009.

*Rental income.* Rental income decreased \$5,684 or 1.2%, on a same store basis from \$479,428 to \$473,744. The same store decrease is primarily due to:

a decrease of \$16,857 due to reduced rent as a result of co-tenancy provisions in certain leases, reduced percentage rent as a result of decreased tenant sales, and increased rent abatements as a result of efforts to increase occupancy, partially offset by

an increase of \$12,094 composed of \$33,816 as a result of contractual rent increases and new tenant leases replacing former tenants partially offset by \$21,722 from early terminations and natural expirations of certain tenant leases.

Overall, rental income decreased \$6,660, or 1.3%, from \$497,914 to \$491,254, primarily due to the same store portfolio decrease described above, in addition to a decrease of \$976 in other investment properties primarily due to:

a decrease of \$1,963 due to the partial sale of eight investment properties to our RioCan joint venture during 2010, partially offset by

an increase of \$1,040 from one additional phase of an existing property acquired in 2009, as well as increased occupancy at non-stabilized operating and development properties.

*Tenant recovery income.* Tenant recovery income decreased \$5,164, or 4.5%, on a same store basis from \$114,833 to \$109,669, primarily due to:

an 8.7% decrease in common area maintenance recovery income, primarily due to reduced recoverable property operating expenses described below, and

a 6.9% decrease in real estate tax recovery, primarily resulting from reduced real estate tax expense as described below.

Overall, tenant recovery income decreased \$6,479, or 5.4%, from \$119,805 to \$113,326, primarily due to the decrease in the same store portfolio described above and a decrease in recovery income from properties partially sold to our RioCan joint venture in 2010.

*Other property income.* Other property income decreased overall by \$3,049, or 16.5%, due to decreases in termination fee income, parking revenue and direct recovery income.

*Property operating expenses.* Property operating expenses decreased \$12,427, or 11.5%, on a same store basis from \$108,500 to \$96,073. The same store decrease is primarily due to:

a decrease in bad debt expense of \$4,022, and

a decrease in certain non-recoverable and recoverable property operating expenses of \$2,898 and \$4,789, respectively, due to the continued efforts of management to contain costs.

Overall, property operating expenses decreased \$13,039, or 11.5%, from \$112,975 to \$99,936, due to the decrease in the same store portfolio described above, in addition to a decrease in bad debt expense of \$443 and a decrease in certain non-recoverable and recoverable property

operating expenses of \$153 and \$110, respectively, in other investment properties.

*Real estate taxes.* Real estate taxes decreased \$6,389, or 7.3%, on a same store basis from \$87,802 to \$81,413. This decrease is primarily due to:

a net decrease of \$4,700 over 2009 real estate tax expense primarily due to decreases in assessed values;



**Table of Contents**

an increase of \$2,089 in real estate tax refunds received during 2010 for prior year tax assessment adjustments; partially offset by

an increase in tax consulting fees of \$455 as a result of successful reductions to proposed increases to assessed valuations or tax rates at certain properties.

Overall, real estate taxes decreased \$7,514, or 8.2%, from \$91,844 to \$84,330 primarily due to the decrease in the same store portfolio described above and a net decrease of \$995 over 2009 real estate tax expense due to decreases in assessed values on certain properties partially sold to our RioCan joint venture in 2010.

*Other income (expense).* Total other expense decreased 1,345, or 0.2% from \$538,950 to \$537,605, primarily due to:

a \$17,322 decrease in impairment of notes receivable due to the impairment of two notes receivable in 2009;

a \$16,570 decrease in provision for impairment of investment properties. Based on the results of our evaluations for impairment (see Notes 15 and 16 to the consolidated financial statements), we recognized impairment charges of \$11,030 and \$27,600 for the years ended December 31, 2010 and 2009, respectively. In addition to those properties that were impaired, 39 of our properties had impairment indicators driven by factors such as low occupancy rate, difficulty in leasing space and related cost of re-leasing, reduced anticipated holding periods and financially troubled tenants at December 31, 2010; the undiscounted future cash flows for those properties exceeded their respective carrying values by a weighted average of 51%. Accordingly, no additional impairment provisions were warranted for these properties;

a \$13,324 decrease in equity in loss of unconsolidated joint ventures due primarily to impairments recorded by one joint venture in 2009 that did not reoccur in 2010, partially offset by

a \$28,937 increase in interest expense primarily due to:

- higher interest rates on refinanced debt resulting in an increase of \$17,873;
- an increase of \$16,214 related to the senior and junior mezzanine notes of IW JV that were entered into in December 2009, partially offset by
- a decrease in prepayment penalties and other costs associated with refinancings of \$2,639, and
- a decrease in other financing costs of \$1,632 due to a decrease in the amount of preferred returns paid to a joint venture partner; and

a \$14,032 decrease in recognized gain on marketable securities primarily as a result of a significant liquidation of the marketable securities portfolio in 2009 and no other-than-temporary impairment recorded in 2010 as compared to other-than-temporary impairment of \$24,831 recorded in 2009

*Discontinued operations.* Discontinued operations consist of amounts related to 11 properties that were sold during the year ended December 31, 2011 and eight properties that were sold during each of the years ended December 31, 2010 and 2009. Refer to discussion comparing 2011 and 2010 results for more detail on the 2011 and 2010 transactions that resulted in discontinued operations. The 2009 sales aggregated 1,579,000 square feet for a combined sales price of \$338,057. The sales consisted of three office buildings, three single-user retail properties and two multi-tenant retail properties and they resulted in the extinguishment or repayment of \$208,552 of debt, net sales proceeds totaling \$123,944 and

total gains on sale of \$26,383.

**Table of Contents****Funds from Operations**

Due to certain unique operating characteristics of real estate companies, the National Association of Real Estate Investment Trusts, or NAREIT, an industry trade group, has promulgated a standard known as funds from operations, or FFO. We believe that FFO, which is a non-GAAP performance measure, provides an additional and useful means to assess the operating performance of REITs. As defined by NAREIT, FFO means net (loss) income computed in accordance with GAAP, excluding gains (or losses) from sales of investment properties, plus depreciation and amortization and impairment charges on investment properties, including adjustments for unconsolidated joint ventures in which the REIT holds an interest. Previously, our FFO calculation did not exclude impairment charges on investment properties. However, during the fourth quarter of 2011, NAREIT revised its definition of FFO to exclude impairment charges recorded on investment properties, including adjustments for unconsolidated joint ventures in which the issuer holds an interest. We have adopted the NAREIT definition in our computation of FFO, inclusive of the aforementioned recent revision for all periods presented below. Management believes that, subject to the following limitations, FFO provides a basis for comparing our performance and operations to those of other REITs. FFO is not intended to be an alternative to Net Income as an indicator of our performance nor an alternative to Cash Flows from Operating Activities as determined by GAAP as a measure of our capacity to pay distributions.

Our FFO and cash flow from operating activities for the years ended December 31, 2011, 2010, 2009, 2008 and 2007 is as follows:

	Year Ended December 31,				
	2011	2010	2009	2008	2007
Net (loss) income attributable to Company shareholders	\$ (72,609)	\$ (95,843)	\$ (112,335)	\$ (683,727)	\$ 41,669
Add:					
Depreciation and amortization <sup>(1)</sup>	255,182	267,500	279,361	337,070	280,688
Provision for impairment of investment properties	43,937	23,057	73,762	83,505	13,560
Less:					
Gain on sales of investment properties	(30,415)	(24,465)	(21,545)		(31,313)
Noncontrolling interests share of depreciation related to consolidated joint ventures	(990)	(1,859)	(2,676)	(2,744)	(3,443)
Funds from operations	\$ 195,105	\$ 168,390	\$ 216,567	\$ (265,896)	\$ 301,161
Cash flows provided by operating activities	\$ 174,607	\$ 184,072	\$ 249,837	\$ 309,351	\$ 318,641

(1) Includes our share of depreciation and amortization from unconsolidated joint ventures and depreciation and amortization from discontinued operations.

During 2011, we revised our calculation of FFO as it relates to IW JV to more accurately reflect the nature of our co-venture partner's investment as a financing arrangement (see Note 11 of our consolidated financial statements for a description of IW JV). Accordingly, the 2010 and 2009 calculations of FFO have been revised to conform to the 2011 presentation.

Depreciation and amortization related to investment properties for purposes of calculating FFO include loss on lease terminations, which encompasses the write-off of tenant-related assets, including tenant improvements and in-place lease values, as a result of early lease terminations.

**Liquidity and Capital Resources**

We anticipate that cash flows from all sources will provide adequate capital for the next 12 months and beyond for all scheduled principal and interest payments on our outstanding indebtedness, including maturing

debt, current and anticipated tenant improvement or other capital obligations, the shareholder distribution required to maintain our REIT status and compliance with financial covenants of our credit agreement.



**Table of Contents**

The primary expected sources and uses of our consolidated cash and cash equivalents are as follows:

SOURCES	USES
	<b>Short-Term:</b>
	Tenant improvement allowances and leasing costs
Operating cash flow	
	Improvements made to individual properties that are not recoverable through common area maintenance charges to tenants
Cash & cash equivalents	
	Debt repayment requirements, including principal, interest and costs to refinance
Available borrowings under our existing revolving credit facility	
	Corporate and administrative expenses
Secured loans collateralized by individual properties	
	Distribution payments
Distribution reinvestment plan	<b>Long-Term:</b>
	Acquisitions
Asset sales	
	New development
Joint venture equity from institutional partners	
	Major redevelopment, renovation or expansion programs at individual properties

**Sales of marketable securities**

One of our main areas of focus over the last several years has been on strengthening our balance sheet and addressing debt maturities. We have pursued this goal through a combination of the refinancing or repayment of maturing debt, a reduction in our distribution rate to shareholders as compared to distributions from a few years ago, the suspension of our share repurchase program and total or partial dispositions of assets through sales or contributions to joint ventures. As of December 31, 2011, we had \$1,406,631 of debt scheduled to mature through the end of 2013. As of March 2, 2012, we had repaid \$106,616 of that debt and extended the maturity of \$300,000 outstanding on our credit facility to 2016 and the remaining \$230,000 outstanding on our credit facility as of February 24, 2012, the date of the amendment and restatement, to 2015. For substantially all of the remaining \$770,015 of debt, we plan on satisfying our obligations by refinancing this debt using either our amended credit facility or securing loans collateralized by individual properties, or by using proceeds from asset sales. In limited circumstances, for non-recourse mortgage indebtedness, we may seek to negotiate a discounted payoff amount or satisfy our obligation by delivering the property to the lender. We may not be able to refinance our existing debt when it becomes due or to obtain new debt financing for acquisitions or development projects, or we may be forced to accept less favorable terms, including increased collateral to secure development projects, higher interest rates and/or more restrictive covenants. If we are not successful in refinancing our debt when it becomes due, we may default under our loan obligations, enter into foreclosure proceedings, or be forced to dispose of properties on disadvantageous terms, any of which might adversely affect our ability to service other debt and meet our other obligations.



**Table of Contents***Liquidity*

The table below summarizes our consolidated indebtedness, net of premium and discount, at December 31, 2011:

Debt	Aggregate Principal Amount at December 31, 2011	Interest Rate/ Weighted Average Interest Rate	Years to Maturity/Weighted Average Years to Maturity
Mortgages payable	\$ 2,209,024	5.90%	5.9 years
IW JV mortgages payable <sup>(1)</sup>	491,154	7.50%	7.9 years
IW JV senior mezzanine note <sup>(2)</sup>	85,000	12.24%	7.9 years
IW JV junior mezzanine note <sup>(2)</sup>	40,000	14.00%	7.9 years
Construction loans	79,599	3.77%	0.5 years
Mezzanine note	13,900	11.00%	2.0 years
Margin payable	7,541	0.62%	1.0 year
 Mortgages and notes payable	 2,926,218		
 Secured credit facility <sup>(3)</sup>	 555,000	 3.81%	 1.1 years
 Total consolidated indebtedness	 \$ 3,481,218	 6.00%	 5.4 years

(1) Mortgages payable can be defeased beginning in January 2014.

(2) Notes payable can be prepaid beginning in February 2013 for a fee ranging from 1% to 5% of the outstanding principal balance depending on the date the payment is made.

(3) Our credit facility was amended and restated on February 24, 2012 to provide for a senior unsecured credit facility in the aggregate amount of \$650,000, consisting of a \$350,000 senior unsecured revolving line of credit which matures in February 2015 and a \$300,000 unsecured term loan which matures in February 2016.

*Mortgages Payable and Construction Loans*

Mortgages payable outstanding as of December 31, 2011, including construction loans and IW JV mortgages payable which are discussed further below, were \$2,779,777 and had a weighted average interest rate of 6.13%. Of this amount, \$2,700,178 had fixed rates ranging from 4.61% to 8.00% (9.78% for matured mortgages payable) and a weighted average fixed rate of 6.20% at December 31, 2011. The remaining \$79,599 of mortgages payable represented variable rate loans with a weighted average interest rate of 3.77% at December 31, 2011. Properties with a net carrying value of \$4,086,595 at December 31, 2011 and related tenant leases are pledged as collateral for the mortgage loans and wholly-owned and consolidated joint venture properties with a net carrying value of \$126,585 at December 31, 2011 and related tenant leases are pledged as collateral for the construction loans. Generally, other than IW JV mortgages payable, our mortgages payable are secured by individual properties or small groups of properties. As of December 31, 2011, our outstanding mortgage indebtedness had various scheduled maturity dates through March 1, 2037.

During the year ended December 31, 2011, we obtained mortgages payable proceeds of \$91,579, of which a \$60,000 mortgage payable was subsequently assumed by the RioCan joint venture on August 22, 2011, made mortgages payable repayments of \$637,474 (excluding principal amortization of \$40,597) and received debt forgiveness of \$15,798. The mortgages payable originated during the year ended December 31, 2011 have fixed or variable interest rates ranging from 2.50% to 5.50%, a weighted average interest rate of 3.84% and terms up to 15 years. The fixed or variable interest rates of the loans repaid during the year ended December 31, 2011 ranged from 2.49% to 8.00% and had a weighted average interest rate of 5.14%. We also entered into modifications of four existing loan agreements that extended the maturities of \$16,116 of mortgages payable to May 1, 2014, a \$7,137 mortgage payable to September 30, 2016 and a matured mortgage payable with a balance of \$5,336 to November 1, 2011, on which date it was repaid.





## **Table of Contents**

### *IW JV 2009 Mortgages Payable and Mezzanine Notes*

On November 29, 2009, we transferred a portfolio of 55 investment properties and the entities which owned them into IW JV, which at the time was a newly formed wholly-owned subsidiary. Subsequently, in connection with a \$625,000 debt refinancing transaction, which consisted of \$500,000 of mortgages payable and \$125,000 of notes payable, on December 1, 2009, we raised additional capital of \$50,000 from a related party, Inland Equity, in exchange for a 23% noncontrolling interest in IW JV. IW JV, which is controlled by us and therefore consolidated, is and will continue to be managed and operated by us. The mortgages and notes payable mature on December 1, 2019; however, the mortgages payable can be defeased beginning in January 2014 and the notes payable can be prepaid beginning in February 2013 for a fee ranging from 1% to 5% of the outstanding principal balance, depending on the date the prepayment is made. Inland Equity is owned by certain individuals, including Daniel L. Goodwin, who beneficially owns more than 5% of our common stock, and Robert D. Parks, who was the Chairman of our Board until October 12, 2010 and who is chairman of the board of certain affiliates of The Inland Group. The independent directors committee reviewed and recommended approval of this transaction to our Board.

### *Mezzanine Note and Margin Payable*

During the year ended December 31, 2010, we borrowed \$13,900 from a third party in the form of a mezzanine note and used the proceeds as a partial paydown of the mortgage payable, as required by the lender. The mezzanine note bears interest at 11.00% and matures on December 16, 2013. Additionally, we purchased a portion of our securities through a margin account. As of December 31, 2011 and December 31, 2010, we had recorded a payable of \$7,541 and \$10,017, respectively, for securities purchased on margin. This debt bears a variable interest rate of LIBOR plus 35 basis points, which equated to 0.62% at December 31, 2011. This debt is due upon demand. The value of our marketable securities serves as collateral for this debt. During the year ended December 31, 2011, we did not borrow on our margin account and paid down \$2,476.

### *Senior Unsecured Line of Credit and Unsecured Term Loan*

As of December 31, 2011, we had a secured credit facility pursuant to an agreement with KeyBank National Association and other financial institutions. The secured credit facility was in the aggregate amount of \$585,000, consisting of a \$435,000 senior secured revolving line of credit and a \$150,000 secured term loan that had a maturity date of February 3, 2013. As of December 31, 2011, we had \$555,000 outstanding under the secured credit facility.

On February 24, 2012, we amended and restated our existing credit agreement to provide for a senior unsecured credit facility in the aggregate amount of \$650,000, consisting of a \$350,000 senior unsecured revolving line of credit and a \$300,000 unsecured term loan from a number of financial institutions. The senior unsecured credit facility also contains an accordion feature that allows us to increase the availability thereunder to up to \$850,000 in certain circumstances.

Upon closing, we borrowed the full amount of the term loan and as of March 2, 2012, we had a total of \$300,000 outstanding under the senior unsecured revolving line of credit. The total amount outstanding as of March 2, 2012 represents the amount that had been outstanding under our secured credit facility prior to the 2012 amendment and restatement of our credit agreement and \$70,000 of additional borrowings. We used the additional borrowings under our senior unsecured revolving line of credit as well as proceeds from the secured financing of three properties to repay \$137,460 of mortgage debt that was secured by five properties and had a weighted average interest rate of 5.45% per annum.

*Availability.* The aggregate availability under the senior unsecured revolving line of credit shall at no time exceed the lesser of (x) 60% of the implied value of the unencumbered pool assets determined by applying a 7.5% capitalization rate to adjusted net operating income for those properties and (y) the amount that would

**Table of Contents**

result in a debt service coverage ratio for the unencumbered pool assets of not less than 1.50x, less the outstanding balance of the unsecured term loan. As of March 2, 2012, the total availability under the senior unsecured revolving line of credit was \$350,000, of which we had borrowed \$300,000.

*Maturity and Interest.* The senior unsecured revolving line of credit matures on February 24, 2015 and the unsecured term loan matures on February 24, 2016. We have a one-year extension option on both the unsecured revolving line of credit and unsecured term loan, which we may exercise as long as there is no existing default, we are in compliance with all covenants and we pay an extension fee equal to 0.25% of the loan, depending on which piece of the facility is being extended. The senior unsecured revolving line of credit and unsecured term loan bear interest at a rate per annum equal to LIBOR, plus a margin of between 1.75% and 2.50% per annum or the alternate base rate plus a margin of between 0.75% and 1.50% per annum, both based on our leverage ratio as calculated under the credit agreement. In the event that we become investment grade rated by two of the three major rating agencies (Fitch, Moody's and Standard & Poor's), the pricing on our credit facility will be determined based on an investment grade pricing matrix with the interest rate equal to LIBOR plus a margin of between 1.15% and 1.95%, or the alternate base rate plus a margin of between 0.15% and 0.95%, in each case depending on our credit rating. If we are unable to elect to have amounts outstanding under the credit facility bear interest at rates determined by reference to LIBOR plus the margins described above, interest rates, under certain circumstances, may be based on an alternate base rate, as defined in the credit agreement, plus an applicable margin, which would result in higher effective interest rates than the LIBOR-based rates described above. As of March 2, 2012, the weighted average interest rate under the senior unsecured revolving line of credit and unsecured term loan was 2.80%.

*Recourse.* The senior unsecured revolving line of credit and unsecured term loan are our direct recourse obligation. Our obligations under the credit facility are guaranteed by certain of our subsidiaries.

*Financial Covenants.* The senior unsecured revolving line of credit and unsecured term loan include, among others, the following financial covenants: (i) maximum leverage ratio not to exceed 60%, which ratio may be increased once to 62.5% for two consecutive quarters if necessary, (ii) minimum fixed charge coverage ratio of not less than 1.45x, which ratio will be increased to 1.50x beginning on the date of the issuance of our financial statements for the quarter ending December 31, 2012, (iii) consolidated net worth of not less than \$2,000,000 plus 75% of the net proceeds of any future equity contributions or sales of treasury stock received by us, (iv) maximum secured indebtedness not to exceed 52.5% of our total asset value, which percentage will be decreased to 50% on the date of issuance of our financial statements for the quarter ending March 31, 2013 and further reduced to 45% on the date of issuance of our financial statements for the quarter ending March 31, 2014, (v) unhedged variable rate debt of not more than 20% of our total asset value, (vi) maximum dividend payout ratio of the greater of 95% of FFO as defined in the credit agreement (which equals FFO, as set forth in Management's Discussion and Analysis of Financial Condition and Results of Operations Funds from Operations, excluding gains or losses from extraordinary items, impairment charges other than those already excluded from FFO and other non-cash charges) or an amount necessary to maintain our REIT status and (vii) secured recourse indebtedness and guarantee obligations associated with secured financing may not exceed \$100,000.

As of December 31, 2011, our leverage ratio and fixed charge coverage ratio, calculated in accordance with the terms of the senior unsecured revolving line of credit and unsecured term loan under our credit agreement that was amended and restated on February 24, 2012, were 58.09% and 1.55x, respectively. These ratios are presented solely for the purpose of demonstrating contractual covenant compliance and should not be viewed as measures of our historical or future financial performance, financial position or cash flow.

*Other Covenants and Events of Default.* The senior unsecured revolving line of credit and unsecured term loan limit the percentage of our total asset value that may be invested in unimproved land, unconsolidated joint ventures, construction in progress, mortgage notes receivable and marketable securities and require that we obtain consent for any sale of assets in any fiscal quarter with a value greater than 10% of our total asset value or merger in which the Company is not the surviving entity or other merger resulting in an increase to our total asset value by more than 25% and contain other customary covenants. The senior unsecured revolving line of credit

**Table of Contents**

and unsecured term loan also contain customary events of default, including but not limited to, non-payment of principal, interest, fees or other amounts, breaches of covenants, defaults on any recourse indebtedness in excess of \$20,000 or any non-recourse indebtedness in excess of \$100,000 in the aggregate (subject to certain carveouts, including \$50,770 of non-recourse indebtedness that was in default as of March 2, 2012), failure of certain members of management (or a reasonably satisfactory replacement) to continue to be active on a daily basis in our management and bankruptcy or other insolvency events.

*Debt Maturities*

The following table shows the scheduled maturities of our mortgages payable, notes payable, margin payable and the secured credit facility as of December 31, 2011, for each of the next five years and thereafter and does not reflect the impact of any 2012 debt activity:

	2012	2013	2014	2015	2016	Thereafter	Total	Fair Value
<b>Maturing debt<sup>(1)</sup>:</b>								
Fixed rate debt:								
Mortgages payable <sup>(2)</sup>	\$ 450,388	\$ 310,354	\$ 239,572	\$ 470,754	46,706	\$ 1,173,549	\$ 2,691,323	\$ 2,871,601
Notes payable		13,900				125,000	138,900	150,836
<b>Total fixed rate debt</b>	<b>\$ 450,388</b>	<b>\$ 324,254</b>	<b>\$ 239,572</b>	<b>\$ 470,754</b>	<b>46,706</b>	<b>\$ 1,298,549</b>	<b>\$ 2,830,223</b>	<b>\$ 3,022,437</b>
Variable rate debt:								
Mortgages payable	\$ 69,448	\$	\$ 10,151	\$		\$	\$ 79,599	\$ 79,599
Secured credit facility <sup>(3)</sup>		555,000					555,000	555,000
Margin payable	7,541						7,541	7,541
<b>Total variable rate debt</b>	<b>76,989</b>	<b>555,000</b>	<b>10,151</b>				<b>642,140</b>	<b>642,140</b>
<b>Total maturing debt<sup>(4)</sup></b>	<b>\$ 527,377</b>	<b>\$ 879,254</b>	<b>\$ 249,723</b>	<b>\$ 470,754</b>	<b>46,706</b>	<b>\$ 1,298,549</b>	<b>\$ 3,472,363</b>	<b>\$ 3,664,577</b>
Weighted average interest rate on debt:								
Fixed rate debt	5.61%	5.55%	7.12%	5.77%	6.15%	7.23%	6.51%	
Variable rate debt	3.62%	3.81%	2.56%				3.77%	
<b>Total</b>	<b>5.32%</b>	<b>4.45%</b>	<b>6.94%</b>	<b>5.77%</b>	<b>6.15%</b>	<b>7.23%</b>	<b>6.00%</b>	

(1) The debt maturity table does not include any premium or discount, of which \$10,858 and \$(2,003), net of accumulated amortization, respectively, is outstanding as of December 31, 2011.

(2) Includes \$76,269 of variable rate debt that was swapped to a fixed rate.

(3) Our credit facility was amended and restated on February 24, 2012 to provide for a senior unsecured credit facility in the aggregate amount of \$650,000, consisting of a \$350,000 senior unsecured revolving line of credit which matures in February 2015 and a \$300,000 unsecured term loan which matures in February 2016.

(4) As of December 31, 2011, the weighted average years to maturity of consolidated indebtedness was 5.4 years.

The maturity table excludes other financings and the co-venture obligation as described in Notes 1 and 11 to the consolidated financial statements. The maturity table also excludes accelerated principal payments that may be required as a result of covenants or conditions included in certain loan agreements due to the uncertainty in the timing and amount of these payments. In these cases, the total outstanding indebtedness is included in the year corresponding to the loan maturity date or, if the mortgage payable is amortizing, the payments are presented in accordance with the loan's original amortization schedule. As of December 31, 2011, we were making accelerated principal payments on three mortgages payable with a combined outstanding principal balance of \$102,206, which are reflected in the year corresponding to the loan maturity date. During the year ended December 31, 2011, we made accelerated principal payments of \$11,652 with respect to these mortgages payable.

## Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

As of December 31, 2011, we had two mortgages payable, totaling \$51,769, which had matured and had not been repaid or refinanced. In the second quarter of 2010, we ceased making the monthly debt service payment on one of these mortgages payable with an outstanding principal balance of \$26,865 as of December 31, 2011. The non-payment of this monthly debt service amounts to \$1,311 annually and does not result in noncompliance

**Table of Contents**

under any of our other mortgages payable or secured credit agreements. Subsequent to December 31, 2011, we made payments of \$999 relating to the other matured mortgage payable with an outstanding principal balance of \$24,904. As of December 31, 2011, we had accrued \$4,842 of interest related to these mortgages payable. We have attempted to negotiate and have made offers to the lenders to determine an appropriate course of action under these non-recourse loan agreements; however no assurance can be provided that negotiations will result in a favorable outcome.

*Distributions and Equity Transactions*

Our distributions of current and accumulated earnings and profits for U.S. federal income tax purposes are generally taxable to shareholders as ordinary income. Distributions in excess of these earnings and profits generally are treated as a non-taxable reduction of the shareholders' basis in their shares to the extent thereof (a return of capital) and thereafter as taxable gain. We intend to continue to qualify as a REIT for U.S. federal income tax purposes. The Code generally requires that a REIT distribute annually at least 90% of its REIT taxable income, determined without regard to the deduction for dividends paid and excluding any net capital gain, in order to qualify as a REIT, and the Code generally taxes a REIT on any retained income.

To satisfy the requirements for qualification as a REIT and generally not be subject to U.S. federal income and excise tax, we intend to make regular quarterly distributions of all or substantially all of our REIT taxable income to holders of our common stock out of assets legally available for such purposes. Our future distributions will be at the sole discretion of our board of directors. When determining the amount of future distributions, we expect that our board of directors will consider, among other factors, (i) the amount of cash generated from our operating activities, (ii) our expectations of future cash flows, (iii) our determination of near-term cash needs for debt repayments, existing or future share repurchases, and selective acquisitions of new properties, (iv) the timing of significant re-leasing activities and the establishment of additional cash reserves for anticipated tenant improvements and general property capital improvements, (v) our ability to continue to access additional sources of capital, (vi) the amount required to be distributed to maintain our status as a REIT and to reduce any income and excise taxes that we otherwise would be required to pay and (vii) any limitations on our distributions contained in our credit or other agreements, including, without limitation, in our senior unsecured revolving line of credit and unsecured term loan, which limit our distributions to the greater of 95% of FFO as defined in the credit agreement (which equals FFO, as set forth in Management's Discussion and Analysis of Financial Condition and Results of Operations Funds From Operations, excluding gains or losses from extraordinary items, impairment charges not already excluded from FFO and other non-cash charges) or the amount necessary for us to maintain our qualification as a REIT. Under certain circumstances, we may be required to make distributions in excess of cash available for distribution in order to meet the REIT distribution requirements.

As part of the strengthening of our balance sheet over the last several years, we have reduced the rate of our distributions to shareholders as compared to a few years ago. However, we have steadily increased the quarterly distribution rate and the distribution for the fourth quarter of 2011 represents the ninth consecutive quarterly increase. The following table sets forth the amount of our distributions declared during the years ended December 31, 2011, 2010, and 2009 compared to cash flows provided by operating activities for each of these periods:

	Year Ended December 31,		
	2011	2010	2009
Cash flows provided by operating activities	\$ 174,607	\$ 184,072	\$ 249,837
Distributions declared	120,647	94,579	75,040
Excess	\$ 53,960	\$ 89,493	\$ 174,797

**Table of Contents**

Effective November 19, 2008, the board of directors voted to suspend our share repurchase program. Upon completion of this offering our share repurchase program will be terminated as our shares of Class A common stock will be listed on the NYSE.

We maintain a distribution reinvestment program, or DRP, which allows our shareholders who have purchased shares in our offerings to automatically reinvest distributions by purchasing additional shares from us. Such purchases under our DRP are not subject to brokerage commission fees or service charges. As of December 31, 2011, we had issued approximately 30,850 shares pursuant to the DRP for an aggregate amount of \$719,799. During the year ended December 31, 2011, we received \$44,296 in investor proceeds through our DRP.

*Capital Expenditures and Development Activity*

We anticipate that capital demands to meet obligations related to capital improvements with respect to properties can be met with cash flows from operations and working capital.

The following table provides summary information regarding our properties under development as of December 31, 2011 including one consolidated joint venture and two wholly-owned properties. As of December 31, 2011, we did not have any significant active construction ongoing at our development properties, and, currently, we only intend to develop the remaining estimated total GLA to the extent that we have pre-leased the space to be developed. As of December 31, 2011, we did not have any such space pre-leased and, accordingly, have no present plans for the development of the remaining estimated total GLA. As of December 31, 2011, the annualized base rent from the portion of our development properties with respect to which construction has been completed was \$1,447.

<b>Development</b>	<b>Estimated Stabilization Date<sup>(1)</sup></b>	<b>Percent Owned</b>	<b>Current GLA<sup>(2)(3)</sup></b>	<b>Percent Leased<sup>(3)(4)</sup></b>	<b>Estimated Total GLA<sup>(3)</sup></b>	<b>Carrying Value<sup>(5)</sup></b>	<b>Construction Loan Balance</b>
<b>Properties/Location</b>							
<b>Consolidated:</b>							
Green Valley Crossing/ Henderson, NV	2014	50.0%	183,062	98.17%	267,945	\$ 26,672	\$ 10,151
Bellevue Mall/ Nashville, TN <sup>(6)</sup>		100.0%				26,448	
South Billings Center/ Billings, MT <sup>(6)</sup>		100.0%	215,000	100.0%	215,000	5,627	
<b>Total</b>			<b>398,062</b>	<b>99.2%</b>	<b>482,945</b>	<b>\$ 58,747</b>	<b>\$ 10,151</b>

- (1) Estimated stabilization date represents the date by which we currently estimate that leases with respect to 90% of the estimated total GLA will have commenced.
- (2) Represents GLA with respect to which construction had been completed as of December 31, 2011.
- (3) Includes space developed for shadow anchors.
- (4) Represents the percentage of current GLA with respect to which leases had commenced as of December 31, 2011.
- (5) Represents the carrying value of each property as of December 31, 2011, which was the total investment less accumulated depreciation through December 31, 2011.
- (6) Bellevue Mall is entitled for an estimated total GLA of 1,015,000 square feet and South Billings Center is entitled for an estimated total GLA of 404,800 square feet. Currently, we are evaluating numerous options to maximize the development of each asset.

**Table of Contents***Asset Disposition and Operating Joint Venture Activity*

Over the past three years, our asset sales and partial sales of assets to operating joint ventures were an integral factor in our deleveraging and recapitalization efforts. The following table highlights the results of our asset dispositions, including partial sales, during 2011, 2010, and 2009:

	Number of Assets Sold	Square Footage	Combined Sales Price	Total Debt Extinguished	Net Sales Proceeds
2011 Partial Sales	1	654,200	\$ 110,799	\$ 60,000	\$ 39,935
2011 Dispositions	11	2,792,200	\$ 144,342	\$ 43,250	\$ 98,088
2010 Partial Sales	8	1,146,200	\$ 159,918	\$ 97,888	\$ 48,616
2010 Dispositions	8	894,500	\$ 104,635	\$ 106,791	\$ 21,024
2009 Dispositions	8	1,579,000	338,057	208,552	123,944

*Asset Acquisitions*

During the year ended December 31, 2011, consistent with our core operating property growth strategy, we acquired additional phases of two of our existing multi-tenant retail operating properties. The following table highlights our asset acquisitions during the year ended December 31, 2011:

	Number of Assets Acquired <sup>1</sup>	Square Footage	Combined Purchase Price	Debt <sup>2</sup>
2011 Acquisitions	2	120,100	\$ 16,805	

- (1) Both properties acquired were additional phases of existing multi-tenant retail operating properties. As a result, the total number of properties in our portfolio was not affected.
- (2) No debt was assumed in either acquisition, but both properties were subsequently added as collateral to the secured credit facility. We did not acquire any properties during 2010 and 2009.

*Statement of Cash Flows Comparison for the Years Ended December 31, 2011, 2010 and 2009**Cash Flows from Operating Activities*

Cash flows provided by operating activities were \$174,607, \$184,072 and \$249,837 for the years ended December 31, 2011, 2010 and 2009, respectively, which consist primarily of net income from property operations, adjusted for non-cash charges for depreciation and amortization, provision for impairment of investment properties and marketable securities and net gain on extinguishment of debt. Comparing 2011 to 2010, the \$9,465 decrease in operating cash flows is partially attributable to a decrease in total NOI of \$14,892, of which \$10,286 was generated from continuing operations. The decrease in NOI from 2011 to 2010 is due, in part, to the partial sales of one and eight properties, respectively, to our RioCan joint venture, and the sales of 11 and eight properties, respectively, that qualified for discontinued operations. In addition, the decrease in operating cash flows is due to an increase in payments of leasing fees of \$4,614, a decrease in distributions on investments in unconsolidated joint ventures of \$3,503, a decrease in dividends received of \$1,307 and timing of payments for property operating expenses.

*Cash Flows from Investing Activities*

Cash flows provided by investing activities were \$107,471, \$154,400 and \$193,706, respectively, for the years ended December 31, 2011, 2010 and 2009. During the years ended December 31, 2011, 2010 and 2009, we sold certain properties and received condemnation and earnout proceeds which resulted in sales proceeds of \$195,948, \$144,675 and \$172,007, respectively, and we received proceeds from the sales of marketable securities of \$359, \$8,629 and \$125,088, respectively. Additionally, during the year ended December 31, 2010, we received a return of escrowed funds from an unconsolidated joint venture of \$65,240. During the years ended December 31, 2011, 2010 and 2009, cash used for acquisitions of additional phases of existing properties and earnouts at existing properties totaled \$16,555, \$651 and \$20,031, respectively. Amounts returned from (used to fund)





**Table of Contents**

restricted escrow accounts, some of which are required under certain mortgage arrangements, were \$673, \$(22,967) and \$(38,680), respectively. In addition, \$32,509, \$34,547 and \$20,747, respectively, were used for capital expenditures and tenant improvements, \$3,288, \$3,219 and \$15,297, respectively, were used for existing development projects and \$50,030, \$3,589 and \$2,879, respectively, were invested in our unconsolidated joint ventures. The increase from 2010 to 2011 in funds invested in our unconsolidated joint ventures is primarily attributable to our pro rata contributions related to acquisitions made in 2011 by our RioCan joint venture.

We will continue to execute our strategy to dispose of select non-retail properties and free standing, triple-net retail and non-strategic multi-tenant properties on an opportunistic basis; however, it is uncertain given current market conditions when and whether we will be successful in disposing of these assets and whether such sales could recover our original cost. Additionally, tenant improvement costs associated with re-leasing vacant space could continue to be significant.

*Cash Flows from Financing Activities*

Cash flows used in financing activities were \$276,282, \$321,747 and \$438,806, respectively, for the years ended December 31, 2011, 2010 and 2009. We used \$198,155, \$280,668 and \$388,632, respectively, in cash flow related to the net activity from principal payments, payoffs, the payment and refund of fees and deposits, other financings, the co-venture arrangement, net proceeds from our secured credit facility and new mortgages secured by our properties. During the years ended December 31, 2011, 2010 and 2009, we also (used) generated \$(2,476), \$10,017 and \$(56,340), respectively, through the net (repayment) borrowing of margin debt. We paid \$71,754, \$50,654 and \$47,651, respectively, in distributions, net of distributions reinvested through the DRP, to our shareholders for the years ended December 31, 2011, 2010 and 2009.

**Consolidated Indebtedness to be Outstanding After This Offering**

Upon completion of this offering, we expect to have approximately \$ million of total consolidated indebtedness, based on historical information as of December 31, 2011 as adjusted to give effect to (i) the amendment and restatement of our existing credit agreement to provide for a senior unsecured credit facility in the aggregate amount of \$650,000, without adjusting the December 31, 2011 balance of the senior unsecured credit facility, and (ii) this offering and the use of the net proceeds from this offering as set forth in Use of Proceeds, or, as adjusted. This indebtedness will be comprised of mortgage loans secured by of our properties, notes payable and amounts outstanding under our senior unsecured revolving line of credit and unsecured term loan.

The following table summarizes our consolidated indebtedness as of December 31, 2011 on an as adjusted basis:

	Aggregate Principal Amount as of December 31, 2011	Weighted Average Interest Rate	Years to Maturity/ Weighted Average Years to Maturity
<b>Debt</b>			
Mortgages payable	\$		
IW JV mortgages payable			
IW JV senior mezzanine note			
IW JV junior mezzanine note			
Construction loans			
Mezzanine note			
Margin payable			
Mortgages and notes payable			
Unsecured credit facility			
Total consolidated indebtedness	\$		

**Table of Contents**

The following table presents our obligations and commitments to make future payments under debt obligations and lease agreements as of December 31, 2011 for 2012, each of the next four years and thereafter on an as adjusted basis:

	Year Ended December 31,						Total
	2012	2013	2014	2015	2016	Thereafter	
Long-term debt							
Fixed rate	\$	\$	\$	\$	\$	\$	\$
Variable rate							
Interest							
Operating lease obligations							

Purchase obligations

**Off-Balance-Sheet Arrangements**

Effective April 27, 2007, we formed a joint venture (MS Inland) with a large state pension fund. Under the joint venture agreement we contributed 20% of the equity and our joint venture partner contributed 80% of the equity. As of December 31, 2011, the joint venture had acquired seven properties (which we contributed) with a purchase price of approximately \$336,000 and had assumed from us mortgages on these properties totaling approximately \$188,000 at the time of assumption.

On May 20, 2010, we entered into definitive agreements to form a joint venture with a wholly-owned subsidiary of RioCan. As of December 31, 2011, our RioCan joint venture had acquired nine multi-tenant retail properties from us, eight of which were acquired during 2010, for an aggregate purchase price of \$270,241 and had assumed from us mortgages payable on these properties totaling approximately \$157,888. During the year ended December 31, 2011, our RioCan joint venture acquired one multi-tenant retail property from us for a purchase price of \$110,799 and assumed the related mortgage payable of \$60,000. In addition, during the year ended December 31, 2011, our RioCan joint venture acquired four multi-tenant retail properties in Texas from unaffiliated third parties for which we contributed \$32,173 as our share of the acquisition price net of customary prorations and mortgage proceeds. We had a 20% equity interest in our RioCan joint venture as of December 31, 2011.

In addition, we have entered into three other unconsolidated joint ventures that are described in Note 12 to the consolidated financial statements.

The table below summarizes the outstanding debt of our unconsolidated joint ventures as of December 31, 2011, none of which has been guaranteed by us:

Joint Venture	Ownership Interest	Aggregate Principal Amount	Weighted Average Interest Rate	Years to Maturity/Weighted Average Years to Maturity
RioCan <sup>(1)</sup>	20.0%	\$ 291,836	4.25%	4.1 years
MS Inland <sup>(2)</sup>	20.0%	\$ 178,054	5.12%	2.8 years
Hampton Retail Colorado <sup>(3)</sup>	95.9%	\$ 17,964	5.40%	2.7 years
BritoMart <sup>(4)</sup>	15.0%	\$ 106,713	6.44%	3.5 years

- (1) Aggregate principal amount excludes mortgage premiums of \$1,494 and discounts of \$1,195, net of accumulated amortization. As of December 31, 2011, our RioCan joint venture has two mortgages payable that are maturing in 2012, with an aggregate principal balance of \$19,025 and a weighted average interest rate of 5.54%.
- (2) Aggregate principal amount excludes mortgage premiums of \$23 and discounts of \$30, net of accumulated amortization. As of December 31, 2011, our MS Inland joint venture has three mortgages payable maturing in 2012, with an aggregate principal balance of \$70,043 and a weighted average interest rate of 5.69%.

**Table of Contents**

- (3) The weighted average interest rate increases to 6.15% on September 5, 2012 and to 6.90% on September 5, 2013. Aggregate principal amount excludes mortgage premiums of \$3,252, net of accumulated amortization.
- (4) Refer to Note 12 to the accompanying consolidated financial statements for further discussion regarding this unconsolidated joint venture. Other than described above, we have no off-balance-sheet arrangements as of December 31, 2011 that are reasonably likely to have a current or future material effect on our financial condition, results of operations and cash flows.

**Contractual Obligations**

The table below presents our obligations and commitments to make future payments under debt obligations and lease agreements as of December 31, 2011.

	Less than 1 year <sup>(2)</sup>	1-3 years <sup>(3)</sup>	3-5 years	More than 5 years	Total
Long-term debt <sup>(1)</sup>					
Fixed rate	\$ 450,388	\$ 563,826	\$ 517,460	\$ 1,298,549	\$ 2,830,223
Variable rate	76,989	565,151			642,140
Interest	197,151	294,142	214,995	434,447	1,140,735
Operating lease obligations <sup>(4)</sup>	7,089	13,254	13,299	545,538	579,180
Purchase obligations <sup>(5)</sup>	1,400				1,400
	\$ 733,017	\$ 1,436,373	\$ 745,754	\$ 2,278,534	\$ 5,193,678

- (1) The Contractual Obligations table does not include any premium or discount of which \$10,858 and \$(2,003) net of accumulated amortization, respectively, is outstanding as of December 31, 2011. The table also excludes accelerated principal payments that may be required as a result of conditions included in certain loan agreements and other financings and co-venture obligations as described in Notes 1 and 11 to the consolidated financial statements due to the uncertainty in the timing and amount of these payments. As of December 31, 2011, we were making accelerated principal payments on three mortgages payable with a combined outstanding principal balance \$102,206. During the year ended December 31, 2011, we made accelerated principal payments of \$11,652 with respect to these mortgages payable. Interest payments related to the variable rate debt were calculated using the corresponding interest rates as of December 31, 2011.
- (2) Included in the variable rate debt is \$7,541 of margin debt secured by our portfolio of marketable securities. These borrowings may be repaid over time upon sale of our portfolio of marketable securities.

The remaining borrowings outstanding through December 31, 2012 include principal amortization and maturities of mortgages payable. This includes 33 mortgage loans and two construction loans that mature in 2012. The mortgages payable of \$51,769 that had matured as of December 31, 2011 are also included in the remaining borrowings outstanding. We plan on addressing our 2012 mortgages payable maturities through additional borrowings under our amended and restated credit facility, refinancing the mortgages payable, securing new mortgages collateralized by individual properties or by using proceeds from asset sales. The construction loans will be extended, repaid, or converted to permanent financing upon completion.

- (3) Included in the variable rate debt is \$555,000 of borrowings under our secured credit facility which was amended and restated on February 24, 2012. The amended facility includes a \$300,000 unsecured term loan which matures in February 2016 and an unsecured revolving line of credit which matures in February 2015.
- (4) We lease land under non-cancellable leases at certain of the properties expiring in various years from 2018 to 2105. The property attached to the land will revert back to the lessor at the end of the lease. We lease office space under non-cancellable leases expiring in various years from 2012 to 2014.
- (5) Purchase obligations include earnouts on previously acquired properties.

## **Table of Contents**

### **Contracts and Commitments**

We have acquired certain properties which have earnout components, meaning that we did not pay for portions of these properties that were not rent producing at the time of acquisition. We are obligated, under these agreements, to pay for those portions, as additional purchase price, when a tenant moves into its space and begins to pay rent. The earnout payments are based on a predetermined formula. Each earnout agreement has a time limit regarding the obligation to pay any additional monies. The time limits generally range from one to three years. If, at the end of the time period allowed, certain space has not been leased and occupied, generally, we will own that space without any further payment obligation. As of December 31, 2011, we may pay as much as \$1,400 in the future pursuant to earnout agreements.

We previously entered into one construction loan agreement, which was impaired as of December 31, 2009 and written off on March 31, 2010, one secured installment note and one other installment note agreement. In a non-cash transaction on December 15, 2011, we, through a consolidated joint venture, contributed the secured installment note, with a receivable balance of \$8,239, to two joint ventures under common control (collectively referred to as Britomart), in return for a 15% noncontrolling interest. Refer to Note 12 to the consolidated financial statements for more information. In conjunction with the one remaining installment note agreement, we have funded our total commitment of \$300. The combined receivable balance is included in Accounts and notes receivable in the accompanying consolidated balance sheets at December 31, 2011 and 2010 was none and \$8,290, respectively, net of allowances of \$300.

### **Use of Estimates**

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting periods. For example, significant estimates and assumptions have been made with respect to useful lives of assets; capitalization of development and leasing costs; fair value measurements; provision for impairment, including estimates of holding periods, capitalization rates, and discount rates (where applicable); provision for income taxes; recoverable amounts of receivables; deferred taxes and initial valuations and related amortization periods of deferred costs and intangibles, particularly with respect to property acquisitions. Actual results could differ from those estimates.

### **Summary of Significant Accounting Policies**

#### **Critical Accounting Policies and Estimates**

The following disclosure pertains to accounting policies and estimates we believe are most critical to the portrayal of our financial condition and results of operations which require our most difficult, subjective or complex judgments. These judgments often result from the need to make estimates about the effect of matters that are inherently uncertain. GAAP requires information in financial statements about accounting principles, methods used and disclosures pertaining to significant estimates. This discussion addresses our judgment pertaining to trends, events or uncertainties known which were taken into consideration upon the application of those policies and the likelihood that materially different amounts would be reported upon taking into consideration different conditions and assumptions.

#### *Acquisition of Investment Property*

We allocate the purchase price of each acquired investment property based upon the estimated acquisition date fair values of the individual assets acquired and liabilities assumed, which generally include land, building and other improvements, in-place lease value, acquired above market and below market lease intangibles, any assumed financing that is determined to be above or below market, the value of customer relationships and goodwill, if any. Transaction costs are expensed as incurred and presented within General and administrative expenses in the accompanying consolidated statements of operations and other comprehensive loss.

## Table of Contents

To augment our estimates of the fair value of assets acquired and liabilities assumed, in some circumstances, we engage independent real estate appraisal firms to provide market information and evaluations; however, we are ultimately responsible for such estimates. For tangible assets acquired, including land, building and other improvements, we consider available comparable market and industry information in estimating acquisition date fair value. We allocate a portion of the purchase price to the estimated acquired in-place lease value based on estimated lease execution costs for similar leases as well as lost rental payments during an assumed lease-up period. We also evaluate each acquired lease as compared to current market rates. If an acquired lease is determined to be above or below market, we allocate a portion of the purchase price to such above or below market leases based upon the present value of the difference between the contractual lease payments and estimated market rent payments over the remaining lease term. Renewal periods are included within the lease term in the calculation of above and below market lease values if, based upon factors known at the acquisition date, market participants would consider it probable that the lessee would exercise such options. The discount rate used in the present value calculation of above and below market lease intangibles requires our evaluation of subjective factors such as market knowledge, economics, demographics, location, visibility, age and physical condition of the property.

For all acquisition accounting fair value estimates, we are required to consider various factors, including but not limited to, geographical location, size and location of leased space within the acquired investment property, tenant profile, and credit risk of tenants.

### *Impairment of Long-Lived Assets*

Our investment properties, including developments in progress, are reviewed for potential impairment at the end of each reporting period or whenever events or changes in circumstances indicate that the carrying value may not be recoverable. At the end of each reporting period, we separately determine whether impairment indicators exist for each property. Examples of situations considered to be impairment indicators for both operating properties and developments in progress include, but are not limited to:

a substantial decline or continued low occupancy rate;

continued difficulty in leasing space;

significant financially troubled tenants;

a change in plan to sell a property prior to the end of its useful life or holding period;

a cost accumulation or delay in project completion date significantly above and beyond the original acquisition / development estimate;

a significant decrease in market price not in line with general market trends; and

any other quantitative or qualitative events or factors deemed significant by our management or board of directors.

If the presence of one or more impairment indicators as described above is identified at the end of a reporting period or throughout the year with respect to a property, the asset is tested for recoverability by comparing its carrying value to the estimated future undiscounted cash flows. An investment property is considered to be impaired when the estimated future undiscounted cash flows are less than its current carrying value.

When performing a test for recoverability or estimating the fair value of an impaired investment property, we make certain complex or subjective assumptions which include, but are not limited to:

projected operating cash flows considering factors such as vacancy rates, rental rates, lease terms, tenant financial strength, demographics, holding period and property location;

projected capital expenditures and lease origination costs;

estimated dates of construction completion and grand opening for developments in progress;

---

**Table of Contents**

projected cash flows from the eventual disposition of an operating property or development in progress using a property-specific capitalization rate;

comparable selling prices; and

property-specific discount rate for fair value estimates as necessary

Our investments in unconsolidated joint ventures are reviewed for potential impairment, in addition to impairment evaluations of the individual assets underlying these investments, each reporting period or whenever events or changes in circumstances warrant such an evaluation. To determine whether any identified impairment is other-than-temporary, we consider whether we have the ability and intent to hold the investment until the carrying value is fully recovered.

To the extent an impairment has occurred, we will record an impairment charge calculated as the excess of the carrying value of the asset over its estimated fair value.

*Cost Capitalization, Depreciation and Amortization Policies*

Our policy is to review all expenses paid and capitalize any items which are deemed to be an upgrade or a tenant improvement. These costs are included in the investment properties classification as an addition to buildings and improvements.

Depreciation expense is computed using the straight-line method. Buildings and improvements are depreciated based upon estimated useful lives of 30 years for buildings and associated improvements and 15 years for site improvements and most other capital improvements. Tenant improvements and other leasing costs are amortized on a straight-line basis over the life of the related lease as a component of depreciation and amortization expense. Acquired lease intangibles such as in-place lease value, customer relationship value, if any, above market lease intangibles and below market lease intangibles are amortized on a straight-line basis over the life of the related lease, inclusive of renewal periods if market participants would consider it probable that the lessee would exercise such options, as an adjustment to net rental income.

We capitalize direct and certain indirect project costs incurred during the development period such as construction, insurance, architectural, legal, interest and other financing costs and real estate taxes. At such time as the development is considered substantially complete, the capitalization of certain indirect costs such as real estate taxes and interest and financing costs ceases and all project-related costs included in developments in progress are reclassified to land and building and other improvements upon consideration of project-specific factors. A project classification changes from development to operating when it is substantially completed and held available for occupancy, but no later than one year from the completion of major construction activity. Upon substantial completion, costs are no longer capitalized and costs incurred are reclassified to Land or Building and other improvements. A property is considered stabilized upon reaching 90% occupancy, but no later than one year from the date it was classified as operating.

*Loss on Lease Terminations*

In situations in which a lease or leases associated with a significant tenant have been or are expected to be terminated early, we evaluate the remaining useful lives of depreciable or amortizable assets in the asset group related to the lease that will be terminated (i.e., tenant improvements, above and below market lease intangibles, in-place lease value, and leasing commissions). Based upon consideration of the facts and circumstances of the termination, we may write-off the applicable asset group or accelerate the depreciation and amortization associated with the asset group. If we conclude that a write-off of the asset group is appropriate, such charges are reported in the consolidated statements of operations and other comprehensive loss as Loss on lease terminations.

## **Table of Contents**

### *Investment Properties Held For Sale*

In determining whether to classify an investment property as held for sale, we consider whether: (i) management has committed to a plan to sell the investment property; (ii) the investment property is available for immediate sale in its present condition; (iii) we have initiated a program to locate a buyer; (iv) we believe that the sale of the investment property is probable; (v) we have received a significant non-refundable deposit for the purchase of the investment property; (vi) we are actively marketing the investment property for sale at a price that is reasonable in relation to its current value, and (vii) actions required for us to complete the plan indicate that it is unlikely that any significant changes will be made.

If all of the above criteria are met, we classify the investment property as held for sale. When these criteria are met, we suspend depreciation (including depreciation for tenant improvements and building improvements) and amortization of acquired in-place lease value and any above market or below market lease intangible and we record the investment property held for sale at the lower of cost or net realizable value. The assets and liabilities associated with those investment properties that are held for sale are classified separately on the consolidated balance sheets for the most recent reporting period. Additionally, if the operations and cash flows of the property have been, or will be upon consummation of such sale eliminated from ongoing operations and we do not have significant continuing involvement in the operations of the property, then the operations for the periods presented are classified in the consolidated statements of operations and other comprehensive loss as discontinued operations for all periods presented.

### *Partially-Owned Entities*

If we determine that we are an owner in a variable interest entity (VIE) and we hold a controlling financial interest, then we will consolidate the entity as the primary beneficiary. For partially-owned entities determined not to be a VIE, we analyze rights held by each partner to determine which would be the consolidating party. We assess our interests in variable interest entities on an ongoing basis to determine whether or not we are a primary beneficiary. Such assessments include an evaluation of who controls the entity even in circumstances in which we have greater than a 50% ownership interest, as well as who has an obligation to absorb losses or a right to receive benefits that could potentially be significant to the entity. If our interest does not incorporate these elements, we will not consolidate the entity.

### *Marketable Securities*

Investments in marketable securities are classified as available for sale and accordingly are carried at fair value, with unrealized gains and losses reported as a separate component of shareholders' equity. Declines in the value of these investments in marketable securities that management determines are other-than-temporary are recorded as recognized gain (loss) on marketable securities on the consolidated statement of operations and other comprehensive loss.

To determine whether an impairment is other-than-temporary, we consider whether we have the ability and intent to hold the investment until a market price recovery and consider whether evidence indicating the cost of the investment is recoverable outweighs evidence to the contrary, amongst other things. Evidence considered in this assessment includes the nature of the investment, the reasons for the impairment (i.e. credit or market related), the severity and duration of the impairment, changes in value subsequent to the end of the reporting period and forecasted performance of the investee. All available information is considered in making this determination with no one factor being determinative.

### *Derivative and Hedging Activities*

All derivatives are recorded on the consolidated balance sheets at their fair values within Other liabilities. On the date that we enter into a derivative, we may designate the derivative as a hedge against the variability of



## **Table of Contents**

cash flows that are to be paid in connection with a recognized liability. Subsequent changes in the fair value of a derivative designated as a cash flow hedge that is determined to be highly effective are recorded in accumulated other comprehensive income until earnings are affected by the variability of cash flows of the hedged transactions. As of December 31, 2011, the balance in accumulated other comprehensive income relating to derivatives was \$1,362. Any hedge ineffectiveness or changes in the fair value for any derivative not designated as a hedge is reported in net loss. We do not use derivatives for trading or speculative purposes.

### *Revenue Recognition*

We commence revenue recognition on our leases based on a number of factors. In most cases, revenue recognition under a lease begins when the lessee takes possession of or controls the physical use of the leased asset. Generally, this occurs on the lease commencement date. The determination of who is the owner, for accounting purposes, of the tenant improvements determines the nature of the leased asset and when revenue recognition under a lease begins. If we are the owner, for accounting purposes, of the tenant improvements, then the leased asset is the finished space and revenue recognition begins when the lessee takes possession of the finished space, typically when the improvements are substantially complete. If we conclude we are not the owner, for accounting purposes, of the tenant improvements (the lessee is the owner), then the leased asset is the unimproved space and any tenant improvement allowances funded under the lease are treated as lease incentives which are amortized as a reduction to the revenue recognized over the term of the lease. In these circumstances, we commence revenue recognition when the lessee takes possession of the unimproved space for the lessee to construct their own improvements. We consider a number of factors to evaluate whether we or the lessee are the owner of the tenant improvements for accounting purposes. These factors include:

whether the lease stipulates how and on what a tenant improvement allowance may be spent;

whether the tenant or landlord retains legal title to the improvements;

the uniqueness of the improvements;

the expected economic life of the tenant improvements relative to the length of the lease;

who constructs or directs the construction of the improvements, and

whether the tenant or landlord is obligated to fund cost overruns.

The determination of who owns the tenant improvements, for accounting purposes, is subject to significant judgment. In making that determination, we consider all of the above factors. No one factor, however, necessarily establishes its determination.

Rental income is recognized on a straight-line basis over the term of each lease. The difference between rental income earned on a straight-line basis and the cash rent due under the provisions of the lease is recorded as deferred rent receivable and is included as a component of Accounts and notes receivable in the consolidated balance sheets.

Reimbursements from tenants for recoverable real estate taxes and operating expenses are accrued as revenue in the period the applicable expenditures are incurred. We make certain assumptions and judgments in estimating the reimbursements at the end of each reporting period.

We record lease termination income upon execution of a signed termination letter agreement, when all of the conditions of the agreement have been fulfilled, the tenant is no longer occupying the property and collectibility is reasonably assured. Upon early lease termination, we provide for losses related to recognized tenant specific intangibles and other assets or adjust the remaining useful life of the assets if determined to be appropriate.



## **Table of Contents**

Our policy for percentage rental income is to defer recognition of contingent rental income (i.e. purchase/excess rent) until the specified target (i.e. breakpoint) that triggers the contingent rental income is achieved.

In conjunction with certain acquisitions, we receive payments under master lease agreements pertaining to certain non-revenue producing spaces either at the time of, or subsequent to, the purchase of these properties. Upon receipt of the payments, the receipts are recorded as a reduction to the purchase price of the related properties rather than as rental income. These master leases were established at the date of acquisition to mitigate the potential negative effects of loss of rent and expense reimbursements. Master lease payments are received through a draw of funds deposited with a third party escrow agent at closing of an acquisition and generally cover a period from three months to three years. These funds may be released to either us over the designated payment period or the seller when certain leasing conditions are met.

Profits from sales of real estate are not recognized under the full accrual method unless a sale is consummated; the buyer's initial and continuing investments are adequate to demonstrate a commitment to pay for the property; our receivable, if applicable, is not subject to future subordination; we have transferred to the buyer the usual risks and rewards of ownership, and we do not have substantial continuing involvement with the property.

### *Allowance of Doubtful Accounts*

Receivable balances outstanding include base rents, tenant reimbursements and receivables attributable to the straight-lining of rental commitments. An allowance for the uncollectible portion of accrued rents and accounts receivable is determined on a tenant-specific basis through an analysis of balances outstanding, historical bad debt levels, tenant creditworthiness and current economic trends. Additionally, estimates of the expected recovery of pre-petition and post-petition claims with respect to tenants in bankruptcy are considered in assessing the collectibility of the related receivables. As these factors change, the allowance is subject to revision and may impact our results of operations.

### **Impact of Recently Issued Accounting Pronouncements**

Effective January 1, 2011, companies are required to separately disclose purchases, sales, issuances and settlements on a gross basis in the reconciliation of recurring Level 3 fair value measurements. This guidance did not have a material effect on our financial statements.

Effective January 1, 2011, public companies that enter into a material business combination, or series of individually immaterial business combinations that are material in the aggregate, are required to disclose revenue and earnings of the combined entity as though the business combination, or series of business combinations, that occurred during the current year had occurred as of the beginning of the comparable prior annual reporting period only. In addition, supplemental pro forma disclosures are expanded. If we enter into a qualifying business combination, or series of business combinations, we will comply with the disclosure requirements of this guidance.

Effective January 1, 2012, guidance on how to measure fair value and on what disclosures to provide about fair value measurements will be converged with international standards. The adoption will require some additional disclosures around fair value measurement; however, we do not expect the adoption will have a material effect on our financial statements.

Effective January 1, 2012, public companies will be required to report components of comprehensive income in either (1) a continuous statement of comprehensive income or (2) two separate but consecutive statements. This guidance does not change the items that must be reported in other comprehensive income. We do not expect the adoption will have any effect on our financial statements.

## **Table of Contents**

### **Subsequent Events**

During the period from January 1, 2012 through March 2, 2012, we:

paid down \$25,000 on our senior secured revolving line of credit. In addition, we amended and restated our existing credit agreement increasing the aggregate amount to \$650,000, consisting of a \$350,000 senior unsecured revolving line of credit and a \$300,000 unsecured term loan with a number of financial institutions. We subsequently drew an additional \$70,000 on our senior unsecured revolving line of credit and used the proceeds as well as proceeds from the secured financing of three properties to repay \$137,460 of mortgage debt that was secured by five properties and had a weighted average interest rate of 5.45% per annum;

closed on the sale of a 13,800 square foot single-user retail property for a sales price of \$5,800, which resulted in a net gain on sale of \$915 and net cash proceeds of \$5,702 after customary prorations at closing;

transferred our entire interest in Britomart to the partner in a consolidated joint venture, resulting in the noncontrolling interest holder's ownership interest being fully redeemed;

paid a nominal amount to acquire the remaining 13.3% noncontrolling interest in the Lake Mead Crossing joint venture, increasing our ownership interest in that venture from 86.7% to 100%; and

extended the maturity date of the Lake Mead Crossing construction loan from January 2, 2012 to March 27, 2012. Additionally, the terms and conditions of the executed extension permit us to pay off the outstanding principal balance for a reduced amount of \$45,000 on or prior to March 26, 2012.

On February 23, 2012, the RioCan joint venture acquired a 134,900 square foot multi-tenant retail property located in Southlake, Texas from the MS Inland joint venture for a purchase price of \$35,366. We did not recognize our proportionate share of the gain realized by MS Inland upon the disposition through equity in (loss) earnings of unconsolidated joint ventures due to our continuing involvement in the property subsequent to the transaction.

### **Inflation**

For our multi-tenant shopping centers, inflation is likely to increase rental income from leases to new tenants and lease renewals, subject to market conditions. Our rental income and operating expenses for those properties owned, or expected to be owned and operated under net leases, are not likely to be directly affected by future inflation, since rents are or will be fixed under those leases and property expenses are the responsibility of the tenants. However, to the extent that inflation determines interest rates, future inflation may have a more significant effect on the capital appreciation of single-user net lease properties. As of December 31, 2011, we owned 101 single-user properties, of which 85 are net lease properties.

### **Quantitative and Qualitative Disclosures about Market Risk**

We may be exposed to interest rate changes primarily as a result of long-term debt used to maintain liquidity and fund capital expenditures and expansion of our real estate investment portfolio and operations. Our interest rate risk management objectives are to limit the impact of interest rate changes on earnings and cash flows and to lower our overall borrowing costs. To achieve our objectives we borrow primarily at fixed rates or variable rates with the lowest margins available and in some cases, with the ability to convert variable rates to fixed rates.

With regard to variable-rate financing, we assess interest rate cash flow risk by continually identifying and monitoring changes in interest rate exposures that may adversely impact expected future cash flows and by evaluating hedging opportunities. We maintain risk management control systems to monitor interest rate cash flow risk attributable to both our outstanding or forecasted debt obligations as well as our potential offsetting hedge positions. The risk management control systems involve the use of analytical techniques, including cash flow sensitivity analysis, to estimate the expected impact of changes in interest rates on our future cash flows.



**Table of Contents**

We may use additional derivative financial instruments to hedge exposures to changes in interest rates on loans secured by our properties. To the extent we do, we are exposed to market and credit risk. Market risk is the adverse effect on the value of a financial instrument that results from a change in interest rates. The market risk associated with interest-rate contracts is managed by establishing and monitoring parameters that limit the types and degree of market risk that may be undertaken. Credit risk is the failure of the counterparty to perform under the terms of the derivative contract. When the fair value of a derivative contract is positive, the counterparty owes us, which creates credit risk for us. When the fair value of a derivative contract is negative, we owe the counterparty and, therefore, we generally are not exposed to the credit risk of the counterparty. It is our policy to enter into these transactions with the same party providing the financing, with the right of offset. Alternatively, we will minimize the credit risk in derivative instruments by entering into transactions with high-quality counterparties.

The combined carrying amount of our mortgages payable, notes payable, secured credit facility and co-venture obligation is approximately \$185,928 lower than the fair value as of December 31, 2011.

*Debt Maturities*

Our interest rate risk is monitored using a variety of techniques. The table below shows the scheduled maturities of our mortgages payable, notes payable, margin payable and secured credit facility as of December 31, 2011, for each of the next five years and thereafter and the weighted average interest rates by year to evaluate the expected cash flows and sensitivity to interest rate changes. The table does not reflect the impact of any 2012 debt activity.

	2012	2013	2014	2015	2016	Thereafter	Total	Fair Value
<b>Maturing debt<sup>(1)</sup>:</b>								
Fixed rate debt:								
Mortgages payable <sup>(2)</sup>	\$ 450,388	\$ 310,354	\$ 239,572	\$ 470,754	46,706	\$ 1,173,549	\$ 2,691,323	\$ 2,871,601
Notes payable		13,900				125,000	138,900	150,836
<b>Total fixed rate debt</b>	<b>\$ 450,388</b>	<b>\$ 324,254</b>	<b>\$ 239,572</b>	<b>\$ 470,754</b>	<b>46,706</b>	<b>\$ 1,298,549</b>	<b>\$ 2,830,223</b>	<b>\$ 3,022,437</b>
Variable rate debt:								
Mortgages payable	\$ 69,448	\$	\$ 10,151	\$		\$	\$ 79,599	\$ 79,599
Secured credit facility <sup>(3)</sup>		555,000					555,000	555,000
Margin payable	7,541						7,541	7,541
<b>Total variable rate debt</b>	<b>76,989</b>	<b>555,000</b>	<b>10,151</b>				<b>642,140</b>	<b>642,140</b>
<b>Total maturing debt<sup>(4)</sup></b>	<b>\$ 527,377</b>	<b>\$ 879,254</b>	<b>\$ 249,723</b>	<b>\$ 470,754</b>	<b>46,706</b>	<b>\$ 1,298,549</b>	<b>\$ 3,472,363</b>	<b>\$ 3,664,577</b>
Weighted average interest rate on debt:								
Fixed rate debt	5.61%	5.55%	7.12%	5.77%	6.15%	7.23%	6.51%	
Variable rate debt	3.62%	3.81%	2.56				3.77%	
<b>Total</b>	<b>5.32%</b>	<b>4.45%</b>	<b>6.94%</b>	<b>5.77%</b>	<b>6.15%</b>	<b>7.23%</b>	<b>6.00%</b>	

(1) The debt maturity table does not include any premium or discount, of which \$10,858 and \$(2,003), net of accumulated amortization, respectively, is outstanding as of December 31, 2011.

(2) Includes \$76,269 of variable rate debt that was swapped to a fixed rate.

(3) Our credit facility was amended and restated on February 24, 2012 to provide for a senior unsecured credit facility in the aggregate amount of \$650,000, consisting of a \$350,000 senior unsecured revolving line of credit which matures in February 2015 and a \$300,000 unsecured term loan which matures in February 2016.

(4) As of December 31, 2011, the weighted average years to maturity of consolidated indebtedness was 5.4 years.

The maturity table excludes other financings and co-venture obligation (see Notes 1 and 11 to the consolidated financial statements). The maturity table also excludes accelerated principal payments that may be required as a result of covenants or conditions included in certain loan

## Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

agreements due to the uncertainty in the timing and amount of these payments. In these cases, the total outstanding mortgage payable is included in the year corresponding to the loan maturity date or, if the mortgage payable is amortizing, the payments are presented in accordance with the loan's original amortization schedule. As of December 31, 2011, we were

**Table of Contents**

making accelerated principal payments on three mortgages payable with a combined outstanding principal balance of \$102,206, which are reflected in the year corresponding to the loan maturity date. During the year ended December 31, 2011, we made accelerated principal payments of \$11,652 with respect to these mortgages payable. The maturity table includes \$51,769 of mortgages payable that had matured as of December 31, 2011 in the 2012 column.

We had \$642,140 of variable-rate debt, with interest rates varying based upon LIBOR and a weighted average interest rate of 3.77% at December 31, 2011. An increase in the variable interest rate on this debt constitutes a market risk. If interest rates increase by 1% based on debt outstanding as of December 31, 2011, interest expense would increase by approximately \$6,421 on an annualized basis.

The table incorporates only those interest rate exposures that existed as of December 31, 2011. It does not consider those interest rate exposures or positions that could arise after that date. The information presented herein is merely an estimate and has limited predictive value. As a result, the ultimate realized gain or loss with respect to interest rate fluctuations will depend on the interest rate exposures that arise during the period, our hedging strategies at that time and future changes in the level of interest rates.

*Equity Price Risk*

We are exposed to equity price risk as a result of our investments in marketable securities. Equity price risk changes as the volatility of equity prices changes or the values of corresponding equity indices change.

Other-than-temporary impairments were none for the years ended December 31, 2011 and 2010 and \$24,831 for the year ended December 31, 2009. These impairments resulted from declines in the fair value of our marketable securities that we considered to be other-than-temporary. At this point in time, certain of our investments continue to generate dividend income while other investments of ours have ceased generating dividend income or are doing so at reduced rates. As the equity market has begun to recover, we have been able to sell some marketable securities at prices in excess of our current book values. However, if our stock positions do not continue to recover in 2012, we could record additional other-than-temporary impairments, which could be material to our operations.

As of December 31, 2011, our net investment in marketable securities totaled \$30,385, which included \$18,343 of accumulated unrealized net gain. In the event that the value of our marketable securities declined by 50%, our investment would be reduced to \$15,193 and, if we then sold all of our marketable securities at this value, we would recognize a gain on marketable securities of \$3,151. For the year ended December 31, 2011, our cash flows from operating activities included \$2,168 that we received as distributions on our marketable securities. We could lose some or all of these cash flows if these distributions were reduced or eliminated in the future. Because all of our marketable securities are equity securities, the issuers of these securities could determine to reduce or eliminate these distributions at any time in their discretion.



**Table of Contents**

**INDUSTRY OVERVIEW**

*Unless otherwise indicated, all information contained in this Industry Overview section is derived from a market study prepared for us by Rosen Consulting Group as of March 8, 2012 and the projections and beliefs of Rosen Consulting Group stated herein are as of that date.*

Rosen believes that positive job growth combined with higher consumer confidence will continue to improve retail market conditions in 2012. Rosen forecasts that this growth in employment and consumer confidence is expected to boost retail demand, leading to increased retail sales. As demand increases, retailers are expected to absorb new space, and landlords should be able to increase rents at an accelerating pace because of the limited new supply entering the market. Rosen forecasts these factors to cause the national retail occupancy rate to continue to improve through 2015.

**Economic Outlook**

Since bottoming in February 2010, the economy has added more than 3.4 million jobs in the private sector through December 31, 2011. According to a January 2012 survey by Challenger Gray & Christmas, the number of hirings anticipated by surveyed firms totaled approximately 237,000 in the fourth quarter of 2011, up from about 161,000 anticipated hirings when surveyed one year earlier, highlighting businesses' higher confidence in the economic recovery. Rosen expects the annual rate of job creation to increase to 1.4% in 2012, followed by 0.9%, 1.3% and 1.5% growth in 2013, 2014 and 2015, respectively. In total, Rosen expects 6.85 million new jobs to be created between 2012 and 2015. Accordingly, the unemployment rate is forecasted to decline from 8.7% in 2011 to 7.0% in 2015.

Economic growth, measured by GDP, increased gradually through 2011, driven by continued growth in consumer spending, private investment and a deceleration in government cutbacks. Adjusted for inflation and seasonal factors, GDP for the fourth quarter of 2011 increased by 1.56% compared to the same quarter in the prior year. The contributions from the private sector signaled continued progress for the economic recovery. Looking forward, Rosen believes that the pace of the economic recovery that began in 2010 and 2011 will accelerate in 2012 with real GDP increasing from an estimated annual growth rate of 1.8% in 2011 to 2.5% in 2012. While Rosen expects GDP growth to slow to 1.5% in 2013, Rosen believes renewed economic growth thereafter will lead to 2.5% and 2.7% real GDP growth in 2014 and 2015, respectively.

**Table of Contents**

**Consumer and Retail Sales Outlook**

Consumer confidence levels have increased from recessionary lows, even as uncertainty stemming from the European debt crisis and U.S. credit downgrade prevented the indices from improving more significantly in 2011. Consumers at year-end 2011 were much more positive regarding future economic conditions than about their current situations, as evidenced by the consumer confidence index measured by The Conference Board. The index is divided into two components: (1) the present situation component, which measures consumers' assessment of the present situation, and (2) the expectations component, which measures consumer sentiment regarding the next six months. Both components have risen from their recessionary lows, but the expectations component has increased more significantly, standing at 76.4 in December 2011, compared to its recent low of 27.3 in February 2009. The present situation component was 46.7 in December 2011, up from its recent low of 20.2 in December 2009. Both components should continue to increase as the pace of job creation improves in 2012, which should result in higher consumer spending. Rosen expects the consumer confidence index, which represents the sum of two-fifths of the present situation component and three-fifths of the expectations component, to rebound to 80.0 in 2012 (from its recent low of 25.3 in February 2009) and eventually rise to 85.0 in 2014 and 2015, on par with 2003-2004 levels.

Following four consecutive year-over-year decreases between 2006 and 2009, aggregate personal income growth accelerated from an annual rate of 1.38% in the first quarter of 2010 to an annual rate of 5.85% in the first quarter of 2011. The annual growth rate for personal income remained strong in the second and third quarters of 2011 at 5.10% and 4.11%, respectively. Growth in real per capita disposable income, a key metric for the retail industry, slowed in 2011 after rebounding to 3.5% in 2010. Rosen expects strong income growth through 2015, with average annual real per capita disposable income growth to average 2.8% annually between 2012 and 2015, compared with an estimated 3.0% average annual increase in 2010 and 2011. These positive income trends are expected to result in increased consumer spending, particularly as consumer confidence increases. With credit standards tighter and home equity lines of credit no longer a viable option for many households, stronger income growth will be a key factor in supporting retail sales growth going forward.

**Table of Contents**

Retail sales continued to recover in 2011, increasing at an average annual rate of 7.3% each month. According to the U.S. Census Bureau's Monthly Retail Trade Survey, total retail sales, including online sales but excluding motor vehicles and parts dealers, rose to a seasonally adjusted total of \$328.7 billion in December 2011, surpassing the previous peak total of \$311.9 billion in July 2008. According to ICSC Chain Store Sales Trends report, holiday sales at stores open for at least one year increased by 3.3% in 2011. As consumer demand strengthens, Rosen expects a corresponding increase in sales compared with recent years. Although sales growth is unlikely to return to peak rates, Rosen believes that annual retail sales growth (including online sales made by brick and mortar retailers) will average 2.8% during the next four years, bringing total fourth-quarter sales in 2015 to more than \$1.1 trillion, an increase of more than \$115 billion from the fourth quarter of 2011. Rosen expects sales at value-oriented grocers, discount retailers and other retailers that provide basic household goods and/or clothing, which maintained positive sales growth or posted only small declines during the recession, to continue to post strong sales growth going forward.

**Table of Contents**

**Retail Real Estate Market**

The strong 2011 holiday season bolstered the overall strength of the retail real estate market, which had already begun to recover in 2010 and the first three quarters of 2011. Although there were a substantial number of retailer bankruptcies during the recession, Rosen believes that the bulk of store closures have already occurred. Store closing announcements decreased sharply in 2011, with store closing announcements by major retailers totaling just 2,877 through the first three quarters of 2011, compared to 6,900, 4,810 and 5,170 announced closures in 2008, 2009 and 2010, respectively, according to ICSC. Due to the strong holiday shopping season (typically the make-or-break period for troubled retailers), as well as effective cost-cutting and inventory management, few retailers have announced store closures or bankruptcies in the fourth quarter of 2011 and early 2012. Moreover, an increase in retailer demand is expected to further strengthen the recovery of the retail real estate market. According to Chainlinks Retail Advisors' recent Retailer Demand Survey, which measures retailer demand on a scale of 1 to 10 (with 10 being the highest retail demand), the reading in the third quarter of 2011 was 7, up from a reading of 5 in the third quarter of 2010.

## **Table of Contents**

### **Construction Activity and Outlook**

Retail construction activity, as measured by the value of construction put-in-place, remained very low in 2011. In the fourth quarter of 2011, the value of put-in-place construction totaled a seasonally adjusted annual rate of \$17.5 billion, compared with fourth quarter averages between 2002 and 2008 of \$42.2 billion. As demand rebounds, tenant competition for existing space is expected to increase due to the limited new supply entering the market. Rosen forecasts the value of inflation-adjusted, put-in-place construction to increase slightly to \$20.0 billion in 2012, approximately 57% less than the recent peak of \$46.8 billion in 2007. Thereafter, construction activity is expected to increase to \$23.0 billion, \$27.0 billion and \$33.5 billion in 2013, 2014 and 2015, respectively, still significantly less than in the previous decade. The limited amount of new space should help the market tighten, supporting stronger rent growth as the economy continues to recover.

### **Rent and Vacancy Rate Trends and Outlook**

Market fundamentals weakened between 2006 and 2010 due to store closings, bankruptcies and liquidations, coupled with a large amount of new supply entering the market between 2002 and 2008. With stronger retailer expansion activity and low levels of construction, the retail vacancy rate decreased to 8.5% in 2011 after peaking at 8.8% in 2010. Rents also improved in 2011, with rents increasing at a faster pace for neighborhood and community centers and regional malls than for power centers. Rents also increased for power centers in the first quarter of 2011 for the first time since the second quarter of 2009. Neighborhood and community centers were the healthiest throughout the downturn because of the relative stability of tenants at these types of centers, such as drug stores and grocery stores. Inelastic demand for the non-discretionary goods typically sold at these centers enabled landlords to continue to increase rents throughout the downturn and recovery period, including 1.5% annual year-over-year growth in the fourth quarter of 2011. Power centers were the most adversely affected due to closures by large national tenants including Circuit City and Linens 'n Things. However, leasing activity for this type of space began to increase in recent quarters, resulting in 0.8% annual year-over-year rent growth in the fourth quarter of 2011. National tenants with strong credit profiles that typically occupy big-box space are leasing well-located buildings in power centers and should continue to drive absorption of this property type.

**Table of Contents**

As job growth and higher confidence levels boost consumer demand, Rosen expects retail market conditions to continue to improve in 2012. Rosen forecasts the national retail vacancy rate to fall slowly from 8.5% in 2011 to 7.6% in 2015. As vacant space is absorbed, landlords should be able to increase rents at an accelerating pace. Rosen expects rent growth of 2.0% for neighborhood and community centers and 1.6% for power centers in 2012, accelerating for both property types to more than 2.0% by 2013, and to the 3% range by 2014 and 2015, on par with annual growth rates at the peak of the most recent cycle in 2006 and 2007.

---

**Table of Contents**

**OUR BUSINESS AND PROPERTIES**

**Overview**

We are one of the largest owners and operators of shopping centers in the United States. As of December 31, 2011, our retail operating portfolio consisted of 259 properties with 34.6 million square feet of GLA. Our retail operating portfolio is geographically diversified across 35 states and includes power centers, community centers, neighborhood centers and lifestyle centers, as well as single-user retail properties. Our retail properties are primarily located in retail districts within densely populated areas in highly visible locations with convenient access to interstates and major thoroughfares. Our retail properties have a weighted average age, based on annualized base rent, of approximately 9.8 years since the initial construction or most recent major renovation. As of December 31, 2011, our retail operating portfolio was 90.4% leased, including leases signed but not commenced. In addition to our retail operating portfolio, as of December 31, 2011, we also held interests in 12 office properties, three industrial properties, one non-stabilized retail operating property, 24 retail operating properties held by three unconsolidated joint ventures and three retail properties under development.

As of December 31, 2011, over 90% of our shopping centers, based on GLA, were anchored or shadow anchored by a grocer, discount department store, a wholesale club or retailer that sells basic household goods or clothing. Overall, we have a broad and highly diversified retail tenant base that includes approximately 1,500 tenants with no one tenant representing more than 3.3% of our retail annualized base rent.

We are a client-focused organization, maintaining very active relationships with our key tenants. We have 19 property management offices strategically located across the country and over 180 employees primarily dedicated to our leasing, asset management and property management activities. Our senior management team applies a hands-on approach to leasing our portfolio and is supported by over 80 property managers and senior leasing agents who have an average of 15 years of experience in the industry. We believe that the size and scale of our property management and leasing organization, the breadth of our tenant relationships and the scale of our retail portfolio provides us with a competitive advantage in dealing with national and large regional grocers and retailers. Through the efforts of our leasing team since the beginning of 2009, we have renewed approximately 78% of our expiring leases based on GLA at aggregate base rental rates that reflected modest increases from the base rental rates of the expiring leases and have signed 575 new leases for 4.7 million square feet of GLA, representing approximately 14% of the total GLA in our retail operating portfolio.

**Competitive Strengths**

We believe that we distinguish ourselves from other owners and operators of shopping centers through the following competitive strengths:

*Large, Diversified, High Quality Retail Portfolio*

We own a national portfolio of high quality retail properties that is well diversified both geographically and by property type. We have retail operating properties in 35 states with no one MSA, accounting for more than 4.6% of our retail annualized base rent, other than the Dallas-Fort Worth-Arlington area, which accounts for 15.0% of our retail annualized base rent. Our retail operating portfolio is also well diversified by type, including 63 power centers with 15.3 million square feet of GLA, 60 community centers with 9.3 million square feet of GLA, 43 neighborhood centers with 3.3 million square feet of GLA and seven lifestyle shopping centers with 3.3 million square feet of GLA, as well as 86 single-user retail properties with 3.5 million square feet of GLA. We believe the scale of our retail portfolio gives us an advantage in working with national and large regional grocers and retailers, as we offer many potential locations to choose from within a selected area and can address multiple needs for space in different geographic areas for tenants with multiple locations. The scale of our portfolio and our tenant relationships have resulted in 29 of our tenants each leasing space at more than 15 locations in our retail operating portfolio,

## **Table of Contents**

representing a total of 9.2 million square feet of GLA. The following charts show the diversity of our retail operating portfolio by region and by type of property based on GLA:

Our shopping centers are well located within strong retail districts in densely populated areas. They have high quality anchors and shadow anchors that consistently drive traffic to our centers and make them more attractive to other potential tenants.

As of December 31, 2011, 67.2 % of our shopping centers, based on annualized base rent, were located in the 50 largest MSAs. These shopping centers are positioned in highly attractive markets with favorable demographics, including a weighted average population of 92,274, expected population growth of 7.5% per year and household income of approximately \$83,545 within a three-mile radius, based on information derived and interpreted by us as a result of our own analysis from data provided by The Nielsen Company. We believe that growing populations and relatively high household incomes in our markets will increase demand for goods and services sold by our tenants.

We believe our shopping centers located in markets outside of the 50 largest MSAs are among the most attractive shopping centers in each of the markets in which they are located based on location, age and overall quality. As of December 31, 2011, approximately 89.5% of these shopping centers, based on annualized base rent, were anchored or shadow anchored by either Best Buy (13 locations), Target (11 locations), Home Depot (ten locations), Kohl's (ten locations), Wal-Mart (five locations), Lowe's (two locations), or a national or regional grocer, such as Publix (nine locations), Stop & Shop (three locations), Kroger (four locations) and Giant Foods (one location). As of December 31, 2011, these shopping centers were 90.9% leased with average annualized base rent of \$12.33 per leased square foot.

### *Diversified Base of Value-Oriented Retail Tenants*

Our retail portfolio has a broad and highly diversified tenant base that primarily consists of grocers, drug stores, discount retailers and other retailers that provide basic household goods or services. As of December 31, 2011, our total retail tenant base included approximately 1,500 tenants with approximately 3,200 leases at our retail properties, and our largest shopping center tenants include Best Buy, TJX Companies, Stop & Shop, Bed Bath & Beyond, Home Depot, PetSmart, Ross Dress for Less, Kohl's, Wal-Mart and Publix. As of December 31, 2011, no single retail tenant represented more than 3.3% of our retail annualized base rent, and our top 20 retail tenants, with 398 locations across our portfolio, represented an aggregate of 36.9% of our retail annualized base rent. We believe that maintaining a diversified tenant base with a value-oriented focus limits the impact of economic cycles and our exposure to any single tenant.



**Table of Contents**

The following table sets forth information regarding the 20 largest tenants in our retail operating portfolio, based on annualized base rent, as of December 31, 2011. Dollars (other than per square foot information) and square feet of GLA are presented in thousands.

Tenant <sup>(1)</sup>	Number of Stores	Total GLA	Percent of Leased GLA <sup>(2)</sup>	ABR	Percent of ABR <sup>(3)</sup>	ABR Per Leased Sq. Ft. <sup>(4)</sup>	Type of Business
Best Buy Co., Inc. <sup>(5)</sup>	27	1,047	3.4%	\$ 14,147	3.3%	\$ 13.51	Electronics
The TJX Companies, Inc. <sup>(6)</sup>	37	1,120	3.7%	10,498	2.4%	9.37	Discount Clothing
Rite Aid Corporation	34	421	1.4%	10,320	2.4%	24.51	Drug Store
Stop & Shop Supermarket Company	10	479	1.6%	10,007	2.3%	20.89	Grocery
Ross Stores, Inc.	31	925	3.0%	9,197	2.1%	9.94	Discount Clothing
Home Depot, Inc.	9	1,097	3.6%	9,137	2.1%	8.33	Home Improvement
Bed Bath & Beyond, Inc. <sup>(7)</sup>	26	714	2.3%	9,110	2.1%	12.76	Home Goods
PetSmart, Inc.	30	643	2.1%	8,675	2.0%	13.49	Pet Supplies
Kohl's Corporation	14	1,143	3.8%	8,095	1.9%	7.08	Discount Department Store
The Sports Authority	16	682	2.2%	7,793	1.8%	11.43	Sporting Goods
Supervalu Inc. <sup>(8)</sup>	9	505	1.7%	7,188	1.7%	14.23	Grocery
Pier 1 Imports, Inc.	38	388	1.3%	7,188	1.7%	18.53	Home Goods
Publix Super Markets, Inc.	16	635	2.1%	6,724	1.6%	10.59	Grocery
Edwards Theatres	2	219	0.7%	6,558	1.5%	29.95	Theatre
Dick's Sporting Goods, Inc. <sup>(9)</sup>	12	558	1.8%	6,381	1.5%	11.44	Sporting Goods
Michaels	24	551	1.8%	6,093	1.4%	11.06	Arts & Crafts
Office Depot, Inc.	22	458	1.5%	6,050	1.4%	13.21	Office Supplies
Wal-Mart Stores, Inc. <sup>(10)</sup>	5	861	2.8%	5,876	1.4%	6.82	Discount Department Store
Gap Inc. <sup>(11)</sup>	25	374	1.2%	5,048	1.2%	13.50	Clothing
Rave Cinemas	2	162	0.5%	4,626	1.1%	28.56	Theatre
<b>Total</b>	<b>389</b>	<b>12,982</b>	<b>42.5%</b>	<b>\$ 158,711</b>	<b>36.9%</b>	<b>\$ 12.23</b>	

(1) Excludes three office tenants, Hewitt Associates LLC, consisting of 1.2 million square feet of GLA and \$15.1 million of annualized base rent, Zurich American Insurance Company, consisting of 0.9 million square feet of GLA and \$10.5 million of annualized base rent and GMAC Insurance Management Corp., consisting of 0.5 million square feet of GLA and \$5.5 million of annualized base rent, and one industrial tenant, Cost Plus, Inc., consisting of 1.0 million square feet of GLA and \$5.2 million of annualized base rent.

(2) Represents GLA as a percentage of leased GLA in our retail operating portfolio.

(3) Represents the percentage of our retail annualized base rent as of December 31, 2011.

(4) Represents annualized base rent divided by leased GLA.

(5) Includes Best Buy (26 locations) and Pacific Sales (one location).

(6) Includes TJ Maxx (17 locations), Marshalls (17 locations) and HomeGoods (three locations).

(7) Includes Bed Bath & Beyond (24 locations), the Christmas Tree Shops (one location) and Buy Buy Baby (one location).

(8) Includes Jewel-Osco (two locations), Shaw's Supermarkets (two locations), Shop N Save (two locations) Shoppers Food Warehouse (two locations) and Save-A-Lot (one location).

(9) Includes Dick's Sporting Goods (ten locations) and Golf Galaxy (two locations).

(10) Includes Wal-Mart (four locations) and Sam's Club (one location).

(11) Includes Old Navy (19 locations), The Gap (three locations) and Banana Republic (three locations).

We generally have long-term leases with our tenants. As of December 31, 2011, the weighted average lease term of our existing retail leases, based on annualized base rent, was 6.1 years, with leases constituting approximately 17.9% of our retail annualized base rent expiring before 2014. We believe the limited near-term expirations of our existing retail leases will allow us to more aggressively pursue leasing of space that is currently vacant and provide for more stable cash flows from operations.

*Demonstrated Leasing and Property Management Platform*

We believe that our national leasing platform overseen by our focused executive team dedicated to leasing provides us with a distinct competitive advantage. Our executive team applies a hands-on approach and capitalizes upon a network of relationships to aggressively lease-up vacant space, maintain high tenant retention rates and creatively address the needs of our retail properties. In addition, our leasing department and asset



**Table of Contents**

managers maintain an active dialogue with local, regional and national retailers, as well as the retail brokerage community. We believe our national footprint provides greater access to national and large regional grocers and retailers than our smaller competitors.

Since the beginning of 2009, we have demonstrated our leasing capabilities through our success in addressing vacant space in our portfolio created by three large tenant bankruptcies in 2008. Due to the bankruptcy of Mervyns, our largest tenant at the time, in July 2008, Linens n Things in May 2008 and Circuit City in November 2008, approximately 3.2 million square feet of GLA became available in our retail operating portfolio. Primarily as a result of these vacancies, the percentage of our retail operating portfolio that was leased decreased from 96.8% as of December 31, 2007. In the case of each of these bankruptcy filings, we immediately began assessing which spaces were likely to be vacated as a result of the bankruptcy evaluating the expansion needs of our existing tenants in order to be prepared to lease space in locations that we expected Mervyns, Circuit City and Linens n Things to vacate. As a result, as of December 31, 2011, we have been able to lease approximately 2.3 million square feet of this vacant space, primarily to existing tenants, including four locations to Kohl's aggregating 294,000 square feet, five locations to Hobby Lobby aggregating 357,000 square feet, five locations to Burlington Coat Factory aggregating 387,000 square feet, four locations to TJX Companies aggregating 111,000 square feet, five locations to Best Buy aggregating 172,000 square feet, four locations to HH Gregg aggregating 129,000 square feet and four locations to BigLots aggregating 112,000 square feet. We also sold two former Mervyns locations aggregating approximately 154,000 square feet to institutional buyers after re-leasing the space or obtaining a letter of intent from a national retailer for an aggregate combined sale price of approximately \$24.5 million, or an average of \$158 per square foot, and contributed one shopping center with a former Circuit City to one of our unconsolidated joint ventures of approximately 34,000 square feet. In addition, as of December 31, 2011, we had under letter of intent or were in active negotiations for 21.4% of the remaining 722,000 square feet of this GLA. In total, we have leased, sold or are in negotiations for 2.7 million square feet, or 82.5%, of the 3.2 million square feet of GLA that was vacated as a result of these bankruptcies.

As a large, national owner of retail properties, we believe that we offer national and large regional grocers and retailers a greater level of service and credibility with respect to property management than our smaller competitors. We believe that tenants value our commitment to consistently maintain the high standards of our retail properties through our in-house handling of property management and day-to-day operational functions, which has translated into tenant retention rates of approximately 78% based on expiring GLA, since the beginning of 2009. In this very challenging leasing environment, we renewed approximately 1,085 leases for a total of 5.6 million square feet of GLA, within our retail operating portfolio at December 31, 2011, at aggregate base rental rates that reflected comparatively small decreases from the base rental rates of the expiring leases.

*Capital Structure Positioned for Growth*

Upon completion of this offering, our aggregate indebtedness will consist primarily of fixed rate debt, which will have staggered maturities and a weighted average maturity of approximately years based on balances as of December 31, 2011, as adjusted for our recently amended and restated credit agreement and the completion of this offering and the application of proceeds from both. We will have less than \$ million of debt maturing in any one year and a weighted average interest rate of % per annum. We also will have a conservative leverage structure, with a ratio of total net debt as of December 31, 2011, as adjusted, to Adjusted EBITDA for the 12 months ended December 31, 2011 of .

The majority of our indebtedness is property specific, non-recourse mortgage debt. The recent amendment and restatement of our credit agreement for our existing line of credit provides for a senior unsecured credit facility in the aggregate amount of \$650.0 million, consisting of a \$350.0 million senior unsecured revolving line of credit and a \$300.0 million unsecured term loan from a number of financial institutions, including affiliates of certain of the underwriters of this offering. Upon completion of this offering, our senior unsecured revolving line of credit will be undrawn and have approximately three years remaining until the initial maturity, with a one-year extension option subject to certain conditions. As a result, we will be able to utilize this line of credit to fund

## **Table of Contents**

tenant improvements, acquisitions, development activities, general corporate matters and working capital. Overall, we believe our capital structure will provide us with significant financial flexibility to fund future growth.

### *Experienced Management Team with a Proven Track Record*

Our senior management team has on average over 22 years of real estate industry experience through several real estate, credit and retail cycles. They have proven themselves by successfully managing our large, geographically diverse portfolio through the severe economic recession that began in December 2007. Since the beginning of 2009, without accessing the public equity markets, we refinanced or repaid \$3.0 billion of mortgage indebtedness, excluding indebtedness assumed through asset dispositions. This equates to the refinancing or repayment of greater than 63% of our total indebtedness at the beginning of 2009, which was accomplished in severely constrained credit markets, and in the process we reduced our total indebtedness by over \$1.1 billion. Our senior management team also has significant transactional experience, having acquired, disposed of, contributed to joint ventures and developed billions of dollars of real estate throughout their careers. We believe that our senior management team's property management, leasing and operating expertise, combined with their acquisition and financing experience, provide us with a distinct competitive advantage.

### **Business and Growth Strategies**

Our primary objective is to provide attractive risk-adjusted returns for our shareholders by executing on internal and external business and growth initiatives, which include:

#### *Maximizing NOI through Internal Growth*

We believe that we will be able to generate same store NOI growth through the leasing of currently vacant space in our retail operating portfolio. As of December 31, 2011, our retail operating portfolio was 90.4% leased including leases signed but not commenced, and had 3.3 million square feet of available space. The 843,000 square feet of GLA of signed leases that had not commenced as of December 31, 2011 represented approximately \$9.9 million in contractually obligated annualized base rent, which we expect to begin realizing over the next 18 months. As of December 31, 2011, our remaining available space was comprised of 1.7 million square feet of available small shop space (under 10,000 square feet) and 1.6 million square feet of available anchor space (over 10,000 square feet), the re-leasing of which would increase our NOI.

**Table of Contents**

A major component of this strategy is to pursue leasing opportunities with our existing tenants. We cultivate our existing tenant relationships through regular portfolio reviews, store concept updates, streamlining site selection and meeting critical retailer shopping event needs. For example, we meet with senior executives at each of our top 25 tenants on an annual or more frequent basis in order to perform portfolio reviews. During these reviews, we are able to actively review the growth plans of these tenants, which enables us to more strategically manage the leasing and repositioning of our retail portfolio as a whole. We utilize these reviews and our relationships with our existing tenants to generate leasing opportunities as these tenants seek to expand or relocate. For example, several of our national retail tenants have announced expansion plans (net of store closings) over the next few years, as outlined in the table below.

Tenant	Rank <sup>(1)</sup>	Number of Locations <sup>(2)</sup>	Announced U.S. Expansion Plans
The TJX Companies	2	37	110-120 new stores in fiscal 2013 <sup>(3)</sup>
Ross Stores, Inc.	5	31	70-80 new stores in 2012
Bed Bath & Beyond, Inc.	7	26	39 new stores in 2012
PetSmart, Inc.	8	30	45-50 net new stores in 2012
Kohl's	9	14	20 new stores in 2012
Publix	13	16	30 new stores in 2012
Dick's Sporting Goods	15	12	40 new stores in 2012
Wal-Mart Stores, Inc.	18	5	210-235 new stores in fiscal year 2013 <sup>(3)</sup>

(1) Rank in our retail portfolio based on retail annualized base rent as of December 31, 2011.

(2) Represents number of stores in our retail portfolio.

(3) Fiscal 2013 represents February 1, 2012 – January 31, 2013. Includes expansions, relocations and conversions.

Additionally, the leases we sign are often structured with contractual rent increases. As of December 31, 2011, 42.8% of the leases in our retail operating portfolio, based on annualized base rent, have remaining contractual rent increases, which is expected to increase our future NOI. The average annualized fixed percentage increase in contractual base rent for these leases, based on the difference between the base rent as of December 31, 2011 and the base rent at the time of expiration, was 2.1%.

*Preserving and Strengthening Our Portfolio through Active Property Management and Leasing*

We actively manage our portfolio through 19 property management offices across the country, concentrating primarily on leasing but also on redevelopment, expansion and remerchandising opportunities. We focus on increasing operating income and cash flows, active risk mitigation and tenant retention as well as other value enhancing strategies including cost reductions, long-term capital planning and asset sustainability initiatives. Examples of past projects where we executed these strategies include:

**Gurnee Town Center:** Gurnee Town Center is a 179,488 square foot Community Center located in Gurnee, Illinois. In September 2008, the center was 99% occupied, including a 34,000 square foot lease with Linens 'n Things. The Linens 'n Things lease was terminated in December 2008 as a result of Linens 'n Things' inability to emerge from bankruptcy. Additionally, Old Navy requested to downsize their 25,000 square foot location at the center and there was a heightened concern in the market place regarding Borders' viability and many national retailers were hesitant to expand in the Midwest. In an effort to maintain occupancy and retain Old Navy, we agreed to downsize Old Navy, but we were able to delay the downsizing by 18 months, in addition to negotiating a right to relocate them in lieu of downsizing them in their existing location. During this time, Cost Plus expressed interest in renewing at reduced rent, but we made a strategic decision to not renew in order to limit our exposure to Cost Plus and improve the merchandise mix of the center. During the fourth quarter of 2010, we signed a lease with HHGregg for the entirety of the former Linens 'n Things space. In the second quarter of 2011, Cost Plus vacated and we relocated Old Navy into the former Cost Plus space. During the fourth quarter of 2011, we signed a lease with Ross Dress for Less to occupy

**Table of Contents**

the entirety of the former Old Navy space, and most recently, we executed a lease with DSW for the former Borders space. The strategic repositioning of this asset took the percent leased from a low of 67% to its current percent leased, including leases signed but not commenced, of over 98%, resulting in expected stabilized NOI consistent with pre-recession levels. The replacement tenants greatly enhance the tenant mix and credit profile of the center.

**Tollgate Marketplace:** Tollgate Marketplace is a 393,000 square foot power center located in Bel Air, Maryland. The major tenants in this shopping center include Staples, JoAnn Fabrics, Michaels, Toys R Us and TJ Maxx. At December 31, 2008, the shopping center had an occupancy rate of 99.6% with Circuit City leasing 33,800 square feet and Giant Foods leasing 40,400 square feet. In March 2009, Circuit City's lease was terminated due to its bankruptcy, at which time Circuit City was paying rent of \$12.70 per square foot. In addition, in March 2010, Giant Foods' lease expired and was not renewed. Giant Foods was paying rent of \$4.36 per square foot at the time its lease expired. In December 2009, we leased the former Circuit City space to HH Gregg, which was a new relationship at the time, for a term of ten years with starting rent of \$10.50 per square foot. Since the signing of this lease, we have completed three additional leases with HH Gregg, all in spaces formerly occupied by Circuit City or Linens n Things. In addition, in early 2009, as a result of our local presence, we became aware that a Wal-Mart Supercenter would be moving into the market, and therefore began marketing the center to our non-grocery retail partners. As a result of this marketing effort, in December 2010, Ashley Furniture, an existing tenant that was leasing space at three of our other properties, signed a ten-year lease for the former Giant Foods space that will commence during the second quarter of 2012 with a starting rent of \$9.00 per square foot. Once this new lease commences, the center will again be 96.6% occupied and the annualized base rent from the space vacated by Circuit City and Giant Foods will have increased by 15.1%.

*Recycling Capital through Disposition of Non-Core and Non-Strategic Assets*

We believe that one of our primary strengths is the effective and efficient operation of multi-tenant retail assets. Accordingly, we plan to pursue opportunistic dispositions of non-core assets, which include our non-retail properties and our free-standing triple net retail properties, as well as select multi-tenant retail properties that we view as non-strategic in nature. We view non-strategic assets as those assets that are in markets where we do not have a significant presence or where the company does not anticipate building a significant presence over time, or assets in markets identified as strategic, but where management believes that long-term demographic trends within the individual asset's submarket no longer justify continued investment. For example, in addition to our retail operating portfolio, as of December 31, 2011, we held interests in 12 office properties and three industrial properties, which had a total of 4.7 million square feet of GLA and represented 9.6% of our operating portfolio based on annualized based rent. From the end of 2007 through December 31, 2011, we have sold 31 non-core and non-strategic properties for an aggregate sales price of \$857.8 million. We anticipate using the proceeds from future dispositions to further improve our balance sheet, reinvest in our existing asset base, and selectively acquire multi-tenant retail properties that meet our underwriting criteria. An example of a past disposition where we executed on this strategy is as follows:

**PetSmart:** In 2005, we acquired a newly constructed one million square foot PetSmart distribution center for \$42.8 million. The center is located in Ottawa, Illinois and was leased to PetSmart through January 31, 2016. In 2009, we implemented a corporate strategy to recycle capital via the disposition of non-core assets such as the PetSmart distribution center. However, the limited term remaining on PetSmart's lease, which at that time was less than six years, combined with declining market rents and an abundance of vacant space in the Chicago suburban industrial market, indicated that it was a sub-optimal time to market the asset. Senior management maintained an ongoing dialogue with PetSmart and in early 2011, as market pricing for single-tenant net-leased assets improved, we approached PetSmart directly about the distribution center lease and successfully negotiated an extension through June 2022.

## Table of Contents

With a lease extension executed on July 11, 2011, we utilized our extensive knowledge of the marketplace and strong relationships with proven investors to quickly identify the optimal purchaser for this asset. A purchase contract was executed on July 27, 2011 and the disposition of the asset was completed on August 18, 2011. The transaction resulted in a gain on sale of approximately \$13 million.

### *Acquiring Strategic, High Quality, Multi-Tenant Retail Properties*

Although we anticipate remaining a net seller of assets for the next 12 months, we intend to pursue a disciplined and targeted acquisition program focusing on high quality, multi-tenant retail properties. In evaluating potential acquisitions, we will focus on, among other things, projected returns on investment, geographic location, submarket demographics, anchor tenant type and credit-worthiness, and other identified asset specific attributes. Management has an extensive relationship with tenants and public and private owners of real estate and intends to utilize this network to source attractive opportunities going forward. We plan to pursue acquisitions directly and through joint ventures. We have proven our ability to acquire retail properties creatively, for example:

**Southlake Town Square, Southlake, Texas:** We acquired this 841,000 square foot shopping center in the northwest suburbs of Dallas in phases over a four year period, in off market transactions. We consider this shopping center to be one of the premier lifestyle centers in the United States. This shopping center features restaurants, offices, a first run movie theater, a Southlake Hilton Hotel, townhomes, city/county town hall and library, post office and a wide variety of first class retailers such as Brooks Brothers, Banana Republic and Williams Sonoma.

We acquired the initial three phases, totaling 472,000 square feet of GLA, in 2004, for an initial investment of approximately \$143 million. As part of the transaction, and to ensure we maintained control of this premier expanding asset, we approached the developer as a lender and agreed to fund up to \$93 million of construction loans to be used to construct the fourth phase consisting of an additional 311,000 square feet of retail space. The loans were secured and provided us, as lender, with approval rights over construction and leasing, among other things, as well as immediate cash flow. This phase was completed in early 2007, and was purchased by us for approximately \$89 million in May 2007, including \$80 million that we had previously funded under the construction loan. We purchased two final phases, comprised of approximately 35,000 square feet of retail space and 23,000 square feet of office space, in 2008 for \$22 million, which resulted in a total investment in the property of \$254 million. Net operating income for the property for 2009 was in excess of \$17.6 million, representing a 7.0% annual return on our total purchase price for the property.

### *Pursue Strategic Joint Ventures to Leverage Management Platform*

We intend to leverage our leasing and property management platform through the formation, capitalization and management of joint ventures. In the past, we have partnered with strong institutional investors to supplement our capital base in a manner accretive to our shareholders. For example, in 2010, we formed a joint venture with a wholly-owned subsidiary of RioCan. The RioCan joint venture has purchased nine properties from us since its formation for a total purchase price of \$280.0 million, including \$9.7 million in post-closing earnout proceeds, and also has purchased four multi-tenant retail properties from third parties for a combined purchase price of \$246.0 million. We earn property management, asset management and other customary fees from the RioCan joint venture and a separate joint venture with a large state pension fund, which totaled \$1.8 million and \$1.3 million in 2011 and 2010, respectively. We remain active in evaluating opportunities to further grow and enhance our existing joint ventures and believe that we are well positioned to strategically pursue additional joint ventures with high quality capital partners going forward.

**Table of Contents****Our Properties***Portfolio Summary*

The following table summarizes the number, total GLA, percentage leased and annualized base rent as of December 31, 2011, of the operating properties included in our portfolio and the operating properties held by our unconsolidated joint ventures. Dollars (other than per square foot information) and square feet of GLA are presented in thousands in the table. This information is grouped into geographic regions based on the manner in which we have structured our property management and leasing operations.

Property Type/Region/State	Number of Properties	GLA	Percent of Total GLA <sup>(1)</sup>	Percentage Leased <sup>(2)</sup>	ABR <sup>(3) (4)</sup>	Percent of ABR <sup>(1)</sup>	ABR Per Leased Sq. Ft. <sup>(5)</sup>
Consolidated:							
Retail:							
North:							
Connecticut	5	450	1.3%	89.7%	\$ 7,331	1.7%	\$ 18.23
Indiana	4	653	1.9%	95.1%	5,677	1.3%	9.14
Massachusetts	5	1,183	3.4%	89.2%	12,040	2.8%	11.41
Maryland	8	2,299	6.6%	88.3%	32,696	7.6%	16.10
Maine	2	423	1.2%	95.6%	4,115	1.0%	10.17
Michigan	2	467	1.3%	95.3%	7,772	1.7%	17.46
New Jersey	3	449	1.3%	92.7%	4,748	1.1%	11.41
New York	31	1,507	4.4%	97.9%	23,688	5.5%	16.06
Ohio	7	1,106	3.2%	79.0%	11,409	2.7%	13.07
Pennsylvania	12	1,335	3.9%	92.3%	15,791	3.7%	12.81
Rhode Island	3	269	0.8%	84.6%	3,320	0.8%	14.58
Vermont	1	485	1.4%	89.1%	7,576	1.7%	17.53
Subtotal	83	10,626	30.7%	90.5%	\$ 136,163	31.6%	\$ 14.16
East:							
Alabama	6	372	1.1%	78.8%	\$ 4,179	1.0%	\$ 14.28
Florida	14	1,578	4.6%	86.5%	20,028	4.7%	14.67
Georgia	13	1,817	5.1%	93.7%	19,538	4.5%	11.46
Illinois	6	999	2.9%	88.3%	14,899	3.5%	16.89
Missouri	5	812	2.3%	80.9%	7,117	1.7%	10.83
North Carolina	3	681	2.0%	100.0%	6,907	1.6%	10.15
South Carolina	12	1,271	3.7%	94.5%	13,922	3.2%	11.59
Tennessee	7	712	2.1%	91.3%	7,471	1.7%	11.50
Virginia	2	386	1.1%	97.7%	7,343	1.7%	19.45
Subtotal	68	8,628	24.9%	90.5%	\$ 101,404	23.6%	\$ 12.98
West:							
Arizona	4	772	2.2%	85.5%	\$ 10,709	2.5%	\$ 16.21
California	30	2,896	8.3%	73.5%	29,901	6.9%	14.05
Colorado	2	479	1.4%	89.0%	4,547	1.1%	10.67
Iowa	1	134	0.4%	92.5%	1,531	0.4%	12.34
Kansas	1	236	0.7%	100.0%	2,283	0.5%	9.65
Montana	1	162	0.5%	87.7%	1,628	0.4%	11.47
New Mexico	1	224	0.6%	91.0%	3,100	0.7%	15.19
Nevada	2	384	1.1%	92.6%	6,071	1.4%	17.07
Utah	2	720	2.1%	93.0%	12,538	2.9%	18.72
Washington	4	1,376	4.0%	83.4%	14,036	3.3%	12.23
Wisconsin	2	423	1.2%	93.9%	4,932	1.1%	12.44



Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Subtotal	50	7,806	22.5%	83.2%	\$ 91,276	21.2%	\$ 14.06
----------	----	-------	-------	-------	-----------	-------	----------

100

**Table of Contents**

Property Type/Region/State	Number of Properties	GLA	Percent of Total GLA <sup>(1)</sup>	Percentage Leased <sup>(2)</sup>	ABR <sup>(3) (4)</sup>	Percent of ABR <sup>(1)</sup>	ABR Per Leased Sq. Ft. <sup>(5)</sup>
South:							
Louisiana	3	311	0.9%	93.5%	3,336	0.8%	11.46
Oklahoma	6	164	0.5%	100.0%	2,357	0.5%	14.40
Texas	49	7,114	20.5%	85.7%	95,879	22.3%	15.72
Subtotal	58	7,589	21.9%	86.4%	\$ 101,572	23.6%	\$ 15.50
Total Retail <sup>(7)</sup>	259	34,649	100.0%	87.9%	\$ 430,415	100.0%	\$ 14.13
Total Retail including leases signed but not commenced <sup>(8)</sup>	259	34,649		90.4%	\$ 440,353		\$ 14.06
Office	12	3,335		96.5%	\$ 39,081		\$ 12.15
Industrial	3	1,323		100.0%	6,844		5.17
Total Office and Industrial	15	4,658		97.5%	\$ 45,925		\$ 10.12
Total Consolidated Operating Portfolio	274	39,307		89.1%	\$ 476,340		\$ 13.61
Total Unconsolidated Operating Properties <sup>(9)</sup>	24	4,508		91.4%	\$ 63,874		\$ 15.50

(1) Percentages are only provided for our retail operating portfolio.

(2) Except as otherwise noted, based on leases commenced as of December 31, 2011, and calculated as leased GLA divided by total GLA.

(3) Excludes \$1.4 million of annualized base rent from our consolidated development properties. Rental abatements for leases commenced as of December 31, 2011, which are excluded, were \$0.1 million for our retail operating portfolio for the 12 months ending December 31, 2012. Annualized base rent does not reflect scheduled lease expirations for the 12 months ending December 31, 2012. The portion of the annualized base rent of our total operating portfolio attributable to leases scheduled to expire during the 12 months ending December 31, 2012, including month-to-month leases, is approximately \$33.6 million.

(4) As of December 31, 2011, we had 17 properties that we did not have title to but held, either partially or completely, pursuant to ground leases, which expire from 2018 to 2105. For three of the 17 properties we have an option to purchase the property subject to the ground lease by providing written notice before a specified date or, for one ground lease, any time during the term of the lease. As of December 31, 2011, the annualized base rent due from us under these ground leases was \$6.2 million.

(5) Represents annualized base rent divided by leased GLA.

(6) Occasionally our leases contain provisions giving the tenant rights to purchase the property, which can take the form of a fixed price purchase option, a fair market value option or a put option, which requires us to either put the property to the tenant or accept a significant reduction in rent. The following chart summarizes such rights as of December 31, 2011 (GLA and annualized base rent in thousands):

	Number of Leases	GLA	ABR
Fixed Price Purchase Options	2	207	\$ 2,054
Fair Market Value Options	1	7	\$ 91
Put Option	2	257	\$ 1,519

In addition, certain of our leases contain provisions granting the tenant a right of first offer or right of first refusal in the event that we want to dispose of the property.

**Table of Contents**

- (7) Includes 55 properties with 6.5 million square feet of GLA representing \$84.1 million of annualized base rent held in one joint venture in which we have a 77% interest. Regarding the 55 properties held in the joint venture in which we have a 77% interest, we currently anticipate using a portion of the net proceeds from this offering to exercise our option to repurchase the 23% interest held by others. As a result, following this offering we anticipate that we will own 100% of those properties. Excludes one non-stabilized operating property.
- (8) Includes leases signed but not commenced as of December 31, 2011 for approximately 843,000 square feet of GLA representing \$9.9 million of annualized base rent as of lease commencement.
- (9) Includes 20 properties with 4.3 million square feet of GLA representing \$62.5 million of annualized base rent held in two separate joint ventures in which we have a 20% interest and four properties with 0.2 million square feet of GLA representing \$1.4 million of annualized base rent held in one joint venture in which we have a 95.9% interest.

**Table of Contents***Top 25 Properties*

The following table provides summary information as of December 31, 2011 regarding the 25 largest properties, based on our annualized base rent as of December 31, 2011, in our retail operating portfolio. Except as noted below, all properties described below are wholly-owned by us. Dollars (other than per square foot information) and square feet of GLA are presented in thousands in the table.

Property Name/Location	Year Built/Renovated <sup>(1)</sup>	Metropolitan Statistical Area	GLA	Percent Leased <sup>(2)</sup>	ABR	ABR per Leased Sq. Ft. <sup>(3)</sup>	Anchors (Shadow Anchors)
Southlake Town Square/ Southlake, TX <sup>(4)</sup>	2004	Dallas-Fort Worth-Arlington	840	84.8%	\$ 20,158	\$ 28.28	The Cheesecake Factory, Barnes & Noble, Harkins Theatres, Apple Store, Brooks Brothers, Container Store
The Gateway/ Salt Lake City, UT	2003	Salt Lake City	625	93.3%	11,195	19.19	Barnes & Noble, Urban Outfitters, Abercrombie & Fitch, Dick's Sporting Goods, Gateway Theatres
Boulevard at The Capital Ctr/ Largo, MD	2004	N/A	486	88.1%	9,200	21.50	DSW, HH Gregg, Magic Johnson Theaters, Sports Authority
The Shops at Legacy/ Plano, TX	2004	Dallas-Fort Worth-Arlington	391	87.1%	8,656	25.42	Bob's Steak & Chop House, Jasper's Restaurant, Sambuca 360, Urban Outfitters, Angelika Film Center
Reisterstown Road Plaza/ Baltimore, MD	2004	Baltimore-Towson	796	87.1%	8,134	11.74	Burlington Coat Factory, Giant Foods, Home Depot, Marshalls, Big Lots
Maple Tree Place/ Williston, VT	2005	N/A	485	89.1%	7,576	17.53	Best Buy, Christmas Tree Shops, Dick's Sporting Goods, Majestic Cinema, Shaw's Supermarkets, Staples
Eastwood Towne Center/ Lansing, MI	2002	N/A	332	93.4%	6,400	20.62	Dick's Sporting Goods, DSW, Pottery Barn, J. Crew, P.F. Chang's, (Wal-Mart, Sam's Club)
Central Texas Marketplace/ Waco, TX	2004	N/A	526	93.9%	5,672	11.49	Bed Bath & Beyond, Belks, Kohl's, Marshalls, Ross Dress for Less, Sports Authority
The Brickyard/ Chicago, IL	2004	Chicago-Naperville-Joliet	261	96.2%	5,422	21.56	Jewel-Osco, Marshalls, Pier 1, Lowe's, Target
Lincoln Plaza/ Worcester, MA	2004	N/A	536	90.2%	5,132	10.61	Target, Lowe's, Dick's Sporting Goods, Stop & Shop, Barnes & Noble
Jefferson Commons/ Newport News, VA	2005	N/A	306	97.1%	5,078	17.07	Trader Joe's, Ross Dress for Less, Pier 1, TJ Maxx, Ulta, Petco, (Kohl's)
Tollgate Marketplace/ Bel Air, MD	1994	Baltimore-Towson	393	86.3%	5,056	14.93	Barnes & Noble, HH Gregg, JoAnn Fabrics, Michaels, TJ Maxx, Toys R Us,
Fullerton MetroCenter/ Fullerton, CA <sup>(5)</sup>	1988	Los Angeles-Long Beach-Santa Ana	253	90.7%	4,992	21.73	Sports Authority, Henry's PetSmart, (Target)

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Henry Town Center/ McDonough, GA	2002	Atlanta-Sandy Springs-Marietta	444	100.0%	4,963	11.17	Belks, Bed Bath & Beyond, Marshalls, Michaels, Ross Dress for Less, Staples, (Super Target, Home Depot)
-------------------------------------	------	-----------------------------------	-----	--------	-------	-------	--

**Table of Contents**

Property Name/Location	Year Built/Renovated <sup>(1)</sup>	Metropolitan Statistical Area	GLA	Percent Leased <sup>(2)</sup>	ABR	ABR per Leased Sq. Ft. <sup>(3)</sup>	Anchors (Shadow Anchors)
Lakewood Towne Center/ Lakewood, WA	2003	Seattle-Tacoma-Bellevue	579	69.2%	4,785	11.94	Bed Bath & Beyond, Burlington Coat Factory, Michaels, Ross Dress for Less, 24 Hour Fitness, Barnes & Noble, AMC, (Target)
Denton Town Crossing/ Denton TX <sup>(5)</sup>	2003	Dallas-Fort Worth- Arlington	339	96.6%	4,760	14.54	(Kroger), Best Buy, TJ Maxx, Bed Bath & Beyond, Michaels, Sports Authority
Midtown Center/ Milwaukee, WI	1987	Milwaukee-Waukesha-West Allis	409	93.6%	4,612	12.05	Marshalls, Office Depot, Pick n Save, Wal-Mart
Gateway Plaza/ Southlake, TX	2000	Dallas-Fort Worth-Arlington	365	95.1%	4,494	12.96	Bed Bath & Beyond, Kohl's, Michael's, Old Navy, TJ Maxx, Ulta
The Market at Polaris/ Columbus, OH	2005	Columbus	209	96.0%	4,317	21.55	Rave Theatres, Dick's Sporting Goods, Bed Bath & Beyond, PetSmart
Newnan Crossing/ Newnan, GA	2002	Atlanta-Sandy Springs-Marietta	416	96.3%	4,241	10.58	Ashley Furniture, Babies R Us, BJ's Wholesale Club, Office Depot, Old Navy, TJ Maxx, (Target)
Shops at 5/ Plymouth, MA	2005	Boston-Cambridge-Quincy	422	91.4%	3,956	10.26	BJ's Wholesale Club, Kohl's, PetSmart, Sports Authority, TJ Maxx
Northpointe Plaza/ Spokane, WA <sup>(5)</sup>	1993	N/A	378	91.3%	3,951	11.45	Safeway, Big Lots, Best Buy, TJ Maxx, Sports Authority, Staples, (Target)
Gateway Village/ Annapolis, MD	1996	Baltimore-Towson	274	95.9%	3,848	14.64	Best Buy, Burlington Coat Factory, PetSmart, Safeway, Staples
Gateway Pavilions/ Avondale, AZ <sup>(5)</sup>	2004	Phoenix-Mesa-Scottsdale	302	77.4%	3,841	16.45	Harkins Theatres, Marshalls, Sports Authority, (Costco)
Northgate North/ Seattle, WA	2000	Seattle-Tacoma-Bellevue	303	99.0%	3,730	12.43	Target, Best Buy, Sports Authority, Ross Dress for Less, Petco

(1) Represents the year in which the property was built, based on the completion date, or, if applicable, the year in which the most recent major renovation of the property was completed.

(2) Based on leases commenced as of December 31, 2011, and calculated as leased GLA divided by total GLA.

(3) Represents annualized base rent divided by leased GLA.

(4) GLA includes 23,000 square feet of office space.

(5) This property is held in one joint venture in which we have a 77% interest. We currently anticipate using the net proceeds from this offering to exercise our right to repurchase the 23% interest held by others. As a result, following this offering we anticipate that we will own 100% of this property.

**Table of Contents***Properties Under Development*

The following table provides summary information regarding our consolidated and unconsolidated properties under development as of December 31, 2011. As of December 31, 2011, we did not have significant active construction ongoing at our development properties, and, currently, we only intend to develop the remaining estimated total GLA to the extent that we have pre-leased the space to be developed. As of December 31, 2011, we did not have any such space pre-leased and, accordingly, have no present plans for the development of the remaining estimated total GLA. As of December 31, 2011, the annualized base rent from the portion of our development properties with respect to which construction has been completed was \$1.4 million. Dollars and square feet of GLA are presented in thousands in the table.

<b>Development</b>	<b>Estimated Stabilization Date<sup>(1)</sup></b>	<b>Percent Owned</b>	<b>Current GLA<sup>(2)(3)</sup></b>	<b>Percent Leased<sup>(3)(4)</sup></b>	<b>Estimated Total GLA<sup>(3)</sup></b>	<b>Carrying Value<sup>(5)</sup></b>	<b>Construction Loan Balance</b>
<b>Properties/Location</b>							
<b>Consolidated:</b>							
Green Valley Crossing/ Henderson, NV	2014	50.0%	183,062	98.17%	267,945	\$ 26,672	\$ 10,151
Bellevue Mall/ Nashville, TN <sup>(6)</sup>		100.0%				26,448	
South Billings Center/ Billings, MT <sup>(6)(7)</sup>		100.0%	215,000	100.0%	215,000	5,627	
<b>Total</b>			<b>398,062</b>	<b>99.2%</b>	<b>482,945</b>	<b>\$ 58,747</b>	<b>\$ 10,151</b>

- (1) Estimated stabilization date represents the date by which we currently estimate that leases with respect to 90% of the estimated total GLA will have commenced.
- (2) Represents GLA with respect to which construction had been completed as of December 31, 2011.
- (3) Includes space developed for shadow anchors.
- (4) Represents the percentage of current GLA with respect to which leases had commenced as of December 31, 2011.
- (5) Represents the carrying value of each property as of December 31, 2011, which was the total investment less accumulated depreciation through December 31, 2011.
- (6) Bellevue Mall is entitled for an estimated total GLA of 1,015,000 square feet and South Billings Center is entitled for an estimated total GLA of 404,800 square feet. Currently, we are evaluating numerous options to maximize the development of each asset.

**Table of Contents***Lease Expirations*

The following table sets forth a summary, as of December 31, 2011, of lease expirations scheduled to occur during each of the ten calendar years from 2012 to 2021 and thereafter, assuming no exercise of renewal options or early termination rights. The following table is based on leases commenced as of December 31, 2011 for our retail operating portfolio. Dollars (other than per square foot information) and square feet of GLA are presented in thousands in the table.

Lease Expiration Year	Number of Expiring Leases	GLA	Percent of Leased GLA	Percent of Total GLA	ABR	Percent of Total ABR	ABR per Leased Sq. Ft. <sup>(1)</sup>	ABR at Exp. <sup>(2)</sup>	ABR Per Leased Sq. Ft. at Exp. <sup>(3)</sup>
2012	484	1,535	5.0%	4.4%	29,208	6.8%	19.03	29,273	19.07
2013	546	2,691	8.8%	7.8%	43,686	10.1%	16.23	44,120	16.40
2014	607	4,007	13.2%	11.7%	61,311	14.3%	15.30	61,996	15.47
2015	409	3,328	10.9%	9.6%	47,022	10.9%	14.13	48,230	14.49
2016	354	2,774	9.1%	8.0%	43,417	10.1%	15.65	45,039	16.24
2017	176	2,169	7.1%	6.3%	27,810	6.5%	12.82	29,855	13.76
2018	95	1,114	3.7%	3.2%	17,356	4.0%	15.58	18,848	16.92
2019	89	1,633	5.4%	4.7%	23,276	5.4%	14.25	24,728	15.14
2020	94	2,021	6.6%	5.8%	23,696	5.5%	11.72	25,244	12.49
2021	91	1,883	6.2%	5.4%	25,746	6.0%	13.67	27,552	14.63
Thereafter	202	7,039	23.1%	20.2%	83,531	19.4%	11.87	90,297	12.83
Month to month	61	277	0.9%	0.8%	4,356	1.0%	15.73	4,592	16.58
<b>Leased Total</b>	<b>3,208</b>	<b>30,471</b>	<b>100.0%</b>	<b>87.9%</b>	<b>\$ 430,415</b>	<b>100.0%</b>	<b>\$ 14.13</b>	<b>\$ 449,774</b>	<b>\$ 14.76</b>
Leases signed but not commenced <sup>(4)</sup>	75	843		2.5%	9,937		\$ 11.79	10,867	\$ 12.89
Available		3,335		9.6%					

(1) Represents annualized base rent, divided by leased GLA.

(2) Represents annualized base rent at the scheduled expiration of the lease giving effect to contractual increases in base rent.

(3) Represents annualized base rent at the scheduled expiration of the lease, giving effect to contractual increases in base rent, divided by leased GLA. Does not reflect contractual increases based on the Consumer Price Index.

(4) Represents leases signed but not commenced as of December 31, 2011.

As of December 31, 2011, the weighted average lease term of leases at our office and industrial properties, based on annualized base rent, was 5.8 years, with no expirations prior to 2014.



**Table of Contents***Lease Distribution*

The following table sets forth information relating to the distribution of leases in our retail operating portfolio, based on leases commenced as of December 31, 2011. Dollars (other than per square foot information) and square feet of GLA are presented in thousands in the table.

GLA Under Lease	Number of Leases	GLA	Percent of Leased GLA	ABR	Percent of ABR	ABR Per Leased Sq. Ft.
Ground Lease	146	2,463	8.1%	\$ 22,236	5.2%	\$ 9.03
2,500 or less	1,402	2,027	6.7%	50,713	11.8%	25.02
2,501 10,000	1,009	4,967	16.3%	105,190	24.3%	21.18
10,001 25,000	335	5,466	17.9%	80,866	18.8%	14.79
25,001 40,000	156	4,686	15.4%	49,389	11.5%	10.54
40,001 100,000	141	8,292	27.2%	97,928	22.8%	11.81
Greater than 100,000	19	2,570	8.4%	24,093	5.6%	9.37
Leased Total	3,208	30,471	100.0%	\$ 430,415	100.0%	\$ 14.13

*Historical Leasing Activity and Tenant Improvement and Leasing Commission Costs*

The following table sets forth certain historical information regarding leasing activity and tenant improvement and leasing commission costs for tenants at the properties in our retail operating portfolio through December 31, 2011. The tenant improvement and leasing commission costs presented are based on when the expenses were incurred, which may be during different periods than when the leases were signed.

	Year Ended December 31,				
	2011	2010	2009	2008	2007
<b>Expirations<sup>(1)</sup></b>					
Number of leases	423	418	651	425	310
GLA (square feet at end of period, in thousands)	2,894	1,836	2,470	1,238	1,003
Expiring base rent per square foot	\$ 14.62	\$ 15.78	\$ 16.12	\$ 18.61	\$ 17.48
<b>Renewals<sup>(2) (3)</sup></b>					
Number of leases	333	328	424	269	239
GLA leased (square feet at end of period, in thousands)	2,505	1,397	1,744	868	834
Expiring base rent per square foot	\$ 14.03	\$ 16.52	\$ 15.89	\$ 18.14	\$ 17.42
New base rent per square foot <sup>(4)</sup>	\$ 14.45	\$ 15.79	\$ 16.04	\$ 19.41	\$ 18.26
Renewal rate (based on GLA)	86.6%	76.1%	70.6%	70.1%	83.2%
<b>New Leases<sup>(5)</sup></b>					
Number of leases	189	217	169	157	177
GLA leased (square feet at end of period, in thousands)	1,616	1,774	1,341	484	669
New base rent per square foot <sup>(4)</sup>	\$ 12.89	\$ 11.56	\$ 12.97	\$ 19.91	\$ 19.65
<b>Total New Leases and Renewals</b>					
Number of leases	522	545	593	426	416
GLA leased (square feet at end of period, in thousands)	4,121	3,171	3,085	1,352	1,503
New base rent per square foot <sup>(4)</sup>	\$ 13.83	\$ 13.43	\$ 14.71	\$ 19.59	\$ 18.88
Leasing commission costs	\$ 7,743	\$ 5,838	\$ 3,947	\$ 3,987	\$ 3,066
Tenant improvement costs	\$ 25,805	\$ 24,406	\$ 15,248	\$ 10,475	\$ 5,503
Total leasing commissions and tenant improvement costs	\$ 33,548	\$ 30,244	\$ 19,195	\$ 14,462	\$ 8,569

**Table of Contents**

- (1) Excludes month-to-month leases.
- (2) Includes retained tenants that have relocated or expanded into new space within our portfolio. Monthly renewals of month-to-month tenants are not included.
- (3) Lease renewals are shown in the period the prior term expires.
- (4) Based upon GLA of signed leases for the period presented.
- (5) Does not include retained tenants that have relocated or expanded into new space within our portfolio.

*Historical Percentage Leased and Rental Rates*

The following table sets forth, as of the indicated dates, the percentage leased and annualized base rent per leased square foot for the properties in our retail operating portfolio as of December 31, 2011. Square feet of GLA are presented in thousands in the table.

<b>Date</b>	<b>Total GLA</b>	<b>Percentage Leased<sup>(1)</sup></b>	<b>Annualized Base Rent Per Leased Square Foot<sup>(2)</sup></b>
December 31, 2011	34,649	87.9%	\$ 14.13
December 31, 2010	34,568	86.7%	\$ 14.07
December 31, 2009	34,367	85.3%	\$ 14.18
December 31, 2008	34,278	88.3%	\$ 14.22
December 31, 2007	33,389	96.8%	\$ 13.84

- (1) Based on leases commenced as of the date presented, and calculated as leased GLA divided by total GLA.
- (2) Represents (i) annualized base rent under leases commenced as of date indicated divided by (ii) leased GLA as of the period indicated.

*Historical Capital Expenditures*

The following table sets forth certain information regarding historical recurring capital expenditures at the properties in our retail operating portfolio as of December 31, 2011. Dollars (other than per square foot information) and square feet of GLA are presented in thousands in the table.

	<b>Year Ended December 31,</b>				
	<b>2011</b>	<b>2010</b>	<b>2009</b>	<b>2008</b>	<b>2007</b>
Recurring capital expenditures	\$ 6,422	\$ 5,551	\$ 5,062	\$ 7,083	\$ 3,224
GLA	34,649	34,568	34,367	34,278	33,389
Recurring capital expenditures per square foot <sup>(1)</sup>	\$ 0.19	\$ 0.16	\$ 0.15	\$ 0.21	\$ 0.10

- (1) Recurring capital expenditures for properties acquired during the period are annualized.

**Table of Contents***Mortgages*

As of December 31, 2011, we had mortgages, including those under our senior secured credit facility, secured by 265 of our consolidated operating properties and our unconsolidated joint ventures had mortgages secured by 24 operating properties. The following is a summary of these mortgages and the properties securing these mortgages as of December 31, 2011. For the mortgages secured by our consolidated operating properties, we have grouped this information together based on the year in which the mortgage is scheduled to mature. Dollars and square feet of GLA are presented in thousands in the table.

Maturity Date By Year	Mortgages		Properties Securing Mortgages <sup>(1)</sup>		
	Outstanding Principal Amount <sup>(2)</sup>	Weighted Average Interest Rate <sup>(3)</sup>	Number of Props.	GLA	ABR <sup>(4)</sup>
<b>Consolidated Operating:</b>					
2012 <sup>(5)</sup>	\$ 450,388	5.61%	35	4,713	\$ 50,463
2013 <sup>(6)</sup>	865,354	4.35%	55	10,773	122,023
2014	239,572	7.12%	18	3,146	35,339
2015	470,754	5.77%	68	4,717	61,710
2016	46,706	6.15%	3	308	4,838
Thereafter <sup>(7)</sup>	1,173,549	6.64%	86	15,249	198,014
Total-Encumbered <sup>(8)</sup>	\$ 3,246,323	5.79%	265	38,906	\$ 472,387
Unencumbered			9 <sup>(6)</sup>	401	3,953
Total	\$ 3,246,323	5.79%	274	39,307	\$ 476,340
<b>Unconsolidated Operating<sup>(9)</sup></b>					
	\$ 487,854	4.61%	24	4,508	\$ 63,874

- (1) For nine of our consolidated operating properties, we have separate mortgages for different portions, or phases, of the property that mature in different years. For each of these properties, the portion of the total square feet of GLA of the property that is securing each mortgage (and the annualized base rent attributable to that GLA) is presented in the year in which such mortgage matures. However, for purposes of presenting the number of properties, each of these properties is only included in the property count for the year in which the mortgage with the largest principal balance matures.
- (2) Maturities for each year include amortization paid. For mortgages maturing each year, the following sets forth the amount of the outstanding principal amount as of December 31, 2011 that is included as an amount maturing in a prior year in the table due to scheduled amortization:

Year	Amount of Prior Amortization (in thousands)
2013	1,026
2014	3,334
2015	14,488
2016	1,905
Thereafter	84,426

(3) Based on interest as of December 31, 2011 for all variable rate debt.

(4) Excludes \$1.4 million of annualized base rent from our consolidated development properties. Rental abatements for leases commenced as of December 31, 2011, which are excluded, were \$0.1 million for our retail operating portfolio for the 12 months ending December 31, 2012. Annualized base rent does not reflect scheduled lease expirations for the 12 months ending December 31, 2012. The portion of the

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

annualized base rent of our total operating portfolio attributable to leases scheduled to expire during the 12 months ending December 31, 2012, including month-to-month leases, is approximately \$33.6 million.

**Table of Contents**

- (5) Amount for 2012 includes \$50.8 million of mortgage loans that had matured but had not been repaid as of December 31, 2011. As of March 2, 2012, \$26.9 million of mortgage loans that matured in 2010 and \$23.9 million that had matured in 2011 remained outstanding. Collectively, the matured mortgages are secured by a total of two properties with 788,134 square feet of GLA representing \$7.3 million of annualized base rent as of December 31, 2011. We are currently in negotiations with the lenders regarding an appropriate course of action with respect to these mortgages payable. The 2012 mortgage maturities exclude a construction loan on one operating property with an outstanding principal balance of \$20.6 million and an interest rate of 5.5% as of December 31, 2011. The property, its GLA and its annualized base rent are included with the properties securing 2012 maturities in the table.
- (6) The 2013 maturities include the \$555.0 million that was outstanding on our secured credit facility as of December 31, 2011. On February 24, 2012, we amended and restated our credit agreement to provide for a senior unsecured credit facility in the aggregate amount of \$650.0 million, consisting of \$350.0 million senior unsecured revolving line of credit, which matures in February 2015, and a \$300.0 million term loan, which matures in February 2016. As of March 2, 2012, we had 51 properties and four partial properties in the unencumbered asset pool, seven of which were unencumbered as of December 31, 2011.
- (7) Excludes \$125.0 million of debt secured by our equity interest in the IW JV joint venture, which, as of December 31, 2011, held 55 retail operating properties with 6.5 million square feet of GLA representing \$84.1 million of annualized base rent. We currently anticipate using a portion of the net proceeds from this offering to exercise our option to repurchase Inland Equity's interest in IW JV, as a result of which we will own 100% of IW JV.
- (8) Excludes one non-stabilized operating property encumbered by a construction loan with an outstanding principal balance of \$48.9 million as of December 31, 2011 that matures in 2012.
- (9) Includes mortgages with an aggregate principal amount of \$469.9 million with a weighted average maturity date of 3.6 years owed by two separate joint ventures in which we have a 20% interest and a construction loan with a principal balance of \$18.0 million with a maturity date of September 5, 2014 owed by one joint venture in which we have a 95.9% interest. The construction loan is secured by four operating properties held by the joint venture. These amounts exclude a \$106.7 million mortgage payable that was transferred along with the related property to our joint venture partner on February 15, 2012 in full redemption of their interest in the joint venture.

**Operating History**

We are a Maryland corporation formed in March 2003, and we have been publicly held and subject to SEC reporting obligations since the completion of our first public offering in 2003. As of March 2, 2012, we had over 111,900 shareholders of record. We were initially sponsored by The Inland Group, Inc. and its affiliates, but we have not been affiliated with The Inland Group since the internalization of our management in November 2007.

*2007 Internalization*

On November 15, 2007, pursuant to an agreement and plan of merger approved by our shareholders on November 13, 2007, we acquired, through a series of mergers, four entities affiliated with our former sponsor, IREIC, which entities provided business management/advisory and property management services to us. Shareholders of the acquired entities received an aggregate of 37,500,000 shares of our common stock valued under the merger agreement at \$10.00 per share. In December 2010, certain of the shareholders returned 9,000,000 shares of our common stock to us in connection with our settlement of a lawsuit relating to this acquisition. As a result of the mergers, we now perform substantially all of our key operational activities internally. In connection with the mergers, we and our former business manager/advisor and our former property managers entered into a number agreements and amendments to agreements with The Inland Group, Inc. and certain of its affiliates. See *Certain Relationships and Related Transactions*.

*Recapitalization*

Prior to the completion of this offering, we intend to complete the Recapitalization. See *Recapitalization*.

## **Table of Contents**

### **Regulation**

#### *General*

The properties in our portfolio are subject to various laws, ordinances and regulations, including regulations relating to common areas. We believe each of the existing properties has the necessary permits and approvals to operate its business.

#### *Americans with Disabilities Act*

Our properties must comply with Title III of the ADA to the extent that such properties are public accommodations as defined by the ADA. The ADA may require removal of structural barriers to access by persons with disabilities in certain public areas of our properties where such removal is readily achievable. We believe the existing properties are in substantial compliance with the ADA and that we will not be required to make substantial capital expenditures to address the requirements of the ADA. However, noncompliance with the ADA could result in imposition of fines or an award of damages to private litigants. The obligation to make readily achievable accommodations is an ongoing one, and we will continue to assess our properties and to make alterations as appropriate in this respect.

#### *Environmental Matters*

Under various federal, state or local laws, ordinances and regulations, as a current or former owner or operator of real property, we may be liable for costs and damages resulting from the presence or release of hazardous substances, waste, or petroleum products at, on, in, under or from such property, including costs for investigation, remediation, natural resource damages or third party liability for personal injury or property damage. These laws often impose liability without regard to whether the owner or operator knew of, or was responsible for, the presence or release of such materials, and the liability may be joint and several. In addition, the presence of contamination or the failure to remediate contamination at our properties may adversely affect our ability to sell, redevelop, or lease such property or to borrow using the property as collateral. Environmental laws also may create liens on contaminated sites in favor of the government for damages and costs it incurs to address such contamination. Moreover, if contamination is discovered on our properties, environmental laws may impose restrictions on the manner in which that property may be used or how businesses may be operated on that property. Some of our properties have been or may be impacted by contamination arising from current or prior uses of the property or adjacent properties for commercial or industrial purposes. Such contamination may arise from spills of petroleum or hazardous substances or releases from tanks used to store such materials. We also may be liable for the costs of remediating contamination at off-site disposal or treatment facilities when we arrange for disposal or treatment of hazardous substances at such facilities, without regard to whether we comply with environmental laws in doing so.

Independent environmental consultants have conducted Phase I Environmental Site Assessments or similar environmental audits for all our investment properties at the time they were acquired. A Phase I Environmental Site Assessment is a written report that identifies existing or potential environmental conditions associated with a particular property. These environmental site assessments generally involve a review of records and visual inspection of the property but do not include soil sampling or ground water analysis. These environmental site assessments have not revealed, nor are we aware of, any environmental liability that we believe will have a material adverse effect on our operations. These environmental site assessments have a limited scope, however, and may not reveal all potential environmental liabilities. Further, material environmental conditions may have arisen after the review was completed or may arise in the future, and future laws, ordinances or regulations may impose additional material environmental liability beyond what was known at the time the site assessment was conducted.

In addition, our properties are subject to various federal, state and local environmental, health and safety laws, including laws governing the management of wastes and underground and aboveground storage tanks.

## **Table of Contents**

Noncompliance with these environmental, health and safety laws could subject us or our tenants to liability. These environmental liabilities could affect a tenant's ability to make rental payments to us. Moreover, changes in laws could increase the potential costs of compliance with environmental laws, health and safety laws or increase liability for noncompliance. This may result in significant unanticipated expenditures or may otherwise materially and adversely affect our operations, or those of our tenants, which could in turn have a material adverse effect on us.

As the owner or operator of real property, we may also incur liability based on various building conditions. For example, buildings and other structures on properties that we currently own or operate or those we acquire or operate in the future contain, may contain, or may have contained ACM. Environmental, health, and safety laws require that ACM be properly managed and maintained and may impose fines or penalties on owners, operators or employers for non-compliance with those requirements. These requirements include special precautions, such as removal, abatement or air monitoring, if ACM would be disturbed during maintenance, renovation, or demolition of a building, potentially resulting in substantial costs. In addition, we may be subject to liability for personal injury or property damage sustained as a result of exposure to ACM or releases of ACM into the environment.

We also may incur liability arising from mold growth in the buildings we own or operate. When excessive moisture accumulates in buildings or on building materials, mold growth may occur, particularly if the moisture problem remains undiscovered or is not addressed over a period of time. Some molds may produce airborne toxins or irritants. Indoor air quality issues can also stem from inadequate ventilation, chemical contamination from indoor or outdoor sources, and other biological contaminants such as pollen, viruses and bacteria. Indoor exposure to airborne toxins or irritants can be alleged to cause a variety of adverse health effects and symptoms, including allergic or other reactions. As a result, the presence of significant mold or other airborne contaminants at any of our properties could require us to undertake a costly remediation program to contain or remove the mold or other airborne contaminants or increase ventilation. In addition, the presence of significant mold or other airborne contaminants could expose us to liability from our tenants, employees of our tenants, or others if property damage or personal injury occurs.

## **Insurance**

We carry comprehensive liability, fire, extended coverage, earthquake, terrorism and rental loss insurance covering all of the properties in our portfolio under a blanket policy. We believe the policy specifications and insured limits are appropriate given the relative risk of loss, the cost of the coverage and industry practice and, in the opinion of our management, the properties in our portfolio are adequately insured. Our terrorism insurance is subject to exclusions for loss or damage caused by nuclear substances, pollutants, contaminants and biological and chemical weapons. We do not carry insurance for generally uninsured losses such as loss from riots or acts of God. In addition, we carry terrorism insurance on all of our properties in an amount and with deductibles which we believe are commercially reasonable. See **Risk Factors** **Risks Relating to Our Business and Our Properties**. If we suffer losses that are not covered by insurance or that are in excess of insurance coverage, we could lose invested capital and anticipated profits and Some of our properties are subject to potential natural and other disasters, which could cause significant damage to our properties and result in substantial costs to us or loss of our invested capital in the properties.

## **Competition**

In seeking new investment opportunities, we compete with other real estate investors, including pension funds, insurance companies, foreign investors, real estate partnerships, other REITs, private individuals and other real estate companies, some of which have greater financial resources than we do. With respect to properties presently owned by us, we compete with other owners of like properties for tenants. There can be no assurance that we will be able to successfully compete with such entities in development, acquisition, and leasing activities in the future.

## **Table of Contents**

Our business is inherently competitive. Property owners, including us, compete on the basis of location, visibility, quality and aesthetic value of construction, volume of traffic, strength and name recognition of tenants and other factors. These factors combine to determine the level of occupancy and rental rates that we are able to achieve at our properties. Further, our tenants compete with other forms of retailing, including e-commerce, catalog companies and direct consumer sales. We may, at times, compete with newer properties or those in more desirable locations. To remain competitive, we evaluate all of the factors affecting our centers and try to position them accordingly. For example, we may decide to focus on renting space to specific retailers who will complement our existing tenants and increase traffic. We believe the principal factors that retailers consider in making their leasing decisions include:

consumer demographics;

quality, design and location of properties;

total number and geographic distribution of properties;

diversity of retailers and anchor tenants at shopping center locations;

management and operational expertise; and

rental rates.

Based on these factors, we believe that the size and scope of our property portfolio, as well as the overall quality and attractiveness of our individual properties, enable us to compete effectively for retail tenants in our local markets. Because our revenue potential may be linked to the success of retailers, we indirectly share exposure to the same competitive factors that our retail tenants experience in their respective markets when trying to attract individual shoppers. These dynamics include general competition from other regional shopping centers, including outlet malls and other discount shopping centers, as well as competition with discount shopping clubs, catalog companies, Internet sales and telemarketing.

## **Employees**

As of December 31, 2011, we had approximately 265 employees.

## **Legal Proceedings**

From time to time, we are party to various lawsuits, claims for negligence and other legal proceedings that arise in the ordinary course of our business. We are not currently a party, as plaintiff or defendant, to any legal proceedings which, individually or in the aggregate, would be expected to have a material effect on our business, financial condition or results of operations if determined adversely to us.



**Table of Contents****MANAGEMENT****Directors and Executive Officers**

Currently, our board of directors consists of nine directors. Our board of directors has determined that seven of our directors are independent directors for purposes of applicable NYSE rules. Pursuant to our charter, our directors are elected annually by our shareholders to serve until the next annual meeting or until their successors are duly elected and qualify. The next annual meeting of our shareholders after this offering will be held in 2012. Our officers serve at the discretion of our board of directors.

Certain information regarding our executive officers and directors is set forth below:

<b>Name</b>	<b>Age</b>	<b>Position</b>
Steven P. Grimes	45	Director, President and Chief Executive Officer
Angela M. Aman	32	Executive Vice President, Chief Financial Officer and Treasurer
Niall J. Byrne	55	Executive Vice President and President of Property Management
Shane C. Garrison	42	Executive Vice President Chief Operating Officer and Chief Investment Officer
Dennis K. Holland	59	Executive Vice President, General Counsel and Secretary
James W. Kleifges	61	Executive Vice President and Chief Accounting Officer
Gerald M. Gorski*	68	Director and Chairman of the Board
Kenneth H. Beard*	72	Director
Frank A. Catalano, Jr.*	50	Director
Paul R. Gauvreau*	72	Director
Brenda G. Gujral	69	Director
Richard P. Imperiale*	52	Director
Kenneth E. Masick*	66	Director
Barbara A. Murphy*	74	Director

\* Determined by our board of directors to be an independent director within the meaning of the NYSE listing standards. The following are biographical summaries of the experience of our executive officers and directors.

*Steven P. Grimes* serves as our President and Chief Executive Officer and as a Director. Mr. Grimes has served as one of our directors since March 8, 2011 and as our President and Chief Executive Officer since October 13, 2009. Previously, Mr. Grimes served as our Chief Financial Officer since the internalization of our management on November 15, 2007 through December 31, 2011; Chief Operating Officer since our internalization through October 12, 2009 and Treasurer from October 14, 2008 through December 31, 2011. Prior to our internalization, Mr. Grimes served as Principal Financial Officer and Treasurer and the Chief Financial Officer of Inland Western Retail Real Estate Advisory Services, Inc., which was our former business manager/advisor, since February 2004. Prior to joining our former business manager/advisor, Mr. Grimes served as a Director with Cohen Financial, a mortgage brokerage firm, and as a senior manager with Deloitte in their Chicago-based real estate practice, where he was a national deputy real estate industry leader. Mr. Grimes is also an active member of various real estate trade associations, including the Real Estate Roundtable. Mr. Grimes received his B.S. in Accounting from Indiana University and is a Certified Public Accountant.

*Angela M. Aman* serves as Executive Vice President, Chief Financial Officer and Treasurer of the Company. Ms. Aman joined the Company as Director of Capital Markets on August 4, 2011 and has served as our Executive Vice President, Chief Financial Officer and Treasurer since January 1, 2012. Prior to joining the Company, Ms. Aman was a Portfolio Manager with RREEF, the real estate investment management business of Deutsche Bank, for six years. As part of their North American investment group, she focused on retail and regional mall companies. Ms. Aman started her career in investment banking at Deutsche Bank, where she spent four years with real estate group underwriting debt and equity offerings, as well as advising clients on mergers and acquisitions and additional strategic transactions. Ms. Aman received her B.S. in Economics from The Wharton School of The University of Pennsylvania.

---

**Table of Contents**

*Niall J. Byrne* serves as our Executive Vice President and President of Property Management. In this role, Mr. Byrne is responsible for the oversight of all the property management functions for our portfolio. Mr. Byrne has served as our Executive Vice President since October 12, 2010 and as our President of Property Management since the internalization of our management on November 15, 2007. Prior to that time, he served as a Senior Vice President of Inland Holdco Management LLC, which was a property management company affiliated with our former business manager/advisor, since 2005. In this role, Mr. Byrne was responsible for the oversight of all of the property management, leasing and marketing activities for our portfolio and was involved in our development, acquisitions and joint venture initiatives. Previously, from 2004 to 2005, Mr. Byrne served as Vice President of Asset Management of American Landmark Properties, Ltd., a private real estate company, where he was responsible for a large commercial and residential portfolio of properties. Prior to joining American Landmark Properties, Ltd., Mr. Byrne served as Senior Vice President/Director of Operations for Providence Management Company, LLC, or PMC Chicago, from 2000 to 2004. At PMC Chicago, he oversaw all aspects of property operations, daily management and asset management functions for an 8,000-unit multi-family portfolio. Prior to joining PMC Chicago, Mr. Byrne also had over 15 years of real estate experience with the Chicago-based Habitat Company and with American Express/Balcor and five years of public accounting experience. Mr. Byrne received his B.S. in Accounting from DePaul University and is a Certified Public Accountant.

*Shane C. Garrison* serves as our Executive Vice President, Chief Investment Officer and Chief Operating Officer. In this role, Mr. Garrison is responsible for several operating functions within the company, including leasing, property management, asset management, which includes acquisitions and dispositions, joint ventures and construction operations. He also serves as an Executive Committee member of our joint venture MS Inland Fund, LLC and as an Advisory Board member of our joint venture entities RC Inland L.P. and RC Inland REIT LP. Mr. Garrison has served as our Chief Operating Officer since January 1, 2012, as our Executive Vice President since October 12, 2010 and as our Chief Investment Officer since the internalization of our management on November 15, 2007. Prior to that time, Mr. Garrison served as Vice President of Asset Management of Inland US Management LLC, which was a property management company affiliated with our former business manager/advisor, since 2004. In this prior role, Mr. Garrison underwrote over \$1.2 billion of assets acquired by us, and went on to spearhead our development and joint venture initiatives. Previously, Mr. Garrison had served as head of asset management for ECI Properties, a small boutique owner of industrial and retail properties, and the general manager of the Midwest region for Circuit City, a large electronics retailer. Mr. Garrison received his B.S. in Business Administration from Illinois State University and an MBA in Real Estate Finance from DePaul University.

*Dennis K. Holland* serves as our Executive Vice President, General Counsel and Secretary. In this role, Mr. Holland manages our legal department and is involved in all aspects of our business, including real estate acquisitions and financings, sales, securities laws, corporate governance matters, leasing and tenant matters and litigation management. Mr. Holland has served as our Executive Vice President since October 12, 2010 and as our General Counsel and Secretary since the internalization of our management on November 15, 2007. Prior to that time, he served as Associate Counsel of The Inland Real Estate Group, Inc., an affiliate of our former business manager/advisor, since December 2003. Prior to December 2003, Mr. Holland served as Deputy General Counsel of Heller Financial, Inc., and General Counsel of its real estate group, and in a business role with GE Capital following its acquisition of Heller Financial. Mr. Holland received his B.S. in Economics from Bradley University in 1974 and a J.D. from the John Marshall Law School in 1979.

*James W. Kleifges* serves as our Executive Vice President and Chief Accounting Officer. Mr. Kleifges has served as our Executive Vice President since October 12, 2010 and as our Chief Accounting Officer since the internalization of our management on November 15, 2007. Prior to that time, he served as Chief Accounting Officer of Inland Western Retail Real Estate Advisory Services, Inc., our former business manager/advisor, since March 2007. Mr. Kleifges served as Vice President, Chief Financial Officer, Treasurer and Assistant Secretary of Inland Retail Real Estate Trust, Inc., a publicly held retail real estate investment trust, from January 2005 until the acquisition of the company by a third party in February 2007 in a transaction valued in excess of \$6 billion. From August 2004 through December 2004, Mr. Kleifges was the Vice President, Corporate Controller for the

## Table of Contents

external business manager/advisor of Inland Retail Real Estate Trust, Inc. From April 1999 to January 2004, Mr. Kleifges was Vice President/Corporate Controller of Prime Group Realty Trust, an office and industrial real estate investment trust based in Chicago, Illinois, with assets in excess of \$1 billion. Prior to joining Prime Group, Mr. Kleifges held senior financial and operational positions in various private and public real estate companies located in Chicago, Illinois and Denver, Colorado. Mr. Kleifges also was a Senior Manager with KPMG in Chicago, Illinois completing a career in public accounting from June 1972 to December 1982. Mr. Kleifges earned his B.A. in Accounting from St. Mary's University in Winona, Minnesota and has been a Certified Public Accountant since 1974.

*Gerald M. Gorski* serves as a Director and Chairman of the Board. Mr. Gorski has been one of our directors since July 1, 2003 and Chairman of the Board since October 12, 2010. He has been a Partner in the law firm of Gorski & Good LLP, Wheaton, Illinois since 1978. Mr. Gorski's practice is focused on governmental law, and he represents numerous units of local government in Illinois. Mr. Gorski has served as a Special Assistant State's Attorney and Special Assistant Attorney General in Illinois. He received a B.A. from North Central College with majors in Political Science and Economics and a J.D. from DePaul University Law School. Mr. Gorski serves as the Vice Chairman of the Board of Commissioners for the DuPage Airport Authority. Further, Mr. Gorski has also served as Chairman of the Board of Directors of the DuPage National Technology Park. He has written numerous articles on various legal issues facing Illinois municipalities and has been a speaker at a number of municipal law conferences.

*Kenneth H. Beard* serves as a Director. Mr. Beard has been one of our directors since our inception on March 5, 2003. He is President and Chief Executive Officer of KHB Group, Inc. and Midwest Mechanical Construction, mechanical engineering and construction companies. From 1999 to 2002, he was President and Chief Executive Officer of Exelon Services, a subsidiary of Exelon Corporation that engaged in the design, installation and servicing of heating, ventilation and air conditioning facilities for commercial and industrial customers and provided energy-related services. From 1974 to 1999, Mr. Beard was President and Chief Executive Officer of Midwest Mechanical, Inc., a heating, ventilation and air conditioning construction and service company that he founded in 1974. From 1964 to 1974, Mr. Beard was employed by The Trane Company, a manufacturer of heating, ventilating and air conditioning equipment. Mr. Beard holds an MBA and BSCE from the University of Kentucky and is a licensed mechanical engineer. He is past chairman of the foundation board of the Wellness House in Hinsdale, Illinois, a cancer support organization and serves on the Dean's Advisory Council of the University of Kentucky, School of Engineering. Mr. Beard is a past member of the Oak Brook, Illinois, Plan Commission (1981 to 1991) and a past board member of Harris Bank, Hinsdale, Illinois (1985 to 2004).

*Frank A. Catalano, Jr.* serves as a Director. Mr. Catalano has been one of our directors since our inception on March 5, 2003. Mr. Catalano's experience also includes mortgage banking. Since February 1, 2008, he has been with Gateway Funding Diversified Mortgage Services, L.P., a residential mortgage banking company, as their Regional Vice President. From 2002 until August 2007, he was a Vice President of American Home Mortgage Company. He also was President and Chief Executive Officer of CCS Mortgage, Inc. from 1995 through 2000. Since 1999, Mr. Catalano has also served as President of Catalano & Associates. Catalano & Associates is a real estate company that engages in brokerage and property management services and the rehabilitation and leasing of office buildings. Mr. Catalano is currently a member of the Elmhurst Memorial Healthcare Board of Governors and formerly served as the chairman of the board of the Elmhurst Chamber of Commerce. Mr. Catalano holds a mortgage banker's license.

*Paul R. Gauvreau* serves as a Director. Mr. Gauvreau has been one of our directors since our inception on March 5, 2003. He is the retired Chief Financial Officer, Financial Vice President and Treasurer of Pittway Corporation, a NYSE listed manufacturer and distributor of professional burglar and fire alarm systems and equipment from 1966 until its sale to Honeywell, Inc. in 2001. He was President of Pittway's non-operating real estate and leasing subsidiaries through 2001. He also was a financial consultant to Honeywell, Inc., Genesis Cable, L.L.C. and ADUSA, Inc. Additionally, he was a director and audit committee member of Cylink

**Table of Contents**

Corporation, a NASDAQ Stock Market listed manufacturer of voice and data security products from 1998 until its merger with Safenet, Inc. in February 2003. Mr. Gauvreau holds an MBA from the University of Chicago and a BSC from Loyola University of Chicago. He is on the Board of Trustees, Chairman of the Finance Committee and Treasurer of Benedictine University, Lisle, Illinois and a member of the Board of Directors of the Children's Brittle Bone Foundation, Pleasant Prairie, Wisconsin.

*Brenda G. Gujral* serves as a Director. Ms. Gujral has been one of our directors since our inception on March 5, 2003 and previously served as our Chief Executive Officer from June 2005 until the internalization of our management on November 15, 2007. She is the Chief Executive Officer of Inland Real Estate Investment Corporation, or IREIC, which is a sponsor of real estate investment trusts and limited partnerships that is affiliated with The Inland Group, Inc., Ms. Gujral has served as the Chief Executive Officer of IREIC since January 2008 and as its President from January 1998 through January 2011 and from July 1987 through September 1992. Ms. Gujral currently serves as a director of Inland American Real Estate Trust, Inc. and Inland Diversified Real Estate Trust, Inc., and previously served as a director of Inland Retail Real Estate Trust, Inc. from its inception in September 1998 until it was acquired in February 2007. Prior to joining The Inland Group, Inc., she worked for the Land Use Planning Commission establishing an office in Portland, Oregon, to implement land use legislation for that state. She is a graduate of California State University. She holds Series 7, 22, 39 and 63 certifications from the Financial Industry Regulatory Authority and is a licensed real estate salesperson.

*Richard P. Imperiale* serves as a Director. Mr. Imperiale has been one of our directors since January 2008. Mr. Imperiale is President and founder of Forward Uniplan Advisors, Inc., a Milwaukee, Wisconsin based investment advisory holding company that, together with its affiliates, manages and advises over \$500 million in client accounts. Forward Uniplan Advisors, Inc. was founded by Mr. Imperiale in 1984 and specializes in managing equity, REIT and specialty portfolios for clients. Mr. Imperiale started his career as a credit analyst for the First Wisconsin National Bank (now U.S. Bank). In 1983, Mr. Imperiale joined B.C. Ziegler & Company, a Midwest regional brokerage firm where he was instrumental in the development of portfolio strategies for one of the first hedged municipal bond mutual funds in the country. Mr. Imperiale is widely quoted in local and national media on matters pertaining to investments and authored the book *Real Estate Investment Trusts: New Strategies For Portfolio Management*, published by John Wiley & Sons, 2002. He attended Marquette University Business School where he received a B.S. in Finance.

*Kenneth E. Masick* serves as a Director. Mr. Masick has been one of our directors since January 2008. He retired from Wolf & Company LLP, certified public accountants, in April 2009, having been there as a partner since its formation in 1978. That firm, one of the largest in the Chicago area, specializes in audit, tax and consulting services to privately owned businesses. Mr. Masick was partner-in-charge of the firm's audit and accounting department and was responsible for the firm's quality control. His accounting experience also includes feasibility studies and due diligence activities with acquisitions. Mr. Masick has been in public accounting since his graduation from Southern Illinois University in 1967. Mr. Masick also holds Series 7, 24, 27 and 63 licenses from Financial Industry Regulatory Authority. He also was treasurer and director of Wolf Financial Management LLC, a securities broker-dealer firm. Mr. Masick was a director of Inland Retail Real Estate Trust, Inc. from December 1998 until it was acquired in February 2007.

*Barbara A. Murphy* serves as a Director. Ms. Murphy has been one of our directors since July 1, 2003. Ms. Murphy is the Chairwoman of the DuPage Republican Party and current Committeeman for The Milton Township Republican Central Committee in Illinois. After serving for twenty years, she recently retired as a Trustee of Milton Township in Illinois. Ms. Murphy is currently a member of the Illinois Motor Vehicle Review Board and the Matrimonial Fee Arbitration Board, and has previously served on the DuPage Civic Center Authority Board, the DuPage County Domestic Violence Task Force and the Illinois Toll Highway Advisory Committee and as a founding member of the Family Shelter Service Board. Ms. Murphy also previously served as the Chairman for the Milton Township Republican Central Committee in Illinois and as the Republican Party's State Central Committeewoman for the Sixth Congressional District. Ms. Murphy also has experience as the co-owner of a small retail business.

## **Table of Contents**

*Director Qualifications.* In concluding that each of the foregoing Directors should serve as a Director, the Nominating and Corporate Governance Committee and the Board focused on each Director's participation and performance on the Board during his or her tenure, as well as each Director's experience, qualifications, attributes and skills discussed in each of the Directors' individual biographies set forth elsewhere herein. In particular, with respect to each Director, the Nominating and Corporate Governance Committee and the Board noted the following:

Mr. Grimes's experience and position as our Chief Executive Officer;

Mr. Gorski's experience as a lawyer and focus on local government law not only gives the Board a valuable perspective on the numerous legal issues (including land use law) that we face, but also on local political issues;

Mr. Beard's experience in engineering and construction services, as well as his expertise in corporate acquisition and finance, enable him to provide insight relating to our joint venture, development and other activities;

Mr. Catalano's experience in running a firm engaged in the brokerage, management, rehabilitation and leasing of commercial property coincides closely with our business;

Mr. Gauvreau's financial experience, including his serving as the chief financial officer of a NYSE-listed company and on the audit committee of a NASDAQ-listed company, qualifies him to serve as chairman of our Audit Committee;

Ms. Gujral's experience in the real estate industry and the securities brokerage business provides guidance to us as well as assistance in maintaining our relationship not only with the brokers and advisors who have sold our stock, but also with the investors who purchased our stock;

Mr. Imperiale's experience in the brokerage and investment advisory industries allow him to provide useful oversight and advice as we look to refinance debt and strengthen our balance sheet, as well as to address issues with respect to our securities portfolio;

Mr. Masick's experience as a certified public accountant and experience in providing audit, tax and consulting services to privately-owned businesses provides financial expertise to the Board and the Audit Committee; and

Ms. Murphy's public service and experience in operating her own business bring a different perspective to evaluating our relationships with public officials, tenants and customers of our tenants.

## **Corporate Governance Profile**

We have structured our corporate governance in a manner we believe closely aligns our interests with those of our shareholders. Notable features of our corporate governance structure include the following:

our board of directors is not staggered, with each of our directors subject to re-election annually;

## Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

of the nine persons who currently serve on our board of directors, seven have been affirmatively determined by our board of directors to be independent for purposes of the NYSE's listing standards and Rule 10A-3 under the Exchange Act;

at least one of our directors qualifies as an audit committee financial expert as defined by the SEC;

we have an independent Chairman of our board of directors;

prior to the completion of this offering, we intend to opt out of the Maryland business combination and control share acquisition statutes and provide that we may not opt in without shareholder approval;

we do not have a shareholder rights plan and, prior to the completion of this offering we intend to provide that, in the future, we will not adopt a shareholder rights plan unless our shareholders approve in advance the adoption of a plan or, if adopted by our board of directors, we will submit the shareholder rights plan to our shareholders for a ratification vote within 12 months of adoption or the plan will terminate; and

**Table of Contents**

we intend to conduct an annual shareholders advisory vote on executive compensation in accordance with the shareholders advisory vote on the frequency of executive compensation.

**Board Committees**

Our board of directors has established three standing committees: the Audit Committee, the Executive Compensation Committee and the Nominating and Corporate Governance Committee. The composition of each of the Audit Committee, the Executive Compensation Committee and the Nominating and Corporate Governance Committee complies with the listing requirements and other rules and regulations of the NYSE, as amended or modified from time to time. All members of the committees described below are independent as such term is defined in the NYSE's listing standards and as affirmatively determined by our board of directors, other than Ms. Gujral.

<b>Board Committee</b>	<b>Chairman</b>	<b>Members</b>
Audit Committee	Paul R. Gauvreau	Kenneth H. Beard  Kenneth E. Masick
Executive Compensation Committee	Frank A. Catalano, Jr.	Richard P. Imperiale  Brenda G. Gujral
Nominating & Corporate Governance Committee	Richard P. Imperiale	Barbara A. Murphy Gerald M. Gorski  Kenneth E. Masick

***Audit Committee***

Our Board has established an Audit Committee comprised of Messrs. Beard, Gauvreau, and Masick. Mr. Gauvreau serves as the Chair of the Audit Committee and qualifies as an audit committee financial expert under the applicable SEC rules. Each of the members of the Audit Committee satisfies the definition of independent director under the NYSE's listing standards. The Audit Committee operates under a written charter approved by the Board of Directors.

The Audit Committee is responsible for the engagement of our independent registered public accounting firm, reviewing the plans and results of the audit engagement with our independent registered public accounting firm, approving services performed by, and the independence of, our independent registered public accounting firm, considering the range of audit and non-audit fees, and consulting with our independent registered public accounting firm regarding the adequacy of our internal accounting controls.

***Executive Compensation Committee***

Our Board has established an Executive Compensation Committee comprised of Mr. Catalano, Mr. Imperiale, Ms. Gujral and Ms. Murphy. Mr. Catalano serves as the chair of the Executive Compensation Committee. Each of the members of the Executive Compensation Committee satisfies the definition of independent under the NYSE's listing standards, other than Ms. Gujral. The Executive Compensation Committee operates under a written charter approved by the Board of Directors.

The Executive Compensation Committee makes recommendations to our Board concerning compensation policies and programs, including salaries and incentive compensation, for our executive officers, and administers our employee benefit plans. The Executive Compensation Committee has not delegated its authority to others. It is likely that our chief executive officer will provide input into executive compensation decisions. We did not hire a compensation consultant to assist the Executive Compensation Committee in determining compensation for 2011.

## **Table of Contents**

### ***Nominating and Corporate Governance Committee***

Our Board has established a Nominating and Corporate Governance Committee, or Nominating Committee comprised of Messrs. Gorski, Imperiale and Masick. Mr. Imperiale serves as the chair of the Nominating Committee. Each of the Members of the Nominating Committee satisfies the definition of independent under the NYSE's listing standards. The Nominating Committee operates under a written charter approved by the Board of Directors.

The Nominating Committee identifies possible director nominees (whether through a recommendation from a shareholder or otherwise), and makes initial determinations as to whether to conduct a full evaluation of the candidate(s). This initial determination is based on the information provided to the Nominating Committee when the candidate is recommended, the Nominating Committee's own knowledge of the prospective candidate and information, if any, obtained by the Nominating Committee's inquiries. The preliminary determination is based primarily on the need for additional Board members to fill vacancies, expand the size of the Board of Directors or obtain representation in market areas without Board representation and the likelihood that the candidate can satisfy the evaluation factors described below. If the members of the Nominating Committee determine that additional consideration is warranted, the Nominating Committee may gather additional information about the candidate's background and experience. The members of the Nominating Committee then evaluate the prospective nominee against the following standards and qualifications:

achievement, experience and independence;

wisdom, integrity and judgment;

understanding of the business environment; and

willingness to devote adequate time to Board duties.

The members of the Nominating Committee also consider such other relevant factors as they deem appropriate, including the current composition of the Board, the need for audit committee or other expertise and the evaluations of other candidates. In connection with this evaluation, the members of the Nominating Committee determine whether to interview the candidate. If the members of the Nominating Committee decide that an interview is warranted, one or more of those members, and others as appropriate, interview the candidate in person or by telephone. After completing this evaluation and interview, the full Board would nominate such candidates for election.

### **Guidelines on Corporate Governance and Code of Business Conduct and Ethics**

Our board of directors, upon the recommendation of the Nominating and Corporate Governance Committee, has adopted guidelines on corporate governance establishing a common set of expectations to assist the board of directors in performing its responsibilities. The corporate governance policies and guidelines address a number of topics, including, among other things, director qualification standards, director responsibilities, the responsibilities and composition of the board committees, director access to management and independent advisors, director compensation, management succession and evaluations of the performance of the board. Prior to the completion of this offering, we intend to amend our corporate governance policies and guidelines to comply with the requirements of the NYSE's listing standards. Our board of directors also has adopted a code of business conduct and ethics, which includes a conflicts of interest policy that applies to all of our directors and executive officers. The Code of Business Conduct and Ethics meets the requirements of a code of ethics as defined by the rules and regulations of the SEC.



## **Table of Contents**

### **Executive Compensation**

The following discussion and analysis is set forth with respect to the compensation and benefits for the Company's Chief Executive Officer and Chief Financial Officer and the other three officers included in the Summary Executive Compensation Table included herein (together, the Company's Named Executive Officers) for the Company's fiscal year ended December 31, 2011 (fiscal 2011).

### ***Compensation Committee Members, Independence and Responsibility***

The compensation and benefits payable to the Named Executive Officers are established by the Board with the assistance of the Executive Compensation Committee of the Board (the Committee). The Committee is currently comprised of Frank A. Catalano, Jr. (Chairman), Brenda G. Gujral, Richard P. Imperiale, and Barbara A. Murphy. Each of Messrs. Catalano and Imperiale and Ms. Murphy (but not Ms. Gujral) is (i) an independent director within the meaning of the NYSE's listing standards, (ii) a non-employee director within the meaning of Rule 16b-3 of the Securities Exchange Act of 1934, as amended, and (iii) an outside director within the meaning of the regulations promulgated pursuant to Section 162(m) of the Code.

The Committee operates under a written charter adopted by the Board. Pursuant to its charter, the Committee is charged with reviewing and approving the Company's compensation philosophy and is responsible for assuring that the officers and key management personnel of the Company and its subsidiaries are effectively compensated in terms that are motivating, internally equitable and externally competitive. Pursuant to its charter, the Committee's function is to:

review (in consultation with management or the Board), recommend to the Board for approval and evaluate the compensation plans, policies and programs of the Company, especially those regarding executive compensation;

determine the compensation of the chief executive officer and all other executive officers of the Company; and

produce an annual report on executive compensation for inclusion in the Company's proxy materials in accordance with applicable rules and regulations.

### ***Objectives and Structure of Our Compensation Program***

The primary objectives of our executive compensation programs are: (i) to attract, retain and reward experienced, highly-motivated executives who are capable of leading us effectively and contributing to our long-term growth and profitability, (ii) to motivate and direct the performance of management with clearly-defined goals and measures of achievement, and (iii) to align the interests of management with the interests of our shareholders.

We attempt to achieve our objectives through offering the opportunity to earn a combination of cash and equity-based compensation to provide appropriate incentives for our executives. Executive officers are eligible to receive a combination of (i) annual base salary, (ii) annual cash incentive compensation, and (iii) equity grants under our Stock Incentive Plan. Each of the Named Executive Officers participates in the same benefits programs available to all of our employees: health and dental insurance; group term life insurance; short-term disability coverage; and tax-qualified 401(k) plan. The Company does not provide additional perquisites to the Named Executive Officers.

**Table of Contents**

As part of its efforts, the Committee set the objectives of our compensation program. In 2008, the Committee informally compared compensation against peer group data to gain a sense of market compensation, but no benchmarking was used. The peer group selected by the Committee consisted of the following nine publicly-traded REITs with a substantial retail shopping center portfolio:

Developers Diversified Realty Corporation	Inland Real Estate Corporation
Regency Centers Corporation	Kimco Realty Corporation
Cedar Shopping Centers, Inc.	Ramco-Gershenson Properties Trust
Equity One, Inc.	Weingarten Realty Investments
Federal Realty Investment Trust	

For 2009 and 2010, none of the management team, other than Mr. Grimes, had an increase in base salary over the 2008 amounts. The 2011 base salary increases for the management team were determined by the Committee and approved by the Board. The Committee did not use peer benchmarking and did not engage a compensation consultant to determine the 2011 increases.

***2011 Executive Compensation***

In fiscal 2011, the Committee considered a combination of base salary, cash incentive compensation, equity awards and other benefits to meet its compensation objectives. The proportions of these elements were determined by the Committee in its discretion, considering, among other things, The Committee's understanding of prevailing practices in the marketplace and the historical compensation by the Company of the Company's Named Executive Officers. In establishing base salaries and incentive compensation targets for 2011, the Committee considered present compensation, market competitiveness in relation to the Company's performance and capital structure, the roles, responsibilities and performance of each of the Named Executive Officers, the contribution of each of the Named Executive Officers to the Company's business, an analysis of job requirements, and the prior experience and accomplishments of each of the Named Executive Officers. For incentive compensation for 2011, the Committee established a program utilizing pre-established corporate and individual performance measures. Under the program, each Named Executive Officer has the opportunity to receive up to a specified dollar amount of restricted stock based on the achievement of these performance measures, as described in more detail below. The Committee believes that incentive compensation tied to appropriate pre-established performance measures allows the Committee to incentivize the Named Executive Officers to achieve specific goals that the Committee believes are important to the Company's overall success and achievement of its strategic goals and directly reward the achievement of these goals. The Committee also believes that supplementing base salary with incentive compensation assists the Company's efforts to retain outstanding executive officers. Finally, the Committee views the granting of restricted stock as a means of aligning management and shareholder interests, providing incentives and rewarding management's long-term perspective, and retaining the services of the Named Executive Officers.

We increased the annual base salaries for the Named Executive Officers, effective January 1, 2011. Among other reasons, the Board made these adjustments as none of the management team, other than Mr. Grimes, had an increase in base salary during the period from January 1, 2008 through January 1, 2011, the effective date of such adjustments, despite undertaking increased workloads due to the economic recession and the reallocation of duties of the Company's previous President and Chief Executive Officer, who resigned in 2009. The incentive compensation arrangement for the management team is such that awards, if any, will be made in shares of common stock of the Company rather than cash, if certain goals are achieved. Additionally, on May 10, 2011, the Board of Directors awarded, as a supplement to the executive bonus program, a one-time, nominal award of \$20,000 in cash to each of the Named Executive Officers as a discretionary bonus for 2011.

In determining overall compensation for each Named Executive officer for fiscal 2011, the Committee generally considered a number of factors on a subjective basis, including, but not limited to, (i) the scope of the officer's responsibilities within the Company; (ii) the experience of the officer within our industry and at the Company; (iii) performance of the Named Executive Officer and his or her contribution to the Company; (iv) the

## Table of Contents

Company's financial budget and general wage level throughout the Company for fiscal 2011; (v) a review of historical compensation information for the individual officer; (vi) a subjective determination of the compensation needed to motivate and retain that individual; (vii) the recommendations of the Chief Executive Officer (and the recommendation of the Chairman of the Board with respect to the Chief Executive Officer); and (viii) general industry and market conditions and their impact upon the ability of the Company to achieve objective performance goals and the time commitment required of the Named Executive Officers.

**Steven P. Grimes.** For 2011, Mr. Grimes, our President and Chief Executive Officer received a base salary of \$525,000 and a cash bonus of \$20,000. In addition, he has the opportunity to receive up to \$262,500 of restricted stock based upon the achievement of 2011 corporate and individual performance goals. On December 13, 2011, the Board approved an annual base salary of \$525,000 for Mr. Grimes, effective January 1, 2012. In addition, he has the opportunity to receive up to \$262,500 of restricted stock based upon the achievement of 2012 corporate and individual performance goals.

**Niall J. Byrne.** For 2011, Mr. Byrne, our Executive Vice President and President of Property Management, received a base salary of \$275,000 and a cash bonus of \$20,000. In addition, he has the opportunity to receive up to \$68,750 of restricted stock based upon the achievement of 2011 corporate and individual performance goals. On December 13, 2011, the Board increased the annual base salary for Mr. Byrne to \$300,000, effective January 1, 2012. In addition, he has the opportunity to receive up to \$75,000 of restricted stock based upon the achievement of 2012 corporate and individual performance goals.

**Shane C. Garrison.** For 2011, Mr. Garrison, our Executive Vice President, Chief Operating Officer and Chief Investment Officer, received a base salary of \$350,000 and a cash bonus of \$20,000. In addition, he has the opportunity to receive up to \$87,500 of restricted stock based upon the achievement of 2011 corporate and individual performance goals. On December 13, 2011, the Board increased the annual base salary for Mr. Garrison to \$385,000, effective January 1, 2012. In addition, he has the opportunity to receive up to \$96,250 of restricted stock based upon the achievement of 2012 corporate and individual performance goals.

**Dennis K. Holland.** For 2011, Mr. Holland, our Executive Vice President, General Counsel and Secretary, received a base salary of \$325,000 and a cash bonus of \$20,000. In addition, he has the opportunity to receive up to \$81,250 of restricted stock based upon the achievement of 2011 corporate and individual performance goals. On December 13, 2011, the Board increased the annual base salary for Mr. Holland to \$335,000, effective January 1, 2012. In addition, he has the opportunity to receive up to \$83,750 of restricted stock based upon the achievement of 2012 corporate and individual performance goals.

For 2011, the number of shares of restricted stock that will be awarded to each Named Executive Officer will be calculated by dividing the value of the incentive compensation earned by the Named Executive Officer by the fair value of our common stock as determined by the Board of Directors or the Committee on the date the Committee determines whether the corporate and individual performance measures for the incentive compensation have been achieved. Each of the Named Executive Officers will earn 50% of his incentive compensation if two corporate performance measures, a target leased rate of 90% for the retail operating portfolio for 2011 and target amount of cash flows from operations of \$175 million (rounded) for the year ended December 31, 2011, are achieved. Each of the Named Executive Officers is eligible to receive the remaining 50% of his incentive compensation based upon pre-established individual performance goals as determined by the Committee. Under the executive incentive compensation program, 50% of any restricted stock grants to the executives will fully vest on each of the third and fifth anniversaries of the date that the Committee determines whether the corporate and individual performance measures for the incentive compensation have been achieved.

At our 2011 annual meeting, the compensation paid to our Named Executive Officers, as disclosed in our proxy statement for the 2011 annual meeting, including the Compensation Discussion and Analysis, compensation tables and narrative discussions, was approved by our shareholders, with more than 91% of the votes cast on the proposal being voted in favor of the proposal to approve such compensation. Accordingly, the

**Table of Contents**

Committee did not implement changes to our executive compensation program as a result of the shareholder advisory vote. In addition, we asked shareholders to select the frequency with which to hold future advisory votes on the compensation of the Named Executive Officers. More than 92% of the votes cast on the proposal selected an annual vote. Accordingly, we intend to hold an advisory vote on executive compensation on an annual basis.

**2011 Summary Executive Compensation Table**

The following table sets forth information with respect to all compensation paid or earned for services rendered to us by the Named Executive Officers for the years ended December 31, 2011, 2010 and 2009.

**Summary Compensation Table**

Name and Principal Position	Year	Salary(\$)	Bonus(\$)	Stock Awards(\$)	All Other Compensation <sup>(1)</sup> (\$)	Total(\$)
Steven P. Grimes President and Chief Executive Officer and former Chief Financial Officer and Treasurer <sup>(4)</sup>	2011	525,000	20,000	375,000 <sup>(2)</sup>	1,000	921,000
	2010	450,000		<sup>(3)</sup>		450,000
	2009	375,000			2,000	377,000
Niall J. Byrne Executive Vice President and President of Property Management	2011	275,000	20,000	81,250 <sup>(2)</sup>	1,000	377,250
	2010	250,000		<sup>(3)</sup>		250,000
	2009	250,000			2,000	252,000
Shane C. Garrison Executive Vice President, Chief Operating Officer and Chief Investment Officer <sup>(5)</sup>	2011	350,000	20,000	100,000 <sup>(2)</sup>		470,000
	2010	250,000		<sup>(3)</sup>		250,000
	2009	250,000			2,000	252,000
Dennis K. Holland Executive Vice President, General Counsel and Secretary	2011	325,000	20,000	114,375 <sup>(2)</sup>	1,000	460,375
	2010	265,000		<sup>(3)</sup>		265,000
	2009	265,000	26,500		2,000	293,500

(1) Represents company match to 401(k) plan.

(2) The amounts reported are based on the probable outcome of the applicable corporate and individual performance measures under the 2011 executive incentive compensation program as of the service inception date for accounting purposes. Management believes it is probable that each Named Executive Officer will receive the entire amount of restricted stock awards available. In addition, amounts include restricted stock awards granted on April 12, 2011 related to the individual performance portion of the 2010 executive incentive compensation program as follows: Mr. Grimes \$112,500; Mr. Byrne \$12,500; Mr. Garrison \$12,500 and Mr. Holland \$33,125.

(3) The amounts reported are based on the probable outcome of the applicable corporate performance measures under the 2010 executive incentive compensation program as of the service inception date for accounting purposes. If the applicable corporate performance measures had been achieved for these restricted stock awards, the fair value of the portion of the restricted stock awards that is based on achieving the applicable corporate performance measures would have been as follows for each of the Named Executive Officers: Mr. Grimes \$112,500; Mr. Byrne \$50,000; Mr. Garrison \$50,000 and Mr. Holland \$33,125. Mr. Garrison achieved his applicable corporate performance measures and received restricted stock of \$50,000. The remaining Named Executive Officers did not achieve their applicable corporate performance measures and, as such, received no restricted stock.

(4) Mr. Grimes was Chief Financial Officer and Treasurer during all of 2011.

(5) Mr. Garrison became Chief Operating Officer on January 1, 2012.

**Table of Contents****2011 Grants of Plan-Based Awards**

The following table sets forth certain information with respect to grants of plan-based awards made during the year ended December 31, 2011 to our Named Executive Officers.

Name	Grant Date	Estimated Possible Payouts Under Equity Incentive Plan Awards Target (\$) <sup>(1)(2)</sup>	All Other Stock Awards: Number of Shares of Stock or Units (#)	Grant Date Fair Value of Stock and Option Awards (\$)
Steven P. Grimes	April 12, 2011	n/a	6,569	112,500 <sup>(3)</sup>
	October 11, 2011 <sup>(4)</sup>	262,500		262,250 <sup>(5)</sup>
Niall J. Byrne	April 12, 2011	n/a	730	12,500 <sup>(3)</sup>
	October 11, 2011 <sup>(4)</sup>	68,750		68,750 <sup>(5)</sup>
Shane C. Garrison	April 12, 2011	n/a	730	12,500 <sup>(3)</sup>
	October 11, 2011 <sup>(4)</sup>	87,500		87,500 <sup>(5)</sup>
Dennis K. Holland	April 12, 2011	n/a	1,934	33,125 <sup>(3)</sup>
	October 11, 2011 <sup>(4)</sup>	81,250		81,250 <sup>(5)</sup>

- (1) The number of shares of restricted stock that will be awarded related to the October 11, 2011 grant date will be calculated by dividing the value of the incentive compensation earned by the fair value of our common stock as determined by the Board of Directors or the Committee on the date the Committee determines whether the corporate and individual performance measures for the incentive compensation have been achieved.
- (2) The corporate and individual performance measures are specific targets and do not provide for threshold or maximum amounts. Accordingly, no threshold or maximum columns have been included in the table.
- (3) Represents restricted stock granted related to the individual performance portion of the 2010 executive incentive compensation program. The number of restricted shares awarded was calculated by dividing the value of the incentive compensation earned by the fair value of our common stock as determined by the Board of Directors on the date the awards were granted, which was \$17.125 per share. The awards have vesting provisions whereby 50% of the awards vest three years and 50% of the awards vest five years after the grant date, subject to continued employment through such date.
- (4) Represents awards under the 2011 executive incentive compensation program that may be earned based on achievement of corporate and individual performance measures. For purposes of this table, the date reported represents the service inception date for accounting purposes.
- (5) The amounts reported are based on the probable outcome of the applicable corporate and individual performance measures as of the service inception date for accounting purposes.

**Table of Contents****Outstanding Equity Awards at 2011 Fiscal Year-End**

The following table sets forth certain information with respect to outstanding equity awards at December 31, 2011, with respect to our Named Executive Officers.

Name	Number of Shares or Units of Stock		Stock Awards
	That Have Not Vested (#)		Market Value of Shares or Units of Stock That Have Not Vested (\$) <sup>(1)</sup>
Steven P. Grimes	6,569 <sup>(2)</sup>	15,108 <sup>(3)</sup>	114,140
Niall J. Byrne	730 <sup>(2)</sup>	3,957 <sup>(3)</sup>	12,684
Shane C. Garrison	3,650 <sup>(2)</sup>	5,036 <sup>(3)</sup>	68,750
Dennis K. Holland	1,934 <sup>(2)</sup>	4,676 <sup>(3)</sup>	63,419
			87,500
			33,610
			81,250

(1) For purposes of this table, a market value of \$17.375 per share was used.

(2) These amounts included the awards that were granted on April 12, 2011 in conjunction with the 2010 executive bonus program. The awards have vesting provisions whereby 50% of the awards vest on April 12, 2014 and 50% of the awards vest on April 12, 2016, subject to continued employment through such dates.

(3) These amounts include the potential restricted stock bonuses under the 2011 executive incentive compensation program based on achieving the applicable corporate and individual performance measures. The Committee has not made a determination whether the corporate and individual performance measures for the 2011 executive incentive compensation program have been achieved. The vesting provisions for restricted stock awards granted, if any, will be that 50% of the awards will vest three years after grant date and 50% of the awards will vest five years after grant date, subject to continued employment through such dates.

All outstanding unvested award shares shall become 100% vested upon the occurrence of a change in control, as defined in the 2008 Long-Term Equity Compensation Plan. As a result, if a change in control occurred as of December 31, 2011, the Named Executive Officers would have vested in all of the stock awards set forth above with the market values as set forth above.

**Employment Agreements**

We do not have any employment agreements with any Named Executive Officers.

**Equity Plans****2008 Long-Term Equity Compensation Plan**

We currently maintain the 2008 Long-Term Equity Compensation Plan, which we refer to as the 2008 Equity Plan, under which officers and key employees are eligible to receive equity compensation.

**Administration**

The 2008 Equity Plan is administered by the Executive Compensation Committee of the Board of Directors.

**Eligibility**

Our officers and key employees, and those of our subsidiaries, are eligible to participate in the 2008 Equity Plan.



## **Table of Contents**

### *Stock Available for Issuance Through the 2008 Equity Plan*

The 2008 Equity Plan provides for a number of forms of stock based compensation, as further described below. Up to 4,000,000 shares of our common stock, divided equally among our Class A Common Stock, Class B-1 Common Stock, Class B-2 Common Stock and Class B-3 Common Stock, are authorized for issuance through the 2008 Equity Plan. Shares issued under the 2008 Equity Plan may be either authorized but unissued shares, treasury shares, or any combination thereof. Provisions in the 2008 Equity Plan permit the reuse or reissuance by the 2008 Equity Plan of shares of common stock underlying canceled, expired, or forfeited awards of stock based compensation.

Shares of our Class B Common Stock will convert automatically into shares of our Class A Common Stock at specified times. Upon the conversion of each class of Class B Common Stock, the number of shares of Class A Common Stock authorized for issuance under the 2008 Equity Plan will increase by the number of shares of Class B Common Stock that had been authorized for issuance under the 2008 Equity Plan but had not been issued prior to such conversion; however, the total number of shares of common stock authorized for issuance under the 2008 Equity will remain at 4,000,000 shares.

Stock based compensation is typically issued in consideration for the performance of services to us. At the time of exercise, the full exercise price for a stock option must be paid in cash or, if the Executive Compensation Committee so provides, in shares of common stock, by cashless exercise or by any other means designated by the Executive Compensation Committee.

### *Description of Awards under the Plan*

The Executive Compensation Committee may award to eligible employees incentive and nonqualified stock options, stock appreciation rights, restricted stock, and performance units/performance shares. As separately described below under Performance Measures, the Executive Compensation Committee may also grant awards subject to satisfaction of specific performance goals. The forms of awards are described in greater detail below.

*Stock Options.* The Executive Compensation Committee has discretion to award incentive stock options, or ISOs, which are intended to comply with Section 422 of the Internal Revenue Code, or nonqualified stock options, or NQSOs, which are not intended to comply with Section 422 of the Internal Revenue Code. Each option issued under the 2008 Equity Plan must be exercised within a period of ten years from the date of the grant, and the exercise price of an option may not be less than the fair market value of the underlying shares of Class A Common Stock on the date of grant. If an award of stock options or stock appreciation rights is intended to qualify as performance based compensation under Internal Revenue Code Section 162(m), the maximum number of shares which may be subject to stock options with or without tandem stock appreciation rights, or freestanding stock appreciation rights, granted in any calendar year to any one participant is 40,000. Subject to the specific terms of the 2008 Equity Plan, the Executive Compensation Committee has discretion to set such additional limitations on such grants as it deems appropriate.

Options granted to employees under the 2008 Equity Plan expire at such times as the Executive Compensation Committee determines at the time of the grant; provided, however, that no option is exercisable later than ten years from the date of grant. Each option award agreement sets forth the extent to which the participant has the right to exercise the option following termination of the participant's employment with us. The termination provisions are determined within the discretion of the Executive Compensation Committee, may not be uniform among all participants and may reflect distinctions based on the reasons for termination of employment.

Upon the exercise of an option granted under the 2008 Equity Plan, the option price is payable in full to us, either: (a) in cash or its equivalent, or (b) if permitted in the award agreement, by tendering shares having a fair market value at the time of exercise equal to the total option price (provided such shares have been held for at least six months prior to their tender), (c) by withholding shares which otherwise would be acquired on exercise



## **Table of Contents**

having a fair market value at the time of exercise equal to the total option price, (d) by promissory note, or (e) any combination of the foregoing methods of payment. The Executive Compensation Committee may also allow options granted under the 2008 Equity Plan to be exercised by a cashless exercise, as permitted under Federal Reserve Board Regulation T, or any other means the Executive Compensation Committee determines to be consistent with the 2008 Equity Plan's purpose and applicable law.

*Stock Appreciation Rights.* The Executive Compensation Committee may also award stock appreciation rights, or SARs, under the 2008 Equity Plan upon such terms and conditions as it shall establish. The exercise price of a freestanding SAR equals the fair market value of a share of common stock on the date of grant while the exercise price of a tandem SAR issued in connection with a stock option equals the option price of the related option. If an award of SARs is intended to qualify as performance based compensation under Internal Revenue Code Section 162(m), the maximum number of shares which may be subject to SARs is described above under Stock Options.

*Restricted Stock.* The Executive Compensation Committee also may award shares of restricted common stock under the 2008 Equity Plan upon such terms and conditions as it shall establish. If an award of restricted stock is intended to qualify as performance based compensation under Internal Revenue Code Section 162(m), the maximum number of shares which may be granted in the form of restricted stock in any one calendar year to any one participant is 20,000. The award agreement specifies the period(s) of restriction, the number of shares of restricted common stock granted, restrictions based upon continued service or the achievement of specific performance objectives and/or restrictions under applicable federal or state securities laws. Although recipients may have the right to vote these shares from the date of grant, they do not have the right to sell or otherwise transfer the shares during the applicable period of restriction or until earlier satisfaction of other conditions imposed by the Executive Compensation Committee in its sole discretion. Participants may receive dividends on their shares of restricted stock.

Each award agreement for restricted stock sets forth the extent to which the participant will have the right to retain unvested restricted stock following termination of the participant's employment with us. These provisions are determined in the sole discretion of the Executive Compensation Committee, need not be uniform among all shares of restricted stock issued pursuant to the 2008 Equity Plan and may reflect distinctions based on reasons for termination of employment.

*Performance Units/Shares.* The Executive Compensation Committee has the discretion to award performance units and performance shares under the 2008 Equity Plan upon such terms and conditions as it shall establish. If an award of performance units or performance shares is intended to qualify as performance based compensation under Internal Revenue Code Section 162(m), the maximum aggregate payout for awards of performance units or performance shares which may be granted in any one calendar year to any one participant is limited to the fair market value of 20,000 shares of common stock. Each performance share has an initial value equal to one share of common stock. The payout on the number and value of the performance units and performance shares is a function of the extent to which corresponding performance goals are met.

### *Performance Measures*

The Executive Compensation Committee may grant awards under the 2008 Equity Plan to eligible employees subject to the attainment of certain specified performance measures. The number of performance based awards granted to an officer or key employee in any year is determined by the Executive Compensation Committee in its sole discretion.

The value of each performance based award is determined solely upon the achievement of certain preestablished objective performance goals during each performance period. The duration of a performance period is set by the Executive Compensation Committee. A new performance period may begin every year, or at more frequent or less frequent intervals, as determined by the Executive Compensation Committee.

## **Table of Contents**

The value of performance based awards may be based on absolute measures or on a comparison of our financial measures during a performance period to the financial measures of a group of competitors. The performance measures are net income either before or after taxes, market share, customer satisfaction, profits, share price, earnings per share, total shareholder return, return on assets, return on equity, operating income, return on capital or investments, and economic value added.

The Executive Compensation Committee determines the objective performance goals applicable to the valuation of performance based awards granted in each performance period, the performance measures which are used to determine the achievement of those performance goals, and any formulas or methods used to determine the value of the performance based awards.

Following the end of a performance period, the Executive Compensation Committee determines the value of the performance based awards granted for the period based on the attainment of the pre-established objective performance goals. The Executive Compensation Committee also has discretion to reduce (but not to increase) the value of a performance based award.

The Executive Compensation Committee certifies, in writing, that the award is based on the degree of attainment of the preestablished objective performance goals. As soon as practicable thereafter, payment of the awards to employees, if any, is made in the form of shares of common stock or cash, as applicable.

### *Conditions to Award Payments*

All rights of a participant under any award under the 2008 Equity Plan will cease on and as of a date on which it is determined by the Executive Compensation Committee that a participant acted in a manner inimical to our best interests. Participants who terminate employment with us for any reason other than death while any award under the 2008 Equity Plan remains outstanding, receive such shares or benefit only if, during the entire period from his or her date of termination to the date of such receipt, the participant (i) consults and cooperates with us on matters under his or her supervision during the participant's employment, and (ii) refrains from engaging in any activity that is directly or indirectly in competition with any activity of ours. In the event a participant fails to comply with such requirement, the participant's rights under any outstanding award are forfeited unless otherwise provided by us.

### *Adjustment and Amendments*

The 2008 Equity Plan provides for appropriate adjustments in the number of shares of common stock subject to awards and available for future awards in the event of changes in outstanding common stock by reason of a merger, stock split, or certain other events.

The 2008 Equity Plan may be modified or amended by the Board at any time and for any purpose which the Board deems appropriate. However, an amendment adversely affecting any outstanding awards requires the affected holder's consent.

### *Change in Control*

In the event of a change in control, all options and SARs granted under the 2008 Equity Plan will become immediately exercisable, restriction periods and other restrictions imposed on restricted stock which is not performance-based will lapse, and the target payout opportunities attainable under all outstanding awards of performance-based restricted stock, performance shares and performance units will be deemed to have been fully earned for the entire performance period as of the effective date of the change in control. The vesting of such awards will be accelerated.

## **Table of Contents**

### *Nontransferability*

No derivative security (including, without limitation, options) granted pursuant to, and no right to payment under, the 2008 Equity Plan is assignable or transferable by a participant except by will or by the laws of descent and distribution, and any option or similar right will be exercisable during a participant's lifetime only by the participant or by the participant's guardian or legal representative. These limitations may be waived by the Executive Compensation Committee, subject to restrictions imposed under the SEC's short swing trading rules and federal tax requirements relating to incentive stock options.

### *Duration of the Plan*

The 2008 Equity Plan will remain in effect until all options and rights granted thereunder have been satisfied or terminated pursuant to the terms of the plan, and all performance periods for performance based awards granted thereunder have been completed. However, in no event will an award be granted under the 2008 Equity Plan on or after May 13, 2018.

### *Independent Director Stock Option Plan*

We have an Independent Director Stock Option Plan under which non-employee directors, as defined under Rule 16b-3 of the Exchange Act, are eligible to participate. Only those directors who are not employees of The Inland Group, Inc. or its affiliates are eligible to participate in this plan.

### *Stock Available for Issuance*

A total of 150,000 shares of our common stock divided equally among our Class A Common Stock, Class B-1 Common Stock, Class B-2 Common Stock and Class B-3 Common Stock, are authorized and reserved for issuance under our Independent Director Stock Option Plan. The number and type of shares which could be issued under the plan may be adjusted if we are the surviving entity after a reorganization or merger or if our stock splits or is consolidated or we are recapitalized. If this occurs, the exercise price of the options will be correspondingly adjusted.

Shares of our Class B Common Stock will convert automatically into shares of our Class A Common Stock at specified times. Upon the conversion of each class of Class B Common Stock, the number of shares of Class A Common Stock authorized for issuance under our Independent Director Stock Option Plan will increase by the number of shares of Class B Common Stock that had been authorized for issuance thereunder but had not been issued prior to such conversion; however, the total number of shares of common stock authorized for issuance under the Independent Director Stock Option Plan will remain at 150,000 shares.

### *Description of Option Awards*

Each non-employee director is entitled to be granted an option under our Independent Director Stock Option Plan to acquire 2,000 shares as of the date he or she initially becomes a director. In addition, each non-employee director is entitled to be granted an option to acquire 2,000 shares on the date of each annual shareholders' meeting, so long as the director remains a member of the Board on such date. All such options are granted at the fair market value of a share on the last business day preceding the date of each annual shareholders' meeting and become fully exercisable on the second anniversary of the date of grant.

Options granted under the Independent Director Stock Option Plan are exercisable until the first to occur of:

the tenth anniversary of the date of grant,

the removal for cause of the director as a director, or

three months following the date the director ceases to be a director for any other reason except death or disability.



## **Table of Contents**

The options may be exercised by payment of cash or through the delivery of our common stock. They are generally exercisable in the case of death or disability for a period of one year after death or the disabling event, provided that the death or disabling event occurs while the person is a director. However, if the option is exercised within the first six months after it becomes exercisable, any shares issued pursuant to such exercise may not be sold until the six month anniversary of the date of the grant of the option. Notwithstanding any other provisions of the Independent Director Stock Option Plan to the contrary, no option issued pursuant thereto may be exercised if such exercise would jeopardize our status as a REIT under the Code.

### *Nontransferability*

No option may be sold, pledged, assigned or transferred by a director in any manner otherwise than by will or by the laws of descent or distribution.

### *Change in Control*

Upon our dissolution, liquidation, reorganization, merger or consolidation as a result of which we are not the surviving corporation, or upon sale of all or substantially all of our property, the Independent Director Stock Option Plan will terminate, and any outstanding unexercised options will terminate and be forfeited. However, holders of options may exercise any options that are otherwise exercisable immediately prior to the dissolution, liquidation, reorganization, merger or consolidation. Additionally, our Board may provide for any or all of the following alternatives:

for the assumption by the successor corporation of the options previously granted or the substitution by the corporation for the options covering the stock of the successor corporation, or a parent or subsidiary thereof, with appropriate adjustments as to the number and kind of shares and exercise prices;

for the continuance of the Independent Director Stock Option Plan by such successor corporation in which event the Independent Director Stock Option Plan and the options will continue in the manner and under the terms so provided; or

for the payment in cash or common stock in lieu of and in complete satisfaction of the options.

## **Director Compensation**

### *Cash Compensation*

During 2011, each director (other than Ms. Gujral and Mr. Grimes, who are not entitled to receive any compensation from the Company for their service on the Board of Directors or any of its committees) received an annual director fee of \$50,000. The independent chairman of the Board of Directors receives an additional annual fee of \$25,000, the chairman of the Audit Committee receives an additional annual fee of \$10,000, and the chairmen of the Executive Compensation Committee and the Nominating and Corporate Governance Committee receive an additional annual fee of \$5,000. The annual fee for the chairmen of the Executive Compensation Committee and the Nominating and Corporate Governance Committee increased to \$10,000 on January 1, 2012. In addition, each director receives \$1,000 for attending in person or \$750 for attending via telephone, each meeting of the Board, and \$500 for attending, whether in person or via telephone, each committee meeting. Members of a special committee formed to evaluate two transactions with a related party received \$1,000 for attending each meeting, whether in person or via telephone, of the special committee.

### *Equity Compensation*

Each non-employee director is entitled to be granted an option under our Independent Director Stock Option Plan to acquire 2,000 shares as of the date he or she initially becomes a director. In addition, each non-employee director is entitled to be granted an option to acquire 2,000 shares on the date of each annual shareholders' meeting, so long as the director remains a member of the Board on such date. All such options are granted at the



**Table of Contents**

fair market value of a share on the last business day preceding the date of each annual shareholders' meeting and become fully exercisable on the second anniversary of the date of grant.

Options granted under the Independent Director Stock Option Plan are exercisable until the first to occur of:

the tenth anniversary of the date of grant,

the removal for cause of the director as a director, or

three months following the date the director ceases to be a director for any other reason except death or disability.

The options may be exercised by payment of cash or through the delivery of our common stock. They are generally exercisable in the case of death or disability for a period of one year after death or the disabling event, provided that the death or disabling event occurs while the person is a director. However, if the option is exercised within the first six months after it becomes exercisable, any shares issued pursuant to such exercise may not be sold until the six month anniversary of the date of the grant of the option. Notwithstanding any other provisions of the Independent Director Stock Option Plan to the contrary, no option issued pursuant thereto may be exercised if such exercise would jeopardize our status as a REIT under the Code.

**2011 Director Compensation Table**

The following table sets forth a summary of the compensation we paid to our directors during 2011:

Name	Fees Earned or Paid in Cash (\$)	Option Awards (\$) <sup>(1) (2)</sup>	Total (\$)
Paul R. Gauvreau	74,000	8,943	82,943
Gerald M. Gorski	89,750	8,943	98,693
Frank A. Catalano, Jr.	72,250	8,943	81,193
Barbara A. Murphy	63,750	8,943	72,693
Kenneth H. Beard	64,250	8,943	73,193
Richard P. Imperiale	74,500	8,943	83,443
Kenneth E. Masick	67,000	8,943	75,943
Brenda G. Gujral <sup>(3)</sup>			
Steven P. Grimes <sup>(3)</sup>			

(1) As of December 31, 2011, each of the directors other than Ms. Gujral and Murphy and Mr. Grimes held unexercised options to purchase 2,500 shares of Class A Common Stock and 7,500 shares of Class B Common Stock. As of December 31, 2011, Ms. Murphy held unexercised options to purchase 2,350 shares of Class A Common Stock and 7,050 shares of Class B Common Stock and Ms. Gujral and Mr. Grimes held no unexercised options.

(2) The option awards were valued using the Black-Scholes option pricing model and the following assumptions: expected term of options 5 years, expected volatility 30%, expected dividend yield 3.56% and risk-free interest rate 1.14%.

(3) Ms. Gujral and Mr. Grimes do not receive any fees or other remuneration for serving as directors.

**Compensation Committee Interlocks and Insider Participation**

During 2011, the members of the Executive Compensation Committee consisted of Frank A. Catalano, Jr. (chair), Brenda G. Gujral, Richard P. Imperiale and Barbara A. Murphy. Brenda G. Gujral served as our Chief Executive Officer until November 15, 2007. Additionally, we are required to disclose certain relationships and related transactions with Ms. Gujral. See Certain Relationships and Related Transactions. None of the other members of the Executive Compensation Committee has any relationship with us requiring disclosure under applicable rules and regulations of the SEC. No other member of our Executive Compensation Committee is a current or former officer or employee of ours or any of our subsidiaries. None of our named executive officers serves as a member of the board of directors or compensation committee of any company

that has one or more of its executive officers serving as a member of our board of directors or Executive Compensation Committee.



**Table of Contents****PRINCIPAL STOCKHOLDERS**

The following table sets forth information as of March 2, 2012, after giving effect to the Recapitalization, regarding the number and percentage of shares beneficially owned by: (i) each director; (ii) each named executive officer; (iii) all directors and executive officers as a group; and (iv) any person known to us to be the beneficial owner of more than 5% of our outstanding shares. The percent of the Class A Common Stock, Class B Common Stock and total common stock before this offering is based on 48.55 million shares of Class A Common Stock and 145.65 million shares of Class B Common Stock outstanding as of March 2, 2012, after giving effect to the Recapitalization, plus, for each person, the number of shares that person has the right to acquire within 60 days after such date. The percent of the total common stock after this offering also includes as outstanding the shares of Class A Common Stock to be sold in this offering, but assumes that the underwriters do not exercise their option to purchase up to an additional shares of Class A Common Stock solely to cover overallocments. As of March 2, 2012, we had over 111,900 shareholders of record.

Name and Address of Beneficial Owner <sup>(1)</sup>	Class A Common Stock		Class B Common Stock		Total Common Stock		
	Number of Shares <sup>(2)</sup>	Percent Before Offering	Number of Shares <sup>(2)</sup>	Percent Before Offering	Number of Shares <sup>(2)</sup>	Percent Before Offering	Percent After Offering
<b>Directors and Named Executive Officers</b>							
Brenda G. Gujral	9,767	*	29,302	*	39,069	*	
Kenneth H. Beard <sup>(3)</sup>	8,030	*	24,092	*	32,122	*	
Frank A. Catalano, Jr. <sup>(3)</sup>	1,876	*	5,630	*	7,506	*	
Paul R. Gauvreau <sup>(3)</sup>	12,673	*	38,020	*	50,693	*	
Gerald M. Gorski <sup>(3)</sup>	1,784	*	5,352	*	7,136	*	
Richard P. Imperiale <sup>(3)</sup>	1,500	*	4,500	*	6,000	*	
Kenneth E. Masick <sup>(3)</sup>	1,500	*	4,500	*	6,000	*	
Barbara A. Murphy <sup>(4)</sup>	1,500	*	4,500	*	6,000	*	
Steven P. Grimes	4,553	*	13,658	*	18,211	*	
Angela M. Aman		*		*		*	
Niall J. Byrne	182	*	548	*	730	*	
Shane C. Garrison	912	*	2,738	*	3,650	*	
Dennis K. Holland	955	*	2,867	*	3,822	*	
James W. Kleifges	182	*	548	*	730	*	
All directors and executive officers as a group (14 persons)	45,414	*	136,255	*	181,669	*	
<b>5% Shareholders</b>							
Daniel L. Goodwin <sup>(5)</sup>	2,442,969	5.03%	7,328,906	5.03%	9,771,875	5.03%	

\* Less than 1%

- (1) The address of each of the persons listed above is 2901 Butterfield Road, Oak Brook, IL 60523.
- (2) Beneficial ownership includes outstanding shares and shares which are not outstanding that any person has the right to acquire within 60 days after the date of this table. However, any such shares which are not outstanding are not deemed to be outstanding for the purpose of computing the percentage of outstanding shares beneficially owned by any other person. Except as indicated in the footnotes to this table and pursuant to applicable community property laws, the persons named in the table have sole voting and investing power with respect to all shares beneficially owned by them.
- (3) Includes 1,500 shares of Class A Common Stock and 4,500 shares of Class B Common Stock issuable upon exercise of options granted under our Independent Director Stock Option Plan, which are currently exercisable or will become exercisable within 60 days after the date of this table.
- (4) Includes 1,350 shares of Class A Common Stock and 4,050 shares of Class B Common Stock issuable upon exercise of options granted under our Independent Director Stock Option Plan, which are currently exercisable or will become exercisable within 60 days after the date of this table.

**Table of Contents**

- (5) Includes 12,818 shares of Class A Common Stock and 38,455 shares of Class B Common Stock, as applicable, held jointly by Mr. Goodwin and his spouse. Also includes 611,287, 851,049, 21,553, 7,144 and 301 shares of Class A Common Stock and 1,833,861, 2,553,148, 64,659, 21,431 and 903 shares of Class B Common Stock, as applicable, owned by Inland Corporate Holdings Corporation, Inland Funding Corporation, IREIC, Partnership Ownership Corporation and Inland Condo Investor Loan Corporation, respectively.

**Table of Contents**

**CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS**

The Inland Group, Inc., or the Inland Group, and its affiliates are related parties because of our relationships with Daniel L. Goodwin, Robert D. Parks and Brenda G. Gujral, each of whom are significant shareholders and/or principals of the Inland Group or hold directorships and are executive officers of affiliates of the Inland Group. Specifically, Mr. Goodwin is the Chairman, chief executive officer and a significant shareholder of the Inland Group. Mr. Parks is a principal and significant shareholder of the Inland Group. Messrs. Goodwin and Parks and Ms. Gujral hold a variety of positions as directors and executive officers of Inland Group affiliates. With respect to our company, Mr. Goodwin is a beneficial owner of more than 5% of our common stock, Mr. Parks was a director and Chairman of our board of directors until October 12, 2010 and Ms. Gujral is currently one of our directors and has held this directorship since 2003. Therefore, due to these relationships, transactions involving the Inland Group and /or its affiliates are set forth below.

*Ongoing Services Agreements*

The following provides a summary of a number of ongoing agreements that we have with Inland Group affiliates that we are actively using:

An Inland Group affiliate, which is a registered investment advisor, provides investment advisory services to us related to our securities investment account for a fee (paid monthly) of up to one percent per annum based upon the aggregate fair value of our assets invested. Subject to our approval and the investment guidelines we provide to them, the Inland Group affiliate has discretionary authority with respect to the investment and reinvestment and sale (including by tender) of all securities held in that account. The Inland Group affiliate has also been granted power to vote all investments held in the account. We incurred fees totaling \$269,000, \$272,000 and \$67,000 for the years ended December 31, 2011, 2010 and 2009, respectively. As of December 31, 2011, 2010 and 2009, fees of \$22,000, \$22,000 and \$20,000 remained unpaid, respectively. The agreement is cancellable by providing not less than 30 days prior written notice and specification of the effective date of said termination. Effective for the period from November 1, 2008 through September 30, 2009, the investment advisor agreed to waive all fees due at our request. Fees were incurred again beginning on October 1, 2009.

An Inland Group affiliate provides loan servicing for us for a monthly fee based upon the number of loans being serviced. Such fees totaled \$186,000, \$282,000 and \$372,000 for the years ended December 31, 2011, 2010 and 2009, respectively. As of December 31, 2011, 2010 and 2009, no amounts remained unpaid. The agreement is non-exclusive as to both parties and is cancellable by providing not less than 180 days prior written notice and specification of the effective date of said termination.

An Inland Group affiliate has a legal services agreement with us, where that Inland Group affiliate will provide us with certain legal services in connection with our real estate business. We will pay the Inland Group affiliate for legal services rendered under the agreement on the basis of actual time billed by attorneys and paralegals at the Inland Group affiliate's hourly billing rate then in effect. The billing rate is subject to change on an annual basis, provided, however, that the billing rates charged by the Inland Group affiliate will not be greater than the billing rates charged to any other client and will not be greater than 90% of the billing rate of attorneys of similar experience and position employed by nationally recognized law firms located in Chicago, Illinois performing similar services. For the years ended December 31, 2011, 2010 and 2009, we incurred \$352,000, \$343,000 and \$551,000, respectively, of these costs. Legal services costs totaling \$110,000, \$100,000 and \$123,000 remained unpaid as of December 31, 2011, 2010 and 2009, respectively. The agreement is non-exclusive as to both parties and is cancellable by providing not less than 180 days prior written notice and specification of the effective date of said termination.

We have service agreements with certain Inland Group affiliates, including office and facilities management services, insurance and risk management services, computer services, personnel services, property tax services and communications services. Some of these agreements provide that we obtain certain services from the Inland

## **Table of Contents**

Group affiliates through the reimbursement of a portion of their general and administrative costs. For the years ended December 31, 2011, 2010 and 2009, we incurred \$4.1 million, \$2.6 million and \$3.0 million, respectively, of these reimbursements. Of these costs, \$582,000, \$248,000 and \$194,000 remained unpaid as of December 31, 2011, 2010 and 2009, respectively. The services are to be provided on a non-exclusive basis in that we shall be permitted to employ other parties to perform any one or more of the services and that the applicable counterparty shall be permitted to perform any one or more of the services to other parties. The agreements have various expiration dates, but are cancellable by providing not less than 180 days prior written notice and specification of the effective date of said termination.

### *Office Sublease*

We sublease our office space from an Inland Group affiliate. The lease calls for annual base rent of \$496,000 and additional rent in any calendar year of our proportionate share of taxes and common area maintenance costs. Additionally, the Inland Group affiliate paid certain tenant improvements under the lease in the amount of \$395,000 and such improvements are being repaid by us over a period of five years. The sublease calls for an initial term of five years which expires in November 2012, with one option to extend for an additional five years. Of these costs, \$310,000, \$155,000 and \$175,000 remained unpaid as of December 31, 2011, 2010 and 2009, respectively.

### *Elective Services Agreements*

The following provides a summary of a number of agreements that we have with Inland Group affiliates that we are not actively using and do not expect to use:

An Inland Group affiliate facilitates the mortgage financing we obtain on some of our properties. We pay the Inland Group affiliate 0.2% of the principal amount of each loan obtained on our behalf. Such costs are capitalized as loan fees and amortized over the respective loan term as a component of interest expense. For the years ended December 31, 2011, 2010 and 2009, we incurred none, \$88,000 and none, respectively, of loan fees to this Inland Group affiliate. As of December 31, 2011, 2010 and 2009, no amounts remained unpaid. The agreement is non-exclusive as to both parties and is cancellable by providing not less than 180 days prior written notice and specification of the effective date of said termination.

We have a transition property due diligence services agreement with an Inland Group affiliate. In connection with our acquisition of new properties, the Inland Group affiliate will give us a first right as to all retail, mixed use and single-user properties and, if requested, provide various services including services to negotiate property acquisition transactions on our behalf and prepare suitability, due diligence, and preliminary and final pro forma analyses of properties proposed to be acquired. We will pay all reasonable third-party out-of-pocket costs incurred by this entity in providing such services; pay an overhead cost reimbursement of \$12,000 per transaction, and, to the extent these services are requested, pay a cost of \$7,000 for due diligence expenses and a cost of \$25,000 for negotiation expenses per transaction. We incurred no such costs for the years ended December 31, 2011, 2010 and 2009. None of these costs remained unpaid as of December 31, 2011, 2010 and 2009. The agreement is cancellable by providing not less than 60 days prior written notice and specification of the effective date of said termination.

We have an institutional investor relationships services agreement with an Inland Group affiliate. Under the terms of the agreement, the Inland Group affiliate will attempt to secure institutional investor commitments in exchange for advisory and client fees and reimbursement of project expenses. We incurred none, \$18,000 and \$34,000 during the years ended December 31, 2011, 2010 and 2009, respectively. None of these costs remained unpaid as of December 31, 2011, 2010 and 2009. The agreement is non-exclusive as to both parties and is cancellable by providing not less than 180 days prior written notice and specification of the effective date of said termination.

## **Table of Contents**

### *Sales of Properties to Inland American*

On April 30, 2009, we sold two single-user office buildings to IARETI, with an aggregate sales price of \$99.0 million which resulted in net sales proceeds of \$34.6 million and a gain on sale of \$7.0 million. The properties were located in Salt Lake City, Utah and Greensboro, North Carolina with approximately 395,800 square feet and 389,400 square feet, respectively. The sale resulted in the assumption of debt in the amount of \$63.2 million by IARETI. A special committee, consisting of independent directors, reviewed and recommended approval of these sales to our board of directors.

On June 24, 2009, we sold an approximately 185,200 square foot single-user office building located in Canton, Massachusetts, to IARETI with a sales price of \$62.6 million, which resulted in net sales proceeds of \$18.0 million and a gain on sale of \$2.3 million. The sale resulted in the assumption of debt in the amount of \$44.5 million by IARETI. A special committee, consisting of independent directors, reviewed and recommended approval of this sale to our board of directors.

### *Joint Ventures with Inland Equity*

On November 29, 2009, we formed IW JV, a wholly-owned subsidiary, and transferred a portfolio of 55 investment properties and the entities which owned them into it. Subsequently, in connection with a \$625 million debt refinancing transaction, which consisted of \$500 million of mortgages payable and \$125 million of notes payable, on December 1, 2009, we raised additional capital of \$50 million from a related party, Inland Equity in exchange for a 23% noncontrolling interest in IW JV. IW JV, which is controlled by us and, therefore, consolidated, has an aggregate of approximately \$1 billion in total assets and will continue to be managed and operated by us. Inland Equity is an LLC owned by certain individuals, including Daniel L. Goodwin, who beneficially owns more than 5% of our common stock, and Robert D. Parks, who was the Chairman of our Board until October 12, 2010 and who is Chairman of the Board of certain affiliates of the Inland Group. The Independent Committee reviewed and recommended approval of this transaction to our board of directors.

The organizational documents of IW JV contain provisions that require the entity to be liquidated through the sale of its assets upon reaching a future date as specified in the organizational documents or through a call arrangement. As controlling member, we have an obligation to cause these property owning entities to distribute proceeds from liquidation to the noncontrolling interest partner only if the net proceeds received by each of the entities from the sale of assets warrant a distribution based on the agreements. In addition, at any time after 90 days from the date of Inland Equity's contribution, we have the option to call Inland Equity's interest in IW JV for an amount which is the greater of either: (a) fair market value of Inland Equity's interest or (b) \$50 million, plus an additional distribution of \$5 million and any unpaid preferred return or promote, as defined within the organizational documents.

Further, if Inland Equity retains an ownership interest in IW JV through the liquidation of the joint venture, Inland Equity may be entitled to receive an additional distribution of \$5 million, depending on the availability of proceeds at the time of liquidation. Pursuant to the terms of the IW JV agreement, Inland Equity earns a preferred return of 6% annually, paid monthly and cumulative on any unpaid balance. Inland Equity earns an additional 5% annually, set aside monthly and paid quarterly, if the portfolio net income is above a target amount as specified in the organizational documents.

We currently anticipate using a portion of the net proceeds from this offering to exercise our call option. As a result, following this offering we would again own 100% of the IW JV properties.

### *Related Person Transaction Policy*

Our board of directors has adopted a Related Person Transaction Approval and Disclosure Policy for the review, approval or ratification of any related person transaction. This written policy provides that all related

**Table of Contents**

person transactions must be reviewed and approved by a majority of the disinterested directors on our board of directors in advance of us or any of our subsidiaries entering into the transaction; provided that, if we or any of our subsidiaries enter into a transaction without recognizing that such transaction constitutes a related person transaction, the approval requirement will be satisfied if such transaction is ratified by a majority of the disinterested directors on our board of directors promptly after we recognize that such transaction constituted a related person transaction. Disinterested directors are directors that do not have a personal financial interest in the transaction that is adverse to our financial interest or that of our shareholders. The term related person transaction refers to a transaction required to be disclosed by us pursuant to Item 404 of Regulation S-K (or any successor provision) promulgated by the SEC.

Previously, the Independent Directors Committee, a committee comprised of all of the independent directors, assisted the board of directors in discharging its responsibilities relating to reviewing, authorizing, approving, ratifying and monitoring all related person transactions, agreements and relationships. In particular, the Independent Directors Committee was responsible for evaluating, negotiating and concluding (or rejecting) any proposed contract or transaction with a related party; monitoring the performance of all related person contracts or transactions entered into; and determining whether existing and proposed related person contracts and transactions were fair and reasonable to us. The Independent Directors Committee operated under a written charter approved by our board of directors.

**Table of Contents**

**POLICIES WITH RESPECT TO CERTAIN ACTIVITIES**

*The following is a discussion of certain of our investment, financing and other policies that will be in place following the completion of this offering. These policies have been determined by our board of directors and, in general, may be amended and revised from time to time at the discretion of our board of directors without notice to or a vote of our shareholders.*

**Investment Policies**

***Investment in Real Estate or Interests in Real Estate***

Our investment objectives are to increase cash flow from operations, achieve sustainable long-term growth and maximize shareholder value to allow for stable dividends and stock appreciation. We have not established a specific policy regarding the relative priority of these investment objectives. For a discussion of our properties and our acquisition and other strategic objectives, see **Our Business and Properties**.

We intend to invest primarily in well located, high quality, shopping centers. Future investment activities will not be limited to any geographic area, product type or to a specified percentage of our assets. While we may diversify in terms of property locations, size and market or submarket, we do not have any limit on the amount or percentage of our assets that may be invested in any one property or any one geographic area. We intend to engage in such future investment or development activities in a manner that is consistent with our qualification as a REIT for U.S. federal income tax purposes. We do not have a specific policy to acquire assets primarily for capital gain or primarily for income. In addition, we may purchase or lease income-producing commercial and other types of properties for long-term investment, expand and improve the properties we presently own or other acquired properties, or sell such properties, in whole or in part, when circumstances warrant.

We participate with third parties in property ownership, through joint ventures or other types of co-ownership, and we may engage in such activities in the future if we determine that doing so would be the most effective means of owning or acquiring properties. We do not expect, however, to enter into a joint venture or other partnership arrangement to make an investment that would not otherwise meet our investment policies. We also may acquire real estate or interests in real estate in exchange for the issuance of common stock, preferred stock or options to purchase stock.

Equity investments in acquired properties may be subject to existing mortgage financing and other indebtedness or to new indebtedness which may be incurred in connection with acquiring or refinancing these investments. Principal and interest on our debt will have a priority over any dividends with respect to our common stock. Investments are also subject to our policy not to be required to register as an investment company under the Investment Company Act of 1940, as amended, or the 1940 Act.

***Investments in Real Estate Mortgages***

Our business objectives emphasize equity investments in retail real estate. Although we do not presently intend to invest in mortgages or deeds of trust, other than in a manner that is ancillary to an equity investment, we may elect, in our discretion, to invest in mortgages and other types of real estate interests, including, without limitation, participating or convertible mortgages; *provided*, in each case, that such investment is consistent with our qualification as a REIT. Investments in real estate mortgages run the risk that one or more borrowers may default under certain mortgages and that the collateral securing certain mortgages may not be sufficient to enable us to recoup our full investment.

***Securities of or Interests in Persons Primarily Engaged in Real Estate Activities and Other Issuers***

Subject to the asset tests and gross income tests necessary for REIT qualification, we may invest in securities of other REITs, other entities engaged in real estate activities or securities of other issuers, including

## **Table of Contents**

for the purpose of exercising control over such entities. We do not currently have any policy limiting the types of entities in which we may invest or the proportion of assets to be so invested, whether through acquisition of an entity's common stock, limited liability or partnership interests, interests in another REIT or entry into a joint venture. As of December 31, 2011, our investment in marketable securities totaled \$30.4 million, which included \$18.3 million of accumulated unrealized gain, and we also held interests in three unconsolidated joint ventures. Our investments in marketable securities as of December 31, 2010 and 2009 were \$34.2 million and \$29.1 million, respectively. To the extent we make such investments in the future, we intend to invest primarily in entities that own retail real estate. We have no current plans to make additional investments in entities that are not engaged in real estate activities. Our investment objectives are to maximize the cash flow of our investments, acquire investments with growth potential and provide cash distributions and long-term capital appreciation to our shareholders through increases in the value of our company. We have not established a specific policy regarding the relative priority of these investment objectives.

### ***Investment in Other Securities***

Other than as described above, we do not intend to invest in any additional securities such as bonds, preferred stocks or common stock.

### **Dispositions**

We may from time to time dispose of properties if, based upon management's periodic review of our portfolio, our board of directors determines such action would be in our best interest. In addition, we may elect to enter into joint ventures or other types of co-ownership with respect to properties that we already own, either in connection with acquiring interests in other properties (as discussed above in *Investment in Real Estate* or *Interests in Real Estate*) or from investors to raise equity capital. See *Our Business and Properties* *Business and Growth Strategies* for a description of our current plans.

### **Financing Policies**

We expect to employ leverage in our capital structure in amounts determined from time to time by our board of directors. Although our board of directors has not adopted a policy that limits the total amount of indebtedness that we may incur, it will consider a number of factors in evaluating our level of indebtedness from time to time, as well as the amount of such indebtedness that will be either fixed or variable rate. Our charter and bylaws that will be in effect following this offering will not limit the amount or percentage of indebtedness that we may incur nor will they restrict the form in which our indebtedness will be taken (including recourse or non-recourse debt, cross collateralized debt, etc.). Our board of directors may from time to time modify our debt policy in light of the then-current economic conditions, relative costs of debt and equity capital, market values of our properties, general market conditions for debt and equity securities, fluctuations in the market price of our common stock, growth and acquisition opportunities and other factors.

To the extent our board of directors determines to obtain additional capital, we may, without shareholder approval, issue debt or equity securities, retain earnings (subject to the REIT distribution requirements for U.S. federal income tax purposes) or pursue a combination of these methods.

### **Conflict of Interest Policies**

We have adopted certain policies designed to eliminate or minimize certain potential conflicts of interest. Specifically, we adopted a code of business conduct and ethics that generally prohibits conflicts of interest between our officers, employees and directors on the one hand, and our company on the other hand. Our code of business conduct and ethics will also generally limit our employees, officers and directors from competing with our company or taking for themselves opportunities that are discovered through use of property or information of



## **Table of Contents**

or position with our company. Waivers of our code of business conduct and ethics may be granted by a committee of independent directors. In addition, certain provisions of Maryland law are also designed to minimize conflicts. However, we cannot assure you these policies or provisions of law will always succeed in eliminating the influence of such conflicts. If they are not successful, decisions could be made that might fail to reflect fully the interests of all shareholders.

### **Policies with Respect to Other Activities**

We have authority to offer common stock, preferred stock, options to purchase stock or other securities in exchange for property, repurchase or otherwise acquire our common stock or other securities in the open market or otherwise, and we may engage in such activities in the future. We previously maintained a share repurchase program pursuant to which we repurchased shares of our common stock. Effective November 19, 2008, our board of directors voted to suspend this program and it will be terminated upon the completion of this offering. During the years ended December 31, 2008 and 2007, we repurchased \$227.2 million and \$140.1 million, respectively, of our common stock pursuant to the share repurchase program. Our board of directors has no present intention of causing us to repurchase any common stock, although we may do so in the future. We may issue preferred stock from time to time, in one or more series, as authorized by our board of directors without the need for shareholder approval. See Description of Capital Stock. We have not engaged in trading, underwriting or agency distribution or sale of securities of other issuers and do not intend to do so. At all times, we intend to make investments in such a manner as to qualify as a REIT, unless because of circumstances or changes in the Code or the Treasury Regulations our board of directors determines that it is no longer in our best interest to qualify as a REIT. We may make loans to third parties, including, without limitation, to joint ventures in which we participate. As of December 31, 2010 and 2009, we had \$8.3 million, net of allowances of \$0.3 million, of notes receivable representing a loan we made to a consolidated joint venture for development of one of our properties and a note that we invested in. As of December 31, 2011, only the note we invested in remained, with a balance of none, net of an allowance of \$0.3 million. We intend to make investments in such a way that we will not be treated as an investment company under the 1940 Act.

### **Reporting Policies**

We intend to make available to our shareholders our annual reports, including our audited financial statements. We are subject to the information reporting requirements of the Exchange Act. Pursuant to those requirements, we are required to file annual and periodic reports, proxy statements and other information, including audited financial statements, with the SEC.

---

**Table of Contents**

**DESCRIPTION OF CAPITAL STOCK**

*The following is a summary of the rights and preferences of our capital stock. Unless otherwise indicated, the following summary assumes that (i) the amendment and restatement of our charter approved by our shareholders on February 24, 2011 has become effective, (ii) the Recapitalization is completed, (iii) certain amendments to our charter that we expect to make in connection with the Recapitalization have become effective and (iv) certain changes to our bylaws, corporate governance guidelines and other corporate governance documents that we expect to make prior to the completion of this offering have been made. While we believe that the following description covers the material terms of our capital stock, the description may not contain all of the information that is important to you. We encourage you to read carefully this entire prospectus, our charter and bylaws and the relevant provisions of Maryland law for a more complete understanding of our capital stock. Copies of our charter and bylaws are filed as exhibits to the registration statement of which this prospectus is a part and the following summary, to the extent it relates to those documents, is qualified in its entirety by reference thereto. See [Where You Can Find More Information](#).*

**General**

Our charter provides that we may issue up to 640,000,000 shares of common stock and 10,000,000 shares of preferred stock, both having par value \$0.001 per share. Upon completion of this offering, \_\_\_\_\_ shares of Class A Common Stock, 48.55 million shares of Class B-1 Common Stock, 48.55 million shares of Class B-2 Common Stock and 48.55 million shares of Class B-3 Common Stock will be issued and outstanding and no shares of preferred stock will be issued and outstanding. Our board of directors, without any action on the part of our shareholders, may authorize the issuance of common or preferred stock, may establish the terms of any stock to be issued, and, with the approval of a majority of the entire board, may amend our charter from time to time to increase or decrease the aggregate number of authorized shares of stock or the number of shares of stock of any class or series. Under Maryland law, our shareholders generally are not personally liable for our debts and obligations solely as a result of their status as shareholders.

**Common Stock**

All shares of our common stock have equal rights as to earnings, assets, dividends and voting. Subject to our charter restrictions on the transfer and ownership of our stock and the preferential rights of holders of any other class or series of our stock, distributions may be made to the holders of our common stock if, as and when authorized by our board of directors out of funds legally available therefor. Shares of our common stock generally have no preemptive, appraisal, preferential exchange, conversion (except for Class B Common Stock), sinking fund or redemption rights and are freely transferable, except where their transfer is restricted by federal and state securities laws, by contract or by the restrictions in our charter. In the event of our liquidation, dissolution or winding up, each share of our common stock would be entitled to share ratably in all of our assets that are legally available for distribution after payment of or adequate provision for all of our known debts and other liabilities and subject to any preferential rights of holders of our preferred stock, if any preferred stock is outstanding at such time, and our charter restrictions on the transfer and ownership of our stock. Subject to our charter restrictions on the transfer and ownership of our stock and except as may otherwise be specified in the terms of any class or series of common stock, each share of our common stock entitles the holder to one vote on all matters submitted to a vote of shareholders, including the election of directors. Except as may be provided with respect to any other class or series of stock, the holders of our common stock will possess exclusive voting power. Except as required under Maryland law, holders of all classes of our common stock will vote together as a single class.

Under Maryland law, a Maryland corporation generally cannot amend its charter, consolidate, merge, sell all or substantially all of its assets, engage in a share exchange or dissolve unless the action is advised by our board of directors and approved by the affirmative vote of at least two-thirds of the votes entitled to be cast with respect to such matter. However, a Maryland corporation may provide in its charter for approval of these matters by a lesser percentage, but not less than a majority of all of the votes entitled to be cast with respect to such matter. As

## **Table of Contents**

permitted by Maryland law, our charter provides that any of these actions may be approved by the affirmative vote of a majority of all the votes entitled to be cast with respect to such matter. In addition, all other matters to be voted on by shareholders, other than the election of directors, must be approved by a majority of the votes cast at a meeting at which a quorum is present, voting together as a single class, subject to any voting rights granted to holders of any then outstanding preferred stock. In elections of directors, a director will be elected by a plurality of the votes cast in the election of directors. There is no cumulative voting in the election of directors, which means that holders of a majority of the outstanding shares of common stock can elect all of our directors. For more information regarding the voting standard for director elections, see Certain Provisions of Maryland Law and of Our Charter and Bylaws Annual Elections.

### **Power to Reclassify Our Unissued Shares of Stock**

Our charter authorizes our board of directors to classify and reclassify any unissued shares of common or preferred stock into other classes or series of shares of stock. Prior to the issuance of shares of each class or series, our board of directors is required by Maryland law and by our charter to set, subject to our charter restrictions on transfer and ownership of shares of stock, the terms, the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms or conditions of redemption for each class or series. Therefore, our board of directors could authorize the issuance of shares of common or preferred stock with terms and conditions that could have the effect of delaying, deferring or preventing a change in control or other transaction that might involve a premium price for our shares of common stock or otherwise be in the best interest of our shareholders. No shares of preferred stock are presently outstanding, and we have no present plans to issue any shares of preferred stock.

### **Power to Increase or Decrease Authorized Shares of Common Stock and Issue Additional Shares of Common and Preferred Stock**

We believe that the power of our board of directors to amend our charter to increase or decrease the number of authorized shares of stock, to issue additional authorized but unissued shares of common or preferred stock and to classify or reclassify unissued shares of common or preferred stock and thereafter to issue such classified or reclassified shares of stock will provide us with increased flexibility in structuring possible future financings and acquisitions and in meeting other needs that might arise. The additional classes or series, as well as the shares of common stock, will be available for issuance without further action by our shareholders, unless such action is required by applicable law or the rules of any stock exchange or market system on which our securities may be listed or traded. Therefore, our board of directors could authorize us to issue a class or series that could, depending upon the terms of the particular class or series, delay, defer or prevent a change in control or other transaction that might involve a premium price for our shares of common stock or otherwise be in the best interest of our shareholders.

### **Restrictions on Ownership and Transfer**

In order for us to qualify as a REIT under the Code, our stock must be beneficially owned by 100 or more persons during at least 335 days of a taxable year of 12 months or during a proportionate part of a shorter taxable year (other than the first year for which an election to be a REIT has been made). Also, not more than 50% of the value of the outstanding shares of our stock may be owned, directly or indirectly, by five or fewer individuals (as defined in the Code to include certain entities such as private foundations) during the last half of a taxable year (other than the first taxable year for which an election to be a REIT has been made).

Our charter contains restrictions on the ownership and transfer of our stock. The relevant sections of our charter provide that, after the amendment and restatement of our charter and subject to the exceptions and the constructive ownership rules described below, no person may beneficially or constructively own more than 9.8% in value of the aggregate of our outstanding shares of stock or more than 9.8% in value or number (whichever is more restrictive) of the outstanding shares of our common stock. We refer to these restrictions as the ownership limits.

---

**Table of Contents**

The applicable constructive ownership rules under the Code are complex and may cause stock owned actually or constructively by a group of related individuals and/or entities to be treated as owned by one individual or entity. As a result, the acquisition of less than 9.8% in value of our outstanding stock or less than 9.8% in value or number of our outstanding shares of common stock (or the acquisition of an interest in an entity that owns, actually or constructively, our stock) by an individual or entity could, nevertheless cause that individual or entity, or another individual or entity, to own, constructively or beneficially in excess of 9.8% in value of our outstanding stock or 9.8% in value or number of our outstanding shares of common stock.

In addition to the ownership limits, our charter prohibits any person from actually or constructively owning shares of our stock to the extent that such ownership would cause any of our income that would otherwise qualify as rents from real property for purposes of Section 856(d) of the Code to fail to qualify as such. Our charter also prohibits any person from beneficially owning shares of our stock to the extent that such ownership would result in our being closely held within the meaning of Section 856(h) of the Code, without regard to whether the ownership interest is held during the last half of a taxable year.

Our board of directors may, in its sole discretion, exempt a person from the ownership limits and certain other limits on ownership and transfer of our stock described above, and may establish a different limit on ownership for any such person. However, the board of directors may not exempt any person whose ownership of our outstanding stock in violation of these limits would result in our failing to qualify as a REIT. In order to be considered by the board of directors for exemption, a person must make such representations and undertakings as are reasonably necessary to ascertain that such person's beneficial or constructive ownership of our stock will not now or in the future jeopardize our ability to qualify as a REIT under the Code and must agree that any violation or attempted violation of such representations or undertakings will result in the shares of stock being automatically transferred to a trust as described below. As a condition of its waiver, our board of directors may require an opinion of counsel or IRS ruling satisfactory to our board of directors with respect to our qualification as a REIT and may impose such other conditions as it deems appropriate in connection with the granting of the waiver.

In connection with the waiver of the ownership limits or at any other time, our board of directors may from time to time increase the ownership limits for one or more persons and decrease the ownership limits for all other persons; provided that the new ownership limits may not, after giving effect to such increase, result in us being closely held within the meaning of Section 856(h) of the Code (without regard to whether the ownership interests are held during the last half of a taxable year). Reduced ownership limits will not apply to any person whose percentage ownership of our shares of common stock or total shares of stock, as applicable, is in excess of such decreased ownership limits until such time as such person's percentage of our shares of common stock or total shares of stock, as applicable, equals or falls below the decreased ownership limits, but any further acquisition of our shares of common stock or total shares of stock, as applicable, in excess of such percentage ownership of our shares of common stock or total shares of stock will be in violation of the ownership limits.

Our charter further prohibits:

any person from transferring shares of our stock if such transfer would result in shares of our stock being beneficially owned by fewer than 100 persons (determined without reference to any rules of attribution); and

any person from beneficially or constructively owning shares of our stock if such ownership would result in our failing to qualify as a REIT.

Any person who acquires or attempts or intends to acquire beneficial or constructive ownership of shares of our stock that will or may violate the ownership limits or any of the other foregoing restrictions on transferability and ownership will be required to give notice to us immediately (or, in the case of a proposed or attempted transaction, at least 15 days prior to such transaction) and provide us with such other information as we may request in order to determine the effect, if any, of such transfer on our qualification as a REIT. The foregoing provisions on transferability and ownership will not apply if our board of directors determines that it is no longer in our best interests to attempt to qualify, or to continue to qualify, as a REIT.

**Table of Contents**

Pursuant to our charter, if there is any purported transfer of our stock or other event that, if effective, would violate any of the restrictions described above, then the number of shares causing the violation (rounded up to the nearest whole share) will be automatically transferred to a trust for the exclusive benefit of a designated charitable beneficiary, except that any transfer that results in the violation of the restriction relating to our stock being beneficially owned by fewer than 100 persons will be automatically void and of no force or effect. The automatic transfer will be effective as of the close of business on the business day prior to the date of the purported transfer or other event that results in a transfer to the trust. Any dividend or other distribution paid to the purported transferee, prior to our discovery that the shares had been automatically transferred to a trust as described above, must be repaid to the trustee upon demand. If the transfer to the trust as described above is not automatically effective, for any reason, to prevent violation of the applicable restriction contained in our charter, then the transfer of the excess shares will be automatically void and of no force or effect.

Shares of our stock transferred to the trustee are deemed to be offered for sale to us or our designee at a price per share equal to the lesser of (i) the price per share in the transaction that resulted in such transfer to the trust (or, in the case of a devise or gift, the market price at the time of such devise or gift) and (ii) the market price on the date we accept, or our designee accepts, such offer. We have the right to accept such offer until the trustee has sold the shares of our stock held in the trust pursuant to the clauses discussed below. Upon a sale to us, the interest of the charitable beneficiary in the shares sold terminates and the trustee must distribute the net proceeds of the sale to the purported transferee, except that the trustee may reduce the amount payable to the purported transferee by the amount of any dividends or other distributions that we paid to the purported transferee prior to our discovery that the shares had been transferred to the trust and that is owed by the purported transferee to the trustee as described above. Any net sales proceeds in excess of the amount payable to the purported transferee shall be immediately paid to the charitable beneficiary, and any dividends or other distributions held by the trustee with respect to such stock will be paid to the charitable beneficiary.

If we do not buy the shares, the trustee must, as soon as reasonably practicable (and, if the shares are listed on a national securities exchange, within 20 days) of receiving notice from us of the transfer of shares to the trust, sell the shares to a person or entity designated by the trustee who could own the shares without violating the restrictions described above. Upon such a sale, the trustee must distribute to the purported transferee an amount equal to the lesser of (i) the price paid by the purported transferee for the shares or, if the purported transferee did not give value for the shares in connection with the event causing the shares to be held in trust (e.g., in the case of a gift, devise or other such transaction), the market price of the shares on the day of the event causing the shares to be held in the trust, and (ii) the sales proceeds (net of commissions and other expenses of sale) received by the trustee for the shares. The trustee may reduce the amount payable to the purported transferee by the amount of any dividends or other distributions that we paid to the purported transferee before our discovery that the shares had been transferred to the trust and that is owed by the purported transferee to the trustee as described above. Any net sales proceeds in excess of the amount payable to the purported transferee will be immediately paid to the charitable beneficiary, together with any dividends or other distributions thereon. In addition, if prior to discovery by us that shares of our stock have been transferred to a trust, such shares of stock are sold by a purported transferee, then such shares shall be deemed to have been sold on behalf of the trust and, to the extent that the purported transferee received an amount for or in respect of such shares that exceeds the amount that such purported transferee was entitled to receive, such excess amount shall be paid to the trustee upon demand. The purported transferee has no rights in the shares held by the trustee.

The trustee shall be designated by us and shall be unaffiliated with us and with any purported transferee. Prior to the sale of any shares by the trust, the trustee will receive, in trust for the beneficiary, all dividends and other distributions paid by us with respect to the shares, and may also exercise all voting rights with respect to the shares.

## **Table of Contents**

Subject to Maryland law, effective as of the date that the shares have been transferred to the trust, the trustee shall have the authority, at the trustee's sole discretion:

to rescind as void any vote cast by a purported transferee prior to our discovery that the shares have been transferred to the trust; and

to recast the vote in accordance with the desires of the trustee acting for the benefit of the beneficiary of the trust. However, if we have already taken irreversible corporate action, then the trustee may not rescind and recast the vote.

In addition, if our board of directors determines in good faith that a proposed transfer would violate the restrictions on ownership and transfer of our stock set forth in our charter, our board of directors will take such action as it deems advisable to refuse to give effect to or to prevent such violation, including, but not limited to, causing the company to redeem shares of common stock or preferred stock, refusing to give effect to the transfer on our books or instituting proceedings to enjoin the transfer.

Following the end of each REIT taxable year, every owner of 5% or more (or such lower percentage as required by the Code or the regulations promulgated thereunder) of the outstanding shares of any class or series of our stock, must, upon request, provide us written notice of the person's name and address, the number of shares of each class and series of our stock that the person beneficially owns and a description of the manner in which the shares are held. Each such owner shall also provide us with such additional information as we may request in order to determine the effect, if any, of such owner's beneficial ownership on our qualification as a REIT and to ensure compliance with the ownership limits. In addition, each beneficial owner or constructive owner of our stock, and any person (including the shareholder of record) who is holding shares of our stock for a beneficial owner or constructive owner shall, upon demand, be required to provide us with such information as we may request in good faith in order to determine our qualification as a REIT and to comply with the requirements of any taxing authority or governmental authority or to determine such compliance.

All certificates representing shares of capital stock, if any, will bear a legend referring to the restrictions described above.

These ownership limits could delay, defer or prevent a transaction or a change in control that might involve a premium price for the common stock or otherwise be in the best interest of the shareholders.

## **Listing**

We have applied to list our Class A Common Stock on the NYSE under the symbol **RPAI**.

## **Transfer Agent and Registrar**

The transfer agent and registrar for our shares of common stock is Registrar and Transfer Company.

## **Table of Contents**

### **CERTAIN PROVISIONS OF MARYLAND LAW AND OF OUR CHARTER AND BYLAWS**

*The following is a summary of certain provisions of Maryland law and of our charter and bylaws. Unless otherwise indicated, the following summary assumes that (i) the amendment and restatement of our charter approved by our shareholders on February 24, 2011 has become effective, (ii) the Recapitalization is completed, (iii) certain amendments to our charter that we expect to make in connection with the Recapitalization have become effective and (iv) certain changes to our bylaws, corporate governance guidelines and other corporate governance documents that we expect to make prior to the completion of this offering have been made. While we believe that the following description covers the material aspects of these provisions, the description may not contain all of the information that is important to you. We encourage you to read carefully this entire prospectus, our charter and bylaws and the relevant provisions of Maryland law, for a more complete understanding of these provisions. Copies of our charter and bylaws are filed as exhibits to the registration statement of which this prospectus is a part and the following summary, to the extent it relates to those documents, is qualified in its entirety by reference thereto. See Where You Can Find More Information.*

#### **Number of Directors; Vacancies**

Our charter provides that the number of directors will be set only by the board of directors in accordance with our bylaws. Our bylaws provide that a majority of our entire board of directors may at any time increase or decrease the number of directors. However, the number of directors may never be less than the minimum number required by the MGCL, which is one.

Our charter also provides that we elect to be subject to the provision of Subtitle 8 of Title 3 of the MGCL regarding the filling of vacancies on our board of directors. Accordingly, except as may be provided by our board of directors in setting the terms of any class or series of shares, any and all vacancies on our board of directors may be filled only by the affirmative vote of a majority of the remaining directors in office, even if the remaining directors do not constitute a quorum, and any individual elected to fill such vacancy will serve for the remainder of the full term of the class in which the vacancy occurred and until a successor is duly elected and qualifies.

#### **Annual Elections**

Each of our directors will be elected by our shareholders to serve for a one-year term and until his or her successor is duly elected and qualifies. Directors will be elected by a plurality of the votes cast at a meeting of shareholders at which a quorum is present.

#### **Removal of Directors**

Our charter provides that, subject to the rights, if any, of holders of any class or series of preferred stock to elect or remove one or more directors, a director may be removed only for cause, and then only by the affirmative vote of at least a majority of the votes entitled to be cast generally in the election of directors. Cause is defined in our charter to mean conviction of a director of a felony or a final judgment of a court of competent jurisdiction holding that a director caused demonstrable, material harm to us through bad faith or active and deliberate dishonesty.

#### **Calling of Special Meetings of Shareholders**

Our bylaws provide that special meetings of shareholders may be called by our board of directors and certain of our officers. Additionally, our bylaws provide that, subject to the satisfaction of certain procedural and informational requirements by the shareholders requesting the meeting, a special meeting of shareholders to act on any matter that may properly be considered at a meeting of shareholders shall be called by the secretary of the corporation upon the written request of shareholders entitled to cast a majority of all the votes entitled to be cast on such matter at such meeting.

## **Table of Contents**

### **Action by Shareholders**

Our charter provides that shareholder action can be taken at an annual or special meeting of shareholders or by written consent in lieu of a meeting only if it is approved unanimously. These provisions, combined with the requirements of our bylaws regarding advance notice of nominations and other business to be considered at a meeting of shareholders and the calling of a shareholder-requested special meeting of shareholders discussed below, may have the effect of delaying consideration of a shareholder proposal.

### **Advance Notice Provisions for Shareholder Nominations and Shareholder Proposals**

Our bylaws provide that, with respect to an annual meeting of shareholders, nominations of individuals for election to the board of directors and the proposal of business to be considered by shareholders may be made only (i) by or at the direction of the board of directors or (ii) by a shareholder who was a shareholder of record both at the time of giving of notice by such shareholder as provided for in our bylaws and at the time of the annual meeting and who is entitled to vote at the meeting in the election of each individual so nominated or on any such other business and who has complied with the advance notice procedures and provided the information required by our bylaws. With respect to special meetings of shareholders, only the business specified in the notice of the meeting may be brought before the meeting. Nominations of individuals for election to the board of directors at a special meeting may be made only (i) by or at the direction of the board of directors or (ii) provided that the special meeting has been called for the purpose of electing directors, by a shareholder who was a shareholder of record both at the time of giving of notice by such shareholder as provided for in our bylaws and at the time of the special meeting, and who is entitled to vote at the meeting in the election of each individual so nominated and who has complied with the advance notice provisions and provided the information required by our bylaws.

The purpose of requiring shareholders to give us advance notice of nominations and other business is to afford our board of directors a meaningful opportunity to consider the qualifications of the proposed nominees and the advisability of any other proposed business and, to the extent deemed necessary or desirable by our board of directors, to inform shareholders and make recommendations about such qualifications or business. Although our bylaws do not give our board of directors any power to disapprove shareholder nominations for the election of directors or proposals recommending certain action, they may have the effect of precluding a contest for the election of directors or the consideration of shareholder proposals if proper procedures are not followed and of discouraging or deterring a third party from conducting a solicitation of proxies to elect its own slate of directors or to approve its own proposal without regard to whether consideration of such nominees or proposals might be harmful or beneficial to us and our shareholders.

### **Approval of Extraordinary Corporate Actions, Amendment of Charter and Bylaws**

Under Maryland law, a Maryland corporation generally cannot amend its charter, consolidate, merge, sell all or substantially all of its assets, engage in a share exchange or dissolve unless the action is declared advisable by our board of directors and approved by the affirmative vote of at least two-thirds of the votes entitled to be cast with respect to such matter. However, a Maryland corporation may provide in its charter for approval of these matters by a lesser percentage, but not less than a majority of all of the votes entitled to be cast with respect to such matter. As permitted by Maryland law, our charter provides that any of these actions may be approved of the shareholders entitled to cast at least a majority of the votes entitled to be cast on the matter.

Our board of directors has the exclusive power to adopt, alter or repeal any provision of our bylaws and to make new bylaws, except the following bylaw provisions, each of which may be amended only with the affirmative vote of a majority of the votes cast on such an amendment by holders of outstanding shares of our common stock:

provisions opting out of the control share acquisition statute; and

provisions prohibiting our board or directors without the approval of a majority of the votes entitled to be the cast by holders of outstanding shares of our common stock, from revoking altering or amending



## **Table of Contents**

any resolution, or adopting any resolution inconsistent with any previously-adopted resolution of our board of directors, that exempts any business combination between us and any other person or entity from the business combination provisions of the MGCL.

In addition, any amendment to the provisions governing amendments of our bylaws requires the approval of a majority of the votes entitled to be cast by the holders of outstanding shares of our common stock.

## **No Shareholder Rights Plan**

We have no shareholder rights plan. In the future, we do not intend to adopt a shareholder rights plan unless our shareholders approve in advance the adoption of a plan or, if adopted by our board of directors, we submit the shareholder rights plan to our shareholders for a ratification vote within 12 months of adoption or the plan will terminate.

## **Business Combinations**

Under the MGCL, certain business combinations (including a merger, consolidation, share exchange or, in certain circumstances, an asset transfer or issuance or reclassification of equity securities) between a Maryland corporation and an interested shareholder (defined as any person who beneficially owns 10% or more of the voting power of the corporation's shares or an affiliate of the corporation who, at any time within the two-year period prior to the date in question, was the beneficial owner of 10% or more of the voting power of the then-outstanding voting stock of the corporation), or an affiliate of an interested shareholder are prohibited for five years after the most recent date on which the interested shareholder becomes an interested shareholder. A person is not an interested shareholder under the statute if the board of directors approved in advance the transaction by which the person otherwise would have become an interested shareholder. The board of directors may provide that its approval is subject to compliance with any terms and conditions determined by it.

Any such business combination entered into after the five-year prohibition must be recommended by the board of directors of such corporation and approved by the affirmative vote of at least (a) 80% of the votes entitled to be cast by holders of outstanding shares of voting stock of the corporation and (b) two-thirds of the votes entitled to be cast by holders of voting stock of the corporation other than shares held by the interested shareholder with whom (or with whose affiliate) the business combination is to be effected, unless, among other conditions, the corporation's common shareholders receive a minimum price (as defined in the MGCL) for their shares and the consideration is received in cash or in the same form as previously paid by the interested shareholder for its shares.

These provisions of the MGCL do not apply, however, to business combinations that are approved or exempted by a board of directors prior to the time that the interested shareholder becomes an interested shareholder. Our board of directors has adopted a resolution exempting any business combination between us and any other person or entity from the business combination provisions of the MGCL. Our bylaws provide that this resolution or any other resolution of our board of directors exempting any business combination from the business combination provisions of the MGCL may only be revoked, altered or amended, and our board of directors may only adopt any resolution inconsistent with any such resolution, with the affirmative vote of a majority of the votes cast on the matter by holders of outstanding shares of our common stock.

## **Control Share Acquisitions**

The MGCL provides that control shares of a Maryland corporation acquired in a control share acquisition have no voting rights except to the extent approved at a special meeting by the affirmative vote of two-thirds of the votes entitled to be cast on the matter, excluding shares of stock of a corporation in respect of which any of the following persons is entitled to exercise or direct the exercise of the voting power of shares of stock of the corporation in the election of directors: (i) a person who makes or proposes to make a control share acquisition,

## **Table of Contents**

(ii) an officer of the corporation or (iii) an employee of the corporation who is also a director of the corporation. Control shares are voting shares of stock which, if aggregated with all other such shares of stock previously acquired by the acquiror or in respect of which the acquiror is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquiror to exercise voting power in electing directors within one of the following ranges of voting power: (i) one-tenth or more but less than one-third, (ii) one-third or more but less than a majority, or (iii) a majority or more of all voting power. Control shares do not include shares the acquiring person is then entitled to vote as a result of having previously obtained shareholder approval. A control share acquisition means the acquisition of control shares, subject to certain exceptions.

A person who has made or proposes to make a control share acquisition, upon satisfaction of certain conditions (including an undertaking to pay expenses), may compel our board of directors to call a special meeting of shareholders to be held within 50 days of demand to consider the voting rights of the shares. If no request for a meeting is made, the corporation may itself present the question at any shareholders meeting.

If voting rights are not approved at the meeting or if the acquiring person does not deliver an acquiring person statement as required by the statute, then, subject to certain conditions and limitations, the corporation may redeem any or all of the control shares (except those for which voting rights have previously been approved) for fair value determined, without regard to the absence of voting rights for the control shares, as of the date of the last control share acquisition by the acquiror or of any meeting of shareholders at which the voting rights of such shares are considered and not approved. If voting rights for control shares are approved at a shareholders meeting and the acquiror becomes entitled to vote a majority of the shares entitled to vote, all other shareholders may exercise appraisal rights, unless appraisal rights are eliminated under the charter. Our charter eliminates all appraisal rights of shareholders.

The control share acquisition statute does not apply (a) to shares acquired in a merger, consolidation or share exchange if the corporation is a party to the transaction or (b) to acquisitions approved or exempted by the charter or bylaws of the corporation.

Our bylaws exempt any and all acquisitions of shares of our stock from the control share acquisition statute, and this provision of our bylaws may not be amended without the affirmative vote of a majority of the votes cast on the matter by holders of outstanding shares of our common stock.

### **Certain Elective Provisions of Maryland Law**

Title 3, Subtitle 8 of the MGCL permits a Maryland corporation with a class of equity securities registered under the Exchange Act and at least three independent directors to elect to be subject, by provision in its charter or bylaws or a resolution of its board of directors and notwithstanding any contrary provision in the charter or bylaws, to any of (1) a classified board, (2) a two-thirds vote requirement for removing a director, (3) a requirement that the number of directors be fixed only by vote of the directors, (4) a requirement that a vacancy on the board be filled only by the remaining directors and for the remainder of the full term of the class of directors in which the vacancy occurred, or (5) a majority requirement for the calling of a special meeting of shareholders. Our charter provides that we elect to be subject to the provisions of Subtitle 8 regarding the filing of vacancies on our board of directors. Otherwise, we have not elected to be governed by these specific provisions. However, at the completion of this offering we will have seven independent directors and a class of equity securities registered under the Exchange Act, so our board of directors could elect to provide for any of the foregoing provisions.

### **Anti-Takeover Effect of Certain Provisions of Maryland Law and of Our Charter and Bylaws**

The provisions of the MGCL, our charter and our bylaws described above could delay, defer or prevent a transaction or a change in control of our company that might involve a premium price for holders of our common stock or otherwise be in the best interests of our shareholders. Likewise, if our board of directors were to opt in to

## **Table of Contents**

the business combination provisions of the MGCL or certain of the provisions of Subtitle 8 of Title 3 of the MGCL or if the provision in the bylaws opting out of the control share acquisition provisions of the MGCL were amended or rescinded, in each case following the affirmative vote of a majority of the votes cast on the matter by holders of outstanding shares of our common stock, these provisions of the MGCL could have similar anti-takeover effects. Additionally, through provisions in our charter and bylaws unrelated to Subtitle 8, we already (1) vest in the board the exclusive power to fix the number of directors and (2) require, unless called by our chairman of the board, chief executive officer or president or the board of directors, the written request of shareholders of not less than a majority of all votes entitled to be cast at such a meeting to call a special meeting.

### **Interested Director and Officer Transactions**

Pursuant to the MGCL, a contract or other transaction between us and a director or between us and any other corporation or other entity in which any of our directors is a director or has a material financial interest is not void or voidable solely on the grounds of such common directorship or interest, the presence of such director at the meeting at which the contract or transaction is authorized, approved or ratified or the counting of the director's vote in favor thereof, if:

the fact of the common directorship or interest is disclosed to our board of directors or a committee of our board, and our board or such committee authorizes, approves or ratifies the transaction or contract by the affirmative vote of a majority of disinterested directors, even if the disinterested directors constitute less than a quorum;

the fact of the common directorship or interest is disclosed to our shareholders entitled to vote thereon, and the transaction or contract is authorized, approved or ratified by a majority of the votes cast by the shareholders entitled to vote, excluding votes cast by the interested director or corporation or other entity; or

the transaction or contract is fair and reasonable to us.

We adopted a policy which requires that all contracts and transactions between us or any of our subsidiaries, on the one hand, and any of our directors or executive officers or any entity in which such director or executive officer is a director or has a material financial interest, on the other hand, must be approved by the affirmative vote of a majority of the disinterested directors, even if less than a quorum. Where appropriate in the judgment of the disinterested directors, our board of directors may obtain a fairness opinion or engage independent counsel to represent the interests of non-affiliated security holders, although our board of directors will have no obligation to do so.

### **Indemnification and Limitation of Directors and Officers Liability**

Maryland law permits a Maryland corporation to include in its charter a provision limiting the liability of its directors and officers to the corporation and its shareholders for money damages, except for liability resulting from actual receipt of an improper benefit or profit in money, property or services or active and deliberate dishonesty that is established by a final judgment and is material to the cause of action. Our charter contains a provision that eliminates such liability to the maximum extent permitted by Maryland law.

Our charter authorizes us, to the maximum extent that Maryland law in effect from time to time permits, to obligate us to indemnify any present or former director or officer or any individual who, while a director or officer of our company and at our request, serves or has served another corporation, real estate investment trust, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise as a director, officer, partner, member, manager or trustee, from and against any claim or liability to which that individual may become subject or which that individual may incur by reason of his or her service in any such capacity and to pay or reimburse his or her reasonable expenses in advance of final disposition of a proceeding. Our bylaws obligate us, to the fullest extent permitted by Maryland law in effect from time to time, to indemnify and, without

**Table of Contents**

requiring a preliminary determination of the ultimate entitlement to indemnification, pay or reimburse reasonable expenses in advance of final disposition of a proceeding to:

any present or former director who is made or threatened to be made a party to the proceeding by reason of his or her service in that capacity; or

any individual who, while a director of our company and at our request, serves or has served another corporation, real estate investment trust, partnership, limited liability company, joint venture, trust, employee benefit plan or any other enterprise as a director, officer, partner, member, manager or trustee of such corporation, real estate investment trust, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise and who is made a party to the proceeding by reason of his or her service in that capacity.

Our charter and bylaws also permit us to indemnify and advance expenses to any person who served a predecessor of ours in any of the capacities described above and to any officer, employee or agent of our company or a predecessor of our company.

The MGCL requires a corporation (unless its charter provides otherwise, which our charter does not) to indemnify a director or officer who has been successful, on the merits or otherwise, in the defense of any proceeding to which he or she is made or threatened to be made a party by reason of his or her service in that capacity. The MGCL permits a corporation to indemnify its present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made or are threatened to be made a party by reason of their service in those or other capacities unless it is established that:

the act or omission of the director or officer was material to the matter giving rise to the proceeding and (1) was committed in bad faith or (2) was the result of active and deliberate dishonesty;

the director or officer actually received an improper personal benefit in money, property or services; or

in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful. However, under the MGCL, a Maryland corporation may not indemnify for an adverse judgment in a suit by or in the right of the corporation or for a judgment of liability on the basis that personal benefit was improperly received. A court may order indemnification if it determines that the director or officer is fairly and reasonably entitled to indemnification, even though the director or officer did not meet the prescribed standard of conduct, was adjudged liable to the corporation or was adjudged liable on the basis that personal benefit was improperly received. However, indemnification for an adverse judgment in a suit by or in the right of the corporation, or for a judgment of liability on the basis that personal benefit was improperly received, is limited to expenses.

In addition, the MGCL permits a corporation to advance reasonable expenses to a director or officer upon the corporation's receipt of:

a written affirmation by the director or officer of his good faith belief that he has met the standard of conduct necessary for indemnification by the corporation; and

a written undertaking by the director or officer or on the director's or officer's behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the director or officer did not meet the standard of conduct.

Insofar as the foregoing provisions permit indemnification of directors, officers or persons controlling us for liability arising under the Securities Act, we have been informed that in the opinion of the SEC, this indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

We have entered into indemnification agreements with each of our executive officers and directors whereby we indemnify such executive officers and directors and pay or reimburse reasonable expenses in advance of final disposition of a proceeding if such director or executive officer is made or threatened to be made a party to the

**Table of Contents**

proceeding by reason of his or her service in that capacity to the fullest extent permitted by Maryland law against all expenses and liabilities, subject to limited exceptions. These indemnification agreements also provide that upon an application for indemnity by an executive officer or director to a court of appropriate jurisdiction, such court may order us to indemnify such executive officer or director.

**REIT Qualification**

Our charter provides that our board of directors may revoke or otherwise terminate our REIT election, without approval of our shareholders, if it determines that it is no longer in our best interests to continue to qualify as a REIT.

---

**Table of Contents**

**SHARES ELIGIBLE FOR FUTURE SALE**

**General**

Trading of our Class A Common Stock on the NYSE is expected to commence immediately following the completion of this offering. We cannot predict the effect, if any, that sales of shares or the availability of shares for sale will have on the market price of our Class A Common Stock prevailing from time to time. Sales of substantial amounts of our Class A Common Stock in the public market, or the perception that such sales could occur, could adversely affect the prevailing market price of our Class A Common Stock. See Risk Factors Risks Related to this Offering.

As of March 2, 2012, after giving effect to the Recapitalization, we had 194.2 million shares of our common stock issued and outstanding, consisting of 48.55 million shares of our Class A Common Stock, 48.55 million shares of our Class B-1 Common Stock, 48.55 million shares of our Class B-2 Common Stock and 48.55 million shares of our Class B-3 Common Stock. Upon completion of this offering, we will have outstanding an aggregate of \_\_\_\_\_ shares of our Class A Common Stock ( \_\_\_\_\_ shares if the underwriters' overallotment option is exercised in full), excluding:

48.55 million shares of our Class A Common Stock issuable upon conversion of our Class B-1 Common Stock six months after the Listing;

48.55 million shares of our Class A Common Stock issuable upon conversion of our Class B-2 Common Stock 12 months after the Listing;

48.55 million shares of our Class A Common Stock issuable upon conversion of our Class B-3 Common Stock 18 months after the Listing;

17,350 shares of each of our Class A, Class B-1, Class B-2 and Class B-3 Common Stock issuable upon the exercise of outstanding stock options granted to our directors as of March 2, 2012;

1.00 million shares of each of our Class A, Class B-1, Class B-2 and Class B-3 Common Stock reserved for future issuance under our 2008 Equity Plan as of March 2, 2012; and

20,000 shares of each of our Class A, Class B-1, Class B-2 and Class B-3 Common Stock reserved for future issuance under our Independent Director Stock Option Plan as of March 2, 2012.

All of the \_\_\_\_\_ shares of Class A Common Stock to be sold in this offering ( \_\_\_\_\_ shares if the underwriters' overallotment option is exercised in full) will be freely tradable without restriction or further registration under the Securities Act, subject to the restrictions on ownership and transfer set forth in our charter, and except for the shares that are held by any of our affiliates, as that term is defined in Rule 144 under the Securities Act. In addition, assuming that none of the outstanding shares of Class A Common Stock were acquired from one of our affiliates in a transaction not involving a public offering, 48.54 million shares of our Class A Common Stock outstanding as of March 2, 2012, after giving effect to the Recapitalization, will be freely tradable without restriction or further registration under the Securities Act, subject to the restrictions on ownership and transfer set forth in our charter. The remaining 13,081 shares of our Class A Common Stock outstanding as of March 2, 2012, after giving effect to the Recapitalization, are restricted securities as that term is defined in Rule 144, and may only be sold in the public market if registered or if the sales qualify for an exemption from registration, including an exemption under Rule 144 under the Securities Act, which is discussed below.

As of March 2, 2012, after giving effect to the Recapitalization, the shares of our Class A Common Stock that were outstanding or issuable upon the conversion of our Class B-1, Class B-2 and Class B-3 Common Stock will, assuming that none of the shares were acquired from one of our affiliates in a transaction not involving a





**Table of Contents**

public offering and no shares are released from the lock-up agreements described below prior to 180 days after the date of this prospectus, become eligible for sale without registration approximately as follows:

Number of Shares of Class A Common Stock	Date Eligible For Sale
48.51 million shares <sup>(1) (2)</sup>	Immediately
45,414 shares <sup>(2) (3)</sup>	180 days after the date of this prospectus upon the expiration of the lock-up agreements
48.55 million shares issuable upon conversion of Class B-1 Common Stock <sup>(2) (4)</sup>	six months after the Listing
48.55 million shares issuable upon conversion of Class B-2 Common Stock <sup>(2) (4)</sup>	12 months after the Listing
48.55 million shares issuable upon conversion of Class B-3 Common Stock <sup>(2) (4)</sup>	18 months after the Listing

- (1) Includes shares that are not restricted securities and restricted securities eligible to be resold under Rule 144(b)(1)(i) without regard to the current public information requirements.
- (2) Assumes that the only persons qualifying as affiliates for purposes of Rule 144 are our directors and executive officers.
- (3) Includes 13,081 shares that constitute restricted securities eligible to be resold under Rule 144(b)(2) subject to satisfaction of volume limitations, manner of sale provisions, current public information requirements and notice requirements.
- (4) Includes shares that are not restricted securities, restricted securities eligible to be resold under Rule 144(b)(1)(i) without regard to the current public information requirements and 13,081 shares that constitute restricted securities eligible to be resold under Rule 144(b)(2) subject to satisfaction of volume limitations, manner of sale provisions, current public information requirements and notice requirements.

Prior to conversion into our Class A Common Stock, all of our outstanding Class B Common Stock will be freely tradable without restriction or further registration under the Securities Act, subject to the restrictions on ownership and transfer set forth in our charter, except for the 45,414 shares of each of our Class B-1, Class B-2 and Class B-3 Common Stock that will be subject to the lock-up agreements described below. The shares subject to the lock-up agreement includes 13,081 shares of each of our Class B-1, Class B-2 and Class B-3 Common Stock that constitute restricted securities eligible to be resold under Rule 144(b)(2) subject to satisfaction of volume limitations, manner of sale provisions, current public information requirements and notice requirements. However, our Class B Common Stock will not be listed on a national stock exchange, and we do not expect a market to develop for shares of our Class B Common Stock.

For a description of certain restrictions on ownership and transfer of shares of our common stock, see Description of Capital Stock Restrictions on Ownership and Transfer.

**Rule 144(b)(1)**

Rule 144(b)(1) provides a safe harbor pursuant to which certain persons may sell shares of our stock that constitute restricted securities without registration under the Securities Act. Restricted securities include, among other things, securities acquired directly or indirectly from the issuer, or from an affiliate of the issuer, in a transaction or chain of transactions not involving any public offering. In general, the conditions that must be met for a person to sell shares of our stock pursuant to Rule 144(b)(1) are as follows: (i) the person selling the shares must not be an affiliate of ours at the time of the sale, and must not have been an affiliate of ours during the preceding three months, and (ii) either (A) at least one year must have elapsed since the date of acquisition of the restricted securities from us or any of our affiliates or (ii) if we satisfy the current public information requirements set forth in Rule 144, at least six months have elapsed since the date of acquisition of the restricted securities from us or any of our affiliates.

## **Table of Contents**

### **Rule 144(b)(2)**

Rule 144(b)(2) provides a safe harbor pursuant to which persons who are affiliates of ours may sell shares of our stock, whether restricted securities or not, without registration under the Securities Act if certain conditions are met. In general, the conditions that must be met for a person who is an affiliate of ours (or has been within three months prior to the date of sale) to sell shares of our stock pursuant to Rule 144(b)(2) are as follows (i) at least six months must have elapsed since the date of acquisition of the shares of stock from us or any of our affiliates, (ii) the seller must comply with volume limitations, manner of sale restrictions and notice requirements and (iii) we must satisfy the current public information requirements set forth in Rule 144. In order to comply with the volume limitations, a seller may not sell, in any three-month period, more than the following number of shares:

1% of the shares of the class outstanding as shown by the most recent report or statement published by us;

the average weekly reported volume of trading in such securities on all national securities exchanges and/or reported through the automated quotation system of a registered securities association during the four calendar weeks preceding the filing of the notice required to be filed by the seller under Rule 144 or if no such notice is required, the date of receipt of the order to execute the transaction by the broker or the date of execution of the transaction directly with a market maker; or

the average weekly volume of trading in such securities reported pursuant to an effective transaction report plan or an effective national market system plan, as defined in Regulation NMS under the Securities Exchange Act of 1934, as amended, during the four week period described in the preceding bullet.

As of March 2, 2012, after giving effect to the Recapitalization, none of our directors or executive officers owned more than 1% of any class of our outstanding shares of common stock.

### **Our Equity Plans**

Under our 2008 Equity Plan, we authorized 4,000,000 shares of common stock for issuance to our employees, which is equally divided among our Class A Common Stock, Class B-1 Common Stock, Class B-2 Common Stock and Class B-3 Common Stock. Our employees are eligible under our 2008 Equity Plan to receive stock options, stock appreciation rights (either in tandem with a stock option or alone and unrelated to a stock option), restricted stock and performance units/shares. As of March 2, 2012, we had issued 13,614 shares under our 2008 Equity Plan and 3,986,387 shares authorized remained available for grant.

Under our Independent Director Stock Option Plan, we authorized 150,000 shares of our common stock for issuance to our non-employee directors, which is equally divided among our Class A Common Stock, Class B-1 Common Stock, Class B-2 Common Stock and Class B-3 Common Stock. Our non-employee directors are eligible to receive stock options under our Independent Director Stock Option Plan. As of March 2, 2012, after giving effect to the Recapitalization, 17,350 shares of each of our Class A, Class B-1, Class B-2 and Class B-3 Common Stock were subject to outstanding stock options granted under our Independent Director Stock Option Plan and 20,000 shares of each of our Class A, Class B-1, Class B-2 and Class B-3 Common Stock remained available for issuance under our Independent Director Stock Option Plan.

Shares of our Class B Common Stock will convert automatically into shares of our Class A Common Stock at specified times. Upon the conversion of each class of Class B Common Stock, the number of shares of Class A Common Stock authorized for issuance under the equity plans will increase by the number of shares of Class B Common Stock that had been authorized for issuance under the equity plans but had not been issued prior to such conversion; however, the total number of shares of common stock authorized for issuance under the equity plans will remain at 4,150,000 shares.

We have filed a registration statement on Form S-8 with respect to the shares issuable under our 2008 Equity Plan and our Independent Director Stock Option Plan. Shares covered by such registration statement will be eligible for transfer or resale without restriction under the Securities Act unless held by affiliates.

## **Table of Contents**

### **Lock-up Agreements**

We and all of our directors and executive officers have agreed that, without the prior written consent of the each of the representatives, we and they will not, for a period of 180 days after the date of this prospectus:

offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of, directly or indirectly, or file with the SEC a registration statement under the Securities Act relating to, any shares of our Class A Common Stock or securities convertible into or exchangeable or exercisable for any share of our Class A Common Stock (including, without limitation, shares of our Class A Common Stock or such other securities which may be deemed to be beneficially owned by such directors and officers in accordance with the rules and regulations of the SEC and securities which may be issued upon exercise of a stock option or warrant), or publicly disclose the intention to make any offer, sale, pledge, disposition or filing;

enter into any swap or other arrangement that transfers, in whole or in part, any of the economic consequences associated with the ownership of any shares of our Class A Common Stock or any such other securities (regardless of whether any of the transactions described in this bullet or the immediately preceding bullet are to be settled by the delivery of shares of our Class A Common Stock or such other securities, in cash or otherwise), other than, with respect to us, the shares of our Class A Common Stock to be sold hereunder and in respect of any shares of our Class A Common Stock issued under our existing incentive plans; or

in the case of our directors and officers, make any demand for or exercise any right with respect to the registration of any shares of our Class A Common Stock or any security convertible into or exercisable or exchangeable for shares of our Class A Common Stock.

However, each of our directors and executive officers may transfer or dispose of our shares during the 180-day restricted period in the case of gifts or for estate planning purposes where the transferee agrees to a similar lock-up agreement for the remainder of the 180-day restricted period, provided that no report is required to be filed by the transferor under the Exchange Act as a result of the transfer. Notwithstanding the foregoing, if (i) during the last 17 days of the 180-day restricted period, we issue an earnings release or material news or a material event relating to our company occurs; or (ii) prior to the expiration of the 180-day restricted period, we announce that we will release earnings results during the 16-day period beginning on the last day of the 180-day period, the restrictions described above shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event.

---

**Table of Contents**

**MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS**

The following summary addresses U.S. federal income tax considerations related to our election to be subject to taxation as a REIT and the ownership and disposition of our Class A Common Stock that we anticipate being material to holders of our Class A Common Stock. This summary does not address any foreign, state, or local tax consequences of holding our Class A Common Stock. The provisions of the Code concerning the U.S. federal income tax treatment of a REIT are highly technical and complex; the following discussion sets forth only certain aspects of those provisions. This summary is intended to provide you with general information only and is not intended as a substitute for careful tax planning.

This summary is based on provisions of the Code, applicable final and temporary Treasury Regulations, judicial decisions, and administrative rulings and practice, all in effect as of the date of this prospectus, and should not be construed as legal or tax advice. No assurance can be given that future legislative or administrative changes or judicial decisions will not affect the accuracy of the descriptions or conclusions contained in this summary. In addition, any such changes may be retroactive and apply to transactions entered into prior to the date of their enactment, promulgation or release. We do not expect to seek a ruling from the IRS regarding any of the U.S. federal income tax issues discussed in this prospectus, and no assurance can be given that the IRS will not challenge any of the positions we take and that such a challenge will not succeed. This discussion does not purport to address all aspects of federal income taxation that may be relevant to you in light of your particular investment circumstances, or if you are a type of investor subject to special tax rules. ***Prospective purchasers of our Class A Common Stock are urged to consult their tax advisors prior to any investment in our Class A Common Stock concerning the potential U.S. federal, state, local, and foreign tax consequences of the investment with specific reference to their own tax situations.***

Except as otherwise noted, references in this discussion of Material U.S. Federal Income Tax Considerations to we, our, us and our company refer to Retail Properties of America, Inc.

**Taxation of our Company**

We have elected to be taxed as a REIT under Sections 856 through 860 of the Code. We believe that we have been organized and operated in conformity with the requirements for qualification and taxation as a REIT under the Code beginning with our taxable year ended December 31, 2003, and that our intended manner of operation will enable us to continue to meet the requirements for qualification and taxation as a REIT for federal income tax purposes.

In connection with this offering, our tax counsel, Goodwin Procter LLP, is expected to render an opinion to us to the effect that, commencing with our taxable year ended December 31, 2003, we have been organized and operated in conformity with the requirements for qualification and taxation as a REIT under the Code and our prior, current and proposed ownership and method of operations will allow us to satisfy the requirements for qualification and taxation as a REIT under the Code for subsequent taxable years. The opinion of Goodwin Procter LLP would be based upon various assumptions, our closing agreement with the IRS, and our representations as to our past and contemplated future ownership, investments, distributions, share valuations and operations, among other things. The opinion of Goodwin Procter LLP would be expressly conditioned upon the accuracy of these and other assumptions and upon our representations, which Goodwin Procter LLP will not verify. Moreover, our qualification and taxation as a REIT will depend upon our ability to meet, through actual annual operating results, distribution levels, and diversity of stock ownership, the various and complex REIT qualification tests imposed under the Code, the results of which will not be reviewed or verified by Goodwin Procter LLP. See Qualification as a REIT below. The opinion of Goodwin Procter LLP also relies on our representation that we are entitled to utilize, and will utilize, certain relief provisions, if necessary, to cure a possible failure of the REIT requirements resulting from our ownership for part of 2005 and 2006 of stock of another company that intended to qualify as a REIT that may have failed certain REIT requirements. See Qualification as a REIT Asset Tests below. Accordingly, no assurance can be given that we have satisfied or will satisfy the requirements for qualification and taxation as a REIT. The opinion of Goodwin Procter LLP would be based upon current law, which is subject to change either prospectively or retroactively (or, with

## Table of Contents

respect to past years, the law in effect for such years). Opinions of counsel impose no obligation on counsel to advise us or the holders of our stock of any subsequent change in the matters stated, represented or assumed, or of any subsequent change in the applicable law. Changes in applicable law could modify the conclusions expressed in the opinion. Unlike a ruling from the IRS, an opinion of Goodwin Procter LLP is not binding on the IRS, and no assurance can be given that the IRS could not successfully challenge our qualification as a REIT.

If we qualify as a REIT, we generally will be allowed to deduct dividends paid to our shareholders, and, as a result, we generally will not be subject to U.S. federal income tax on that portion of our ordinary income and net capital gain that we currently distribute to our shareholders. We intend to make distributions to our shareholders on a regular basis as necessary to avoid material U.S. federal income tax and to comply with the REIT requirements. See [Qualification as a REIT Annual Distribution Requirements](#) below.

Notwithstanding the foregoing, even if we qualify for taxation as a REIT, we nonetheless may be subject to U.S. federal income tax in certain circumstances, including the following:

We will be required to pay U.S. federal income tax on our undistributed REIT taxable income, including net capital gain;

We may be subject to the alternative minimum tax;

We may be subject to tax at the highest corporate rate on certain income from foreclosure property (generally, property acquired by reason of default on a lease or indebtedness held by us);

We will be subject to a 100% U.S. federal income tax on net income from prohibited transactions (generally, certain sales or other dispositions of property, sometimes referred to as dealer property, held primarily for sale to customers in the ordinary course of business, other than foreclosure property) unless the gain is realized in a taxable REIT subsidiary, or TRS, or such property has been held by us for at least two years and certain other requirements are satisfied;

If we fail to satisfy the 75% gross income test or the 95% gross income test (discussed below), but nonetheless maintain our qualification as a REIT pursuant to certain relief provisions, we will be subject to a 100% U.S. federal income tax on the greater of (i) the amount by which we fail the 75% gross income test or (ii) the amount by which we fail the 95% gross income test, in either case, multiplied by a fraction intended to reflect our profitability;

If we fail to satisfy any of the asset tests, other than the 5% or the 10% asset tests that qualify under the De Minimis Exception, and the failure qualifies under the General Exception, as described below under [Qualification as a REIT Asset Tests](#), then we will have to pay an excise tax equal to the greater of (i) \$50,000 and (ii) an amount determined by multiplying the net income generated during a specified period by the assets that caused the failure by the highest U.S. federal income tax applicable to corporations;

If we fail to satisfy any REIT requirements other than the income test or asset test requirements, described below under [Qualification as a REIT Income Tests](#) and [Qualification as a REIT Asset Tests](#), respectively, and we qualify for a reasonable cause exception, then we will have to pay a penalty equal to \$50,000 for each such failure;

We will be subject to a 4% excise tax if certain distribution requirements are not satisfied;

We may be required to pay monetary penalties to the IRS in certain circumstances, including if we fail to meet record-keeping requirements intended to monitor our compliance with rules relating to the composition of a REIT's shareholders, as described below in [Recordkeeping Requirements](#);

If we dispose of an asset acquired by us from a C corporation in a transaction in which we took the C corporation's tax basis in the asset, we may be subject to tax at the highest regular corporate rate on the appreciation inherent in such asset as of the date of acquisition by us;

We will be required to pay a 100% tax on any re-determined rents, re-determined deductions, and excess interest. In general, re-determined rents are rents from real property that are overstated as a

## **Table of Contents**

result of services furnished to any of our tenants by one of our TRSs. Re-determined deductions and excess interest generally represent amounts that are deducted by a TRS for amounts paid to us that are in excess of the amounts that would have been deducted based on arm's-length negotiations; and

Income earned by our TRSs or any other subsidiaries that are taxable as C corporations will be subject to tax at regular corporate rates.

No assurance can be given that the amount of any such U.S. federal income taxes will not be substantial. In addition, we and our subsidiaries may be subject to a variety of taxes, including payroll taxes and state, local and foreign income, property and other taxes on assets and operations. We could also be subject to tax in situations and on transactions not presently contemplated.

## **Qualification as a REIT**

### ***In General***

The REIT provisions of the Code apply to a domestic corporation, trust, or association (i) that is managed by one or more trustees or directors, (ii) the beneficial ownership of which is evidenced by transferable shares or by transferable certificates of beneficial interest, (iii) that properly elects to be taxed as a REIT and such election has not been terminated or revoked, (iv) that is neither a financial institution nor an insurance company, (v) that uses a calendar year for U.S. federal income tax purposes, and (vi) that meets the additional requirements discussed below.

### ***Ownership Tests***

In order to qualify as a REIT, commencing with our second REIT taxable year, (i) the beneficial ownership of our stock must be held by 100 or more persons during at least 335 days of a 12-month taxable year (or during a proportionate part of a taxable year of less than 12 months) for each of our taxable years and (ii) during the last half of each taxable year, no more than 50% in value of our stock may be owned, directly or indirectly, by or for five or fewer individuals (the 5/50 Test). Stock ownership for purposes of the 5/50 Test is determined by applying the constructive ownership provisions of Section 544(a) of the Code, subject to certain modifications. The term individual for purposes of the 5/50 Test includes a private foundation, a trust providing for the payment of supplemental unemployment compensation benefits, and a portion of a trust permanently set aside or to be used exclusively for charitable purposes. A qualified trust described in Section 401(a) of the Code and exempt from tax under Section 501(a) of the Code generally is not treated as an individual; rather, stock held by it is treated as owned proportionately by its beneficiaries.

We believe that we have satisfied and will continue to satisfy the above ownership requirements. In addition, our charter restricts ownership and transfers of our stock that would violate these requirements, although these restrictions may not be effective in all circumstances to prevent a violation. We will be deemed to have satisfied the 5/50 Test for a particular taxable year if we have complied with all the requirements for ascertaining the ownership of our outstanding stock in that taxable year and have no reason to know that we have violated the 5/50 Test.

### ***Income Tests***

In order to maintain qualification as a REIT, we must annually satisfy two gross income requirements:

(1) First, at least 75% of our gross income (excluding gross income from prohibited transactions and certain other income and gains as described below) for each taxable year must be derived, directly or indirectly, from investments relating to real property or mortgages on real property or from certain types of temporary investments (or any combination thereof). Qualifying income for purposes of this 75% gross income test generally includes: (a) rents from real property, (b) interest on obligations secured by mortgages on real property or on interests in real property, (c) dividends or other distributions on, and gain from the

---

**Table of Contents**

sale of, shares in other REITs, (d) gain from the sale of real estate assets (other than gain from prohibited transactions), (e) income and gain derived from foreclosure property, and (f) income from certain types of temporary investments; and

(2) Second, in general, at least 95% of our gross income (excluding gross income from prohibited transactions and certain other income and gains as described below) for each taxable year must be derived from the real property investments described above and from other types of dividends and interest, gain from the sale or disposition of stock or securities that are not dealer property, or any combination of the above.

Rents we receive will qualify as rents from real property in satisfying the gross income requirements for a REIT described above only if several conditions are met. First, the amount of rent generally must not be based in whole or in part on the income or profits of any person. However, an amount received or accrued generally will not be excluded from the term rents from real property solely by reason of being based on a fixed percentage or percentages of receipts or sales. Second, rents received from a related party tenant will not qualify as rents from real property in satisfying the gross income tests unless the tenant is a TRS and either (i) at least 90% of the property is leased to unrelated tenants and the rent paid by the TRS is substantially comparable to the rent paid by the unrelated tenants for comparable space, or (ii) the property leased is a qualified lodging facility, as defined in Section 856(d)(9)(D) of the Code, or a qualified health care property, as defined in Section 856(e)(6)(D)(i), and certain other conditions are satisfied. A tenant is a related party tenant if the REIT, or an actual or constructive owner of 10% or more of the REIT, actually or constructively owns 10% or more of the tenant. Third, if rent attributable to personal property, leased in connection with a lease of real property, is greater than 15% of the total rent received under the lease, then the portion of rent attributable to the personal property will not qualify as rents from real property.

Generally, for rents to qualify as rents from real property for the purpose of satisfying the gross income tests, we may provide directly only an insignificant amount of services, unless those services are usually or customarily rendered in connection with the rental of real property and not otherwise considered rendered to the occupant under the applicable tax rules. Accordingly, we may not provide impermissible services to tenants (except through an independent contractor from whom we derive no revenue and that meets other requirements or through a TRS) without giving rise to impermissible tenant service income. Impermissible tenant service income is deemed to be at least 150% of the direct cost to us of providing the service. If the impermissible tenant service income exceeds 1% of our total income from a property, then all of the income from that property will fail to qualify as rents from real property. If the total amount of impermissible tenant service income from a property does not exceed 1% of our total income from the property, the services will not disqualify any other income from the property that qualifies as rents from real property, but the impermissible tenant service income will not qualify as rents from real property.

We do not intend to charge significant rent that is based in whole or in part on the income or profits of any person, derive significant rents from related party tenants, derive rent attributable to personal property leased in connection with real property that exceeds 15% of the total rents from that property, or derive impermissible tenant service income that exceeds 1% of our total income from any property if the treatment of the rents from such property as nonqualified rents could cause us to fail to qualify as a REIT.

Distributions that we receive from a TRS will be classified as dividend income to the extent of the earnings and profits of the TRS. Such distributions will generally constitute qualifying income for purposes of the 95% gross income test, but not under the 75% gross income test unless attributable to investments of certain new capital during the one-year period beginning on the date of receipt of the new capital. Any dividends received by us from a REIT will be qualifying income for purposes of both the 95% and 75% gross income tests.

If we fail to satisfy one or both of the 75% or the 95% gross income tests, we may nevertheless qualify as a REIT for a particular year if we are entitled to relief under certain provisions of the Code. Those relief provisions generally will be available if our failure to meet such tests is due to reasonable cause and not due to willful



---

**Table of Contents**

neglect and we file a schedule describing each item of our gross income for such year(s) in accordance with the applicable Treasury Regulations. It is not possible, however, to state whether in all circumstances we would be entitled to the benefit of these relief provisions. As discussed above in *Taxation of Our Company*, even if these relief provisions were to apply, we would be subject to U.S. federal income tax to the extent we fail to meet the 75% or 95% gross income tests.

*Foreclosure property.* Foreclosure property is real property (including interests in real property) and any personal property incident to such real property (1) that is acquired by a REIT as a result of the REIT having bid in the property at foreclosure, or having otherwise reduced the property to ownership or possession by agreement or process of law, after there was a default (or default was imminent) on a lease of the property or a mortgage loan held by the REIT and secured by the property, (2) for which the related loan or lease was made, entered into or acquired by the REIT at a time when default was not imminent or anticipated and (3) for which such REIT makes an election to treat the property as foreclosure property. REITs generally are subject to tax at the maximum corporate rate (currently 35%) on any net income from foreclosure property, including any gain from the disposition of the foreclosure property, other than income that would otherwise be qualifying income for purposes of the 75% gross income test. Any gain from the sale of property for which a foreclosure property election has been made will not be subject to the 100% tax on gains from prohibited transactions described above, even if the property is held primarily for sale to customers in the ordinary course of a trade or business.

*Hedging transactions.* We may enter into hedging transactions with respect to one or more of our assets or liabilities. Hedging transactions could take a variety of forms, including interest rate swaps or cap agreements, options, futures contracts, forward rate agreements or similar financial instruments. Except to the extent as may be provided by future Treasury Regulations, any income from a hedging transaction which is clearly identified as such before the close of the day on which it was acquired, originated or entered into, including gain from the disposition or termination of such a transaction, will not constitute gross income for purposes of the 95% and 75% gross income tests, provided that the hedging transaction is entered into (i) in the normal course of our business primarily to manage risk of interest rate or price changes or currency fluctuations with respect to indebtedness incurred or to be incurred by us to acquire or carry real estate assets or (ii) primarily to manage the risk of currency fluctuations with respect to any item of income or gain that would be qualifying income under the 75% or 95% income tests (or any property which generates such income or gain). To the extent we enter into other types of hedging transactions, the income from those transactions is likely to be treated as non-qualifying income for purposes of both the 75% and 95% gross income tests. We intend to structure and monitor our hedging transactions so that such transactions do not jeopardize our ability to qualify as a REIT.

*Qualified temporary investment income.* Income derived from certain types of temporary stock and debt investments made with the proceeds of this offering, not otherwise treated as qualifying income for the 75% gross income test, generally will nonetheless constitute qualifying income for purposes of the 75% gross income test for the year following this offering. More specifically, qualifying income for purposes of the 75% gross income test includes qualified temporary investment income, which generally means any income that is attributable to stock or a debt instrument, is attributable to the temporary investment of new equity capital and certain debt capital, and is received or accrued during the one-year period beginning on the date on which the REIT receives such new capital. After the one year period following this offering, income from investments of the proceeds of this offering will be qualifying income for purposes of the 75% income test only if derived from one of the other qualifying sources enumerated above.

***Asset Tests***

At the close of each quarter of each taxable year, we must also satisfy four tests relating to the nature of our assets. First, real estate assets, cash and cash items, and government securities must represent at least 75% of the value of our total assets. Second, not more than 25% of our total assets may be represented by securities other than those in the 75% asset class. Third, of the investments that are not included in the 75% asset class and that

**Table of Contents**

are not securities of our TRSs, (i) the value of any one issuer's securities owned by us may not exceed 5% of the value of our total assets and (ii) we may not own more than 10% by vote or by value of any one issuer's outstanding securities. For purposes of the 10% value test, debt instruments issued by a partnership are not classified as securities to the extent of our interest as a partner in such partnership (based on our proportionate share of the partnership's equity interests and certain debt securities) or if at least 75% of the partnership's gross income, excluding income from prohibited transactions, is qualifying income for purposes of the 75% gross income test. For purposes of the 10% value test, the term securities also does not include debt securities issued by another REIT, certain straight debt securities (for example, qualifying debt securities of a corporation of which we own no more than a de minimis amount of equity interest), loans to individuals or estates, and accrued obligations to pay rent. Fourth, securities of our TRSs cannot represent more than 25% of our total assets. Although we believe we have met these asset tests and we intend to continue to meet them, no assurance can be given that we have met them or will be able to do so. For purposes of these asset tests, we are treated as holding our proportionate share of our subsidiary partnerships' assets. Also, for purposes of these asset tests, the term real estate assets includes any property that is not otherwise a real estate asset and that is attributable to the temporary investment of new capital, but only if such property is stock or a debt instrument, and only for the one-year period beginning on the date the REIT receives such capital. Real estate assets include our investments in stocks of other REITs but do not include stock of any real estate company, or other company, that does not qualify as a REIT (unless eligible for the special rule for temporary investment of new capital).

We will monitor the status of our assets for purposes of the various asset tests and will endeavor to manage our portfolio in order to comply at all times with such tests. If we fail to satisfy the asset tests at the end of a calendar quarter, other than the first calendar quarter, we will not lose our REIT status if one of the following exceptions applies:

We satisfied the asset tests at the end of the preceding calendar quarter, and the discrepancy between the value of our assets and the asset test requirements arose from changes in the market values of our assets and was not wholly or partly caused by the acquisition of one or more non-qualifying assets; or

We eliminate any discrepancy within 30 days after the close of the calendar quarter in which it arose.

Moreover, if we fail to satisfy the asset tests at the end of a calendar quarter during a taxable year, we will not lose our REIT status if one of the following additional exceptions applies:

*De Minimis Exception:* The failure is due to a violation of the 5% or 10% asset tests referenced above and is de minimis (meaning that the failure is one that arises from our ownership of assets the total value of which does not exceed the lesser of 1% of the total value of our assets at the end of the quarter in which the failure occurred and \$10 million), and we either dispose of the assets that caused the failure or otherwise satisfy the asset tests within six months after the last day of the quarter in which our identification of the failure occurred; or

*General Exception:* All of the following requirements are satisfied: (i) the failure is not due to the above De Minimis Exception, (ii) the failure is due to reasonable cause and not willful neglect, (iii) we file a schedule in accordance with Treasury Regulations providing a description of each asset that caused the failure, and (iv) we either dispose of the assets that caused the failure or otherwise satisfy the asset tests within six months after the last day of the quarter in which our identification of the failure occurred. A REIT that utilizes this general relief provision must pay an excise tax equal to the greater of (a) \$50,000 or (b) the product of the net income generated during a specified period by the asset that caused the failure and the highest U.S. federal income tax rate applicable to corporations.

For part of 2005 and 2006, we held stock representing more than 10% of the securities (by value) of a joint venture organized as a corporation that elected to be taxed as a REIT beginning with its taxable year ending December 31, 2005 (the JV REIT). We believed that the JV REIT was a qualifying REIT during our ownership period, ending in 2006, in analyzing our compliance with the REIT asset tests for that period. Nonetheless, in connection with our preparation for a listing of our stock, we became aware that the JV REIT may not have

---

**Table of Contents**

satisfied certain requirements for qualification as a REIT during the period we held its shares. If it were determined that the JV REIT failed any of those requirements (and the failure was not cured), then we would have failed the 10% value test described above. Failing the 10% value test would have caused us to lose our status as a REIT unless the failure was cured using the General Exception relief provision described above. We estimate that the resulting excise tax liability for us if reliance on such relief provision becomes necessary would be approximately \$5.0 million. We believe that if we were required to pay this amount, we would have a claim for indemnification against the JV REIT under the terms of our subscription agreement entered into at the time of our original investment in 2005.

Although the REIT provisions and regulations provide no clear guidelines for determining whether our particular facts and circumstances constituted reasonable cause and not willful neglect, Treasury Regulations interpreting a similar requirement in the relief provisions for income test violations indicate that we should have reasonable cause for the 10% value asset test violation if we exercised ordinary business care and prudence in attempting to satisfy the REIT asset tests. We believe that we exercised ordinary business care and prudence with respect to satisfying the REIT requirements while investing in the JV REIT, that any failure of the 10% value test resulting from our investment in the JV REIT would be due to reasonable cause and not due to willful neglect and that we can rely on the General Exception relief provision if necessary to cure any such failure. Similarly, for purposes of its opinion regarding our qualification as a REIT, Goodwin Procter LLP will rely on our representations that any such failure was due to reasonable cause and not due to willful neglect and that we will take advantage of available relief provisions, if necessary. In addition, Goodwin Procter LLP has advised us that, although the issue is not free from doubt, based on certain representations from us regarding the facts and circumstances surrounding our investment in the JV REIT, certain assumptions, the relevant share purchase agreements and other relevant agreements, we should be treated as having exercised ordinary business care and prudence and that any such failure should be treated as due to reasonable cause and not due to willful neglect for purposes of the General Exception relief provision. It is possible, however, that the IRS or a court could disagree with these conclusions. See *Qualification as a REIT Failure to Qualify* for a discussion of the consequences if we were determined to have failed the 10% value test and were denied reasonable cause relief.

***Annual Distribution Requirements***

In order to qualify as a REIT, each taxable year we must distribute dividends (other than capital gain dividends) to our shareholders in an amount at least equal to (A) the sum of (i) 90% of our REIT taxable income, determined without regard to the dividends paid deduction and by excluding any net capital gain, and (ii) 90% of the net income (after tax), if any, from foreclosure property, minus (B) the sum of certain items of non-cash income. We generally must pay such distributions in the taxable year to which they relate, or in the following taxable year if declared before we timely file our tax return for such year and if paid on or before the first regular dividend payment after such declaration. Subject to certain requirements, we may satisfy our distribution requirement by paying a taxable stock dividend.

To the extent that we do not distribute all of our net capital gain and taxable income, we will be subject to U.S. federal, state and local tax on the undistributed amount at regular corporate income tax rates. Furthermore, if we should fail to distribute during each calendar year at least the sum of (i) 85% of our REIT taxable income (subject to certain adjustments) for such year, (ii) 95% of our capital gain net income for such year, and (iii) 100% of any corresponding undistributed amounts from prior periods, we will be subject to a 4% nondeductible excise tax on the excess of such required distribution over the sum of amounts actually distributed plus retained income from such taxable year on which we paid corporate income tax.

Under certain circumstances, we may be able to rectify a failure to meet the distribution requirement for a year by paying deficiency dividends to our shareholders in a later year that may be included in our deduction for dividends paid for the earlier year. Thus, we may be able to avoid being taxed on amounts distributed as deficiency dividends; however, we will be required to pay interest based upon the amount of any deduction taken for deficiency dividends.

## **Table of Contents**

In order to satisfy the REIT distribution requirements, the dividends we pay must not be preferential within the meaning of the Code. A dividend determined to be preferential will not qualify for the dividends paid deduction. To avoid paying preferential dividends, we must treat every shareholder of a class of stock with respect to which we make a distribution the same as every other shareholder of that class, and we must not treat any class of stock other than according to its dividend rights as a class. If any part of a distribution is preferential, none of that distribution will be applied towards satisfying our REIT distribution requirements.

Pursuant to an IRS ruling, the prohibition on preferential dividends does not prohibit REITs from offering shares under a distribution reinvestment plan at discounts of up to 5% of fair market value, but a discount in excess of 5% of the fair market value of the shares would be considered a preferential dividend. Our DRP has offered participants the opportunity to acquire newly-issued shares of our common stock and any discount we have offered was intended to fall within the safe harbor for such discounts set forth in the ruling published by the IRS; however, the fair market value of our common stock prior to the listing of our Class A Common Stock on a national securities exchange has not been susceptible to a definitive determination. If the discount in the purchase price under the DRP is deemed to have exceeded 5% at any time, we could fail to qualify as a REIT for any such affected year. See *Failure to Qualify*.

In addition, certain aspects of the operation of our DRP prior to May 2006 may have violated the prohibition against preferential dividends, and to address those issues we entered into a closing agreement with the Commissioner in June 2011, whereby the Commissioner agreed that the terms and administration of our DRP did not result in our dividends paid during taxable years 2004 through 2006 being treated as preferential dividends.

Preferential dividends could include certain share repurchases that are taxed to the selling shareholder in the same manner as a regular distribution (e.g., as a taxable dividend to the extent paid out of earnings and profits), rather than as a sale or exchange. We believe that our share repurchases were properly treated as sales or exchanges for federal income tax purposes.

We may retain and pay income tax on net long-term capital gains we received during the tax year. To the extent we so elect, (i) each shareholder must include in its income (as long-term capital gain) its proportionate share of our undistributed long-term capital gains, (ii) each shareholder is deemed to have paid, and receives a credit for, its proportionate share of the tax paid by us on the undistributed long-term capital gains, and (iii) each shareholder's basis in its stock is increased by the included amount of the undistributed long-term capital gains less their share of the tax paid by us.

To qualify as a REIT, we may not have, at the end of any taxable year, any undistributed earnings and profits accumulated in any non-REIT taxable year. We believe that we have not had any non-REIT earnings and profits at the end of any taxable year and we intend to distribute any non-REIT earnings and profits that we accumulate before the end of any taxable year in which we accumulate such earnings and profits.

### ***Failure to Qualify***

If we fail to qualify as a REIT and such failure is not an asset test or income test failure subject to the cure provisions described above, or the result of preferential dividends, we generally will be eligible for a relief provision if the failure is due to reasonable cause and not willful neglect and we pay a penalty of \$50,000 with respect to such failure.

If we fail to qualify for taxation as a REIT in any taxable year and no relief provisions apply, we generally will be subject to tax (including any applicable alternative minimum tax) on our taxable income at regular corporate rates. Distributions to our shareholders in any year in which we fail to qualify as a REIT will not be deductible by us nor will they be required to be made. In such event, to the extent of our current or accumulated earnings and profits, all distributions to our shareholders will be taxable as dividend income. Subject to certain limitations in the Code, corporate shareholders may be eligible for the dividends received deduction, and

## **Table of Contents**

individual, trust and estate shareholders may be eligible to treat the dividends received from us as qualified dividend income taxable as net capital gains, under the provisions of Section 1(h)(11) of the Code, through the end of 2012. Unless entitled to relief under specific statutory provisions, we also will be ineligible to elect to be taxed as a REIT again prior to the fifth taxable year following the first year in which we failed to qualify as a REIT under the Code.

Our qualification as a REIT for U.S. federal income tax purposes will depend on our continuing to meet the various requirements summarized above governing the ownership of our outstanding stock, the nature of our assets, the sources of our income, and the amount of our distributions to our shareholders. Although we intend to operate in a manner that will enable us to comply with such requirements, there can be no certainty that such intention will be realized. In addition, because the relevant laws may change, compliance with one or more of the REIT requirements may become impossible or impracticable for us.

## **Prohibited Transaction Tax**

Any gain realized by us on the sale of any property held (other than foreclosure property) as inventory or other property held primarily for sale to customers in the ordinary course of business, including our share of any such gain realized by our subsidiary partnerships and taking into account any related foreign currency gains or losses, will be treated as income from a prohibited transaction that is subject to a 100% penalty tax. Whether property is held as inventory or primarily for sale to customers in the ordinary course of a trade or business depends upon all the facts and circumstances with respect to the particular transaction. However, the Code provides a safe harbor pursuant to which sales of properties held for at least two years and meeting certain other requirements will not give rise to prohibited transaction income.

We generally intend to hold properties for investment, but we have made and will make sales of properties consistent with our strategic objectives. We believe our past sales in open tax years qualified for the statutory safe harbor. In the future, however, we may make sales at a gain that do not satisfy the safe harbor requirements described above. There can be no assurance that the IRS will not contend that one or more of these sales are subject to the 100% penalty tax. The 100% tax will not apply to gains from the sale of property realized through a TRS or other taxable corporation, although such income will be subject to tax at regular corporate income tax rates.

## **Recordkeeping Requirements**

To avoid a monetary penalty, we must request on an annual basis information from certain of our shareholders designed to disclose the actual ownership of our outstanding stock. We intend to comply with these requirements.

## **Qualified REIT Subsidiaries and Disregarded Entities**

If a REIT owns a corporate subsidiary that is a qualified REIT subsidiary, or QRS, or if a REIT owns 100% of the membership interests in a domestic limited liability company or other domestic unincorporated entity that does not elect to be treated as a corporation for U.S. federal income tax purposes, the separate existence of the QRS, limited liability company or other unincorporated entity generally will be disregarded for federal income tax purposes. Generally, a QRS is a corporation, other than a TRS, all of the stock of which is owned by a REIT. All assets, liabilities, and items of income, deduction, and credit of the QRS or disregarded entity will be treated as assets, liabilities, and items of income, deduction, and credit of its owner. To the extent we own a QRS or a disregarded entity, neither will be subject to U.S. federal corporate income taxation, although such entities may be subject to state and local taxation in some states or foreign taxes if they do business or own property outside the United States.

---

**Table of Contents**

**Taxation of Subsidiary Partnerships**

We hold investments through entities that are classified as partnerships for U.S. federal income tax purposes. Under the Code, a partnership generally is not subject to U.S. federal income tax, but is required to file a partnership tax return each year. In general, the character of each partner's share of each item of income, gain, loss, deduction, credit, and tax preference is determined at the partnership level. Each partner is then allocated a distributive share of such items and is required to take such items into account in determining the partner's income. Each partner includes such amount in income for any taxable year of the partnership ending within or with the taxable year of the partner, without regard to whether the partner has received or will receive any cash distributions from the partnership. Cash distributions, if any, from a partnership to a partner generally are not taxable unless and to the extent they exceed the partner's basis in its partnership interest immediately before the distribution. Any amounts in excess of such tax basis will generally be treated as a sale of such partner's interest in the partnership.

For purposes of the REIT income and assets tests, a REIT that is a partner in a partnership will be deemed to own its proportionate share of the assets of the partnership and will be deemed to earn its proportionate share of the partnership's income. The assets and gross income of the partnership retain the same character in the hands of the REIT for purposes of the gross income and asset tests applicable to REITs. Our proportionate share of the assets and items of income of any subsidiary partnership, including such partnership's share of the assets and liabilities and items of income with respect to any partnership or disregarded entity in which it holds an interest, will be treated as our assets and liabilities and items of income for purposes of applying the REIT asset and income tests.

We may form joint ventures in the form of subsidiary partnerships and our joint venture partners may contribute property to such subsidiary partnerships. In such a transaction, the subsidiary partnership's initial tax basis in the property acquired generally will be less than the purchase price of the property. Although the rules of Section 704(c) of the Code would generally attempt to provide us as the non-contributing partner with the depreciation comparable to what we would receive if the subsidiary partnership purchased the appreciated assets for cash, absent certain elections, which would accelerate gain to the contributor, the depreciation would be limited to tax basis. Consequently, our depreciation deductions for such properties may be less, and our tax gain on a sale of such properties may be more, than the deductions or gain, respectively, that we would have if the subsidiary partnership acquired these properties in taxable transactions. Alternatively, if we contribute property with a tax basis that is less than its fair market value to a subsidiary partnership, such partnership may elect to use a method of allocation under Section 704(c) that accelerates gain to us.

The discussion above assumes that our subsidiary partnerships will be treated as partnerships for U.S. federal income tax purposes. Generally, a domestic unincorporated entity with two or more partners is treated as a partnership for U.S. federal income tax purposes unless it affirmatively elects to be treated as a corporation. However, certain publicly traded partnerships are treated as corporations for U.S. federal income tax purposes. Pursuant to Section 7704 of the Code, a partnership that does not elect to be treated as a corporation nevertheless will be treated as a corporation for U.S. federal income tax purposes if it is a publicly traded partnership and it does not derive at least 90% of its gross income from certain specified sources of qualifying income within the meaning of that provision. A publicly traded partnership is any partnership (i) the interests in which are traded on an established securities market or (ii) the interests in which are readily tradable on a secondary market or the substantial equivalent thereof. Under the relevant Treasury Regulations, interests in a partnership will not be considered readily tradable on a secondary market or on the substantial equivalent of a secondary market if the partnership qualifies for specified safe harbors, which are based on the specific facts and circumstances relating to the partnership. For example, interests in a partnership are not readily tradable on a secondary market or the substantial equivalent thereof if (i) all interests in the partnership were issued in a transaction (or transactions) that was not required to be registered under the Securities Act of 1933, and (ii) the partnership does not have more than 100 partners at any time during the taxable year of the partnership (determined by counting indirect partners who held their partnership interest through certain flow through entities). If any subsidiary

---

**Table of Contents**

partnership were a publicly traded partnership, it would be taxed as a corporation unless at least 90% of its gross income consists of qualifying income under Section 7704 of the Code. Qualifying income is generally real property rents and other types of passive income, and the income requirements applicable to us to qualify as a REIT under the Code and the definition of qualifying income under the publicly traded partnership rules are very similar. We intend to operate so that our subsidiary partnerships will satisfy at least one of the above-mentioned safe harbors, and/or comply with the qualifying income exception, so as to avoid being taxed as a corporation under these rules. However, we do not control all of our subsidiary partnerships, and treatment of a subsidiary partnership as a corporation could prevent us from qualifying as a REIT.

**Investments in Certain Debt Instruments**

We may acquire mortgage, mezzanine, bridge loans and other debt investments. Interest income constitutes qualifying mortgage interest for purposes of the 75% gross income test (as described above) to the extent that the obligation upon which such interest is paid is secured by a mortgage on real property. If we receive interest income with respect to a mortgage loan that is secured by both real property and other property, and the highest principal amount of the loan outstanding during a taxable year exceeds the fair market value of the real property on the date that we committed to acquire or originate the loan, or agreed to modify the loan in a manner that is treated as an acquisition of a new loan for U.S. federal income tax purposes, then the interest income will be apportioned between the real property and the other collateral, and our income from the loan will qualify for purposes of the 75% gross income test only to the extent that the interest is allocable to the real property. For purposes of the preceding sentence, however, under IRS guidance we do not need to re-determine the fair market value of real property in connection with a loan modification that is occasioned by a default or made at a time when we reasonably believe the modification to the loan will substantially reduce a significant risk of default on the original loan, and any such modification will not be treated as a prohibited transaction. Even if a loan is not secured by real property, or is under-secured, the income that it generates may nonetheless qualify for purposes of the 95% gross income test. To the extent that we derive interest income from a mortgage loan where all or a portion of the amount of interest payable is contingent, such income generally will qualify for purposes of the gross income tests only if it is based upon the gross receipts or sales, and not the net income or profits, of the borrower. This limitation does not apply, however, where the borrower leases substantially all of its interest in the property to tenants or subtenants, to the extent that the rental income derived by the borrower would qualify as rents from real property had we earned the income directly.

If the outstanding principal balance of a mortgage loan exceeds the fair market value of the real property securing the loan at the time we commit to acquire the loan, or agree to modify the loan in a manner that is treated as an acquisition of a new loan for U.S. federal income tax purposes, then a portion of such loan may not be a qualifying real estate asset. Under current law it is not clear how to determine what portion of such a loan will be treated as a qualifying real estate asset. Under guidance, the IRS has stated that it will not challenge a REIT's treatment of a loan as being in part a real estate asset if the REIT treats the loan as being a real estate asset in an amount that is equal to the lesser of the fair market value of the real property securing the loan, as of the date we committed to acquire or modify the loan, and the fair market value of the loan. The value of this guidance may be limited, however, because appreciation in the value of the real property collateral (and loan value) could give rise to a nonqualifying asset.

The application of the REIT provisions of the Code to certain mezzanine loans, which are loans secured by equity interests in an entity that directly or indirectly owns real property rather than by a direct mortgage of the real property, is not entirely clear. A safe harbor in Revenue Procedure 2003-65 provides that if a mezzanine loan meets certain requirements then it will be treated by the IRS as a real estate asset for purposes of the REIT asset tests and interest derived from it will be treated as qualifying mortgage interest for purposes of the 75% income test. However, to the extent that mezzanine loans do not meet all of the requirements for reliance on the safe harbor set forth in the Revenue Procedure, such loans may not be real estate assets and could adversely affect our REIT qualification if we acquired them. As such, the REIT provisions of the Code may limit our ability to acquire mortgage, mezzanine or other loans that we might otherwise desire to acquire.

**Table of Contents**

Investments in debt instruments may require recognition of taxable income prior to receipt of cash from such investments and may cause portions of gain to be treated as ordinary income. For example, we may purchase debt instruments at a discount from face value. To the extent we purchase any instruments at a discount in connection with their original issuances, the discount will be original issue discount if it exceeds certain de minimis amounts, which must be accrued on a constant yield method even though we may not receive the corresponding cash payment until maturity. To the extent debt instruments are purchased by us at a discount after their original issuances, the discount may represent market discount. Unlike original issue discount, market discount is not required to be included in income on a constant yield method. However, if we sell a debt instrument with market discount, we will be required to treat gain up to an amount equal to the market discount that has accrued while we held the debt instrument as ordinary income. Additionally, any principal payments we receive in respect of our debt instruments must be treated as ordinary income to the extent of any accrued market discount. If we ultimately collect less on a debt instrument than our purchase price and any original issue discount or accrued market discount that we have included in income, there may be limitations on our ability to use any losses resulting from that debt instrument. We may acquire distressed debt instruments that are subsequently modified by agreement with the borrower. Under applicable Treasury Regulations, these modifications may be treated as a taxable event in which we exchange the old debt instrument for a new debt instrument, the value of which may be treated as equal to the face amount of the new debt instrument. Because distressed debt instruments are often acquired at a substantial discount from face value, the difference between our amount realized and our tax basis in the old note could be significant, resulting in significant income without any corresponding receipt of cash. Similarly, if we acquire a distressed debt instrument and subsequently foreclose, we could have taxable income to the extent that the fair market value of the property we receive exceeds our tax basis in the debt instrument. Such a scenario could also result in significant taxable income without any receipt of cash. In the event that any debt instruments acquired by us are delinquent as to mandatory principal and interest payments, or in the event payments with respect to a particular debt instrument are not made when due, we may nonetheless be required to continue to recognize the unpaid interest as taxable income.

**Investments in TRSs**

We own subsidiaries that have elected to be treated as TRSs for federal income tax purposes. A TRS of ours is a corporation in which we directly or indirectly own stock and that jointly elects with us to be treated as a TRS under Section 856(l) of the Code. In addition, if one of our TRSs owns, directly or indirectly, securities representing 35% or more of the vote or value of a subsidiary corporation, that subsidiary will also be treated as a TRS of ours. A domestic TRS (or a foreign TRS with income from a U.S. business) pays U.S. federal, state, and local income taxes at the full applicable corporate rates on its taxable income prior to payment of any dividends. A TRS owning property outside of the U.S. may pay foreign taxes. The taxes owed by a TRS could be substantial. To the extent that our TRSs are required to pay U.S. federal, state, local, or foreign taxes, the cash available for distribution by us will be reduced accordingly.

A TRS is permitted to engage in certain kinds of activities that cannot be performed directly by us without jeopardizing our qualification as a REIT. Certain payments made by any of our TRSs to us may not be deductible by the TRS (which could materially increase the TRS's taxable income). In addition, we will be subject to a 100% tax on the amounts of any rents from real property, deductions, or excess interest received from a TRS that would be reduced through reapportionment under Section 482 of the Code in order to more clearly reflect the income of the TRS.

**Taxation of U.S. Shareholders**

The term U.S. shareholder means an investor in our Class A Common Stock that, for U.S. federal income tax purposes, is (i) a citizen or resident of the United States, (ii) a corporation or other entity treated as a corporation that is created or organized in or under the laws of the United States, any of its states or the District of Columbia, (iii) an estate, the income of which is subject to U.S. federal income taxation regardless of its source, or (iv) a trust (a) if a court within the United States is able to exercise primary supervision over the



**Table of Contents**

administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust or (b) that has a valid election in effect under the applicable Treasury Regulations to be treated as a U.S. person under the Code.

In addition, as used herein, the term U.S. shareholder does not include any individuals or entities that are subject to special treatment under the Code, such as (i) insurance companies; (ii) tax-exempt organizations (except to the limited extent discussed below); (iii) financial institutions or broker-dealers; (iv) non-U.S. individuals and foreign corporations; (v) U.S. expatriates; (vi) persons who mark-to-market our Class A Common Stock; (vii) subchapter S corporations; (viii) U.S. shareholders whose functional currency is not the U.S. dollar; (ix) regulated investment companies; (x) holders who receive our Class A Common Stock through the exercise of employee stock options or otherwise as compensation; (xi) persons holding shares of our Class A Common Stock as part of a straddle, hedge, conversion transaction, synthetic security or other integrated investment; (xii) persons subject to the alternative minimum tax provisions of the Code; (xiii) persons holding our Class A Common Stock through a partnership or similar pass-through entity; and (xiv) persons holding a 10% or more (by vote or value) beneficial interest in our stock. If a partnership, including any entity treated as a partnership for U.S. federal income tax purposes, holds our stock, the U.S. federal income tax treatment of a partner in the partnership will generally depend on the status of the partner and the activities of the partnership. If you are a partner in a partnership holding our stock, you are urged to consult your tax advisor regarding the consequences of the ownership and disposition of shares of our stock by the partnership. This summary assumes that shareholders hold our stock as capital assets for U.S. federal income tax purposes, which generally means property held for investment.

***Distributions***

Distributions by us, other than capital gain dividends, will constitute ordinary dividends to the extent of our current or accumulated earnings and profits as determined for U.S. federal income tax purposes. In general, these dividends will be taxable as ordinary income and will not be eligible for the dividends-received deduction for corporate shareholders. Our ordinary dividends generally will not qualify as qualified dividend income currently taxed as net capital gain for U.S. shareholders that are individuals, trusts, or estates. However, provided we properly designate the distributions, distributions to U.S. shareholders that are individuals, trusts, or estates generally will constitute qualified dividend income taxed as net capital gains to the extent the U.S. shareholder satisfies certain holding period requirements and to the extent the dividends are attributable to (i) qualified dividend income we receive from other corporations during the taxable year, including from our TRSs, and (ii) our undistributed earnings or built-in gains taxed at the corporate level during the immediately preceding year. We do not anticipate distributing a significant amount of qualified dividend income. Absent an extension, the favorable rates for qualified dividend income will not apply for taxable years beginning after December 31, 2012.

The discussion in this section applies equally to distributions payable in cash and taxable stock distributions. The Code provides that certain distributions payable in stock will be treated as taxable stock dividends. In addition, shares acquired through a distribution reinvestment plan are treated as taxable stock dividends. Taxable U.S. shareholders receiving taxable dividends of stock will be required to include as dividend income the fair market value of the stock received plus any cash or other property received in the distribution, to the extent of our current and accumulated earnings and profits for U.S. federal income tax purposes. As a result, a U.S. shareholder may be required to pay tax with respect to such dividends in excess of the cash received. If a U.S. shareholder sells the stock it receives as a dividend, the sales proceeds may be less than the amount included in income with respect to the dividend, depending on the market price of the stock at the time of the sale.

To the extent that we make a distribution in excess of our current and accumulated earnings and profits (a return of capital distribution), the distribution will be treated first as a tax-free return of capital, reducing the tax basis in a U.S. shareholder's stock. To the extent a return of capital distribution exceeds a U.S. shareholder's tax basis in its stock, the distribution will be taxable as capital gain realized from the sale of such stock.

## **Table of Contents**

Dividends declared by us in October, November or December and payable to a shareholder of record on a specified date in any such month shall be treated both as paid by us and as received by the shareholder on December 31 of the year, provided that the dividend is actually paid by us during January of the following calendar year.

We will be treated as having sufficient earnings and profits to treat as a dividend any distribution up to the amount required to be distributed in order to avoid imposition of the 4% excise tax generally applicable to REITs if certain distribution requirements are not met. Moreover, any deficiency dividend will be treated as an ordinary or a capital gain dividend, as the case may be, regardless of our earnings and profits at the time the distribution is actually made. As a result, shareholders may be required to treat certain distributions as taxable dividends that would otherwise result in a tax-free return of capital.

Distributions that are properly designated as capital gain dividends will be taxed as long-term capital gains (to the extent they do not exceed our actual net capital gain for the taxable year) without regard to the period for which the shareholder has held its stock. However, corporate shareholders may be required to treat up to 20% of certain capital gain dividends as ordinary income. In addition, U.S. shareholders may be required to treat a portion of any capital gain dividend as unrecaptured Section 1250 gain, taxable at a maximum rate of 25%, if we incur such gain. Capital gain dividends are not eligible for the dividends-received deduction for corporations.

The REIT provisions of the Code do not require us to distribute our long-term capital gain, and we may elect to retain and pay income tax on our net long-term capital gains received during the taxable year. If we so elect for a taxable year, our shareholders would include in income as long-term capital gains their proportionate share of retained net long-term capital gains for the taxable year as we may designate. A U.S. shareholder would be deemed to have paid its share of the tax paid by us on such undistributed capital gains, which would be credited or refunded to the shareholder. The U.S. shareholder's basis in its stock would be increased by the amount of undistributed long-term capital gains (less the capital gains tax paid by us) included in the U.S. shareholder's long-term capital gains.

### ***Passive Activity Loss and Investment Interest Limitations; No Pass Through of Losses***

Our distributions and gain from the disposition of our Class A Common Stock will not be treated as passive activity income and, therefore, U.S. shareholders will not be able to apply any passive losses against such income. With respect to non-corporate U.S. shareholders, our distributions (to the extent they do not constitute a return of capital) that are taxed at ordinary income rates will generally be treated as investment income for purposes of the investment interest limitation; however, net capital gain from the disposition of our Class A Common Stock (or distributions treated as such), capital gain dividends, and dividends taxed at net capital gains rates generally will be excluded from investment income except to the extent the U.S. shareholder elects to treat such amounts as ordinary income for U.S. federal income tax purposes. U.S. shareholders may not include in their own U.S. federal income tax returns any of our net operating or net capital losses.

### ***Sale or Disposition of Stock***

In general, any gain or loss realized upon a taxable disposition of shares of our Class A Common Stock by a shareholder that is not a dealer in securities will be a long-term capital gain or loss if the stock has been held for more than one year and otherwise will be a short-term capital gain or loss. However, any loss upon a sale or exchange of the stock by a shareholder who has held such stock for six months or less (after applying certain holding period rules) will be treated as a long-term capital loss to the extent of our distributions or undistributed capital gains required to be treated by such shareholder as long-term capital gain. All or a portion of any loss realized upon a taxable disposition of shares of our Class A Common Stock may be disallowed if the taxpayer purchases other shares of our common stock within 30 days before or after the disposition.

## **Table of Contents**

### ***Medicare Tax on Unearned Income***

For taxable years beginning after December 31, 2012, certain U.S. shareholders that are individuals, estates or trusts will be required to pay an additional 3.8% tax (the Medicare Tax ) on, among other things, certain dividends on and capital gains from the sale or other disposition of stock. U.S. shareholders that are individuals, estates or trusts should consult their tax advisors regarding the effect, if any, of the Medicare Tax on their ownership and disposition of our Class A Common Stock.

### **Taxation of U.S. Tax-Exempt Shareholders**

#### ***In General***

In general, a tax-exempt organization is exempt from U.S. federal income tax on its income, except to the extent of its unrelated business taxable income or UBTI, which is defined by the Code as the gross income derived from any trade or business which is regularly carried on by a tax-exempt entity and unrelated to its exempt purposes, less any directly connected deductions and subject to certain modifications. For this purpose, the Code generally excludes from UBTI any gain or loss from the sale or other disposition of property (other than stock in trade or property held primarily for sale in the ordinary course of a trade or business), dividends, interest, rents from real property, and certain other items. However, a portion of any such gains, dividends, interest, rents, and other items generally is UBTI to the extent derived from debt-financed property, based on the amount of acquisition indebtedness with respect to such debt-financed property. Before making an investment in shares of our Class A Common Stock, a tax-exempt shareholder should consult its tax advisors with regard to UBTI and the suitability of the investment in our stock.

Distributions we make to a tax-exempt employee pension trust or other domestic tax-exempt shareholder or gains from the disposition of our Class A Common Stock held as capital assets generally will not constitute UBTI unless the exempt organization's stock is debt-financed property (e.g., the shareholder has incurred acquisition indebtedness with respect to such stock). However, if we are a pension-held REIT, this general rule may not apply to distributions to certain pension trusts that are qualified trusts (as defined above) and that hold more than 10% (by value) of our stock. We will be treated as a pension-held REIT if (i) treating qualified trusts as individuals would cause us to fail the 5/50 Test (as defined above) and (ii) we are predominantly held by qualified trusts. We will be predominantly held by qualified trusts if either (i) a single qualified trust holds more than 25% by value of our stock or (ii) one or more qualified trusts, each owning more than 10% by value of our stock, hold in the aggregate more than 50% by value of our stock. In the event we are a pension-held REIT, the percentage of any dividend received from us treated as UBTI would be equal to the ratio of (a) the gross UBTI (less certain associated expenses) earned by us (treating us as if we were a qualified trust and, therefore, subject to tax on UBTI) to (b) our total gross income (less certain associated expenses). A de minimis exception applies where the ratio set forth in the preceding sentence is less than 5% for any year; in that case, no dividends are treated as UBTI. We cannot assure you that we will not be treated as a pension-held REIT.

#### ***Special Issues***

Social clubs, voluntary employee benefit associations, supplemental unemployment benefit trusts, and qualified group legal services plans that are exempt from taxation under paragraphs (7), (9), (17), and (20), respectively, of Section 501(c) of the Code are subject to different UBTI rules, which generally will require them to characterize distributions from us as UBTI.

---

## **Table of Contents**

### **Taxation of Non-U.S. Shareholders**

The rules governing U.S. federal income taxation of non-U.S. shareholders, such as nonresident alien individuals, foreign corporations, and foreign trusts and estates ( non-U.S. shareholders ), are complex. This section is only a partial discussion of such rules. This discussion does not attempt to address the considerations that may be relevant for non-U.S. shareholders that are partnerships or other pass-through entities, that hold their Class A Common Stock through intermediate entities, that have special statuses (such as sovereigns), or that otherwise are subject to special rules. ***Prospective non-U.S. shareholders are urged to consult their tax advisors to determine the impact of U.S. federal, state, local and foreign income tax laws on their ownership of our Class A Common Stock, including any reporting requirements.***

### ***Distributions***

A non-U.S. shareholder that receives a distribution that is not attributable to gain from our sale or exchange of United States real property interests (as defined below) and that we do not designate as a capital gain dividend or retained capital gain generally will recognize ordinary income to the extent that we pay the distribution out of our current or accumulated earnings and profits. A withholding tax equal to 30% of the gross amount of the distribution ordinarily will apply unless an applicable tax treaty reduces or eliminates the tax. Under some treaties, lower withholding rates do not apply to dividends from REITs or are available in limited circumstances. However, if a distribution is treated as effectively connected with the non-U.S. shareholder's conduct of a U.S. trade or business, the non-U.S. shareholder generally will be subject to U.S. federal income tax on the distribution at graduated rates (in the same manner as U.S. shareholders are taxed on distributions) and also may be subject to the 30% branch profits tax in the case of a corporate non-U.S. shareholder. We plan to withhold U.S. income tax at the rate of 30% on the gross amount of any distribution paid to a non-U.S. shareholder (including any portion of any dividend that is payable in our stock) that is neither a capital gain dividend nor a distribution that is attributable to gain from the sale or exchange of United States real property interests unless either (i) a lower treaty rate or special provision of the Code (e.g., Section 892) applies and the non-U.S. shareholder files with us any required IRS Form W-8 (for example, an IRS Form W-8BEN) evidencing eligibility for that reduced rate or (ii) the non-U.S. shareholder files with us an IRS Form W-8ECI claiming that the distribution is effectively connected income.

A non-U.S. shareholder generally will not incur tax on a return of capital distribution in excess of our current and accumulated earnings and profits that is not attributable to the gain from our disposition of a United States real property interest if the excess portion of the distribution does not exceed the adjusted basis of the non-U.S. shareholder's stock. Instead, the excess portion of the distribution will reduce the adjusted basis of the stock. However, a non-U.S. shareholder will be subject to tax on such a distribution that exceeds both our current and accumulated earnings and profits and the non-U.S. shareholder's adjusted basis in the stock, if the non-U.S. shareholder otherwise would be subject to tax on gain from the sale or disposition of its stock, as described below. Because we generally cannot determine at the time we make a distribution whether or not the distribution will exceed our current and accumulated earnings and profits, we normally will withhold tax on the entire amount of any distribution at the same rate as we would withhold on a dividend. However, a non-U.S. shareholder may file a U.S. federal income tax return and obtain a refund from the IRS of amounts that we withhold if we later determine that a distribution in fact exceeded our current and accumulated earnings and profits.

We may be required to withhold 10% of any distribution that exceeds our current and accumulated earnings and profits. Consequently, although we intend to withhold at a rate of 30% on the entire amount of any distribution that is neither attributable to the gain from our disposition of a United States real property interest nor designated by us as a capital gain dividend, to the extent that we do not do so, we will withhold at a rate of 10% on any portion of a distribution not subject to withholding at a rate of 30%, unless we conclude that an exemption applies.

**Table of Contents**

Subject to the exception discussed below for 5% or smaller holders of classes of stock that are regularly traded on an established securities market located in the United States, a non-U.S. shareholder will incur tax on distributions that are attributable to gain from our sale or exchange of United States real property interests under special provisions of the Foreign Investment in Real Property Tax Act of 1980, or FIRPTA, regardless of whether we designate such distributions as capital gain distributions. The term United States real property interests includes interests in U.S. real property and stock in U.S. corporations at least 50% of whose assets consist of interests in U.S. real property. Under those rules, a non-U.S. shareholder is taxed on distributions attributable to gain from sales of United States real property interests as if the gain were effectively connected with the non-U.S. shareholder's conduct of a U.S. trade or business. A non-U.S. shareholder thus would be taxed on such a distribution at the normal capital gain rates applicable to U.S. shareholders, subject to applicable alternative minimum tax and a special alternative minimum tax in the case of a nonresident alien individual. A corporate non-U.S. shareholder not entitled to treaty relief or exemption also may be subject to the 30% branch profits tax on such a distribution. We generally must withhold 35% of any distribution subject to these rules ( 35% FIRPTA Withholding ). A non-U.S. shareholder may receive a credit against its tax liability for the amount we withhold.

A non-U.S. shareholder that owns no more than 5% of our Class A Common Stock at all times during the one-year period ending on the date of a distribution will not be subject to FIRPTA, branch profits tax or 35% FIRPTA Withholding with respect to a distribution on Class A Common Stock that is attributable to gain from our sale or exchange of United States real property interests, provided that our Class A Common Stock continues to be regularly traded on an established securities market located in the United States. Instead, any such distributions made to such non-U.S. shareholder will be subject to the general withholding rules discussed above, which generally impose a withholding tax equal to 30% of the gross amount of each distribution (unless reduced by treaty).

Distributions that are designated by us as capital gain dividends, other than those attributable to the disposition of a U.S. real property interest, generally should not be subject to U.S. federal income taxation unless:

such distribution is effectively connected with the non-U.S. shareholder's U.S. trade or business and, if certain treaties apply, is attributable to a U.S. permanent establishment maintained by the non-U.S. shareholder, in which case the non-U.S. shareholder will be subject to tax on a net basis in a manner similar to the taxation of U.S. shareholders with respect to such gain, except that a holder that is a foreign corporation may also be subject to the additional 30% branch profits tax; or

the non-U.S. shareholder is a nonresident alien individual who is present in the United States for 183 days or more during the taxable year and has a tax home in the United States, in which case such nonresident alien individual generally will be subject to a 30% tax on the individual's net U.S. source capital gain.

It is not entirely clear to what extent we are required to withhold on distributions to non-U.S. shareholders that are not treated as ordinary income and are not attributable to the disposition of a United States real property interest. Unless the law is clarified to the contrary, we will generally withhold and remit to the IRS 35% of any distribution to a non-U.S. shareholder that is designated as a capital gain dividend (or, if greater, 35% of a distribution that could have been designated as a capital gain dividend). Distributions can be designated as capital gain dividends to the extent of our net capital gain for the taxable year of the distribution. The amount withheld is creditable against the non-U.S. shareholder's U.S. federal income tax liability.

It is also not entirely clear whether distributions that are (i) otherwise treated as capital gain dividends, (ii) not attributable to the disposition of a U.S. real property interest, and (iii) paid to non-U.S. shareholders who own 5% or less of the value of our Class A Common Stock at all times during the one-year period ending on the date of the distribution, will be treated as (a) long-term capital gain to such non-U.S. shareholders or as (b) ordinary dividends taxable in the manner described above. If we were to pay a capital gain dividend described in the prior sentence, non-U.S. shareholders should consult their tax advisors regarding the taxation of such distribution in their particular circumstances.

---

## **Table of Contents**

### ***Dispositions***

If gain on the sale of the Class A Common Stock were taxed under FIRPTA, a non-U.S. shareholder would be taxed on that gain in the same manner as U.S. shareholders with respect to that gain, subject to applicable alternative minimum tax, and a special alternative minimum tax in the case of nonresident alien individuals. A non-U.S. shareholder generally will not incur tax under FIRPTA on a sale or other disposition of our Class A Common Stock if we are a domestically controlled qualified investment entity, which requires that, during the shorter of the period since our formation and the five-year period ending on the date of the distribution or disposition, non-U.S. shareholders hold, directly or indirectly, less than 50% in value of our stock and we are qualified as a REIT. We cannot assure you that we will be a domestically controlled qualified investment entity. However, the gain from a sale of our Class A Common Stock by a non-U.S. shareholder will not be subject to tax under FIRPTA if (i) our Class A Common Stock is considered regularly traded under applicable Treasury Regulations on an established securities market, such as the NYSE, and (ii) the non-U.S. shareholder owned, actually and constructively, 5% or less of our Class A Common Stock at all times during a specified testing period. Following the completion of our initial public offering, we expect our Class A Common Stock to be regularly traded on an established securities market. Accordingly, a non-U.S. shareholder should not incur tax under FIRPTA with respect to gain on a sale of our Class A Common Stock unless it owns, actually or constructively, more than 5% of our Class A Common Stock provided that our Class A Common Stock continues to be regularly traded on an established securities market.

In addition, even if we are a domestically controlled qualified investment entity, upon a disposition of our Class A Common Stock, a non-U.S. shareholder may be treated as having gain from the sale or exchange of a United States real property interest if the non-U.S. shareholder (i) disposes of an interest in our Class A Common Stock during the 30-day period preceding the ex-dividend date of a distribution, any portion of which, but for the disposition, would have been treated as gain from sale or exchange of a United States real property interest, and (ii) directly or indirectly acquires, enters into a contract or option to acquire, or is deemed to acquire, other shares of our Class A Common Stock within 30 days before or after such ex-dividend date. The foregoing rule does not apply if the exception described above for dispositions by 5% or smaller holders of regularly traded classes of stock is satisfied.

Furthermore, a non-U.S. shareholder generally will incur tax on gain not subject to FIRPTA if (i) the gain is effectively connected with the non-U.S. shareholder's U.S. trade or business and, if certain treaties apply, is attributable to a U.S. permanent establishment maintained by the non-U.S. shareholder, in which case the non-U.S. shareholder will be subject to the same treatment as U.S. shareholders with respect to such gain, or (ii) the non-U.S. shareholder is a nonresident alien individual who was present in the United States for 183 days or more during the taxable year and has a tax home in the United States, in which case the non-U.S. shareholder will generally incur a 30% tax on his or her net U.S. source capital gains.

Purchasers of our Class A Common Stock from a non-U.S. shareholder generally will be required to withhold and remit to the IRS 10% of the purchase price unless at the time of purchase (i) any class of our stock is regularly traded on an established securities market (subject to certain limits if the shares of stock sold are not themselves part of such a regularly traded class) or (ii) we are a domestically controlled qualified investment entity. The non-U.S. shareholder may receive a credit against its U.S. tax liability for the amount withheld.

### ***U.S. Federal Income Tax Returns***

If a non-U.S. shareholder is subject to taxation under FIRPTA on proceeds from the sale of our Class A Common Stock or on capital gain distributions, the non-U.S. shareholder will be required to file a U.S. federal income tax return. Prospective non-U.S. shareholders are urged to consult their tax advisors to determine the impact of U.S. federal, state, local and foreign income tax laws on their ownership of our Class A Common Stock, including any reporting requirements.

## **Table of Contents**

### **Information Reporting Requirements and Backup Withholding Tax**

We will report to our U.S. shareholders and to the IRS the amount of distributions paid during each calendar year, and the amount of tax withheld, if any. Under the backup withholding rules, a U.S. shareholder may be subject to backup withholding at the current rate of 28% with respect to distributions paid, unless such shareholder (i) is a corporation or other exempt entity and, when required, proves its status or (ii) certifies under penalties of perjury that the taxpayer identification number the shareholder has furnished to us is correct and the shareholder is not subject to backup withholding and otherwise complies with the applicable requirements of the backup withholding rules. A U.S. shareholder that does not provide us with its correct taxpayer identification number also may be subject to penalties imposed by the IRS.

We will also report annually to the IRS and to each non-U.S. shareholder the amount of dividends paid to such holder and the tax withheld with respect to such dividends, regardless of whether withholding was required. Copies of the information returns reporting such dividends and withholding may also be made available to the tax authorities in the country in which the non-U.S. shareholder resides under the provisions of an applicable income tax treaty. A non-U.S. shareholder may be subject to back-up withholding unless applicable certification requirements are met.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against such holder's U.S. federal income tax liability, provided the required information is furnished to the IRS.

### **Additional U.S. Federal Income Tax Withholding Rules**

Additional U.S. federal income tax withholding rules are expected to apply to certain payments made to foreign financial institutions and certain other non-U.S. entities beginning in 2014. According to IRS guidance, in general, a withholding tax of 30% would apply to dividends paid after December 31, 2013 and to the gross proceeds of a disposition of our stock paid after December 31, 2014 to certain foreign entities unless various information reporting requirements are satisfied. For these purposes, a foreign financial institution generally is defined as any non-U.S. entity that (i) accepts deposits in the ordinary course of a banking or similar business, (ii) as a substantial portion of its business, holds financial assets for the account of others, or (iii) is engaged or holds itself out as being engaged primarily in the business of investing, reinvesting, or trading in securities, partnership interests, commodities, or any interest in such assets. Prospective investors are encouraged to consult their tax advisors regarding the implications of these rules with respect to their investment in our Class A Common Stock, as well as the status of any related federal regulations.

### **Sunset of Reduced Tax Rate Provisions**

Several of the tax considerations described herein are subject to a sunset provision. The sunset provisions generally provide that for taxable years beginning after December 31, 2012, certain provisions that are currently in the Code will revert back to a prior version of those provisions. These provisions include provisions related to the reduced maximum U.S. federal income tax rate for long-term capital gains of 15% (rather than 20%) for taxpayers taxed at individual rates, the application of the 15% U.S. federal income tax rate for qualified dividend income, and certain other tax rate provisions described herein. The impact of these reversions generally is not discussed herein. Prospective shareholders are urged to consult their tax advisors regarding the effect of sunset provisions on an investment in our Class A Common Stock.

### **Legislative or Other Actions Affecting REITs**

The rules dealing with U.S. federal income taxation are constantly under review by persons involved in the legislative process and by the IRS and the U.S. Treasury Department. No assurance can be given as to whether,

**Table of Contents**

when, or in what form, the U.S. federal income tax laws applicable to us and our shareholders may be enacted. Changes to the U.S. federal tax laws and interpretations of federal tax laws could adversely affect an investment in our Class A Common Stock.

**State, Local and Foreign Tax**

We may be subject to state, local and foreign tax in states, localities and foreign countries in which we do business or own property. The tax treatment applicable to us and our shareholders in such jurisdictions may differ from the U.S. federal income tax treatment described above.



**Table of Contents**

**ERISA CONSIDERATIONS**

**Overview**

The following is a summary of some considerations associated with an investment in our shares of common stock by an employee benefit plan which is subject to the fiduciary responsibility and prohibited transaction provisions of the Employee Retirement Income Security Act of 1974 ( ERISA ) or a plan or arrangement which is subject to the prohibited transaction provisions of the Code or an entity, the assets of which are treated as plan assets under the U.S. Department of Labor's Plan Asset Regulations as currently set forth at 29 C.F.R. Section 2510.3-101, except as expressly modified by Section 3(42) of ERISA (each a Benefit Plan ). We cannot assure you that there will be no adverse tax or labor decisions or legislative, regulatory or administrative changes with respect to ERISA or the Code or the Plan Asset Regulations that could significantly modify the discussion of ERISA Considerations which follow.

**General**

Each fiduciary of a Benefit Plan subject to ERISA (such as a profit sharing, Section 401(k) or pension plan) or Section 4975 of the Code (such as an IRA) seeking to invest plan assets in shares of our common stock should consider (after taking into account the facts and circumstances unique to such Benefit Plan) among other matters:

whether the investment is consistent with the applicable provisions of ERISA and the Code;

whether, under the facts and circumstances relevant to the Benefit Plan in question, the fiduciary's responsibility to the plan has been satisfied; and

whether the investment will produce unrelated business taxable income ( UBTI ) to the Benefit Plan (see Material U.S. Federal Income Tax Considerations Taxation of U.S. Shareholders Treatment of Tax-Exempt Shareholders ).

Under ERISA, a fiduciary for a Benefit Plan has responsibilities which include the following:

to act solely in the interest of plan participants and beneficiaries and for the exclusive purpose of providing benefits to them, as well as defraying reasonable expenses of plan administration;

to invest plan assets prudently;

to diversify the investments of the plan, unless it is clearly prudent not to do so;

to ensure sufficient liquidity for the plan;

to ensure that plan investments are made in accordance with plan documents; and

to consider whether making or holding an investment could constitute or give rise to a prohibited transaction under ERISA or the Code.

ERISA also requires that, with certain exceptions, the assets of a Benefit Plan be held in trust and that the trustee, or a duly authorized named fiduciary or investment manager, have exclusive authority and discretion to manage and control the assets of the plan.

**Prohibited Transactions**

Section 406 of ERISA and Section 4975 of the Code prohibit specific transactions involving the assets of a Benefit Plan if the transactions are between the plan and any party in interest (as defined in ERISA) or disqualified person (as defined in the Code) with respect to that Benefit Plan unless there is an administrative or statutory exemption for the transaction. These transactions are prohibited regardless of how beneficial they may be for the Benefit Plan. Prohibited transactions include the sale, exchange or leasing of property, and the lending of money or the extension of credit, between a Benefit Plan and a party in interest or disqualified person

---

## **Table of Contents**

with respect to such plan. The transfer to (or use by or for the benefit of) a party in interest or disqualified person of any assets of a Benefit Plan is also prohibited, as is the furnishing of services between a plan and a party in interest. A fiduciary of a Benefit Plan is also prohibited from engaging in self-dealing, acting for a person who has an interest adverse to the plan in connection with a transaction involving the plan or receiving any consideration for its own account from a party dealing with the plan in a transaction involving plan assets. Furthermore, there are adverse tax consequences for an IRA if the assets of the IRA are commingled with other assets except in a common trust fund or common investment fund.

### **Plan Asset Considerations**

One key question related to the prohibited transaction issue and the IRA asset commingling issue is whether our underlying assets will be treated as the assets of each Benefit Plan which purchases and holds our common stock. The general rule is that the underlying assets of the entity in which a Benefit Plan makes an equity investment will be treated as the assets of the Benefit Plan absent a statutory or administrative exemption, and there are administrative exemptions under the Plan Asset Regulations.

The most appropriate exemption for us under the Plan Assets Regulations is the exemption for a publicly-offered security. A publicly-offered security must be:

sold as part of a public offering registered under the Securities Act and be part of a class of securities registered under the Exchange Act within a specified time period;

part of a class of securities that is owned by 100 or more persons who are independent of the issuer and one another; and

freely transferable.

Our shares of common stock are being sold as part of an underwritten offering of securities to the public pursuant to an effective registration statement under the Securities Act and are part of a class of securities that has been registered under the Exchange Act within the specified period, we have well in excess of 100 independent shareholders and we believe that our shares of common stock will be treated as freely transferable under the Plan Asset Regulations. Accordingly, we do not believe that our underlying assets will be treated under the Plan Asset Regulations as the assets of any Benefit Plan which purchases and holds our common stock.

On the other hand, if we fail to qualify for any exemption under the Plan Asset Regulations, we could be treated as a fiduciary with respect to each Benefit Plan shareholder, and the fiduciary of each Benefit Plan shareholder could be exposed to co-fiduciary liability under ERISA for any breach by us of our fiduciary duties under ERISA. Furthermore, if we were treated as a fiduciary with respect to Benefit Plan shareholders, there is a risk that transactions entered into by us in the ordinary course of business could be treated as prohibited transactions under ERISA and the Code. We therefore might need to avoid transactions with persons who are affiliated with or related to us or our affiliates or restructure our activities in order to come within an exemption from the prohibited transaction provisions of ERISA and the Code. Finally, if our assets were deemed to be plan assets, an investment by an IRA in our shares might be deemed to result in an impermissible commingling of IRA assets with other property.

If a prohibited transaction were to occur, the Code imposes an excise tax equal to 15% of the amount involved and authorizes the IRS to impose an additional 100% excise tax if the prohibited transaction is not corrected in a timely manner. These taxes would be imposed on any disqualified person who participates in the prohibited transaction. In addition, other fiduciaries of Benefit Plan shareholders subject to ERISA who permitted the prohibited transaction to occur or who otherwise breached their fiduciary responsibilities (or a non-fiduciary participating in a prohibited transaction) could be required to restore to the Benefit Plan any profits they realized as a result of the transaction or breach and make good to the Benefit Plan any losses incurred by the Benefit Plan as a result of the transaction or breach. With respect to an IRA that invests in shares of common stock, the occurrence of a prohibited transaction involving the individual who established the IRA, or his or her beneficiary, would cause the IRA to lose its tax-exempt status.

**Table of Contents**

**Other Prohibited Transactions**

Even if the shares of our common stock qualify for the publicly-offered security exemption under the Plan Assets Regulations, a prohibited transaction could occur if we, any of our underwriters or any of their affiliates is a fiduciary (within the meaning of Section 3(21) of ERISA) with respect to a Benefit Plan and the plan purchases shares of our common stock unless a statutory or administrative exemption is available. The most likely applicable administration exemption is Prohibited Transaction Class Exemption 75-1, as amended, and the terms and conditions of this exemption should be reviewed by a plan's counsel if there is any question over whether we, any of our underwriters or any of their affiliates is a fiduciary with respect to the plan. A person is a fiduciary with respect to a Benefit Plan under Section 3(21) of ERISA if, among other things, the person has discretionary authority or control with respect to the Benefit Plan or its plan assets, or provides investment advice for a fee with respect to its plan assets. Under a regulation issued by the U.S. Department of Labor, a person shall be deemed to be providing investment advice if that person renders advice as to the advisability of investing in our shares and that person regularly provides investment advice to the Benefit Plan pursuant to a mutual agreement or understanding (written or otherwise) (1) that the advice will serve as the primary basis for investment decisions and (2) that the advice will be individualized for the Benefit Plan based on its particular needs.

The sale of our common stock to a Benefit Plan is in no respect a representation by us or any other person associated with the offering of our common stock that such an investment meets all relevant legal requirements with respect to investments by Benefit Plans generally or any particular Benefit Plan, or that such an investment is appropriate for Benefit Plans generally or any particular Benefit Plan.

**Table of Contents**

**UNDERWRITING**

We are offering the shares of our Class A Common Stock through a number of underwriters. J.P. Morgan Securities LLC, Citigroup Global Markets Inc., Deutsche Bank Securities Inc. and KeyBanc Capital Markets Inc. are acting as joint book-running managers of this offering and as representatives of the underwriters. We have entered into an underwriting agreement with the representatives acting on behalf of the underwriters. Subject to the terms and conditions of the underwriting agreement, we have agreed to sell to the underwriters, and each underwriter has severally agreed to purchase, at the public offering price less the underwriting discount set forth on the cover page of this prospectus, the number of shares of our Class A Common Stock listed next to its name in the following table:

Name	Number of Shares
J.P. Morgan Securities LLC	
Citigroup Global Markets Inc.	
Deutsche Bank Securities Inc.	
KeyBanc Capital Markets Inc.	
<b>Total</b>	

The underwriters are committed to purchase all the shares of our Class A Common Stock offered by us if they purchase any shares. The underwriting agreement also provides that if an underwriter defaults, the purchase commitments of non-defaulting underwriters may also be increased or the offering may be terminated.

The underwriters propose to offer the shares of our Class A Common Stock directly to the public at the price set forth on the cover page of this prospectus and to certain dealers at that price less a concession not in excess of \$ \_\_\_\_\_ per share. Any such dealers may resell shares to certain other brokers or dealers at a discount of up to \$ \_\_\_\_\_ per share from the public offering price. After the initial offering of the shares of Class A Common Stock, the offering price and other selling terms may be changed by the underwriters. Sales of shares made outside of the United States may be made by affiliates of the underwriters. The representatives have advised us that the underwriters do not intend to confirm discretionary sales in excess of 5% of the shares of our Class A Common Stock offered in this offering.

The underwriters have an option to buy up to \_\_\_\_\_ additional shares of Class A Common Stock from us to cover sales of shares by the underwriters which exceed the number of shares specified in the table above. The underwriters have 30 days from the date of this prospectus to exercise this overallotment option. If any shares are purchased with this overallotment option, the underwriters will purchase shares in approximately the same proportion as shown in the table above. If any additional shares of our Class A Common Stock are purchased, the underwriters will offer the additional shares on the same terms as those on which the shares referred to in the above table are being offered.

The underwriting fee is equal to the public offering price per share less the amount paid by the underwriters to us per share. The underwriting fee is \$ \_\_\_\_\_ per share. The following table shows the per share and total underwriting discounts and commissions to be paid to the underwriters assuming both no exercise and full exercise of the underwriters' option to purchase additional shares.

Underwriting Discount	Without Overallotment Exercise	With Full Overallotment Exercise
Per Share	\$ _____	\$ _____
Total	\$ _____	\$ _____

We estimate that our total expenses of the offering, including registration, filing and listing fees, printing fees and legal and accounting expenses, but excluding the underwriting discounts and commissions, will be approximately \$ \_\_\_\_\_.

## **Table of Contents**

A prospectus in electronic format may be made available on the websites maintained by one or more underwriters, or selling group members, if any, participating in the offering. The underwriters may agree to allocate a number of shares to underwriters and selling group members for sale to their online brokerage account holders. Internet distributions will be allocated by the representatives to underwriters and selling group members that may make Internet distributions on the same basis as other allocations.

We and all of our directors and executive officers have agreed that, without the prior written consent of each of the representatives, we and they will not, for a period of 180 days after the date of this prospectus:

offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of, directly or indirectly, or file with the SEC a registration statement under the Securities Act relating to, any shares of our Class A Common Stock or securities convertible into or exchangeable or exercisable for any share of our Class A Common Stock (including, without limitation, shares of our Class A Common Stock or such other securities which may be deemed to be beneficially owned by such directors and officers in accordance with the rules and regulations of the SEC and securities which may be issued upon exercise of a stock option or warrant), or publicly disclose the intention to make any offer, sale, pledge, disposition or filing;

enter into any swap or other arrangement that transfers, in whole or in part, any of the economic consequences associated with the ownership of any shares of our Class A Common Stock or any such other securities (regardless of whether any of the transactions described in this bullet or the immediately preceding bullet are to be settled by the delivery of shares of our Class A Common Stock or such other securities, in cash or otherwise), other than, with respect to us, the shares of our Class A Common Stock to be sold hereunder and in respect of any shares of our Class A Common Stock issued under our existing incentive plans; or

in the case of our directors and officers, make any demand for or exercise any right with respect to the registration of any shares of our Class A Common Stock or any security convertible into or exercisable or exchangeable for shares of our Class A Common Stock.

However, each of our directors and executive officers may transfer or dispose of our shares during the 180-day restricted period in the case of gifts or for estate planning purposes where the transferee agrees to a similar lock-up agreement for the remainder of the 180-day restricted period, provided that no report is required to be filed by the transferor under the Exchange Act as a result of the transfer. Notwithstanding the foregoing, if (i) during the last 17 days of the 180-day restricted period, we issue an earnings release or material news or a material event relating to our company occurs; or (ii) prior to the expiration of the 180-day restricted period, we announce that we will release earnings results during the 16-day period beginning on the last day of the 180-day period, the restrictions described above shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event.

We have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act.

We have applied to have our Class A Common Stock approved for listing on the NYSE under the symbol `RPAI`. In order to meet the requirements for listing on the NYSE, the underwriters have undertaken to sell shares of our Class A Common Stock in a manner so that, prior to listing as of the original listing date, a minimum number of shares of our Class A Common Stock will be held by a minimum number of beneficial owners as required by that exchange.

In connection with this offering, the underwriters may engage in stabilizing transactions, which involves making bids for, purchasing and selling shares of our Class A Common Stock in the open market for the purpose of preventing or retarding a decline in the market price of the shares while this offering is in progress. These

## Table of Contents

stabilizing transactions may include making short sales of shares of our Class A Common Stock, which involves the sale by the underwriters of a greater number of shares of our Class A Common Stock than they are required to purchase in this offering, and purchasing shares of our Class A Common Stock on the open market to cover positions created by short sales. Short sales may be covered shorts, which are short positions in an amount not greater than the underwriters' over-allotment option referred to above, or may be naked shorts, which are short positions in excess of that amount. The underwriters may close out any covered short position either by exercising their over-allotment option, in whole or in part, or by purchasing shares in the open market. In making this determination, the underwriters will consider, among other things, the price of shares of our Class A Common Stock available for purchase in the open market compared to the price at which the underwriters may purchase shares through the over-allotment option. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the shares of our Class A Common Stock in the open market that could adversely affect investors who purchase in the offering. To the extent that the underwriters create a naked short position, they will purchase shares in the open market to cover the position.

The underwriters have advised us that, pursuant to Regulation M of the Securities Act, they may also engage in other activities that stabilize, maintain or otherwise affect the price of the shares of our Class A Common Stock, including the imposition of penalty bids. This means that if the representatives purchase shares of our Class A Common Stock in the open market in stabilizing transactions or to cover short sales, the representatives can require the underwriters that sold those shares as part of this offering to repay the underwriting discount received by them.

These activities may have the effect of raising or maintaining the market price of shares of our Class A Common Stock or preventing or retarding a decline in the market price of our shares, and, as a result, the price of our shares may be higher than the price that otherwise might exist in the open market. If the underwriters commence these activities, they may discontinue them at any time. The underwriters may carry out these transactions on the NYSE, in the over-the-counter market or otherwise.

Prior to this offering, our common stock has not been listed on a national securities exchange and there has been no public trading market for our Class A Common Stock. The public offering price of our Class A Common Stock will be determined by negotiations between us and the representatives. In determining the public offering price, we and the representatives will consider a number of factors, including:

the information set forth in this prospectus and otherwise available to the representatives;

the history of, and prospects for, our company and the industry in which we compete;

an assessment of our management;

our prospects for future earnings;

the general condition of the securities markets at the time of this offering;

the recent market prices of, and demand for, publicly traded shares of common stock of generally comparable companies; and

other factors deemed relevant by the representatives and us.

Neither we nor the underwriters can assure investors that an active trading market will develop for shares of our Class A Common Stock, or that the shares will trade in the public market at or above the public offering price.

Certain of the underwriters and their affiliates have provided, and in the future may provide, from time to time certain commercial banking, financial advisory, investment banking and other services for us in the ordinary course of their business, for which they may receive customary fees and commissions. In particular, of our debt





## Table of Contents

that was outstanding as of December 31, 2011, affiliates of J.P. Morgan Securities LLC, acting as lenders, have originated approximately \$1.0 billion of mortgage debt and notes for certain of our consolidated properties, including, among other things, amounts provided pursuant to a \$300.0 million forward loan commitment that we entered into with JP Morgan Chase on January 8, 2010 and the full amount of our IW JV mortgages and notes payable. Affiliates of J.P. Morgan Securities LLC have also acted as lenders to our joint venture with RioCan. Further, during 2010, we paid affiliates of Citigroup Global Markets Inc. approximately \$1.6 million for investment banking services. In addition, affiliates of J.P. Morgan Securities LLC, Citigroup Global Markets Inc., Deutsche Bank Securities Inc. and KeyBanc Capital Markets Inc. are lenders under our senior unsecured revolving line of credit, and will receive their pro rata portion of the \$            million of the net proceeds from this offering used to repay amounts outstanding under our senior unsecured revolving line of credit and unsecured term loan. Accordingly, more than 5% of the net proceeds of this offering are intended to be used to repay amounts owed to affiliates of these underwriters. In their capacity as lenders, these affiliates of the underwriters will receive certain financing fees in connection with the line of credit in addition to the underwriting discount that may result from this offering. In addition, from time to time, certain of the underwriters and their affiliates may effect transactions for their own account or the account of customers, and hold on behalf of themselves or their customers, long or short positions in our securities, and may do so in the future.

At our request, the underwriters have reserved for sale, at the public offering price, up to 5.0% of the shares of our Class A Common Stock offered hereby for officers, directors, employees and certain other persons associated with us. The number of shares of our Class A Common Stock available for sale to the general public will be reduced to the extent such persons purchase such reserved shares of our Class A Common Stock. Any reserved shares of our Class A Common Stock not so purchased will be offered by the underwriters to the general public on the same basis as the other shares of our Class A Common Stock offered hereby. Any participants in this program shall be prohibited from selling, pledging or assigning any shares of our Class A Common Stock sold to them pursuant to this program for a period of 180 days after the date of this prospectus.

Other than in the United States, no action has been taken by us or the underwriters that would permit a public offering of the securities offered by this prospectus in any jurisdiction where action for that purpose is required. The securities offered by this prospectus may not be offered or sold, directly or indirectly, nor may this prospectus or any other offering material or advertisements in connection with the offer and sale of any such securities be distributed or published in any jurisdiction, except under circumstances that will result in compliance with the applicable rules and regulations of that jurisdiction. Persons into whose possession this prospectus comes are advised to inform themselves about and to observe any restrictions relating to the offering and the distribution of this prospectus. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities offered by this prospectus in any jurisdiction in which such an offer or a solicitation is unlawful.

This document is only being distributed to and is only directed at (i) persons who are outside the United Kingdom or (ii) to investment professionals falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (the Order ) or (iii) high net worth entities, and other persons to whom it may lawfully be communicated, falling with Article 49(2)(a) to (d) of the Order (all such persons together being referred to as relevant persons ). The securities are only available to, and any invitation, offer or agreement to subscribe, purchase or otherwise acquire such securities will be engaged in only with, relevant persons. Any person who is not a relevant person should not act or rely on this document or any of its contents.

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a Relevant Member State ), from and including the date on which the European Union Prospectus Directive (the EU Prospectus Directive ) is implemented in that Relevant Member State (the Relevant Implementation Date ) an offer of securities described in this prospectus may not be made to the public in that Relevant Member State prior to the publication of a prospectus in relation to shares of our Class A Common Stock which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, all in accordance with the EU Prospectus Directive, except that it may, with effect from and

**Table of Contents**

including the Relevant Implementation Date, make an offer of shares of our Class A Common Stock to the public in that Relevant Member State at any time:

to legal entities which are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities;

to any legal entity which has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more than 43,000,000 and (3) an annual net turnover of more than 50,000,000, as shown in its last annual or consolidated accounts;

to fewer than 100 natural or legal persons (other than qualified investors as defined in the EU Prospectus Directive) subject to obtaining the prior consent of the book-running manager for any such offer; or

in any other circumstances which do not require the publication by the issuer of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an offer of securities to the public in relation to any securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the securities to be offered so as to enable an investor to decide to purchase or subscribe for the securities, as the same may be varied in that Member State by any measure implementing the EU Prospectus Directive in that Member State and the expression EU Prospectus Directive means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

**Table of Contents**

**LEGAL MATTERS**

Certain legal matters, including the validity of Class A Common Stock offered hereby and our qualification as a real estate investment trust, will be passed upon for us by Goodwin Procter LLP. Certain legal matters relating to this offering will be passed upon for the underwriters by Hogan Lovells US LLP. We have been advised with respect to certain legal matters relating to Maryland law by Venable LLP.

**EXPERTS**

The consolidated financial statements as of December 31, 2011 and 2010 and for each of the years ended December 31, 2011, 2010 and 2009 and the related financial statement schedules included in this Prospectus have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report appearing herein. Such consolidated financial statements and financial statement schedules have been so included in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

Unless otherwise indicated, we have obtained the information under Prospectus Summary Industry Overview and Industry Overview from the market study prepared for us by Rosen, a nationally recognized real estate consulting firm, and such information is included in this prospectus in reliance on Rosen's authority as an expert in such matters.

**Table of Contents**

**WHERE YOU CAN FIND MORE INFORMATION**

We have filed a registration statement on Form S-11 with the SEC with respect to the shares of our Class A Common Stock to be issued in this offering. This prospectus is a part of that registration statement and, as allowed by SEC rules, does not include all of the information you can find in the registration statement or the exhibits to the registration statement. For additional information relating to us, we refer you to the registration statement and the exhibits to the registration statement. Statements contained in this prospectus as to the contents of any contract or document referred to are necessarily summaries of such contract or document and in each instance, if the contract or document is filed as an exhibit to the registration statement, we refer you to the copy of the contract or document filed as an exhibit to the registration statement.

We are subject to the information requirements of the Exchange Act, and in accordance with the Exchange Act, we file annual, quarterly and current reports, proxy statements and other information with the SEC. We furnish our shareholders by mail (or, where permitted, by electronic delivery and notification) with annual reports containing consolidated financial statements certified by an independent registered public accounting firm. The registration statement is, and all of these filings with the SEC are, available to the public over the internet at the SEC's website at <http://www.sec.gov>. You may also read and copy any filed document at the SEC's public reference room in Washington, D.C. at 100 F. Street, N.E., Room 1580, Washington D.C. Please call the SEC at (800) SEC-0330 for further information about the public reference room.

We also maintain a website at [www.inland-western.com](http://www.inland-western.com) at which there is additional information about us. The information on this website is not incorporated by reference in or otherwise a part of this prospectus.

**Table of Contents**

**INDEX TO FINANCIAL STATEMENTS**

<b>Index to Financial Statements</b>	<b>Page</b>
<b>Audited Financial Information:</b>	
<u>Report of Independent Registered Public Accounting Firm</u>	F-2
<u>Consolidated Balance Sheets as of December 31, 2011 and 2010</u>	F-3
<u>Consolidated Statements of Operations and Other Comprehensive Loss for the years ended December 31, 2011, 2010 and 2009</u>	F-4
<u>Consolidated Statements of Equity for the years ended December 31, 2011, 2010 and 2009</u>	F-5
<u>Consolidated Statements of Cash Flows for the years ended December 31, 2011, 2010 and 2009</u>	F-6
<u>Notes to Consolidated Financial Statements</u>	F-8
<b>Index to Financial Statement Schedules</b>	
<u>Schedule II Valuation and Qualifying Accounts</u>	F-47
<u>Schedule III Real Estate and Accumulated Depreciation</u>	F-48
<u>Notes to Financial Statement Schedules</u>	F-63

**Table of Contents**

The accompanying consolidated financial statements give effect to a ten to one reverse stock split and stock dividend of the common stock of Retail Properties of America, Inc. (formerly Inland Western Retail Real Estate Trust, Inc.) and subsidiaries which will take place prior to the effective date of the registration statement. The following report is in the form which will be furnished by Deloitte & Touche LLP, an independent registered public accounting firm, upon completion of the ten to one reverse stock split and stock dividend of the common stock of Retail Properties of America, Inc. and subsidiaries described in Note 1 to the consolidated financial statements, assuming that from February 22, 2012 to the date of such completion, no other material events have occurred that would affect the accompanying consolidated financial statements or disclosures therein.

/s/ Deloitte & Touche LLP

Chicago, Illinois

March 9, 2012

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Board of Directors and Shareholders of

Retail Properties of America, Inc.:

We have audited the accompanying consolidated balance sheets of Retail Properties of America, Inc. (formerly Inland Western Retail Real Estate Trust, Inc.) and subsidiaries (the Company) as of December 31, 2011 and 2010, and the related consolidated statements of operations and other comprehensive loss, equity, and cash flows for each of the three years in the period ended December 31, 2011. Our audits also included the financial statement schedules listed in the Index. These financial statements and financial statement schedules are the responsibility of the Company's management. Our responsibility is to express an opinion on the financial statements and financial statement schedules based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Retail Properties of America, Inc. and subsidiaries as of December 31, 2011 and 2010, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2011, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, such financial statement schedules, when considered in relation to the basic consolidated financial statements taken as a whole, present fairly, in all material respects, the information set forth therein.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of December 31, 2011, based on the criteria established in *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report (not presented herein) dated February 22, 2012 expressed an unqualified opinion on the Company's internal control over financial reporting.

Chicago, Illinois

February 22, 2012

( , as to the effects of the ten to one reverse stock split and stock dividend described in Note 1)

**Table of Contents****RETAIL PROPERTIES OF AMERICA, INC.****CONSOLIDATED BALANCE SHEETS****As of December 31, 2011 and 2010**

(in thousands, except per share amounts)

	2011	2010
<b><u>Assets</u></b>		
Investment properties:		
Land	\$ 1,334,363	\$ 1,375,155
Building and other improvements	5,057,252	5,258,992
Developments in progress	49,940	87,095
	6,441,555	6,721,242
Less accumulated depreciation	(1,180,767)	(1,034,769)
Net investment properties	5,260,788	5,686,473
Cash and cash equivalents	136,009	130,213
Investment in marketable securities, net	30,385	34,230
Investment in unconsolidated joint ventures	81,168	33,465
Accounts and notes receivable (net of allowances of \$8,231 and \$9,138, respectively)	94,922	112,915
Acquired lease intangibles, net	174,404	230,046
Other assets, net	164,218	159,494
<b>Total assets</b>	<b>\$ 5,941,894</b>	<b>\$ 6,386,836</b>
<b><u>Liabilities and Equity</u></b>		
Liabilities:		
Mortgages and notes payable	\$ 2,926,218	\$ 3,602,890
Secured credit facility	555,000	154,347
Accounts payable and accrued expenses	83,012	84,570
Distributions payable	31,448	26,851
Acquired below market lease intangibles, net	81,321	92,099
Other financings	8,477	8,477
Co-venture obligation	52,431	51,264
Other liabilities	66,944	69,746
<b>Total liabilities</b>	<b>3,804,851</b>	<b>4,090,244</b>
Redeemable noncontrolling interests	525	527
Commitments and contingencies (Note 17)		
Equity:		
Preferred stock, \$0.001 par value, 10,000 shares authorized, none issued or outstanding		
Class A common stock, \$0.001 par value, 475,000 shares authorized, 48,382 and 47,734 shares issued and outstanding at December 31, 2011 and 2010, respectively	48	47
Class B-1 common stock, \$0.001 par value, 55,000 shares authorized, 48,382 and 47,734 shares issued and outstanding at December 31, 2011 and 2010, respectively	48	48
Class B-2 common stock, \$0.001 par value, 55,000 shares authorized, 48,382 and 47,735 shares issued and outstanding at December 31, 2011 and 2010, respectively	49	48

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Class B-3 common stock, \$0.001 par value, 55,000 shares authorized, 48,383 and 47,735 shares issued and outstanding at December 31, 2011 and 2010, respectively	49	48
Additional paid-in capital	4,427,977	4,383,567
Accumulated distributions in excess of earnings	(2,312,877)	(2,111,138)
Accumulated other comprehensive income	19,730	22,282
Total shareholders' equity	2,135,024	2,294,902
Noncontrolling interests	1,494	1,163
Total equity	2,136,518	2,296,065
Total liabilities and equity	\$ 5,941,894	\$ 6,386,836

See accompanying notes to consolidated financial statements

F-3



**Table of Contents****RETAIL PROPERTIES OF AMERICA, INC.****Consolidated Statements of Operations and Other Comprehensive Loss****For the Years Ended December 31, 2011, 2010 and 2009**

(in thousands, except per share amounts)

	2011	2010	2009
<b>Revenues:</b>			
Rental income	\$ 485,783	\$ 500,636	\$ 508,012
Tenant recovery income	109,745	113,326	119,805
Other property income	10,155	15,471	18,520
Insurance captive income		2,996	2,261
<b>Total revenues</b>	<b>605,683</b>	<b>632,429</b>	<b>648,598</b>
<b>Expenses:</b>			
Property operating expenses	102,373	104,413	120,370
Real estate taxes	79,543	84,330	91,844
Depreciation and amortization	235,598	240,720	243,571
Provision for impairment of investment properties	38,023	11,030	27,600
Loss on lease terminations	8,712	13,812	13,681
Insurance captive expenses		3,392	3,655
General and administrative expenses	20,605	18,119	21,191
<b>Total expenses</b>	<b>484,854</b>	<b>475,816</b>	<b>521,912</b>
Operating income	120,829	156,613	126,686
Dividend income	2,538	3,472	10,132
Interest income	663	740	1,483
Gain on extinguishment of debt, net	16,705		
Equity in (loss) income of unconsolidated joint ventures, net	(6,437)	2,025	(11,299)
Interest expense	(232,400)	(257,208)	(228,271)
Co-venture obligation expense	(7,167)	(7,167)	(597)
Recognized gain on marketable securities, net	277	4,007	18,039
Impairment of notes receivable			(17,322)
Gain on interest rate locks			3,989
Other income (expense), net	1,861	(4,302)	(10,370)
<b>Loss from continuing operations</b>	<b>(103,131)</b>	<b>(101,820)</b>	<b>(107,530)</b>
<b>Discontinued operations:</b>			
Operating income (loss), net	138	(16,693)	(34,262)
Gain on sales of investment properties, net	24,509	23,806	26,383
<b>Income (loss) from discontinued operations</b>	<b>24,647</b>	<b>7,113</b>	<b>(7,879)</b>
Gain on sales of investment properties	5,906		
<b>Net loss</b>	<b>(72,578)</b>	<b>(94,707)</b>	<b>(115,409)</b>
Net (income) loss attributable to noncontrolling interests	(31)	(1,136)	3,074
<b>Net loss attributable to Company shareholders</b>	<b>\$ (72,609)</b>	<b>\$ (95,843)</b>	<b>\$ (112,335)</b>

## Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

(Loss) earnings per common share-basic and diluted:

Continuing operations	\$ (0.51)	\$ (0.53)	\$ (0.54)
Discontinued operations	0.13	0.03	(0.04)
<b>Net loss per common share attributable to Company shareholders</b>	<b>\$ (0.38)</b>	<b>\$ (0.50)</b>	<b>\$ (0.58)</b>
<b>Net loss</b>	<b>\$ (72,578)</b>	<b>\$ (94,707)</b>	<b>\$ (115,409)</b>
<b>Other comprehensive loss:</b>			
Net unrealized gain on derivative instruments	1,211	1,247	1,696
Net unrealized (loss) gain on marketable securities	(3,486)	13,742	35,594
Reversal of unrealized gain to recognized gain on marketable securities, net	(277)	(4,007)	(18,039)
<b>Comprehensive loss</b>	<b>(75,130)</b>	<b>(83,725)</b>	<b>(96,158)</b>
Comprehensive (income) loss attributable to noncontrolling interests	(31)	(1,136)	3,074
<b>Comprehensive loss attributable to Company shareholders</b>	<b>\$ (75,161)</b>	<b>\$ (84,861)</b>	<b>\$ (93,084)</b>
<b>Weighted average number of common shares outstanding - basic and diluted</b>	<b>192,456</b>	<b>193,497</b>	<b>192,124</b>

See accompanying notes to consolidated financial statements

F-4

**Table of Contents****RETAIL PROPERTIES OF AMERICA, INC.****Consolidated Statements of Equity****For the Years Ended December 31, 2011, 2010 and 2009**

(in thousands, except per share amounts)

	Class A Common Stock		Class B Common Stock		Additional Paid-in Capital	Accumulated Distributions in Excess of Earnings	Accumulated Other Comprehensive Income	Total Shareholders' Equity	Noncontrolling Interests	Total Equity
	Shares	Amount	Shares	Amounts						
Balance at January 1, 2009	47,757	\$ 48	143,269	\$ 143	\$ 4,313,449	\$ (1,733,341)	\$ (7,951)	\$ 2,572,348	\$ 3,723	\$ 2,576,071
Net (loss) income (excluding net loss of \$3,332 attributable to redeemable noncontrolling interests)						(112,335)		(112,335)	258	(112,077)
Net unrealized gain on derivative instruments							1,696	1,696		1,696
Net unrealized gain on marketable securities							35,594	35,594		35,594
Reversal of unrealized gain to recognized gain on marketable securities, net							(18,039)	(18,039)		(18,039)
Contributions from noncontrolling interests									188	188
Distributions declared (\$0.39 per weighted average number of common shares outstanding)						(75,040)		(75,040)		(75,040)
Distribution reinvestment program (DRP)	417		1,254	2	37,300			37,302		37,302
Stock based compensation expense					24			24		24
Balance at December 31, 2009	48,174	\$ 48	144,523	\$ 145	\$ 4,350,773	\$ (1,920,716)	\$ 11,300	\$ 2,441,550	\$ 4,169	\$ 2,445,719
Net (loss) income (excluding net income of \$31 attributable to redeemable noncontrolling interests)					\$	\$ (95,843)	\$	\$ (95,843)	\$ 1,105	\$ (94,738)
Net unrealized gain on derivative instruments							1,247	1,247		1,247
Net unrealized gain on marketable securities							13,742	13,742		13,742
Reversal of unrealized gain to recognized gain on marketable securities, net							(4,007)	(4,007)		(4,007)
Contributions from noncontrolling interests									151	151
De-consolidation of variable interest entity									(4,262)	(4,262)
Distributions declared (\$0.49 per weighted average number of common shares outstanding)						(94,579)		(94,579)		(94,579)

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

DRP	460		1,380	2	32,729			32,731		32,731
Shares returned from litigation settlement	(900)	(1)	(2,700)	(3)	4					
Exercise of stock options			1		13			13		13
Stock based compensation expense					48			48		48
Balance at December 31, 2010	47,734	\$ 47	143,204	\$ 144	\$ 4,383,567	\$ (2,111,138)	\$ 22,282	\$ 2,294,902	\$ 1,163	\$ 2,296,065
Net loss (excluding net income of \$31 attributable to redeemable noncontrolling interests)					\$	\$ (72,609)	\$	\$ (72,609)	\$	\$ (72,609)
Distribution upon dissolution of partnership						(8,483)		(8,483)	(1)	(8,484)
Net unrealized gain on derivative instruments							1,211	1,211		1,211
Net unrealized loss on marketable securities							(3,486)	(3,486)		(3,486)
Reversal of unrealized gain to recognized gain on marketable securities, net							(277)	(277)		(277)
Contributions from noncontrolling interests									332	332
Distributions declared (\$0.63 per weighted average number of common shares outstanding)						(120,647)		(120,647)		(120,647)
DRP	644	1	1,933	2	44,293			44,296		44,296
Issuance of restricted common stock	4		10							
Amortization of equity awards					54			54		54
Stock based compensation expense					63			63		63
Balance at December 31, 2011	48,382	\$ 48	145,147	\$ 146	\$ 4,427,977	\$ (2,312,877)	\$ 19,730	\$ 2,135,024	\$ 1,494	\$ 2,136,518

See accompanying notes to consolidated financial statements

**Table of Contents****RETAIL PROPERTIES OF AMERICA, INC.****Consolidated Statements of Cash Flows****For the Years Ended December 31, 2011, 2010 and 2009**

(in thousands, except per share amounts)

	2011	2010	2009
<b>Cash flows from operating activities:</b>			
Net loss	\$ (72,578)	\$ (94,707)	\$ (115,409)
Adjustments to reconcile net loss to net cash provided by operating activities (including discontinued operations):			
Depreciation and amortization	238,020	248,089	258,592
Provision for impairment of investment properties	39,981	23,057	64,700
Impairment of marketable securities			24,831
Impairment of notes receivable			17,322
Gain on sales of investment properties, net	(30,415)	(23,421)	(26,383)
Gain on extinguishment of debt, net	(16,705)		
Loss on lease terminations	8,714	13,826	13,735
Amortization of loan fees, mortgage debt premium and discount on debt assumed, net	6,834	11,701	13,804
Equity in loss (income) of unconsolidated joint ventures, net	6,437	(2,025)	11,299
Distributions on investments in unconsolidated joint ventures	2,218	5,721	4,176
Recognized gain on sale of marketable securities, net	(277)	(4,007)	(42,870)
Payment of leasing fees	(10,786)	(6,172)	(5,048)
Changes in accounts receivable, net	4,915	8,336	1,467
Changes in accounts payable and accrued expenses, net	(813)	13,313	11,136
Changes in other operating assets and liabilities, net	(6,618)	(9,662)	15,699
Other, net	5,680	23	2,786
<b>Net cash provided by operating activities</b>	<b>174,607</b>	<b>184,072</b>	<b>249,837</b>
<b>Cash flows from investing activities:</b>			
Proceeds from sale of marketable securities	359	8,629	125,088
Changes in restricted escrows, net	673	(22,967)	(38,680)
Purchase of investment properties	(16,555)	(651)	(20,031)
Capital expenditures and tenant improvements	(32,509)	(34,547)	(20,747)
Proceeds from sales of investment properties	195,948	144,675	172,007
Investment in developments in progress	(3,288)	(3,219)	(15,297)
Investment in unconsolidated joint ventures	(50,030)	(3,589)	(2,879)
Distributions of investments in unconsolidated joint ventures	12,563		
Return of escrowed funds from unconsolidated joint venture		65,240	
Other, net	310	829	(5,755)
<b>Net cash provided by investing activities</b>	<b>107,471</b>	<b>154,400</b>	<b>193,706</b>

See accompanying notes to consolidated financial statements

**Table of Contents****RETAIL PROPERTIES OF AMERICA, INC.****Consolidated Statements of Cash Flows (continued)****For the Years Ended December 31, 2011, 2010 and 2009**

(in thousands, except per share amounts)

	2011	2010	2009
<b>Cash flows from financing activities:</b>			
(Payoff of) proceeds from margin debt related to marketable securities, net	(2,476)	10,017	(56,340)
Proceeds from mortgages and notes payable	91,579	737,890	974,938
Principal payments on mortgages and notes payable	(678,071)	(1,050,997)	(1,158,195)
Proceeds from secured credit facility	574,764	90,000	30,000
Payoff of secured credit facility	(174,111)	(42,653)	(148,000)
Payment of loan fees and deposits	(12,316)	(11,498)	(31,376)
Distributions paid, net of DRP	(71,754)	(50,654)	(47,651)
Repayment of other financings		(3,410)	(55,999)
Proceeds from co-venture obligation			50,000
Other, net	(3,897)	(442)	3,817
<b>Net cash used in financing activities</b>	<b>(276,282)</b>	<b>(321,747)</b>	<b>(438,806)</b>
<b>Net increase in cash and cash equivalents</b>	<b>5,796</b>	<b>16,725</b>	<b>4,737</b>
Cash and cash equivalents, at beginning of period	130,213	125,904	121,167
Cash decrease due to deconsolidation of variable interest entity		(12,416)	
<b>Cash and cash equivalents, at end of period</b>	<b>\$ 136,009</b>	<b>\$ 130,213</b>	<b>\$ 125,904</b>
<b>Supplemental cash flow disclosure, including non-cash activities:</b>			
Cash paid for interest, net of interest capitalized	\$ 227,887	\$ 248,576	\$ 222,573
Distributions payable	\$ 31,448	\$ 26,851	\$ 15,657
Distributions reinvested	\$ 44,296	\$ 32,731	\$ 37,302
Accrued capital expenditures and tenant improvements	\$ 4,878	\$	\$
Developments in progress placed in service	\$ 25,651	\$ 28,312	\$ 35,126
Forgiveness of mortgage debt	\$ 15,798	\$ 50,831	\$
Shares of common stock returned as a result of litigation settlement		3,600	
<b>Purchase of investment properties (after credits at closing):</b>			
Land, building and other improvements, net	\$ (12,546)	\$ (651)	\$ (20,031)
Acquired lease intangibles and other assets	(4,547)		
Acquired below market lease intangibles and other liabilities	538		
	<b>\$ (16,555)</b>	<b>\$ (651)</b>	<b>\$ (20,031)</b>

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Proceeds from sales of investment properties:

Land, building and other improvements, net	\$ 217,700	\$ 259,308	\$ 288,635
Acquired lease intangibles and other assets	10,142	(4,697)	23,397
Mortgages and notes payable assumption	(60,000)	(97,888)	(160,489)
Forgiveness of mortgage debt		(31,756)	
Acquired below market lease intangibles and other liabilities	(5,805)	(3,713)	(5,919)
Deferred gains	2,505		
Gain on extinguishment of debt	991		
Gain on sales of investment properties, net	30,415	23,421	26,383
	\$ 195,948	\$ 144,675	\$ 172,007

Deconsolidation of variable interest entity:

Investment in unconsolidated joint ventures	\$	\$ 7,230	\$
Other assets, net		(6,386)	
Accounts payable and accrued expenses		124	
Other liabilities		7,186	
Noncontrolling interests		4,262	
Cash decrease due to deconsolidation of variable interest entity	\$	\$ 12,416	\$

See accompanying notes to consolidated financial statements

---

**Table of Contents**

**RETAIL PROPERTIES OF AMERICA, INC.**

**Notes to Consolidated Financial Statements**

**For the Years Ended December 31, 2011, 2010 and 2009**

**(1) Organization and Basis of Presentation**

Retail Properties of America, Inc. (the Company) was formed to acquire and manage a diversified portfolio of real estate, primarily multi-tenant shopping centers and single-user net lease properties. The Company was initially formed on March 5, 2003 as Inland Western Retail Real Estate Trust, Inc. On March 8, 2012, the Company filed Articles of Amendment to the Company's Fifth Articles of Amendment and Restatement with the Maryland State Department of Assessments and Taxation to effect a change of its name from Inland Western Retail Real Estate Trust, Inc. to Retail Properties of America, Inc., which was effective upon filing the Articles of Amendment.

On \_\_\_\_\_, 2012, the Company effected a ten to one reverse stock split of the Company's common stock outstanding. On \_\_\_\_\_, 2012, the Company declared a stock dividend pursuant to which each then outstanding share of its common stock received:

one share of Class B-1 Common Stock; plus

one share of Class B-2 Common Stock; plus

one share of Class B-3 Common Stock.

In connection with this stock dividend, the Company redesignated its then outstanding common stock as Class A Common Stock.

These transactions are referred to as the Recapitalization. Class B-1 Common Stock, Class B-2 Common Stock and Class B-3 Common Stock are collectively referred to as the Company's Class B Common Stock, while Class A and Class B Common Stock are collectively referred to as the Company's common stock. The Company intends to list its Class A Common Stock on the New York Stock Exchange, or NYSE (the Listing). The Company's Class B Common Stock will be identical to the Company's Class A Common Stock except that (i) the Company does not intend to list its Class B Common Stock on a national securities exchange and (ii) shares of the Company's Class B Common Stock will convert automatically into shares of the Company's Class A Common Stock at specified times. Subject to the provisions of the Company's charter, shares of Class B-1, Class B-2 and Class B-3 Common Stock will convert automatically into shares of the Company's Class A Common Stock six months following the Listing, 12 months following the Listing and 18 months following the Listing, respectively. On the 18 month anniversary of the Listing, all shares of our Class B Common Stock will have converted into the Company's Class A Common Stock. Each share of Class A Common Stock and Class B Common Stock participates in distributions equally.

All common stock share and per share data included in these consolidated financial statements give retroactive effect to the Recapitalization.

All share amounts and dollar amounts in the consolidated financial statements and notes thereto are stated in thousands with the exception of per share amounts.

The Company, through two public offerings from 2003 through 2005 and a merger consummated in 2007, issued a total of 183,793 shares of its common stock at \$25.00 per share, resulting in gross proceeds, including merger consideration, of \$4,595,193. In addition, as of December 31, 2011, the Company had issued 30,850 shares through its distribution reinvestment program (DRP) at prices ranging from \$17.125 to \$25.00 per share for gross proceeds of \$719,799 and had repurchased a total of 17,529 shares through its share repurchase program (SRP) (suspended as of November 19, 2008) at prices ranging from \$23.125 to \$25.00 per share for an aggregate cost of \$432,487. During the year ended December 31, 2010, one share was issued through the





## **Table of Contents**

exercise of stock options at a price of \$22.375 per share for gross proceeds of \$13. In addition, in December 2010, 3,600 shares of common stock were transferred back to the Company from shares of common stock issued to the owners of certain entities that were acquired by the Company in its internalization transaction in conjunction with a litigation settlement. On April 12, 2011, the Company's board of directors granted an aggregate of 14 common shares to its executive officers under the Equity Compensation Plan in connection with the executive incentive compensation program. Of the total 14 shares, 7 will vest after three years and 7 will vest after five years. As of December 31, 2011, amortization of these equity awards totaled \$54. As a result, the Company had total shares outstanding of 193,529 and had realized total net offering proceeds of \$4,882,572 as of December 31, 2011.

The Company has elected to be taxed as a real estate investment trust (REIT) under the Internal Revenue Code of 1986, as amended, or the Code, commencing with the tax year ended December 31, 2003. The Company believes it has qualified for taxation as a REIT and, as such, the Company generally will not be subject to U.S. federal income tax on taxable income that is distributed to shareholders. If the Company fails to qualify as a REIT in any taxable year, the Company will be subject to U.S. federal income tax on its taxable income at regular corporate tax rates. Certain aspects of the operation of the Company's DRP prior to May 2006 may have violated the prohibition against preferential dividends. To address those issues, on June 17, 2011, the Company entered into a closing agreement with the Internal Revenue Service, or IRS, whereby the IRS agreed the terms and administration of the Company's DRP did not result in the Company's dividends paid during taxable years 2004 through 2006 being treated as preferential.

Even if the Company qualifies for taxation as a REIT, the Company may be subject to certain state and local taxes on its income, property or net worth and U.S. federal income and excise taxes on its undistributed income. The Company has one wholly-owned subsidiary that has elected to be treated as a taxable REIT subsidiary (TRS) for U.S. federal income tax purposes. A TRS is taxed on its taxable income at regular corporate tax rates. The income tax expense incurred as a result of the TRS did not have a material impact on the Company's accompanying consolidated financial statements. Through the merger consummated on November 15, 2007, the Company acquired four qualified REIT subsidiaries. Their income is consolidated with REIT income for federal and state income tax purposes.

The preparation of financial statements in conformity with accounting principles generally accepted in the United States (GAAP) requires management to make estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting periods. For example, significant estimates and assumptions have been made with respect to useful lives of assets; capitalization of development and leasing costs; fair value measurements; provision for impairment, including estimates of holding periods, capitalization rates and discount rates (where applicable); provision for income taxes; recoverable amounts of receivables; deferred taxes and initial valuations and related amortization periods of deferred costs and intangibles, particularly with respect to property acquisitions. Actual results could differ from those estimates.

Certain reclassifications, primarily as a result of discontinued operations, have been made to the 2010 and 2009 consolidated financial statements to conform to the 2011 presentation. In addition, reclassifications primarily to condense certain captions have been made to the 2010 and 2009 consolidated statement of cash flows to conform to the 2011 presentation.

The accompanying consolidated financial statements include the accounts of the Company, as well as all wholly-owned subsidiaries and consolidated joint venture investments. Wholly-owned subsidiaries generally consist of limited liability companies (LLCs) and limited partnerships (LPs).

**Table of Contents**

The Company's property ownership as of December 31, 2011 is summarized below:

	Wholly-owned	Consolidated Joint Ventures <sup>(a)</sup>	Unconsolidated Joint Ventures <sup>(b)</sup>
Operating properties <sup>(c)</sup>	219	55	24
Development properties <sup>(c)</sup>	2	1	

(a) The Company has ownership interests ranging from 50% to 87% in three LLCs or LPs.

(b) The Company has ownership interests ranging from 20% to 96% in three LLCs or LPs.

(c) During the year ended December 31, 2011, three properties previously considered development were transitioned to operating, one of which was sold prior to December 31, 2011.

The Company consolidates certain property holding entities and other subsidiaries in which it owns less than a 100% equity interest if it is deemed to be the primary beneficiary in a variable interest entity (VIE), (an entity in which the contractual, ownership, or pecuniary interests change with changes in the fair value of the entity's net assets, as defined by the Financial Accounting Standards Board (FASB)). The Company also consolidates entities that are not VIEs in which it has financial and operating control in accordance with GAAP. All significant intercompany balances and transactions have been eliminated in consolidation. Investments in real estate joint ventures in which the Company has the ability to exercise significant influence, but does not have financial or operating control, are accounted for using the equity method of accounting. Accordingly, the Company's share of the income (or loss) of these unconsolidated joint ventures is included in consolidated net loss in the accompanying consolidated statements of operations and other comprehensive loss.

The Company is the controlling member in various consolidated entities. Noncontrolling interest is the portion of equity in a subsidiary not attributable, directly or indirectly, to a parent. The organizational documents of certain of these entities contain provisions that require the entities to be liquidated through the sale of their assets upon reaching a future date as specified in each respective organizational document or through put/call arrangements. As controlling member, the Company has an obligation to cause these property-owning entities to distribute proceeds of liquidation to the noncontrolling interest partners in these partially-owned entities only if the net proceeds received by each of the entities from the sale of assets warrant a distribution based on the terms of the underlying agreements. Some of the LLC or LP agreements for these entities contain put/call provisions which grant the right to the outside owners and the Company to require each LLC or LP to redeem the ownership interests of the outside owners during future periods. In instances where outside ownership interests are subject to put/call arrangements requiring settlement for fixed amounts, the LLC or LP is treated as a wholly-owned subsidiary by the Company with the amount due to the outside owner reflected as a financing arrangement and included in "Other financings" in the accompanying consolidated balance sheets. Interest expense is recorded on such liabilities in amounts equal to the preferential returns due to the outside owners as provided in the LLC or LP agreements. In instances where outside ownership interests are subject to call arrangements without fixed settlement amounts, the LLC is treated as a wholly-owned subsidiary by the Company with the amount due to the outside owner reflected as a financing and included in "Co-venture obligation" in the accompanying consolidated balance sheets. Co-venture obligation expense is recorded on such liabilities in amounts equal to the preferential returns due to the outside owners as provided in the LLC agreement.

The Company evaluates the classification and presentation of the noncontrolling interests associated with the Company's consolidated joint venture investments on an ongoing basis as facts and circumstances deem necessary. The Company makes such determinations based on numerous factors, including evaluations of the terms in applicable agreements, specifically the redemption provisions. The amount at which these interests would be redeemed is based on a formula contained in each respective agreement and, as of December 31, 2011 and 2010, was determined to approximate the carrying value of these interests. Accordingly, no adjustment to the carrying value of the noncontrolling interests in the Company's consolidated joint venture investments was made during the years ended December 31, 2011, 2010 and 2009.

**Table of Contents**

In the consolidated statements of operations and other comprehensive loss, revenues, expenses and net income or loss from less-than-wholly-owned subsidiaries are reported at the consolidated amounts, including both the amounts attributable to Company shareholders and noncontrolling interests. Consolidated statements of equity are included in the annual financial statements, including beginning balances, activity for the period and ending balances for total shareholders' equity, noncontrolling interests and total equity. Noncontrolling interests are adjusted for additional contributions by noncontrolling interest holders and distributions to noncontrolling interest holders, as well as the noncontrolling interest holders' share of the net income or loss of each respective entity.

On September 30, 2011, the Company paid \$300 to a partner in one of its consolidated development joint ventures to simultaneously settle the outstanding development fee liability of the joint venture and fully redeem the partner's ownership interest in such joint venture. The transaction resulted in an increase in the Company's ownership interest in South Billings Center from 40.0% as of December 31, 2010 to 100%.

On April 29, 2011, the Company dissolved a partnership with a partner in three of its development joint ventures resulting in increases to the Company's ownership interests to 100% in Parkway Towne Crossing, 100% in three fully occupied outlots at Wheatland Towne Crossing and 50% in Lake Mead Crossing. The remaining property of Wheatland Towne Crossing (excluding the three outlots, which the Company subsequently sold in separate transactions prior to December 31, 2011) was conveyed to the Company's partner who simultaneously repaid the related \$5,730 construction loan. Such conveyance of property resulted in a \$14,235 decrease in "Developments in progress" in the accompanying consolidated balance sheets. Concurrently with this transaction, the Company also acquired a 36.7% ownership interest in Lake Mead Crossing from another partner in that joint venture, increasing the Company's total ownership interest in the property to 86.7%. The Company accounted for this transaction, including the conveyance of property, as a nonmonetary distribution of \$8,483, reflected in the accompanying consolidated financial statements as an increase to "Accumulated distributions in excess of earnings." With respect to Lake Mead Crossing, the Company continues to hold a controlling financial interest in the joint venture and, therefore, continues to consolidate the underlying accounts and balances within the accompanying consolidated financial statements.

Below is a table reflecting the activity of the redeemable noncontrolling interests for the years ended December 31, 2011, 2010 and 2009:

	2011	2010	2009
Balance at January 1,	\$ 527	\$ 527	\$ 19,317
Redeemable noncontrolling interest income (expense)	31	31	(3,332)
Distributions	(31)	(31)	(32)
Redemptions			(15,426) <sup>(a)</sup>
Dissolution of partnership	(2)		
Balance at December 31,	\$ 525	\$ 527	\$ 527

(a) The redemption of noncontrolling interests in 2009 resulted in decreases to land and other assets of \$11,488 and \$2,390, respectively.

**Table of Contents**

During the years ended December 31, 2010 and 2009, the Company paid certain joint venture partners whose interests were previously classified in Other financings in the accompanying consolidated balance sheets, for the redemption of their interests in certain consolidated joint ventures as summarized below:

Redemption Date	Full or Partial Redemption	Accrued Preferred Return	Amount Included in Other Financings	Total Payment Amount
January 5, 2010	Full	\$ 20	\$ 3,410	\$ 3,430
Redemption Date	Full or Partial Redemption	Accrued Preferred Return	Amount Included in Other Financings	Total Payment Amount
January 16, 2009	Full	\$	\$ 3,410	\$ 3,410
April 28, 2009	Full	114	5,698	5,812
June 4, 2009	Partial		40,539	40,539
June 20, 2009	Full		6,352	6,352
Total for the year ended December 31, 2009		\$ 114	\$ 55,999	\$ 56,113

The Company is party to an agreement with an LLC formed as an insurance association captive (the Captive), which is wholly-owned by the Company and three related parties, Inland Real Estate Corporation (IREC), Inland American Real Estate Trust, Inc. (IARETI) and Inland Diversified Real Estate Trust, Inc. (IDRETI). The Captive is serviced by a related party, Inland Risk and Insurance Management Services, Inc. for a fee of \$25 per quarter and was formed to insure/reimburse the members deductible obligations for property and general liability insurance claims subject to certain limitations. The Company entered into the Captive to stabilize insurance costs, manage certain exposures and recoup expenses through the function of the captive program. It has been determined that the Captive is a VIE and, as the Company received the most benefit of all members through November 30, 2010, the Company was deemed to be the primary beneficiary. Therefore, the Captive was consolidated by the Company through November 30, 2010. Prior to November 30, 2010, the other members interests are reflected as

Noncontrolling interests in the accompanying consolidated financial statements. Effective December 1, 2010, it was determined that the Company no longer received the most benefit, nor had the highest risk of loss and, therefore, was no longer the primary beneficiary. As a result, the Captive was deconsolidated and recorded under the equity method of accounting. As of December 31, 2011 and 2010, the Company's interest in the Captive is reflected in Investment in unconsolidated joint ventures in the accompanying consolidated balance sheets. The Company's share of net (loss) income of the Captive for the year ended December 31, 2011 is reflected in Equity in (loss) income of unconsolidated joint ventures, net in the accompanying consolidated statements of operations and other comprehensive loss.

On November 29, 2009, the Company formed IW JV 2009, LLC (IW JV), a wholly-owned subsidiary, and transferred a portfolio of 55 investment properties and the entities which owned them into it. Subsequently, in connection with a \$625,000 debt refinancing transaction, which consisted of \$500,000 of mortgages payable and \$125,000 of notes payable, on December 1, 2009, the Company raised additional capital of \$50,000 from a related party, Inland Equity Investors, LLC (Inland Equity) in exchange for a 23% noncontrolling interest in IW JV. IW JV, which is controlled by the Company, and therefore consolidated, is and will continue to be managed and operated by the Company. Inland Equity is owned by certain individuals, including Daniel L. Goodwin, who beneficially owns more than 5% of the common stock of the Company, and Robert D. Parks, who was the Chairman of the Board of the Company until October 12, 2010 and is the Chairman of the Board of certain affiliates of The Inland Group, Inc. (The Inland Group). The independent directors committee reviewed and recommended approval of this transaction to the Company's board of directors.

## Table of Contents

### (2) Summary of Significant Accounting Policies

**Investment Properties:** Investment properties are recorded at cost less accumulated depreciation. Ordinary repairs and maintenance are expensed as incurred. Expenditures for significant betterments and improvements are capitalized.

The Company allocates the purchase price of each acquired investment property based upon the estimated acquisition date fair values of the individual assets acquired and liabilities assumed, which generally include land, building and other improvements, in-place lease value, acquired above market and below market lease intangibles, any assumed financing that is assumed to be above or below market, the value of customer relationships and goodwill, if any. Transaction costs are expensed as incurred and presented within General and administrative expenses in the accompanying consolidated statements of operations and other comprehensive loss.

To augment the Company's estimates of the fair value of assets acquired and liabilities assumed, in some circumstances, the Company engages independent real estate appraisal firms to provide market information and evaluations; however, the Company is ultimately responsible for such estimates. For tangible assets acquired, including land, building and other improvements, the Company considers available comparable market and industry information in estimating acquisition date fair value. The Company allocates a portion of the purchase price to the estimated acquired in-place lease value based on estimated lease execution costs for similar leases as well as lost rental payments during an assumed lease-up period. The Company also evaluates each acquired lease as compared to current market rates. If an acquired lease is determined to be above or below market, the Company allocates a portion of the purchase price to such above or below market leases based upon the present value of the difference between the contractual lease payments and estimated market rent payments over the remaining lease term. Renewal periods are included within the lease term in the calculation of above and below market lease values if, based upon factors known at the acquisition date, market participants would consider it probable that the lessee would exercise such options. The discount rate used in the present value calculation of above and below market lease intangibles requires the Company's evaluation of subjective factors such as market knowledge, economics, demographics, location, visibility, age and physical condition of the property.

All acquisition accounting fair value estimates require the Company to consider various factors, including but not limited to, geographical location, size and location of leased space within the acquired investment property, tenant profile, and credit risk of tenants.

The portion of the purchase price allocated to acquired in-place lease value is amortized on a straight-line basis over the life of the related lease as a component of depreciation and amortization expense. The Company incurred amortization expense pertaining to acquired in-place lease value of \$38,873, \$42,366 and \$47,550 (including \$285, \$587 and \$1,773, respectively, reflected as discontinued operations) for the years ended December 31, 2011, 2010 and 2009, respectively.

The portion of the purchase price allocated to acquired above market and below market lease intangibles is amortized on a straight-line basis over the life of the related lease as an adjustment to rental income. Amortization pertaining to the above market lease value of \$4,816, \$5,654 and \$6,307 (including \$21 reflected as discontinued operations for the year ended December 31, 2009) for the years ended December 31, 2011, 2010 and 2009, respectively, was recorded as a reduction to rental income. Amortization pertaining to the below market lease value \$6,533, \$7,623 and \$8,647 (including \$15, \$40 and \$76, respectively, reflected as discontinued operations) for the years ended December 31, 2011, 2010 and 2009, respectively, was recorded as an increase to rental income.

**Table of Contents**

The following table presents the amortization during the next five years and thereafter related to the acquired in-place lease value and acquired above and below market lease intangibles for properties owned at December 31, 2011:

	2012	2013	2014	2015	2016	Thereafter
Amortization of:						
Acquired above market lease intangibles	\$ (3,475)	\$ (3,018)	\$ (2,522)	\$ (2,034)	\$ (1,558)	\$ (4,477)
Acquired below market lease intangibles	5,784	5,466	5,105	4,707	4,333	55,926
Net rental income increase	\$ 2,309	\$ 2,448	\$ 2,583	\$ 2,673	\$ 2,775	\$ 51,449
Acquired in-place lease value	\$ 35,752	\$ 32,382	\$ 23,593	\$ 15,840	\$ 13,223	\$ 36,530

Depreciation expense is computed using the straight-line method. Buildings and improvements are depreciated based upon estimated useful lives of 30 years for buildings and associated improvements and 15 years for site improvements and most other capital improvements. Tenant improvements and leasing fees are amortized on a straight-line basis over the life of the related lease as a component of depreciation and amortization expense.

**Impairment:** The Company's investment properties, including developments in progress, are reviewed for potential impairment at the end of each reporting period or whenever events or changes in circumstances indicate that the carrying value may not be recoverable. At the end of each reporting period, the Company separately determines whether impairment indicators exist for each property. Examples of situations considered to be impairment indicators for both operating properties and developments in progress include, but are not limited to:

a substantial decline or continued low occupancy rate;

continued difficulty in leasing space;

significant financially troubled tenants;

a change in plan to sell a property prior to the end of its useful life or holding period;

a cost accumulation or delay in project completion date significantly above and beyond the original acquisition / development estimate;

a significant decrease in market price not in line with general market trends; and

any other quantitative or qualitative events or factors deemed significant by the Company's management or board of directors.

If the presence of one or more impairment indicators as described above is identified at the end of a reporting period or throughout the year with respect to a property, the asset is tested for recoverability by comparing its carrying value to the estimated future undiscounted cash flows. An investment property is considered to be impaired when the estimated future undiscounted cash flows are less than its current carrying value. When performing a test for recoverability or estimating the fair value of an impaired investment property, the Company makes certain complex or subjective assumptions which include, but are not limited to:

## Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

projected operating cash flows considering factors such as vacancy rates, rental rates, lease terms, tenant financial strength, demographics, holding period and property location;

projected capital expenditures and lease origination costs;

estimated dates of construction completion and grand opening for developments in progress;

projected cash flows from the eventual disposition of an operating property or development in progress using a property-specific capitalization rate;

F-14



**Table of Contents**

comparable selling prices; and

property-specific discount rate for fair value estimates as necessary.

The Company's investments in unconsolidated joint ventures are reviewed for potential impairment, in addition to impairment evaluations of the individual assets underlying these investments, each reporting period or whenever events or changes in circumstances warrant such an evaluation. To determine whether any identified impairment is other-than-temporary, the Company considers whether it has the ability and intent to hold the investment until the carrying value is fully recovered.

To the extent impairment has occurred, the Company will record an impairment charge calculated as the excess of the carrying value of the asset over its estimated fair value for impairment of investment properties or investments in unconsolidated joint ventures.

Below is a summary of impairment charges recorded during the years ended December 31, 2011, 2010 and 2009:

	Years Ended December 31,		
	2011	2010	2009
Impairment of consolidated properties	\$ 39,981	\$ 23,057	\$ 64,700
Impairment of investment in unconsolidated joint ventures <sup>(a)</sup>	\$ 3,956	\$	\$ 9,062

(a) Included in Equity in (loss) income of unconsolidated joint ventures, net in the accompanying consolidated statements of operations and other comprehensive loss.

Impairment of consolidated investment properties is included in Provision for impairment of investment properties in the accompanying consolidated statements of operations and other comprehensive loss, except for \$1,958, \$12,027 and \$37,100 which is included in discontinued operations in 2011, 2010, and 2009, respectively. The Company's assessment of impairment at December 31, 2011 was based on the most current information available to the Company. If the conditions mentioned above deteriorate further or if the Company's plans regarding the Company's assets change, subsequent tests for impairment could result in additional impairment charges in the future. The Company can provide no assurance that material impairment charges with respect to the Company's investment properties and investments in unconsolidated joint ventures will not occur in 2012 or future periods. In light of the downturn in the general economy and its continuing effect upon real estate market conditions, certain of the Company's properties may have fair values less than their carrying amounts. However, based on the Company's plans with respect to those properties, the Company believes that the carrying amounts are recoverable and therefore, under applicable GAAP guidance, no additional impairment charges were recorded. Accordingly, the Company will continue to monitor circumstances and events in future periods to determine whether additional impairment charges are warranted.

**Development Projects:** The Company capitalizes direct and certain indirect project costs incurred during the development period such as construction, insurance, architectural, legal, interest and other financing costs, and real estate taxes. At such time as the development is considered substantially complete, the capitalization of certain indirect costs such as real estate taxes and interest and financing costs ceases and all project-related costs included in developments in progress are reclassified to land and building and other improvements. Development payables of \$237 and \$499 at December 31, 2011 and 2010, respectively, consist of costs incurred and not yet paid pertaining to such development projects and are included in Accounts payable and accrued expenses in the accompanying consolidated balance sheets. During the years ended December 31, 2011, 2010 and 2009, the Company capitalized interest cost of \$197, \$286 and \$1,194, respectively.

**Loss on Lease Terminations:** In situations in which a lease or leases associated with a significant tenant have been, or are expected to be, terminated early, the Company evaluates the remaining useful lives of depreciable or amortizable assets in the asset group related to the lease that will be terminated (i.e., tenant

**Table of Contents**

improvements, above and below market lease intangibles, in-place lease value, and leasing commissions). Based upon consideration of the facts and circumstances of the termination, the Company may write-off the applicable asset group or accelerate the depreciation and amortization associated with the asset group. If the Company concludes that a write-off of the asset group is appropriate, such charges are reported in the consolidated statements of operations and other comprehensive loss as Loss on lease terminations. The Company recorded loss on lease terminations of \$8,714, \$13,826 and \$13,735 (including \$2, \$14 and \$54, respectively, reflected as discontinued operations) for the years ended December 31, 2011, 2010 and 2009, respectively.

**Investment Properties Held For Sale:** In determining whether to classify an investment property as held for sale, the Company considers whether: (i) management has committed to a plan to sell the investment property; (ii) the investment property is available for immediate sale in its present condition; (iii) the Company has initiated a program to locate a buyer; (iv) the Company believes that the sale of the investment property is probable; (v) the Company has received a significant non-refundable deposit for the purchase of the investment property; (vi) the Company is actively marketing the investment property for sale at a price that is reasonable in relation to its current value, and (vii) actions required for the Company to complete the plan indicate that it is unlikely that any significant changes will be made.

If all of the above criteria are met, the Company classifies the investment property as held for sale. When these criteria are met, the Company suspends depreciation (including depreciation for tenant improvements and building improvements) and amortization of acquired in-place lease value and any above market or below market lease intangibles. The assets and liabilities associated with those investment properties that are held for sale are classified separately on the consolidated balance sheets for the most recent reporting period. Additionally, if the operations and cash flows of the property have been, or will be upon consummation of such sale, eliminated from ongoing operations and the Company does not have significant continuing involvement in the operations of the property, then the operations for the periods presented are classified in the consolidated statements of operations and other comprehensive loss as discontinued operations for all periods presented. There were no properties classified as held for sale at December 31, 2011 and 2010. Refer to Note 4 for more information.

**Partially-Owned Entities:** If the Company determines that it is an owner in a VIE and it holds a controlling financial interest, then it will consolidate the entity as the primary beneficiary. For partially-owned entities determined not to be a VIE, the Company analyzes rights held by each partner to determine which would be the consolidating party. The Company assesses its interests in variable interest entities on an ongoing basis to determine whether or not it is a primary beneficiary. Such assessments include an evaluation of who controls the entity even in circumstances in which it has greater than a 50% ownership interest as well as who has an obligation to absorb losses or a right to receive benefits that could potentially be significant to the entity. If the Company's interest does not incorporate the above elements, it will not consolidate the entity. Refer to Note 1 for more information.

**Cash and Cash Equivalents:** The Company considers all demand deposits, money market accounts and investments in certificates of deposit and repurchase agreements purchased with a maturity of three months or less at the date of purchase, to be cash equivalents. The Company maintains its cash and cash equivalents at various financial institutions. The combined account balances at one or more institutions periodically exceed the Federal Depository Insurance Corporation (FDIC) insurance coverage and, as a result, there is a concentration of credit risk related to amounts on deposit in excess of FDIC insurance coverage. The Company believes that the risk is not significant, as the Company does not anticipate the financial institutions' non-performance.

**Marketable Securities:** Investments in marketable securities are classified as available-for-sale and accordingly are carried at fair value, with unrealized gains and losses reported as a separate component of shareholders' equity. Declines in the value of these investments in marketable securities that the Company determines are other-than-temporary are recorded as recognized loss on marketable securities on the consolidated statements of operations and other comprehensive loss.

**Table of Contents**

To determine whether an impairment is other-than-temporary, the Company considers whether it has the ability and intent to hold the investment until a market price recovery and considers whether evidence indicating the cost of the investment is recoverable outweighs evidence to the contrary, among other things. Evidence considered in this assessment includes the nature of the investment, the reasons for the impairment (i.e. credit or market related), the severity and duration of the impairment, changes in value subsequent to the end of the reporting period and forecasted performance of the investee. All available information is considered in making this determination with no one factor being determinative.

**Restricted Cash and Escrows:** Restricted cash and escrows include funds received by third party escrow agents from sellers pertaining to master lease agreements. The Company records the third party escrow funds as both an asset and a corresponding liability until certain leasing conditions are met. Restricted cash and escrows also consist of lenders' escrows and funds restricted through lender agreements and are included as a component of Other assets, net in the accompanying consolidated balance sheets. As of December 31, 2011 and 2010, the Company had \$91,533 and \$91,786, respectively, in restricted cash and escrows.

**Derivative Instruments and Hedging Activities:** All derivatives are recorded in the consolidated balance sheets at their fair values within Other liabilities. On the date that the Company enters into a derivative, it may designate the derivative as a hedge against the variability of cash flows that are to be paid in connection with a recognized liability. Subsequent changes in the fair value of a derivative designated as a cash flow hedge that is determined to be highly effective are recorded in Accumulated other comprehensive income until earnings are affected by the variability of cash flows of the hedged transactions. As of December 31, 2011, the balance in accumulated other comprehensive income relating to derivatives was \$1,362. Any hedge ineffectiveness or changes in the fair value for any derivative not designated as a hedge is reported in Other income (expense), net in the consolidated statements of operations and other comprehensive loss. The Company uses derivatives to manage differences in the amount, timing and duration of the Company's known or expected cash payments principally related to certain of the Company's borrowings. The Company does not use derivatives for trading or speculative purposes.

**Conditional Asset Retirement Obligations:** The Company evaluates the potential impact of conditional asset retirement obligations on its consolidated financial statements. The term conditional asset retirement obligation refers to a legal obligation to perform an asset retirement activity in which the timing and/or method of settlement are conditional on a future event that may or may not be within the control of the entity. Thus, the timing and/or method of settlement may be conditional on a future event. Based upon the Company's evaluation, the accrual of a liability for asset retirement obligations was not warranted as of December 31, 2011 and 2010.

**Revenue Recognition:** The Company commences revenue recognition on its leases based on a number of factors. In most cases, revenue recognition under a lease begins when the lessee takes possession of or controls the physical use of the leased asset. Generally, this occurs on the lease commencement date. The determination of who is the owner, for accounting purposes, of the tenant improvements determines the nature of the leased asset and when revenue recognition under a lease begins. If the Company is the owner, for accounting purposes, of the tenant improvements, then the leased asset is the finished space and revenue recognition begins when the lessee takes possession of the finished space, typically when the improvements are substantially complete. If the Company concludes it is not the owner, for accounting purposes, of the tenant improvements (the lessee is the owner), then the leased asset is the unimproved space and any tenant improvement allowances funded under the lease are accounted for as lease incentives which are amortized as a reduction to the revenue recognized over the term of the lease. In these circumstances, the Company commences revenue recognition when the lessee takes possession of the unimproved space for the lessee to construct their own improvements.

The Company considers a number of factors to evaluate whether it or the lessee is the owner of the tenant improvements for accounting purposes. These factors include:

whether the lease stipulates how and on what a tenant improvement allowance may be spent;

whether the tenant or the Company retains legal title to the improvements;

**Table of Contents**

the uniqueness of the improvements;

the expected economic life of the tenant improvements relative to the length of the lease;

who constructs or directs the construction of the improvements, and

whether the tenant or the Company is obligated to fund cost overruns.

The determination of who owns the tenant improvements, for accounting purposes, is subject to significant judgment. In making that determination, the Company considers all of the above factors. No one factor, however, necessarily establishes its determination.

Rental income is recognized on a straight-line basis over the term of each lease. The difference between rental income earned on a straight-line basis and the cash rent due under the provisions of the lease is recorded as deferred rent receivable and is included as a component of Accounts and notes receivable in the accompanying consolidated balance sheets.

Reimbursements from tenants for recoverable real estate taxes and operating expenses are accrued as revenue in the period the applicable expenditures are incurred. The Company makes certain assumptions and judgments in estimating the reimbursements at the end of each reporting period.

The Company records lease termination income upon execution of a termination letter agreement, when all of the conditions of such agreement have been fulfilled, the tenant is no longer occupying the property and collectibility is reasonably assured. Upon early lease termination, the Company provides for losses related to recognized tenant specific intangibles and other assets or adjusts the remaining useful life of the assets if determined to be appropriate, in accordance with its policy related to loss on lease terminations.

The Company's policy for percentage rental income is to defer recognition of contingent rental income until the specified target (i.e. breakpoint) that triggers the contingent rental income is achieved. The Company earned percentage rental income of \$5,496, \$6,269 and \$6,453 (including \$34, \$66 and \$284, respectively, reflected as discontinued operations) for the years ended December 31, 2011, 2010 and 2009, respectively.

In conjunction with certain acquisitions, the Company receives payments under master lease agreements pertaining to certain non-revenue producing spaces either at the time of, or subsequent to, the purchase of these properties. Upon receipt of the payments, the receipts are recorded as a reduction to the purchase price of the related properties rather than as rental income. These master leases were established at the date of acquisition in order to mitigate the potential negative effects of loss of rent and expense reimbursements. Master lease payments are received through a draw of funds deposited with a third party escrow agent at closing of any acquisition and generally cover a period from three months to three years. These funds may be released to either the Company over the designated payment period or to the seller when certain leasing conditions are met. The Company received \$259, \$789 and \$1,231 of these payments during the years ended December 31, 2011, 2010 and 2009, respectively.

Profits from sales of real estate are not recognized under the full accrual method by the Company unless a sale is consummated; the buyer's initial and continuing investments are adequate to demonstrate a commitment to pay for the property; the Company's receivable, if applicable, is not subject to future subordination; the Company has transferred to the buyer the usual risks and rewards of ownership; and the Company does not have substantial continuing involvement with the property. During the year ended December 31, 2011, the Company sold 11 investment properties, excluding investment properties partially sold to our unconsolidated joint ventures. Refer to Note 4 for further information. Eight investment properties were sold during each of the years ended December 31, 2010 and 2009, excluding investment properties partially sold to our unconsolidated joint ventures.

## **Table of Contents**

**Allowance for Doubtful Accounts:** Receivable balances outstanding include base rents, tenant reimbursements and receivables attributable to the straight-lining of rental commitments. An allowance for the uncollectible portion of accrued rents and accounts receivable is determined on a tenant-specific basis through an analysis of balances outstanding, historical bad debt levels, tenant creditworthiness and current economic trends. Additionally, estimates of the expected recovery of pre-petition and post-petition claims with respect to tenants in bankruptcy are considered in assessing the collectibility of the related receivables. The allowance for doubtful accounts also includes allowances for notes receivable. Management's estimate of the collectibility of accrued rents, accounts receivable and notes receivable is based on the best information available to management at the time of evaluation.

**Rental Expense:** Rental expense associated with land and office space that the Company leases under non-cancellable operating leases is recorded on a straight-line basis over the term of each lease. The difference between rental expenses incurred on a straight-line basis and rent payments due under the provisions of the lease agreement is recorded as a deferred liability and is included as a component of Other liabilities in the accompanying consolidated balance sheets. See Note 8 for additional information pertaining to these leases.

**Loan Fees:** Loan fees are generally amortized using the effective interest method (or other methods which approximate the effective interest method) over the life of the related loan as a component of interest expense. Debt prepayment penalties and certain fees associated with exchanges or modifications of debt are expensed as incurred as a component of interest expense.

**Segment Reporting:** The Company assesses and measures the operating results of its properties based on net property operations. The Company internally evaluates the operating performance of its portfolio of properties and does not differentiate properties by geography, size or type. Each of the Company's investment properties is considered a separate operating segment, as each property earns revenue and incurs expenses, individual operating results are reviewed and discrete financial information is available. However, the Company's properties are aggregated into one reportable segment as the Company evaluates the collective performance of the properties.

## **Recent Accounting Pronouncements**

Effective January 1, 2011, companies are required to separately disclose purchases, sales, issuances and settlements on a gross basis in the reconciliation of recurring Level 3 fair value measurements. This guidance did not have a material effect on the Company's financial statements.

Effective January 1, 2011, public companies that enter into a material business combination, or series of individually immaterial business combinations that are material in the aggregate, are required to disclose revenue and earnings of the combined entity as though the business combination, or series of business combinations, that occurred during the current year had occurred as of the beginning of the comparable prior annual reporting period only. In addition, supplemental pro forma disclosures are expanded. If the Company enters into a qualifying business combination, or series of business combinations, it will comply with the disclosure requirements of this guidance.

Effective January 1, 2012, guidance on how to measure fair value and on what disclosures to provide about fair value measurements will be converged with international standards. The adoption will require some additional disclosures around fair value measurement; however, the Company does not expect the adoption will have a material effect on its financial statements.

Effective January 1, 2012, public companies will be required to report components of comprehensive income in either (1) a continuous statement of comprehensive income or (2) two separate but consecutive statements. This guidance does not change the items that must be reported in other comprehensive income. The Company does not expect the adoption will have any effect on its financial statements.

**Table of Contents****(3) Acquisitions**

During the year ended December 31, 2011, the Company acquired two additional phases of existing wholly-owned multi-tenant retail operating properties, in separate transactions, as follows:

Date	Square Footage	Property Type	Location	Purchase Price <sup>(a)</sup>
July 1, 2011	76,100	Multi-tenant retail	Phillipsburg, New Jersey	\$ 9,720
July 22, 2011	44,000	Multi-tenant retail	College Station, Texas	7,085
	120,100			\$ 16,805 <sup>(b)</sup>

(a) No debt was assumed in either acquisition, but both properties were subsequently added as collateral to the secured credit facility.

(b) Amount represents the purchase price prior to customary prorations at closing. Separately, the Company recognized acquisition transaction costs of \$48 related to these acquisitions.

**(4) Discontinued Operations and Investment Properties Held for Sale**

The Company employs a business model that utilizes asset management as a key component of monitoring its investment properties to ensure that each property continues to meet expected investment returns and standards. This strategy incorporates the sale of non-core and non-strategic assets that no longer meet the Company's criteria.

The Company sold 11 properties during the year ended December 31, 2011, as summarized below:

Date	Square Footage	Property Type	Location	Sales Price	Debt Extinguishment	Net Sales Proceeds / (Outflow)	Gain
December 22, 2011	62,800	Multi-tenant retail	Thousand Oaks, California	\$ 13,325	\$	\$ 13,092	\$ (a)
Various (b)	11,700	Multi-tenant retail	Dallas, Texas	5,505		5,245	4,412
December 12, 2011	60,000	Single-user retail	Concord, North Carolina	5,800		5,698	910
November 18, 2011	13,800	Single-user retail	Cave Creek, Arizona	6,000		5,872	509
October 14, 2011	194,900	Multi-tenant retail	Mesa, Arizona	3,000		2,644	(c)
August 18, 2011	1,000,400	Single-user industrial	Ottawa, Illinois	48,648	40,000 <sup>(d)</sup>	8,482	12,862
July 1, 2011	110,200	Single-user retail	Douglasville, Georgia	3,250	3,250 <sup>(e)</sup>	(57)	1,655
April 28, 2011	1,066,800	Single-user industrial	Various (f)	36,000		34,619	702
March 7, 2011	183,200	Single-user retail	Blytheville, Arkansas	12,632		12,438	2,069
March 7, 2011	88,400	Single-user retail	Georgetown, Kentucky	10,182		10,055	1,390
	2,792,200			\$ 144,342	\$ 43,250	\$ 98,088	\$ 24,509

- (a) No gain or loss was recognized upon disposition as the Company recorded an impairment charge of \$636 based upon the negotiated sales price less costs to sell.

F-20

**Table of Contents**

- (b) During November and December 2011, the Company sold all three outlots at Wheatland Towne Crossing and thus has no continuing involvement at the property.
- (c) No gain or loss was recognized upon disposition as the Company recorded an impairment charge of \$1,322 based upon the negotiated sales price less costs to sell.
- (d) Of the proceeds received at closing, \$40,000 was used to pay down borrowings on the secured credit facility.
- (e) The debt was repaid in conjunction with the sale.
- (f) The terms of the sale of two properties located in North Liberty, Iowa and El Paso, Texas were negotiated as a single transaction. In addition, as part of its overall liquidity strategy, the Company continues to increase its participation in joint ventures. The Company partially sold one property during the year ended December 31, 2011 to the RioCan joint venture (an unconsolidated joint venture further discussed in Note 12), which, due to the Company's 20% ownership interest in the joint venture, did not qualify for discontinued operations accounting treatment, as summarized below:

Date	Square Footage	Property Type	Location	Sales Price (at 100%)	Debt Extinguishment (at 100%)	Net Sales Proceeds	Loss
August 22, 2011	654,200	Multi-tenant retail	Austin, Texas	\$ 110,799	\$ 60,000(a)	\$ 39,935	\$ (3,047)

- (a) The debt was assumed by the RioCan joint venture in conjunction with the acquisition. The Company also received net proceeds of \$14,675 and recorded gains of \$8,953 from condemnation awards, earnouts, and the sale of a parcel at one of its developments in progress. The aggregate net proceeds, including \$43,250 of debt repayments at closing, from the property sales and additional transactions during the year ended December 31, 2011 totaled \$195,948 with aggregate gains of \$30,415.

During 2010, the Company sold eight properties, which resulted in net sales proceeds of \$21,024, gain on sale of \$23,806 and extinguishment of \$106,791 of debt. In addition, during 2010, the Company partially sold eight properties to its RioCan joint venture, which resulted in net sales proceeds of \$48,616, loss on sale of \$385 and extinguishment of \$97,888 of debt.

During 2009, the Company sold eight properties, which resulted in net sales proceeds of \$123,944 and gain on sale of \$26,383.



**Table of Contents**

The Company does not allocate general corporate interest expense to discontinued operations. The results of operations for the years ended December 31, 2011, 2010 and 2009 for the investment properties that are accounted for as discontinued operations are presented in the table below:

	Years Ended December 31,		
	2011	2010	2009
<b>Revenues:</b>			
Rental income	\$ 5,576	\$ 13,693	\$ 35,808
Tenant recovery income	1,077	1,784	5,520
Other property income	45	1,148	1,003
<b>Total revenues</b>	<b>6,698</b>	<b>16,625</b>	<b>42,331</b>
<b>Expenses:</b>			
Property operating expenses	865	4,390	4,936
Real estate taxes	787	2,192	4,024
Depreciation and amortization	2,422	7,368	15,021
Provision for impairment of investment properties	1,958	12,027	37,100
Loss on lease terminations	2	14	54
General and administrative expenses	35		
Interest expense	490	7,708	16,222
Other expense (income), net	1	(381)	(764)
<b>Total expenses</b>	<b>6,560</b>	<b>33,318</b>	<b>76,593</b>
<b>Operating income (loss) from discontinued operations</b>	<b>\$ 138</b>	<b>\$ (16,693)</b>	<b>\$ (34,262)</b>

There were no consolidated properties classified as held for sale as of December 31, 2011 and 2010.

**(5) Transactions with Related Parties**

The Inland Group and its affiliates are related parties because of the Company's relationships with Daniel L. Goodwin, Robert D. Parks and Brenda G. Gujral, each of whom are significant shareholders and/or principals of the Inland Group or hold directorships and are executive officers of affiliates of the Inland Group. Specifically, Mr. Goodwin is the Chairman, chief executive officer and a significant shareholder of the Inland Group. Mr. Parks is a principal and significant shareholder of the Inland Group. Messrs. Goodwin and Parks and Ms. Gujral hold a variety of positions as directors and executive officers of Inland Group affiliates. With respect to the Company, Mr. Goodwin is a beneficial owner of more than 5% of the Company's common stock, Mr. Parks was a director and Chairman of the Company's board of directors until October 12, 2010 and Ms. Gujral is currently one of the Company's directors and has held this directorship since 2003. Therefore, due to these relationships, transactions involving the Inland Group and/or its affiliates are set forth below.

Fee Category	For the Years Ended December 31,			Unpaid Amount as of December 31,	
	2011	2010	2009	2011	2010
Investment advisor <sup>(a) (h)</sup>	\$ 269	\$ 272	\$ 67	\$ 22	\$ 22
Loan servicing <sup>(b) (i)</sup>	186	282	372		
Mortgage financing <sup>(c) (i)</sup>		88			
Institutional investor relationship services <sup>(d) (i)</sup>		18	34		
Legal <sup>(e) (i)</sup>	352	343	551	110	100
Computer services <sup>(f) (i)</sup>	1,718	1,410	1,459	323	165
Office and facilities management services <sup>(f) (i)</sup>	493	588	561	129	83
Other service agreements <sup>(f) (i)</sup>	1,920	639	1,007	130	
Office rent and reimbursements <sup>(g)</sup>	969	949	1,162	310	155

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Total	\$ 5,907	\$ 4,589	\$ 5,213	\$ 1,024	525
-------	----------	----------	----------	----------	-----

- (a) An Inland affiliate, a registered investment advisor, provides investment advisory services to the Company related to the Company's securities investment account for a fee (paid monthly) of up to one percent per annum based upon the aggregate fair value of the Company's assets invested. Subject to the Company's

F-22

**Table of Contents**

approval and the investment guidelines it provides to them, the Inland affiliate has discretionary authority with respect to the investment, reinvestment, sale (including by tender) of all securities held in that account. The Inland affiliate has also been granted power to vote all investments held in the account. Effective for the period from November 1, 2008 through September 30, 2009, the investment advisor agreed to waive all fees due at the request of the Company. Fees were incurred again beginning on October 1, 2009.

- (b) An Inland affiliate provides loan servicing for the Company for a monthly fee based upon the number of loans being serviced.
- (c) An Inland affiliate facilitates the mortgage financing the Company obtains on some of its properties. The Company pays the Inland affiliate 0.2% of the principal amount of each loan obtained on the Company's behalf. Such costs are capitalized as loan fees and amortized over the respective loan term as a component of interest expense.
- (d) The Company has an institutional investor relationships services agreement with an Inland affiliate. Under the terms of the agreement, the Inland affiliate will attempt to secure institutional investor commitments in exchange for advisory and client fees and reimbursement of project expenses.
- (e) An Inland affiliate has a legal services agreement with the Company, where that Inland affiliate will provide the Company with certain legal services in connection with the Company's real estate business. The Company will pay the Inland affiliate for legal services rendered under the agreement on the basis of actual time billed by attorneys and paralegals at the Inland affiliate's hourly billing rate then in effect. The billing rate is subject to change on an annual basis, provided, however, that the billing rates charged by the Inland affiliate will not be greater than the billing rates charged to any other client and will not be greater than 90% of the billing rate of attorneys of similar experience and position employed by nationally recognized law firms located in Chicago, Illinois performing similar services.
- (f) The Company has service agreements with certain Inland affiliates, including office and facilities management services, insurance and risk management services, computer services, personnel services, property tax services and communications services. Generally, these agreements provide that the Company obtain certain services from the Inland affiliates through the reimbursement of a portion of their general and administrative costs. The services are to be provided on a non-exclusive basis in that the Company shall be permitted to employ other parties to perform any one or more of the services and that the applicable counterparty shall be permitted to perform any one or more of the services to other parties.
- (g) The Company subleases its office space from an Inland affiliate. The lease calls for annual base rent of \$496 and additional rent in any calendar year of its proportionate share of taxes and common area maintenance costs. Additionally, the Inland affiliate paid certain tenant improvements under the lease in the amount of \$395 and such improvements are being repaid by the Company over a period of five years. The sublease calls for an initial term of five years which expires in November 2012, with one option to extend for an additional five years.
- (h) The agreement is non-exclusive as to both parties and is cancellable by providing not less than 30 days prior written notice and specification of the effective date of said termination.
- (i) The agreement is non-exclusive as to both parties and is cancellable by providing not less than 180 days prior written notice and specification of the effective date of said termination.

On April 30, 2009, the Company sold two single-user office buildings to IARETI with an aggregate sales price of \$99,000, which resulted in net sales proceeds of \$34,572 and a gain on sale of \$7,010. The properties were located in Salt Lake City, Utah and Greensboro, North Carolina with approximately 395,800 square feet and 389,400 square feet, respectively. The sale resulted in the assumption of debt in the amount of \$63,189 by IARETI. The special committee, consisting of independent directors, reviewed and recommended approval of these transactions to the Company's board of directors.

On June 24, 2009, the Company sold an approximately 185,200 square foot single-user office building located in Canton, Massachusetts, to IARETI with a sales price of \$62,632, which resulted in net sales proceeds of \$17,991 and a gain on sale of \$2,337. The sale resulted in the assumption of debt in the amount of \$44,500 by IARETI. The special committee, consisting of independent directors, reviewed and recommended approval of this transaction to the Company's board of directors.

**Table of Contents**

On December 1, 2009, the Company raised additional capital of \$50,000 from a related party, Inland Equity, in exchange for a 23% noncontrolling interest in IW JV. Refer to Notes 1 and 11 for additional information. The independent directors committee reviewed and recommended approval of this transaction to the Company's board of directors.

**(6) Marketable Securities**

The following summarizes the Company's net investment in marketable securities as of December 31, 2011 and 2010:

	Common Stock	Preferred Stock	Total Available- for-Sale Securities
As of December 31, 2011:			
Fair value	\$ 11,550	\$ 18,835	\$ 30,385
Amortized cost basis	\$ 28,997	\$ 38,242	\$ 67,239
Total other-than-temporary impairment recognized	\$ 23,889	\$ 31,308	\$ 55,197
Adjusted cost basis	\$ 5,108	\$ 6,934	\$ 12,042
Net gains in accumulated other comprehensive income (OCI)	\$ 6,615	\$ 11,942	\$ 18,557
Net losses in accumulated OCI	\$ (173) <sup>(a)</sup>	\$ (41) <sup>(b)</sup>	\$ (214)
As of December 31, 2010:			
Fair value	\$ 15,117	\$ 19,113	\$ 34,230
Amortized cost basis	\$ 28,997	\$ 38,592	\$ 67,589
Total other-than-temporary impairment recognized	\$ 23,889	\$ 31,576	\$ 55,465
Adjusted cost basis	\$ 5,108	\$ 7,016	\$ 12,124
Net gains in accumulated OCI	\$ 10,009	\$ 12,097	\$ 22,106

(a) This amount represents the gross unrealized losses of one common stock security with a fair value of \$765 as of December 31, 2011. This security has been in a continuous unrealized loss position for less than 12 months as of December 31, 2011.

(b) This amount represents the gross unrealized losses of one preferred stock security with a fair value of \$130 as of December 31, 2011. This security has been in a continuous unrealized loss position for less than 12 months as of December 31, 2011.

The following table summarizes activity related to the Company's marketable securities for the years ended December 31, 2011, 2010 and 2009:

	Years Ended December 31,		
	2011	2010	2009
Net unrealized OCI (loss) gain	\$ (3,486)	\$ 13,742	\$ 35,594
Other-than-temporary impairment	\$	\$	\$ 24,831
Net gain on sales of securities	\$ 277	\$ 4,007	\$ 42,870

**(7) Stock Option Plan and Board of Directors Activity**

The Company's Equity Compensation Plan (Equity Plan), subject to certain conditions, authorizes the issuance of stock options, restricted stock, stock appreciation rights and other similar awards to the Company's employees in connection with compensation and incentive arrangements that may be established by the Company's board of directors. As of December 31, 2011, 14 shares of restricted stock under the Equity Plan had been granted. On April 12, 2011, these 14 shares were granted, 7 of which will vest after three years and 7 of which will vest after five years. The Company recorded compensation expense of \$46 during the year ended December 31, 2011 related to these grants.

**Table of Contents**

During 2011, the Compensation Committee approved an executive incentive compensation program pursuant to which the Company's executives are eligible to receive shares of restricted common stock. For each executive, a portion of his award, if any, will be based upon individual performance goals that have been determined previously by the Compensation Committee and a portion, if any, will be based on certain corporate performance measures. The Company recorded compensation expense of \$34 during 2011 related to this incentive compensation program. As of the date of this filing, the Compensation Committee had not yet met to grant the shares of restricted stocks related to the 2011 awards, if any.

A summary of the status of unvested restricted shares, all of which were granted on April 12, 2011 to the Company's executives, for the year ended December 31, 2011 is as follows:

	<b>Unvested Restricted Shares</b>	<b>Weighted Average Grant Date Fair Value per Restricted Share</b>
Balance at January 1, 2011		
Shares granted	14	\$ 17.13
Shares vested		
Shares forfeited		
Balance at December 31, 2011	14	\$ 17.13

As of December 31, 2011, total unrecognized compensation expense related to unvested restricted shares was \$179, which is expected to be amortized over a weighted average term of 3.2 years.

The Company's Independent Director Stock Option Plan (Option Plan), as amended, provides, subject to certain conditions, for the grant to each independent director of options to acquire shares following their becoming a director and for the grant of additional options to acquire shares on the date of each annual shareholders' meeting. As of December 31, 2011 and 2010, options to purchase 70 and 56 shares of common stock, respectively, had been granted, of which options to purchase one share had been exercised and none had expired.

The Company calculates the per share weighted average fair value of options granted on the date of the grant using the Black-Scholes option pricing model utilizing certain assumptions regarding the expected dividend yield (3.56%), risk-free interest rate (1.14%), expected life (five years) and expected volatility rate (30%). Compensation expense of \$63, \$48 and \$24 related to these stock options was recorded during the years ended December 31, 2011, 2010 and 2009, respectively.

On March 8, 2011, the Company's board of directors increased the number of directors comprising the board of directors from eight to nine and elected Steven P. Grimes to the board of directors effective immediately. Mr. Grimes served as President, Chief Executive Officer, Chief Financial Officer and Treasurer of the Company through December 31, 2011 and will continue to serve as President and Chief Executive Officer of the Company in 2012. On December 13, 2011, the board of directors appointed Angela M. Aman to serve as Executive Vice President, Chief Financial Officer and Treasurer of the Company effective January 1, 2012.

On June 14, 2011, the Company's board of directors established an estimated per-share value of the Company's common stock of \$17.375 to assist broker dealers in connection with their obligations under applicable Financial Industry Regulatory Authority (FINRA) rules and to assist fiduciaries in discharging their obligations under Employee Retirement Income Security Act (ERISA) reporting requirements. As a result, the Company amended the DRP, effective August 31, 2011, solely to modify the purchase price from \$17.125 to \$17.375. Thus, since August 31, 2011, additional shares of common stock purchased under the DRP have been purchased at \$17.375 per share.

**Table of Contents****(8) Leases*****Master Lease Agreement***

In conjunction with certain acquisitions, the Company receives payments under master lease agreements pertaining to certain non-revenue producing spaces at the date of acquisition for periods generally ranging from three months to three years after the date of purchase or until the spaces are leased. As these payments are received, they are recorded as a reduction to the purchase price of the respective property rather than as rental income. The cumulative amount of such payments was \$27,625, \$27,366 and \$26,577, as of December 31, 2011, 2010 and 2009, respectively.

***Operating Leases***

The majority of revenues from the Company's properties consist of rents received under long-term operating leases. Some leases provide for the payment of fixed base rent paid monthly in advance, and for the reimbursement by tenants to the Company for the tenant's pro rata share of certain operating expenses including real estate taxes, special assessments, insurance, utilities, common area maintenance, management fees and certain building repairs paid by the landlord and recoverable under the terms of the lease. Under these leases, the landlord pays all expenses and is reimbursed by the tenant for the tenant's pro rata share of recoverable expenses paid. Certain other tenants are subject to net leases which provide that the tenant is responsible for fixed base rent, as well as all costs and expenses associated with occupancy. Under net leases where all expenses are paid directly by the tenant rather than the landlord, such expenses are not included in the accompanying consolidated statements of operations and other comprehensive loss. Under net leases where all expenses are paid by the landlord, subject to reimbursement by the tenant, the expenses are included in Property operating expenses and reimbursements are included in Tenant recovery income in the accompanying consolidated statements of operations and other comprehensive loss.

In certain municipalities, the Company is required to remit sales taxes to governmental authorities based upon the rental income received from properties in those regions. These taxes may be reimbursed by the tenant to the Company depending upon the terms of the applicable tenant lease. As with other recoverable expenses, the presentation of the remittance and reimbursement of these taxes is on a gross basis whereby sales tax expenses are included in Property operating expenses and sales tax reimbursements are included in Other property income in the accompanying consolidated statements of operations and other comprehensive loss. Such taxes remitted to governmental authorities and reimbursed by tenants were \$1,874, \$1,928 and \$2,015 for the years ended December 31, 2011, 2010 and 2009, respectively.

Minimum lease payments to be received under operating leases, excluding payments under master lease agreements and assuming no expiring leases are renewed, are as follows:

	<b>Minimum Lease Payments</b>	
2012	\$	526,380
2013		484,140
2014		416,455
2015		347,893
2016		296,669
Thereafter		1,303,207
<b>Total</b>	<b>\$</b>	<b>3,374,744</b>

The remaining lease terms range from less than one year to more than 69 years.

In certain properties where there are large tenants, other tenants may have co-tenancy provisions within their leases that provide a right of termination or reduced rent if certain large tenants or shadow tenants discontinue operations. The Company does not expect that such co-tenancy provisions will have a material impact on the future operating results.

**Table of Contents**

The Company leases land under non-cancellable operating leases at certain of its properties expiring in various years from 2018 to 2105. The related ground lease rent expense is included in Property operating expenses in the accompanying consolidated statements of operations and other comprehensive loss. In addition, the Company leases office space for certain management offices from third parties and subleases its corporate office space from an Inland affiliate. In the accompanying consolidated statements of operations and other comprehensive loss, office rent expense related to property management operations is included in Property operating expenses and office rent expense related to corporate office operations is included in General and administrative expenses.

	Years Ended December 31,		
	2011	2010	2009
Ground lease rent expense	\$ 10,094	\$ 10,252	\$ 10,074
Office rent expense - related party	\$ 496	\$ 496	\$ 496
Office rent expense - third party	\$ 337	\$ 261	\$ 314

Minimum future rental payments to be paid under the ground leases and office leases are as follows:

	Minimum Lease Payments	
2012	\$	7,089
2013		6,558
2014		6,696
2015		6,600
2016		6,699
Thereafter		545,538
Total	\$	579,180

**(9) Mortgages and Notes Payable**

The following table summarizes the Company's mortgages and notes payable at December 31, 2011 and 2010:

	December 31,	
	2011	2010
Fixed rate mortgages payable:		
Mortgage loans <sup>(a)</sup>	\$ 2,691,323	\$ 3,334,784
Premium, net of accumulated amortization	10,858	17,534
Discount, net of accumulated amortization	(2,003)	(2,502)
	2,700,178	3,349,816
Variable rate mortgages payable:		
Mortgage loans		17,389
Construction loans	79,599	86,768
	79,599	104,157
Mortgages payable	2,779,777	3,453,973
Notes payable	138,900	138,900
Margin payable	7,541	10,017
Mortgages and notes payable	\$ 2,926,218	\$ 3,602,890

- (a) Includes \$76,269 and \$67,504 of variable rate debt that was swapped to a fixed rate as of December 31, 2011 and 2010, respectively.

F-27



**Table of Contents*****Mortgages Payable***

Mortgages payable outstanding as of December 31, 2011 were \$2,779,777 and had a weighted average interest rate of 6.13%. Of this amount, \$2,700,178 had fixed rates ranging from 4.61% to 8.00% (9.78% for matured mortgages payable) and a weighted average fixed rate of 6.20% at December 31, 2011. The weighted average interest rate for the fixed rate mortgages payable excludes the impact of the premium and discount amortization. The remaining \$79,599 of mortgages payable represented variable rate loans with a weighted average interest rate of 3.77% at December 31, 2011. Properties with a net carrying value of \$4,086,595 at December 31, 2011 and related tenant leases are pledged as collateral for the mortgage loans. Properties with a net carrying value of \$126,585 at December 31, 2011 and related tenant leases are pledged as collateral for the construction loans. As of December 31, 2011, the Company's outstanding mortgage indebtedness had various scheduled maturity dates through March 1, 2037.

During the year ended December 31, 2011, the Company obtained mortgages payable proceeds of \$91,579, of which a \$60,000 mortgage payable was subsequently assumed by the RioCan joint venture on August 22, 2011, made mortgages payable repayments of \$637,474 (excluding principal amortization of \$40,597) and received forgiveness of debt of \$15,798. The mortgages payable originated during the year ended December 31, 2011 have a fixed or variable interest rate ranging from 2.50% to 5.50%, a weighted average interest rate of 3.84% and a maturity date up to 15 years. The fixed or variable interest rates of the loans repaid during the year ended December 31, 2011 ranged from 2.49% to 8.00% and had a weighted average interest rate of 5.14%. The Company also entered into modifications of four existing loan agreements which extended the maturities of \$16,116 of mortgages payable to May 1, 2014, a \$7,137 mortgage payable to September 30, 2016 and a matured mortgage payable with a balance of \$5,336 to November 1, 2011, on which date it was repaid.

Mortgages payable outstanding as of December 31, 2010 were \$3,453,973 and had a weighted average interest rate of 5.99%. Of this amount, \$3,349,816 had fixed rates ranging from 4.44% to 8.00% (10.04% for matured mortgages payable) and a weighted average fixed rate of 6.04% at December 31, 2010. The weighted average interest rate for the fixed rate mortgages payable excludes the impact of the premium and discount amortization. The remaining \$104,157 of mortgages payable represented variable rate loans with a weighted average interest rate of 4.47% at December 31, 2010. Properties with a net carrying value of \$5,170,029 at December 31, 2010 and related tenant leases were pledged as collateral for the mortgage loans. Development properties with a net carrying value of \$148,808 at December 31, 2010, of which \$62,704 is included in developments in progress and the remaining balance of \$86,104 is included in net investment properties, and related tenant leases were pledged as collateral for the construction loans. As of December 31, 2010, the Company's outstanding mortgage indebtedness had various scheduled maturity dates through March 1, 2037.

The majority of the Company's mortgages payable require monthly payments of principal and interest, as well as reserves for real estate taxes and certain other costs. Although the loans obtained by the Company are generally non-recourse, occasionally, when it is deemed necessary, the Company may guarantee all or a portion of the debt on a full-recourse basis. As of December 31, 2011, the Company had guaranteed \$24,399 of the outstanding mortgages payable with maturity dates ranging from February 11, 2013 through September 30, 2016 (see Note 17). At times, the Company has borrowed funds financed as part of a cross-collateralized package, with cross-default provisions, in order to enhance the financial benefits. In those circumstances, one or more of the properties may secure the debt of another of the Company's properties. Individual decisions regarding interest rates, loan-to-value, debt yield, fixed versus variable-rate financing, term and related matters are often based on the condition of the financial markets at the time the debt is issued, which may vary from time to time.

As of December 31, 2011, the Company had two mortgages payable, totaling \$51,769, which had matured and had not been repaid or refinanced. In the second quarter of 2010, the Company ceased making the monthly debt service payment on one of these mortgages payable with an outstanding principal balance of \$26,865 as of December 31, 2011. The non-payment of this monthly debt service amounts to \$1,311 annually and does not result in noncompliance under any of our other mortgages payable or secured credit agreements. Subsequent to

**Table of Contents**

December 31, 2011, the Company made payments of \$664 relating to the other matured mortgage payable with an outstanding principal balance of \$24,904. As of December 31, 2011, the Company had accrued \$4,842 of interest related to these mortgages payable. The Company has attempted to negotiate and has made offers to the lenders to determine an appropriate course of action under these non-recourse loan agreements; however no assurance can be provided that negotiations will result in a favorable outcome.

Some of the mortgage payable agreements include periodic reporting requirements and/or debt service coverage ratios which allow the lender to control property cash flow if the Company fails to meet such requirements. Management believes the Company was in compliance with such provisions as of December 31, 2011.

**Notes Payable**

The following table summarizes the Company's notes payable as of December 31, 2011 and 2010:

	December 31,	
	2011	2010
IW JV Senior Mezzanine Note	\$ 85,000	\$ 85,000
IW JV Junior Mezzanine Note	40,000	40,000
Mezzanine Note	13,900	13,900
	\$ 138,900	\$ 138,900

Notes payable outstanding as of December 31, 2011 were \$138,900 and had a weighted average interest rate of 12.62%. Of this amount, \$125,000 represents notes payable proceeds from a third party lender related to the debt refinancing transaction for IW JV. The notes have fixed interest rates ranging from 12.24% to 14.00%, mature on December 1, 2019 and are secured by 100% of the Company's equity interest in the entity owning the IW JV investment properties. The IW JV notes can be prepaid beginning in February 2013 for a fee ranging from 1% to 5% of the outstanding principal balance depending on the date the prepayment is made.

During the year ended December 31, 2010, the Company borrowed \$13,900 from a third party in the form of a mezzanine note and used the proceeds as a partial paydown of the mortgage payable, as required by the lender. The mezzanine note bears interest at 11.00% and matures on December 16, 2013.

**Derivative Instruments and Hedging Activities***Risk Management Objective of Using Derivatives*

The Company is exposed to certain risks arising from both its business operations and economic conditions. The Company principally manages its exposures to a wide variety of business and operational risks through management of its core business activities. The Company manages economic risk, including interest rate, liquidity and credit risk primarily by managing the amount, sources and duration of its debt funding and, to a limited extent, the use of derivative instruments.

The Company has entered into derivative instruments to manage exposures that arise from business activities that result in the payment of future known and uncertain cash amounts, the value of which are determined by interest rates. The Company's derivative instruments, described below, are used to manage differences in the amount, timing and duration of the Company's known or expected cash payments principally related to certain of the Company's borrowings.

*Cash Flow Hedges of Interest Rate Risk*

The Company's objective in using interest rate derivatives is to manage its exposure to interest rate movements and add stability to interest expense. To accomplish this objective, the Company uses interest rate swaps as part of its interest rate risk management strategy. Interest rate swaps designated as cash flow hedges



**Table of Contents**

involve the receipt of variable-rate amounts from a counterparty in exchange for the Company making fixed-rate payments over the life of the agreement without exchange of the underlying notional amount.

The Company utilizes three interest rate swaps to hedge the variable cash flows associated with variable-rate debt. The effective portion of changes in the fair value of derivatives that are designated and that qualify as cash flow hedges is recorded in Accumulated other comprehensive income and is subsequently reclassified into earnings in the period that the hedged forecasted transaction affects earnings. The ineffective portion of the change in fair value of the derivatives is recognized directly in earnings. During the years ended December 31, 2011 and 2010, the Company recorded hedge ineffectiveness of \$314 loss and \$232 loss, respectively, as a result of the off-market nature and notional mismatches related to its swaps. The Company has reclassified all of the previously deferred accumulated other comprehensive income into earnings as of December 31, 2011. During the year ended December 31, 2009, the Company recorded no hedge ineffectiveness.

Amounts reported in Accumulated other comprehensive income related to derivatives will be reclassified to interest expense as interest payments are made on the Company's variable-rate debt. Over the next year, the Company estimates that an additional \$990 will be reclassified as an increase to interest expense. During the year ended December 31, 2010, the Company accelerated \$117 loss from accumulated other comprehensive income into earnings as a result of the hedged forecasted transactions becoming probable not to occur. There were no such accelerations during the years ended December 31, 2011 and 2009.

As of December 31, 2011 and 2010, the Company had the following outstanding interest rate derivatives that were designated as cash flow hedges of interest rate risk:

Interest Rate Derivatives	Number of Instruments		Notional	
	2011	2010	2011	2010
Interest Rate Swap	3	2	\$ 76,269	\$ 67,504

The table below presents the estimated fair value of the Company's derivative financial instruments as well as their classification on the consolidated balance sheets as of December 31, 2011 and 2010. The valuation techniques utilized are described in Note 16 to the consolidated financial statements.

	Liability Derivatives			
	December 31, 2011		December 31, 2010	
	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value
Derivatives designated as cash flow hedges:				
Interest rate swaps	Other Liabilities	\$ 2,891	Other Liabilities	\$ 2,967

The table below presents the effect of the Company's derivative financial instruments in the consolidated statements of operations and other comprehensive loss for the years ended December 31, 2011 and 2010.

Derivatives in Cash Flow Hedging Relationships	Amount of Loss Recognized in OCI on Derivative (Effective Portion)		Location of Loss Reclassified from Accumulated OCI into Income (Effective Portion)	Amount of Loss Reclassified from Accumulated OCI into Income (Effective Portion)		Location of Loss Recognized in Income on Derivative (Ineffective Portion and Amount Excluded from Effectiveness Testing)	Amount of Loss Recognized in Income on Derivative (Ineffective Portion and Amount Excluded from Effectiveness Testing and Missed Forecasted Transactions)	
	2011	2010		2011	2010		2011	2010
Interest rate swaps	\$ (1,346)	\$ (1,722)	Interest Expense	\$ (2,557)	\$ (2,970)	Other Expense	\$ (314)	\$ (350)

## **Table of Contents**

### *Credit-risk-related Contingent Features*

Derivative financial investments expose the Company to credit risk in the event of non-performance by the counterparties under the terms of the interest rate hedge agreements. The Company believes it minimizes credit risk by transacting with major creditworthy financial institutions. As part of the Company's ongoing control procedures, it monitors the credit ratings of counterparties and the exposure to any single entity, which minimizes credit risk concentration. The Company believes the potential impact of realized losses from counterparty non-performance is not significant.

The Company has agreements with each of its derivative counterparties that contain a provision whereby if the Company defaults on the related indebtedness, including default where repayment of the indebtedness has not been accelerated by the lender, then the Company could also be declared in default on its corresponding derivative obligation. The Company was not in default with respect to these agreements at December 31, 2011.

The Company's agreements with each of its derivative counterparties also contain a provision whereby if the Company consolidates with, merges with or into, or transfers all or substantially all of its assets to another entity and the creditworthiness of the resulting, surviving or transferee entity is materially weaker than the Company's, the counterparty has the right to terminate the derivative obligations. As of December 31, 2011, the termination value of derivatives in a liability position, which includes accrued interest of \$153 but excludes any adjustment for nonperformance risk, which the Company has deemed not significant, was \$3,151. As of December 31, 2011, the Company has not posted any collateral related to these agreements. If the Company had breached any of these provisions at December 31, 2011, it could have been required to settle its obligations under the agreements at their termination value of \$3,151.

### *Margin Payable*

The Company purchases a portion of its securities through a margin account. As of December 31, 2011 and 2010, the Company had recorded a payable of \$7,541 and \$10,017, respectively, for securities purchased on margin. This debt bears a variable interest rate of the London Interbank Offered Rate, or LIBOR, plus 35 basis points. At December 31, 2011, this rate was equal to 0.62%. Interest expense on this debt in the amount of \$51, \$96 and \$252 was recognized within Interest expense in the accompanying consolidated statements of operations and other comprehensive loss for the years ended December 31, 2011, 2010 and 2009, respectively. This debt is due upon demand. The value of the Company's marketable securities serves as collateral for this debt. During the years ended December 31, 2011 and 2010, the Company did not borrow on its margin account, but paid down \$2,476 and \$12,843, respectively.

**Table of Contents****Debt Maturities**

The following table shows the scheduled maturities of the Company's mortgages payable, notes payable, margin payable and secured credit facility (as described in Note 10) as of December 31, 2011, for each of the next five years and thereafter and does not reflect the impact of any 2012 debt activity:

	2012	2013	2014	2015	2016	Thereafter	Total	Fair Value
<b>Maturing debt<sup>(a)</sup>:</b>								
<b>Fixed rate debt:</b>								
Mortgages payable <sup>(b)</sup>	\$ 450,388	\$ 310,354	\$ 239,572	\$ 470,754	\$ 46,706	\$ 1,173,549	\$ 2,691,323	\$ 2,871,601
Notes payable		13,900				125,000	138,900	150,836
<b>Total fixed rate debt</b>	<b>\$ 450,388</b>	<b>\$ 324,254</b>	<b>\$ 239,572</b>	<b>\$ 470,754</b>	<b>\$ 46,706</b>	<b>\$ 1,298,549</b>	<b>\$ 2,830,223</b>	<b>\$ 3,022,437</b>
<b>Variable rate debt:</b>								
Mortgages payable	\$ 69,448	\$	\$ 10,151	\$	\$	\$	\$ 79,599	\$ 79,599
Secured credit facility		555,000					555,000	555,000
Margin payable	7,541						7,541	7,541
<b>Total variable rate debt</b>	<b>76,989</b>	<b>555,000</b>	<b>10,151</b>				<b>642,140</b>	<b>642,140</b>
<b>Total maturing debt<sup>(c)</sup></b>	<b>\$ 527,377</b>	<b>\$ 879,254</b>	<b>\$ 249,723</b>	<b>\$ 470,754</b>	<b>\$ 46,706</b>	<b>\$ 1,298,549</b>	<b>\$ 3,472,363</b>	<b>\$ 3,664,577</b>
<b>Weighted average interest rate on debt:</b>								
Fixed rate debt	5.61%	5.55%	7.12%	5.77%	6.15%	7.23%	6.51%	
Variable rate debt	3.62%	3.81%	2.56%				3.77%	
<b>Total</b>	<b>5.32%</b>	<b>4.45%</b>	<b>6.94%</b>	<b>5.77%</b>	<b>6.15%</b>	<b>7.23%</b>	<b>6.00%</b>	

(a) The debt maturity table does not include any premium or discount, of which \$10,858 and \$(2,003), net of accumulated amortization, respectively, were outstanding as of December 31, 2011.

(b) Includes \$76,269 of variable rate debt that was swapped to a fixed rate.

(c) As of December 31, 2011, the weighted average years to maturity of consolidated indebtedness was 5.4 years.

The maturity table excludes other financings and the co-venture obligation as described in Notes 1 and 11. The maturity table also excludes accelerated principal payments that may be required as a result of covenants or conditions included in certain loan agreements due to the uncertainty in the timing and amount of these payments. In these cases, the total outstanding indebtedness is included in the year corresponding to the loan maturity date or, if the mortgage payable is amortizing, the payments are presented in accordance with the loan's original amortization schedule. As of December 31, 2011, the Company was making accelerated principal payments on three mortgages payable with a combined outstanding principal balance of \$102,206, which are reflected in the year corresponding to the loan maturity date. During the year ended December 31, 2011, the Company made accelerated principal payments of \$11,652 with respect to these mortgages payable. The maturity table includes \$51,769 of mortgages payable that had matured as of December 31, 2011 in the 2012 column. The Company plans on addressing its 2012 mortgages payable maturities by using proceeds from an amended credit facility, refinancing the mortgages payable, securing new mortgages collateralized by individual properties or by using proceeds from asset sales.

## **Table of Contents**

### **(10) Secured Credit Facility**

On February 4, 2011, the Company amended and restated its secured credit agreement with KeyBank National Association and other financial institutions. The amended and restated credit facility consists of a \$435,000 senior secured revolving line of credit and a \$150,000 secured term loan. The Company has the ability to increase available borrowings up to \$500,000 under the revolving line of credit in certain circumstances. The amended and restated credit agreement matures on February 3, 2013 and the Company has the option to extend the maturity for one year. Prior to the February 2011 amendment and restatement, the Company's credit facility consisted of a \$200,000 secured revolving line of credit with an interest rate equal to LIBOR (3% floor) plus 3.50% and an original maturity date of October 14, 2010 that was extended to October 14, 2011.

As of December 31, 2011, the terms of the agreement stipulate:

monthly interest-only payments on the outstanding balance at a rate of LIBOR plus a margin of 2.75% to 4.00%, depending on leverage levels;

quarterly unused fees ranging from 0.40% to 0.50% per annum, depending on the undrawn amount;

the requirement for a comprehensive collateral pool (secured by mortgage interests in each asset) subject to certain covenants and minimum requirements related to the value and number of properties included in the collateral pool;

a maximum advance rate on the appraised value of the collateral pool of 65% (reduced to 60% of the collateral pool value after the issuance of the Company's financial statements for the quarter ending March 31, 2012). After the date of this report, the value of the collateral pool will be determined by capitalizing the collateral pool adjusted net operating income at 8%; and

\$20,000 of recourse cross-default permissions and \$100,000 of non-recourse cross-default permissions, subject to certain carve-outs and allowances for maturity defaults under non-recourse indebtedness for up to 90 days subject to extension at the discretion of the lenders.

This full recourse credit agreement requires compliance with certain covenants including: a leverage ratio, fixed charge coverage, debt service coverage, a minimum net worth requirement, a distribution limitation and investment restrictions, as well as limitations on the Company's ability to incur recourse indebtedness. It also contains customary default provisions including the failure to timely pay debt service payable thereunder, the failure to comply with the Company's financial and operating covenants and the failure to pay when the consolidated indebtedness becomes due. In the event the lenders declare a default, as defined in the credit agreement, this could result in an acceleration of all outstanding borrowings on the line of credit. As of December 31, 2011, management believes the Company was in compliance with all of the covenants and default provisions under the credit agreement and the Company's current business plan, which is based on management's expectations of operating performance and planned capital recycling initiatives, indicates that it will be able to operate in compliance with these covenants and provisions in 2012 and beyond. Additionally, management is in the process of negotiating an amended credit facility, which will provide the Company with additional operating and financial flexibility. As of December 31, 2011, the interest rate of the revolving line of credit and secured term loan was 3.81%. Upon closing the amended credit agreement, the Company borrowed the full amount of the term loan. As of December 31, 2011, the total availability under the revolving line of credit was \$435,000, of which the Company had borrowed \$405,000. As of December 31, 2010, the outstanding balance on the line of credit was \$154,347.

### **(11) Co-venture Obligation**

As discussed in Note 1, on December 1, 2009, the Company transferred a 23% noncontrolling interest in IW JV to a related party, Inland Equity, in exchange for \$50,000.

The Company is the controlling member in IW JV. The organizational documents of IW JV contain provisions that require the entity to be liquidated through the sale of its assets upon reaching a future date as





**Table of Contents**

specified in the organizational documents or through a call arrangement. As controlling member, the Company has an obligation to cause these property owning entities to distribute proceeds from liquidation to the noncontrolling interest partner only if the net proceeds received by each of the entities from the sale of assets warrant a distribution based on the agreements. In addition, at any time after 90 days from the date of Inland Equity's contribution, the Company has the option to call Inland Equity's interest in IW JV for an amount which is the greater of either: (a) fair market value of Inland Equity's interest or (b) \$50,000, plus an additional distribution of \$5,000 and any unpaid preferred return or promote. Since the outside ownership interest in IW JV is subject to a call arrangement, the transaction does not qualify as a sale and is accounted for as a financing arrangement. Accordingly, IW JV is treated as a 100% owned subsidiary by the Company with the amount due to Inland Equity reflected as a financing in Co-venture obligation and Accounts payable and accrued expenses in the accompanying consolidated balance sheets.

If Inland Equity retains an ownership interest in IW JV through the liquidation of the joint venture, Inland Equity may be entitled to receive an additional distribution of \$5,000, depending on the availability of proceeds at the time of liquidation.

Pursuant to the terms of the IW JV agreement, Inland Equity earns a preferred return of 6% annually, paid monthly and cumulative on any unpaid balance. Inland Equity earns an additional 5% annually, set aside monthly and paid quarterly, if the portfolio net income is above a target amount as specified in the agreement. Expense is recorded on such liability in the amount equal to the preferred return, incentive compensation and other compensation due to Inland Equity as provided by the LLC agreement and is included in Co-venture obligation expense in the accompanying consolidated statements of operations and other comprehensive loss.

The Company anticipates exercising its call option prior to reaching the liquidation date. As a result, the Company is accruing the estimated additional amount it would be required to pay upon exercise of the call option over the anticipated exercise period of three years and, as such, has cumulatively accrued \$3,472 through December 31, 2011.

**(12) Investment in Unconsolidated Joint Ventures****Investment Summary**

The following table summarizes the Company's investments in unconsolidated joint ventures:

Joint Venture	Date of Investment	Date of Redemption	Ownership Interest		Investment at	
			December 31, 2011	2010	December 31, 2011	2010
MS Inland Fund, LLC <sup>(a)</sup>	04/27/2007	N/A	20.0%	20.0%	\$ 9,246	\$ 9,884
Hampton Retail Colorado, L.L.C. <sup>(b)</sup>	08/31/2007	N/A	95.9%	95.8%	1,124	4,059
RC Inland L.P. <sup>(c)</sup>	09/30/2010	N/A	20.0%	20.0%	53,800	12,292
Oak Property and Casualty LLC <sup>(d)</sup>	10/01/2006	N/A	25.0%	25.0%	8,759	7,230
Britomart <sup>(e)</sup>	12/15/2011	N/A	15.0%	N/A	8,239	
					\$ 81,168	\$ 33,465

- (a) The MS Inland Fund, LLC (MS Inland) joint venture was formed with a large state pension fund; the Company is the managing member of the venture and earns fees for providing property management, acquisition and leasing services.
- (b) The ownership percentage in Hampton Retail Colorado, L.L.C., or Hampton, is based upon the Company's pro rata capital contributions to date. Subject to the maximum capital contributions specified within the organization documents, the Company's ownership percentage could increase to 96.3%.
- (c) The joint venture was formed with a wholly-owned subsidiary of RioCan Real Estate Investment Trust (RioCan), a REIT based in Canada. The initial investment in 2010 included eight grocery and necessity-based-anchored shopping centers located in Texas. RioCan contributed cash for an 80% interest in the

**Table of Contents**

- venture and the Company contributed a 20% interest in the properties. For properties contributed to the venture by the Company, the joint venture has acquired an 80% interest from the Company in exchange for cash. Such transactions were accounted for as partial sales by the Company. Certain of the properties contained earnout provisions which, when met, resulted or could result in additional sales proceeds to the Company. The Company is the general partner of the joint venture and earns fees for providing property management, asset management and other customary services.
- (d) Effective December 1, 2010, it was determined that the Company was no longer the primary beneficiary of Oak Property and Casualty LLC (Oak Property and Casualty), or the Captive. Since such date, Oak Property & Casualty has been accounted for as an equity method investment by the Company. Refer to Note 1 for further information.
- (e) In a non-cash transaction on December 15, 2011, the Company, through a consolidated limited liability company joint venture, contributed an \$8,239 note receivable to two joint ventures under common control (collectively referred to as Britomart) in return for a 15% noncontrolling ownership interest. The Company and its consolidated joint venture do not have any management responsibilities with respect to Britomart, which as of December 31, 2011 owns one vacant land parcel and one single-tenant office building in Auckland, New Zealand. Pursuant to the terms and conditions of the organizational documents of the Company's consolidated joint venture, the noncontrolling interest holder's ownership interest was redeemed in full effective February 15, 2012. Such redemption was settled on February 15, 2012 by transferring the Company's entire interest in Britomart to the partner in the Company's consolidated joint venture. The Company has the ability to exercise significant influence, but does not have the financial or operating control over these investments, and as a result the Company accounts for these investments pursuant to the equity method of accounting. Under the equity method of accounting, the net equity investment of the Company is reflected in the accompanying consolidated balance sheets and the accompanying consolidated statements of operations and other comprehensive loss includes the Company's share of net income or loss from each unconsolidated joint venture. Distributions from these investments that are related to income from operations are included as operating activities and distributions that are related to capital transactions are included in investing activities in the Company's consolidated statements of cash flows.

**Profits, Losses and Capital Activity**

The following table summarizes the Company's share of net income (loss) as well as net cash distribution from (contributions to) each unconsolidated joint venture for the years ended December 31, 2011, 2010 and 2009:

Joint Venture	The Company's Share of Net Income (Loss)			Net Cash Distributions from/ (Contributions to) Joint Ventures			Fees Earned by the Company		
	For Years Ended December 31,			For Years Ended December 31,			For Years Ended December 31,		
	2011	2010	2009	2011	2010	2009	2011	2010	2009
MS Inland	\$ (463)	\$ 1,339	\$ 1,699	\$ 497	\$ 68,838	\$ 4,209	\$ 862	\$ 1,155	\$ 1,193
Hampton <sup>(a)</sup>	(3,649)	819	(13,282)	(756)	(1,384)	(2,912)	3	91	112
RioCan	(1,412)	(365)		(32,344)	(82)		954	125	
Oak Property and Casualty <sup>(b)</sup>	(1,117)	(45)		(2,646)					
Britomart <sup>(c)</sup>									
	\$ (6,641)	\$ 1,748	\$ (11,583)	\$ (35,249)	\$ 67,372	\$ 1,297	\$ 1,819	\$ 1,371	\$ 1,305

- (a) During the years ended December 31, 2011 and December 31 2009, Hampton determined that the carrying value of certain of its assets was not recoverable and, accordingly, recorded impairment charges in the amounts of \$4,128, of which the Company's share was \$3,956, and \$9,411, of which the Company's share was \$9,062, respectively. There were no impairment charges recorded during the year ended December 31, 2010. The joint ventures' estimates of fair value relating to these impairment assessments were based upon estimated contract prices.

**Table of Contents**

(b) The deconsolidation of Oak Property and Casualty in December 2010 and concurrent commencement of equity method accounting was treated as a non-cash contribution.

(c) As discussed above, the Company's contribution to Britomart on December 15, 2011, was a non-cash transaction.

In addition to the Company's share of net income (loss) for each unconsolidated joint venture, amortization of basis differences resulting from the Company's previous contributions of investment properties to its unconsolidated joint ventures is recorded within Equity in (loss) income of unconsolidated joint ventures, net in the consolidated statements of operations and other comprehensive loss. Such basis differences resulted from the differences between the historical cost net book values and fair values of the contributed properties and are amortized over the depreciable lives of the joint ventures' property assets. The Company recorded amortization of \$204, \$277 and \$284 during the years ended December 31, 2011, 2010 and 2009, respectively.

**Property Acquisitions and Dispositions**

The following table summarizes the acquisition activity during 2011 for the Company's unconsolidated joint ventures:

Joint Venture	Date	Square Footage	Property Type	Location	Purchase Price	Pro Rata Contribution <sup>(a)</sup>
RioCan	December 2, 2011	465,400	Multi-tenant retail	San Antonio, TX	\$ 92,202	\$ 18,336
RioCan	October 11, 2011	486,900	Multi-tenant retail	Cedar Park, TX	97,605	8,707
RioCan	July 1, 2011	107,600	Multi-tenant retail	Houston, TX	35,000	3,201
RioCan	May 20, 2011	124,900	Multi-tenant retail	Temple, TX	21,239	1,929
		1,184,800			\$ 246,046	\$ 32,173

(a) Amount represents the Company's contribution of its proportionate share of the acquisition price net of customary prorations and mortgage proceeds, if applicable.

In addition, on August 22, 2011, the Company closed on the partial sale of a property to the RioCan joint venture with terms substantially consistent with the eight 2010 partial sales. The sales price of the property, a 654,200 square foot multi-tenant retail property in Austin, Texas, was \$110,799, which resulted in a net loss of \$3,047, net proceeds of \$39,935 and the venture assuming the \$60,000 of related debt. Such transaction did not qualify as a discontinued operation within the Company's consolidated statements of operations and other comprehensive loss as a result of the Company's 20% ownership interest in the RioCan joint venture.

During the year ended December 31, 2011, Hampton separately sold two investment properties consisting of an aggregate 93,100 square feet. The combined sales price, repayment of debt and loss on sale were \$2,300, \$2,300 and \$29, respectively. As of December 31, 2011, there were four properties remaining in the Hampton joint venture. All other properties from the original portfolio of nine single-user retail properties and eight leasehold assets have been disposed of primarily through sales and assignment.

The Company's investments in unconsolidated joint ventures are reviewed for potential impairment, in addition to impairment evaluations of the individual assets underlying these investments, whenever events or changes in circumstances warrant such an evaluation. To determine whether impairment is other-than-temporary, the Company considers whether it has the ability and intent to hold the investment until the carrying value is fully recovered. As a result, the carrying value of its investment in the unconsolidated joint ventures was determined to be fully recoverable as of December 31, 2011 and 2010.

**(13) Earnings per Share**

In connection with the April 12, 2011 issuance of restricted common stock to certain executive officers, for each reporting period after the grant date, earnings (loss) per common share attributable to Company

**Table of Contents**

shareholders (EPS) is calculated pursuant to the two-class method which specifies that all outstanding unvested share-based payment awards that contain nonforfeitable rights to distributions are considered participating securities and should be included in the computation of EPS.

The Company presents both basic and diluted EPS amounts. Basic EPS is calculated by dividing net distributed and undistributed earnings attributable to common shareholders, excluding participating securities, by the weighted average number of common shares outstanding. As of December 31, 2011, distributions totaling \$4 had been paid on the unvested shares. Diluted EPS includes the components of basic EPS and, in addition, reflects the impact of other potentially dilutive shares outstanding during the period using the two-class method.

Shares of the Company's common stock related to the restricted common stock issuance are not included in the denominator of basic EPS until contingencies are resolved and the shares are released.

The following is a reconciliation between weighted average shares used in the basic and diluted EPS calculations, excluding amounts attributable to noncontrolling interests:

	Years Ended December 31,		
	2011	2010	2009
<b>Numerator:</b>			
Net loss from continuing operations	\$ (103,131)	\$ (101,820)	\$ (107,530)
Gain on sales of investment properties, net	5,906		
(Income) loss from continuing operations attributable to noncontrolling interests	(31)	(1,136)	3,074
Loss from continuing operations attributable to Company shareholders	(97,256)	(102,956)	(104,456)
Income (loss) from discontinued operations	24,647	7,113	(7,879)
Net loss attributable to Company shareholders	(72,609)	(95,843)	(112,335)
Distributions paid on unvested restricted shares	(4)		
Net loss attributable to Company shareholders excluding amounts attributable to unvested restricted shares	\$ (72,613)	\$ (95,843)	\$ (112,335)
<b>Denominator:</b>			
Denominator for loss per common share-basic:			
Weighted average number of common shares outstanding	192,456 <sup>(a)</sup>	193,497	192,124
Effect of dilutive securities:			
Stock options	(b)	(b)	(b)
Equity awards	(c)		
Denominator for loss per common share-diluted:			
Weighted average number of common and common equivalent shares outstanding	192,456	193,497	192,124

(a) Excluded from this weighted average amount are 14 shares of restricted common stock, which equate to 10 shares on a weighted average basis for the year ended December 31, 2011. These shares will continue to be excluded from the computation of basic EPS until contingencies are resolved and the shares are released.

(b) Outstanding options to purchase shares of common stock, the effect of which would be anti-dilutive, were 70, 56 and 42 shares as of December 31, 2011, 2010 and 2009, respectively, at a weighted average exercise price of \$20.83, \$21.70 and \$23.25, respectively. These shares were not included in the computation of diluted EPS because a loss was reported for the respective periods.

(c) Potential common shares issuable from the vesting of restricted share awards are anti-dilutive in periods in which a loss is reported and therefore excluded from the computation of diluted EPS as the Company had a loss from continuing operations for the year ended December 31, 2011.

**Table of Contents****(14) Income Taxes**

The Company has elected to be taxed as a REIT under the Code. To qualify as a REIT, the Company must meet a number of organizational and operational requirements, including a requirement to annually distribute at least 90% of its REIT taxable income to the Company's shareholders, determined without regard to the deduction for dividends paid and excluding net capital gains. The Company intends to continue to adhere to these requirements and to maintain its REIT status. As a REIT, the Company is entitled to a deduction for some or all of the distributions it pays to shareholders. Accordingly, the Company generally will not be subject to U.S. federal income taxes on the taxable income distributed to its shareholders. The Company is generally subject to U.S. federal income taxes on any taxable income that is not currently distributed to its shareholders. If the Company fails to qualify as a REIT in any taxable year, it will be subject to U.S. federal income taxes and may not be able to qualify as a REIT until the fifth subsequent taxable year.

REIT qualification reduces, but does not eliminate, the amount of state and local taxes the Company pays. In addition, the Company's consolidated financial statements include the operations of one wholly-owned subsidiary that has elected to be treated as a TRS that is not entitled to a dividends paid deduction and is subject to U.S. federal, state and local income taxes. The Company recorded no income tax expense related to the TRS for the years ended December 31, 2011, 2010 and 2009, as a result of losses incurred during these periods.

As a REIT, the Company may also be subject to certain U.S. federal excise taxes if it engages in certain types of transactions. Deferred income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the estimated future consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax basis. Deferred tax assets and liabilities are measured using enacted tax rates in effect for the year in which these temporary differences are expected to reverse. Deferred tax assets are recognized only to the extent that it is more likely than not that they will be realized based on consideration of available evidence, including future reversal of existing taxable temporary differences, future projected taxable income and tax planning strategies. In assessing the realizability of deferred tax assets, the Company considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. The Company has considered various factors, including future reversals of existing taxable temporary differences, projected future taxable income and tax-planning strategies in making this assessment. The Company believes any deferred tax asset will not be realized in future periods and therefore, has recorded a valuation allowance for the entire balance, resulting in no effect on the consolidated financial statements.

The Company's deferred tax assets and liabilities as of December 31, 2011 and 2010 were as follows:

	2011	2010
Deferred tax assets:		
Impairment of assets	\$ 4,886	\$ 2,874
Capital loss carryforward	2,008	1,975
Net operating loss carryforward	3,937	4,047
Other	92	202
Gross deferred tax assets	10,923	9,098
Less: valuation allowance	(8,900)	(6,823)
Total deferred tax assets	2,023	2,275
Deferred tax liabilities		
Other	(2,023)	(2,275)
Net deferred tax assets	\$	\$

The Company's deferred tax assets and liabilities result from the activities of the TRS. As of December 31, 2011, the TRS had a federal net operating loss (NOL) of \$10,570, which will be available to offset future taxable

**Table of Contents**

income. The TRS also had net capital losses (NCL) in excess of capital gains of \$5,392 as of December 31, 2011, which can be carried forward to offset future capital gains. If not used, the NOL and NCL will begin to expire in 2027 and 2013, respectively.

Differences between net loss per the consolidated statements of operations and other comprehensive loss and the Company's taxable income (loss) primarily relate to impairment charges recorded on investment properties, other-than-temporary impairment on investments in marketable securities, the timing of revenue recognition, and investment property depreciation and amortization.

The following table reconciles the Company's net loss to taxable income before the dividends paid deduction for the years ended December 31, 2011, 2010 and 2009:

	2011	2010	2009
Net loss attributable to Company shareholders	\$ (72,609)	\$ (95,843)	\$ (112,335)
Book/tax differences	95,869	68,240	157,492
Adjust for negative taxable income		27,603	
Taxable income subject to 90% dividend requirement	\$ 23,260	\$	\$ 45,157

The Company's dividends paid deduction is summarized below:

	2011	2010	2009
Cash distributions paid	\$ 116,050	\$ 83,385	\$ 84,953
Less: non-dividend distributions	(92,782)	(83,385)	(39,293)
Total dividends paid deduction attributable to earnings and profits	\$ 23,268	\$	\$ 45,660

A summary of the tax characterization of the distributions paid per share for the years ended December 31, 2011, 2010 and 2009 follows:

	2011	2010	2009
Ordinary income	\$ 0.12	\$	\$ 0.24
Non-dividend distributions	0.48	0.43	0.20
	\$ 0.60	\$ 0.43	\$ 0.44

The Company records a benefit for uncertain income tax positions if the result of a tax position meets a more likely than not recognition threshold. As a result of this provision, liabilities of \$237 are recorded as of December 31, 2011 and 2010. The Company expects no significant increases or decreases in unrecognized tax benefits due to changes in tax positions within one year of December 31, 2011. Returns for the calendar years 2008 through 2011 remain subject to examination by federal and various state tax jurisdictions.

**(15) Provision for Impairment of Investment Properties**

The Company identified certain indicators of impairment for certain of its properties, such as a low occupancy rate, difficulty in leasing space and related cost of re-leasing, reduced anticipated holding periods and financially troubled tenants. The Company performed cash flow analyses during the year ended December 31, 2011 and determined that the carrying value of four of these properties exceeded the projected undiscounted cash flows based upon the estimated holding periods for the assets. Therefore, the Company has recorded impairment charges related to these properties consisting of the excess carrying value of the assets over the estimated fair value within the accompanying consolidated statements of operations and other comprehensive loss.



**Table of Contents**

During the year ended December 31, 2011, the Company recorded investment property impairment charges as summarized below:

Location	Property Type	Impairment Date	Approximate Square Footage	Provision for Impairment of Investment Properties	
Henderson, Nevada	Multi-tenant retail	December 31, 2011	236,000	\$ 7,650	
Winston-Salem, North Carolina	Single-user office	March 31, 2011	501,000	30,373	
				38,023	
<i>Discontinued Operations:</i>					
Thousand Oaks, California		December 22, 2011 <sup>(a)</sup>	63,000	636	
Mesa, Arizona	Multi-tenant retail	Various <sup>(b)</sup>	195,000	1,322	
				1,958	
				Total	\$39,981
Estimated fair value of impaired properties				\$	37,466

(a) An impairment charge of \$2,700 was previously recorded during the year ended December 31, 2009.

(b) During 2011, this asset was impaired upon execution of the purchase and sale agreement based upon the negotiated purchase price; such impairment charge was revised upon closing of the disposition. Impairment charges for this asset of \$3,400 and \$20,400 were previously recorded during the years ended December 31, 2010 and December 31, 2009, respectively.

During the year ended December 31, 2010, the Company recorded investment property impairment charges as summarized below:

Location	Property Type	Impairment Date	Approximate Square Footage	Provision for Impairment of Investment Properties	
Coppell, Texas <sup>(a)</sup>	Multi-tenant retail	September 30, 2010	91,000	\$1,851	
Southlake, Texas <sup>(a)</sup>	Multi-tenant retail	September 30, 2010	96,000	1,322	
Sugarland, Texas <sup>(a)</sup>	Multi-tenant retail	June 30, 2010	61,000	1,576	
University Heights, Ohio	Multi-tenant retail	June 30, 2010	287,000	6,281	
				11,030	
<i>Discontinued Operations:</i>					
Mesa, Arizona	Multi-tenant retail	December 31, 2010	195,000	\$ 3,400	
Richmond, Virginia	Single-user retail	June 30, 2010	383,000	7,806	
Hinsdale, Illinois	Single-user retail	May 28, 2010	49,000	821	
				12,027	
				Total	\$ 23,057



Estimated fair value of impaired properties      \$      72,696

- (a) Property acquired by the RioCan joint venture. Impairment based on estimated net realizable value inclusive of projected fair value of contingent earnout proceeds.

F-40

**Table of Contents**

During the year ended December 31, 2009, the Company recorded investment property impairment charges as summarized below:

Location	Property Type	Impairment Date	Approximate Square Footage	Provision for Impairment of Investment Properties
Nashville, Tennessee	Multi-tenant retail	December 31, 2009	293,000	\$ 6,700
Vacaville, California	Single-user retail	September 30, 2009	78,000	4,000
Largo, Maryland	Multi-tenant retail	June 30, 2009	482,000	13,100
Hanford, California	Single-user retail	June 30, 2009	78,000	3,800
				27,600
<i>Discontinued Operations:</i>				
Douglasville, Georgia	Single-user retail	December 31, 2009	110,000	\$ 3,200
Thousand Oaks, California	Multi-tenant retail	September 30, 2009	63,000	2,700
Kansas City, Missouri	Single-user retail	September 30, 2009	88,000	500
Wilmington, North Carolina	Single-user retail	September 30, 2009	57,000	800
Mountain Brook, Alabama	Single-user retail	September 30, 2009	44,000	1,100
Cupertino, California	Single-user office	September 30, 2009	100,000	8,400
Mesa, Arizona	Multi-tenant retail	March 31, 2009	195,000	20,400
				37,100
			Total	\$ 64,700

Estimated fair value of impaired properties \$ 208,335

The Company can provide no assurance that material impairment charges with respect to the Company's investment properties will not occur in future periods.

**(16) Fair Value Measurements**

The following table presents the carrying value and estimated fair value of the Company's financial instruments at December 31, 2011 and 2010. The fair value of a financial instrument is the amount that would be received to sell an asset or paid to transfer a liability in a transaction between market participants at the measurement date.

	December 31, 2011		December 31, 2010	
	Carrying Value	Fair Value	Carrying Value	Fair Value
<b>Financial assets:</b>				
Investment in marketable securities, net	\$ 30,385	\$ 30,385	\$ 34,230	\$ 34,230
Notes receivable	\$	\$	\$ 8,290	\$ 8,245
<b>Financial liabilities:</b>				
Mortgages and notes payable	\$ 2,926,218	\$ 3,109,577	\$ 3,602,890	\$ 3,628,042
Secured credit facility	\$ 555,000	\$ 555,000	\$ 154,347	\$ 154,347
Other financings	\$ 8,477	\$ 8,477	\$ 8,477	\$ 8,477
Co-venture obligation	\$ 52,431	\$ 55,000	\$ 51,264	\$ 55,000
Derivative liability	\$ 2,891	\$ 2,891	\$ 2,967	\$ 2,967

The carrying values shown in the table are included in the consolidated balance sheets under the indicated captions, except for notes receivable and derivative liability, which are included in Accounts and notes receivable and Other liabilities, respectively.

## Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

The fair value of the financial instruments shown in the above table as of December 31, 2011 and 2010 represent the Company's best estimates of the amounts that would be received to sell those assets or that would be paid to transfer those liabilities in a transaction between market participants at that date. Those fair value measurements maximize the use of observable inputs. However, in situations where there is little, if any, market

F-41

**Table of Contents**

activity for the asset or liability at the measurement date, the fair value measurement reflects the Company's own judgments about the assumptions that market participants would use in pricing the asset or liability. Those judgments are developed by the Company based on the best information available in those circumstances.

GAAP specifies a hierarchy of valuation techniques based upon whether the inputs to those valuation techniques reflect assumptions other market participants would use based upon market data obtained from independent sources (observable inputs). The fair value hierarchy is summarized as follows:

Level 1 Inputs Unadjusted quoted market prices for identical assets and liabilities in an active market which the Company has the ability to access.

Level 2 Inputs Inputs, other than quoted prices in active markets, which are observable either directly or indirectly.

Level 3 Inputs Inputs based on prices or valuation techniques that are both unobservable and significant to the overall fair value measurements.

The guidance requires the use of observable market data, when available, in making fair value measurements. When inputs used to measure fair value fall within different levels of the hierarchy, the level within which the fair value measurement is categorized is based on the lowest level input that is significant to the fair value measurement.

**Recurring Fair Value Measurements**

The following table presents the Company's financial instruments, which are measured at fair value on a recurring basis, by the level in the fair value hierarchy within which those measurements fall as of December 31, 2011 and 2010. Methods and assumptions used to estimate the fair value of these instruments are described after the table.

	Level 1	Level 2	Level 3	Total
<u>December 31, 2011</u>				
Investment in marketable securities	\$ 30,385			\$ 30,385
Derivative liability, net	\$	2,891		\$ 2,891
<u>December 31, 2010</u>				
Investment in marketable securities	\$ 34,230			\$ 34,230
Derivative liability, net	\$	2,967		\$ 2,967

*Investment in marketable securities, net:* Marketable securities classified as available-for-sale are measured using quoted market prices at the reporting date multiplied by the quantity held.

*Derivative liability:* The fair value of the derivative liability is determined using a discounted cash flow analysis on the expected future cash flows of each derivative. This analysis utilizes observable market data including forward yield curves and implied volatilities to determine the market's expectation of the future cash flows of the variable component. The fixed and variable components of the derivative are then discounted using calculated discount factors developed based on the LIBOR swap rate and are netted to arrive at a single valuation for the period. The Company also incorporates credit valuation adjustments to appropriately reflect both its own nonperformance risk and the respective counterparty's nonperformance risk in the fair value measurements. Although the Company has determined that the majority of the inputs used to value its derivatives fall within Level 2 of the fair value hierarchy, the credit valuation adjustments associated with its derivatives utilize Level 3 inputs, such as estimates of current credit spreads to evaluate the likelihood of default by itself and its counterparties. However, as of December 31, 2011 and 2010, the Company has assessed the significance of the impact of the credit valuation adjustments on the overall valuation of its derivative positions and has determined that the credit valuation adjustments are not significant to the overall valuation. As a result, the Company has determined that its derivative valuations in their entirety are classified within Level 2 of the fair value hierarchy.



**Table of Contents**

In adjusting the fair value of its derivative contracts for the effect of nonperformance risk, the Company has considered any applicable credit enhancements. The Company's derivative instruments are further described in Note 9.

**Non-Recurring Fair Value Measurements**

During the year ended December 31, 2011, the Company recorded asset impairment charges of \$39,981 related to two of its consolidated operating properties and two consolidated properties which were sold during 2011. The combined estimated fair value of the properties which were impaired during the year ended December 31, 2011 was \$37,466. During the year ended December 31, 2010, the Company recorded asset impairment charges of \$23,057 related to one of its consolidated operating properties, three consolidated operating properties that were partially sold to the RioCan joint venture and three consolidated operating properties that were sold to unaffiliated third parties. The combined estimated fair value of these properties was \$72,696. During the year ended December 31, 2009, the Company recorded asset impairment charges of \$64,700 related to four of its consolidated operating properties and seven consolidated operating properties that were sold. The combined estimated fair value of these properties was \$208,335.

The Company's estimated fair value, measured on a non-recurring basis, relating to these impairment assessments was based upon discounted cash flow models that included all projected cash inflows and outflows over a specific holding period, or the negotiated sales price, if applicable. Such projected cash flows are comprised of unobservable inputs which include contractual rental revenues and forecasted rental revenues and expenses based upon market conditions and expectations for growth. Capitalization rates and discount rates utilized in these models were based upon observable rates that the Company believed to be within a reasonable range of current market rates for each property analyzed. Based upon these inputs, the Company determined that its valuations of properties using a discounted cash flow model was classified within Level 3 of the fair value hierarchy. For the Company's properties for which the estimated fair value was based on estimated sales prices, the Company determined that its valuation was classified within Level 2 of the fair value hierarchy.

**Fair Value Disclosures**

The following table presents the Company's financial assets and liabilities, which are measured at fair value for disclosure purposes, by the level in the fair value hierarchy within which they fall as of December 31, 2011 and 2010. Methods and assumptions used to estimate the fair value of these instruments are described after the table.

	Level 1	Level 2	Level 3	Total
<b>December 31, 2011</b>				
Mortgages and notes payable			3,109,577	\$ 3,109,577
Secured credit facility			555,000	\$ 555,000
Other financings			8,477	\$ 8,477
Co-venture obligation			55,000	\$ 55,000
<b>December 31, 2010</b>				
Notes receivable			8,245	\$ 8,245
Mortgages and notes payable			3,628,042	\$ 3,628,042
Secured credit facility			154,347	\$ 154,347
Other financings			8,477	\$ 8,477
Co-venture obligation			55,000	\$ 55,000

*Notes receivable:* The Company estimates the fair value of its notes receivable by discounting the future cash flows of each instrument at rates that approximate those offered by lending institutions for loans with similar terms to companies with comparable risk. The rates used are not directly observable in the marketplace and judgment is used in determining the appropriate rate based upon the specific terms of the individual notes receivable agreement.

**Table of Contents**

*Mortgages and notes payable:* The Company estimates the fair value of its mortgages and notes payable by discounting the future cash flows of each instrument at rates currently offered to the Company for similar debt instruments of comparable maturities by the Company's lenders. The rates used are not directly observable in the marketplace and judgment is used in determining the appropriate rate for each of the Company's individual mortgages and notes payable based upon the specific terms of the agreement, including the term to maturity, the quality and nature of the underlying property and its leverage ratio.

*Secured credit facility:* The carrying value of the Company's secured credit facility approximates fair value due to the periodic variable rate pricing and the loan pricing spreads based on the Company's leverage ratio.

*Other financings:* Other financings on the consolidated balance sheets represent the equity interest of the noncontrolling member in certain consolidated entities where the LLC or LP agreement contains put/call arrangements, which grant the right to the outside owners and the Company to require each LLC or LP to redeem the ownership interest in future periods for fixed amounts. The Company believes the fair value of other financings is that amount which is the fixed amount at which it would settle, which approximates its carrying value.

*Co-venture obligation:* The Company estimates the fair value of its co-venture obligation based on the amount at which it believes the obligation will settle and the timing of such payment. The fair value of the co-venture obligation includes the estimated additional amount the Company would be required to pay upon exercise of the call option. The carrying value of the co-venture obligation as of December 31, 2011 includes \$2,431 of cumulative co-venture obligation expense accretion related to the estimated additional distribution.

There were no transfers of assets or liabilities between the levels of the fair value hierarchy and there were no purchases, sales, issuances or settlements of Level 3 assets or liabilities during the year ended December 31, 2011.

**(17) Commitments and Contingencies**

The Company has acquired certain properties which have earnout components, meaning the Company did not pay for portions of these properties that were not rent producing at the time of acquisition. The Company is obligated, under these agreements, to pay for those portions when a tenant moves into its space and begins to pay rent. The earnout payments are based on a predetermined formula. Each earnout agreement has a time limit regarding the obligation to pay any additional monies. The time limits generally range from one to three years. If, at the end of the time period allowed, certain space has not been leased and occupied, the Company will generally not have any further payment obligation to the seller. As of December 31, 2011, the Company could pay as much as \$1,400 in the future pursuant to earnout agreements.

The Company previously entered into one construction loan agreement, which was impaired as of December 31, 2009 and written off on March 31, 2010, one secured installment note and one other installment note agreement. In a non-cash transaction on December 15, 2011, the Company, through a consolidated joint venture, contributed the secured installment note, with a receivable balance of \$8,239, to Britomart in return for a 15% noncontrolling ownership interest. Refer to Note 12 for more information. In conjunction with the one remaining installment agreement, the Company has funded its total commitment of \$300. The remaining loan requires monthly interest payments with the entire principal balance due at maturity. The combined receivable balance included in *Accounts and notes receivable* in the accompanying consolidated balance sheets at December 31, 2011 and 2010 was none and \$8,290, respectively, net of allowances of \$300.

Although the loans obtained by the Company are generally non-recourse, occasionally, when it is deemed necessary, the Company may guarantee all or a portion of the debt on a full-recourse basis. As of December 31, 2011, the Company has guaranteed \$555,000 and \$24,399 of its outstanding secured credit facility and mortgage loans, respectively, with maturity dates ranging from February 11, 2013 through September 30, 2016. As of

**Table of Contents**

December 31, 2011, the Company also guaranteed \$18,591 which represents a portion of the construction debt associated with certain of its wholly-owned and consolidated joint venture properties. The guarantees are released as certain leasing parameters are met. The following table summarizes these guarantees:

Location	Property	Construction Loan Balance at December 31, 2011	Maturity Date	Percentage Guaranteed by the Company	Guarantee Amount
Frisco, Texas	Parkway Towne Crossing	\$ 20,569	August 31, 2012	35%	\$ 7,199
Henderson, Nevada	Lake Mead Crossing	\$ 48,879	January 2, 2012 <sup>(a)</sup>	15%	\$ 7,332
Henderson, Nevada	Green Valley Crossing	\$ 10,151	November 2, 2014	40%	\$ 4,060
					\$ 18,591

(a) Subsequent to December 31, 2011, the maturity date was extended to March 27, 2012.

**(18) Litigation**

The Company previously disclosed in its Form 10-K, as amended, for the fiscal years ended December 31, 2009, 2008 and 2007, the lawsuit filed against the Company and nineteen other defendants by City of St. Clair Shores General Employees Retirement System and Madison Investment Trust in the United States District Court for the Northern District of Illinois (the Court). In the lawsuit, plaintiffs alleged that all the defendants violated the federal securities laws, and certain defendants breached fiduciary duties owed to the Company and its shareholders, in connection with the Company's merger with its business manager/advisor and property managers as reflected in its Proxy Statement dated September 12, 2007.

On July 14, 2010, the lawsuit was settled by the Company and the other defendants (the Settlement). On November 8, 2010, the Court granted final approval of the Settlement. Pursuant to the terms of the Settlement, 3,600 shares of common stock of the Company were transferred back to the Company from shares of common stock issued to the owners (the Owners) of certain entities that were acquired by the Company in its internalization transaction. This share transfer was recorded as a capital transaction in the fourth quarter of 2010. Pursuant to the Settlement, the Company paid the fees and expenses of counsel for class plaintiffs in the amount of \$10,000, as awarded by the Court on November 8, 2010. The Company was reimbursed \$1,994 by its insurance carrier for a portion of such fees and expenses. The Owners (who include Daniel L. Goodwin, who beneficially owned more than 5% of the stock of the Company as of December 31, 2010, and certain directors and executive officers of the Company) also agreed to provide a limited indemnification to certain defendants who are directors and an officer of the Company if any class members opted out of the Settlement and brought claims against them. Seven class members have opted out of the Settlement; to the Company's knowledge, none of these seven class members have filed claims against the Company or its directors and officers. However, the statute of limitations with respect to the amount of time the seven class members had to file a claim expired prior to December 31, 2011 without any of them filing a claim.

The Company is subject, from time to time, to various legal proceedings and claims that arise in the ordinary course of business. While the resolution of these matters cannot be predicted with certainty, management believes, based on currently available information, that the final outcome of such matters will not have a material adverse effect on the financial statements of the Company.

**(19) Subsequent Events**

Subsequent to December 31, 2011, the Company:

paid down \$25,000 on its senior secured revolving line of credit;



**Table of Contents**

closed on the sale of a 13,800 square foot single-user retail property for a sales price of \$5,800, which resulted in a net gain on sale of \$915 and net cash proceeds of \$5,702 after customary prorations at closing;

transferred the Company's entire interest in Britomart to the partner in a consolidated joint venture, resulting in the noncontrolling interest holder's ownership interest being fully redeemed;

paid a nominal amount to acquire the remaining 13.3% noncontrolling interest in the Lake Mead Crossing joint venture, increasing the Company's ownership interest in that venture from 86.7% to 100%; and

extended the maturity date of the Lake Mead Crossing construction loan from January 2, 2012 to March 27, 2012. Additionally, the terms and conditions of the executed extension permit the Company to pay off the outstanding principal balance for a reduced amount of \$45,000 on or prior to March 26, 2012.

**(20) Quarterly Financial Information (unaudited)**

	2011			
	Dec 31	Sep 30	Jun 30	Mar 31
Total revenue as previously reported	\$ 153,352	\$ 151,788	\$ 150,318	\$ 155,318
Reclassified to discontinued operations <sup>(a)</sup>		(679)	(1,523)	(2,891)
<b>Adjusted total revenues</b>	<b>\$ 153,352</b>	<b>\$ 151,109</b>	<b>\$ 148,795</b>	<b>\$ 152,427</b>
Net loss attributable to Company shareholders	\$ (13,837)	\$ (5,023)	\$ (13,724)	\$ (40,025)
Net loss per common share-basic and diluted	\$ (0.07)	\$ (0.03)	\$ (0.07)	\$ (0.21)
Weighted average number of common shares outstanding-basic and diluted	193,444	192,779	192,114	191,488
	2010			
	Dec 31	Sep 30	Jun 30	Mar 31
Total revenue as previously reported	\$ 155,277	\$ 162,030	\$ 160,586	\$ 164,755
Reclassified to discontinued operations <sup>(a)</sup>	(3,901)	(857)	(2,323)	(3,138)
<b>Adjusted total revenues</b>	<b>\$ 151,376</b>	<b>\$ 161,173</b>	<b>\$ 158,263</b>	<b>\$ 161,617</b>
Net loss attributable to Company shareholders	\$ (3,411)	\$ (25,527)	\$ (38,349)	\$ (28,556)
Net loss per common share-basic and diluted	\$ (0.02)	\$ (0.13)	\$ (0.20)	\$ (0.15)
Weighted average number of common shares outstanding-basic and diluted	193,645	193,946	193,436	192,961

(a) Represents revenue that has been reclassified to discontinued operations since previously reported amounts in Form 10-Q or 10-K.

**Table of Contents****RETAIL PROPERTIES OF AMERICA, INC.****Schedule II Valuation and Qualifying Accounts**

For the Years Ended December 31, 2011, 2010, and 2009

(in thousands)

	Balance at beginning of year	Charged to costs and expenses	Write-offs	Balance at end of year
Year ended December 31, 2011:				
Allowance for doubtful accounts	\$ 9,138	6,527	(7,434) <sup>(b)</sup>	\$ 8,231
Tax valuation allowance	\$ 6,823	2,077		\$ 8,900
Year ended December 31, 2010:				
Allowance for doubtful accounts	\$ 31,019 <sup>(a)</sup>	3,103	(24,984) <sup>(b)</sup>	\$ 9,138
Year ended December 31, 2009:				
Allowance for doubtful accounts	\$ 15,510 <sup>(c)</sup>	26,944 <sup>(d)</sup>	(11,440)	\$ 31,014 <sup>(d)</sup>

(a) Beginning balance includes \$5 for allowance for doubtful accounts related to an investment property held for sale in 2009.

(b) Includes \$16,909 related to a note receivable that was fully written off in 2010.

(c) Beginning balance excludes \$10 of allowance for doubtful accounts related to an investment property held for sale in 2009 and includes \$479 for allowance for doubtful accounts related to an investment property held for sale in 2008.

(d) Includes \$16,909 related to a note receivable that was fully reserved in 2009.

**Table of Contents****RETAIL PROPERTIES OF AMERICA, INC.****Schedule III Real Estate and Accumulated Depreciation**

December 31, 2011

(in thousands)

Property Name	Encumbrance	Initial Cost <sup>(A)</sup>			Gross amount carried at end of period			Total (B)+(D)	Accumulated Depreciation <sup>(E)</sup>	Date Constructed	Date Acquired
		Land	Buildings and Improvements	Adjustments to Basis <sup>(C)</sup>	Land and Improvements	Buildings and Improvements <sup>(D)</sup>					
23rd Street Plaza	\$ 3,163	\$ 1,300	\$ 5,319	\$ 65	\$ 1,300	\$ 5,384	\$ 6,684	\$ 1,382	2003	12/04	
Panama City, FL Academy Sports	3,236	1,230	3,752		1,230	3,752	4,982	1,020	2004	07/04	
Houma, LA Academy Sports	2,650	1,340	2,943	3	1,340	2,946	4,286	774	2004	07/04	
Midland, TX Academy Sports	3,219	1,050	3,954	6	1,050	3,960	5,010	1,040	2004	07/04	
Port Arthur, TX Academy Sports	4,216	3,215	3,963		3,215	3,963	7,178	1,005	2004	07/04	
San Antonio, TX Alison s Corner	2,630	1,045	5,700	78	1,045	5,778	6,823	1,622	2003	04/04	
San Antonio, TX American Express	10,105	1,400	15,370	9	1,400	15,379	16,779	3,768	2000	12/04	
DePere, WI American Express		2,900	10,170	8	2,900	10,178	13,078	2,493	1983	12/04	
Phoenix, AZ Arvada Connection and Arvada Marketplace	22,000	8,125	39,366	490	8,125	39,856	47,981	11,425	1987-1990	04/04	
Arvada, CO Ashland & Roosevelt	9,744		21,052	299		21,351	21,351	5,161	2002	05/05	
Chicago, IL Azalea Square I	12,378	6,375	21,304	1,592	6,375	22,896	29,271	5,924	2004	10/04	
Summerville, SC Azalea Square III	8,703	3,280	10,348	63	3,280	10,411	13,691	1,621	2007	10/07	
Summerville, SC											

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Bangor Parkade <sup>(a)</sup>	11,600	13,539	4,003	11,600	17,542	29,142	3,689	2005	03/06
Bangor, ME									
Battle Ridge Pavilion <sup>(a)</sup>	4,350	11,366	(124)	4,350	11,242	15,592	2,356	1999	05/06
Marietta, GA									
Beachway Plaza	6,025	5,460	10,397	210	5,460	10,607	16,067	2,570	1984/2004 06/05
Bradenton, FL									
Bed Bath & Beyond Plaza	9,333	18,367	40		18,407	18,407	4,862	2004	10/04
Miami, FL									
Bed Bath & Beyond Plaza	10,550	4,530	11,901	4,530	11,901	16,431	2,797	2000-2002	07/05
Westbury, NY									

F-48

**Table of Contents**

Property Name	Encumbrance	Initial Cost <sup>(A)</sup>			Gross amount carried at end of period			Total (B)(D)	Accumulated Depreciation <sup>(E)</sup>	Date Constructed	Date Acquired
		Land	Buildings and Improvements	Adjustments to Basis <sup>(C)</sup>	Land and Improvements	Buildings and Improvements <sup>(D)</sup>	Improvements <sup>(D)</sup>				
Best on the Boulevard	17,978	7,460	25,583	357	7,460	25,940	33,400	7,458	1996-1999	04/04	
Las Vegas, NV											
Bison Hollow	7,701	5,550	12,324	28	5,550	12,352	17,902	3,011	2004	04/05	
Traverse City, MI											
Blockbuster at Five Forks <sup>(a)</sup>		440	1,018		440	1,018	1,458	252	2004-2005	03/05	
Simpsonville, SC											
Bluebonnet Parc	8,978	4,450	16,407	76	4,450	16,483	20,933	4,809	2002	04/04	
Baton Rouge, LA											
Boston Commons	8,826	3,750	9,690	200	3,750	9,890	13,640	2,408	1993	05/05	
Springfield, MA											
Boulevard at The Capital Ctr <sup>(a)</sup>			114,703	(31,003)		83,700	83,700	9,383	2004	09/04	
Largo, MD											
Boulevard Plaza	2,456	4,170	12,038	2,499	4,170	14,537	18,707	3,427	1994	04/05	
Pawtucket, RI											
The Brickyard	44,000	45,300	26,657	4,277	45,300	30,934	76,234	7,569	1977/2004	04/05	
Chicago, IL											
Broadway Shopping Center	10,379	5,500	14,002	1,973	5,500	15,975	21,475	3,574	1960/1999-2000	09/05	
Bangor, ME											
Brown s Lane	5,109	2,600	12,005	866	2,600	12,871	15,471	3,101	1985	04/05	
Middletown, RI											
Burlington Coat Factory	5,500	2,858	5,084	1,247	2,858	6,331	9,189	1,320	1993	09/05	
Elk Grove, CA											
Burlington Coat Factory	5,100	3,860	4,008	1,917	3,860	5,925	9,785	1,174	1988	09/05	
Moreno Valley, CA											
Burlington Coat Factory	5,000	3,388	4,339	1,247	3,388	5,586	8,974	1,119	1981	09/05	
Redlands, CA											
Burlington Coat Factory	5,200	3,324	4,624	(3,487)	1,494	2,967	4,461	329	1992	09/05	
Vacaville, CA											
Carmax		6,210	7,731		6,210	7,731	13,941	1,936	1998	03/05	
San Antonio, TX											
Carrier Towne Crossing <sup>(a)</sup>		2,750	13,662	862	2,750	14,524	17,274	3,272	1998	12/05	

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Grand Prairie, TX										
Central Texas Marketplace	45,386	13,000	47,559	3,981	13,000	51,540	64,540	9,331	2004	12/06
Waco, TX										
Centre at Laurel	27,200	19,000	8,406	16,589	19,000	24,995	43,995	5,114	2005	02/06
Laurel, MD										
Century III Plaza	26,200	7,100	33,212	1,391	7,100	34,603	41,703	7,876	1996	06/05
West Mifflin, PA										
Chantilly Crossing	16,673	8,500	16,060	2,085	8,500	18,145	26,645	4,219	2004	05/05
Chantilly, VA										
Cinemark Seven Bridges	5,109	3,450	11,728		3,450	11,728	15,178	2,770	2000	03/05
Woodridge, IL										

F-49

**Table of Contents**

Property Name	Encumbrance	Initial Cost <sup>(A)</sup>		Adjustments to Basis <sup>(C)</sup>	Gross amount carried at end of period		Total (B)+(D)	Accumulated Depreciation <sup>(E)</sup>	Date Constructed	Date Acquired
		Land	Buildings and Improvements		Land and Improvements	Buildings and Improvements <sup>(D)</sup>				
Citizen's Property Insurance <sup>(a)</sup>		2,150	7,601	6	2,150	7,607	9,757	1,686	2005	08/05
Jacksonville, FL										
Clearlake Shores	6,177	1,775	7,026	1,182	1,775	8,208	9,983	1,975	2003-2004	04/05
Clear Lake, TX										
Colony Square <sup>(a)</sup>		16,700	22,775	234	16,700	23,009	39,709	4,566	1997	05/06
Sugar Land, TX										
The Columns	12,771	5,830	19,439	77	5,830	19,516	25,346	5,229	2004	8/04 & 10/04
Jackson, TN										
The Commons at Temecula <sup>(a)</sup>		12,000	35,887	293	12,000	36,180	48,180	8,360	1999	04/05
Temecula, CA										
Coram Plaza	14,540	10,200	26,178	2,065	10,200	28,243	38,443	7,148	2004	12/04
Coram, NY										
Cornerstone Plaza	4,903	2,920	10,359	(160)	2,920	10,199	13,119	2,470	2004-2005	05/05
Cocoa Beach, FL										
Corwest Plaza	15,075	6,900	23,851	53	6,900	23,904	30,804	7,093	1999-2003	01/04
New Britain, CT										
Cost Plus Distribution Warehouse <sup>(b)</sup>	16,300	10,075	21,483	29,493	7,104	53,947	61,051	9,583	2003	04/06
Stockton, CA										
Cottage Plaza	11,101	3,000	19,158	(50)	3,000	19,108	22,108	4,840	2004-2005	02/05
Pawtucket, RI										
Cranberry Square	11,396	3,000	18,736	492	3,000	19,228	22,228	5,302	1996-1997	07/04
Cranberry Township, PA										
Crockett Square	5,812	4,140	7,534	53	4,140	7,587	11,727	1,643	2005	02/06
Morristown, TN										
Crossroads Plaza CVS	4,474	1,040	3,780	52	1,040	3,832	4,872	922	1987	05/05
North Attleborough, MA										
Crown Theater <sup>(a)</sup>		7,318	954		7,318	954	8,272	411	2000	07/05
Hartford, CT										
Cuyahoga Falls Market Center	3,782	3,350	11,083	(231)	3,350	10,852	14,202	2,697	1998	04/05
Cuyahoga Falls, OH										

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

CVS Pharmacy	1,719	910	2,891		910	2,891	3,801	689	1999	06/05
Burleson, TX										
CVS Pharmacy (Eckerd)	2,309	975	2,400	2	975	2,402	3,377	712	2003	12/03
Edmond, OK										
CVS Pharmacy <sup>(a)</sup>		1,460	4,455	2	1,460	4,457	5,917	1,116	2004	03/05
Jacksonville, FL										
CVS Pharmacy	1,208	750	1,958		750	1,958	2,708	472	1999	05/05
Lawton, OK										

F-50



**Table of Contents**

Property Name	Encumbrance	Initial Cost <sup>(A)</sup>			Gross amount carried at end of period		Total (B)(D)	Accumulated Depreciation <sup>(E)</sup>	Date Constructed	Date Acquired
		Land	Buildings and Improvements	Adjustments to Basis <sup>(C)</sup>	Land and Improvements	Buildings and Improvements <sup>(D)</sup>				
CVS Pharmacy Montevallo, AL	1,847	250	2,777		250	2,777	3,027	687	2001	03/05
CVS Pharmacy Moore, OK	1,994	600	2,659		600	2,659	3,259	650	2004	05/05
CVS Pharmacy (Eckerd)	3,635	932	4,370		932	4,370	5,302	1,306	2003	12/03
CVS Pharmacy Norman, OK	1,925	620	3,583		620	3,583	4,203	854	1999	06/05
CVS Pharmacy Oklahoma City, OK	2,731	1,100	3,254		1,100	3,254	4,354	805	2004	03/05
CVS Pharmacy Saginaw, TX	1,845	600	2,469	3	600	2,472	3,072	650	2004	10/04
Darien Towne Center Sylacauga, AL	18,133	7,000	22,468	673	7,000	23,141	30,141	6,658	1994	12/03
Davis Towne Crossing Darien, IL	2,739	1,850	5,681	863	1,671	6,723	8,394	1,778	2003-2004	06/04
Denton Crossing North Richland Hills, TX	28,195	6,000	43,434	11,155	6,000	54,589	60,589	13,845	2003-2004	10/04
Dick's Sporting Goods <sup>(c)</sup> Denton, TX	5,100	2,455	5,438	1,696	2,455	7,134	9,589	1,333	1993	04/05
Diebold Warehouse <sup>(a)</sup> Fresno, CA			11,190	2		11,192	11,192	2,667	2005	07/05
Dorman Center I & II Green, OH	21,347	17,025	29,478	452	17,025	29,930	46,955	8,644	2003-2004	3/04 & 7/04
Duck Creek Spartanburg, SC	12,432	4,440	12,076	5,198	4,440	17,274	21,714	3,628	2005	11/05
East Stone Commons Bettendorf, IA	22,550	2,900	28,714	(1,484)	2,826	27,304	30,130	5,504	2005	06/06
Eastwood Towne Center Kingsport, TN	23,001	12,000	65,067	(1,026)	12,000	64,041	76,041	18,063	2002	05/04
Edgemont Town Center Lansing, MI	6,730	3,500	10,956	(193)	3,500	10,763	14,263	2,878	2003	11/04

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Homewood, AL										
Edwards Multiplex	9,824		35,421			35,421	35,421	8,658	1988	05/05
Fresno, CA										
Edwards Multiplex	14,196	11,800	33,098		11,800	33,098	44,898	8,090	1997	05/05
Ontario, CA										
Evans Towne Centre	4,421	1,700	6,425	64	1,700	6,489	8,189	1,662	1995	12/04
Evans, GA										
Fairgrounds Plaza	14,142	4,800	13,490	4,354	5,431	17,213	22,644	4,171	2002-2004	01/05
Middletown, NY										
Fisher Scientific <sup>(a)</sup>		510	12,768	10	510	12,778	13,288	2,905	2005	06/05
Kalamazoo, MI										

F-51

**Table of Contents**

Property Name	Encumbrance	Initial Cost <sup>(A)</sup>			Gross amount carried at end of period			Total (B)(D)	Accumulated Depreciation <sup>(E)</sup>	Date Constructed	Date Acquired
		Land	Buildings and Improvements	Adjustments to Basis <sup>(C)</sup>	Land and Improvements	Buildings and Improvements <sup>(D)</sup>					
Five Forks <sup>(a)</sup>		2,100	5,374	51	2,100	5,425	7,525	1,404	1999	12/04	
Simpsonville, SC											
Forks Town Center	8,691	2,430	14,836	697	2,430	15,533	17,963	4,208	2002	07/04	
Easton, PA											
Four Peaks Plaza	10,048	5,000	20,098	4,406	5,000	24,504	29,504	5,739	2004	03/05	
Fountain Hills, AZ											
Fox Creek Village	9,333	3,755	15,563	(1,075)	3,755	14,488	18,243	3,931	2003-2004	11/04	
Longmont, CO											
Fullerton Metrocenter	28,981		47,403	1,236		48,639	48,639	13,213	1988	06/04	
Fullerton, CA											
Galvez Shopping Center	4,245	1,250	4,947	339	1,250	5,286	6,536	1,267	2004	06/05	
Galveston, TX											
The Gateway	99,414	28,665	110,945	21,853	28,665	132,798	161,463	30,605	2001-2003	05/05	
Salt Lake City, UT											
Gateway Pavilions	25,052	9,880	55,195	(1,163)	9,880	54,032	63,912	13,986	2003-2004	12/04	
Avondale, AZ											
Gateway Plaza	18,862		26,371	2,273		28,644	28,644	7,574	2000	07/04	
Southlake, TX											
Gateway Station	3,067	1,050	3,911	1,122	1,050	5,033	6,083	1,256	2003-2004	12/04	
College Station, TX											
Gateway Station II:III <sup>(b)</sup>	6,268	3,280	11,557	4	3,280	11,561	14,841	1,367	2006-2007	05/07	
College Station, TX											
Gateway Village	25,529	8,550	39,298	3,777	8,550	43,075	51,625	11,623	1996	07/04	
Annapolis, MD											
Gerry Centennial Plaza <sup>(a)</sup>		5,370	12,968	8,318	5,370	21,286	26,656	3,252	2006	06/07	
Oswego, IL											
Giant Eagle	12,154	3,425	16,868	10	3,425	16,878	20,303	3,764	2000	11/05	
Columbus, OH											
Gloucester Town Center	9,141	3,900	17,878	198	3,900	18,076	21,976	4,337	2003	05/05	
Gloucester, NJ											
GMAC Insurance Buildings	24,904	8,250	50,287	(42,010)	2,928	13,599	16,527	491	1980/1990	09/04	

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Winston-Salem, NC										
Golfsmith <sup>(a)</sup>		1,250	2,974	2	1,250	2,976	4,226	642	1992/2004	11/05
Altamonte Springs, FL										
Governor s Marketplace	13,568		30,377	2,034		32,411	32,411	8,658	2001	08/04
Tallahassee, FL										
Grapevine Crossing	11,707	4,100	16,938	(50)	3,894	17,094	20,988	4,159	2001	04/05
Grapevine, TX										
Green s Corner	5,502	3,200	8,663	63	3,200	8,726	11,926	2,223	1997	12/04
Cumming, GA										
Greensburg Commons	10,250	2,700	19,116	(170)	2,700	18,946	21,646	4,727	1999	04/05
Greensburg, IN										

F-52

**Table of Contents**

Property Name	Encumbrance	Initial Cost <sup>(A)</sup>			Gross amount carried at end of period			Total (B)(D)	Accumulated Depreciation <sup>(E)</sup>	Date Constructed	Date Acquired
		Land	Buildings and Improvements	Adjustments to Basis <sup>(C)</sup>	Land and Improvements	Buildings and Improvements <sup>(D)</sup>					
Greenwich Center <sup>(a)</sup>		5,439	21,594	(9,465)	3,791	13,777	17,568	1,193	2002-2003 & 2006	02/06	
Phillipsburg, NJ											
Gurnee Town Center	15,620	7,000	35,147	1,436	7,000	36,583	43,583	9,285	2000	10/04	
Gurnee, IL											
Hartford Insurance Building <sup>(a)</sup>		1,700	13,709	6	1,700	13,715	15,415	3,185	2005	08/05	
Maple Grove, MN											
Harvest Towne Center	4,126	3,155	5,085	53	3,155	5,138	8,293	1,385	1996-1999	09/04	
Knoxville, TN											
Henry Town Center	31,878	10,650	46,814	348	10,650	47,162	57,812	12,113	2002	12/04	
McDonough, GA											
Heritage Towne Crossing	8,755	3,065	10,729	1,153	3,065	11,882	14,947	3,375	2002	03/04	
Euless, TX											
Hewitt Associates Campus	116,958	28,500	178,524	(3)	28,497	178,524	207,021	43,087	1974/1986	05/05	
Lincolnshire, IL											
Hickory Ridge	19,943	6,860	30,517	501	6,860	31,018	37,878	8,586	1999	01/04	
Hickory, NC											
High Ridge Crossing	5,109	3,075	9,148	(296)	3,075	8,852	11,927	2,229	2004	03/05	
High Ridge, MO											
Hobby Lobby <sup>(c)</sup>	5,000	4,419	3,235	757	4,419	3,992	8,411	756	1990	09/05	
Rancho Cucamonga, CA											
Hobby Lobby <sup>(c)</sup>	5,400	4,734	2,997	522	4,734	3,519	8,253	700	1983	09/05	
Roseville, CA											
Hobby Lobby <sup>(c)</sup>	5,100	4,704	3,062	720	4,704	3,782	8,486	716	1990	09/05	
Temecula, CA											
Holliday Towne Center	8,056	2,200	11,609	(367)	2,200	11,242	13,442	2,917	2003	02/05	
Duncansville, PA											
Home Depot Center	11,200		16,758			16,758	16,758	3,993	1996	06/05	
Pittsburgh, PA											
Home Depot Plaza	13,530	9,700	17,137	455	9,700	17,592	27,292	4,173	1992	06/05	
Orange, CT											

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

HQ Building	9,408	5,200	10,010	4,156	5,200	14,166	19,366	2,671	Redev: 04	12/05
San Antonio, TX										
Humblewood Shopping Center	6,672	2,200	12,823	(51)	2,200	12,772	14,972	2,828	Renov: 05	11/05
Humble, TX										
Irmo Station	5,207	2,600	9,247	88	2,600	9,335	11,935	2,392	1980 & 1985	12/04
Irmo, SC										
Jefferson Commons	54,507	23,097	52,762	(74)	23,097	52,688	75,785	7,591	2005	02/08
Newport News, VA										
King Philip s Crossing	10,687	3,710	19,144	(556)	3,710	18,588	22,298	4,202	2005	11/05
Seekonk, PA										
Kohl s	4,700	2,701	5,304	(4,487)	1,289	2,229	3,518	233	1993	09/05
Hanford, CA										

F-53

**Table of Contents**

Property Name	Encumbrance	Initial Cost <sup>(A)</sup>			Gross amount carried at end of period			Total (B),(D)	Accumulated Depreciation <sup>(E)</sup>	Date Constructed	Date Acquired
		Land	Buildings and Improvements	Adjustments to Basis <sup>(C)</sup>	Land and Improvements	Buildings and Improvements <sup>(D)</sup>					
Kohl's	4,400	2,723	4,210	1	2,723	4,211	6,934	971	1979	09/05	
Lodi, CA											
Kohl's	4,800	3,864	3,533	1	3,864	3,534	7,398	815	1973	09/05	
Sacramento, CA											
Kohl's	6,000	5,211	3,546	1	5,211	3,547	8,758	818	1980	09/05	
Sun Valley, CA											
La Plaza Del Norte	17,125	16,005	37,744	954	16,005	38,698	54,703	10,972	1996/1999	01/04	
San Antonio, TX											
Lake Forest Crossing		2,200	5,110	116	2,200	5,226	7,426	1,267	2004	03/05	
McKinney, TX											
Lake Mary Pointe	1,709	2,075	4,009	89	2,075	4,098	6,173	1,077	1999	10/04	
Lake Mary, FL											
Lake Mead Crossing <sup>(d)</sup>		17,796	50,216	(7,191)	14,934	45,887	60,821	4,366	2011	10/06	
Las Vegas, NV											
Lake Worth Towne Crossing <sup>(a)</sup>		6,200	30,910	4,285	6,200	35,195	41,395	6,942	2005	06/06	
Lake Worth, TX											
Lakepointe Towne Center <sup>(a)</sup>		4,750	23,904	875	4,750	24,779	29,529	5,928	2004	05/05	
Lewisville, TX											
Lakewood Towne Center	41,048	11,200	70,796	(3,388)	11,200	67,408	78,608	18,725	1988/2002-2003	06/04	
Lakewood, WA											
Lincoln Plaza	40,707	13,000	46,482	21,517	13,165	67,834	80,999	14,500	2001-2004	09/05	
Worcester, MA											
Low Country Village I & II	10,561	2,910	16,614	(513)	2,486	16,525	19,011	4,248	2004-2005	06/04 & 09/05	
Bluffton, SC											
Lowe's/Bed, Bath & Beyond	13,569	7,423	799	(8)	7,415	799	8,214	337	2005	08/05	
Butler, NJ											
MacArthur Crossing	7,221	4,710	16,265	709	4,710	16,974	21,684	4,919	1995-1996	02/04	
Los Colinas, TX											
Magnolia Square	6,582	2,635	15,040	(1,121)	2,635	13,919	16,554	3,617	2004	02/05	
Houma, LA											

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Manchester Meadows <sup>(a)</sup>	14,700	39,738	(118)	14,700	39,620	54,320	10,751	1994-1995	08/04	
Town and Country, MO										
Mansfield Towne Crossing	8,792	3,300	12,195	3,452	3,300	15,647	18,947	4,015	2003-2004	11/04
Mansfield, TX										
Maple Tree Place	63,400	28,000	67,361	2,992	28,000	70,353	98,353	16,900	2004-2005	05/05
Williston, VT										

F-54



**Table of Contents**

Property Name	Encumbrance	Initial Cost <sup>(A)</sup>			Gross amount carried at end of period			Total (B)(D)	Accumulated Depreciation <sup>(E)</sup>	Date Constructed	Date Acquired
		Land	Buildings and Improvements	Adjustments to Basis <sup>(C)</sup>	Land and Improvements	Buildings and Improvements <sup>(D)</sup>					
The Market at Clifty Crossing	13,710	1,900	16,668	670	1,847	17,391	19,238	3,792	1986/2004	11/05	
Columbus, IN											
The Market at Polaris	36,196	11,750	40,197	5,997	11,750	46,194	57,944	10,089	2005	11/05	
Columbus, OH											
Massillon Commons	7,221	4,090	12,521	332	4,090	12,853	16,943	3,135	1986/2000	04/05	
Massillon, OH											
McAllen Shopping Center	1,605	850	2,958	(112)	850	2,846	3,696	733	2004	12/04	
McAllen, TX											
McDermott Towne Crossing		1,850	6,923	63	1,850	6,986	8,836	1,608	1999	09/05	
Allen, TX											
Mervyns	5,000	1,964	5,682	(4,088)	1,006	2,552	3,558	317	1988	09/05	
Bakersfield, CA											
Mervyns	5,200	2,357	5,702	1	2,357	5,703	8,060	1,316	1992	09/05	
Fontana, CA											
Mervyns	5,300	2,308	5,870	(3,311)	1,506	3,361	4,867	418	1994	09/05	
Highland, CA											
Mervyns	5,700	2,799	6,194	1	2,799	6,195	8,994	1,429	1992	09/05	
Manteca, CA											
Mervyns	5,100	4,027	3,931	2	4,027	3,933	7,960	907	1992	09/05	
McAllen, TX											
Mervyns	5,100	4,714	3,153	1	4,714	3,154	7,868	728	1989	09/05	
Morgan Hill, CA											
Mervyns	6,400	6,305	5,384	18	6,305	5,402	11,707	1,243	1982	09/05	
Oceanside, CA											
Mervyns	3,300	1,473	4,556	(3,632)	641	1,756	2,397	234	1990	09/05	
Ridgecrest, CA											
Mervyns	4,000	1,925	4,294	(3,315)	975	1,929	2,904	258	1987	09/05	
Turlock, CA											
Mid-Hudson Center	23,750	9,900	29,160	1	9,900	29,161	39,061	6,867	2000	07/05	
Poughkeepsie, NY											
Midtown Center	30,963	13,220	41,687	5,208	13,220	46,895	60,115	10,996	1986-1987	01/05	

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Milwaukee, WI											
Mission Crossing	12,014	4,000	12,616	7,141	4,670	19,087	23,757	4,242	Renov:	07/05	
San Antonio, TX									2003-2005		
Mitchell Ranch Plaza	20,060	5,550	26,213	294	5,550	26,507	32,057	7,109	2003	08/04	
New Port Richey, FL											
Montecito Crossing	17,608	9,700	25,414	9,294	11,300	33,108	44,408	7,289	2004-2005	10/05	
Las Vegas, NV											

F-55

**Table of Contents**

Property Name	Encumbrance	Initial Cost <sup>(A)</sup>		Adjustments to Basis <sup>(C)</sup>	Gross amount carried at end of period		Total (B)(D)	Accumulated Depreciation <sup>(E)</sup>	Date Constructed	Date Acquired
		Land	Buildings and Improvements		Land and Improvements	Buildings and Improvements <sup>(D)</sup>				
Mor Furniture		3,200	5,530	(5,227)	3,200	303	3,503	39	2005	10/05
Murrieta, CA										
Mountain View Plaza I & II		5,180	18,212	45	5,120	18,317	23,437	3,999	2003 & 2006	10/05 & 11/06
Kalispell, MT										
Newburgh Crossing	6,808	4,000	10,246	6	4,000	10,252	14,252	2,349	2005	10/05
Newburgh, NY										
Newnan Crossing I & II	25,404	15,100	33,987	4,095	15,100	38,082	53,182	10,184	1999 & 2004	12/03 & 02/04
Newnan, GA										
Newton Crossroads	3,881	3,350	6,927	(25)	3,350	6,902	10,252	1,765	1997	12/04
Covington, GA										
North Rivers Towne Center	10,414	3,350	15,720	213	3,350	15,933	19,283	4,526	2003-2004	04/04
Charleston, SC										
Northgate North	28,650	7,540	49,078	(16,220)	7,540	32,858	40,398	9,351	1999-2003	06/04
Seattle, WA										
Northpointe Plaza	24,069	13,800	37,707	1,929	13,800	39,636	53,436	10,915	1991-1993	05/04
Spokane, WA										
Northwood Crossing(a)		3,770	13,658	458	3,770	14,116	17,886	3,068	1979/2004	01/06
Northport, AL										
Northwoods Center	8,842	3,415	9,475	6,186	3,415	15,661	19,076	3,858	2002-2004	12/04
Wesley Chapel, FL										
Orange Plaza (Golfland Plaza)	6,200	4,350	4,834	961	4,350	5,795	10,145	1,302	1995	05/05
Orange, CT										
The Orchard	12,109	3,200	17,151	14	3,200	17,165	20,365	3,998	2004-2005	07/05 & 9/05
New Hartford, NY										
Pacheco Pass Phase I & II(a)		13,420	32,784	(1,094)	13,400	31,710	45,110	6,492	2004 & 2006	07/05 & 06/07
Gilroy, CA										
Page Field Commons(a)			43,355	1,151		44,506	44,506	10,780	1999	05/05
Fort Myers, FL										
Paradise Valley Marketplace	9,529	6,590	20,425	86	6,590	20,511	27,101	5,809	2002	04/04

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Phoenix, AZ										
Parkway Towne Crossing	6,142	20,423	3,384	6,142	23,807	29,949	3,815	2010	08/06	
Frisco, TX										
Pavillion at Kings Grant I & II	16,000	10,274	12,392	11,697	10,274	24,089	34,363	4,531	2002-2003 & 2005	12/03 & 06/06
Concord, NC										
Peoria Crossings I & II(b)	17,426	6,995	32,816	3,722	8,495	35,038	43,533	9,730	2002-2003 & 2005	03/04 & 05/05
Peoria, AZ										
Phenix Crossing	4,323	2,600	6,776	122	2,600	6,898	9,498	1,791	2004	12/04
Phenix City, AL										

F-56

**Table of Contents**

Property Name	Encumbrance	Initial Cost <sup>(A)</sup>			Gross amount carried at end of period			Total (B)(D)	Accumulated Depreciation <sup>(E)</sup>	Date Constructed	Date Acquired
		Land	Buildings and Improvements	Adjustments to Basis <sup>(C)</sup>	Land and Improvements	Buildings and Improvements <sup>(D)</sup>	Buildings and Improvements <sup>(D)</sup>				
Pine Ridge Plaza Lawrence, KS	11,203	5,000	19,802	1,893	5,000	21,695	26,695	5,809	1998-2004	06/04	
Placentia Town Center Placentia, CA	11,494	11,200	11,751	193	11,200	11,944	23,144	3,077	1973/2000	12/04	
Plaza at Marysville Marysville, WA	9,496	6,600	13,728	159	6,600	13,887	20,487	3,752	1995	07/04	
Plaza at Riverlakes Bakersfield, CA	8,827	5,100	10,824	(10)	5,100	10,814	15,914	2,837	2001	10/04	
Plaza Santa Fe II Santa Fe, NM	14,550		28,588	803		29,391	29,391	8,044	2000-2002	06/04	
Pleasant Run Cedar Hill, TX	14,245	4,200	29,085	2,502	4,200	31,587	35,787	8,003	2004	12/04	
Powell Center Lewis Center, OH	8,390	5,490	7,448	(43)	5,490	7,405	12,895	1,294	2001	04/07	
Preston Trail Village Dallas, TX	13,378	7,139	13,670	1,038	7,139	14,708	21,847	1,818	1978/2008	09/08	
Promenade at Red Cliff St. George, UT	8,351	5,340	12,665	513	5,340	13,178	18,518	3,687	1997	02/04	
Pro-Ranch Market El Paso, TX	5,000	3,339	4,348	1	3,339	4,349	7,688	1,003	1981	09/05	
Quakertown Quakertown, PA	8,161	2,400	9,246	1	2,400	9,247	11,647	2,149	2004-2005	09/05	
Rasmussen College <sup>(a)</sup> Brooklyn Park, MN		850	4,049	6	850	4,055	4,905	953	2005	08/05	
Rave Theater Houston, TX	17,889	3,440	22,111	2,881	3,440	24,992	28,432	5,428	2005	12/05	
Raytheon Facility <sup>(a)</sup> State College, PA		650	18,353	2	650	18,355	19,005	4,318	Rehab: 2001	08/05	
Red Bug Village Winter Springs, FL	4,439	1,790	6,178	102	1,790	6,280	8,070	1,454	2004	12/05	
Reisterstown Road Plaza <sup>(a)</sup>		15,800	70,372	9,569	15,800	79,941	95,741	20,787	1986/2004	08/04	
Ridge Tool Building <sup>(a)</sup> Baltimore, MD		415	6,799	1	415	6,800	7,215	1,487	2005	09/05	

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Cambridge, OH										
Rite Aid Store (Eckerd),	2,903	2,000	2,722		2,000	2,722	4,722	615	1999	11/05
Sheridan Dr.										
Amherst, NY										
Rite Aid Store (Eckerd),	3,243	2,500	2,764	2	2,500	2,766	5,266	625	2003	11/05
Transit Road										
Amherst, NY										
Rite Aid Store (Eckerd)		900	1,215		900	1,215	2,115	293	1999-2000	05/05
Atlanta, GA										

F-57

**Table of Contents**

Property Name	Encumbrance	Initial Cost <sup>(A)</sup>				Gross amount carried at end of period			Date Constructed	Date Acquired
		Land	Buildings and Improvements	Adjustments to Basis <sup>(C)</sup>	Land and Improvements	Buildings and Improvements <sup>(D)</sup>	Total <sup>(B)(D)</sup>	Accumulated Depreciation <sup>(E)</sup>		
Rite Aid Store (Eckerd), East Main St. Batavia, NY	2,855	1,860	2,786		1,860	2,786	4,646	630	2004	11/05
Rite Aid Store (Eckerd), West Main St. Batavia, NY	2,547	1,510	2,627		1,510	2,627	4,137	594	2001	11/05
Rite Aid Store (Eckerd), Ferry St. Buffalo, NY	2,198	900	2,677		900	2,677	3,577	605	2000	11/05
Rite Aid Store (Eckerd), Main St. Buffalo, NY	2,174	1,340	2,192		1,340	2,192	3,532	495	1998	11/05
Rite Aid Store (Eckerd), Buffalo, NY	3,091	1,968	2,575	1	1,968	2,576	4,544	582	2004	11/05
Rite Aid Store (Eckerd), Canandaigua, NY	1,739	750	2,042		750	2,042	2,792	486	1999	06/05
Rite Aid Store (Eckerd), Chattanooga, TN	2,117	2,080	1,393		2,080	1,393	3,473	315	1999	11/05
Rite Aid Store (Eckerd), Cheektowaga, NY	3,193	3,000	3,955	22	3,000	3,977	6,977	962	2005	05/05
Rite Aid Store (Eckerd), Colesville, MD	1,719	900	2,377		900	2,377	3,277	678	2003-2004	06/04
Rite Aid Store (Eckerd), Columbia, SC	1,375	600	2,033	1	600	2,034	2,634	565	2003-2004	06/04
Rite Aid Store (Eckerd), Crossville, TN	1,665	900	2,475		900	2,475	3,375	556	1999	11/05
Rite Aid Store (Eckerd), Grand Island, NY	1,926	470	2,657		470	2,657	3,127	601	1998	11/05
Rite Aid Store (Eckerd), Greece, NY	1,650	1,050	2,047	1	1,050	2,048	3,098	569	2003-2004	06/04
Rite Aid Store (Eckerd) <sup>(a)</sup> , Greer, SC		1,550	3,954	6	1,550	3,960	5,510	931	2004	08/05
Hellertown, PA										

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Rite Aid Store (Eckerd)	2,409	2,060	1,873		2,060	1,873	3,933	423	2002	11/05
Hudson, NY										
Rite Aid Store (Eckerd)	2,877	1,940	2,736		1,940	2,736	4,676	619	2002	11/05
Irondequoit, NY										
Rite Aid Store (Eckerd)	1,965	700	2,960	1	700	2,961	3,661	823	2003-2004	06/04
Kill Devil Hills, NC										
Rite Aid Store (Eckerd)	1,786	1,710	1,207		1,710	1,207	2,917	273	1999	11/05
Lancaster, NY										
Rite Aid Store (Eckerd) <sup>(a)</sup>		975	4,369	6	975	4,375	5,350	1,029	2004	08/05
Lebanon, PA										

F-58



**Table of Contents**

Property Name	Encumbrance	Initial Cost <sup>(A)</sup>			Gross amount carried at end of period			Total (B)(D)	Accumulated Depreciation <sup>(E)</sup>	Date Constructed	Date Acquired
		Land	Buildings and Improvements	Adjustments to Basis <sup>(C)</sup>	Land and Improvements	Buildings and Improvements <sup>(D)</sup>	Buildings and Improvements <sup>(D)</sup>				
Rite Aid Store (Eckerd)	2,716	1,650	2,788		1,650	2,788	4,438	630	2002	11/05	
Lockport, NY											
Rite Aid Store (Eckerd)	1,682	820	1,935		820	1,935	2,755	437	2000	11/05	
North Chili, NY											
Rite Aid Store (Eckerd)	2,452	1,190	2,809		1,190	2,809	3,999	635	1999	11/05	
Olean, NY											
Rite Aid Store (Eckerd) <sup>(a)</sup>		1,000	4,328	5	1,000	4,333	5,333	1,019	2004	08/05	
Punxsutawney, PA											
Rite Aid Store (Eckerd), Culver Rd.	2,376	1,590	2,279		1,590	2,279	3,869	515	2001	11/05	
Rochester, NY											
Rite Aid Store (Eckerd), Lake Ave.	3,210	2,220	3,025	2	2,220	3,027	5,247	684	2001	11/05	
Rochester, NY											
Rite Aid Store (Eckerd)	2,370	800	3,075		800	3,075	3,875	695	2000	11/05	
Tonawanda, NY											
Rite Aid Store (Eckerd), Harlem Road	2,770	2,830	1,683		2,830	1,683	4,513	380	2003	11/05	
West Seneca, NY											
Rite Aid Store (Eckerd), Union Rd.	2,395	1,610	2,300		1,610	2,300	3,910	520	2000	11/05	
West Seneca, NY											
Rite Aid Store (Eckerd)	1,372	810	1,434		810	1,434	2,244	324	1997	11/05	
Yorkshire, NY											
Riverpark Phase IIA	6,435	1,800	8,542	(57)	1,800	8,485	10,285	1,661	2006	09/06	
Sugarland, TX											
Rivory Town Crossing	8,018	2,900	6,814	308	2,900	7,122	10,022	1,345	2005	10/06	
Georgetown, TX											
Royal Oaks Village II	8,550	2,200	11,859	(232)	2,200	11,627	13,827	2,637	2004-2005	11/05	
Houston, TX											
Saucon Valley Square	8,842	3,200	12,642	(2,030)	3,200	10,612	13,812	2,901	1999	09/04	
Bethlehem, PA											

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Shaws Supermarket <sup>(a)</sup>		2,700	11,532	(298)	2,700	11,234	13,934	3,396	1995	12/03
New Britain, CT										
Shoppes at Lake Andrew I & II	15,117	4,000	22,996	305	4,000	23,301	27,301	5,942	2003	12/04
Viera, FL										
Shoppes at Park West	5,502	2,240	9,357	(56)	2,240	9,301	11,541	2,469	2004	11/04
Mt. Pleasant, SC										
The Shoppes at Quarterfield	5,019	2,190	8,840	66	2,190	8,906	11,096	2,581	1999	01/04
Severn, MD										
Shoppes at Stroud <sup>(a)</sup>		5,711	27,878	(2,938)	5,111	25,540	30,651	3,163	2007-2008	01/08
Stroudsburg, PA										

F-59

**Table of Contents**

Property Name	Encumbrance	Initial Cost <sup>(A)</sup>			Gross amount carried at end of period			Total (B)(D)	Accumulated Depreciation <sup>(E)</sup>	Date Constructed	Date Acquired
		Land	Buildings and Improvements	Adjustments to Basis <sup>(C)</sup>	Land and Improvements	Buildings and Improvements <sup>(D)</sup>					
Shoppes of New Hope	3,759	1,350	11,045	(302)	1,350	10,743	12,093	2,974	2004	07/04	
Dallas, GA Shoppes of Prominence Point I & II <sup>(b)</sup>		3,650	12,652	(18)	3,650	12,634	16,284	3,401	2004 & 2005	06/04 & 09/05	
Canton, GA Shoppes of Warner Robins	5,328	1,110	11,258	(59)	1,110	11,199	12,309	2,673	2004	06/05	
Warner Robins, GA Shops at 5 <sup>(a)</sup>		8,350	59,570	70	8,350	59,640	67,990	14,387	2005	06/05	
Plymouth, MA The Shops at Boardwalk	7,625	5,000	30,540	(1,910)	5,000	28,630	33,630	7,963	2003-2004	07/04	
Kansas City, MO Shops at Forest Commons	4,710	1,050	6,133	(159)	1,050	5,974	7,024	1,556	2002	12/04	
Round Rock, TX The Shops at Legacy	61,100	8,800	108,940	10,509	8,800	119,449	128,249	19,686	2002	06/07	
Plano, TX Shops at Park Place	8,089	9,096	13,175	513	9,096	13,688	22,784	4,287	2001	10/03	
Plano, TX South Towne Crossing <sup>(a)</sup>		1,600	9,391	1,971	1,600	11,362	12,962	2,205	2005	06/06	
Burleson, TX Southgate Plaza	4,070	2,200	9,229	37	2,161	9,305	11,466	2,317	1998-2002	03/05	
Heath, OH Southlake Town Square I V <sup>(f)</sup>	147,960	41,490	187,353	17,490	41,490	204,843	246,333	43,279	1998-2004 & 2007	12/04, 5/07, 9/08 & 3/09	
Southlake, TX Southwest Crossing <sup>(a)</sup>		4,750	19,679	154	4,750	19,833	24,583	4,779	1999	06/05	
Fort Worth, TX Stanley Works/Mac Tools <sup>(a)</sup>		1,900	7,624		1,900	7,624	9,524	1,845	2004	01/05	
Westerville, OH Stateline Station <sup>(a)</sup>		6,500	23,780	(14,946)	3,829	11,505	15,334	1,482	2003-2004	03/05	

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Kansas City, MO										
Stilesboro Oaks	5,266	2,200	9,426	(45)	2,200	9,381	11,581	2,408	1997	12/04
Acworth, GA										
Stonebridge Plaza		1,000	5,783	60	1,000	5,843	6,843	1,387	1997	08/05
McKinney, TX										
Stony Creek I	8,842	6,735	17,564	355	6,735	17,919	24,654	5,442	2003	12/03
Noblesville, IN										
Stony Creek II <sup>(a)</sup>		1,900	5,106	37	1,900	5,143	7,043	1,157	2005	11/05
Noblesville, IN										
Stop & Shop	7,349	2,650	11,491	6	2,650	11,497	14,147	2,594	Renov: 2005	11/05
Beekman, NY										

F-60

**Table of Contents**

Property Name	Encumbrance	Initial Cost <sup>(A)</sup>			Gross amount carried at end of period			Accumulated Depreciation <sup>(E)</sup>	Date Constructed	Date Acquired
		Land	Buildings and Improvements	Adjustments to Basis <sup>(C)</sup>	Land and Improvements	Buildings and Improvements <sup>(D)</sup>	Total <sup>(B)(D)</sup>			
Target South Center	5,634	2,300	8,760	257	2,300	9,017	11,317	2,031	1999	11/05
Austin, TX										
Tim Horton Donut Shop		212	30		212	30	242	12	2004	11/05
Canandaigua, NY										
Tollgate Marketplace <sup>(a)</sup>		8,700	61,247	1,783	8,700	63,030	71,730	16,635	1979/1994	07/04
Bel Air, MD										
Town Square Plaza <sup>(a)</sup>		9,700	18,264	1,489	9,700	19,753	29,453	4,326	2004	12/05
Pottstown, PA										
Towson Circle	12,471	9,050	17,840	1,606	9,050	19,446	28,496	5,119	1998	07/04
Towson, MD										
Traveler s Office Building <sup>(a)</sup>		650	7,001	822	1,079	7,394	8,473	1,554	2005	01/06
Knoxville, TN										
Trenton Crossing	16,799	8,180	19,262	3,165	8,180	22,427	30,607	5,423	2003	02/05
McAllen, TX										
University Square	26,865	1,770	48,068	(42,239)	986	6,613	7,599	512	2003	05/05
University Heights, OH										
University Town Center	4,617		9,557	151		9,708	9,708	2,516	2002	11/04
Tuscaloosa, AL										
Vail Ranch Plaza	11,138	6,200	16,275	(31)	6,200	16,244	22,444	3,979	2004-2005	04/05
Temecula, CA										
The Village at Quail Springs	5,403	3,335	7,766	121	3,335	7,887	11,222	1,964	2003-2004	02/05
Oklahoma City, OK										
Village Shoppes at Gainesville <sup>(a)</sup>		4,450	36,592	361	4,450	36,953	41,403	8,630	2004	09/05
Gainsville, GA										
Village Shoppes at Simonton	3,470	2,200	10,874	(222)	2,200	10,652	12,852	2,918	2004	08/04
Lawrenceville, GA										
Walgreens	3,094	450	5,074		450	5,074	5,524	1,199	2000	04/05
Northwoods, MO										
Walgreens	2,269	550	3,580		550	3,580	4,130	886	1999	04/05
West Allis, WI										
Walter s Crossing	20,626	14,500	16,914	(4)	14,500	16,910	31,410	3,637	2005	07/06

Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

Tampa, FL

Watauga Pavillion	14,500	5,185	27,504	92	5,185	27,596	32,781	7,755	2003-2004	05/04
-------------------	--------	-------	--------	----	-------	--------	--------	-------	-----------	-------

Watuaga, TX

West Town Market	5,393	1,170	10,488	(35)	1,170	10,453	11,623	2,487	2004	06/05
------------------	-------	-------	--------	------	-------	--------	--------	-------	------	-------

Fort Mill, SC

F-61

**Table of Contents**

Property Name	Encumbrance	Initial Cost <sup>(A)</sup>			Gross amount carried at end of period			Accumulated Depreciation <sup>(E)</sup>	Date Constructed	Date Acquired
		Land	Buildings and Improvements	Adjustments to Basis <sup>(C)</sup>	Land and Improvements	Buildings and Improvements <sup>(D)</sup>	Total (B)(D)			
Wilton Square	28,560	8,200	35,538	23	8,200	35,561	43,761	8,364	2000	07/05
Saratoga Springs, NY										
Winchester Commons	5,894	4,400	7,471	(9)	4,400	7,462	11,862	1,966	1999	11/04
Memphis, TN										
Winco <sup>(c)</sup>	5,000	4,714	2,968	1	4,714	2,969	7,683	685	1982	09/05
Venture, CA										
Zurich Towers	67,197	7,900	137,096	13	7,900	137,109	145,009	33,459	1986-1990	11/04
Schaumburg, IL										
	2,700,178	1,339,983	4,916,705	108,542	1,320,270	5,044,960	6,365,230	1,180,509		
<b>Development Properties</b>										
BelleVue Mall		3,056			3,056		3,056			
Nashville, TN										
Green Valley <sup>(d)</sup>		11,603	12,619	(893)	11,037	12,292	23,329	258		
Henderson, NV										
South Billings <sup>(e)</sup>										
Billings, MT										
<b>Subtotal Development Properties</b>		14,659	12,619	(893)	14,093	12,292	26,385	258		
<b>Developments in Progress</b>	79,599	20,587	29,353		20,587	29,353	49,940			
<b>Total Investment Properties</b>	\$ 2,779,777	\$ 1,375,229	\$ 4,958,677	\$ 107,649	1,354,950	\$ 5,086,605	\$ 6,441,555	\$ 1,180,767		

- (a) This property is secured as collateral under the Company's line of credit agreement.
- (b) A portion of this property is secured as collateral under the Company's line of credit agreement.
- (c) This property was a former Mervyn's. The property name was changed when a new tenant took occupancy in 2011.
- (d) This property is encumbered by a construction loan included in Developments Progress.
- (e) This property is included in Developments in Progress.

**Table of Contents****RETAIL PROPERTIES OF AMERICA, INC.****Notes:**

- (A) The initial cost to the Company represents the original purchase price of the property, including amounts incurred subsequent to acquisition which were contemplated at the time the property was acquired.
- (B) The aggregate cost of real estate owned at December 31, 2011 for U.S. Federal income tax purposes was approximately \$6,420,750 (unaudited).
- (C) Adjustments to basis include payments received under master lease agreements as well as additional tangible costs associated with the investment properties, including any earnout of tenant space.
- (D) Reconciliation of real estate owned:

	2011	2010	2009
Balance at January 1	\$ 6,721,242	\$ 6,969,951	\$ 7,365,167
Purchase of investment property	25,194	58	25,195
Sale of investment property	(269,214)	(255,764)	(313,062)
Property held for sale			(41,689)
Provision for asset impairment	(54,848)	(32,318)	(101,543)
Payments received under master leases	(259)	(789)	(1,231)
Acquired in-place lease intangibles	23,154	45,551	40,868
Acquired above market lease intangibles	2,572	3,171	4,689
Acquired below market lease intangibles	(6,286)	(8,618)	(8,443)
Balance at December 31	\$ 6,441,555	\$ 6,721,242	\$ 6,969,951

- (E) Reconciliation of accumulated depreciation:

	2011	2010	2009
Balance at January 1	\$ 1,034,769	\$ 866,169	\$ 733,661
Depreciation expense	202,970	212,832	218,029
Sale of investment property	(35,604)	(22,653)	(35,006)
Property held for sale			(112)
Provision for asset impairment	(13,856)	(8,071)	(38,553)
Write offs due to early lease termination	(7,512)	(11,568)	(11,850)
Other disposals		(1,940)	
Balance at December 31	\$ 1,180,767	\$ 1,034,769	\$ 866,169



**Table of Contents**

[PICTURE, TEXT AND/OR GRAPHICS FOR INSIDE COVER]

Table of Contents

**Shares**

**RETAIL PROPERTIES OF AMERICA, INC.**

**Class A Common Stock**

**PROSPECTUS**

**J.P. Morgan    Citigroup    Deutsche Bank Securities    KeyBanc Capital Markets**  
**, 2012**

**Table of Contents****PART II****INFORMATION NOT REQUIRED IN PROSPECTUS****ITEM 31. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION.**

The following table itemizes the expenses incurred by us in connection with the issuance and distribution of the securities being registered hereunder. All amounts shown are estimates except for the SEC registration fee, the Financial Industry Regulatory Authority, Inc., or FINRA, filing fee and the NYSE listing fee.

SEC Registration Fee	\$ 40,635
NYSE Listing Fee	*
FINRA Fee	\$ 35,500
Printing Expenses	*
Legal Fees and Expenses	*
Accounting Fees and Expenses	*
Transfer Agent and Registrar Fees	*
Director and Officer Liability Insurance Premium	*
Other Fees and Expenses	*
Total	\$ *

\* To be completed by amendment.

**ITEM 32. SALES TO SPECIAL PARTIES.**

None.

**ITEM 33. RECENT SALES OF UNREGISTERED SECURITIES.**

None.

**ITEM 34. INDEMNIFICATION OF DIRECTORS AND OFFICERS.**

Our charter contains a provision permitted under the Maryland General Corporation Law that eliminates each director's and officer's personal liability to us or our shareholders for monetary damages except for liability resulting from (a) actual receipt of an improper benefit or profit in money, property or services or (b) active and deliberate dishonesty established by a final judgment and which is material to the cause of action. In addition, to the maximum extent permitted under the Maryland General Corporation Law, our charter authorizes us to obligate us and our bylaws require us, to indemnify our directors and pay or reimburse reasonable expenses in advance of final disposition of a proceeding if such director is made or threatened to be made a party to the proceeding by reason of his or her service in that capacity. These rights are contract rights fully enforceable by each beneficiary of those rights, and are in addition to, and not exclusive of, any other right to indemnification. Furthermore, our officers and directors are indemnified against specified liabilities by the underwriter, and the underwriter is indemnified against certain liabilities by us, under the underwriting agreement relating to this offering. See Underwriting.

We have entered into indemnification agreements with each of our executive officers and directors whereby we indemnify such executive officers and directors and pay or reimburse reasonable expenses in advance of final disposition of a proceeding if such director or executive officer is made or threatened to be made a party to the proceeding by reason of his or her service in that capacity to the fullest extent permitted by Maryland law against all expenses and liabilities, subject to limited exceptions. These indemnification agreements also provide that upon an application for indemnity by an executive officer or director to a court of appropriate jurisdiction, such court may order us to indemnify such

executive officer or director.

II-1

**Table of Contents****ITEM 35. TREATMENT OF PROCEEDS FROM STOCK BEING REGISTERED.**

None of the net proceeds will be credited to an account other than the appropriate capital share account.

**ITEM 36. FINANCIAL STATEMENTS AND EXHIBITS.**

(a) *Financial Statements.* See page F-1 for an index of the financial statements that are being filed as part of this registration statement.

(b) *Exhibits.* The following exhibits are filed as part of, or incorporated by reference into, this registration statement on Form S-11:

Exhibit Number	Exhibit Description
1.1*	Form of Underwriting Agreement
3.1	Fifth Articles of Amendment and Restatement of Registrant (Incorporated herein by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed on October 15, 2010).
3.2	Articles of Amendment of Registrant (Incorporated herein by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed on March 9, 2012).
3.3*	Sixth Articles of Amendment and Restatement of the Registrant
3.4*	Amendment to Sixth Articles of Amendment and Restatement of the Registrant
3.5	Fourth Amended and Restated Bylaws of the Registrant (Incorporated herein by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K filed on March 9, 2012).
3.6*	Fifth Amended and Restated Bylaws of the Registrant
4.1*	Specimen Certificate for the Shares
5.1*	Opinion of Goodwin Procter LLP regarding the validity of the securities being registered
8.1*	Opinion of Goodwin Procter LLP regarding certain tax matters
10.1	Second Amended and Restated Independent Director Stock Option Plan of the Registrant (Incorporated herein by reference to Exhibit 10.5 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2009 filed on February 26, 2010).
10.2	2008 Long-Term Equity Compensation Plan established May 13, 2008 of the Registrant (Incorporated herein by reference to Exhibit 10.575 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2008 filed on March 31, 2009).
10.3	Indemnification Agreements by and between the Registrant and its directors and named executive officers (Incorporated herein by reference to Exhibits 10.6 A-F, and H-I to the Registrant's Annual Report / Amended on Form 10-K/A for the year ended December 31, 2006 filed on April 27, 2007, Exhibits 10.561 10.563, 10.567, 10.569 10.571 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2007 filed on March 31, 2008 and Exhibit 10.4 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2011 filed on February 22, 2012).
10.4**	Second Amended and Restated Credit Agreement dated as of February 24, 2012 among the Registrant as Borrower and KeyBank National Association as Administrative Agent, KeyBanc Capital Markets Inc. as Co-Lead Arranger and Joint Book Manager, and JPMorgan Chase Bank, N.A. as Syndication Agent and JPMorgan Securities LLC as Co-Lead Arranger and Joint Book Manager and Citibank, N.A. as Co-Documentation Agent and Deutsche Bank Securities Inc. as Co-Documentation Agent and Certain Lenders from time to time parties hereto, as Lenders

**Table of Contents**

<b>Exhibit Number</b>	<b>Exhibit Description</b>
10.5	Loan Agreement dated as of December 1, 2009 by and among Colesville One, LLC, JPMorgan Chase Bank, N.A. and certain subsidiaries of the Registrant (Incorporated herein by reference to Exhibit 10.587 to the Registrant's Annual Report on Form 10-K/A for the year ended December 31, 2009 filed on March 5, 2010).
10.6	Senior Mezzanine Loan Agreement dated as of December 1, 2009 by and among IW Mezz 2009, LLC and JPMorgan Chase Bank, N.A. (Incorporated herein by reference to Exhibit 10.588 to the Registrant's Annual Report on Form 10-K/A for the year ended December 31, 2009 filed on March 5, 2010).
10.7	Junior Mezzanine Loan Agreement dated as of December 1, 2009 by and among IW Mezz 2 2009, LLC and JPMorgan Chase Bank, N.A. (Incorporated herein by reference to Exhibit 10.589 to the Registrant's Annual Report on Form 10-K/A for the year ended December 31, 2009 filed on March 5, 2010).
10.8	Operating Agreement of IW JV 2009, LLC dated as of December 1, 2009 by and between the Registrant and Inland Equity Investors, LLC (Incorporated herein by reference to Exhibit 10.590 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2009 filed on February 26, 2010).
10.9	First Amendment to the Operating Agreement of IW JV 2009, LLC dated as of December 1, 2009, by and between the Registrant and Inland Equity Investors, LLC (Incorporated herein by reference to Exhibit 99.1 to the Registrant's Quarterly Report on Form 10-Q for the quarter ended March 31, 2010 and filed on May 12, 2010).
10.10	Closing Agreement dated as of June 17, 2011 by and between the Registrant, Inland Real Estate Investment Corporation and the Commissioner of the Internal Revenue Service.
21.1	List of Subsidiaries of Registrant (Incorporated by reference to Exhibit 21.1 to the Annual Report on Form 10-K for the year ended December 31, 2011 filed on February 22, 2012).
23.1**	Consent of Deloitte & Touche LLP
23.2*	Consent of Goodwin Procter LLP (included in Exhibit 5.1)
23.3*	Consent of Goodwin Procter LLP (included in Exhibit 8.1)
23.4**	Consent of Rosen Consulting Group
24.1	Power of Attorney (included on the signature page to the Registration Statement filed with the Securities and Exchange Commission on February 14, 2011)
101*	The following materials from this Registration Statement formatted in XBRL (eXtensible Business Reporting Language): (i) Condensed Consolidated Balance Sheets, (ii) Condensed Consolidated Statements of Operations, (iii) Condensed Consolidated Statements of Equity, (iv) Condensed Consolidated Statements of Cash Flows, (v) Notes to Condensed Consolidated Financial Statements and (vi) Financial Statement Schedules. As provided in Rule 406T of Regulation S-T, this information is furnished and not filed for purposes of Section 11 and 12 of the Securities Act of 1933 and Section 18 of the Securities Exchange Act of 1934.

\* To be filed by amendment.

\*\* Filed herewith.  
Previously filed.

**Table of Contents**

**ITEM 37. UNDERTAKINGS.**

(a) Insofar as indemnification for liabilities arising under the Securities Act of 1933, as amended, or the Act, may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

(b) The undersigned registrant hereby undertakes that:

(i) For purposes of determining any liability under the Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(ii) For the purpose of determining any liability under the Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

**Table of Contents****SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that the registrant meets all of the requirements for filing on Form S-11 and has duly caused this Amendment No. 5 to the registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Oak Brook, State of Illinois, on this 9th day of March, 2012.

**RETAIL PROPERTIES OF AMERICA, INC.**

By: */s/* STEVEN P. GRIMES  
**Steven P. Grimes**

**President and Chief Executive Officer**

Pursuant to the requirements of the Securities Act of 1933, as amended, this Amendment No. 5 to the registration statement has been signed by the following persons in the capacities and on the dates indicated.

<b>Signature</b>	<b>Title</b>	<b>Date</b>
<i>/s/</i> STEVEN P. GRIMES  <b>Steven P. Grimes</b>	Director, President and Chief Executive Officer	March 9, 2012
<i>/s/</i> ANGELA M. AMAN  <b>Angela M. Aman</b>	Executive Vice President, Chief Financial Officer and Treasurer	March 9, 2012
<i>/s/</i> JAMES W. KLEIFGES  <b>James W. Kleifges</b>	Executive Vice President and Chief Accounting Officer	March 9, 2012
*  <b>Gerald M. Gorski</b>	Director and Chairman of the Board	March 9, 2012
*  <b>Kenneth H. Beard</b>	Director	March 9, 2012
*  <b>Frank A. Catalano, Jr.</b>	Director	March 9, 2012
*  <b>Paul R. Gauvreau</b>	Director	March 9, 2012
*  <b>Brenda G. Gujral</b>	Director	March 9, 2012



Edgar Filing: RETAIL PROPERTIES OF AMERICA, INC. - Form S-11/A

**Richard P. Imperiale**

\*

Director

March 9, 2012

**Kenneth E. Masick**

\*

Director

March 9, 2012

**Barbara A. Murphy**

By: /s/ STEVEN P. GRIMES  
Steven P. Grimes  
Attorney-in-fact

II-5

**Table of Contents****EXHIBIT INDEX**

<b>Exhibit Number</b>	<b>Exhibit Description</b>
1.1*	Form of Underwriting Agreement
3.1	Fifth Articles of Amendment and Restatement of Registrant (Incorporated herein by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed on October 15, 2010).
3.2	Articles of Amendment of Registrant (Incorporated herein by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed on March 9, 2012).
3.3*	Sixth Articles of Amendment and Restatement of the Registrant
3.4*	Amendment to Sixth Articles of Amendment and Restatement of the Registrant
3.5	Fourth Amended and Restated Bylaws of the Registrant (Incorporated herein by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K filed on March 9, 2012).
3.6*	Fifth Amended and Restated Bylaws of the Registrant
4.1*	Specimen Certificate for the Shares
5.1*	Opinion of Goodwin Procter LLP regarding the validity of the securities being registered
8.1*	Opinion of Goodwin Procter LLP regarding certain tax matters
10.1	Second Amended and Restated Independent Director Stock Option Plan of the Registrant (Incorporated herein by reference to Exhibit 10.5 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2009 filed on February 26, 2010).
10.2	2008 Long-Term Equity Compensation Plan Established May 13, 2008 of the Registrant (Incorporated herein by reference to Exhibit 10.575 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2008 filed on March 31, 2009).
10.3	Indemnification Agreements by and between the Registrant and its directors and named executive officers (Incorporated herein by reference to Exhibits 10.6 A-F, and H-I to the Registrant's Annual Report / Amended on Form 10-K/A for the year ended December 31, 2006 filed on April 27, 2007, Exhibits 10.561 10.563, 10.567, 10.569 10.571 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2007 filed on March 31, 2008 and Exhibit 10.4 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2011 filed on February 22, 2012).
10.4**	Second Amended and Restated Credit Agreement dated as of February 24, 2012 among the Registrant as Borrower and KeyBank National Association as Administrative Agent, KeyBanc Capital Markets Inc. as Co-Lead Arranger and Joint Book Manager, and JPMorgan Chase Bank, N.A. as Syndication Agent and JPMorgan Securities LLC as Co-Lead Arranger and Joint Book Manager and Citibank, N.A. as Co-Documentation Agent and Deutsche Bank Securities Inc. as Co-Documentation Agent and Certain Lenders from time to time parties hereto, as Lenders
10.5	Loan Agreement dated as of December 1, 2009 by and among Colesville One, LLC, JPMorgan Chase Bank, N.A. and certain subsidiaries of the Registrant (Incorporated herein by reference to Exhibit 10.587 to the Registrant's Annual Report on Form 10-K/A for the year ended December 31, 2009 filed on March 5, 2010).
10.6	Senior Mezzanine Loan Agreement dated as of December 1, 2009 by and among IW Mezz 2009, LLC and JPMorgan Chase Bank, N.A. (Incorporated herein by reference to Exhibit 10.588 to the Registrant's Annual Report on Form 10-K/A for the year ended December 31, 2009 filed on March 5, 2010).

**Table of Contents**

<b>Exhibit Number</b>	<b>Exhibit Description</b>
10.7	Junior Mezzanine Loan Agreement dated as of December 1, 2009 by and among IW Mezz 2 2009, LLC and JPMorgan Chase Bank, N.A. (Incorporated herein by reference to Exhibit 10.589 to the Registrant's Annual Report on Form 10-K/A for the year ended December 31, 2009 filed on March 5, 2010).
10.8	Operating Agreement of IW JV 2009, LLC dated as of December 1, 2009 by and between the Registrant and Inland Equity Investors, LLC (Incorporated herein by reference to Exhibit 10.590 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2009 filed on February 26, 2010).
10.9	First Amendment to the Operating Agreement of IW JV 2009, LLC dated as of December 1, 2009, by and between the Registrant and Inland Equity Investors, LLC (Incorporated herein by reference to Exhibit 99.1 to the Registrant's Quarterly Report on Form 10-Q for the quarter ended March 31, 2010 filed on May 12, 2010).
10.10	Closing Agreement dated as of June 17, 2011 by and between the Registrant, Inland Real Estate Investment Corporation and the Commissioner of the Internal Revenue Service.
21.1	List of Subsidiaries of Registrant (Incorporated by reference to Exhibit 21.1 to the Annual Report on Form 10-K for the year ended December 31, 2011 filed on February 22, 2012).
23.1**	Consent of Deloitte & Touche LLP
23.2*	Consent of Goodwin Procter LLP (included in Exhibit 5.1)
23.3*	Consent of Goodwin Procter LLP (included in Exhibit 8.1)
23.4**	Consent of Rosen Consulting Group
24.1	Power of Attorney (included on the signature page to the Registration Statement filed with the Securities and Exchange Commission on February 14, 2011)
101*	The following materials from this Registration Statement formatted in XBRL (eXtensible Business Reporting Language): (i) Condensed Consolidated Balance Sheets, (ii) Condensed Consolidated Statements of Operations, (iii) Condensed Consolidated Statements of Equity, (iv) Condensed Consolidated Statements of Cash Flows, (v) Notes to Condensed Consolidated Financial Statements and (vi) Financial Statement Schedules. As provided in Rule 406T of Regulation S-T, this information is furnished and not filed for purposes of Section 11 and 12 of the Securities Act of 1933 and Section 18 of the Securities Exchange Act of 1934.

\* To be filed by amendment.

\*\* Filed herewith.  
Previously filed.