UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

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

For the quarterly period ended March 31, 2005

Commission file number 1-12672

AVALONBAY COMMUNITIES, INC.

(Exact name of registrant as specified in its charter)

Maryland	77-0404318
(State or other jurisdiction of incorporation or organization)	*(I.R.S. Employer Identification No.)*

2900 Eisenhower Avenue, Suite 300
Alexandria, Virginia 22314
(Address of principal executive offices, including zip code)

(703) 329-6300
(Registrant's telephone number, including area code)

(Former name, if changed since last report)

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

Yesx Noo

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Act).

Yesx Noo

APPLICABLE ONLY TO CORPORATE ISSUERS

Indicate the number of shares outstanding of each of the issuer's classes of common stock as of the latest practicable date:

72,916,693 shares of common stock, par value $0.01 per share, were outstanding as of April 29, 2005

AVALONBAY COMMUNITIES, INC.
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AVALONBAY COMMUNITIES, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(Dollars in thousands, except per share data)

	3-31-05 (unaudited)	12-31-04
ASSETS		
Real estate:		
Land	$ 876,211	$ 890,639
Buildings and improvements	4,354,297	4,283,771
Furniture, fixtures and equipment	134,377	132,726
	5,364,885	5,307,136
Less accumulated depreciation	(861,581)	(810,028)
Net operating real estate	4,503,304	4,497,108
Construction in progress, including land	179,727	173,291
Land held for development	187,875	166,751
Operating real estate assets held for sale, net	—	40,675
Total real estate, net	4,870,906	4,877,825
Cash and cash equivalents	3,497	1,552
Cash in escrow	13,615	13,075
Resident security deposits	25,929	23,478
Investments in unconsolidated real estate entities	42,318	41,379
Deferred financing costs, net	20,097	21,859
Deferred development costs	35,863	37,007
Prepaid expenses and other assets	53,044	52,106
Total assets	$ 5,065,269	$ 5,068,281
LIABILITIES AND STOCKHOLDERS' EQUITY		
Unsecured notes	$ 1,809,133	$ 1,859,448
Variable rate unsecured credit facility	136,000	102,000
Mortgage notes payable	462,263	480,843
Dividends payable	53,923	52,982
Payables for construction	21,399	23,005
Accrued expenses and other liabilities	85,353	70,481
Accrued interest payable	27,707	37,254
Resident security deposits	36,159	34,708
Liabilities related to real estate assets held for sale	—	744
Total liabilities	2,631,937	2,661,465
Minority interest of unitholders in consolidated partnerships	20,668	21,525
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, $0.01 par value; $25 liquidation preference; 50,000,000 shares authorized at both March 31, 2005 and December 31, 2004; 4,000,000 shares issued and outstanding at both March 31, 2005 and December 31, 2004	40	40
Common stock, $0.01 par value; 140,000,000 shares authorized at both March 31, 2005 and December 31, 2004; 72,884,022 and 72,582,076 shares issued and outstanding at March 31, 2005 and December 31, 2004, respectively	729	726
Additional paid-in capital	2,410,152	2,389,511
Deferred compensation	(18,549)	(8,659)
Dividends less than accumulated earnings	26,088	10,769
Accumulated other comprehensive loss	(5,796)	(7,096)
Total stockholders' equity	2,412,664	2,385,291
Total liabilities and stockholders' equity	$ 5,065,269	$ 5,068,281

See accompanying notes to Condensed Consolidated Financial Statements.

AVALONBAY COMMUNITIES, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
AND OTHER COMPREHENSIVE INCOME
(Unaudited)
(Dollars in thousands, except per share data)

	For the three months ended	
	3-31-05	3-31-04
Revenue:		
Rental and other income	$ 168,277	$ 153,280
Management, development and other fees	434	148
Total revenue	168,711	153,428
Expenses:		
Operating expenses, excluding property taxes	46,491	44,541
Property taxes	16,792	15,327
Interest expense	32,153	32,195
Depreciation expense	41,106	38,567
General and administrative expense	7,159	4,713
Total expenses	143,701	135,343
Equity in income of unconsolidated entities	6,583	187
Interest income	31	20
Venture partner interest in profit-sharing	—	(325)
Minority interest in consolidated partnerships	(513)	157
Income from continuing operations before cumulative effect of change in accounting principle	31,111	18,124
Discontinued operations:		
Income from discontinued operations	886	2,606
Gain on sale of real estate assets	37,613	—
Total discontinued operations	38,499	2,606
Income before cumulative effect of change in accounting principle	69,610	20,730
Cumulative effect of change in accounting principle	—	4,547
Net income	69,610	25,277
Dividends attributable to preferred stock	(2,175)	(2,175)
Net income available to common stockholders	$ 67,435	$ 23,102
Other comprehensive income (loss):		
Unrealized gain (loss) on cash flow hedges	1,300	(372)
Comprehensive income	$ 68,735	$ 22,730
Dividends declared per common share	$ 0.71	$ 0.70
Earnings per common share - basic:		
Income from continuing operations (net of dividends attributable to preferred stock)	$ 0.40	$ 0.29
Discontinued operations	0.53	0.04
Net income available to common stockholders	$ 0.93	$ 0.33
Earnings per common share - diluted:		
Income from continuing operations (net of dividends attributable to preferred stock)	$ 0.40	$ 0.28
Discontinued operations	0.52	0.04
Net income available to common stockholders	$ 0.92	$ 0.32

See accompanying notes to Condensed Consolidated Financial Statements.

AVALONBAY COMMUNITIES, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(Dollars in thousands)

	For the three months ended	
	3-31-05	3-31-04
Cash flows from operating activities:		
Net income	$ 69,610	$ 25,277
Adjustments to reconcile net income to cash provided by operating activities:		
Depreciation expense	41,106	38,567
Depreciation expense from discontinued operations	—	1,129
Amortization of deferred financing costs and debt premium/discount	890	1,132
Amortization of deferred compensation	2,583	1,062
Income (loss) allocated to minority interest in consolidated partnerships including discontinued operations	513	(145)
Income allocated to venture partner interest in profit-sharing	—	325
Gain on sale of real estate assets	(37,613)	—
Gain on sale of technology investment	(6,252)	—
Cumulative effect of change in accounting principle	—	(4,547)
Increase in cash in operating escrows	(1,178)	(1,470)
Decrease (increase) in resident security deposits, prepaid expenses and other assets	(1,938)	1,015
Increase (decrease) in accrued expenses, other liabilities and accrued interest payable	106	(11,628)
Net cash provided by operating activities	67,827	50,717
Cash flows from investing activities:		
Development/redevelopment of real estate assets including land acquisitions and deferred development costs	(79,231)	(51,895)
Acquisition of real estate assets, including partner equity interest	(57,415)	—
Capital expenditures - existing real estate assets	(1,054)	(2,079)
Capital expenditures - non-real estate assets	(65)	(79)
Proceeds from sale of communities and technology investment, including reimbursement for fund communities, net of selling costs	172,626	—
Decrease in payables for construction	(1,606)	(1,266)
Decrease in cash in construction escrows	638	—
Decrease (increase) in investments in unconsolidated real estate entities	(6,568)	312
Net cash provided by (used in) investing activities	27,325	(55,007)
Cash flows from financing activities:		
Issuance of common stock	6,333	12,955
Dividends paid	(52,954)	(51,831)
Net borrowings under unsecured credit facility	34,000	195,000
Collateral posting for letters of credit	—	(17,577)
Issuance of mortgage notes payable and draws on construction loans	7,984	—
Repayments of mortgage notes payable	(37,836)	(12,477)
Repayment of unsecured notes, net of issuances	(50,000)	(125,000)
Payment of deferred financing costs	(340)	(2,313)
Redemption of units for cash by minority partners	(50)	—
Distributions to DownREIT partnership unitholders	(309)	(369)
Distributions to joint venture and profit-sharing partners	(35)	(917)
Net cash used in financing activities	(93,207)	(2,529)
Net increase (decrease) in cash and cash equivalents	1,945	(6,819)
Cash and cash equivalents, beginning of period	1,552	7,165
Cash and cash equivalents, end of period	$ 3,497	$ 346
Cash paid during period for interest, net of amount capitalized	$ 39,697	$ 42,960

See accompanying notes to Condensed Consolidated Financial Statements.

Supplemental disclosures of non-cash investing and financing activities (dollars in thousands):

During the three months ended March 31, 2005:

- As described in Note 4, “Stockholders’ Equity,” 156,161 shares of common stock were issued in connection with stock grants, 401 shares were issued through the Company’s dividend reinvestment plan, 31,476 shares were withheld to satisfy employees’ tax withholding and other liabilities and 3,925 shares were forfeited, for a net value of $8,487. In addition, the Company granted 705,221 options for common stock at a value of $4,462.

- 23,073 units of limited partnership, valued at $994, were presented for redemption to the DownREIT partnerships that issued such units and were acquired by the Company in exchange for an equal number of shares of the Company’s common stock.

- The Company deconsolidated mortgage notes payable in the aggregate amount of $24,869 upon admittance of outside investors into a previously consolidated discretionary investment fund. See Note 6, “Investments in Unconsolidated Entities.”

- The Company recorded a decrease to other liabilities and a corresponding gain to other comprehensive income of $1,300 to adjust the Company’s Hedged Derivatives (as defined in Note 5, “Derivative Instruments and Hedging Activities”) to their fair value.

- Common and preferred dividends declared but not paid totaled $53,923.

During the three months ended March 31, 2004:

- 140,563 shares of common stock were issued in connection with stock grants, 33,340 shares were issued in connection with non-cash stock option exercises, 48,657 shares were withheld to satisfy employees’ tax withholding and other liabilities and 72 shares were forfeited, for a net value of $5,828. In addition, the Company granted 540,509 options for common stock at a value of $2,042.

- 48,629 units of limited partnership, valued at $1,835, were presented for redemption to the DownREIT partnerships that issued such units and were acquired by the Company in exchange for an equal number of shares of the Company’s common stock.

- The Company recorded an increase to other liabilities and a corresponding loss to other comprehensive income of $372 to adjust the Company’s Hedged Derivatives to their fair value.

- Common and preferred dividends declared but not paid totaled $52,202.

AVALONBAY COMMUNITIES, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)
(Dollars in thousands, except per share data)

1. Organization and Significant Accounting Policies

Organization

AvalonBay Communities, Inc. (the "Company," which term, unless the context otherwise requires, refers to AvalonBay Communities, Inc. together with its subsidiaries) is a Maryland corporation that has elected to be taxed as a real estate investment trust ("REIT") under the Internal Revenue Code of 1986, as amended. The Company focuses on the ownership and operation of apartment communities in high barrier-to-entry markets of the United States. These markets are located in the Northeast, Mid-Atlantic, Midwest, Pacific Northwest, and Northern and Southern California regions of the country.

At March 31, 2005, the Company owned or held a direct or indirect ownership interest in 137 operating apartment communities containing 40,133 apartment homes in ten states and the District of Columbia, of which four communities containing 1,430 apartment homes were under reconstruction. In addition, the Company owned or held a direct or indirect ownership interest in 11 communities under construction that are expected to contain an aggregate of 2,717 apartment homes when completed. The Company also owned or held a direct or indirect ownership interest in rights to develop an additional 49 communities that, if developed in the manner expected, will contain an estimated 13,104 apartment homes.

During the three months ended March 31, 2005:

- The Company admitted outside investors into AvalonBay Value Added Fund, L.P., (the "Fund"). See Note 6, "Investments in Unconsolidated Entities."
- The Company acquired its joint venture partner's interest in the limited liability company that owns Avalon on the Sound. See Note 6, "Investments in Unconsolidated Entities."
- The Company sold two communities, Avalon at Penasquitos Hills, located in San Diego, California, and Avalon Sunnyvale, located in the greater San Jose, California area. These two communities, which contained a total of 396 apartment homes, were sold for an aggregate sales price of $79,250. The sale of these communities resulted in a gain calculated in accordance with generally accepted accounting principles ("GAAP") of $37,613.
- The Company completed the development of one community, Avalon at Crane Brook, located in the greater Boston, Massachusetts area. Avalon at Crane Brook is a garden-style community containing 387 apartment homes and was completed for a total capitalized cost of $55,900.
- The Company commenced construction of two communities. Avalon Wilshire, located in Los Angeles, California, is expected to contain 123 apartment homes when completed, for a total capitalized cost of $42,000. Avalon at Mission Bay North II, located in San Francisco, California, is expected to contain 313 apartment homes when completed, for a total capitalized cost of $118,000. Avalon at Mission Bay North II is being developed through a joint venture in which the Company owns a 25% equity interest.
- The Company acquired four parcels of land to hold for future development, for an aggregate purchase price of $15,664. These parcels of land, if developed as expected, will contain 557 apartment homes for a total capitalized cost of $98,000.

The interim unaudited financial statements have been prepared in accordance with GAAP for interim financial information and in conjunction with the rules and regulations of the Securities and Exchange Commission ("SEC"). Certain information and footnote disclosures normally included in financial statements required by GAAP have been condensed or omitted pursuant to such rules and regulations. These unaudited financial statements should be read in conjunction with the financial statements and notes included in the Company's Annual Report on Form 10-K for the year ended December 31, 2004. The results of operations for the three months ended March 31, 2005 are not necessarily indicative of the operating results for the full year. Management believes the disclosures are adequate to ensure the information presented is not misleading. In the opinion of management, all adjustments and eliminations,

consisting only of normal, recurring adjustments necessary for a fair presentation of the financial statements for the interim periods, have been included.

Principles of Consolidation

The Company assesses consolidation of variable interest entities under the guidance of FASB Interpretation No. 46 (“FIN 46”), “Consolidation of Variable Interest Entities, an Interpretation of ARB No. 51,” as revised in December 2003. The Company accounts for joint venture partnerships and subsidiary partnerships structured as DownREITs that are not variable interest entities in accordance with Statement of Position (“SOP”) 78-9, “Accounting for Investments in Real Estate Ventures.” Under SOP 78-9, the Company consolidates joint venture and DownREIT partnerships when the Company controls the major operating and financial policies of the partnership through majority ownership or in its capacity as general partner. The accompanying Condensed Consolidated Financial Statements include the accounts of the Company and its wholly-owned partnerships, certain joint venture partnerships, subsidiary partnerships structured as DownREITs and any variable interest entities consolidated under FIN 46. All significant intercompany balances and transactions have been eliminated in consolidation.

In each of the partnerships structured as DownREITs, either the Company or one of the Company’s wholly-owned subsidiaries is the general partner, and there are one or more limited partners whose interest in the partnership is represented by units of limited partnership interest. For each DownREIT partnership, limited partners are entitled to receive an initial distribution before any distribution is made to the general partner. Although the partnership agreements for each of the DownREITs are different, generally the distributions per unit paid to the holders of units of limited partnership interests have approximated the Company’s current common stock dividend per share. Each DownREIT partnership has been structured so that it is unlikely the limited partners will be entitled to a distribution greater than the initial distribution provided for in the partnership agreement. The holders of units of limited partnership interest have the right to present all or some of their units for redemption for a cash amount as determined by the applicable partnership agreement and based on the fair value of the Company’s common stock. In lieu of a cash redemption, the Company may elect to acquire such units for an equal number of shares of the Company’s common stock.

The Company accounts for investments in unconsolidated entities that are not variable interest entities in accordance with SOP 78-9 and Accounting Principles Board (“APB”) Opinion No. 18, “The Equity Method of Accounting for Investments in Common Stock.” The Company uses the equity method to account for investments in which it owns greater than 20% of the equity value or has significant and disproportionate influence over that entity. Investments in which the Company owns 20% or less of the equity value and does not have significant and disproportionate influence are accounted for using the cost method. If there is an event or change in circumstance that indicates a loss in the value of an investment, the Company’s policy is to record the loss and reduce the value of the investment to its fair value. A loss in value would be indicated if the Company could not recover the carrying value of the investment or if the investee could not sustain an earnings capacity that would justify the carrying amount of the investment.

Revenue Recognition

Rental income related to leases is recognized on an accrual basis when due from residents in accordance with SEC Staff Accounting Bulletin No. 104, “Revenue Recognition” and Statement of Financial Accounting Standards (“SFAS”) No. 13, “Accounting for Leases.” In accordance with the Company’s standard lease terms, rental payments are generally due on a monthly basis. Any cash concessions given at the inception of the lease are amortized over the approximate life of the lease, which is generally one year.

Real Estate

Significant expenditures which improve or extend the life of an asset are capitalized. The operating real estate assets are stated at cost and consist of land, buildings and improvements, furniture, fixtures and equipment, and other costs incurred during their development, redevelopment and acquisition. Expenditures for maintenance and repairs are charged to operations as incurred.

The Company's policy with respect to capital expenditures is generally to capitalize only non-recurring expenditures. Improvements and upgrades are capitalized only if the item exceeds $15, extends the useful life of the asset and is not related to making an apartment home ready for the next resident. Purchases of personal property, such as computers and furniture, are capitalized only if the item is a new addition and exceeds $2.5. The Company generally expenses purchases of personal property made for replacement purposes.

The capitalization of costs during the development of assets (including interest and related loan fees, property taxes and other direct and indirect costs) begins when active development commences and ends when the asset, or a portion of an asset, is delivered and is ready for its intended use, which is generally indicated by the issuance of a certificate of occupancy. Cost capitalization during redevelopment of apartment homes (including interest and related loan fees, property taxes and other direct and indirect costs) begins when an apartment home is taken out-of-service for redevelopment and ends when the apartment home redevelopment is completed and the apartment home is available for a new resident. Rental income and operating costs incurred during the initial lease-up or post-redevelopment lease-up period are fully recognized as they accrue.

In accordance with SFAS No. 67, "Accounting for Costs and Initial Rental Operations of Real Estate Projects," the Company capitalizes pre-development costs incurred in pursuit of new development opportunities for which the Company currently believes future development is probable ("Development Rights"). Future development of these Development Rights is dependent upon various factors, including zoning and regulatory approval, rental market conditions, construction costs and availability of capital. Pre-development costs incurred in the pursuit of Development Rights for which future development is not yet considered probable are expensed as incurred. In addition, if the status of a Development Right changes, deeming future development no longer probable, any capitalized pre-development costs are written-off with a charge to expense. The Company expensed costs related to abandoned pursuits, which includes the abandonment or impairment of Development Rights, acquisition pursuits and technology investments, in the amounts of $219 and $242 for the three months ended March 31, 2005 and 2004, respectively.

The Company owns four parcels of land improved with office buildings and industrial space occupied by unrelated third-parties in connection with four Development Rights. The Company intends to manage the current improvements until such time as all tenant obligations have been satisfied or eliminated through negotiation, and construction of new apartment communities is ready to begin. As provided under the guidance of SFAS No. 67, the revenue from incidental operations received from the current improvements in excess of any incremental costs are being recorded as a reduction of total capitalized costs of the Development Right and not as part of net income.

In connection with the acquisition of an operating community, the Company performs a valuation and allocation to each asset and liability acquired in such transaction, based on their estimated fair values at the date of acquisition in accordance with SFAS No. 141, "Business Combinations." The purchase price allocations to tangible assets, such as land, buildings and improvements, and furniture, fixtures and equipment, are reflected in real estate assets and depreciated over their estimated useful lives. Any purchase price allocation to intangible assets, such as in-place leases, is included in prepaid expenses and other assets and amortized over the average remaining lease term of the acquired leases. The fair value of acquired in-place leases is determined based on the estimated cost to replace such leases, including foregone rents during an assumed re-lease period, as well as the impact on projected cash flow of acquired leases with leased rents above or below current market rents.

Depreciation is calculated on buildings and improvements using the straight-line method over their estimated useful lives, which range from seven to thirty years. Furniture, fixtures and equipment are generally depreciated using the straight-line method over their estimated useful lives, which range from three years (primarily computer-related equipment) to seven years.

If there is an event or change in circumstance that indicates an impairment in the value of an operating community, the Company's policy is to assess any impairment in value by making a comparison of the current and projected operating cash flow of the community over its remaining useful life, on an undiscounted basis, to the carrying amount of the community. If the carrying amount is in excess of the estimated projected operating cash flow of the community, the Company would recognize an impairment loss equivalent to an amount required to adjust the carrying amount to its estimated fair market value.

Deferred Financing Costs

Deferred financing costs include fees and costs incurred to obtain debt financing and are amortized on a straight-line basis, which approximates the effective interest method, over the shorter of the term of the loan or the related credit enhancement facility, if applicable. Unamortized financing costs are written-off when debt is retired before the maturity date. Accumulated amortization of deferred financing costs was $12,975 at March 31, 2005 and $12,966 at December 31, 2004.

Cash, Cash Equivalents and Cash in Escrow

Cash and cash equivalents include all cash and liquid investments with an original maturity of three months or less from the date acquired. The majority of the Company's cash, cash equivalents and cash in escrows is held at major commercial banks.

Interest Rate Contracts

The Company utilizes derivative financial instruments to manage interest rate risk and has designated these financial instruments as hedges under the guidance of SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities," and SFAS No. 138, "Accounting for Certain Instruments and Certain Hedging Activities, an Amendment of Statement No. 133." For fair value hedge transactions, changes in the fair value of the derivative instrument and changes in the fair value of the hedged item due to the risk being hedged are recognized in current period earnings. For cash flow hedge transactions, changes in the fair value of the derivative instrument are reported in other comprehensive income. For cash flow hedges where the changes in the fair value of the derivative exceed the change in fair value of the hedged item, the ineffective portion is recognized in current period earnings. Derivatives which are not part of a hedge relationship are recorded at fair value through earnings. As of March 31, 2005 and December 31, 2004, the Company had approximately $235,000 and $236,000, respectively, in variable rate debt subject to cash flow hedges. See Note 5, "Derivative Instruments and Hedging Activities."

Comprehensive Income

Comprehensive income, as reflected on the Condensed Consolidated Statements of Operations and Other Comprehensive Income, is defined as all changes in equity during each period except for those resulting from investments by or distributions to shareholders. Accumulated other comprehensive loss as reflected in Note 4, "Stockholders' Equity," reflects the changes in the fair value of effective cash flow hedges.

Earnings per Common Share

In accordance with the provisions of SFAS No. 128, “Earnings per Share,” basic earnings per share is computed by dividing earnings available to common stockholders by the weighted average number of shares outstanding during the period. Other potentially dilutive common shares, and the related impact to earnings, are considered when calculating earnings per share on a diluted basis. The Company’s earnings per common share are determined as follows:

	For the three months ended	
	3-31-05	3-31-04
Basic and diluted shares outstanding		
Weighted average common shares - basic	72,496,413	70,920,226
Weighted average DownREIT units outstanding	497,968	607,759
Effect of dilutive securities	1,263,915	1,015,997
Weighted average common shares - diluted	74,258,296	72,543,982
Calculation of Earnings per Share - basic		
Net income available to common stockholders	$ 67,435	$ 23,102
Weighted average common shares - basic	72,496,413	70,920,226
Earnings per common share - basic	$ 0.93	$ 0.33
Calculation of Earnings per Share - diluted		
Net income available to common stockholders	$ 67,435	$ 23,102
Add: Minority interest of DownREIT unitholders in consolidated partnerships, including discontinued operations	477	326
Adjusted net income available to common stockholders	$ 67,912	$ 23,428
Weighted average common shares - diluted	74,258,296	72,543,982
Earnings per common share - diluted	$ 0.92	$ 0.32

Certain options to purchase shares of common stock in the amounts of 705,221 and 3,000 were outstanding during the three months ended March 31, 2005 and 2004, respectively, but were not included in the computation of diluted earnings per share because the options’ exercise prices were greater than the average market price of the common shares for the period and therefore, are anti-dilutive.

Stock-Based Compensation

Effective January 1, 2003, the Company adopted the fair value recognition provisions of SFAS No. 123, “Accounting for Stock-Based Compensation,” as amended by SFAS No. 148, “Accounting for Stock-Based Compensation – Transition and Disclosure – an amendment of FASB Statement No. 123,” prospectively to all employee awards granted, modified, or settled on or after January 1, 2003. Awards under the Company’s stock option plans vest over periods ranging from one to three years. Therefore, the cost related to stock-based employee compensation for employee stock options included in the determination of net income for the three months ended March 31, 2005 and 2004, is less than that which would have been recognized if the fair value based method had been applied to all awards since the original effective date of SFAS No. 123. The Company will adopt the provisions of SFAS 123(R), “Share Based Payment,” for which the adoption date was deferred to the fiscal year beginning after June 15, 2005, or January 1, 2006. The Company does not expect the adoption of SFAS 123(R) to have a material effect on its financial position or results of operations.

The following table illustrates the effect on net income available to common stockholders and earnings per share if the fair value based method had been applied to all outstanding and unvested awards in each period based on the fair market value as determined on the date of grant:

		For the three months ended	
		3-31-05	3-31-04
Net income available to common stockholders, as reported		$ 67,435	$ 23,102
Add:	Actual compensation expense recorded under fair value based method, net of related tax effects	473	167
Deduct:	Total compensation expense determined under fair value based method, net of related tax effects	(573)	(504)
	Pro forma net income available to common stockholders	$ 67,335	$ 22,765
	Earnings per share:		
	Basic - as reported	$ 0.93	$ 0.33
	Basic - pro forma	$ 0.93	$ 0.32
	Diluted - as reported	$ 0.92	$ 0.32
	Diluted - pro forma	$ 0.91	$ 0.32

Executive Separation Costs

In February 2005, the Company announced certain management changes including the departure of a senior executive who became entitled to severance benefits in accordance with the terms of his employment agreement with the Company. The Company entered into an agreement with this executive regarding his departure that is consistent with the terms of his employment agreement and provides for a consulting arrangement for up to one year. The Company recorded a charge of approximately $2,100 in the three months ended March 31, 2005 related to cash payments associated with this agreement. This charge is included in general and administrative expense on the accompanying Condensed Consolidated Statements of Operations and Other Comprehensive Income. In addition, this executive will retain his equity based compensation awards, as well as certain prorated compensation through his expected departure date of April 30, 2005.

Non-Routine Income

The Company recorded income in the amount of $1,378 related to a payment received to compensate the Company for the impact of the development by a third-party of a hotel adjacent to one of the Company's existing communities. This income is included in rental and other income on the accompanying Condensed Consolidated Statements of Operations and Other Comprehensive Income.

Variable Interest Entities under FIN 46

The Company adopted the final provisions of FIN 46 as of January 1, 2004, which resulted in the consolidation of one entity during 2004 from which the Company held a participating mortgage note. As a result, the Company recognized a cumulative effect of change in accounting principle during the three months ended March 31, 2004 in the amount of $4,547, which increased earnings per common share – diluted by $0.06. The Company did not hold an equity interest in this entity, and therefore 100% of the entity's net income or loss was recognized by the Company as minority interest in consolidated partnerships on the Condensed Consolidated Statements of Operations and Other Comprehensive Income. In October 2004, the Company received payment in full of the outstanding mortgage note. Upon note repayment, the Company did not continue to hold a variable interest in this entity and therefore the Company discontinued consolidating the entity under the provisions of FIN 46.

Discontinued Operations

On January 1, 2002, the Company adopted SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets" which requires that the assets and liabilities and the results of operations of any communities which have been sold since January 1, 2002, or otherwise qualify as held for sale, be presented as discontinued operations in the Company's Condensed Consolidated Financial Statements in both current and prior periods presented. The community specific components of net income that are presented as discontinued operations include net operating income, depreciation expense, minority interest expense and interest expense. In addition, the net gain or loss (including any impairment loss) on the eventual disposal of communities held for sale will be presented as discontinued operations when recognized. A change in presentation for discontinued operations will not have any impact on the Company's financial condition or results of operations. Real estate assets held for sale are measured at the lower of the carrying amount or the fair value less the cost to sell, and are presented separately in the accompanying Condensed Consolidated Balance Sheets. Subsequent to classification of a community as held for sale, no further depreciation is recorded.

Use of Estimates

The preparation of financial statements in conformity with GAAP in the United States requires management to make certain estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the dates of the financial statements and the reported amounts of revenue and expenses during the reporting periods. Actual results could differ from those estimates.

Reclassifications

Certain reclassifications have been made to amounts in prior period's financial statements to conform with current period presentations.

2. Interest Capitalized

Capitalized interest associated with communities under development or redevelopment totaled $5,662 and $5,068 for the three months ended March 31, 2005 and 2004, respectively.

3. Notes Payable, Unsecured Notes and Credit Facility

The Company's mortgage notes payable, unsecured notes and variable rate unsecured credit facility as of March 31, 2005 and December 31, 2004 are summarized as follows:

	3-31-05	12-31-04
Fixed rate unsecured notes (1)	$1,809,133	$1,859,448
Fixed rate mortgage notes payable - conventional and tax-exempt	237,737	263,669
Variable rate mortgage notes payable - conventional and tax-exempt	210,264	210,896
Total notes payable and unsecured notes	2,257,134	2,334,013
Variable rate secured short-term debt	14,262	6,278
Variable rate unsecured credit facility	136,000	102,000
Total mortgage notes payable, unsecured notes and unsecured credit facility	$2,407,396	$2,442,291

(1) Balances at March 31, 2005 and December 31, 2004 include $867 and $552 of debt discount, respectively, from issuance of unsecured notes.

The following debt activity occurred during the three months ended March 31, 2005:

- The Company repaid $150,000 in previously issued unsecured notes in January 2005, along with any unpaid interest, pursuant to their scheduled maturity. No prepayment penalty was incurred.
- The Company issued $100,000 in unsecured notes in March 2005 under its existing shelf registration statement at an annual effective interest rate of 4.999%. Interest on these notes is payable semi-annually on March 15 and September 15, and they mature in March 2013; and
- The Company made a payment in the amount of $36,142 to the third-party lender of a joint venture entity that was unconsolidated at December 31, 2004 but was consolidated at March 31, 2005 upon acquisition of the 75% equity interest of the third-party partner (see Note 6, "Investments in Unconsolidated Entities.")

In addition, in connection with the admittance of outside investors into the Fund, the Company deconsolidated the assets and liabilities of four communities owned by the Fund including $24,869 in fixed rate mortgage debt secured by two of the communities (see Note 6, "Investments in Unconsolidated Entities.")

In the aggregate, mortgage notes payable mature at various dates from September 2007 through April 2043 and are secured by certain apartment communities (with a net carrying value of $668,648 as of March 31, 2005). As of March 31, 2005, the Company has guaranteed approximately $117,000 of mortgage notes payable held by wholly-owned subsidiaries; all such mortgage notes payable are consolidated for financial reporting purposes. The weighted average interest rate of the Company's fixed rate mortgage notes payable (conventional and tax-exempt) was 6.8% at March 31, 2005 and 6.7% at December 31, 2004. The weighted average interest rate of the Company's variable rate mortgage notes payable and its unsecured credit facility (as discussed on the following page), including the effect of certain financing related fees, was 3.7% at March 31, 2005 and 3.9% at December 31, 2004.

Scheduled payments and maturities of mortgage notes payable and unsecured notes outstanding at March 31, 2005 are as follows:

Year	Secured notes payments	Secured notes maturities	Unsecured notes maturities	Stated interest rate of unsecured notes
2005	$ 5,787	$ —	$ —	—
2006	7,972	—	150,000	6.800%
2007	8,490	14,262	110,000	6.875%
			150,000	5.000%
2008	9,030	4,356	50,000	6.625%
			150,000	8.250%
2009	8,246	69,651	150,000	7.500%
2010	6,563	28,989	200,000	7.500%
2011	6,554	7,204	300,000	6.625%
			50,000	6.625%
2012	6,207	12,096	250,000	6.125%
2013	6,339	—	100,000	4.950%
2014	6,784	—	150,000	5.375%
Thereafter	149,627	104,106	—	—
	$ 221,599	$ 240,664	$ 1,810,000	

The Company's unsecured notes contain a number of financial and other covenants with which the Company must comply, including, but not limited to, limits on the aggregate amount of total and secured indebtedness the Company may have on a consolidated basis and limits on the Company's required debt service payments.

The Company has a $500,000 revolving variable rate unsecured credit facility with JPMorgan Chase Bank and Wachovia Bank, N.A. serving as banks and syndication agents for a syndicate of commercial banks. The Company had $136,000 outstanding under the facility and $26,041 in letters of credit on March 31, 2005 and $102,000 outstanding under the facility and $26,580 in letters of credit on December 31, 2004. Under the terms of the credit facility, if the Company elects to increase the facility by up to an additional $150,000, and one or more banks (from the syndicate or otherwise) voluntarily agree to provide the additional commitment, then the Company will be able to increase the facility up to $650,000, and no member of the syndicate of banks can prohibit such increase; such an increase in the facility will only be effective to the extent banks (from the syndicate or otherwise) choose to commit to lend additional funds. The Company pays participating banks, in the aggregate, an annual facility fee of approximately $750 in quarterly installments. The unsecured credit facility bears interest at varying levels based on the London Interbank Offered Rate ("LIBOR"), rating levels achieved on the Company's unsecured notes and on a maturity schedule selected by the Company. The current stated pricing is LIBOR plus 0.55% per annum (3.42% on March 31, 2005). The spread over LIBOR can vary from LIBOR plus 0.50% to LIBOR plus 1.15% based upon the rating of the Company's long-term unsecured debt. In addition, the unsecured credit facility includes a competitive bid option, which allows banks that are part of the lender consortium to bid to make loans to the Company at a rate that is lower than the stated rate provided by the unsecured credit facility for up to $250,000. The competitive bid option may result in lower pricing if market conditions allow. The Company has $85,000 outstanding under this competitive bid option as of March 31, 2005 priced at LIBOR plus 0.29%, or 3.00%. The Company is subject to (i) certain customary covenants under the unsecured credit facility, including, but not limited to, maintaining certain maximum leverage ratios, a minimum fixed charges coverage ratio and minimum unencumbered assets and equity levels and (ii) prohibitions on paying dividends in amounts that exceed 95% of the Company's Funds from Operations, as defined therein, except as may be required to maintain the Company's REIT status. The credit facility matures in May 2008, assuming exercise of a one-year renewal option by the Company.

4. Stockholders' Equity

The following summarizes the changes in stockholders' equity for the three months ended March 31, 2005:

	Preferred stock	Common stock	Additional paid-in capital	Deferred compensation	Dividends less than accumulated earnings	Accumulated other comprehensive loss	Stockholders' equity
Balance at December 31, 2004	$ 40	$ 726	$ 2,389,511	$ (8,659)	$ 10,769	$ (7,096)	$ 2,385,291
Net income	—	—	—	—	69,610	—	69,610
Unrealized gain on cash flow hedges	—	—	—	—	—	1,300	1,300
Dividends declared to common and preferred stockholders	—	—	—	—	(53,923)	—	(53,923)
Issuance of common stock, net of withholdings	—	3	16,179	(8,011)	(368)	—	7,803
Issuance of stock options	—	—	4,462	(4,462)	—	—	—
Amortization of deferred compensation	—	—	—	2,583	—	—	2,583
Balance at March 31, 2005	$ 40	$ 729	$ 2,410,152	$ (18,549)	$ 26,088	$ (5,796)	$ 2,412,664

During the three months ended March 31, 2005, the Company (i) issued 157,724 shares of common stock in connection with stock options exercised, (ii) issued 23,073 shares of common stock to acquire an equal number of DownREIT limited partnership units, (iii) issued 401 shares through the Company's dividend reinvestment plan, (iv) issued 156,161 common shares in connection with stock grants to employees of which 80% are restricted, (v) had forfeitures of 3,925 shares of restricted stock grants to employees and (vi) withheld 31,476 shares to satisfy employees' tax withholding and other liabilities.

Dividends per common share were $0.71 and $0.70 for the three months ended March 31, 2005 and 2004, respectively. Dividends for all preferred shares during both the three months ended March 31, 2005 and 2004 were $0.54 per share.

5. Derivative Instruments and Hedging Activities

The Company has historically used interest rate swap and cap agreements (collectively, the “Hedged Derivatives”) to reduce the impact of interest rate fluctuations on its variable rate, tax-exempt bonds and its variable rate conventional secured debt. The Company has not entered into any interest rate hedge agreements or treasury locks for its conventional unsecured debt and does not hold interest rate hedge agreements for trading or other speculative purposes. As of March 31, 2005, the Hedged Derivatives fix $68,000 of the Company’s tax-exempt debt at a weighted average interest rate of 6.3% through interest rate swaps. In addition, as of March 31, 2005, the Company has Hedged Derivatives on $166,000 of its variable rate debt, which floats at a weighted average coupon interest rate of 3.5% and has been capped at a weighted average interest rate of 8.0% through interest rate caps. These Hedged Derivatives have maturity dates ranging from 2007 to 2010. The Hedged Derivatives are accounted for in accordance with SFAS No. 133. SFAS No. 133 requires that every derivative instrument be recorded on the balance sheet as either an asset or liability measured at its fair value, with changes in fair value recognized currently in earnings unless specific hedge accounting criteria are met.

The Company has determined that its Hedged Derivatives qualify as effective cash-flow hedges under SFAS No. 133, resulting in the Company recording all changes in the fair value of the Hedged Derivatives in other comprehensive income. Amounts recorded in other comprehensive income will be reclassified into earnings in the period in which earnings are affected by the hedged cash flow. To adjust the Hedged Derivatives to their fair value, the Company recorded an unrealized gain to other comprehensive income of $1,300 and an unrealized loss to other comprehensive income of $372 during the three months ended March 31, 2005 and 2004, respectively. The estimated amount, included in accumulated other comprehensive income as of March 31, 2005, expected to be reclassified into earnings within the next twelve months to offset the variability of cash flow during this period is not material.

The Company assesses, both at inception and on an on-going basis, the effectiveness of all hedges in offsetting cash flow of hedged items. Hedge ineffectiveness did not have a material impact on earnings and the Company does not anticipate that it will have a material effect in the future. The fair values of the obligations under the Hedged Derivatives are included in accrued expenses and other liabilities on the accompanying Condensed Consolidated Balance Sheets.

By using derivative financial instruments to hedge exposures to changes in interest rates, the Company exposes itself to credit risk and market risk. The credit risk is the risk of a counterparty not performing under the terms of the Hedged Derivatives. The counterparties to these Hedged Derivatives are major financial institutions which have an A+ or better credit rating by the Standard & Poor’s Ratings Group. The Company monitors the credit ratings of counterparties and the amount of the Company’s debt subject to Hedged Derivatives with any one party. Therefore, the Company believes the likelihood of realizing material losses from counterparty non-performance is remote. Market risk is the adverse effect of the value of financial instruments that results from a change in interest rates. The market risk associated with interest-rate contracts is managed by the establishment and monitoring of parameters that limit the types and degree of market risk that may be undertaken. These risks are managed by the Company’s Chief Financial Officer and Senior Vice President - Finance.

6. Investments in Unconsolidated Entities

Investments in Unconsolidated Real Estate Entities

The Company accounts for investments in unconsolidated real estate entities that are not considered variable interest entities under FIN 46 in accordance with SOP 78-9 and APB Opinion No. 18. The Company applies the equity method of accounting to an investment in an entity if it owns greater than 20% of the equity value or has significant and disproportionate influence over that entity. At March 31, 2005 and December 31, 2004, the Company's investments in unconsolidated real estate entities accounted for under the equity method of accounting consisted of:

- a general partnership interest in a partnership that owns the Avalon Run community, in which after the partnership makes certain distributions to the third-party partner, the Company will generally be entitled to receive 40% of all operating cash flow distributions and 49% of all residual cash flow following a sale;
- a limited liability company membership interest in a limited liability company that owns the Avalon Grove community, in which after the limited liability company makes certain distributions to the third-party partner, the Company will generally be entitled to receive 50% of all distributions;
- a 25% limited liability company membership interest (with a right to 50% of distributions after achievement of a threshold return) in a limited liability company that owns the Avalon Bedford community;
- a 20% limited liability company membership interest (with a right to 50% of distributions after achievement of a threshold return) in the limited liability company that is developing and will own the Avalon Chrystie Place I community; and
- a 25% limited liability company membership interest (with a right to 45% of distributions after achievement of a threshold return) in the limited liability company that is developing and will own the Mission Bay North II community.

The following is a combined summary of the financial position of the entities accounted for using the equity method, as of the dates presented:

	(Unaudited) 3-31-05	12-31-04
Assets:		
Real estate, net	$237,837	$221,236
Other assets	60,404	86,821
Total assets	$298,241	$308,057
Liabilities and partners' equity:		
Mortgage notes payable	$139,500	$139,500
Other liabilities	22,738	32,579
Partners' equity	136,003	135,978
Total liabilities and partners' equity	$298,241	$308,057

The following is a combined summary of the operating results of the entities accounted for using the equity method, for the periods presented:

	For the three months ended (unaudited) 3-31-05	3-31-04
Rental income	$ 5,297	$ 5,108
Operating and other expenses	(2,276)	(2,073)
Interest expense, net	(436)	(451)
Depreciation expense	(974)	(1,003)
Net income	$ 1,611	$ 1,581

In March 2005, the Company admitted outside investors into the Fund. The Fund is a private, discretionary investment vehicle with nine institutional investors, including the Company, and combined capital commitments of $330,000. A significant portion of the investments made in the Fund by its investors are being made through AvalonBay Value Added Fund, Inc., a Maryland corporation that will qualify as a REIT under the Internal Revenue Code (the "Fund REIT"). A wholly-owned subsidiary of the Company is the general partner of the Fund and has committed $50,000 to the Fund and the Fund REIT, representing a 15% combined general partner and limited partner equity interest, with $6,278 of this commitment funded as of March 31, 2005. The Fund expects to employ leverage of up to 65%, allowing for a total investment capacity of approximately $940,000. The Fund will acquire and operate multifamily communities in the Company's markets. Upon the admittance of the outside investors, the Fund held four communities, containing a total of 879 apartment homes with an aggregate gross real estate value of $112,852, that were acquired in 2004. Prior to the admittance of outside investors, the Fund was directly or indirectly wholly-owned by the Company, and therefore the revenues and expenses, and assets and liabilities of these four communities were consolidated in the Company's results of operations and financial position. However, upon admittance of the outside investors in March 2005, the Company deconsolidated the revenue and expenses, and assets and liabilities of these four communities and accounts for its 15% equity interest in the Fund under the equity method of accounting. The Company received net proceeds of $87,948 as reimbursement for acquiring and warehousing these communities. The Company will receive asset management fees, property management fees and redevelopment fees, as well as a promoted interest if certain thresholds are met. The Fund has three mortgage loans in the amounts of $16,765, $8,069 and $16,575, which mature in October 2011, February 2028 (but can be prepaid after February 2008 without penalty) and April 2012, respectively. In addition, the Fund has a bridge loan with $33,000 outstanding as of March 31, 2005. The bridge loan matures in September 2005, but the Company expects the bridge loan to be replaced with permanent financing through a line of credit, which will mature in January 2008. The Company has not guaranteed this debt, nor does it have any obligation to fund this debt should the Fund be unable to do so.

In addition, as part of the formation of the Fund, the Company has provided to one of the limited partners a guarantee as follows. If, upon final liquidation of the Fund, the total amount of all distributions to that partner during the life of the Fund (whether from operating cash flow or property sales) does not equal the total capital contributions made by that partner, then the Company will pay the partner an amount equal to the shortfall, but in no event more than 10% of the total capital contributions made by the partner. The Company has not recorded a liability related to this guarantee as of March 31, 2005, as the fair value of the real estate assets owned by the Fund is considered adequate to cover such payment under a liquidation scenario.

Also in March 2005, the Company purchased its joint venture partner's interest in AvalonBay Redevelopment, LLC, the limited liability company that owns Avalon on the Sound. Avalon on the Sound, a 412 apartment home community located in the New York, New York metropolitan area, was developed through the joint venture in 2001. The Company purchased the third-party partner's 75% equity interest in the joint venture for a gross purchase price (including the impact of the Company's share of promoted interest) of $84,521. After consideration of the third-party partner's pro rata share of outstanding debt, as well as the Company's share of promoted interest, the net purchase price was $57,415. In conjunction with the purchase transaction, the third-party lender to the limited liability company received a payment of $36,142 in consideration of the outstanding debt, of which $9,036 was the Company's share of such payment. Prior to December 31, 2004, the Company had a repurchase option for Avalon on the Sound and accounted for its investment as a profit-sharing arrangement as required by SFAS No. 66, "Accounting for Sales of Real Estate." As a result, the revenues and expenses, and assets and liabilities of Avalon on the Sound were included in the Company's Condensed Consolidated Financial Statements for periods prior to December 31, 2004. The income allocated to the controlling partner is shown as venture partner interest in profit-sharing on the Company's Condensed Consolidated Statements of Operations and Other Comprehensive Income for the three months ended March 31, 2004. The repurchase option expired in December 2004, and therefore as of December 31, 2004 and for the three months ended March 31, 2005, the Company accounted for its 25% interest in Avalon on the Sound under the equity method of accounting. Due to the purchase of the remaining 75% equity interest, this entity is consolidated as of March 31, 2005.

The Company has entered into two agreements whereby upon completion of construction of two communities currently under construction, the communities will each be owned through a joint venture arrangement. The Company will retain a 30% equity interest in one of the joint ventures, but will not retain an equity interest (only a residual profits interest) in the second joint venture.

Investments in Unconsolidated Non-Real Estate Entities

At December 31, 2004, the Company held a minority interest investment in one non-real estate entity, which was a technology investment. Based on ownership and control criteria, the Company accounted for this investment using the cost method. In February 2005, this technology investment was acquired by a third-party. As a result of this transaction, the Company received net proceeds of approximately $6,700 and recognized a non-routine gain on the sale of this investment of $6,252, which is reflected in equity in income of unconsolidated entities on the accompanying Condensed Consolidated Statement of Operations and Other Comprehensive Income.

7. Discontinued Operations — Real Estate Assets Sold or Held for Sale

During the three months ended March 31, 2005, the Company sold two communities, one located in San Diego, California and one located in the San Jose, California area. These two communities, which contained a total of 396 apartment homes, were sold for an aggregate sales price of $79,250, resulting in net proceeds, net of selling costs, of $77,981 and a gain calculated in accordance with GAAP of $37,613. As of March 31, 2005, the Company did not have any communities that qualified as held for sale under the provisions of SFAS No. 144. As required under SFAS No. 144, the operations for any communities sold from January 1, 2004 through March 31, 2005 have been presented as discontinued operations in the accompanying Condensed Consolidated Financial Statements. Accordingly, certain reclassifications have been made in prior periods to reflect discontinued operations consistent with current period presentation. The following is a summary of income from discontinued operations for the periods presented:

	For the three months ended	
	3-31-05	3-31-04
Rental income	$ 1,291	$ 6,036
Operating and other expenses	(405)	(2,037)
Interest expense, net	—	(252)
Minority interest expense	—	(12)
Depreciation expense	—	(1,129)
Income from discontinued operations	$ 886	$ 2,606

The Company's Condensed Consolidated Balance Sheets include other assets (excluding net real estate) of $0 and $227, and other liabilities of $0 and $744 as of March 31, 2005 and December 31, 2004, respectively, relating to real estate assets sold.

8. Segment Reporting

The Company's reportable operating segments include Established Communities, Other Stabilized Communities, and Development/Redevelopment Communities. Annually as of January 1st, the Company determines which of its communities fall into each of these categories and maintains that classification, unless disposition plans regarding a community change, throughout the year for the purpose of reporting segment operations.

- *Established Communities (also known as Same Store Communities)* are communities where a comparison of operating results from the prior year to the current year is meaningful, as these communities were owned and had stabilized occupancy and operating expenses as of the beginning of the prior year. For the year 2005, the Established Communities are communities that had stabilized occupancy and operating expenses as of January 1, 2004, are not conducting or planning to conduct substantial redevelopment activities and are not held for sale or planned for disposition within the current year. A community is considered to have stabilized occupancy at the earlier of (i) attainment of 95% physical occupancy or (ii) the one-year anniversary of completion of development or redevelopment.

- *Other Stabilized Communities* includes all other completed communities that have stabilized occupancy, as defined above. Other Stabilized Communities do not include communities that are conducting or planning to conduct substantial redevelopment activities within the current year.

- *Development/Redevelopment Communities* consists of communities that are under construction and have not received a final certificate of occupancy, communities where substantial redevelopment is in progress or is planned to begin during the current year and communities under lease-up, that had not reached stabilized occupancy, as defined above, as of January 1, 2004.

In addition, the Company owns land held for future development and has other corporate assets that are not allocated to an operating segment.

SFAS No. 131, “Disclosures about Segments of an Enterprise and Related Information,” requires that segment disclosures present the measure(s) used by the chief operating decision maker for purposes of assessing such segments’ performance. The Company’s chief operating decision maker is comprised of several members of its executive management team who use Net Operating Income (“NOI”) as the primary financial measure for Established and Other Stabilized Communities. NOI is defined by the Company as total property revenue less direct property operating expenses, including property taxes, and excludes corporate-level income (including management, development and other fees), corporate-level property management and other indirect operating expenses, investments and investment management, interest income and expense, general and administrative expense, equity in income of unconsolidated entities, minority interest in consolidated partnerships, venture partner interest in profit-sharing, depreciation expense, cumulative effect of change in accounting principle, gain on sale of real estate assets and income from discontinued operations. Although the Company considers NOI a useful measure of a community’s or communities’ operating performance, NOI should not be considered an alternative to net income or net cash flow from operating activities, as determined in accordance with GAAP.

A reconciliation of NOI to net income for the three months ended March 31, 2005 and 2004 is as follows:

	For the three months ended	
	3-31-05	3-31-04
Net income	$ 69,610	$ 25,277
Corporate-level property management and other indirect operating expenses	7,129	6,574
Corporate-level other income	(613)	(540)
Investments and investment management	992	841
Interest income	(31)	(20)
Interest expense	32,153	32,195
General and administrative expense	7,159	4,713
Equity in income of unconsolidated entities	(6,583)	(187)
Minority interest in consolidated partnerships	513	(157)
Venture partner interest in profit-sharing	—	325
Depreciation expense	41,106	38,567
Cumulative effect of change in accounting principle	—	(4,547)
Gain on sale of real estate assets	(37,613)	—
Income from discontinued operations	(886)	(2,606)
Net operating income	$ 112,936	$ 100,435

The primary performance measure for communities under development or redevelopment depends on the stage of completion. While under development, management monitors actual construction costs against budgeted costs as well as lease-up pace and rent levels compared to budget.

The following table provides details of the Company's segment information as of the dates specified. The segments are classified based on the individual community's status as of the beginning of the given calendar year. Therefore, each year the composition of communities within each business segment is adjusted. Accordingly, the amounts between years are not directly comparable. The accounting policies applicable to the operating segments described above are the same as those described in Note 1, "Organization and Significant Accounting Policies." Segment information for the three months ending March 31, 2005 and 2004 has been adjusted for the communities that were sold from January 1, 2004 through March 31, 2005 as described in Note 7, "Discontinued Operations – Real Estate Assets Sold or Held for Sale."

	Total revenue	NOI	% NOI change from prior year	Gross real estate (1)
For the three months ended March 31, 2005				
Established				
Northeast	$ 47,042	$ 31,427	5.8%	$1,237,363
Mid-Atlantic	16,499	11,729	0.1%	386,147
Midwest	2,718	1,677	6.6%	91,121
Pacific Northwest	7,493	4,949	6.4%	324,664
Northern California	37,797	26,075	1.6%	1,540,100
Southern California	11,885	8,645	5.2%	329,198
Total Established	123,434	84,502	3.7%	3,908,593
Other Stabilized	17,589	11,070	n/a	635,047
Development / Redevelopment	27,075	17,364	n/a	979,845
Land Held for Future Development	n/a	n/a	n/a	187,875
Non-allocated (2)	613	n/a	n/a	21,127
Total	$168,711	$112,936	12.4%	$5,732,487
For the three months ended March 31, 2004				
Established				
Northeast	$ 36,890	$ 23,954	(5.2%)	$ 930,687
Mid-Atlantic	13,270	9,323	2.3%	286,535
Midwest	2,659	1,573	10.5%	90,630
Pacific Northwest	7,861	4,977	(1.3%)	346,656
Northern California	33,411	23,392	(9.8%)	1,337,917
Southern California	13,872	9,850	(0.5%)	400,391
Total Established	107,963	73,069	(4.7%)	3,392,816
Other Stabilized	26,713	17,169	n/a	984,521
Development / Redevelopment	18,513	10,197	n/a	850,837
Land Held for Future Development	n/a	n/a	n/a	72,939
Non-allocated (2)	239	n/a	n/a	20,412
Total	$153,428	$100,435	4.2%	$5,321,525

(1) Does not include gross real estate assets for discontinued operations of $191,040 as of March 31, 2004.

(2) Revenue represents third-party management, accounting and developer fees and miscellaneous income which are not allocated to a reportable segment.

9. Related Party Arrangements

Unconsolidated Entities

The Company manages several unconsolidated real estate entities for which it receives management fee revenue. From these entities the Company received management fee revenue of $423 and $170 in the three months ended March 31, 2005 and 2004, respectively.

In addition, in connection with the general contractor services that the Company provides to CVP I, LLC, the entity that owns and is developing Avalon Chrystie Place I, the Company has funded certain construction costs on behalf of CVP I, LLC and expects to be reimbursed through draws on the related construction loan. As of March 31, 2005 and December 31, 2004, the Company has recorded a receivable from CVP I, LLC in the amounts of $10,778 and $19,983, respectively. The Company provides similar services to Mission Bay Venture Partners, LLC, the entity that owns and is developing Avalon at Mission Bay North II. The Company has funded $524 in construction costs on behalf of Mission Bay Venture Partners, LLC as of March 31, 2005 and has recorded a corresponding receivable from Mission Bay Venture Partners, LLC. The Company expects to be reimbursed through draws on a construction loan. These receivables are included in prepaid expenses and other assets on the accompanying Condensed Consolidated Balance Sheets.

Director Compensation

The Company's 1994 Plan provides that directors of the Company who are also employees receive no additional compensation for their services as a director. In accordance with the Company's 1994 Plan, as then in effect, on the fifth business day following the Company's May 2003 Annual Meeting of Stockholders, each of the Company's non-employee directors automatically received options to purchase 7,000 shares of common stock at the last reported sale price of the common stock on the NYSE on such date, and a restricted stock grant (or, in lieu thereof, a deferred stock award) of 2,500 shares of common stock. On May 14, 2003, the Company's Board of Directors approved an amendment to the 1994 Plan pursuant to which, in lieu of the stock and option awards described above, each non-employee director would receive, following the 2004 Annual Meeting of Stockholders and each annual meeting thereafter, (i) a number of shares of restricted stock (or deferred stock awards) having a value of $100 based on the last reported sale price of the common stock on the NYSE on the fifth business day following the prior year's annual meeting and (ii) $30 cash, payable in quarterly installments of $7.5. A non-employee director may elect to receive all or a portion of such cash payment in the form of a deferred stock award. In addition, the Lead Independent Director receives an annual fee of $30 payable in equal monthly installments of $2.5. The Company recorded non-employee director compensation expense relating to the restricted stock grants, deferred stock awards and stock options in the amount of $218 and $230 in the three months ended March 31, 2005 and 2004, respectively. Deferred compensation relating to these restricted stock grants, deferred stock awards and stock options was $675 and $748 on March 31, 2005 and December 31, 2004, respectively.

10. Subsequent Events

As of April 29, 2005, two communities previously held for operating purposes were classified as held for sale under SFAS No. 144. These communities have a net real estate carrying value of $24,757 as of March 31, 2005. The Company is actively pursuing the disposition of these communities and expects to close during 2005.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

We focus on the investment in and ownership and operation of apartment communities in high barrier-to-entry markets of the United States. As of April 29, 2005, we had 137 current operating communities, which are the primary contributors to our overall operating performance. The net operating income of these communities, which is one of the financial measures that we use to evaluate community performance, is affected by the demand and supply dynamics within our markets, our rental rates and occupancy levels, and our ability to control operating costs. Our overall financial performance is also impacted by the general availability and cost of capital and the performance of our newly developed and acquired apartment communities. We seek to create long-term shareholder value by accessing capital on cost effective terms; deploying that capital to develop, redevelop and acquire apartment communities in high barrier-to-entry markets; operating apartment communities; and selling communities when they no longer meet our long-term investment strategy and when pricing is attractive.

This Form 10-Q, including the following discussion and analysis of our financial condition and results of operations, contains forward-looking statements that predict or indicate future events or trends and that do not report historical matters. Actual results or developments could differ materially from those projected in such statements as a result of the risk factors set forth on page 45 of this report. The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our Condensed Consolidated Financial Statements and notes included elsewhere in this report, as well as our Annual Report filed on Form 10-K for the year ended December 31, 2004.

Business Description and Community Information Overview

We believe that apartment communities present an attractive long-term investment opportunity compared to other real estate investments because a broad potential resident base should help reduce demand volatility over a real estate cycle. We intend to continue to pursue real estate investments in markets where constraints to new supply exist, and where new rental household formations are expected to out-pace multifamily permit activity over the course of the real estate cycle. Barriers-to-entry in our markets generally include a difficult and lengthy entitlement process with local jurisdictions and dense urban or suburban areas where zoned and entitled land is in limited supply.

We regularly evaluate the allocation of our investments by the amount of invested capital and by product type within our individual markets, which are located in the Northeast, Mid-Atlantic, Midwest, Pacific Northwest, and Northern and Southern California regions of the United States. Our strategy is to more deeply penetrate these markets with a broad range of products and services and an intense focus on our customer. A substantial majority of our communities are upscale, which generally command among the highest rents in their markets. However, we also pursue the ownership and operation of apartment communities that target a variety of customer segments and price points, consistent with our goal of offering a broad range of products and services.

We believe that, over an entire real estate cycle, lower housing affordability and the limited new supply of apartment homes in our markets will result in a higher propensity to rent and larger increases in cash flow relative to other markets. However, throughout the real estate cycle, apartment market fundamentals, and therefore operating cash flows, are affected by overall economic conditions. A number of our markets experienced economic contraction due to job losses in 2002 and 2003, particularly in the technology, telecom and financial services sectors. This resulted in a prolonged period of weak apartment market fundamentals as reflected in declining rental rates and demand. However, 2004 was a year of transition, where the economy showed signs of an early phase recovery, as evidenced by modest job growth and declining unemployment claims. The improvement in the economic environment has resulted in more stabilized apartment market fundamentals, and we therefore believe that 2005 will be a year of continued

growth. This is supported by the following operating results achieved within our Established Community portfolio during the first three months of 2005:

- we achieved both sequential and year-over-year revenue growth, the largest year-over-year increase in over three years;
- we achieved the first year-over-year increase in average rental rates in three years; and
- economic occupancy remained at approximately 95% in each of our markets, despite the movement to increase rental rates.

During 2005, we expect that with continued job growth in our markets, apartment market fundamentals (the demand/supply balance) will continue to improve such that apartment rental demand will outpace new supply. The improvement may not be experienced evenly throughout our markets, as seen during the first three months of 2005, but we nevertheless expect continued overall revenue growth for our Established Community portfolio in 2005.

In anticipation of continued improvement in apartment fundamentals and stronger apartment demand, we have been increasing our development and acquisition volume. We continue to secure new Development Rights, as discussed below, including the acquisition of land for future development, and we anticipate having close to $1,000,000,000 under construction by the end of 2005 (measured by total capitalized cost of the communities at completion). In addition, we admitted outside investors into a discretionary investment fund, which during its investment period, will be our exclusive vehicle for acquiring apartment communities, subject to certain exceptions. The acquisition environment is currently very competitive, and therefore we will continue to be selective and focus on only those acquisition opportunities where we believe we can create value. We continue to be an opportunistic seller, disposing of two apartment communities in the first three months of 2005, and we anticipate continuing disposition activity in response to the strong institutional demand for product in our markets.

Our real estate investments consist primarily of current operating apartment communities, communities in various stages of development (“Development Communities”) and Development Rights as defined below. Our current operating communities are further distinguished as Established Communities, Other Stabilized Communities, Lease-Up Communities and Redevelopment Communities. The following is a description of each category:

Current Communities are categorized as Established, Other Stabilized, Lease-Up, or Redevelopment according to the following attributes:

- *Established Communities* (also known as Same Store Communities) are communities where a comparison of operating results from the prior year to the current year is meaningful, as these communities were owned and had stabilized occupancy and operating expenses as of the beginning of the prior year. We determine which of our communities fall into the Established Communities category as of January 1st of each year and maintain that classification throughout the year, unless disposition plans regarding a community change. For the year 2005, the Established Communities were communities that had stabilized occupancy and operating expenses as of January 1, 2004 and were not conducting or planning to conduct substantial redevelopment activities, as described below, and were not held for sale or planned for disposition in 2005. We consider a community to have stabilized occupancy at the earlier of (i) attainment of 95% physical occupancy or (ii) the one-year anniversary of completion of development or redevelopment.

- *Other Stabilized Communities* includes all other completed communities that have stabilized occupancy, as defined above. Other Stabilized Communities do not include communities that are conducting or planning to conduct substantial redevelopment activities within the current year.

- *Lease-Up Communities* are communities where construction has been complete for less than one year and where physical occupancy has not reached 95%.

- *Redevelopment Communities* are communities where substantial redevelopment is in progress or is planned to begin during the current year. Redevelopment is considered substantial when capital invested during the reconstruction effort exceeds the lesser of $5,000,000 or 10% of the community's acquisition cost.

Development Communities are communities that are under construction and for which a final certificate of occupancy has not been received. These communities may be partially complete and operating.

Development Rights are development opportunities in the early phase of the development process for which we either have an option to acquire land or to enter into a leasehold interest, for which we are the buyer under a long-term conditional contract to purchase land or where we own land to develop a new community. We capitalize related pre-development costs incurred in pursuit of new developments for which we currently believe future development is probable.

In addition, we own our corporate office building and a regional office building, in Alexandria, Virginia and New Canaan, Connecticut, respectively, with an aggregate of approximately 77,000 square feet of office space. All other regional and administrative offices are leased under operating leases.

As of March 31, 2005, our communities were classified as follows:

	Number of communities	Number of apartment homes
Current Communities		
Established Communities:		
Northeast	35	8,708
Mid-Atlantic	13	4,247
Midwest	3	887
Pacific Northwest	10	2,504
Northern California	31	9,204
Southern California	10	3,207
Total Established	102	28,757
Other Stabilized Communities:		
Northeast	12	4,114
Mid-Atlantic	6	1,685
Midwest	1	409
Pacific Northwest	2	634
Northern California	—	—
Southern California	4	1,391
Total Other Stabilized	25	8,233
Lease-Up Communities	6	1,713
Redevelopment Communities	4	1,430
Total Current Communities	137	40,133
Development Communities	11	2,717
Development Rights	49	13,104

As of April 29, 2005 our 137 current communities consisted of 40,133 apartment homes. Of those communities, we owned:

- a fee simple, or absolute, ownership interest in 112 operating communities, five of which are on land subject to land leases expiring in July 2029, January 2062, April 2095, May 2099 and March 2142;
- a general partnership interest in three partnerships that each own a fee simple interest in an operating community;
- a general partnership interest and an indirect limited partnership interest in a partnership that owns a fee simple interest in four operating communities;
- a general partnership interest in five partnerships structured as “DownREITs,” as described more fully below, that own an aggregate of 15 communities; and
- a membership interest in three limited liability companies that each hold a fee simple interest in an operating community, one of which is on land subject to a land lease expiring in November 2089.

We also hold a fee simple ownership interest in nine of the Development Communities, two of which will be subject to joint venture ownership structures upon construction completion, in addition to membership interests in two limited liability companies that each own one Development Community, both of which are subject to land leases expiring in December 2026 and June 2103.

In each of our five partnerships structured as DownREITs, either AvalonBay or one of our wholly-owned subsidiaries is the general partner, and there are one or more limited partners whose interest in the partnership is represented by units of limited partnership interest. For each DownREIT partnership, limited partners are entitled to receive an initial distribution before any distribution is made to the general partner. Although the partnership agreements for each of the DownREITs are different, generally the distributions per unit paid to the holders of units of limited partnership interests have approximated our current common stock dividend amount. Each DownREIT partnership has been structured so that it is unlikely the limited partners will be entitled to a distribution greater than the initial distribution provided for in the applicable partnership agreement. The holders of units of limited partnership interest have the right to present all or some of their units for redemption for a cash amount as determined by the applicable partnership agreement and based on the fair value of our common stock. In lieu of a cash redemption by the partnership, we may elect to acquire any unit presented for redemption for one share of our common stock or for such cash amount. As of April 29, 2005, there were 480,260 DownREIT partnership units outstanding. The DownREIT partnerships are consolidated for financial reporting purposes.

We elected to be taxed as a REIT for federal income tax purposes for the year ended December 31, 1994 and we have not revoked that election. We were incorporated under the laws of the State of California in 1978, and we were reincorporated in the State of Maryland in July 1995. Our principal executive offices are located at 2900 Eisenhower Avenue, Suite 300, Alexandria, Virginia, 22314, and our telephone number at that location is (703) 329-6300. We also maintain regional offices and administrative or specialty offices in or near the following cities:

- Boston, Massachusetts;
- Chicago, Illinois;
- Long Island, New York
- New Canaan, Connecticut;
- New York, New York;
- Newport Beach, California;
- San Jose, California;
- Seattle, Washington; and
- Woodbridge, New Jersey.

Recent Developments

Development Activities. During the three months ended March 31, 2005, we completed the development of one community, Avalon at Crane Brook, located in the greater Boston, Massachusetts area. Avalon at Crane Brook is a garden-style community containing 387 apartment homes and was completed for a total capitalized cost of $55,900,000.

In addition, we commenced development on two communities during the three months ended March 31, 2005. Avalon Wilshire, located in Los Angeles, California, is expected to contain 123 apartment homes when completed, for a total capitalized cost of $42,000,000. Avalon at Mission Bay North II, located in San Francisco, California, is expected to contain 313 apartment homes when completed, for a total capitalized cost of $118,000,000. Avalon at Mission Bay North II is being developed through a joint venture in which we own a 25% equity interest.

We acquired four parcels of land during the three months ended March 31, 2005 to hold for future development, for an aggregate purchase price of $15,664,000. These parcels of land, if developed as expected, will contain 557 apartment homes for a total capitalized cost of $98,000,000.

The development and redevelopment of communities involves risks that the investment will fail to perform in accordance with our expectations. See “Risks of Development and Redevelopment” for our discussion of these and other risks inherent in developing or redeveloping communities.

Investment Activities. During the three months ended March 31, 2005, we admitted outside investors into AvalonBay Value Added Fund, L.P. (the “Fund”), a private, discretionary investment vehicle. The Fund has nine institutional investors, including us, with combined capital commitments of $330,000,000. We

have committed $50,000,000 to the Fund, representing a 15% equity interest. Upon the admittance of the outside investors, the Fund held four apartment communities, containing a total of 879 apartment homes with an aggregate gross real estate value of $112,852,000, that were acquired in 2004.

Also during the three months ended March 31, 2005, we purchased our joint venture partner's interest in the limited liability company that owns Avalon on the Sound. Avalon on the Sound, a 412 apartment home community located in the New York, New York metropolitan area, was developed through the joint venture in 2001. We purchased the third-party partner's 75% equity interest in the joint venture for a gross purchase price (including the impact of our share of promoted interest) of $84,521,000. After consideration of the third-party partner's pro rata share of outstanding debt, as well as our share of promoted interest, the net purchase price was $57,415,000. In conjunction with the purchase transaction, the third-party lender to the limited liability company received a payment of $36,142,000 in consideration of the outstanding debt, of which $9,036,000 was our share of such payment.

Disposition Activities. During the three months ended March 31, 2005, we sold two communities, Avalon at Penasquitos Hills, located in San Diego, California, and Avalon Sunnyvale, located in the greater San Jose, California area. These two communities, which contained a total of 396 apartment homes, were sold for an aggregate sales price of $79,250,000.

Critical Accounting Policies

The preparation of financial statements in conformity with generally accepted accounting principles ("GAAP") requires management to use judgment in the application of accounting policies, including making estimates and assumptions. If our judgment or interpretation of the facts and circumstances relating to various transactions had been different, or different estimates or assumptions had been made, it is possible that different accounting policies would have been applied, resulting in different financial results or a different presentation of our financial statements. Below is a discussion of accounting policies that we consider critical to an understanding of our financial condition and operating results and that may require complex judgment in their application or require estimates about matters which are inherently uncertain. As a REIT that owns, operates and develops apartment communities, our critical accounting policies relate to revenue recognition, cost capitalization, asset impairment evaluation and REIT status. A discussion of all of our accounting policies, including further discussion of the critical accounting policies described below, can be found in Note 1, "Organization and Significant Accounting Policies" of our Condensed Consolidated Financial Statements.

Revenue Recognition

Rental income related to leases is recognized on an accrual basis when due from residents in accordance with SEC Staff Accounting Bulletin No. 104, "Revenue Recognition" and Statement of Financial Accounting Standards No. 13, "Accounting for Leases." In accordance with our standard lease terms, rental payments are generally due on a monthly basis. Any cash concessions given at the inception of the lease are amortized over the approximate life of the lease, which is generally one year. A discussion regarding the impact of cash concessions on rental revenue for Established Communities can be found in "Results of Operations."

Cost Capitalization

We capitalize costs during the development of assets (including interest and related loan fees, property taxes and other direct and indirect costs) beginning when active development commences until the asset, or a portion of the asset, is delivered and is ready for its intended use, which is generally indicated by the issuance of a certificate of occupancy. We capitalize costs during redevelopment of apartment homes (including interest and related loan fees, property taxes and other direct and indirect costs) beginning when an apartment home is taken out-of-service for redevelopment until the apartment home redevelopment is completed and the apartment home is available for a new resident. Rental income and operating expenses incurred during the initial lease-up or post-redevelopment lease-up period are fully recognized as they accrue.

We capitalize pre-development costs incurred in pursuit of Development Rights for which we currently believe future development is probable. These costs include legal fees, design fees and related overhead costs. Future development of these Development Rights is dependent upon various factors, including zoning and regulatory approval, rental market conditions, construction costs and availability of capital. Pre-development costs incurred in the pursuit of Development Rights for which future development is not yet considered probable are expensed as incurred. In addition, if the status of a Development Right changes, deeming future development no longer probable, any capitalized pre-development costs are written-off with a charge to expense.

We generally capitalize only non-recurring expenditures. We capitalize improvements and upgrades only if the item: (i) exceeds $15,000; (ii) extends the useful life of the asset; and (iii) is not related to making an apartment home ready for the next resident. Under this policy, virtually all capitalized costs are non-recurring, as recurring make-ready costs are expensed as incurred. Recurring make-ready costs include: (i) carpet and appliance replacements; (ii) floor coverings; (iii) interior painting; and (iv) other redecorating costs. Because we expense recurring make-ready costs, such as carpet replacements, our expense levels and volatility are greatest in the third quarter of each year as this is when we experience our greatest amount of turnover. We capitalize purchases of personal property, such as computers and furniture, only if the item is a new addition and the item exceeds $2,500. We generally expense replacements of personal property. For Established and Other Stabilized Communities, we recorded non-revenue generating capital expenditures of $25 per apartment home in the three months ended March 31, 2005 and $46 per apartment home in the three months ended March 31, 2004. The average maintenance costs charged to expense per apartment home, including carpet and appliance replacements, related to these communities was $308 in the three months ended March 31, 2005 and $318 in the three months ended March 31, 2004. Historically, we have experienced a gradual increase in capitalized costs and expensed maintenance costs per apartment home as the average age of our communities has increased, and expensed maintenance costs have fluctuated with turnover. We expect these trends to continue, with capitalized costs increasing during the second half of 2005 as compared to prior year levels, as we embark on a number of community upgrades and improvements. We expect total capitalized costs per apartment home in 2005 to be in the range of $525 to $575 per apartment home.

Asset Impairment Evaluation

If there is an event or change in circumstance that indicates an impairment in the value of a community, our policy is to assess the impairment by making a comparison of the current and projected operating cash flow of the community over its remaining useful life, on an undiscounted basis, to the carrying amount of the community. If the carrying amount is in excess of the estimated projected operating cash flow of the community, we would recognize an impairment loss equivalent to an amount required to adjust the carrying amount to its estimated fair market value. Real estate assets held for sale are measured at the lower of the carrying amount or the fair value less the cost to sell.

We account for our investments in unconsolidated entities that are not variable interest entities in accordance with Statement of Position 78-9, “Accounting for Investments in Real Estate Ventures” and Accounting Principles Board Opinion No. 18, “The Equity Method of Accounting for Investments in Common Stock.” If there is an event or change in circumstance that indicates a loss in the value of an investment, we record the loss and reduce the value of the investment to its fair value. A loss in value would be indicated if we could not recover the carrying value of the investment or if the investee could not sustain an earnings capacity that would justify the carrying amount of the investment.

REIT Status

We are a Maryland corporation that has elected to be treated, for federal income tax purposes, as a real estate investment trust, or REIT. We elected to be taxed as a REIT under the Internal Revenue Code of 1986, as amended, for the year ended December 31, 1994 and have not revoked such election. A corporate REIT is a legal entity which holds real estate interests and must meet a number of organizational and operational requirements, including a requirement that it currently distribute at least 90% of its adjusted taxable income to stockholders. As a REIT, we generally will not be subject to corporate level federal

income tax on taxable income we distribute currently to our stockholders. If we fail to qualify as a REIT in any taxable year, we will be subject to federal income taxes at regular corporate rates (including any applicable alternative minimum tax) and may not be able to qualify as a REIT for four subsequent taxable years.

Results of Operations

Our year-over-year operating performance is primarily affected by changes in net operating income of our current operating apartment communities due to market conditions, net operating income derived from acquisitions and development completions, the loss of net operating income related to disposed communities and capital market, disposition and financing activity. A comparison of our operating results for the three months ended March 31, 2005 and 2004 follows (dollars in thousands):

	For the three months ended			
	3-31-05	3-31-04	$ Change	% Change
Revenue:				
Rental and other income	$168,277	$153,280	$14,997	9.8%
Management, development and other fees	434	148	286	193.2%
Total revenue	168,711	153,428	15,283	10.0%
Expenses:				
Direct property operating expenses, excluding property taxes	38,370	37,126	1,244	3.4%
Property taxes	16,792	15,327	1,465	9.6%
Total community operating expenses	55,162	52,453	2,709	5.2%
Corporate-level property management and other indirect operating expenses	7,129	6,574	555	8.4%
Investments and investment management	992	841	151	18.0%
Interest expense	32,153	32,195	(42)	(0.1%)
Depreciation expense	41,106	38,567	2,539	6.6%
General and administrative expense	7,159	4,713	2,446	51.9%
Total other expenses	88,539	82,890	5,649	6.8%
Equity in income of unconsolidated entities	6,583	187	6,396	n/a
Interest income	31	20	11	55.0%
Venture partner interest in profit-sharing	—	(325)	325	(100.0%)
Minority interest in consolidated partnerships	(513)	157	(670)	(426.8%)
Income from continuing operations before cumulative effect of change in accounting principle	31,111	18,124	12,987	71.7%
Discontinued operations:				
Income from discontinued operations	886	2,606	(1,720)	(66.0%)
Gain on sale of real estate assets	37,613	—	37,613	100.0%
Total discontinued operations	38,499	2,606	35,893	1,377.3%
Income before cumulative effect of change in accounting principle	69,610	20,730	48,880	235.8%
Cumulative effect of change in accounting principle	—	4,547	(4,547)	(100.0%)
Net income	69,610	25,277	44,333	175.4%
Dividends attributable to preferred stock	(2,175)	(2,175)	—	—
Net income available to common stockholders	$ 67,435	$ 23,102	$44,333	191.9%

Net income available to common stockholders increased $44,333,000, or 191.9%, to $67,435,000 for the three months ended March 31, 2005. This increase is primarily attributable to gains on sales of assets in 2005, including the gain related to the sale of a technology investment, as well as increased net operating income from newly developed and acquired communities.

Net operating income ("NOI") is considered by management to be an important and appropriate supplemental measure to net income of the operating performance of our communities because it helps both investors and management to understand the core operations of a community or communities prior to the allocation of any corporate-level or financing-related costs. NOI reflects the operating performance of a community, and allows for an easy comparison of the operating performance of individual assets or groups of assets. In addition, because prospective buyers of real estate have different financing and overhead

structures, with varying marginal impacts to overhead by acquiring real estate, NOI is considered by many in the real estate industry to be a useful measure for determining the value of a real estate asset or group of assets. We define NOI as total property revenue less direct property operating expenses, including property taxes, and NOI excludes:

- corporate-level income (including management, development and other fees);
- corporate-level property management and other indirect operating expenses;
- investments and investment management costs;
- interest income and expense;
- general and administrative expense;
- impairment losses;
- equity in income of unconsolidated entities;
- minority interest in consolidated partnerships;
- venture partner interest in profit-sharing;
- depreciation expense;
- gain on sale of real estate assets;
- cumulative effect of change in accounting principle; and
- income from discontinued operations.

NOI does not represent cash generated from operating activities in accordance with GAAP. Therefore, NOI should not be considered an alternative to net income as an indication of our performance. NOI should also not be considered an alternative to net cash flow from operating activities, as determined by GAAP, as a measure of liquidity, nor is NOI necessarily indicative of cash available to fund cash needs. A calculation of NOI for the three months ended March 31, 2005 and 2004, along with a reconciliation to net income for each period, is as follows (dollars in thousands):

	For the three months ended	
	3-31-05	3-31-04
Net income	$ 69,610	$ 25,277
Corporate-level property management and other indirect operating expenses	7,129	6,574
Corporate-level other income	(613)	(540)
Investments and investment management	992	841
Interest income	(31)	(20)
Interest expense	32,153	32,195
General and administrative expense	7,159	4,713
Equity in income of unconsolidated entities	(6,583)	(187)
Minority interest in consolidated partnerships	513	(157)
Venture partner interest in profit-sharing	—	325
Depreciation expense	41,106	38,567
Cumulative effect of change in accounting principle	—	(4,547)
Gain on sale of real estate assets	(37,613)	—
Income from discontinued operations	(886)	(2,606)
Net operating income	$ 112,936	$ 100,435

The NOI increase of $12,501,000 in 2005 as compared to the prior year period, consists of changes in the following categories (dollars in thousands):

	2005 Increase
Established Communities	$ 2,985
Other Stabilized Communities	2,510
Development and Redevelopment Communities	7,006
Total	$12,501

The NOI increase in Established Communities was largely due to improved apartment fundamentals, along with cost containment that contributed to a decline in operating expenses between years. We maintained occupancy of approximately 95% in all regions during the three months ended March 31, 2005 and we saw the first year-over-year increase in rental rates in three years. We expect to continue to push for rental rate increases and/or reduce concessions to continue this pattern of revenue growth from our Established Communities for the remainder of 2005, however we expect that the growth patterns will be higher during the latter half of the year. In addition, we will continue to aggressively manage operating expenses, however we expect expenses to increase during the remainder of the year as compared to the expenditure level experienced during the three months ended March 31, 2005, due primarily to seasonality and timing.

Rental and other income increased in the three months ended March 31, 2005 due to rental income generated from newly developed and acquired communities, as well as increased occupancy and rental rates for our Established Communities.

Overall Portfolio – The weighted average number of occupied apartment homes increased to 36,841 apartment homes for the three months ended March 31, 2005 as compared to 33,600 apartment homes for the three months ended March 31, 2004. This change is primarily the result of increased homes available from newly developed and acquired communities and an increase in the overall occupancy rate, partially offset by communities sold in 2004 and 2005. The weighted average monthly revenue per occupied apartment home remained relatively flat at $1,508 in the three months ended March 31, 2005 as compared to the same period of 2004.

Established Communities – Rental revenue increased $2,890,000, or 2.4%, in the three months ended March 31, 2005. This increase is due to increased rental rates and increased economic occupancy as compared to the same period of 2004. For the three months ended March 31, 2005, the weighted average monthly revenue per occupied apartment home increased 1.0% to $1,498 compared to $1,483 for the same period in 2004, partially due to increased market rents. The average economic occupancy increased from 94.1% during the three months ended March 31, 2004 to 95.5% in the three months ended March 31, 2005. Economic occupancy takes into account the fact that apartment homes of different sizes and locations within a community have different economic impacts on a community's gross revenue. Economic occupancy is defined as gross potential revenue less vacancy loss, as a percentage of gross potential revenue. Gross potential revenue is determined by valuing occupied homes at leased rates and vacant homes at market rents.

Although the magnitude of increases varied between regions, we experienced increases in Established Communities' rental revenue in all six of our regions in the three months ended March 31, 2005 as compared to the same period of 2004. The largest increases in rental revenue were in Southern California and the Northeast, with increases of 4.5% and 3.8%, respectively, between years.

The Northeast region accounted for approximately 38.1% of Established Community rental revenue during 2004. The Northeast region appears to be stabilizing, as reflected in year-over-year rental revenue growth during the three months ended March 31, 2005. Economic occupancy increased 3.4% during the three months ended March 31 2005, while average rental rates increased 0.4% to $1,879 from $1,872 in the same period of 2004. Although we expect pressure on rental rates to continue in the Northeast region, we expect continued year-over-year revenue growth in the Northeast during the remainder of 2005, but at a lesser pace than other regions.

Northern California, which accounted for approximately 30.6% of Established Community rental revenue during the three months ended March 31, 2005, experienced an increase in rental revenue of 1.1% in 2005 as compared to the same period of 2004. Although economic occupancy in Northern California remained fairly stable, increasing 0.1% to 95.6% for the three months ended March 31, 2005, we were able to increase average rental rates by 1.0% to $1,431 from $1,417 for

the three months ended March 31, 2004. Although apartment fundamentals are still weak in certain areas of Northern California, particularly in San Jose, California, we expect continued year-over-year revenue growth in Northern California for the remainder of 2005.

In accordance with GAAP, cash concessions are amortized as an offset to rental revenue over the approximate lease term, which is generally one year. As a supplemental measure, we also present rental revenue with concessions stated on a cash basis to help investors evaluate the impact of both current and historical concessions on GAAP based rental revenue and to more readily enable comparisons to revenue as reported by other companies. Rental revenue with concessions stated on a cash basis also allows investors to understand historical trends in cash concessions, as well as current rental market conditions.

The following table reconciles total rental revenue in conformity with GAAP to total rental revenue adjusted to state concessions on a cash basis for our Established Communities for the three months ended March 31, 2005 and 2004 (dollars in thousands):

	For the three months ended	
	3-31-05	3-31-04
Rental revenue (GAAP basis)	$123,373	$120,483
Concessions amortized	4,868	4,873
Concessions granted	(3,350)	(4,106)
Rental revenue adjusted to state concessions on a cash basis	$124,891	$121,250
Year-over-year % change – GAAP revenue	2.4%	n/a
Year-over-year % change – cash concession based revenue	3.0%	n/a

Concessions granted per move-in for Established Communities averaged $972 during the three months ended March 31, 2005, an increase of 8.2% from $898 for the three months ended March 31, 2004. We expect concessions granted per move-in to decrease in future months as demand/supply fundamentals continue to improve and we continue to regain pricing power. However, because we amortize concessions over the lease term, the historically high concessions granted from mid-2004 have and will continue to adversely impact reported revenue results in 2005.

Management, development and other fees increased in the three months ended March 31, 2005 as compared to the same period of 2004 due to increased property management fees and the asset management fee earned from the management of the Fund.

Direct property operating expenses, excluding property taxes for all communities increased in the three months ended March 31, 2005 as compared to the same period of 2004 due to the addition of recently developed and acquired apartment homes, although expenses for Established Communities actually declined.

For Established Communities, direct property operating expenses, excluding property taxes, decreased by $455,000 or 1.7%, due primarily to cost containment over controllable expenses and the timing of certain expenditures. We expect to experience increases in expenses during the remainder of 2005 due to seasonality and timing, resulting in expense growth for the full year 2005 consistent with growth levels in prior years.

Property taxes increased in the three months ended March 31, 2005 as compared to the same period of 2004 due to overall higher assessments and the addition of newly developed and redeveloped apartment homes, partially offset by property tax refunds.

For Established Communities, property taxes increased by $358,000 in the three months ended March 31, 2005 as compared to the same period of 2004, due to overall higher assessments throughout all regions, partially offset by successful tax appeals. We expect property taxes to continue to increase in 2005 as compared to 2004 as local jurisdictions are expected to continue to seek additional revenue sources to offset budget deficits, coupled with the absence in 2005 of a refund received in 2004. We manage property tax increases internally, as well as engage third-party consultants, and appeal increases when appropriate.

Corporate-level property management and other indirect operating expenses increased in the three months ended March 31, 2005 as compared to the same period of 2004 due to increased compensation costs.

Investments and investment management reflects the costs incurred related to investment acquisitions, investment management and abandoned pursuit costs, which include the abandonment or impairment of development pursuits, acquisition pursuits and technology investments. Investments and investment management increased in the three months ended March 31, 2005 as compared to the same period of 2004 due to increased costs incurred in forming and managing the Fund. Abandoned pursuit costs were $219,000 and $242,000 in the three months ended March 31, 2005 and 2004, respectively. Abandoned pursuit costs can be volatile, and the activity experienced in any given period may not be experienced in future years. We expect investments and investment management costs to continue to increase in 2005 due to the costs associated with operating and managing the investment fund.

Depreciation expense increased in the three months ended March 31, 2005 as compared to the same period of 2004 primarily due to the completion of development and redevelopment activities, as well as the acquisition of new communities in 2004.

General and administrative expense ("G&A") increased in the three months ended March 31, 2005 as compared to the same period of 2004 as a result of separation costs of approximately $2,100,000 recognized due to the departure of a senior executive, as well as higher compensation expenses. We expect G&A to continue to increase in 2005 due to increased corporate governance (primarily Sarbanes-Oxley compliance) and compensation costs, but at a reduced pace as compared to the three months ended March 31, 2005.

Equity in income of unconsolidated entities increased in the three months ended March 31, 2005 as compared to the same period of the prior year primarily due to the gain recognized in the amount of $6,252,000 from the sale of our investment in Rent.com which was acquired by eBay.

Venture partner interest in profit-sharing during the three months ended March 31, 2004 represented the income allocated to our venture partner in a profit-sharing arrangement as discussed in Note 6, "Investments in Unconsolidated Entities," of our Condensed Consolidated Financial Statements. Effective December 31, 2004, we no longer account for our interest in this venture as a profit-sharing arrangement, and therefore during the three months ended March 31, 2005, no income or loss from venture partner interest in profit-sharing was recognized.

Minority interest in consolidated partnerships decreased in the three months ended March 31, 2005 as compared to the same period of 2004 due to the consolidation of an entity under FASB Interpretation No. 46 ("FIN 46"), "Consolidation of Variable Interest Entities, an Interpretation of ARB No. 51," as revised in December 2003. Effective January 1, 2004, we consolidated an entity from which we held a participating mortgage note due to the implementation of FIN 46. (See Note 1, "Organization and Significant Accounting Policies," of the Condensed Consolidated Financial Statements). We did not hold an equity interest in this entity, and therefore 100% of the entity's net income or loss was recognized as minority interest in consolidated partnerships during the three months ended March 31, 2004. In October 2004, we received payment in full of the outstanding mortgage note due from this entity. Upon repayment of the mortgage note, our economic interest in this entity ended, and therefore this entity was no longer considered a variable interest entity under FIN 46 and we discontinued consolidation.

Income from discontinued operations represents the net income generated by communities sold during the period from January 1, 2004 through March 31, 2005. The decrease in the three months ended March 31, 2005 as compared to the same period of 2004 is due to the timing of the sale of two communities in 2005 and five communities in 2004.

Gain on sale of communities increased in the three months ended March 31, 2005 as compared to the same period of 2004 as a result of two communities being sold during 2005, with no communities sold during the same period of 2004. The amount of gain realized depends on many factors, including the number of communities sold, the size and carrying value of those communities and the market conditions in the local area. We expect to continue to sell communities based on overall portfolio allocation needs as well as to respond to opportunities in the market to maximize risk adjusted returns.

Cumulative effect of change in accounting principle in the three months ended March 31, 2004 is a result of the implementation of FIN 46, discussed above, and represents the difference between the net assets consolidated under FIN 46 and the previously recorded net assets.

Funds from Operations attributable to common stockholders ("FFO") is considered by management to be an appropriate supplemental measure of our operating and financial performance because, by excluding gains or losses related to dispositions of previously depreciated property and excluding real estate depreciation, which can vary among owners of identical assets in similar condition based on historical cost accounting and useful life estimates, FFO can help one compare the operating performance of a real estate company between periods or as compared to different companies. We believe that in order to understand our operating results, FFO should be examined with net income as presented in the Condensed Consolidated Statements of Operations and Other Comprehensive Income included elsewhere in this report.

Consistent with the definition adopted by the Board of Governors of the National Association of Real Estate Investment Trustsâ ("NAREIT"), we calculate FFO as net income or loss computed in accordance with GAAP, adjusted for:

- gains or losses on sales of previously depreciated operating communities;
- extraordinary gains or losses (as defined by GAAP);
- cumulative effect of change in accounting principle;
- depreciation of real estate assets; and
- adjustments for unconsolidated partnerships and joint ventures.

FFO does not represent net income in accordance with GAAP, and therefore it should not be considered an alternative to net income, which remains the primary measure, as an indication of our performance. In addition, FFO as calculated by other REITs may not be comparable to our calculation of FFO. The following is a reconciliation of net income to FFO (dollars in thousands, except per share data):

	For the three months ended	
	3-31-05	3-31-04
Net income	$ 69,610	$ 25,277
Dividends attributable to preferred stock	(2,175)	(2,175)
Depreciation - real estate assets, including discontinued operations and joint venture adjustments	40,950	38,497
Minority interest expense, including discontinued operations	477	326
Cumulative effect of change in accounting principle	—	(4,547)
Gain on sale of operating communities	(37,613)	—
Funds from operations attributable to common stockholders	$ 71,249	$ 57,378
Weighted average common shares outstanding - diluted	74,258,296	72,543,982
EPS per common share - diluted	$ 0.92	$ 0.32
FFO per common share - diluted	$ 0.96	$ 0.79

FFO also does not represent cash generated from operating activities in accordance with GAAP, and therefore should not be considered an alternative to net cash flows from operating activities, as determined by GAAP, as a measure of liquidity. Additionally, it is not necessarily indicative of cash available to fund cash needs. A presentation of GAAP based cash flow metrics is as follows (dollars in thousands) and a discussion of "Liquidity and Capital Resources" can be found below.

	For the three months ended	
	3-31-05	3-31-04
Net cash provided by operating activities	$ 67,827	$ 50,717
Net cash provided by (used in) investing activities	$ 27,325	$ (55,007)
Net cash used in financing activities	$ (93,207)	$ (2,529)

Liquidity and Capital Resources

Factors affecting our liquidity and capital resources are our cash flows from operations, financing activities and investing activities. Operating cash flow has historically been determined by: (i) the number of apartment homes currently owned, (ii) rental rates, (iii) occupancy levels and (iv) operating expenses with respect to apartment homes. The timing, source and amount of cash flow provided by financing activities and used in investing activities are sensitive to the capital markets environment, particularly to changes in interest rates. The timing and type of capital markets activity in which we engage, as well as our plans for development, redevelopment, acquisition and disposition activity, are affected by changes in the capital markets environment, such as changes in interest rates or the availability of cost-effective capital.

We regularly review our liquidity needs, the adequacy of cash flow from operations, and other expected liquidity sources to meet these needs. We believe our principal short-term liquidity needs are to fund:

- normal recurring operating expenses;
- debt service and maturity payments;
- preferred stock dividends and DownREIT partnership unit distributions;
- the minimum dividend payments required to maintain our REIT qualification under the Internal Revenue Code of 1986;
- development and redevelopment activity in which we are currently engaged;
- opportunities for the acquisition of improved property; and
- capital calls for the Fund as required.

We anticipate that we can fully satisfy these needs from a combination of cash flow provided by operating activities, proceeds from asset dispositions and borrowing capacity under our variable rate unsecured credit facility.

Cash and cash equivalents totaled $3,497,000 at March 31, 2005, an increase of $1,945,000 from $1,552,000 on December 31, 2004. The following discussion relates to changes in cash due to operating, investing and financing activities, which are presented in our Condensed Consolidated Statements of Cash Flows included elsewhere in this report.

Operating Activities – Net cash provided by operating activities increased to $67,827,000 in the three months ended March 31, 2005 from $50,717,000 in the three months ended March 31, 2004, primarily due to additional NOI from recently acquired and developed communities, partially offset by the loss of NOI from the seven communities sold since January 1, 2004, as discussed earlier in this report.

Investing Activities – Net cash provided by investing activities of $27,325,000 in the three months ended March 31, 2005 related to proceeds from asset dispositions, including the proceeds from the sale of a technology investment, partially offset by investments in assets through development, redevelopment and acquisition of apartment communities, including the acquisition of a partner interest in a real estate joint

venture. During the three months ended March 31, 2005, we invested $137,765,000 in the purchase and development of real estate and capital expenditures:

- We began the development of two new communities. These communities, if developed as expected, will contain a total of 436 apartment homes, and the total capitalized cost, including land acquisition costs, is projected to be approximately $160,000,000. We completed the development of one community containing 387 apartment homes for a total capitalized cost, including land acquisition cost, of $55,900,000.
- We acquired the 75% equity interest of a third-party partner in a joint venture owning one community for a net purchase price of $57,415,000.
- We contributed $6,278,000 for a 15% equity interest in the Fund, which currently owns four apartment communities containing a total of 879 apartment homes with an aggregate gross real estate value of $112,852,000. We also received net proceeds of $87,948,000 as reimbursement for acquiring and warehousing these communities.
- We acquired four parcels of land in connection with Development Rights, for an aggregate purchase price of $15,664,000.
- We had capital expenditures relating to current communities' real estate assets of $1,054,000 and non-real estate capital expenditures of $65,000.

Financing Activities – Net cash used in financing activities totaled $93,207,000 in the three months ended March 31, 2005, consisting primarily of dividends paid, certain unsecured note repayments and mortgage note repayments, partially offset by an increase in borrowings under our unsecured credit facility, the issuance of common stock for option exercises and the issuance of unsecured notes. See Note 3, "Notes Payable, Unsecured Notes and Credit Facility," and Note 4, "Stockholders' Equity," of our Condensed Consolidated Financial Statements, for additional information.

Variable Rate Unsecured Credit Facility

We have a $500,000,000 revolving variable rate unsecured credit facility with JPMorgan Chase Bank and Wachovia Bank, N.A. serving as banks and syndication agents for a syndicate of commercial banks. Under the terms of the credit facility, if we elect to increase the facility by up to an additional $150,000,000, and one or more banks (from the syndicate or otherwise) voluntarily agree to provide the additional commitment, then we will be able to increase the facility up to $650,000,000, and no member of the syndicate of banks can prohibit such increase; such an increase in the facility will only be effective to the extent banks (from the syndicate or otherwise) choose to commit to lend additional funds. We pay participating banks, in the aggregate, an annual facility fee of approximately $750,000 in quarterly installments. The unsecured credit facility bears interest at varying levels based on the London Interbank Offered Rate ("LIBOR"), rating levels achieved on our unsecured notes and on a maturity schedule selected by us. The current stated pricing is LIBOR plus 0.55% per annum (3.64% on April 29, 2005). The spread over LIBOR can vary from LIBOR plus 0.50% to LIBOR plus 1.15% based upon the rating of our long-term unsecured debt. In addition, a competitive bid option is available for borrowings of up to $250,000,000. This option allows banks that are part of the lender consortium to bid to provide us loans at a rate that is lower than the stated pricing provided by the unsecured credit facility. The competitive bid option may result in lower pricing if market conditions allow. We had $150,000,000 outstanding under this competitive bid option at April 29, 2005 priced at LIBOR plus 0.29%, or 3.12%. We are subject to (i) certain customary covenants under the unsecured credit facility, including, but not limited to, maintaining certain maximum leverage ratios, a minimum fixed charges coverage ratio and minimum unencumbered assets and equity levels, and (ii) prohibitions on paying dividends in amounts that exceed 95% of our FFO, except as may be required to maintain our REIT status. The credit facility matures in May 2008, assuming our exercise of a one-year renewal option. At April 29, 2005, $235,000,000 was outstanding, $25,675,000 was used to provide letters of credit and $239,325,000 was available for borrowing under the unsecured credit facility.

Future Financing and Capital Needs – Debt Maturities

One of our principal long-term liquidity needs is the repayment of long-term debt at the time that such debt matures. For unsecured notes, we anticipate that no significant portion of the principal of these notes will be repaid prior to maturity. If we do not have funds on hand sufficient to repay our indebtedness as it becomes due, it will be necessary for us to refinance the debt. This refinancing may be accomplished by uncollateralized private or public debt offerings, additional debt financing that is collateralized by mortgages on individual communities or groups of communities, draws on our unsecured credit facility or by additional equity offerings. Although we believe we will have the capacity to meet our long-term liquidity needs, we cannot assure you that additional debt financing or debt or equity offerings will be available or, if available, that they will be on terms we consider satisfactory.

The following debt activity occurred during the three months ended March 31, 2005:

- We repaid $150,000,000 in previously issued unsecured notes in January 2005, along with any unpaid interest, pursuant to their scheduled maturity. No prepayment penalty was incurred;
- We issued $100,000,000 in unsecured notes in March 2005 under our existing shelf registration statement at an annual effective interest rate of 4.999%. Interest on these notes is payable semi-annually on March 15 and September 15, and they mature in March 2013; and
- We made a payment in the amount of $36,142,000 to the third-party lender of a joint venture entity that was unconsolidated at December 31, 2004 but was consolidated at March 31, 2005 upon acquisition of the 75% equity interest of the third-party partner.

In addition, in connection with the admittance of outside investors into the Fund, we deconsolidated the assets and liabilities of four communities owned by the Fund, including $24,869,000 in fixed rate mortgage debt secured by two of the communities.

The table below details debt maturities for the next five years, excluding our unsecured credit facility, for debt outstanding at March 31, 2005 (dollars in thousands).

Community	All-In interest rate (1)	Principal maturity date	Balance outstanding 12-31-04	Balance outstanding 3-31-05	Scheduled maturities 2005	2006	2007	2008	2009	Thereafter
Tax-exempt bonds										
Fixed rate										
CountryBrook	6.30%	Mar-2012	$ 17,145	$ 17,008	$ 422	$ 596	$ 634	$ 676	$ 719	$ 13,961
Avalon at Symphony Glen	4.90%	Jul-2024	9,780	9,780	—	—	—	—	—	9,780
Avalon View	7.55%	Aug-2024	16,920	16,810	345	485	518	555	595	14,312
Avalon at Lexington	6.55%	Feb-2025	13,151	13,066	262	368	391	415	441	11,189
Avalon at Nob Hill	5.80%	Jun-2025	18,847	18,761 (2)	266	378	405	435	466	16,811
Avalon Campbell	6.48%	Jun-2025	34,395	34,205 (2)	591	838	898	963	1,033	29,882
Avalon Pacifica	6.48%	Jun-2025	15,602	15,515 (2)	267	380	408	437	469	13,554
Avalon Knoll	6.95%	Jun-2026	12,502	12,438	199	282	302	324	347	10,984
Avalon Landing	6.85%	Jun-2026	6,177	6,144	99	142	152	162	173	5,416
Avalon Fields	7.55%	May-2027	10,912	10,862	156	222	239	256	275	9,714
Avalon West	7.73%	Dec-2036	8,327	8,309	58	80	85	91	98	7,897
Avalon Oaks	7.45%	Jul-2041	17,426	17,399	85	120	128	138	147	16,781
Avalon Oaks West	7.48%	Apr-2043	17,239	17,214	77	110	117	125	134	16,651
			198,423	197,511	2,827	4,001	4,277	4,577	4,897	176,932
Variable rate (3)										
The Promenade	4.11%	Oct-2010	32,663	32,663	562	605	652	701	755	29,388
Waterford	2.76%	Jul-2014	33,100	33,100 (4)	—	—	—	—	—	33,100
Avalon at Mountain View	2.76%	Feb-2017	18,300	18,300 (4)	—	—	—	—	—	18,300
Avalon at Foxchase I	2.76%	Nov-2017	16,800	16,800 (4)	—	—	—	—	—	16,800
Avalon at Foxchase II	2.76%	Nov-2017	9,600	9,600 (4)	—	—	—	—	—	9,600
Avalon at Mission Viejo	3.40%	Jun-2025	6,928	6,897 (4)	96	138	148	159	170	6,186
Avalon at Fairway Hills I	3.23%	Jun-2026	11,500	11,500	—	—	—	—	—	11,500
			128,891	128,860	658	743	800	860	925	124,874
Conventional loans (5)										
Fixed rate										
$100 million unsecured notes	6.75%	Jan-2005	100,000	—	—	—	—	—	—	—
$50 million unsecured notes	6.50%	Jan-2005	50,000	—	—	—	—	—	—	—
$150 million unsecured notes	6.93%	Jul-2006	150,000	150,000	—	150,000	—	—	—	—
$150 million unsecured notes	5.18%	Aug-2007	150,000	150,000	—	—	150,000	—	—	—
$110 million unsecured notes	7.13%	Dec-2007	110,000	110,000	—	—	110,000	—	—	—
$50 million unsecured notes	6.63%	Jan-2008	50,000	50,000	—	—	—	50,000	—	—
$150 million unsecured notes	8.37%	Jul-2008	150,000	150,000	—	—	—	150,000	—	—
$150 million unsecured notes	7.63%	Aug-2009	150,000	150,000	—	—	—	—	150,000	—
$200 million unsecured notes	7.67%	Dec-2010	200,000	200,000	—	—	—	—	—	200,000
$300 million unsecured notes	6.79%	Sep-2011	300,000	300,000	—	—	—	—	—	300,000
$50 million unsecured notes	6.31%	Sep-2011	50,000	50,000	—	—	—	—	—	50,000
$250 million unsecured notes	6.26%	Nov-2012	250,000	250,000	—	—	—	—	—	250,000
$150 million unsecured notes	5.51%	Apr-2014	150,000	150,000	—	—	—	—	—	150,000
$100 million unsecured notes	5.08%	Mar-2013	—	100,000	—	—	—	—	—	100,000
Wheaton Development Right	6.99%	Oct-2008	4,660	4,642	52	76	82	4,432	—	—
Twinbrook Development Right	7.25%	Oct-2011	8,545	8,505	116	168	182	194	211	7,634
Avalon Redondo Beach (6)	4.84%	Oct-2011	16,765	—	—	—	—	—	—	—
Briarcliffe Lakeside (6)	6.90%	Feb-2028	8,104	—	—	—	—	—	—	—
Avalon at Tysons West	5.55%	Jul-2028	6,819	6,784	103	146	155	162	173	6,045
Avalon Orchards	7.65%	Jul-2033	20,353	20,295	180	254	272	292	313	18,984
			1,925,246	1,850,226	451	150,644	260,691	205,080	150,697	1,082,663
Variable rate (3)										
Avalon Del Rey	2.74%	Sep-2007	6,278	14,262	—	—	14,262	—	—	—
Avalon Ledges	4.22%	May-2009	19,674	19,531 (4)	440	616	651	688	17,136	—
Avalon at Flanders Hill	4.22%	May-2009	22,429	22,266 (4)	502	703	742	784	19,535	—
Avalon at Newton Highlands	4.16%	May-2009	39,902	39,607 (4)	909	1,265	1,329	1,397	34,707	—
			88,283	95,666	1,851	2,584	16,984	2,869	71,378	—
Total indebtedness - excluding unsecured credit facility			$ 2,340,843	$ 2,272,263	$ 5,787	$ 157,972	$ 282,752	$ 213,386	$ 227,897	$ 1,384,469

(1) Includes credit enhancement fees, facility fees, trustees' fees and other fees.

(2) Financed by variable rate, tax-exempt debt, but interest rate is effectively fixed at March 31, 2005 and December 31, 2004 at the rate indicated through a swap agreement.

(3) Variable rates are given as of March 31, 2005.

(4) Financed by variable rate debt, but interest rate is capped through an interest rate protection agreement.

(5) Balances outstanding do not include $867 and $552 of debt discount as of March 31, 2005 and December 31, 2004, respectively, reflected in unsecured notes on our Condensed Consolidated Balance Sheets included elsewhere in this report.

(6) This community was deconsolidated in March 2005 upon the admittance of outside investors into the Fund. See Note 6, "Investments in Unconsolidated Real Estate Entities," of our Condensed Consolidated Financial Statements for details regarding the deconsolidation and the note balance as of March 31, 2005.

Future Financing and Capital Needs – Portfolio and Other Activity

As of March 31, 2005, we had eleven new communities under construction, for which a total estimated cost of $134,346,000 remained to be invested. In addition, we had four communities under reconstruction, for which a total estimated cost of $9,338,000 remained to be invested. Substantially all of the capital expenditures necessary to complete the communities currently under construction and reconstruction, as well as development costs related to pursuing Development Rights, will be funded from:

- the remaining capacity under our current $500,000,000 unsecured credit facility;
- the net proceeds from sales of existing communities;
- retained operating cash;
- the issuance of debt or equity securities; and/or
- private equity funding.

Before planned reconstruction activity, including reconstruction activity related to the Fund as discussed below, or the construction of a Development Right begins, we intend to arrange adequate financing to complete these undertakings, although we cannot assure you that we will be able to obtain such financing. In the event that financing cannot be obtained, we may have to abandon Development Rights, write-off associated pre-development costs that were capitalized and/or forego reconstruction activity. In such instances, we will not realize the increased revenues and earnings that we expected from such Development Rights or reconstruction activity and significant losses could be incurred.

In March 2005, we admitted outside investors into the Fund, a private, discretionary investment vehicle, which will acquire and operate apartment communities in our markets. The Fund will serve until March 16, 2008 or until 80% of its committed capital is invested, as the exclusive vehicle through which we will acquire apartment communities, subject to certain exceptions. These exceptions include significant individual asset and portfolio acquisitions, properties acquired in tax-deferred transactions and acquisitions that are inadvisable or inappropriate for the Fund, if any. The Fund will not restrict our development activities, and will terminate after a term of eight years, subject to two one-year extensions. Upon the admittance of the outside investors, the Fund held four apartment communities, containing a total of 879 apartment homes with an aggregate gross real estate value of $112,852,000, that were acquired in 2004. We are currently targeting additional acquisitions for the Fund where value creation opportunities are present through one or more of the following: redevelopment activities, market cycle opportunities or improved property operations. The Fund has nine institutional investors, including us, with combined capital commitments of $330,000,000. A significant portion of the investments made in the Fund by its investors are being made through AvalonBay Value Added Fund, Inc., a Maryland corporation that will qualify as a REIT under the Internal Revenue Code (the “Fund REIT”). A wholly-owned subsidiary of the Company is the general partner of the Fund and has committed $50,000,000 to the Fund and the Fund REIT, representing a 15% combined general partner and limited partner equity interest. We expect the Fund to have the ability to employ leverage through debt financings up to 65% on a portfolio basis, which would enable the Fund to invest up to $940,000,000.

We have also recently increased our use of joint ventures to hold individual real estate assets, pursuant to which certain developments will be held upon completion through partnership vehicles. We generally employ joint ventures primarily to mitigate asset concentration or market risk and secondarily as a source of liquidity. Each joint venture or partnership agreement has been and will continue to be individually negotiated, and our ability to operate and/or dispose of a community in our sole discretion may be limited to varying degrees depending on the terms of the joint venture or partnership agreement. However, we cannot assure you that we will continue to enter into joint ventures in the future, or that, if we do, we will achieve our objectives.

In evaluating our allocation of capital within our markets, we often sell assets that do not meet our long-term investment criteria or when capital and real estate markets allow us to realize a portion of the value created over the past business cycle and redeploy the proceeds from those sales to develop and redevelop communities. In response to real estate and capital markets conditions, including strong institutional

demand for product in our markets and demand from condominium converters, we sold two communities in the three months ended March 31, 2005, and anticipate selling additional communities when opportunities arise for harvesting value later this year. However, we cannot assure you that assets can continue to be sold on terms that we consider satisfactory or that market conditions will continue to make the sale of assets an appealing strategy. Because the proceeds from the sale of communities may not be immediately redeployed into revenue generating assets, the immediate effect of a sale of a community for a gain is to increase net income, but reduce future total revenues, total expenses, NOI and FFO. As of April 29, 2005, we have two communities classified as held for sale under GAAP. We are actively pursuing the disposition of these communities and expect to close on these dispositions in 2005. However, we cannot assure you that these communities will be sold as planned.

Off Balance Sheet Arrangements

We own interests in unconsolidated real estate entities, with ownership interests up to 50%. Three of these unconsolidated real estate entities, Avalon Terrace, LLC, CVP I, LLC and the Fund, have debt outstanding as of March 31, 2005 as follows:

- Avalon Terrace, LLC has $22,500,000 of variable rate debt which matures in November 2005 and is payable by the unconsolidated real estate entity with operating cash flow from the underlying real estate. We have not guaranteed the debt on Avalon Terrace, LLC, nor do we have any obligation to fund this debt should the unconsolidated real estate entity be unable to do so.
- CVP I, LLC has a construction loan in the amount of $117,000,000 which matures in February 2009, assuming exercise of two one-year renewal options, and is payable by the unconsolidated real estate entity. In connection with the general contractor services that we provide to CVP I, LLC, the entity that owns and is developing Avalon Chrystie Place I, we have provided a construction completion guarantee to the lender in order to fulfill their standard financing requirements related to the construction financing. Our obligations under this guarantee will terminate following construction completion once all of the lender's standard completion requirements have been satisfied. We currently expect this to occur in 2006.
- The Fund has three mortgage loans in the amounts of $16,765,000, $8,069,000 and $16,575,000, which mature in October 2011, February 2028 (but can be prepaid after February 2008 without penalty) and April 2012, respectively. These mortgage loans are secured by the underlying real estate. In addition, the Fund has a bridge loan with $33,000,000 outstanding as of March 31, 2005. The bridge loan matures in September 2005, but we expect the bridge loan to be replaced with permanent financing through a line of credit, which will mature in January 2008. The mortgage loans and the bridge loan are payable by the Fund with operating cash flow from the underlying real estate, and the bridge loan is secured by capital commitments. We have not guaranteed the debt on the Fund, nor do we have any obligation to fund this debt should the Fund be unable to do so.

In addition, as part of the formation of the Fund, we have provided to one of the limited partners a guarantee as follows. If, upon final liquidation of the Fund, the total amount of all distributions to that partner during the life of the Fund (whether from operating cash flow or property sales) does not equal the total capital contributions made by that partner, then we will pay the partner an amount equal to the shortfall, but in no event more than 10% of the total capital contributions made by the partner. We have not recorded a liability related to this guarantee as of March 31, 2005, as the fair value of the real estate assets owned by the Fund is considered adequate to cover such payment under a liquidation scenario. There are no other lines of credit, side agreements, financial guarantees or any other derivative financial instruments related to or between us and our unconsolidated real estate entities. In evaluating our capital structure and overall leverage, management takes into consideration our proportionate share of this unconsolidated debt. For more information regarding the operations of our unconsolidated entities see Note 6, “Investments in Unconsolidated Entities,” of our Condensed Consolidated Financial Statements.

Contractual Obligations

We currently have contractual obligations consisting primarily of long-term debt obligations and lease obligations for certain land parcels and office space. There have not been any material changes outside the ordinary course of business to our contractual obligations during the three months ended March 31, 2005.

Development Communities

As of March 31, 2005, we had eleven Development Communities under construction. We expect these Development Communities, when completed, to add a total of 2,717 apartment homes to our portfolio for a total capitalized cost, including land acquisition costs, of approximately $652,200,000. Statements regarding the future development or performance of the Development Communities are forward-looking statements. We cannot assure you that:

- we will complete the Development Communities;
- our budgeted costs or estimates of occupancy rates will be realized;
- our schedule of leasing start dates, construction completion dates or stabilization dates will be achieved; or
- future developments will realize returns comparable to our past developments.

You should carefully review the discussion under “Risks of Development and Redevelopment” included elsewhere in this report.

The following table presents a summary of the Development Communities. We hold a direct or indirect fee simple ownership interest in these communities except where noted.

		Number of apartment homes	Total capitalized cost (1) ($ millions)	Construction start	Initial occupancy (2)	Estimated completion	Estimated stabilization (3)
1.	Avalon Run East II *Lawrenceville, NJ*	312	$52.0	Q2 2003	Q2 2004	Q2 2005	Q4 2005
2.	Avalon Chrystie Place I (4) *New York, NY*	361	150.0	Q4 2003	Q3 2005	Q4 2005	Q2 2006
3.	Avalon Pines I *Coram, NY*	298	48.7	Q4 2003	Q4 2004	Q3 2005	Q1 2006
4.	Avalon Orange *Orange, CT*	168	22.4	Q1 2004	Q4 2004	Q3 2005	Q4 2005
5.	Avalon Danbury *Danbury, CT*	234	35.6	Q1 2004	Q1 2005	Q4 2005	Q2 2006
6.	Avalon Del Rey (5) *Los Angeles, CA*	309	70.0	Q2 2004	Q3 2005	Q1 2006	Q3 2006
7.	Avalon at Juanita Village (6) *Kirkland, WA*	211	45.5	Q2 2004	Q3 2005	Q4 2005	Q2 2006
8.	Avalon Camarillo *Camarillo, CA*	249	42.7	Q2 2004	Q3 2005	Q1 2006	Q3 2006
9.	Avalon at Bedford Center *Bedford, MA*	139	25.3	Q4 2004	Q4 2005	Q2 2006	Q4 2006
10.	Avalon Wilshire *Los Angeles, CA*	123	42.0	Q1 2005	Q4 2006	Q1 2007	Q3 2007
11.	Avalon at Mission Bay North II (7) *Bedford, MA*	313	118.0	Q1 2005	Q4 2006	Q2 2007	Q4 2007
	Total	2,717	$652.2				

(1) Total capitalized cost includes all capitalized costs projected to be or actually incurred to develop the respective Development Community, determined in accordance with GAAP, including land acquisition costs, construction costs, real estate taxes, capitalized interest and loan fees, permits, professional fees, allocated development overhead and other regulatory fees. Total capitalized cost for communities identified as having joint venture ownership, either during construction or upon construction completion, represents the total projected joint venture contribution amount.

(2) Future initial occupancy dates are estimates.

(3) Stabilized operations is defined as the earlier of (i) attainment of 95% or greater physical occupancy or (ii) the one-year anniversary of completion of development.

(4) This community is being financed under a joint venture structure with third-party financing, in which the community is owned by a limited liability company managed by one of our wholly-owned subsidiaries. The total capitalized cost for this community includes costs associated with the construction of 89,000 square feet of retail space and 30,000 square feet for a community facility. Our portion of the total capitalized cost of this joint venture is projected to be $30,000,000 including community-based tax-exempt debt.

(5) This community is currently owned by one of our wholly-owned subsidiaries, is financed, in part, by a construction loan, and is subject to a joint venture agreement that allows for a 70% joint venture partner to be admitted upon construction completion.

(6) This community is being developed by one of our wholly-owned, taxable REIT subsidiaries, and is subject to a venture agreement that provides for the transfer of 100% of the ownership interests to the joint venture upon construction completion.

(7) This community is being developed under a joint venture structure. We hold a 25% equity interest in this joint venture and we anticipate that approximately 80% of the total capitalized cost will be financed through a construction loan. Our portion of the total capitalized cost of this joint venture is projected to be $29,500,000 including community-based debt.

Redevelopment Communities

As of March 31, 2005, we had four communities under redevelopment. We expect the total capitalized cost to complete these communities, including the cost of acquisition, capital expenditures subsequent to acquisition and redevelopment, to be approximately $229,300,000, of which approximately $40,300,000 is the additional capital invested or expected to be invested during redevelopment and $189,000,000 was incurred prior to redevelopment. Statements regarding the future redevelopment or performance of the Redevelopment Communities are forward-looking statements. We have found that the cost to redevelop an existing apartment community is more difficult to budget and estimate than the cost to develop a new community. Accordingly, we expect that actual costs may vary from our budget by a wider range than for a new development community. We cannot assure you that we will meet our schedule for reconstruction completion or restabilized operations, or that we will meet our budgeted costs, either individually or in the aggregate. See the discussion under “Risks of Development and Redevelopment” included elsewhere in this report.

The following presents a summary of these Redevelopment Communities:

		Number of apartment homes	Total cost ($ millions)		Reconstruction start	Estimated reconstruction completion	Estimated restabilized operations (2)
			Pre-redevelopment cost	Total capitalized cost (1)			
1.	Avalon at Prudential Center *Boston, MA*	781	$ 133.9	$ 160.0	Q4 2000	Q2 2006	Q4 2006
2.	Avalon Towers *Long Beach, NY*	109	17.3	21.5	Q3 2004	Q3 2005	Q3 2005
3.	Avalon at Fairway Hills III *Columbia, MD*	336	23.3	29.4	Q4 2004	Q2 2006	Q4 2006
4.	Briarcliffe Lakeside (3) *Wheaton, IL*	204	14.5	18.4	Q4 2004	Q1 2006	Q3 2006
	Total	1,430	$ 189.0	$ 229.3			

(1) Total capitalized cost includes all capitalized costs projected to be incurred to redevelop the respective Redevelopment Community, including costs to acquire the community, reconstruction costs, real estate taxes, capitalized interest and loan fees, permits, professional fees, allocated redevelopment overhead and other regulatory fees determined in accordance with GAAP.

(2) Restabilized operations is defined as the earlier of (i) attainment of 95% or greater physical occupancy or (ii) the one-year anniversary of completion of redevelopment.

(3) This community was acquired in 2004 by the Fund, which we wholly-owned until the admittance of outside investors during the three months ended March 31, 2005, reducing our ownership in this community and the Fund to 15%.

Development Rights

As of March 31, 2005, we are evaluating the future development of 49 new apartment communities on land that is either owned by us, under contract, subject to a leasehold interest or for which we hold a purchase option. We generally hold Development Rights through options to acquire land, although for seventeen of the Development Rights we currently own the land on which a community would be built if we proceeded with development. The Development Rights range from those beginning design and architectural planning to those that have completed site plans and drawings and can begin construction almost immediately. We estimate that the successful completion of all of these communities would ultimately add 13,104 apartment homes to our portfolio. Substantially all of these apartment homes will offer features like those offered by the communities we currently own. At March 31, 2005, there were cumulative capitalized costs (including legal fees, design fees and related overhead costs, but excluding land costs) of $35,863,000 relating to Development Rights that we consider probable for future development. In addition, land costs related to the pursuit of Development Rights (consisting of original land and additional carrying costs) of $187,875,000 are reflected as land held for development on the accompanying Condensed Consolidated Balance Sheet as of March 31, 2005.

The properties comprising the Development Rights are in different stages of the due diligence and regulatory approval process. The decisions as to which of the Development Rights to invest in, if any, or to continue to pursue once an investment in a Development Right is made, are business judgments that we make after we perform financial, demographic and other analyses. In the event that we do not proceed with a Development Right, we generally would not recover capitalized costs incurred in the pursuit of those communities, unless we were to recover amounts in connection with the sale of land; however, we cannot guarantee a recovery. Pre-development costs incurred in the pursuit of Development Rights for which future development is not yet considered probable are expensed as incurred. In addition, if the status of a Development Right changes, deeming future development no longer probable, any capitalized pre-development costs are written-off with a charge to expense.

Although the development of any particular Development Right cannot be assured, we believe that the Development Rights, in the aggregate, present attractive potential opportunities for future development and growth of long-term stockholder value.

Statements regarding the future development of the Development Rights are forward-looking statements. We cannot assure you that:

- we will succeed in obtaining zoning and other necessary governmental approvals or the financing required to develop these communities, or that we will decide to develop any particular community; or
- if we undertake construction of any particular community, that we will complete construction at the total capitalized cost assumed in the financial projections in the following table.

The table below presents a summary of the 49 Development Rights we are currently pursuing.

	Location		Estimated number of homes	Total capitalized cost ($ millions)(1)
1.	Newton, MA	(2)	204	$ 63
2.	Coram, NY Phase II	(2)	152	26
3.	Rockville, MD Phase II	(2)	196	30
4.	Lyndhurst, NJ	(2)	328	81
5.	Long Island City, NY Phase II and III		602	176
6.	New York, NY Phase II and III	(2)	308	142
7.	Dublin, CA Phase I		305	74
8.	Encino, CA	(2)	131	51
9.	Danvers, MA		428	80
10.	Woburn, MA		446	84
11.	New Rochelle, NY Phase II and III		588	165
12.	Shrewsbury, MA		264	40
13.	Hingham, MA		236	44
14.	Glen Cove, NY	(2)	111	34
15.	Plymouth, MA Phase II		69	13
16.	Andover, MA	(2)	115	21
17.	Quincy, MA	(2)	148	24
18.	Canoga Park, CA		209	47
19.	Tinton Falls, NJ		298	51
20.	Wilton, CT	(2)	100	24
21.	Lexington, MA		387	76
22.	Bellevue, WA		368	78
23.	West Haven, CT		170	23
24.	Greenburgh, NY Phase II		444	112
25.	Kirkland, WA Phase II		173	48
26.	Seattle, WA	(2)	194	54
27.	Oyster Bay, NY		273	69
28.	Norwalk, CT		312	63
29.	College Park, MD		320	44
30.	Union City, CA Phase I	(2) (3)	230	58
31.	Union City, CA Phase II	(2) (3)	209	54
32.	Irvine, CA		290	63
33.	Sharon, MA		156	26
34.	Gaithersburg, MD		254	41
35.	White Plains, NY		403	138
36.	Cohasset, MA		200	38
37.	Dublin, CA Phase II		200	52
38.	Dublin, CA Phase III		205	53
39.	Milford, CT	(2)	284	45
40.	Shelton, CT		302	49
41.	Shelton, CT Phase II		171	34
42.	Wheaton, MD	(2) (3)	320	56
43.	Alexandria, VA		282	56
44.	Stratford, CT	(2)	146	23
45.	Plainview, NY		220	47
46.	Camarillo, CA		376	55
47.	Yaphank, NY		298	57
48.	Rockville, MD	(2) (3)	240	46
49.	Tysons Corner, VA	(2) (3)	439	101
	Total		13,104	$ 2,929

(1) Total capitalized cost includes all capitalized costs incurred to date (if any) and projected to be incurred to develop the respective community, determined in accordance with GAAP, including land acquisition costs, construction costs, real estate taxes, capitalized interest and loan fees, permits, professional fees, allocated development overhead and other regulatory fees.

(2) We own the land parcel, but construction has not yet begun.

(3) Represents improved land, two parcels of which are encumbered with debt. The improved land consists of occupied office buildings and industrial space. NOI from incidental operations from the current improvements will be recorded as a reduction in cost basis as described in the Notes to the Condensed Consolidated Financial Statements included elsewhere in this report.

Risks of Development and Redevelopment

We intend to continue to pursue the development and redevelopment of apartment home communities. Our development and redevelopment activities may be exposed to the following:

- we may abandon opportunities we have already begun to explore based on further review of, or changes in, financial, demographic, environmental or other factors;
- we may encounter liquidity constraints, including the unavailability of financing on favorable terms for the development or redevelopment of a community;
- we may be unable to obtain, or we may experience delays in obtaining, all necessary zoning, land-use, building, occupancy, and other required governmental permits and authorizations;
- we may incur construction or reconstruction costs for a community that exceed our original estimates due to increased materials, labor or other expenses, which could make completion of development or redevelopment of the community uneconomical;
- occupancy rates and rents at a newly completed development or redevelopment community may fluctuate depending on a number of factors, including competition and market and general economic conditions, and may not be sufficient to make the community profitable; and
- we may be unable to complete construction and lease-up on schedule, resulting in increased debt service expense and construction costs.

The occurrence of any of the events described above could adversely affect results of operations and our payment of distributions to our stockholders.

Construction costs are projected by us based on market conditions prevailing in the community's market at the time our budgets are prepared and reflect changes to those market conditions that we anticipated at that time. Although we attempt to anticipate changes in market conditions, we cannot predict those changes with certainty. Construction costs have been increasing, particularly for materials such as steel, concrete and lumber, and, for some of our Development Communities and Development Rights, the total construction costs may be higher than the original budget. We do not expect that these price increases will materially affect our current Development Communities. However, these increases may materially affect Development Rights where construction has not yet begun. Total capitalized cost includes all capitalized costs projected to be incurred to develop the respective Development or Redevelopment Community, determined in accordance with GAAP, including:

- land and/or property acquisition costs;
- construction or reconstruction costs;
- real estate taxes;
- capitalized interest;
- loan fees;
- permits;
- professional fees;
- allocated development or redevelopment overhead; and
- other regulatory fees.

Costs to redevelop communities that have been acquired have, in some cases, exceeded our original estimates and similar increases in costs may be experienced in the future. We cannot assure you that market rents in effect at the time new development communities or redevelopment communities complete lease-up will be sufficient to fully offset the effects of any increased construction or reconstruction costs.

Insurance and Risk of Uninsured Losses

We carry commercial general liability insurance and property insurance with respect to all of our communities. These policies, and other insurance policies we carry, have policy specifications, insured limits and deductibles that we consider commercially reasonable. There are, however, certain types of losses (such as losses arising from acts of war) that are not insured, in full or in part, because they are either uninsurable or the cost of

insurance makes it, in management's view, economically impractical. If an uninsured property loss or a property loss in excess of insured limits were to occur, we could lose our capital invested in a community, as well as the anticipated future revenues from such community. We would also continue to be obligated to repay any mortgage indebtedness or other obligations related to the community. If an uninsured liability to a third-party were to occur, we would incur the cost of defense and settlement with, or court ordered damages to, that third-party. A significant uninsured property or liability loss could materially and adversely affect our financial condition and results of operations.

Many of our West Coast communities are located in the general vicinity of active earthquake faults. A large concentration of our communities lie near, and thus are susceptible to, the major fault lines in California, including the San Andreas fault and the Hayward fault. We cannot assure you that an earthquake would not cause damage or losses greater than insured levels. In June 2004, we renewed our earthquake insurance. We have in place with respect to communities located in California, for any single occurrence and in the aggregate, $75,000,000 of coverage with a deductible per building equal to five percent of the insured value of that building. The five percent deductible is subject to a minimum of $100,000 per occurrence. Earthquake coverage outside of California is subject to a $200,000,000 limit, except with respect to the state of Washington, for which the limit is $65,000,000. Our earthquake insurance outside of California provides for a $100,000 deductible per occurrence. In addition, up to a policy aggregate of $3,000,000, the next $400,000 of loss per occurrence outside California will be treated as an additional deductible.

Our annual general liability policy and workman's compensation coverage was renewed on August 1, 2004 and the insurance coverage provided for in these renewal policies did not materially change from the preceding year. Including the costs we estimate that we may incur as a result of deductibles, we expect the cost related to these insurance categories for the policy period from August 1, 2004 to July 31, 2005 to remain flat as compared to the prior period.

Our property insurance policy was scheduled to renew on December 1, 2005; however, in an effort to capitalize on declining insurance rates we elected to extend the first $15,000,000 layer of the policy by five months, thereby changing the renewal date for this layer to May 1, 2006. The remaining layers are currently scheduled to renew on December 1, 2005. We are currently in negotiations with all carriers to align the renewal dates. Based on this policy extension, we have seen a decline in insurance premiums for property coverage, which combined with the cost we may incur as a result of deductibles, we expect will result in declining overall insurance costs as compared to prior periods.

Just as with office buildings, transportation systems and government buildings, there have been reports that apartment communities could become targets of terrorism. In November 2002, Congress passed the Terrorism Risk Insurance Act ("TRIA") which is designed to make terrorism insurance available. In connection with this legislation, we have purchased insurance for property damage due to terrorism up to $200,000,000. Additionally, we have purchased insurance for certain terrorist acts, not covered under TRIA, such as domestic-based terrorism. This insurance, often referred to as "non-certified" terrorism insurance, is subject to deductibles, limits and exclusions. Our general liability policy provides TRIA coverage (subject to deductibles and insured limits) for liability to third parties that result from terrorist acts at our communities. TRIA is scheduled to expire on December 31, 2005. It is uncertain if Congress will extend this act and continue to provide federal support for terrorism insurance. If Congress does not extend TRIA, the cost and availability of terrorism insurance may be in question.

Mold growth may occur when excessive moisture accumulates in buildings or on building materials, particularly if the moisture problem remains undiscovered or is not addressed over a period of time. Although the occurrence of mold at multifamily and other structures, and the need to remediate such mold, is not a new phenomenon, there has been increased awareness in recent years that certain molds may in some instances lead to adverse health effects, including allergic or other reactions. To help limit mold growth, we educate residents about the importance of adequate ventilation and request or require that they notify us when they see mold or excessive moisture. We have established procedures for promptly addressing and remediating mold or excessive moisture from apartment homes when we become aware of its presence regardless of whether we or the resident believe a health risk is present. However, we cannot assure that mold or excessive moisture will be detected and remediated in a timely manner. If a significant

mold problem arises at one of our communities, we could be required to undertake a costly remediation program to contain or remove the mold from the affected community and could be exposed to other liabilities. We cannot assure that we will have coverage under our existing policies for property damage or liability to third parties arising as a result of exposure to mold or a claim of exposure to mold at one of our communities.

In March 2005, we renewed our directors and officers insurance with our existing carriers, decreasing our annual premium. There were no reductions in coverage and a few coverage enhancements.

Inflation and Deflation

Substantially all of our apartment leases are for a term of one year or less. In an inflationary environment, this may allow us to realize increased rents upon renewal of existing leases or the beginning of new leases. Short-term leases generally minimize our risk from the adverse effects of inflation, although these leases generally permit residents to leave at the end of the lease term and therefore expose us to the effect of a decline in market rents. In a deflationary rent environment, we may be exposed to declining rents more quickly under these shorter-term leases.

Forward-Looking Statements

This Form 10-Q contains “forward-looking statements” as that term is defined under the Private Securities Litigation Reform Act of 1995. You can identify forward-looking statements by our use of the words “believe,” “expect,” “anticipate,” “intend,” “estimate,” “assume,” “project,” “plan,” “may,” “shall,” “will” and other similar expressions in this Form 10-Q, that predict or indicate future events and trends and that do not report historical matters. These statements include, among other things, statements regarding our intent, belief or expectations with respect to:

- our potential development, redevelopment, acquisition or disposition of communities;
- the timing and cost of completion of apartment communities under construction, reconstruction, development or redevelopment;
- the timing of lease-up, occupancy and stabilization of apartment communities;
- the pursuit of land on which we are considering future development;
- the anticipated operating performance of our communities;
- cost, yield and earnings estimates;
- our declaration or payment of distributions;
- our joint venture and discretionary fund activities;
- our policies regarding investments, indebtedness, acquisitions, dispositions, financings and other matters;
- our qualification as a REIT under the Internal Revenue Code;
- the real estate markets in Northern and Southern California and markets in selected states in the Mid-Atlantic, Northeast, Midwest and Pacific Northwest regions of the United States and in general;
- the availability of debt and equity financing;
- interest rates;
- general economic conditions; and
- trends affecting our financial condition or results of operations.

We cannot assure the future results or outcome of the matters described in these statements; rather, these statements merely reflect our current expectations of the approximate outcomes of the matters discussed. You should not rely on forward-looking statements because they involve known and unknown risks, uncertainties and other factors, some of which are beyond our control. These risks, uncertainties and other factors may cause our actual results, performance or achievements to differ materially from the anticipated future results, performance or achievements expressed or implied by these forward-looking statements. Some of the factors that could cause our actual results, performance or achievements to differ materially

from those expressed or implied by these forward-looking statements include, but are not limited to, the following:

- we may fail to secure development opportunities due to an inability to reach agreements with third parties or to obtain desired zoning and other local approvals;
- we may abandon or defer development opportunities for a number of reasons, including changes in local market conditions which make development less desirable, increases in costs of development and increases in the cost of capital, resulting in losses;
- construction costs of a community may exceed our original estimates;
- we may not complete construction and lease-up of communities under development or redevelopment on schedule, resulting in increased interest costs and construction costs and a decrease in our expected rental revenues;
- occupancy rates and market rents may be adversely affected by competition and local economic and market conditions which are beyond our control;
- financing may not be available on favorable terms or at all, and our cash flow from operations and access to cost effective capital may be insufficient for the development of our pipeline which could limit our pursuit of opportunities;
- our cash flow may be insufficient to meet required payments of principal and interest, and we may be unable to refinance existing indebtedness or the terms of such refinancing may not be as favorable as the terms of existing indebtedness;
- we may be unsuccessful in our management of the Fund and the Fund REIT; and
- we may be unsuccessful in managing changes in our portfolio composition.

In addition, these forward-looking statements represent our estimates and assumptions only as of the date of this report. We do not undertake to update these forward-looking statements, and therefore they may not represent our estimates and assumptions after the date of this report.

Part I. FINANCIAL INFORMATION (continued)

Item 3. Quantitative and Qualitative Disclosures About Market Risk

There have been no material changes to our exposures to market risk since December 31, 2004.

Item 4. Controls and Procedures

(a) Evaluation of disclosure controls and procedures.

The Company carried out an evaluation under the supervision and with the participation of the Company's management, including the Company's Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of the Company's disclosure controls and procedures as of March 31, 2005. Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that the Company's disclosure controls and procedures are effective to ensure that information required to be disclosed by the Company in the reports it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission's rules and forms. We continue to review and document our disclosure controls and procedures, including our internal controls and procedures for financial reporting, and may from time to time make changes aimed at enhancing their effectiveness and to ensure that our systems evolve with our business.

(b) Changes in internal controls over financial reporting.

During first quarter 2005, the Company implemented a new purchasing and invoice system that improved the efficiency of the Company 's purchasing and payment processes. As with any new technology application the Company implements, the design of the internal controls have been evaluated for effectiveness. The Company expects this new application to improve its internal controls over financial reporting for its purchasing and invoicing processes.

Part II. OTHER INFORMATION

Item 1. Legal Proceedings

As reported most recently in our Form 10-K for the fiscal year ended December 31, 2004, we are currently involved in litigation with York Hunter Construction, Inc. and National Union Fire Insurance Company. A non-jury trial ended in April 2004 and on May 20, 2004, the court issued a ruling, finding that (i) York Hunter breached the Construction Management Agreement between it and the Company in failing to complete the project and abandoning the construction site and is therefore liable to the Company for consequential damages, and (ii) National Union, having failed to exercise its various rights to perform and complete, is liable to the Company for consequential damages. The court issued a ruling dated October 6, 2004, awarding the Company approximately $1.25 million plus interest. The Company is filing an appeal to seek an increase in the damage award.

Also as reported in our Form 10-K for the fiscal year ended December 31, 2004, on June 6, 2003, a purported California class action lawsuit, *Julie E. Ko v. AvalonBay Communities, Inc. and Does 1 through 100*, was filed against the Company in California's Los Angeles County Superior Court. The suit purports to be brought on behalf of all of the Company's former California residents who, during the four-year period prior to the filing of the suit, paid a security deposit to the Company for the rental of residential property in California and had a portion of the deposit withheld by the Company in excess of the damages actually sustained by the Company. The plaintiff

seeks compensatory and statutory damages in unspecified amounts as well as injunctive relief, restitution, and an award of attorneys' fees, expenses and costs of suit. The complaint seeking class certification was amended in March 2004 and the Company responded to the amended complaint on May 3, 2004. Due to the uncertainty of many critical factual and legal issues, including the viability of the case as a class action, it is not possible to determine or predict the outcome.

We are involved in various other claims and/or administrative proceedings that arise in the ordinary course of our business. While no assurances can be given, the Company does not believe that any of these outstanding litigation matters, individually or in the aggregate will have a material adverse effect on the Company.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

During the three months ended March 31, 2005, AvalonBay issued 23,073 shares of common stock in exchange for 23,073 units of limited partnership held by certain limited partners of Avalon DownREIT V, L.P. The shares were issued in reliance on an exemption from registration under Section 4(2) of the Securities Act of 1933. AvalonBay is relying on the exemption based on factual representations received from the limited partners who received these shares.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Submission of Matters to a Vote of Security Holders

None.

Item 5. Other Information

None.

Item 6. Exhibits

Exhibit No.		Description
3(i).1	—	Articles of Amendment and Restatement of Articles of Incorporation of AvalonBay Communities (the "Company"), dated as of June 4, 1998. (Incorporated by reference to Exhibit 3(i).1 to Form 10-Q of the Company filed August 14, 1998.)
3(i).2	—	Articles of Amendment, dated as of October 2, 1998. (Incorporated by reference to Exhibit 3.1(ii) to Form 8-K of the Company filed on October 6, 1998.)
3(i).3	—	Articles Supplementary, dated as of October 13, 1998, relating to the 8.70% Series H Cumulative Redeemable Preferred Stock. (Incorporated by reference to Exhibit 1 to Form 8-A of the Company filed October 14, 1998.)
3(ii).1	—	Amended and Restated Bylaws of the Company, as adopted by the Board of Directors on February 13, 2003. (Incorporated by reference to Exhibit 3(ii) to Form 10-K of the Company filed March 11, 2003.)
4.1	—	Indenture of Avalon Properties, Inc. (hereinafter referred to as "Avalon Properties") dated as of September 18, 1995. (Incorporated by reference to Form 8-K of Avalon Properties dated September 18, 1995.)
4.2	—	First Supplemental Indenture of Avalon Properties dated as of September 18, 1995. (Incorporated by reference to Exhibit 4.2 to Form 10-K of the Company filed March 26, 2002.)

4.3	—	Second Supplemental Indenture of Avalon Properties dated as of December 16, 1997. (Incorporated by reference to Exhibit 4.3 to Form 10-K of the Company filed March 11, 2003.)
4.4	—	Third Supplemental Indenture of Avalon Properties dated as of January 22, 1998. (Incorporated by reference to Exhibit 4.4 to Form 10-K of the Company filed March 11, 2003.)
4.5	—	Indenture, dated as of January 16, 1998, between the Company and State Street Bank and Trust Company, as Trustee. (Incorporated by reference to Exhibit 4.5 to Form 10-K of the Company filed on March 11, 2003.)
4.6	—	First Supplemental Indenture, dated as of January 20, 1998, between the Company and the Trustee. (Incorporated by reference to Exhibit 4.6 to Form 10-K of the Company filed on March 11, 2003.)
4.7	—	Second Supplemental Indenture, dated as of July 7, 1998, between the Company and the Trustee. (Incorporated by reference to Exhibit 4.2 to Form 8-K of the Company filed on July 9, 1998.)
4.8	—	Amended and Restated Third Supplemental Indenture, dated as of July 10, 2000 between the Company and the Trustee, including forms of Floating Rate Note and Fixed Rate Note. (Incorporated by reference to Exhibit 4.4 to the Company's Current Report on Form 8-K filed on July 11, 2000.)
4.9	—	Dividend Reinvestment and Stock Purchase Plan of the Company filed on September 14, 1999. (Incorporated by reference to Form S-3 of the Company, File No. 333-87063.)
4.10	—	Amendment to the Company's Dividend Reinvestment and Stock Purchase Plan filed on December 17, 1999. (Incorporated by reference to the Prospectus Supplement filed pursuant to Rule 424(b)(2) of the Securities Act of 1933 on December 17, 1999.)
4.11	—	Amendment to the Company's Dividend Reinvestment and Stock Purchase Plan filed on March 26, 2004. (Incorporated by reference to the Prospectus Supplement filed pursuant to Rule 424(b)(3) of the Securities Act of 1933 on March 26, 2004).
10.1	—	Amended and Restated Limited Partnership Agreement of AvalonBay Value Added Fund, L.P., dated as of March 16, 2005. (Filed herewith.)
10.2+	—	Endorsement Split Dollar Agreements and Amendments Thereto with Messrs. Blair, Naughton, Fuller, Sargeant, Horey and Meyer. (Filed herewith.)
10.3+	—	First Amendment to Employment Agreement between the Company and Bryce Blair, dated as of March 31, 2005. (Filed herewith.)
10.4+	—	First Amendment to Employment Agreement between the Company and Timothy J. Naughton, dated as of March 31, 2005. (Filed herewith.)
10.5+	—	First Amendment to Employment Agreement between the Company and Thomas J. Sargeant, dated as of March 31, 2005. (Filed herewith.)
10.6+	—	First Amendment to Employment Agreement between the Company and Leo S. Horey, dated as of March 31, 2005. (Filed herewith.)
10.7+	—	First Amendment to Employment Agreement between the Company and Samuel B. Fuller, dated as of March 31, 2005. (Filed herewith.)

10.8+	—	First Amendment to Retirement Agreement between the Company and Gilbert M. Meyer, dated as of March 31, 2005. (Filed herewith.)
10.9+	—	Separation Agreement between the Company and Samuel B. Fuller, dated as of April 6, 2005. (Filed herewith.)
10.10+	—	Summary of Compensation Arrangements for Certain Executive Officers and Directors. (Filed herewith.)
12.1	—	Statements re: Computation of Ratios. (Filed herewith.)
31.1	—	Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (Chief Executive Officer.) (Filed herewith.)
31.2	—	Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (Chief Financial Officer.) (Filed herewith.)
32	—	Certification pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (Chief Executive Officer and Chief Financial Officer). (Furnished herewith.)

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

AVALONBAY COMMUNITIES, INC.

Date: May 6, 2005

/s/ Bryce Blair
Bryce Blair
Chief Executive Officer

Date: May 6, 2005

/s/ Thomas J. Sargeant
Thomas J. Sargeant
Chief Financial Officer

Exhibit 10.1

AVALONBAY VALUE ADDED FUND, L.P.

AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT

THE PARTNERSHIP INTERESTS OF THE LIMITED PARTNERS ISSUED PURSUANT TO THIS AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES OR “BLUE SKY” LAWS OF ANY STATE OR OTHER JURISDICTION, AND MAY NOT BE SOLD OR TRANSFERRED UNLESS THEY ARE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND ANY OTHER APPLICABLE SECURITIES OR “BLUE SKY” LAWS, OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE. SUCH PARTNERSHIP INTERESTS ARE SUBJECT TO THE RESTRICTIONS ON TRANSFER SET FORTH IN THIS AGREEMENT.

AvalonBay Value Added Fund, L.P.

Amended and Restated Limited Partnership Agreement

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AvalonBay Value Added Fund, L.P.

Amended and Restated Limited Partnership Agreement

1. Recitals and Definitions

1.1 Recitals. This Amended and Restated Limited Partnership Agreement (this "**Agreement**") by and among AvalonBay Capital Management, Inc., as the sole general partner, AvalonBay Value Added Fund, Inc., a Maryland corporation (the "**Company**"), as a limited partner, and those persons and entities, if any, that are listed from time to time on Schedule A hereto as limited partners (together with the Company and those limited partners subsequently admitted pursuant to the terms of this Agreement, the "**Limited Partners**") is entered into to amend and restate in its entirety that certain Limited Partnership Agreement entered into as of May 17, 2004 pursuant to the laws of the State of Delaware.

1.2 Definitions. Capitalized terms used in this Agreement shall have the meanings set forth or referred to below.

"**Acquisition Cost**" shall mean (i) the total out-of-pocket costs incurred by the Partnership or reimbursable by the Partnership to the General Partner or any AVB Affiliate in connection with the acquisition of any Strategic Investment, including, without limitation, the full purchase price therefor, all costs incurred in connection with diligence investigations of the Strategic Investment and closing costs, including, without limitation, the fees of attorneys, consultants, appraisers and other advisers, and commissions, plus (ii) the total amount of costs (including incentive compensation) incurred or funded by the Partnership in connection with the leasing of a Strategic Investment (including leasing commissions and any other costs related to leasing) and any development, redevelopment, renovation, tenant fit-out or other property improvement of such Strategic Investment (collectively, "**Development Costs**"), plus (iii) the total amount of reserves determined at the time of acquisition to be necessary to cover contemplated capital improvements to the extent not included in Development Costs; provided, however, that, except as otherwise provided in this Agreement, Acquisition Costs shall not include any of the foregoing costs paid with indebtedness incurred or assumed by the Partnership.

"**Act**" shall have the meaning set forth in Section 2.1.

"**Advisory Committee**" shall have the meaning set forth in Section 6.1.

"**Affiliate**" of any Person means any Person that directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, the Person specified.

"**Agreement**" shall have the meaning set forth in Section 1.1.

"**Appraisal**" means with respect to any Strategic Investment or other assets of the Partnership, the opinion of an Independent Appraiser as to the fair market value of such Strategic Investment or other assets. Such opinion may be in the form of an opinion by such Independent Appraiser that the fair market value of such Strategic Investment or other asset as set by the General Partner is fair, from a financial point of view, to the Partnership.

"**AVB**" means AvalonBay Communities, Inc., a Maryland corporation.

"**AVB Affiliate**" means AVB or any Person controlling, controlled by or under common control with AVB but shall exclude Persons in which the Partnership makes an Investment; provided, however, that in no event shall the Company be deemed to be an AVB Affiliate.

"**AVB Stockholder**" means AVB or any AVB Affiliate that is a Stockholder.

"**Board of Directors**" means the Board of Directors of the Company.

"**Capital Account**" shall have the meaning set forth in Section 5.1(a).

"**Capital Commitment**" shall mean the total amount of cash agreed to be paid to the Partnership (whether or not yet paid) by each Partner pursuant to Section 4.1, as set forth on Schedule A hereto, subject to Section 4.1(e) with respect to PSERS' Capital Commitment.

"**Capital Contribution**" shall mean, as to each Partner (excluding the General Partner), the amount of cash actually contributed to the Partnership by such Partner as of the time the determination is made, and, as to the General Partner, the amount of cash and/or Warehoused Properties contributed to the Partnership by the General Partner at the time the contribution is made.

"**Carried Interest**" shall have the meaning set forth in Section 8.6(c).

"**Catch-up Interest**" shall mean an amount equivalent to interest on Catch-up Payments at the rate of 10% per annum, or such higher rate as is determined by the General Partner in its sole discretion, plus any other amount determined by the General Partner in its sole discretion, calculated as provided in Section 4.4(b).

"**Catch-up Payment**" shall mean, with respect to a newly admitted Limited Partner or an existing Limited Partner that is increasing its Capital Commitment, an amount determined by multiplying (x) the aggregate amount of Capital Contributions made by all Partners prior to the date of the relevant Subsequent Closing by (y) in the case of a newly admitted Limited Partner, such Limited Partner's Equity Interest Percentage, or in the case of a Limited Partner increasing its Capital Commitment, the additional Equity Interest Percentage purchased at the Subsequent Closing, each calculated after taking into account the adjustment, if any, to the Equity Interest Percentage of the General Partner.

"**Certificate**" shall have the meaning set forth in Section 2.1.

"**Change of Control of AVB**" shall mean the occurrence of any one or more of the following events:

(i) Any individual, entity or group (for the purposes of this definition, a "**Person**") within the meaning of Sections 13(d) and 14(d) of the Securities Act (other than AVB, any AVB Affiliate, or any trustee, fiduciary or other person or entity holding securities under any employee benefit plan or trust of AVB or any AVB Affiliate), together with all "affiliates" and "associates" (as such terms are defined in Rule 12b-2 under the Securities Act) of such Person, becomes the "beneficial owner" (as such term is defined in Rule 13d-3 under the Securities Act) of securities of AVB representing thirty percent (30%) or more of the combined voting power of AVB's then outstanding securities having the right to vote generally in an election of AVB's Board of Directors ("**Voting Securities**"), other than as a result of (A) an acquisition of securities directly from AVB or any AVB Affiliate approved by the Incumbent Directors (as defined below) or (B) an acquisition by any corporation pursuant to a reorganization, consolidation or merger if, following such reorganization, consolidation or merger the conditions described in clauses (A), (B) and (C) of subparagraph (iii) of this definition are satisfied;

(ii) Individuals who constitute AVB's Board of Directors (the "**Incumbent Directors**") cease for any reason to constitute at least a majority of AVB's Board of Directors, provided, however, that any individual becoming a director of AVB (excluding, for this purpose, (A) any such individual whose initial assumption of office is in connection with an actual or threatened election contest relating to the election of members of AVB's Board of Directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than AVB's Board of Directors, including by reason of agreement intended to avoid or settle any such actual or threatened contest or solicitation, and (B) any individual whose initial assumption of office is in connection with a reorganization, merger or consolidation, involving an unrelated entity), whose election or nomination for election by AVB's stockholders was approved by a vote of at least a majority of the persons then comprising Incumbent Directors shall for purposes of this Agreement be considered an Incumbent Director;

(iii) Approval by the shareholders of AVB of a reorganization, merger or consolidation of AVB, or, if consummation of such reorganization, merger or consolidation is subject, at the time of such approval by shareholders, to the consent of any government or governmental agency, obtaining such consent (either explicitly or implicitly by consummation), unless, following such reorganization, merger or consolidation, (A) more than fifty percent (50%) of, respectively, the then outstanding shares of common stock of the entity resulting from such reorganization, merger or consolidation (the "**Surviving Entity**") and the combined voting power of the then outstanding voting securities of such Surviving Entity entitled to vote generally in the election of directors will be beneficially owned, directly or indirectly, by all or substantially all of the individuals and entities who were the beneficial owners, respectively, of the outstanding Voting Securities immediately prior to such reorganization, merger or consolidation, (B) no Person (excluding AVB, any employee benefit plan (or related trust) of AVB, an AVB Affiliate or the Surviving Entity or any subsidiary thereof, and any Person beneficially owning, immediately prior to such reorganization, merger or consolidation, directly or indirectly, thirty percent (30%) or more of the outstanding Voting Securities) will beneficially own, directly or indirectly, thirty percent (30%) or more of, respectively, the then outstanding shares of common stock of the Surviving Corporation or the combined voting power of the then outstanding voting securities of such Surviving Entity entitled to vote generally in the election of directors, and (C) at least a majority of the members of the board of directors of the Surviving Entity will have been members of the Incumbent Board at the time of the execution of the initial agreement providing for such reorganization, merger or consolidation;

(iv) Approval by the shareholders of AVB of a complete liquidation or dissolution of AVB; or

(v) Approval by the shareholders of AVB of the sale, lease, exchange or other disposition of all or substantially all of the assets of AVB, or, if consummation of such sale, lease, exchange or other disposition is subject, at the time of such approval by shareholders, to the consent of any government or governmental agency, obtaining such consent (either explicitly or implicitly by consummation), other than to an entity, with respect to which following such sale, lease, exchange or other disposition (A) more than fifty percent (50%) of, respectively, the then outstanding shares of common stock of the of such entity and the combined voting power of the then outstanding voting securities of such entity entitled to vote generally in the election of directors will be beneficially owned, directly or indirectly, by all or substantially all of the individuals and entities who were the beneficial owners of the outstanding Voting Securities immediately prior to such sale, lease, exchange or other disposition, (B) no Person (excluding AVB and any employee benefit plan (or related trust) of AVB or an AVB Affiliate or such entity or a subsidiary thereof and any Person beneficially owning, immediately prior to such sale, lease, exchange or other disposition, directly or indirectly, thirty percent (30%) or more of the outstanding Voting Securities) will beneficially own, directly or indirectly, thirty percent (30%) or more of, respectively, the then outstanding shares of common stock of such entity and the combined voting power of the then outstanding voting securities of such entity entitled to vote generally in the election of directors and (C) at least a majority of the members of the board of directors of such entity will have been members of the Incumbent Board at the time of the execution of the initial agreement or action of the AVB Board of Directors providing for such sale, lease, exchange or other disposition of assets of AVB.

Notwithstanding the foregoing, a “Change of Control of AVB” shall not be deemed to have occurred for purposes of this Agreement solely as the result of an acquisition of securities by AVB which, by reducing the number of shares of Voting Securities outstanding, increases the proportionate voting power represented by the Voting Securities beneficially owned by any Person to thirty percent (30%) or more of the combined voting power of all then outstanding Voting Securities; provided, however, that if any Person referred to in this sentence shall thereafter become the beneficial owner of any additional shares of Stock or other Voting Securities (other than pursuant to a stock split, stock dividend or similar transaction), then a “Change of Control of AVB” shall be deemed to have occurred for purposes of this Agreement.

“**Charter**” shall mean the Articles of Incorporation of the Company, as amended from time to time.

“**Closing**” shall mean the Initial Closing or any Subsequent Closing.

“**Code**” shall have the meaning set forth under “Internal Revenue Code” in this Section 1.2.

“**Co-Investment Entity**” shall have the meaning set forth in Section 3.15.

“**Company**” shall have the meaning set forth in Section 1.1.

“**Confidential Information**” shall have the meaning set forth in Section 9.3.

“**Contribution Call**” shall have the meaning set forth in Section 4.1(a).

“**Default Date**” shall have the meaning set forth in Section 4.2(a).

“**Default Portion**” shall have the meaning set forth in Section 4.2(h).

“**Defaulted Interest**” shall have the meaning set forth in Section 4.2(b).

“**Defaulting Partner**” shall mean any Partner that fails to pay when due any installment of its Capital Commitment under Section 4.1 hereof.

“**Defaulting Stockholder**” shall have the meaning set forth in Section 4.2(h).

“**Development Fees**” shall have the meaning set forth in Section 3.8(b).

“**Disposition**” shall mean, with respect to all or a portion of any Strategic Investment, any complete or partial repayment, syndication of interests, sale and/or other disposition, including sale upon liquidation of the Partnership, of such Strategic Investment in each case such that the Partnership ceases to have an ownership interest in such Strategic Investment or such portion thereof.

“**Disposition Proceeds**” shall mean the proceeds to the Partnership from the Disposition of any of its Strategic Investments, net of all related expenses, taxes and liabilities (including expenditures and fees paid directly or indirectly by the Partnership to the General Partner or any Affiliate of the General Partner or to third parties in connection with such Disposition in accordance with the terms of this Agreement), and in the case of any purchase money obligation or other interest (other than marketable securities) received on the disposition of a Strategic Investment shall mean both the principal thereof and interest thereon or other payments or distributions with respect to such interest at the time when either is received.

“**Economic Capital Account**” means, with respect to any Partner, such Partner’s Capital Account as of the date of determination, after crediting to such Capital Account any amounts that the Partner is deemed obligated to restore under Treasury Regulations Section 1.704-2.

“**Election Date**” shall have the meaning set forth in Section 4.1(e).

“**Electing Limited Partner**” shall have the meaning set forth in Section 5.6(b).

"**Equity Interest**" with respect to any Partner shall mean the entire right, title and interest of such Partner in the Partnership and any appurtenant rights, including, without limitation, any voting rights and any right or obligation to contribute capital to the Partnership.

"**Equity Interest Percentage**" with respect to any Partner shall mean the ratio that the Capital Commitment of such Partner bears to the aggregate Capital Commitments of all Partners.

"**ERISA**" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor thereto.

"**ERISA Partner**" shall mean each Limited Partner the assets of which constitute "plan assets" under ERISA.

"**Estimated Value Capital Account**" shall mean, with respect to any Partner, the amount such Partner would receive in a hypothetical liquidation of the Partnership following a hypothetical sale of all of the assets of the Partnership at prices equal to their most recent valuations, and the distribution of the proceeds thereof to the Partners pursuant to this Agreement (after the hypothetical payment of all actual Partnership indebtedness, and any other liabilities related to the Partnership's assets, limited, in the case of non-recourse liabilities, to the collateral securing or otherwise available to the lender to satisfy such liabilities).

"**Excepted Event**" shall have the meaning set forth in Section 4.1(e).

"**Final Closing Date**" means the date of the last Subsequent Closing.

"**Fiscal Year**" shall have the meaning set forth in Section 12.7.

"**For Cause Removal Notice**" shall have the meaning set forth in Section 8.4(a).

"**Formation Expenses**" shall mean all fees and out of pocket expenses incurred in connection with the formation of the Company, the Partnership and the General Partner and the consummation of the Initial Closing and any Subsequent Closings, including, without limitation, all expenses incurred in connection with the offer and sale of Limited Partnership interests and REIT Shares, but excluding any Placement Agent Fees.

"**General Partner**" shall mean AvalonBay Capital Management, Inc. or any successor thereto.

"**Incentive Distributions**" shall have the meaning set forth in Section 5.6(a).

"**Indebtedness**" of any Person shall mean, without duplication, (A) as shown on such Person's balance sheet (i) all indebtedness of such Person for borrowed money or for the deferred purchase price of property, and (ii) all other obligations of such Person evidenced by a note, bond, debenture or similar instrument (but only to the extent disbursed with respect to construction loans or other lines of credit), (B) the face amount of all letters of credit issued for the account of such Person and, without duplication, all unreimbursed amounts drawn thereunder, (C) all capitalized leases, and (D) all net payment obligations of such Person under any rate hedging agreements which were not entered into specifically in connection with Indebtedness set forth in clauses (A) or (B) hereof.

"**Indemnified Party**" shall have the meaning set forth in Section 3.10.

"**Independent Appraiser**" means a Person who is not an AVB Affiliate and who is experienced in the valuation of properties similar to the Partnership's Strategic Investments for institutional clients.

"**Initial Closing**" shall mean the initial admission of Limited Partners into the Partnership.

"**Initial Closing Date**" shall mean the date when the Initial Closing occurs.

"**Interim Investments**" shall mean cash, cash equivalent securities and other short-term investments of Partnership funds held for future investment in Strategic Investments or other Partnership purposes.

"**Internal Revenue Code**" or "**Code**" shall mean the United States Internal Revenue Code of 1986, as from time to time amended, and any successor thereto.

"**Investment**" shall mean an asset constituting an Interim Investment or a Strategic Investment.

"**Investment Committee**" shall have the meaning set forth in Section 6.5.

"**Investment Company Act**" shall mean the Investment Company Act of 1940, as amended.

"**Investment Period**" shall mean the period commencing on the Initial Closing Date and ending on the third anniversary of the Initial Closing Date.

"**Involuntary Withdrawal**" shall have the meaning set forth in Section 8.3.

"**IRS**" shall mean the Internal Revenue Service of the United States Department of the Treasury.

"**Limited Partners**" shall have the meaning set forth in Section 1.1.

"**Liquidating Agent**" shall have the meaning set forth in Section 11.1.

"**Managed Assets**" shall have the meaning set forth in Section 5.6(b)(iii).

"**Management Fee**" shall have the meaning set forth in Section 3.8(a).

"**Management/Oversight Group**" shall mean Bryce Blair, Thomas J. Sargeant, Lili Dunn and Kevin O'Shea, and any successor to any such individual in accordance with the following sentence. In the event that any one of Bryce Blair, Thomas J. Sargeant, Lili Dunn or Kevin O'Shea shall cease to be involved in the management or oversight of the Partnership at a level substantially consistent with such person's prior involvement, then the General Partner shall be entitled to appoint a successor to such person to serve as a member of the Management/Oversight Group, subject to PSERS' right to approve such successor (which approval will not be unreasonably withheld); provided, however, that the General Partner shall be entitled to appoint Timothy J. Naughton to fill the first vacancy on the Management/Oversight Group without obtaining PSERS' consent to such appointment for so long as Mr. Naughton is employed by AVB.

"**Net Loss from Writedowns**" as of any date shall be calculated on an aggregate basis with respect to all Unrealized Investments that have previously been written down or written off on the Partnership's books (other than the books required to comply with Section 5.1 and the definition of "Capital Account") and shall mean the excess, if any, of the aggregate cost of such Unrealized Investments over the aggregate fair market value of such Unrealized Investments as of such date; provided, however, that the Net Loss from Writedowns for any Investment shall not exceed the aggregate Acquisition Costs for such Investment.

"**No-Fault Removal Notice**" shall have the meaning set forth in Section 8.4(b).

"**Non-Default Portion**" shall have the meaning set forth in Section 4.2(h).

"**Partner Nonrecourse Debt**" shall have the meaning set forth in Section 5.3(c).

"**Partners**" shall mean the General Partner and the Limited Partners.

"**Partnership**" shall mean AvalonBay Value Added Fund, L.P.

"**Partnership Minimum Gain**" shall have the meaning set forth in Section 5.3(a).

"**Person**" shall mean a corporation, association, retirement system, international organization, joint venture, partnership, limited liability company, trust or individual.

"**Placement Agent Fees**" shall have the meaning set forth in Section 3.7.

"**Plan Asset Regulations**" shall mean the regulations promulgated under ERISA by the United States Department of Labor in 29 C.F. R. Part 2510.3-101, and any successor regulations thereto.

"**Predecessor In Interest**," as to the Equity Interest of any Partner, shall mean any Partner which was the prior holder of all or any portion of such Equity Interest.

"**Preferred Return**" shall mean an amount equal to ten percent (10%) per annum, cumulative and compounded annually, of a Partner's Unreturned Capital Contributions, calculated as if all Partners were admitted on the Initial Closing Date.

"**PSERS**" shall mean the Commonwealth of Pennsylvania Public School Employees' Retirement System, in its capacity as a Limited Partner of the Partnership.

"**Purchase Option**" shall have the meaning set forth in Section 8.6(d).

“**Redevelopment Fees**” shall have the meaning set forth in Section 3.8(b).

“**Reimbursement Amount**” shall mean AVB’s, or the applicable AVB Affiliate’s, costs associated with the Warehoused Properties, including the cost of acquiring such Warehoused Properties and other out-of-pocket costs associated with acquiring, financing and carrying such Warehoused Properties and any expenses advanced by AVB or such AVB Affiliate with respect to such Warehoused Properties.

“**REIT**” shall mean a real estate investment trust under Code Section 856.

“**REIT Share**” shall mean a share of common stock, par value $.01 per share, of the Company.

“**Removal**” (or “**Removed**”) shall have the meaning set forth in Section 8.4(a).

“**REOC Opinion**” shall have the meaning set forth in Section 3.4.

“**Residual Value**” shall have the meaning set forth in Section 5.1(c).

“**Return Account**” for the Partners shall mean the sum of:

(i) the aggregate Capital Contributions used to fund the Acquisition Costs of all Investments that have been disposed of or otherwise subject to a Disposition;

(ii) the aggregate Capital Contributions used to pay expenses of the Partnership, including, without limitation, expenses incurred under Sections 3.7 and 3.8 hereof; and

(iii) any Net Loss from Writedowns.

“**Second Preferred Return**” with respect to a Partner shall mean an amount equal to fourteen percent (14%) per annum, cumulative and compounded annually, of a Partner’s Second Unreturned Capital Contributions, calculated as if all Partners were admitted on the Initial Closing Date.

“**Second Unreturned Capital Contributions**” for any Partner shall mean, as of any date, the aggregate amount of Capital Contributions less all distributions received other than distributions of Preferred Return and Second Preferred Return.

“**Securities Act**” shall mean the Securities Act of 1933, as amended.

“**Stockholders**” shall mean the stockholders of the Company.

“**Strategic Investment**” shall mean any direct or indirect, current or contingent interest, option or commitment to acquire interests in (i) multifamily apartment communities (located primarily in markets where AVB owns and operates properties from time to time) through fee simple title or otherwise; (ii) non-apartment community properties as part of a portfolio of multifamily apartment communities; (iii) ancillary development opportunities related to or in connection with multifamily apartment communities; (iv) ancillary retail or office space related to or in connection with multifamily apartment communities; (v) joint ventures or other entities that own or operate any of the real property described in the preceding clauses (i) through (iv); or (vi) indebtedness secured by any of the real property described in the preceding clauses (i) through (iv), including, without limitation, first mortgage debt, participating mortgages, mezzanine debt and convertible debt.

“**Subject Insurance Payment**” shall have the meaning set forth in Section 3.2(d).

“**Subject Insurance Policy**” shall have the meaning set forth in Section 3.2(d).

“**Subsequent Closing**” shall have the meaning set forth in Section 4.4(b).

“**Subscription Agreement**” shall have the meaning set forth in Section 4.3.

“**Target Balance**” shall mean, with respect to any Partner as of the close of any period for which allocations are made under Section 5.2, the net amount such Partner would receive (or be required to contribute or pay) in a hypothetical liquidation of the Partnership as of the close of such period, assuming for purposes of such hypothetical liquidation:

(i) a sale of all of the assets of the Partnership at prices equal to their then book values (as maintained by the Partnership for purposes of, and as maintained pursuant to, the capital account maintenance provisions of Treasury Regulations Sections 1.704-1(b)(2)(iv));

(ii) the distribution of the net proceeds thereof to the Partners pursuant to Section 5.6(a) and Section 5.6(e)(ii) after the payment of all actual Partnership indebtedness, and any other liabilities related to the Partnership’s assets, limited, in the case of non-recourse liabilities, to the collateral securing or otherwise available to satisfy such liabilities (assuming for this purpose that the General Partner exercises its discretion under Section 5.6(e)(ii) to recover any Incentive Distributions paid to the Partners under Section 5.6(e)(i));

(iii) the return of Incentive Distributions by the General Partner to the Partnership in accordance with Section 11.6; and

(iv) the distribution of the amounts returned to the Partnership under clause (iii) above to the Partners in accordance with Section 11.6.

The net payment a Partner would receive (or have to make) shall also reflect any payment it (or any of its affiliates) would have to make (or receive) following such hypothetical liquidation under any agreement that is treated as part of this Agreement for purposes of Treasury Regulations Section 1.704-1(b)(2)(ii)(h).

“**Treasury Regulations**” shall mean the regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"**Unrealized Investments**" shall mean Investments (or portions thereof) that have not been subject to a Disposition.

"**Unreturned Capital Contributions**" for any Partner shall mean, as of any date, the aggregate amount of Capital Contributions less all distributions received other than distributions of Preferred Return.

"**VCOC Opinion**" shall have the meaning set forth in Section 3.4.

"**Voluntary Withdrawal**" shall have the meaning set forth in Section 8.2.

"**Voting Interest**" shall mean, with respect to any Partner(s) entitled to vote or otherwise participate with respect to a matter, the ratio which the Capital Commitment(s) of such Partner(s) voting in favor of the matter with respect to which such vote is being taken bears to the aggregate Capital Commitments of all Partners entitled to vote or otherwise participate with respect to such matter, expressed as a percentage. Notwithstanding any other provision of this Agreement to the contrary, whenever the Company has the right to vote on or approve any matter in its capacity as a Limited Partner, the Company's vote or approval shall be cast in accordance with Section 3.5 hereof.

"**Warehoused Properties**" shall mean properties acquired by AVB or an AVB Affiliate subsequent to January 1, 2004 and held directly or indirectly by the Partnership immediately prior to the Initial Closing Date (excluding any properties with respect to which AVB or an AVB Affiliate had, prior to January 1, 2004, an option to purchase or had entered into a binding agreement giving it the right to acquire such properties).

"**Withdrawal**" (or "**Withdrawn**" or "**Withdraws**") shall have the meaning set forth in Section 8.5.

2. Formation of Limited Partnership

2.1 Organization. The Partnership has been formed by the filing of the certificate of limited partnership (as it may be amended or restated from time to time, the "**Certificate**") for the Partnership required under the Delaware Revised Uniform Limited Partnership Act (as in effect from time to time, the "**Act**"), with the Delaware Secretary of State pursuant to the Act. Without the consent or approval of any Limited Partner, the Certificate may be restated by the General Partner as provided in the Act or amended by the General Partner to change the address of the office of the Partnership in Delaware or the name and address of its resident agent in Delaware or to make corrections required by the Act. The General Partner shall deliver a copy of the Certificate and any amendment thereto to any Partner who so requests.

2.2 Partnership Name. The name of the Partnership shall be "**AvalonBay Value Added Fund, L.P.**" All business of the Partnership shall be conducted under the Partnership name.

2.3 Purposes and Business. Subject to any limitations contained herein, the purpose of the Partnership is to acquire, improve, develop, lease, maintain, own, operate, manage, mortgage, hold, sell, exchange and otherwise deal in and with Strategic Investments, to acquire, hold and dispose of Interim Investments, and to engage in any other activities necessary or related or incidental thereto; provided, however, that such business shall be conducted in such a manner as the General Partner reasonably believes will permit the Company to be classified as a REIT beginning with its taxable year ending December 31, 2005, unless the Board of Directors and the Stockholders determine pursuant to the Charter that it is no longer in the best interests of the Company to continue to qualify as a REIT. In connection with the foregoing, and without limiting the Company's right, in its sole discretion, to cease to qualify as a REIT, the Partners acknowledge that the Company's status as a REIT inures to the benefit of all of the Partners and not solely the Company.

2.4 Principal Business Office, Registered Office and Registered Agent. The principal business office of the Partnership shall be located at 2900 Eisenhower Avenue, Suite 300, Alexandria, Virginia 22314-5223. The principal business office of the Partnership may be changed from time to time by the General Partner. The General Partner shall promptly notify the Limited Partners of any change in such principal business office. The registered office of the Partnership in the State of Delaware shall be c/o The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. The agent for service of process on the Partnership pursuant to the Act shall be The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. The registered agent and registered office of the Partnership may be changed by the General Partner from time to time. The General Partner shall promptly notify the Limited Partners of any such change.

2.5 Qualification in Other Jurisdictions. The General Partner shall cause the Partnership to be qualified or registered under applicable laws in such states as may be appropriate to avoid any material adverse effect on the business of the Partnership and shall be authorized to execute, deliver and file any certificates and documents necessary to effect such qualification or registration, including without limitation the appointment of agents for service of process in such jurisdictions.

2.6 Powers. In furtherance of its purposes, but subject to all of the provisions of this Agreement, the Partnership shall have and may exercise all of the powers and rights which can be conferred upon limited partnerships formed pursuant to the Act; provided, however, that the Partnership shall not take any action which, in the judgment of the General Partner could reasonably be anticipated to adversely affect the ability of the Company to continue to qualify as a REIT beginning with its taxable year ending December 31, 2005 (including by reason of the Partnership being taxable as a corporation pursuant to Code Section 7701 or Section 7704), unless the Board of Directors and the Stockholders determine pursuant to the Charter that it is no longer in the best interests of the Company to continue to qualify as a REIT.

3. Authority of the General Partner

3.1 General Authority. Except as expressly limited by the provisions of this Agreement, the General Partner shall have complete and exclusive discretion in the management and control of the affairs and business of the Partnership and shall have all powers necessary, convenient or appropriate to carry out the purposes, conduct the business and exercise the powers of the Partnership. Except as so expressly limited, the General Partner shall possess and enjoy with respect to the Partnership all of the rights and powers of a partner of a partnership without limited partners to the extent permitted by Delaware law. The Partnership hereby irrevocably delegates to the General Partner, without limitation, the power and authority to act on behalf of and in the name of the Partnership, without obtaining the consent of or consulting with any other Person, to take any and all actions on behalf of the Partnership set forth in this Agreement, including, without limitation, in Section 2.6 hereof. The General Partner, to the extent of its powers set forth herein, is an agent of the Partnership for the purpose of the Partnership's business and the actions of the General Partner taken in accordance with such powers shall bind the Partnership.

3.2 Authority for Specific Actions. Subject to Section 3.3 and such other limitations expressly provided by this Agreement, the General Partner is authorized to take the actions listed below in this Section 3.2 on behalf of the Partnership. This Section 3.2 is intended as an amplification of and not a limitation of the authority granted to the General Partner under Section 3.1.

(a) To borrow money from sellers of property or from banks or other lending institutions or the commercial paper market or otherwise to procure extensions of credit for the Partnership, including at the discretion of the General Partner, to issue instruments evidencing indebtedness or other debt obligations (including, without limitation, mortgages) and, if security is required therefore, to pledge, hypothecate, mortgage, assign, transfer and grant a security interest in the Strategic Investments, Capital Commitments and other assets of the Partnership, including, without limitation, the Partners' Subscription Agreements (provided, however, that in no event shall any such pledge obligate any Partner to make any payments in excess of the sum of such Partner's uncontributed Capital Commitment); and in connection with any of the foregoing to execute, seal, acknowledge and deliver promissory notes, guarantees, mortgages, security and other agreements, assignments and any other written documents, to request any AVB Affiliate to guaranty or otherwise provide security for any Partnership Indebtedness, and to prepay in whole or in part, refinance, recast, increase, modify or extend any such debt affecting any of the assets of the Partnership and in connection therewith to execute any extensions or renewals of any such debt and/or any other loans;

(b) To borrow funds to make Strategic Investments or to obtain working capital or to otherwise leverage the Partnership's assets through the issuance of mortgage-backed securities or preferred equity interests;

(c) To hold assets of the Partnership in the name of one or more trustees, nominees, other agents or directly or indirectly through one or more entities owned in whole or in part directly or indirectly by the Partnership;

(d) To maintain such insurance as the General Partner may deem appropriate to protect the assets and interests of the Partnership and Indemnified Parties and to satisfy any contractual undertakings of the Partnership; provided, that, in the event that an Indemnified Party receives an insurance payment (the “**Subject Insurance Payment**”) under any insurance policy (the “**Subject Insurance Policy**”) maintained by the Partnership with respect to any losses, liabilities, damages and/or expenses incurred by such Indemnified Party for any act or omission related to the performance of such Indemnified Party’s duties under the Partnership Agreement for which the Indemnified Party is not entitled to indemnification from the Partnership pursuant to Section 3.11 of the Partnership Agreement, the General Partner shall reimburse the Partnership for an amount equal to the product of (i) the ratio of (x) the Subject Insurance Payment to (y) all insurance payments made under the Subject Insurance Policy in the year in which the Subject Insurance Payment is made and (ii) the premium of the Subject Insurance Policy for the year in which the Subject Insurance Payment is made.

(e) To establish reserves for any Partnership purposes and to fund such reserves with any Partnership assets or borrowed funds;

(f) To enter into property management, servicing and special servicing or other service provider arrangements with respect to any asset of the Partnership, including, without limitation, agreements that provide for incentive compensation;

(g) To enter into transactions with AVB or one or more AVB Affiliates for the purchase or sale of assets, provided that all such purchases or sales (excluding the sale or contribution of Warehoused Properties pursuant to Sections 3.16 and 5.1(c) and the acquisition of Strategic Investments by the General Partner pursuant to Section 8.6(d)) have been approved by the Limited Partners representing one-hundred percent (100%) of the Voting Interest of the Limited Partners, excluding from the vote any Limited Partner that is an AVB Affiliate so long as the General Partner is an AVB Affiliate;

(h) To create one or more entities to hold any assets of the Partnership, acquire Equity Interests in the Partnership or for any other Partnership purpose, and to hold or distribute to the Partners any interest in such entities, provided that any such entity preserves the limited liability of the Limited Partners. The General Partner may have management rights in any such entities, but may not have financial interests in any such entities other than in its capacity as a Partner in the Partnership. The purpose of this provision is to allow the General Partner to invest capital contributed by the Partnership through parallel partnerships or other arrangements when the General Partner deems such arrangements to be appropriate to minimize taxes, comply with regulatory requirements, structure transactions so as to avoid the application of taxes or regulatory requirements or otherwise as the General Partner deems appropriate; and

(i) Subject to Section 6.2, to determine and establish the procedures to be utilized in the preparation of the current value financial statements of the Partnership described in Sections 12.3 and 12.4 of this Agreement.

(j) At anytime during the term of the Partnership after the earlier of (i) the date on which the Partnership has made Contribution Calls with respect to all of the Capital Commitments of the Partners as set forth on Schedule A hereto or (ii) the expiration or termination of the Investment Period, to borrow funds (on a secured or unsecured basis) from AVB or an AVB Affiliate at an interest rate equal to the then current prime rate as published by the Wall Street Journal plus one percent (1%) per annum in order to (x) fund capital improvements and other expenditures and investments with respect to existing Strategic Investments or (y) pay property-level expenses.

3.3 Investment Restrictions.

(a) The following restrictions shall be applicable to the Partnership unless waived, with respect to a particular Investment by either (i) two-thirds of the members of the Advisory Committee, or (ii) the Limited Partners representing a Voting Interest of the Limited Partners in excess of fifty percent (50%), excluding from such vote any Limited Partner that is an AVB Affiliate so long as the General Partner is an AVB Affiliate:

(i) The Partnership shall not make any Strategic Investment in any publicly traded security of an issuer in connection with any merger, tender or exchange offer, business combination, restructuring, recapitalization or similar transaction to or with such issuer if a majority of the board of directors of such issuer is opposed to such transaction.

(ii) Following the Final Closing Date and prior to the expiration of the Investment Period, the Partnership shall not incur, directly or indirectly, Indebtedness if, immediately after giving effect to the incurrence of such Indebtedness, the aggregate Indebtedness of the Partnership would exceed sixty-five percent (65%) of the aggregate Acquisition Costs at such time (including for purposes of this Section 3.3(ii) any Acquisition Costs paid with indebtedness incurred or assumed by the Partnership). Following the expiration of the Investment Period, the Partnership shall not incur, directly or indirectly, Indebtedness if, immediately after giving effect to the incurrence of such Indebtedness, the aggregate Indebtedness of the Partnership would exceed sixty-five percent (65%) of the aggregate fair value market of the Strategic Investments as determined in accordance with Section 12.3. For purposes of this Section 3.3(a)(ii), Indebtedness shall not include (x) any amount outstanding under any line of credit established for the benefit of the Partnership and/or the Company or (y) any amount borrowed from AVB or an AVB Affiliate pursuant to Section 3.2(j).

(iii) The Partnership shall not invest in any new development at existing apartment communities that have ancillary ground-up development opportunities if the total capital invested in such development opportunities is, at the time of such investment, projected to represent more than fifteen percent (15%) of the Partnership's projected aggregate capitalization, consisting of the aggregate Capital Commitments (whether or not contributed) and the aggregate Indebtedness available to the Partnership under any debt instruments (whether or not such Indebtedness has been drawn).

(iv) The Partnership shall not invest in a portfolio of properties if more than fifteen percent (15%) of such portfolio's aggregate net operating income is, at the time of such investment, projected to be attributable to non-apartment community properties that are a part of such portfolio.

(v) Immediately following the termination of the Investment Period, the aggregate capital invested by the Partnership in Strategic Investments located in any one of AVB's sixteen (16) markets as of the date of this Agreement (or any other markets in which the Partnership owns and operates properties from time to time) shall not exceed thirty-five percent (35%) of the amount obtained by dividing the aggregate Capital Commitments by 0.35.

(vi) The Partnership and the General Partner shall not invest in any real estate properties located outside of the United States.

(vii) In the event that the Partnership borrows under any credit facility secured by the Capital Commitments of the Partners, as described in Section 4.1(d) below, no individual borrowing under such credit facility shall be outstanding for a period exceeding twelve (12) months. The foregoing however is not intended to prohibit the term of any such credit facility as a whole from exceeding twelve (12) months.

(b) The Partnership shall use its best efforts to ensure that the Company will qualify for taxation as a REIT for each taxable year commencing with its taxable year ending December 31, 2005, in accordance with Section 3.6 of this Agreement.

(c) The Partnership shall not take any action that the General Partner reasonably believes would be likely to prevent the Company from maintaining its status as a "venture capital operating company" (as defined in the Plan Asset Regulations).

(d) No Capital Commitments may be drawn, and no Partnership capital may be invested in any Strategic Investment, prior to the first date on which the Partnership will qualify as a "real estate operating company," as such terms are defined in the Plan Asset Regulations; provided, however that the foregoing restriction shall not preclude the Partnership from making refundable deposits or other short-term investments prior to such date.

3.4 ERISA Matters. The Partnership shall use its best efforts to conduct its affairs so as to qualify as a "real estate operating company" as defined in the Plan Asset Regulations. For purposes of determining that the Partnership so qualifies, the annual valuation period of the Partnership for purposes of the Plan Asset Regulations shall be the ninety (90) day period commencing on each anniversary of the date on which the Partnership makes its first Investment (other than a short-term investment pending long-term commitment). Simultaneously with the date of the closing of such first Investment by the Partnership and, thereafter, prior to the expiration of each annual valuation period, the Partnership shall obtain an opinion from counsel to the Partnership as to whether the Partnership qualifies as a "real estate operating company" (a "**REOC Opinion**"), and the Company shall obtain an opinion from counsel to the Company as to whether the Company qualifies as a "venture capital operating company" as defined in the Plan Asset Regulations (a "**VCOC Opinion**"). Within ten (10) days after obtaining a REOC Opinion or a VCOC Opinion, the General Partner shall mail a copy of such REOC Opinion or VCOC Opinion to each Limited Partner and Stockholder that is subject to ERISA.

3.5 Company Actions and Voting. In the event that any matter is submitted to the Company for its consideration as a Limited Partner of the Partnership pursuant to the terms of this Agreement, the Company shall deliver a request in writing to each Stockholder of the Company, at least ten (10) business days prior to the date on which such matter shall be considered, asking each Stockholder of the Company to provide written direction with respect to the Company's vote in such matter, and the Board of Directors of the Company will cause the Company, in its capacity as a Limited Partner of the Partnership, to grant or withhold the consent or approval of the Company as such Limited Partner, and with respect to such matter, as follows: (i) if a Stockholder of the Company directs the Company to vote in favor of such matter, the Company shall vote its percentage interest as a Limited Partner that corresponds to such stockholder's percentage interest of the Company in favor of such matter; (ii) if a Stockholder of the Company directs the Company to vote against such matter, the Company shall vote its percentage interest as a Limited Partner that corresponds to such Stockholder's percentage interest of the Company against such matter; and (iii) if a Stockholder abstains with respect to such matter or the Company does not receive written direction from a Stockholder with respect to such matter at the location specified in the foregoing request at least one (1) business day prior to date on which such matter shall be considered, the Company shall vote its percentage interest as a Limited Partner that corresponds to such Stockholder's percentage interest of the Company in accordance with the direction provided by the Company's Board of Directors in its sole and absolute discretion. Notwithstanding any other provision of this Agreement, for purposes of calculating the Voting Interest of the Partners that is required or that has been obtained for any matter, if the vote of AVB Affiliates is excluded from voting on such matter pursuant to this Agreement, then the REIT Shares held by any AVB Affiliate will be voted in the same proportion as the votes of the other Stockholders with respect to such matter. For purposes of this Section 3.5, a written consent in lieu of meeting of the Stockholders or a vote of the Stockholders taken at a meeting of the Stockholders duly called and held in accordance with the Company's Bylaws and Charter shall each be deemed to constitute a written direction with respect to the Company's vote on a matter in its capacity as a Limited Partner.

3.6 Stockholder Rights; REIT Matters. The Partnership and the General Partner shall use their best efforts to ensure that no action taken by the Partnership shall cause the rights of Stockholders to differ in a materially adverse manner from the rights which may be given to Limited Partners under this Agreement. The Partnership and the General Partner shall use their best efforts to maintain the status of the Company as a REIT commencing with its taxable year ending December 31, 2005, except and to the extent that the requirements of this Section 3.6 with respect to a particular Investment or other activity of the Partnership are specifically waived by the Board of Directors and Stockholders that hold in the aggregate REIT Shares representing at least seventy-five percent (75%) of all the outstanding REIT Shares at the time of such waiver. The General Partner may cause the Partnership to take such action (or refrain from taking such action) as may be reasonably necessary to preserve AVB's status as a REIT. The preceding two sentences shall not, however, have the effect of overriding any provision of Article 5 hereof and shall not otherwise adversely affect the allocations and distributions provided for in this Agreement. Any action of the General Partner to enforce or otherwise cause the Partnership to comply with the provisions of this Section shall not be deemed to be a breach of any fiduciary duty otherwise owed to the Partners and shall not require the approval of any Limited Partner or the Advisory Committee.

3.7 Expense Reimbursement. The Partnership shall reimburse the General Partner or any AVB Affiliate for the following (to the extent not directly paid by the Partnership):

(a) all Formation Expenses incurred on behalf of the Partnership and the Company, up to an aggregate maximum reimbursement equal to one million dollars ($1,000,000);

(b) the charges and expenses of maintaining the Partnership's and the Company's bank accounts or of any banks, custodians or depositories appointed for the safekeeping of the Interim Investments or other property of the Partnership, including the costs of bookkeeping and accounting services;

(c) all costs incurred by the General Partner or any AVB Affiliate in connection with providing the services of development, construction, reconstruction, accounting and budgeting professionals for the Partnership's projects (which professionals may include employees of the General Partner or any AVB Affiliate, provided that the terms of such services are no less favorable than those that would be obtained from an unaffiliated third party) including, without limitation, the compensation expenses and overhead for such professionals corresponding to the portion of their business time spent on such projects for the Partnership;

(d) the Reimbursement Amount with respect to the Warehoused Properties as provided in Sections 3.16 and 5.1(c); and

(e) all other expenses not specifically provided for in this Section 3.7 which are reasonably incurred by the General Partner or any AVB Affiliate in connection with operating the Partnership, any entity organized pursuant to Section 3.2(h) for the purpose of holding Partnership assets or the Company, or performing the duties of the General Partner under this Agreement, including, without limitation, (i) travel costs, fees and other out-of-pocket expenses related to a specific investment or proposed investment, (ii) auditor and counsel fees, (iii) taxes, (iv) insurance, (v) litigation expenses, and (vi) expenses associated with preparing and distributing reports to investors pursuant to Section 12 of this Agreement (but specifically excluding (x) office overhead of the General Partner, (y) compensation of the General Partner's employees except as provided in clause (c) above, or (z) travel expenses of the General Partner's employees that are not related to a specific Investment or proposed Investment).

In addition to the foregoing, if any AVB Affiliate guaranties or otherwise provides security for any Indebtedness of the Partnership (including, without limitation, acting as a guarantor with respect to environmental liabilities and other customary "bad boy" recourse carveouts), then (i) the Partnership shall reimburse such AVB Affiliate for all expenses or other amounts incurred or paid by such AVB Affiliate in connection with any such guaranty or security, provided that no AVB Affiliate shall be reimbursed for any liabilities, obligations or other amounts paid by it pursuant hereto that are finally adjudicated by a court of competent jurisdiction to have resulted from such AVB Affiliate's gross negligence, fraud or willful misconduct, and (ii) the General Partner shall cause the Partnership to make any such reimbursement payment in preference to any other obligation of the Partnership.

All Formation Expenses in excess of one million dollars ($1,000,000) shall be paid by the General Partner and shall not be reimbursed by the Partnership. All fees and expenses of placement agents incurred by the Partnership in connection with the offering or sale of interests in the Partnership on or before the Final Closing Date (the "**Placement Agent Fees**"), including, without limitation, the Placement Agent Fees due to Morgan Stanley & Co. Incorporated shall be paid by the General Partner and shall not be reimbursed pursuant to this Section 3.7. The Partnership shall reimburse the Company for all costs, expenses and liabilities paid by the Company.

3.8 Management Fees.

(a) Commencing with the Initial Closing Date, the General Partner shall be paid a quarterly asset management fee (the "**Management Fee**") by the Partnership. The Management Fee shall be paid by the Partnership quarterly in arrears from the Initial Closing Date as follows:

(i) During the period from Initial Closing Date to the Final Closing Date, and after the termination of the Investment Period, the Management Fee for each calendar quarter shall equal one-fourth (1/4) of one and one-quarter percent (1.25%) of the difference between (x) the aggregate Capital Contributions of all of the Partners and (y) the aggregate Capital Contributions of all of the Partners used to fund Strategic Investments which have been disposed of (or have been written off such that the General Partner is not providing any, or is providing an insignificant amount of, management activities with respect to such Strategic Investments) as of such date.

(ii) From the Final Closing until and including the termination of the Investment Period, the Management Fee for each calendar quarter shall equal one-fourth (1/4) of one and one-quarter percent (1.25%) of the aggregate Capital Commitments of all of the Partners.

(iii) The Management Fee shall be pro rated for any period less than a calendar quarter based on the number of days during such period.

(b) At the election of the General Partner, the Partnership may retain the General Partner or an AVB Affiliate to provide property management and redevelopment services on behalf of the Partnership in the ordinary course of business for the following fees, payable on a monthly basis:

(i) Property Management: 3.75% of gross revenues of the managed properties plus reimbursement of all reasonable direct costs, including any leasing commissions to third parties and tenant improvements, incurred by the General Partner or the AVB Affiliate providing such services; and

(ii) Redevelopment: 10% of total project costs (including allocated general conditions) plus reimbursement of all reasonable direct costs incurred by the General Partner or the AVB Affiliate providing such services (the "**Redevelopment Fees**").

The Partnership may also retain the General Partner or an AVB Affiliate to provide development services on behalf of the Partnership with respect to any ancillary ground-up development at Strategic Investments, subject to Section 3.3(a)(iii), on terms consistent with those which could be obtained from an unaffiliated third party service provider and which are approved by the Advisory Committee, which approval shall not be unreasonably withheld (the "**Development Fees**"). The General Partner or the AVB Affiliate providing any of the foregoing services shall be entitled to indemnification and exculpation with respect to any losses, liabilities, damages or expenses incurred by such entity in connection with such property management, development and redevelopment services to the same extent that indemnification and exculpation are provided to Indemnified Parties pursuant to Sections 3.10 and 3.11 hereof. The rights of the General Partner or an AVB Affiliate to provide the services set forth in this Section 3.8(b) will terminate upon a Removal of the General Partner.

3.9 Other Permitted Business.

(a) Except as otherwise limited by this Agreement, the General Partner and any AVB Affiliate may engage independently or with others in other business ventures of every nature and description, including, without limitation, the rendering of advice or services of any kind to other investors and the making or management of other investments and serving as a general partner of or otherwise operating any public or private real estate partnerships. Nothing in this Agreement, except as provided in Section 3.9(b), shall be deemed to prohibit the General Partner or any AVB Affiliate from dealing or otherwise engaging in business with Persons transacting business with the Partnership or from providing services relating to the purchase, sale, financing, management, development or operation of real property or other assets of the type included within the definition of Strategic Investments and receiving compensation therefor. Neither the Partnership nor any Partner shall have any right by virtue of this Agreement or the partnership relationship created hereby in or to such other ventures or activities or to the income or proceeds derived therefrom, and the pursuit of such ventures shall not be deemed wrongful or improper. The Limited Partners hereby acknowledge that AVB is a publicly traded corporation and, as such, AVB and its directors and officers owe a fiduciary duty to the holders of shares of capital stock of AVB.

(b) Following the Initial Closing, no AVB Affiliate or the Company (other than on behalf of the Partnership and any other Co-Investment Entity) will form an investment fund with investment objectives substantially similar to the Partnership, until the earlier of:

(i) the first date on which an amount equal to eighty percent (80%) of the Partnership's Capital Commitments has been invested, committed for investment or used to pay expenses by the Partnership; or

(ii) the expiration of the Investment Period.

In the event that AVB or an AVB Affiliate forms such an investment fund prior to the expiration of the Investment Period, the Partnership will have first priority to any investment which qualifies as a Strategic Investment, to the extent that the Partnership has the financial capacity to make such investment. Notwithstanding the foregoing, AVB Affiliates will be permitted at any time to manage and make any existing or future investments managed or made by any AVB Affiliate in connection with or on behalf of other funds and accounts managed, ventures entered into and assets acquired (or committed to be acquired) by any AVB Affiliate prior to the Initial Closing Date, or in connection with any additional investments managed or made by any AVB Affiliate during any period of time that the exclusivity provisions described above are not in effect.

(c) Subject to Section 3.9(d), following the Initial Closing, no AVB Affiliate will make any investment which would be a Strategic Investment that the Partnership would otherwise be permitted to make pursuant to the terms of this Agreement, until the earlier of:

(i) the first date on which an amount equal to eighty percent (80%) of the Partnership's Capital Commitments have been invested, committed for investment or used to pay expenses by the Partnership; or

(ii) the expiration of the Investment Period.

(d) Section 3.9(c) notwithstanding, an AVB Affiliate may invest in the following at any time:

(i) properties that, at the time a commitment to acquire the property is made, have not yet started construction or construction is not expected to be completed for at least six (6) months thereafter;

(ii) properties acquired in tax-deferred transactions, including, without limitation, properties acquired in exchange for "down REIT units" and transactions intended to qualify for non-recognition under Section 1031 of the Code;

(iii) an individual property with an aggregate purchase price in excess of one hundred million dollars ($100,000,000) or a portfolio of properties in a single state, the District of Columbia or a geographic region with an aggregate purchase price in excess of two hundred fifty million dollars ($250,000,000);

(iv) properties with respect to which AVB or an AVB Affiliate had prior to January 1, 2004, an option to purchase or had entered into a binding agreement giving it the right to acquire such properties; and

(v) any investment which the General Partner has decided not to make or pursue for the Partnership based on the reasonable good faith determination (which determination shall be binding on the Partnership) that such investment is inappropriate or inadvisable for the Partnership, whether due to capacity, diversification, rate of return objectives, seller's tax objectives or other considerations; provided that to the extent the General Partner reasonably determines in good faith that it is desirable for the Partnership to make some but not all of a particular investment, then the Partnership may make such investment to such extent and the General Partner or another AVB affiliate (alone or with other investors) may co-invest with the Partnership in such investment on a side-by-side basis on terms no more favorable than those applicable to the Partnership in respect of the investment.

3.10 Exculpation. Neither the General Partner, the members of the Advisory Committee, the members of the Investment Committee, the Company, AVB, any AVB Affiliate, nor any principal, heir, executor, administrator, member, stockholder, manager, partner, director, officer, agent, employer, employee, successor or assign of any of the foregoing (including any person who serves at the request of the General Partner as a director, officer, manager, partner, employee or agent of another entity in which the Partnership has an interest as a security holder, creditor or otherwise) (each an "**Indemnified Party**") shall have any liability to the Company, the Partnership, any Stockholder or any Partner for any loss suffered by the Company, the Partnership, any Stockholder or any Partner which arises out of any action or inaction of an Indemnified Party, provided that for any Indemnified Party other than a member of the Advisory Committee, such exculpation shall not apply to any action or inaction of such Indemnified Party that constitutes fraud, gross negligence or willful misconduct of such Indemnified Party in connection with the performance of its duties under this Agreement.

3.11 Indemnification. Subject to the limitations contained in this Section 3.11, the Partnership shall indemnify each Indemnified Party against all losses, liabilities, damages and expenses incurred by such Indemnified Party for any act or omission related to the performance of its duties under this Agreement or otherwise taken on behalf of the Partnership or in furtherance of its business. Such indemnity shall cover, without implied limitation, judgments, settlements, fines, penalties, counsel fees and all other expenses reasonably incurred in connection with the defense or disposition of any action, suit or other proceeding, whether civil or criminal, before or threatened to be brought before any court or administrative body, in which an Indemnified Party may be or may have been involved as a party or otherwise, or with which it may have been threatened, by reason of being or having been an Indemnified Party, or by reason of any act or omission on behalf of the Partnership or in furtherance of its business; provided, however, that an Indemnified Party shall not be entitled to indemnification pursuant to this Section 3.11 with respect to any matter as to which such Indemnified Party shall have been finally adjudicated in any such action, suit or other proceeding, or otherwise by a court of competent jurisdiction, to have committed an act or omission that constitutes fraud or willful misconduct on the part of such Indemnified Party (or gross negligence in the case of all Indemnified Parties other than members of the Advisory Committee) in connection with the performance of its duties under this Agreement. The right of indemnification provided hereby shall not be exclusive of, and shall not affect, any other rights to which any Indemnified Party may be entitled and nothing contained in this Section 3.11 shall limit any lawful rights to indemnification existing independently of this Section 3.11. Notwithstanding anything to the contrary in this Agreement, to the extent that, at law or in equity, a Partner or Advisory Committee member has duties (including fiduciary duties) and liabilities relating thereto to the Partnership, any Partner or any other Person, such Partner or Advisory Committee member acting under this Agreement shall not be liable to the Partnership, any Partner or any other Person for breach of fiduciary duty for its good faith reliance on the provisions of this Agreement, and the provisions of this Agreement, to the extent that they restrict the duties (including fiduciary duties) and liability of a Partner or Advisory Committee member otherwise existing at law or in equity, are agreed by each Partner to replace such other duties and liabilities of such Partner or Advisory Committee member.

3.12 Payment of Indemnification Expenses. Prior to any final disposition of any claim or proceeding with respect to which any Indemnified Party may be entitled to indemnification hereunder, at the discretion of the General Partner the Partnership may pay to the Indemnified Party, in advance of such final disposition, an amount equal to all expenses of said Indemnified Party reasonably incurred in the defense of said claim or proceeding so long as the Partnership has received a written undertaking of said Indemnified Party to repay to the Partnership the amount so advanced if it shall be finally determined that said Indemnified Party was not entitled to indemnification hereunder. Any Person entitled to indemnification hereunder shall first seek recovery under any insurance policies of the Partnership by which such Person is covered prior to such Person receiving any indemnification payment from the Partnership. To the extent that the Partnership makes any payments to an Indemnified Party for any indemnification claim (including advances) hereunder, if the Indemnified Party has no continuing liability with respect to any claim or proceeding with respect to which such Indemnified Party may be entitled to indemnification hereunder, the Partnership shall be subrogated to the extent of such payment to any rights which the Indemnified Party may have to receive indemnification payments (including payments under any insurance policies of the Partnership) from other Persons with respect to the subject matter underlying such indemnification claim.

3.13 Partnership Classification. The Partnership and the General Partner shall use their best efforts to assure that the Partnership will be treated for federal income tax purposes as a partnership and not as an association or publicly traded partnership taxable as a corporation. The Partnership shall not elect to be treated other than as a partnership for federal income tax purposes.

3.14 Reliance by Third Parties. Any contract, instrument or act of the General Partner on behalf of the Partnership shall be conclusive evidence in favor of any third party dealing with the Partnership that the General Partner has the authority, power, and right to execute and deliver such contract or instrument and to take such action on behalf of the Partnership. This Section 3.14 shall not be deemed to limit the liabilities and obligations of the General Partner as set forth in this Agreement.

3.15 Co-Investment Entities. To address specific tax issues or other regulatory concerns, the General Partner may form one or more co-investment entities (together with the Partnership, the "**Co-Investment Entities**"). It is the intent of the Partners that each Co-Investment Entity participate in the same Strategic Investments on the same terms as if all of the Co-Investment Entities were investing through a single partnership, subject to any specific investment limitations applicable to any such fund. Whenever the General Partner determines that a particular Strategic Investment opportunity is appropriate for the Co-Investment Entities, all of the Co-Investment Entities shall invest in such Strategic Investment opportunity on a pro rata basis in accordance with the ratio of the respective capital commitments of such funds that are available for that Strategic Investment at that time, subject to the maximum investment amount deemed appropriate by the general partner or manager of each Co-Investment Entity and subject to any specific investment limitations applicable to any such Co-Investment Entity. Whenever the General Partner determines that a particular Strategic Investment should be disposed of by the Co-Investment Entities, all of the Co-Investment Entities will dispose of such Strategic Investment at the same time and on the same terms, subject to any specific structuring requirements that are necessary to achieve tax or regulatory objectives.

3.16 Warehoused Properties. In connection with the first Contribution Call following the Initial Closing, and in any event prior to the earlier of the end of the first calendar quarter in which the Initial Closing occurs and the date of the first Subsequent Closing, the Partnership shall pay the Reimbursement Amount to the General Partner. The General Partner's obligation to fund its share of such Contribution Call and the AVB Stockholder's obligation to purchase REIT Shares in connection with such Contribution Call shall be deemed satisfied by offset against such Reimbursement Amount (i.e., so that the net cash received by the General Partner is the Reimbursement Amount net of such contribution obligations). The portion of the Company's obligation as a Limited Partner to fund such Contribution Call which corresponds to the AVB Stockholder's interest in the Company shall be deemed satisfied by the in-kind Capital Contribution of a portion of the Warehoused Properties as described in Section 5.1(c). For purposes of determining the Partners' Capital Accounts, Capital Contributions and distributions, the General Partner's right to the Reimbursement Amount, the payment thereof and the offset thereof against the General Partner and the Company's direct or indirect share of such Contribution Call shall be treated as provided in Section 5.1(c). Following the Initial Closing Date, the General Partner, in its discretion, may cause the Partnership to replace AVB as the guarantor under any Indebtedness on the Warehoused Properties.

4. Capital Commitments and Contributions

4.1 Payment of Capital Contributions.

(a) Each Partner agrees to pay to the Partnership an aggregate amount in cash equal to its Capital Commitment, as set forth in Schedule A hereto; provided that the General Partner shall be entitled to pay the Capital Commitment with respect to its Partnership interest in cash and/or Warehoused Properties pursuant to Sections 3.16 and 5.1(c) hereof. The total aggregate Capital Commitments of all Partners shall not exceed three hundred and thirty million dollars ($330,000,000). All or any portion of each Partner's Capital Commitment shall be payable upon not less than ten (10) business days prior written notice from the General Partner (each, a "**Contribution Call**") in accordance with Section 4.1(b) below. Except as otherwise provided below in this Section 4.1, no Contribution Calls shall be made after the expiration of the Investment Period. Contribution Calls may be made at any time after the expiration of the Investment Period for the purpose of (w) paying amounts owing or that come due under any credit facility obtained by the Partnership, to the extent secured by such Capital Commitment, regardless of whether such borrowing occurred before or after the expiration of the Investment Period, provided that no such borrowing shall occur after the expiration of the Investment Period for the purpose of making Strategic Investments after the end of the Investment Period unless prior to the expiration of the Investment Period the Partnership has entered into a written letter of intent, written agreement in principal or written definitive agreement to make such Strategic Investment, (x) paying amounts to satisfy obligations of the Company or the Partnership under any guarantees, indemnities, covenants or other obligations existing prior to the expiration of the Investment Period, (y) funding investments in Strategic Investments with respect to which the Partnership has entered into a written letter of intent, written agreement in principle or written definitive agreement to invest prior to the expiration of the Investment Period or (z) enabling the Partnership to acquire a Defaulting Partner's Defaulted Interest pursuant to Section 4.2(b) below. Contribution Calls also may be made at any time after the expiration of the Investment Period for the purpose of paying operating and other expenses of the Partnership and the Company or establishing reserves for the payment of such expenses. Except as provided in Sections 3.16 and 5.1(c), no Partner shall have any right to make any Capital Contribution that has not been called by the General Partner pursuant to this Section 4.1.

(b) A Contribution Call shall be in the form of a written notice to all Partners, specifying the general purpose of such Contribution Call, an aggregate dollar amount and a date on which payment shall be due, which date shall be no less than ten (10) business days after the date of receipt of notice of such Contribution Call. Each Partner shall be required to contribute such Partner's Equity Interest Percentage of the Contribution Call. The General Partner may, subject to compliance with the requirement of ten (10) business days' advance notice, for any increase in any Contribution Call, amend, delay or rescind Contribution Calls at any time prior to the payment due date thereof. The amendment, delay or rescission of a Contribution Call shall not affect or abridge the right of the General Partner to make any subsequent Contribution Call. As provided in Sections 3.16 and 5.1(c), the General Partner may make certain Capital Contributions by offset against the Reimbursement Amount payable to it.

(c) Each Limited Partner and the General Partner shall grant to the Partnership a security interest in its Equity Interest securing payment of its Capital Commitment. Each Limited Partner agrees to execute such security agreements and UCC financing statements as the General Partner may reasonably request to perfect such security interest, and the General Partner shall execute and file an agreement and statement in a form substantially similar to that required of the Limited Partners. Neither the Partnership nor the General Partner, nor any other party, may assign, re-pledge or re-grant a security interest in any Limited Partner's Equity Interest in the Partnership to any third party without the consent of such Limited Partner, and any assignment, re-pledge or re-grant in violation of this Section 4.1(c) shall be null and void and have no force or effect. Except as provided above, no Limited Partner shall pledge or grant a security interest in its Equity Interest without the prior approval of the General Partner, such approval to be granted or withheld at the sole discretion of the General Partner.

(d) In connection with any Partnership borrowings, the General Partner shall be authorized to pledge, mortgage, assign, transfer and grant security interests in the right to initiate Contribution Calls and collect the Capital Commitments of the Partners hereunder. Each Partner shall promptly execute and deliver appropriate estoppel certificates and parent entity guarantees (to the extent required by lenders to the Partnership) and deliver required opinions of counsel regarding the due formation, valid existence and good standing of such Partner and the due authorization, valid execution and delivery of its Subscription Agreement and this Agreement and any documents executed in connection with any such borrowing, and such other opinion issues as may be requested by such lenders, and shall execute such other instruments and take such other action as the General Partner or such lender may require in order to effectuate any such borrowings by the Partnership. To the extent that the Partnership has outstanding obligations under a credit facility secured by the Capital Commitments of the Partners hereunder, each Partner shall be obligated to fund any remaining portion of its Capital Commitment without defense, counterclaim or offset of any kind, including any defense arising under Section 365(c) of the U.S. Bankruptcy Code, if applicable, provided that such agreement to fund shall not act as a waiver by the Partner of its right to assert independently any claim that the Partner may have against any other Partner, the Partnership or the Company. Nothing in this Section 4.1(d) shall require any Partner to take any action that would cause such Partner to assume personal liability to the Partnership in an amount which exceeds such Partner's uncontributed Capital Commitment. In the event that, as a result of any such pledge, mortgage, assignment, transfer or grant of security interest a Partner makes a payment directly to a lender as required pursuant thereto, such payment shall be deemed to be a Capital Contribution of such Partner to the Partnership.

(e) Notwithstanding any provision herein to the contrary, but subject to the following sentence, PSERS shall be entitled to not make any additional Capital Contributions beginning on a certain date selected by PSERS (the "**Election Date**") by providing the Partnership written notice thereof at least five (5) business days prior to the Election Date, in the following circumstances (each, an "**Excepted Event**"): (i) there are two (2) or more vacancies on the Management/Oversight Group at the same time for which successors have not been appointed in accordance with the definition of the Management/Oversight Group set forth herein; or (ii) the Partnership makes two or more indemnification payments pursuant to Section 3.11 of this Agreement where each such indemnification payment (a) relates to separate and distinct indemnification claims pertaining to unrelated acts, omissions or events; (b) is equal to or exceeds $500,000 and (c) is the direct result of any action or inaction of the General Partner in connection with making decisions to (1) purchase or sell real estate assets or (2) invest significant capital to redevelop real estate assets on behalf of the Partnership that, in either such case, constitutes a failure to exercise the care and skill under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of real estate investment enterprises that operate with investment objectives substantially similar to the investment objectives of the Partnership as described in its private placement memorandum. Notwithstanding the foregoing sentence, PSERS shall be required to make Capital Contributions after the Election Date for the limited purpose of paying its pro rata share of any borrowings that occurred prior to the Election Date under any credit facility obtained by the Partnership to the extent that such borrowings were secured in whole or in part by PSERS' Capital Commitment. In the event that PSERS elects to not make any Additional Capital Contributions pursuant to this Section 4.1(e), for all purposes of this Agreement, PSERS' Capital Commitment shall be reduced to the amount of its aggregate Capital Contributions at the Election Date (as increased from time to time by any subsequent Capital Contributions made by PSERS pursuant to the preceding sentence).

4.2 Defaulting Partners.

(a) If a Partner fails to pay any installment of its Capital Commitment when due, a notice of default shall be given to such Partner by the General Partner by facsimile transmission, hand delivery or by certified or registered mail. If the installment is not received by the Partnership within ten (10) business days after the receipt of such notice of default, such amount shall bear interest payable to the Partnership at a rate of 18% per annum or, if lower, the highest rate of interest permitted under applicable law, from and after the original due date of such installment (the "**Default Date**") until the earliest of either (i) the payment of such installment, including any interest accruing under this Section 4.2(a), (ii) the purchase of such Defaulting Partner's Defaulted Interest (as defined below) under Section 4.2(b), or (iii) the conclusion of foreclosure proceedings under Section 4.2(d). Any interest paid by a Defaulting Partner pursuant to this Section 4.2(a) shall not be treated as a Capital Contribution but shall be treated as income of the Partnership.

(b) In addition to, and not in limitation of the foregoing, upon ten (10) days' written notice to any Partner that becomes a Defaulting Partner (and provided that such default has not been cured by the Defaulting Partner within such 10-day period), the General Partner, in its sole discretion, may:

(i) offer to all non-defaulting Partners the right to acquire (subject to the terms of Articles 7 and 8 hereof) all or any portion of the Equity Interest of the Defaulting Partner in the Partnership (a "**Defaulted Interest**");

(ii) in the event that the Defaulting Partner's entire Defaulted Interest is not acquired by the Partners pursuant to clause (i) above, cause the Partnership to acquire all or a portion of the portion of such Defaulting Partner's Defaulted Interest in the Partnership not so acquired; provided, however, that the aggregate amount of the Defaulting Partner's Defaulted Interest purchased by the Partners pursuant to clause (i) and by the Partnership pursuant to this clause (ii) must be equal to the entire Defaulted Interest of the Defaulting Partner, unless the remainder of such Defaulted Interest is acquired pursuant to clause (iii) below; and/or

(iii) in the event that the entire Defaulted Interest of the Defaulting Partner is not acquired by the Partners pursuant to clause (i) above and/or by the Partnership pursuant to clause (ii) above, designate one or more third parties, which parties may be Partners, to acquire (subject to the terms of Articles 7 and 8 hereof) all, but not less than all, of the Defaulting Partner's Defaulted Interest not so acquired by the Partners or the Partnership.

A copy of any notice provided to a Defaulting Partner pursuant to this Section 4.2(b) shall be transmitted promptly to all other Partners. In the event that a Defaulting Partner shall pay any overdue installment of its Capital Commitment, plus interest in accordance with paragraph (a), prior to the expiration of the above-referenced 10-day notice period, such Partner shall cease to be a Defaulting Partner and the remedies provided in this paragraph (b) and in paragraph (d) shall not be available with respect thereto. In the event that the Defaulting Partner is an AVB Affiliate, and at the time of such default the General Partner is an AVB Affiliate, the General Partner shall be required to pursue the remedy set forth in this Section 4.2(b) against such Defaulting Partner.

(c) With respect to any acquisition made pursuant to subsection (b) above, the aggregate consideration payable to the Defaulting Partner shall be a cash payment in an amount equal to seventy percent (70%) of such Defaulting Partner's Estimated Value Capital Account; and each acquiring party shall be obligated, severally and not jointly, to pay its *pro rata* portion of such consideration based on the percentage of the Defaulting Partner's Defaulted Interest acquired by such party. In the event that the General Partner exercises its right to cause the Partnership to acquire all or a portion of a Defaulting Partner's Defaulted Interest pursuant to subsection (b)(ii) above, for purposes of determining each Partner's liability for any resulting Contribution Calls made in connection therewith, the Equity Interest Percentages of the Partners shall be calculated assuming that the Partnership's proposed purchase of all or a portion of the Defaulted Interest has been completed. Any non-defaulting Partner that acquires all or a portion of a Defaulting Partner's Defaulted Interest shall also assume the portion of the Defaulting Partner's Capital Commitment corresponding to the acquired portion of the Defaulted Interest and shall pay to the Partnership, concurrently with the payment of the purchase price to the Defaulting Partner, an amount representing the portion of the Defaulting Partner's Contribution Call that is then due and unpaid that corresponds to the acquired portion of the Defaulted Interest. In the event that the Partnership acquires any portion of a Defaulting Partner's Defaulted Interest, the portion of the Defaulting Partner's Capital Commitment that corresponds to the portion of the Defaulted Interest acquired by the Partnership shall be cancelled. Any interest that accrues under Section 4.2(a) with respect to a Defaulting Partner's Defaulted Interest prior to the acquisition of such Defaulted Interest pursuant to Section 4.2(b), shall remain an obligation of the Defaulting Partner and shall not be assumed by any Person acquiring the Defaulted Interest unless otherwise agreed in writing by such Person and the Defaulting Partner.

(d) In addition to, or in lieu of, and not in limitation of any of the foregoing, upon termination of the 10-day period provided in paragraph (b) above, the General Partner, in its sole discretion, may commence proceedings to collect any due and unpaid installment of the Defaulting Partner's Capital Commitment (plus interest in accordance with paragraph (a) above) and the expenses of collection, including court costs and attorneys' fees and disbursements.

(e) Any actions taken by the General Partner or the Partnership pursuant to paragraphs (a) through (d), inclusive, of this Section 4.2 shall be in addition to and not in limitation of any other rights or remedies that the Partnership may have against the Defaulting Partner, including, but not limited to, the right to hold the Defaulting Partner responsible for any damages or liabilities (including attorneys' fees) to which the Partnership may be subjected (in whole or in part) as a result of the default by the Defaulting Partner.

(f) Each Partner hereby agrees that, in the event that such Partner shall fail to pay when due any installment of its Capital Commitment required pursuant to Section 4.1 and the General Partner elects to pursue any remedy set forth in paragraph (b) above, such Partner shall sell, assign, transfer and convey to the Partnership, any designee of the General Partner, any and all Partners making the election contemplated by subparagraph (b) or any third party, its entire Equity Interest in the Partnership in consideration of the amount determined in accordance with the provisions of paragraph (c) of this Section 4.2.

(g) So long as a Defaulting Partner remains a Defaulting Partner, such Partner shall not be entitled to exercise any voting rights otherwise granted to such Partner under this Agreement.

(h) In the event that the Company is a Defaulting Partner because of a default by a Stockholder (a "**Defaulting Stockholder**") in the payment of amounts that the Defaulting Stockholder is obligated to pay to the Company, then the Company's Equity Interest shall be separated into two parts for purposes of exercising all default remedies under this Section 4.2. One part will consist of the Defaulted Interest and will represent an amount of the Company's Equity Interest that corresponds to the interest of the Defaulting Stockholder in the Company (the "**Default Portion**"). The second part will consist of the balance of the Company's Equity Interest (the "**Non-Default Portion**"). Only the Default Portion of the Company's Equity Interest will be treated as a Defaulted Interest for purposes of this Agreement and the Company will continue to have the same rights as all other non-defaulting Partners to the extent of the Non-Default Portion of the Company's Equity Interest. In the event that the Partnership or any non-defaulting Partner (other than the Company) elects to purchase part or all of the Default Portion, such purchase shall occur by the Partnership or the non-defaulting Partner, as the case may be, acquiring part or all of the Default Portion and the Company using the proceeds received from such purchase to then acquire from the Defaulting Stockholder the corresponding portion of the Defaulting Stockholder's interest in the Company. In the event that the Company is a Defaulting Partner as a result of a default by one of its Stockholders, the General Partner may make such modifications to this Section 4.2 and Article 5 as are necessary or appropriate so that a REIT Share is the economic equivalent (other than with respect to tax attributes) of an Equity Interest of the same subscription amount.

4.3 Requirements for Admission as Limited Partner. Each Person desiring to become a Limited Partner upon the Initial Closing Date or the date of any Subsequent Closing shall execute and deliver to the General Partner a subscription agreement (a "**Subscription Agreement**") and such other documents as shall be deemed appropriate by the General Partner. Under such Subscription Agreement and other documents, such subscriber shall, subject to acceptance of its subscription by the General Partner, execute and agree to be bound by this Agreement.

4.4 Admission of Limited Partners.

(a) Each Limited Partner admitted to the Partnership pursuant to this Article 4 shall become a Limited Partner on the Initial Closing Date or on the date of any Subsequent Closing, as applicable. To the extent any AVB Affiliate acquires an interest in the Partnership as a Limited Partner, such interest shall be treated as a Limited Partner interest in all respects, except as otherwise specified in this Agreement.

(b) Additional Limited Partners may be admitted to the Partnership after the Initial Closing Date as follows:

(i) After the Initial Closing Date, the General Partner may admit additional Limited Partners, or accept additional Capital Commitments from existing Limited Partners, at one or more additional closings (each a "**Subsequent Closing**") to be held on or prior to the ninth month anniversary of the Initial Closing Date (or, if such date is not a business day, the next business day). In connection with any Subsequent Closing, newly admitted Limited Partners, and existing Limited Partners that increase their Capital Commitments, will each be required to make payments equal to the Catch-up Payment plus Catch-up Interest (calculated from each date on which the existing Limited Partners made any prior Capital Contributions), which amounts will be paid to the existing Limited Partners, *pro rata*, in proportion to each such Partner's Equity Interest Percentage immediately prior to such Subsequent Closing. Any Catch-up Payment and Catch-up Interest paid to the Predecessor(s) In Interest, pursuant to this Section 4.4(b), shall be treated as a payment to such Predecessor(s) In Interest with respect to a sale of a portion of their Equity Interests in the Partnership. The portion of the Equity Interest in the Partnership sold by each Predecessor In Interest shall be a portion equal to the percentage obtained by dividing the amount of the Catch-up Payment made to such Predecessor In Interest by the aggregate amount of the Capital Contributions made by such Predecessor In Interest immediately prior to such Subsequent Closing. The General Partner may, in its discretion, make an election pursuant to Code Section 754.

(ii) In connection with each Subsequent Closing, the General Partner shall modify Schedule A and the books and records of the Partnership to accurately reflect the Capital Contributions, Capital Commitments subject to call and Capital Account balances of all Partners, determined as of the time of such Subsequent Closing. The Capital Commitment of each existing Partner shall not be increased, or decreased, by any Catch-Up Payment or Catch-Up Interest received. The Capital Contributions of each existing Partner shall be reduced by the amount of any Catch-Up Payment received (i.e., such Capital Contributions that are attributable to the interest in the Partnership that was sold). In computing the Capital Commitments subject to call set forth on Schedule A, Catch-up Payments made by a Partner shall be treated as Capital Contributions by such Partner.

(iii) For purposes of Article 5 hereof, any item of income, gain, loss, or deduction previously allocated pursuant to Article 5 hereof, as well as any amounts credited or debited to the Return Account, in each case with respect to any portion of an Equity Interest sold for a Catch-Up Payment pursuant to Section 4.4(b)(i) shall be deemed attributable to such transferred interests.

(c) After the date which is nine months following the Initial Closing Date (or, if such date is not a business day, the next business day), no new Limited Partner shall be admitted to the Partnership except (A) pursuant to Section 4.2 hereof, (B) as a substitute Limited Partner in accordance with Article 7 hereof, or (C) on such terms and conditions as have received the prior written consent of the Limited Partners representing a Voting Interest of the Limited Partners in excess of fifty percent (50%), excluding from such vote any Limited Partner that is an AVB Affiliate so long as the General Partner is an AVB Affiliate, and the approval of the General Partner.

(d) The admission of a Person to the Partnership that would cause the Partnership to be an investment company within the meaning of Section 3 of the Investment Company Act shall be void *ab initio* and shall not bind or be recognized by the Partnership.

(e) The admission of a new Limited Partner or Limited Partners or the acceptance by the Partnership of an additional Capital Commitment with respect to one or more existing Partners, shall not cause the dissolution or termination of the Partnership.

4.5 Interest. Except as provided in Section 4.4(b) with respect to Catch-up Interest, no Partner shall be entitled to receive any interest on any Capital Contributions to the Partnership.

4.6 Assignees. Subject to Section 4.4(b), any reference in this Agreement to the Capital Commitment or Capital Contribution of a Partner who is an assignee of all or a portion of an Equity Interest shall include the Capital Commitment and Capital Contribution of the assignor (or a *pro rata* portion thereof in the case of an assignment of less than the entire Equity Interest of the assignor).

5. Capital Accounts; Profits and Losses; Distributions

5.1 Capital Accounts.

(a) A separate capital account (each a "**Capital Account**") shall be maintained for each Partner in accordance with the rules of Treasury Regulations Section 1.704-1(b)(2)(iv), and this Section 5.1 shall be interpreted and applied in a manner consistent therewith. Whenever the Partnership would be permitted to adjust the Capital Accounts of the Partners pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(f) to reflect revaluations of Partnership property, the Partnership may so adjust the Capital Accounts of the Partners. In the event that the Capital Accounts of the Partners are adjusted pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(f) to reflect revaluations of Partnership property, (i) the Capital Accounts of the Partners shall be adjusted in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g) for allocations of depreciation, depletion, amortization and gain or loss, as computed for book purposes, with respect to such property, (ii) the Partners' distributive shares of depreciation, depletion, amortization and gain or loss, as computed for tax purposes, with respect to such property shall be determined so as to take account of the variation between the adjusted tax basis and book value of such property in the same manner as under Code Section 704(c), and (iii) the amount of upward and/or downward adjustments to the book value of the Partnership property shall be treated as income, gain, deduction and/or loss for purposes of applying the allocation provisions of this Article 5. In the event that Code Section 704(c) applies to Partnership property, the Capital Accounts of the Partners shall be adjusted in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g) for allocations of depreciation, depletion, amortization and gain and loss, as computed for book purposes, with respect to such property.

(b) In furtherance and not in limitation of the provisions of Section 5.1(a), the following adjustments shall be made to the Capital Accounts of the Partners if and to the extent required by the Treasury Regulations promulgated under Code Section 704(b):

(i) Any Partner that is a disregarded entity for federal income tax purposes and is treated as the same taxpayer (or part of the same taxpayer) as any other Partner shall be treated as a single Partner. Except as otherwise required to comply with the requirements of Code Section 704(b), such Partners shall be treated as distinct and separate Partners for all other purposes of this Agreement.

(ii) Any fees, expenses or other costs of the Partnership that are paid by the General Partner and that are required to be treated as capital contributions to the Partnership for purposes of Code Section 704(b) and the Treasury Regulations thereunder shall be added to the balance of the General Partner's Capital Account. Any fees, costs or other expenses of a Partner (including the Company) that are paid by the Partnership and that are required to be treated as distributions for purposes of Code Section 704(b) and the Treasury Regulation thereunder, or where failure to treat such payment as a distribution would cause the Company to fail the REIT income tests of Code Section 856(c), shall be treated as a distribution to the appropriate Partner and the Partnership's payment thereof shall not be treated as an item of deduction or loss. In cases where failure to treat payment of a Company expense as a distribution would cause the Company to fail the REIT income tests, the Company shall be obligated to refund the aggregate amount of such payments to the Partnership to the extent that such amount exceeds the cumulative net income of the Partnership. This Section 5.1(b)(ii), in conjunction with Section 5.2, is intended to prevent any payments by the General Partner or the Partnership from giving rise to a violation of Code Section 704(b) or, in the case of the Company, Code Section 856(c) while at the same time preserving to the extent possible the parties' intended economic arrangement and shall be applied consistent with such intent.

(c) The payment of the Reimbursement Amount shall not be treated as a distribution to the General Partner. The General Partner shall be deemed to have made an in-kind Capital Contribution of a portion of the equity interests in the Warehoused Properties in an agreed upon value equal to the product of the Reimbursement Amount and the General Partner's Equity Interest Percentage (including its Equity Percentage Interest as a Partner). The remaining portion of the equity interests in the Warehoused Properties (with an agreed upon value equal to the product of the Reimbursement Amount and the Company's Equity Interest Percentage (the "**Residual Value**")) shall be deemed to have been (i) contributed by the AVB Stockholder to the Company as payment for REIT Shares in an amount equal to the product of the Residual Value and the AVB Stockholder's percentage interest of the Company and (ii) purchased by the Company for cash in an amount equal to the difference between the Residual Value and the amount under clause (i). The Company shall then be deemed to have made an in-kind Capital Contribution to the Partnership in an amount equal to the sum of the amounts in (i) and (ii) of the preceding sentence.

5.2 Allocation of Net Income and Net Loss. After application of Section 5.3, and subject to the other provisions of this Article 5, any remaining net income or net loss for the taxable year (or items of income or loss) shall be allocated among the Partners in such ratio or ratios as may be required to cause the balances of the Partners' Economic Capital Accounts to be as nearly equal to their Target Balances as possible.

5.3 Minimum Gain Chargebacks and Non-Recourse Deductions.

(a) Notwithstanding any other provisions of this Agreement, in the event there is a net decrease in Partnership Minimum Gain during a taxable year, the Partners shall be allocated items of income and gain in accordance with Treasury Regulations Section 1.704-2(f). For purposes of this Agreement, the term "**Partnership Minimum Gain**" shall have the meaning set forth in Treasury Regulations Section 1.704-2(b)(2), and any Partner's share of Partnership Minimum Gain shall be determined in accordance with Treasury Regulations Section 1.704-2(g)(1). This Section 5.3(a) is intended to comply with the minimum gain charge-back requirement of Treasury Regulations Section 1.704-2(f) and shall be interpreted and applied in a manner consistent therewith.

(b) Notwithstanding any other provision of this Agreement, non-recourse deductions shall be allocated to the Partners, *pro rata*, in proportion to their Equity Interest Percentages. "**Non-recourse deductions**" shall have the meaning set forth in Treasury Regulations Section 1.704-2(b)(1).

(c) Notwithstanding any other provisions of this Agreement, to the extent required by Treasury Regulations Section 1.704-2(i), any items of income, gain, loss or deduction of the Partnership that are attributable to a nonrecourse debt of the Partnership that constitutes "partner nonrecourse debt" as defined in Treasury Regulations Section 1.704-2(b)(4) (including chargebacks of partner nonrecourse debt minimum gain, "**Partner Nonrecourse Debt**") shall be allocated in accordance with the provisions of Treasury Regulations Section 1.704-2(i). This Section 5.3(c) is intended to satisfy the requirements of Treasury Regulations Section 1.704-2(i) (including the partner nonrecourse debt minimum gain chargeback requirements) and shall be interpreted and applied in a manner consistent therewith.

(d) Notwithstanding any other provision of this Agreement, creditable foreign taxes shall be allocated to the Partners in accordance with the provisions of Treasury Regulations Section 1.704-1T(b)(4)(xi)(a). "**Creditable foreign taxes**" shall have the meaning set forth in Treasury Regulations Section 1.704-1T(b)(4)(xi)(b).

5.4 Code Section 704(b) Compliance. The allocation provisions contained in this Article 5 are intended to comply with Code Section 704(b) and the Treasury Regulations promulgated thereunder, and shall be interpreted and applied in a manner consistent therewith.

5.5 Elections. Any elections or other decisions relating to the allocations of Partnership items of income, gain, loss, deduction or credit shall be made by the General Partner in any manner that reasonably reflects the purpose and intent of this Agreement.

5.6 Distributions.

(a) Distributions of Net Cash Flow from Operations and Proceeds from Capital Transactions. Net cash flow from operations and all net proceeds from capital transactions, in each case in excess of working capital requirements (including reserves and any amounts used to repay indebtedness of the Partnership), shall be distributed to the Partners quarterly, or more frequently in the General Partner's sole discretion. All such distributions and any other distribution by the Partnership shall be made in the following manner:

(i) First, subject to Section 5.6(c), to the Partners, *pro rata*, in proportion to their respective Equity Interest Percentages, until the aggregate amount distributed to the Partners pursuant to this Section 5.6(a)(i) equals the lesser of (x) Partners' Return Account and (y) the Partners' aggregate Capital Contributions;

(ii) Second, to the Partners, *pro rata*, in proportion to their respective Equity Interest Percentages, until the aggregate amount distributed to the Partners pursuant to this Section 5.6(a)(ii) is equal to the Preferred Return of all Partners;

(iii) Third, (A) eighty percent (80%) to the Partners, *pro rata*, in proportion to their respective Equity Interest Percentages, and (B) twenty percent (20%) to the General Partner until the aggregate amount distributed to the Limited Partners pursuant to Sections 5.6(a)(ii) and (iii) is equal to the Second Preferred Return of the Limited Partners;

(iv) Fourth, (A) sixty percent (60%) to the Partners, *pro rata*, in proportion to their respective Equity Interest Percentages, and (B) forty percent (40%) to the General Partner until the aggregate amount distributed to the General Partner pursuant to Section 5.6(a)(iii)(B) and this Section 5.6(a)(iv)(B) for all periods is equal to twenty percent (20%) of the aggregate amount of distributions made to all Partners pursuant to Sections 5.6(a)(ii), (iii) and (iv); and

(v) Thereafter, (A) eighty percent (80%) to the Partners, *pro rata*, in proportion to their respective Equity Interest Percentages, and (B) twenty percent (20%) to the General Partner.

Distributions to the General Partner under Section 5.6(a)(iii)(B), Section 5.6(a)(iv)(B) and Section 5.6(a)(v)(B) are referred to herein as "**Incentive Distributions**."

(b) Distributions in Kind. Except as permitted by this Section 5.6(b) and Section 3.2(h), the Partnership shall not make in-kind distributions.

(i) Except as provided in Sections 5.6(b)(ii) and (iii), the Partnership may elect to make any distribution to a Partner hereunder, either wholly or partially, in securities for which a public market (National Exchange or Nasdaq National Market) exists and which may be traded by the Partners without restrictions. Securities distributed pursuant to this Section 5.6(b) shall be valued based on the average of the closing prices for such securities during the twenty (20) trading days prior to the date of distribution and adjusted, if appropriate, taking into account the amount of securities relative to the trading volume of securities of the same class, the existence or absence of a control position on the part of the Partnership with respect to the issuer of such securities, and any other factors that are customarily taken into account in determining whether the fair market value of securities of the same type is greater or less than market quotation. The Partnership may make other types of distributions in kind to Partners, including Incentive Distributions, only with the approval of Limited Partners holding a majority of the outstanding Equity Interest Percentages (excluding any AVB Affiliate for so long as the General Partner is an AVB Affiliate), except as provided in Section 5.6(b)(ii) and (iii).

(ii) Notwithstanding the provisions of Section 5.6(b)(i), no in-kind distribution shall be made to an ERISA Partner unless: (A) notice is given to such ERISA Partner at least ten (10) business days prior to the in-kind distribution date; and (B) the ERISA Partner does not deliver to the General Partner, at least five (5) business days prior to such distribution date, an opinion of counsel, in form and substance reasonably satisfactory to the General Partner and signed by counsel reasonably satisfactory to the General Partner (which may include an opinion of a nationally recognized counsel or in-house counsel regularly employed by a Limited Partner with expertise in the subject matter of such opinion), stating that receiving or holding such property by the ERISA Partner would be materially likely to result in a violation of ERISA. In the event that such ERISA Partner provides the General Partner with such an opinion of counsel in a timely manner, such ERISA Partner (such Limited Partner to be referred to as the "**Electing Limited Partner**") shall be entitled to receive instead such other securities, property or cash of the Partnership as the General Partner may determine in accordance with paragraph (iii) below.

(iii) In the case of (ii) above, the Partnership may (1) retain the securities or other assets on behalf of the ERISA Partner, or (2) transfer the securities or other assets that would have been distributed to the ERISA Partner to a subsidiary of the Partnership and distribute the interests in such subsidiary to the ERISA Partner and the General Partner. In either case, the General Partner will act as temporary manager of the securities or other assets (the "**Managed Assets**") for the exclusive benefit of the Electing Limited Partner without collecting a fee for such management services. In the case of (1) or (2) above, the following provisions shall apply:

(A) The Partnership or subsidiary of the Partnership shall hold the Managed Assets as nominee for the benefit of, and on behalf of, the Electing Limited Partner. Subject to the following sentence, the General Partner shall use commercially reasonable efforts to effect the disposition of the Managed Assets. The General Partner shall have sole discretion with respect to the sale, exchange or disposition of the Managed Assets and shall have no fiduciary or other duty to the Partnership or the other Limited Partners in the exercise of such discretion. The Electing Limited Partner shall be liable for all taxes and other charges levied upon the Managed Assets and on any income or distributions thereon, and shall be liable for any and all costs incurred by the Partnership for the benefit of the Electing Limited Partner pursuant to this Section. The Electing Limited Partner shall have the benefit, and bear the risk, of all distributions of income, dividends, cash or other property on or relating to the Managed Assets , all losses with respect to the Managed Assets or any change in the character of the Managed Assets. The provisions of Sections 3.10, 3.11 and 3.12 shall be available with respect to the Managed Assets; provided, that any indemnification obligation arising under Section 3.12 with respect to the Managed Assets shall be borne solely by the Electing Limited Partner to the extent of the fair market value of all Managed Assets held by the Partnership or its subsidiary on behalf of the Electing Limited Partner and determined at the time that securities corresponding to such Managed Assets were originally distributed in-kind to the other Partners.

(B) Upon any disposition of the Managed Assets for cash, the Partnership shall transfer to the Electing Limited Partner the proceeds of such disposition, less the amount of any expenses related to such disposition.

(C) For all purposes under this Agreement, including for purposes of determining the Electing Limited Partner's Capital Account, the Electing Limited Partner shall be treated as if it received the Managed Assets at the time that assets corresponding to such Managed Assets were originally distributed in-kind to the other Partners.

(iv) To the extent that distributions under Section 5.6(b)(i) or (ii) would violate any law or regulation and such violation cannot be cured after commercially reasonable efforts are taken by the Electing Limited Partner, upon the determination of a manner in which such distributions would be permissible to the ERISA Partner, the General Partner shall have sole discretion to determine in which manner such distributions may be made.

(c) Distributions in Proportion to Partner Contributions. With respect to any distributions occurring subsequent to the Election Date, distributions to Partners pursuant to Section 5.6(a)(i) shall be made in proportion to the Partners' respective Capital Contributions and not in proportion to the Partners' respective Equity Interest Percentages, provided that in no event shall the aggregate distributions to a Partner pursuant to Section 5.6(a)(i) exceed that Partner's aggregate Capital Contributions.

(d) Direction of Distribution Proceeds. All distributions made to a Partner pursuant to this Agreement shall, at the election of such Partner, be made via wire transfer pursuant to instructions provided by such Partner to the General Partner from time to time in writing, such instructions to be as initially set forth in such Partner's Subscription Agreement.

(e) Special Distribution to Limited Partners.

(i) In the event that the General Partner would be entitled to receive an Incentive Distribution, the General Partner, in its sole discretion, may elect to distribute under Section 5.6(a) to the Limited Partners all or a portion of the Incentive Distributions.

(ii) To the extent that an election under Section 5.6(e)(i) reduces the amount of an Incentive Distribution that the General Partner would otherwise receive, the General Partner in its discretion may cause one or more distributions otherwise payable to the Limited Partners under Section 5.6(a) to be distributed to the General Partner until the aggregate amount distributed to the General Partner in accordance with this Section 5.6(e)(ii) equals the aggregate amount of the reduction in distributions to the General Partner as a result of one or more elections under Section 5.6(e)(i).

(iii) To the extent not recovered pursuant to Section 5.6(e)(ii), distributions pursuant to this Section 5.6(e) shall be treated for purposes of subsequently applying Section 5.6(a) first as distributions under Section 5.6(a)(i) to the extent of the amounts in Section 5.6(a)(i) to the date of determination and then as distributions under Section 5.6(a)(ii).

5.7 No Deficit Restoration by General Partner. Except as otherwise provided in Section 11.6, the General Partner shall have no obligation to restore a deficit balance in its Capital Account upon liquidation of its interest in the Partnership or otherwise.

5.8 No Deficit Restoration by Limited Partners. No Limited Partner shall have any obligation to restore a deficit balance in its Capital Account upon liquidation of its interest in the Partnership or otherwise.

5.9 Right of Set-Off. No part of any distribution shall be paid pursuant this Article 5 to any Partner from which there is due and owing to the Partnership, at the time of such distribution, any amount required to be paid to the Partnership pursuant to Article 4. Any such withheld distribution shall be deemed to have been distributed to such Partner, shall be set off against such Partner's obligation to the Partnership and shall reduce such Partner's obligation to the Partnership accordingly.

5.10 Withholding.

(a) If the Partnership is required by law or regulation to withhold and pay to any taxing or other governmental authority any amount otherwise distributable to a Partner, the Partnership shall be entitled to withhold such amount and the amount so withheld shall for all purposes of this Agreement be treated as if distributed to such Partner.

(b) In the event that the proceeds to the Partnership from an investment are reduced on account of taxes withheld at the source, and such taxes (or a portion thereof) are imposed on one or more, but not all, of the Partners in the Partnership, the amount of the reduction in the Partnership's net proceeds shall be borne by and apportioned among the relevant Partners and treated as if it were paid by the Partnership as a withholding obligation with respect to such Partners in accordance with such apportionment.

6. Advisory Committee and Investment Committee

6.1 Advisory Committee Membership. The Partnership shall have an advisory committee (the "**Advisory Committee**") composed of members appointed pursuant to this Section 6.1. The number of members of the Advisory Committee and the designation of such members shall be determined by the General Partner, in its sole discretion, provided that such members shall be associated with Limited Partners or Stockholders, other than officers, directors, shareholders, employees or partners of the General Partner or an AVB Affiliate, that collectively represent (either directly through ownership of Equity Interests in the Partnership or indirectly through ownership of REIT Shares) a majority of the aggregate Capital Commitments (excluding the Capital Commitments of any AVB Affiliate so long as the General Partner is an AVB Affiliate). In the event of the resignation or death of a member of the Advisory Committee, the General Partner shall promptly designate a successor to such member in accordance with foregoing criteria.

6.2 Advisory Committee Meetings and Expense Reimbursement. The General Partner shall convene meetings of the Advisory Committee in person or by telephonic meeting at such times as the General Partner determines, but in no event less than semi-annually. Written notice of the time and place of each such meeting of the Advisory Committee shall be given to the members of the Advisory Committee, if such meeting is to be held in person, at least two (2) weeks prior to the date of the meeting or, if such meeting is to be held by a telephonic meeting, at least twenty-four (24) hours prior to the time of the meeting. Notice of meetings may be waived, either before or after the meeting, by the unanimous consent of all of the members of the Advisory Committee. Advisory Committee members shall be entitled to reimbursement from the Partnership for their reasonable travel expenses and other reasonable out-of-pocket expenses incurred in connection with their attendance at meetings of the Advisory Committee and any annual or special meetings of the Partnership, but shall not be entitled to any fees, remuneration or other reimbursements from the Partnership or any of the Partners. The Advisory Committee, upon the approval of at least seventy-five percent (75%) in number of its members, may retain independent legal counsel, accountants and such other advisors and consultants as it deems necessary in order to adequately perform its duties under this Agreement. The reasonable expenses and fees of such legal counsel, accountants, advisors and consultants shall be paid by the Partnership.

6.3 Advisory Committee Authority. Except as otherwise specifically provided in this Agreement, the Advisory Committee shall have no control over management of the Partnership or its activities, shall not take part in the management of the Partnership, and shall not have any authority to bind the Partnership or the General Partner or to act for or on behalf of the Partnership. The Advisory Committee shall (i) select the Independent Appraiser pursuant to Section 8.6(d); (ii) approve any material contracts or agreements between the Partnership and AVB or any AVB Affiliate, except as expressly provided for in this Agreement, including, without limitation, pursuant to Sections 3.2(g), 3.2(j), 3.7(c), 3.8(b), 3.16 and 5.1(c); (iii) approve any change in the valuation policies of the Partnership after the date of this Agreement; (iv) approve any proposed settlements of litigation or disputes involving the Partnership or the Company where the amount of any such settlement exceeds $500,000; and (v) approve any amendments to this Agreement pursuant to the last sentence of Section 14.7. The Advisory Committee shall act as promptly as possible with respect to any request to approve any material contract or agreement, any change in the Partnership's valuation policies or any proposed settlements pursuant to clauses (ii), (iii) and (iv) of the preceding sentence, respectively. The General Partner shall also notify the Advisory Committee of any Strategic Investments made by the General Partner or an AVB Affiliate and not involving the Partnership pursuant to Section 3.9(d). In its discretion, the General Partner may discuss such other matters with the Advisory Committee as the General Partner deems appropriate. No member of the Advisory Committee shall be deemed to have any fiduciary or other duties to any other Partner or to the Partnership in respect of the activities of the Advisory Committee.

6.4 Quorum and Voting of Members of Advisory Committee. Each member of the Advisory Committee shall be entitled to one vote. A majority in number of the members of the Advisory Committee shall constitute a quorum for a meeting. Members of the Advisory Committee may attend meetings in person, by proxy approved by the General Partner, or by telephone conference call pursuant to which all meeting attendees can speak with all other meeting attendees. Unless otherwise provided in this Agreement, any approval or consent required to be given by the Advisory Committee shall be deemed to have been given upon the written consent of a majority of the total number of the members of the Advisory Committee or upon the approval of a majority of a quorum of the members of the Advisory Committee at a duly held meeting of the Advisory Committee.

6.5 Investment Committee. The Partnership shall have an investment committee (the "**Investment Committee**"), composed of up to five (5) voting members and two (2) non-voting members appointed pursuant to this Section 6.5. The initial voting members of the Investment Committee shall be composed of the members of AVB's senior management team, as follows: (i) Bryce Blair; (ii) Timothy J. Naughton; (iii) Thomas J. Sargeant; (iv) Samuel G. Fuller and (v) Leo S. Horey. The initial non-voting members of the Investment Committee shall be Kevin O'Shea and Lili Dunn. The approval of a majority of the voting members of the Investment Committee shall be required for all Strategic Investments and Interim Investments made by the Partnership. The non-voting members will review and, if appropriate, present, acquisition, disposition and redevelopment opportunities to the Investment Committee for its consideration. Each member of the Investment Committee shall serve until he or she resigns or is removed by the General Partner and any vacancy on the Investment Committee for any reason shall be filled by the General Partner or a designee of the General Partner. The members of the Investment Committee may adopt such procedures as they may deem appropriate to make decisions regarding investment of the Partnership's capital, financings, ongoing management of the Partnership's portfolio of Strategic Investments, dispositions of the Partnership's assets and other Partnership business.

6.6 Partnership Meetings. The Partnership shall hold an annual meeting (in the continental U.S.) of the Partners during each full Fiscal Year of the Partnership's existence at which the General Partner will review and discuss the Partnership's investment activities. The Partnership shall hold special meetings of the Partners upon the call of (a) the General Partner, or (b) (i) Limited Partners representing at least a majority of the aggregate Capital Commitments or (ii) Stockholders that hold in the aggregate REIT Shares representing an indirect economic interest in at least a majority of the aggregate Capital Commitments or (iii) a combination of Limited Partners and Stockholders collectively representing, either directly in the case of Limited Partners or indirectly through their holdings of REIT Shares in the case of Stockholders, at least a majority of the aggregate Capital Commitments, if such Limited Partners and/or such Stockholders give written notice to the General Partner that they wish to call a special meeting of the Partners for the purpose of exercising any right of the Limited Partners provided for in this Agreement. The General Partner shall notify each Limited Partner and each Stockholder of the time and place of each such annual or special meeting at least thirty (30) days prior to the date thereof. Each Stockholder shall be entitled to attend Partnership meetings.

7. Transfers of Limited Partnership Interests

7.1 Assignability of Interests. Subject to the limitations set forth in this Section 7.1, except as specifically provided by this Agreement, the Equity Interest in the Partnership of a Limited Partner may not be directly or indirectly assigned without the written consent of the General Partner, which consent may be withheld in its sole and absolute discretion; provided that the consent of the General Partner shall not be required to effect any assignment to the successor trustee or successor investment manager of an ERISA Partner. No Limited Partner shall be entitled to assign its Equity Interest in the Partnership without providing to the General Partner such evidence as it may reasonably require, including an opinion of a nationally recognized counsel or in-house counsel regularly employed by a Limited Partner, such counsel having expertise in the subject matter of such opinion, if so required, that the assignment or transfer will not:

(a) violate the registration provisions of the Securities Act, or the securities laws of any applicable jurisdiction;

(b) cause the Partnership not to be entitled to any exemption from the definition of an "investment company" pursuant to Section 3 of the Investment Company Act, and the rules and regulations of the Securities and Exchange Commission thereunder;

(c) result in the termination of the Partnership under the Internal Revenue Code (unless such requirement is waived by the General Partner);

(d) cause the Partnership to fail to satisfy the requirements of any otherwise applicable safe harbor from treatment as a publicly traded partnership under Treasury Regulations Section 1.7704-1;

(e) result in the assets of the Partnership or the actions of the General Partner being subject to Part 4 of Subtitle B of Title I of ERISA;

(f) cause the Partnership or any Partner to be in violation of any law, contract or other obligation legally binding upon any of them or otherwise suffer any material adverse consequence; or

(g) cause the Company to receive or accrue any amounts described in Code Section 856(d)(2)(B) or otherwise jeopardize the Company's status as a REIT.

In addition, no assignment of a Partner's Equity Interest, other than pursuant to Section 4.2, shall be permitted if at the time of such assignment, the assigning Limited Partner is in default in its obligations under this Agreement. No assignment of a Partner's Equity Interest shall be binding upon the Partnership until the General Partner receives an executed copy of all documents effecting such assignment, which shall be in form and substance satisfactory to the General Partner, and until such assignment is approved by the General Partner pursuant to this Section 7.1. Notwithstanding the assignment of all or any portion of a Partner's Equity Interest in the Partnership, (i), unless otherwise agreed by the General Partner, in its sole discretion, the assignor shall continue to be liable with respect to its Capital Commitment relating to the interest assigned, and (ii) the assignment of an Equity Interest in the Partnership shall not entitle the assignee to be admitted as a substitute Limited Partner other than pursuant to Section 7.2.

7.2 Substitute Limited Partners. A person that acquires an Equity Interest in the Partnership by assignment from a Limited Partner in accordance with the provisions of Section 7.1 may only be admitted to the Partnership as a substitute Limited Partner with the consent of the General Partner, which may be withheld in its sole and absolute discretion; provided that the consent of the General Partner shall not be required to effect the substitution of an assignee that is a successor trustee or successor investment manager of an ERISA Partner. The admission of an assignee as a substitute Limited Partner shall in all events be conditioned upon the assignee's written assumption, in form and substance satisfactory to the General Partner, of all obligations of the assigning Limited Partner and execution of an instrument satisfactory to the General Partner whereby such assignee becomes a party to this Agreement as a Limited Partner. Upon the admission of an assignee as a substitute Limited Partner, the assignor shall cease to be liable with respect to its Capital Commitment relating to the Equity Interest in the Partnership assigned.

7.3 Obligations of Assignee. Any assignee of the Equity Interest of a Limited Partner in the Partnership, irrespective of whether such assignee has accepted and adopted in writing the terms and provisions of this Agreement or been admitted as a substituted Limited Partner, shall be deemed by the acceptance of such assignment to have agreed to be subject to the terms and provisions of this Agreement in the same manner as its assignor, and to have assumed the assignor's Capital Commitment obligation pursuant to Section 4.1 with respect to the Equity Interest in the Partnership assigned.

7.4 Allocation of Distributions Between Assignor and Assignee. Upon the assignment of an Equity Interest in the Partnership pursuant to this Article 7, distributions pursuant to Article 5 shall be made to the Person owning the Equity Interest in the Partnership at the date of distribution, unless the assignor and assignee otherwise agree and direct the General Partner in a written statement signed by both.

7.5 Assignment by Removed or Withdrawn General Partner. Notwithstanding any provision herein to the contrary, in the event that the General Partner shall be Removed or Withdraws as a general partner in accordance with Article 8 of this Agreement and the General Partner retains an Equity Interest as a Limited Partner subsequent to such Removal or Withdrawal pursuant to Section 8.7, then the Removed or Withdrawn General Partner shall be entitled to assign its Equity Interest without obtaining the prior consent or approval of the then serving General Partner or any of the Limited Partners.

8. Transfer of Partnership Interest by General Partner; Withdrawal

8.1 Assignability of Interest. Without the consent of the Limited Partners representing a Voting Interest of the Limited Partners of at least sixty-six and two-thirds percent (66-2/3%), excluding from the vote any Limited Partner that is an AVB Affiliate so long as the General Partner is an AVB Affiliate, except to the extent provided in Section 4.1(d), and as described below in this Section 8.1, neither the General Partner nor any AVB Affiliate may transfer its interest in the Partnership to any Person other than an AVB Affiliate if such transfer could result in AVB and the AVB Affiliates having aggregate Capital Commitments less than the lesser of (i) twenty percent (20%) of the aggregate Capital Commitments (including, for this purpose, any commitments to acquire REIT Shares) and (ii) fifty million dollars ($50,000,000). Any assignment of the General Partner's or the AVB Affiliate's interest which requires consent pursuant to this Section 8.1 shall only become effective upon (i) the execution by the General Partner or the AVB Affiliate of a written assignment, the execution by the successor of this Agreement, and the written assumption by the successor of the obligations of the General Partner hereunder (in the case of an assignment of the interest of the General Partner hereunder), (ii) the receipt by the Partnership of an opinion of counsel that such assignment and assumption will not violate the registration provisions of the Securities Act, or the securities laws of any applicable jurisdiction, or cause the Partnership not to be entitled to any exemption from the definition of an "investment company" pursuant to Section 3 of the Investment Company Act, and (iii) delivery of notice of such assignment to the Limited Partners. In the event of an assignment of the interest of the General Partner, the successor shall become the General Partner hereunder, and the predecessor and successor General Partner shall cause the execution of any necessary papers including, without limitation, an amendment to the Certificate to record the substitution of the successor as General Partner. In addition to the foregoing, and subject to the following sentence below, without the consent of the Limited Partners representing a Voting Interest of the Limited Partners in excess of fifty percent (50%) (excluding from the vote any Limited Partner that is an AVB Affiliate so long as the General Partner is an AVB Affiliate), AVB, or any successor to all or substantially all of its assets, shall continue to control the General Partner and to own, together with the other AVB Affiliates, at least fifty percent (50%) of the equity interests of the General Partner. Notwithstanding the foregoing, (x) the General Partner or any AVB Affiliate may transfer its interests in the Partnership and (y) AVB, or its successor, may cease to control the General Partner and to own, together with other AVB Affiliates, at least fifty percent (50%) of the equity interests in the General Partner, in either case without the prior consent of the Limited Partners, as a result of or in connection with a Change of Control of AVB.

8.2 Voluntary Withdrawal. Except as a result of or in connection with a Change of Control of AVB, the General Partner shall not effect a voluntary withdrawal (a "**Voluntary Withdrawal**") as a General Partner from the Partnership until such time as a new General Partner shall have been selected who, (i) shall have stated a willingness to be admitted, and (ii) shall have received the specific written consent of Limited Partners representing a Voting Interest of the Limited Partners of at least sixty-six and two-thirds percent (66-2/3%), excluding from such vote, any Limited Partner that is an AVB Affiliate so long as the General Partner is an AVB Affiliate.

8.3 Involuntary Withdrawal. The General Partner shall be deemed to have involuntarily withdrawn (an "**Involuntarily Withdrawal**") as a General Partner from the Partnership upon the occurrence of any of the following events: (i) in the case of a corporate General Partner, the revocation of its charter, other than by voluntary act of its stockholders, (ii) in the case of a General Partner which is a partnership, the death, dissolution (other than by voluntary act of its partners) or bankruptcy of all the general partners of such partnership, (iii) the making of an assignment for the benefit of creditors, the filing of a voluntary petition in bankruptcy, or an adjudication of bankruptcy, or (iv) any other event which constitutes an event of withdrawal under the Act.

8.4 Removal of General Partner.

(a) For Cause Removal. The General Partner may be removed (a "**Removal**") by the Limited Partners representing a Voting Interest of the Limited Partners in excess of fifty percent (50%), excluding from the vote any Limited Partner that is an AVB Affiliate so long as the General Partner is an AVB Affiliate, in the event of any actions or omissions by it or any AVB Affiliate in connection with performing their duties under this Agreement that have a material adverse effect on the Partnership and constitute fraud, willful misconduct or gross negligence. At least ninety (90) days prior to the date of any such written consent or vote to remove, the Limited Partners or Stockholders (who directly or indirectly control the Voting Interest that is required to remove the General Partner in accordance with the preceding sentence) seeking to remove the General Partner shall give the General Partner written notice of their intention to seek such Removal (a "**For Cause Removal Notice**"). Such notice shall specify the alleged fraud, willful misconduct or gross negligence constituting the basis for such Removal. Within said 90-day period, the General Partner shall have the right to call a meeting of the Partners in accordance with Section 6.6. At such meeting, the General Partner shall have the opportunity to rebut any allegations against it. In addition to the foregoing, the General Partner may challenge the basis for its Removal by any other means. Notwithstanding any other provision of this Agreement, in the event that the General Partner elects to initiate legal proceedings to challenge the basis for its Removal, the party who is successful on the merits of the disputed matter shall be entitled to reimbursement from the other parties of all reasonable attorneys' fees and expenses incurred by it in connection with such dispute. In the event that the General Partner has received a For Cause Removal Notice, the restrictions on Contribution Calls set forth in Section 4.1(a) applicable to the period after the Investment Period shall apply until the earlier of (x) ninety (90) days after the date of the For Cause Removal Notice and (y) the date on which the Limited Partners vote on whether to Remove the General Partner as set forth in the For Cause Removal Notice, provided that if the requisite percentage of the Limited Partners vote in favor of Removing the General Partner in accordance with the provisions of this Section 8.4(a), such restrictions on Contribution Calls shall continue to apply until such Removal is effected.

(b) No-Fault Removal. The General Partner also may be Removed at any time without cause by the Limited Partners representing a Voting Interest of the Limited Partners in excess of fifty percent (50%), excluding from the vote any Limited Partner that is an AVB Affiliate so long as the General Partner is an AVB Affiliate. At least sixty (60) days prior to the date of any such written consent or vote to remove, the Limited Partners or Stockholders seeking to remove the General Partner shall give the General Partner written notice of their intention to effect such Removal (a "**No-Fault Removal Notice**"). Such notice shall provide an explanation of the reasons for such Removal. Within said sixty (60) day period, the General Partner shall have the right to call a meeting of the Partners in accordance with Section 6.6, or otherwise contact some or all of the Partners to discuss such Removal and the reasons therefor. The Removal of the General Partner pursuant to this Section 8.4(b) shall be effective sixty (60) days after the date on which the required percentage vote of the Limited Partners has been obtained.

8.5 Payment of Expenses to General Partner Upon Withdrawal. Without in any way limiting the provisions of Section 8.6 below, upon the assignment of all of the General Partner's interest, a Voluntary Withdrawal or an Involuntary Withdrawal (collectively, a "**Withdrawal**") or Removal of the General Partner, the Withdrawn or Removed General Partner or its estate or legal representatives shall be entitled to receive from the Partnership any reimbursements of expenses due and owing to it by the Partnership. The right of the General Partner, its estate or legal representatives to payment of said amounts shall be subject to any claim for damages which the Partnership or any Partner may have against such General Partner, its estate or legal representatives if such Withdrawal is in contravention of this Agreement.

8.6 General Partner's Interest upon Removal or Withdrawal.

(a) In the event that the General Partner shall be Removed in accordance with Section 8.4(a) hereof or Withdraws as a general partner of the Partnership in accordance with Section 8.3 hereof, in addition to the reimbursement of expense pursuant to Section 8.5, the General Partner shall be entitled to payment of the Management Fees, the Redevelopment Fees and the Development Fees, in each case computed through the date on which the General Partner is Removed or Withdraws, provided, however, that the General Partner's entitlement to the Carried Interest (as defined below) provided hereby shall terminate on the date on which the General Partner is Removed.

(b) In the event that the General Partner shall be Removed in accordance with Section 8.4(b) hereof or shall Withdraw in accordance with Section 8.2 hereof, in addition to the reimbursement of expenses pursuant to Section 8.5, and the rights pursuant to Section 8.6(d), the Partnership shall distribute to such Removed General Partner or Withdrawn General Partner an amount equal to the sum of (i) the General Partner's Estimated Value Capital Account as of the date of such Removal or Withdrawal (including that portion representing the Equity Interest held by the General Partner) plus (ii) the amount of the Management Fees, the Redevelopment Fees and the Development Fees, in each case computed through the date on which the General Partner is Removed or Withdraws plus (iii) an amount equal to nine (9) months of Management Fees calculated at the rate applicable to the Management Fees in effect immediately prior to the date of such Removal, provided, however, that the amount described in clause (iii) of this sentence shall not be paid in the event that the General Partner Withdraws pursuant to Section 8.2. The amount described in clause (iii) of the preceding sentence shall be treated as a guaranteed payment within the meaning of Code Section 707(c). If, at the time of such Removal, the Partnership does not have sufficient cash available to pay in full the distribution required under this Section 8.6(b), such distribution shall be made as soon as cash becomes available thereafter (and, in any event, prior to any distributions to other Partners), and any unpaid balance shall be evidenced by a promissory note and shall accrue interest, from the date of such Removal until paid, at the then-current prime rate as published in the Wall Street Journal plus one percent (1%), per annum. Any such interest shall be treated as a guaranteed payment within the meaning of Code Section 707(c).

(c) For purposes of this Section 8.6, the General Partner's "**Carried Interest**" shall be its entitlement to the Incentive Distributions.

(d) In the event that the General Partner shall be Removed in accordance with Section 8.4(b) hereof, the General Partner shall have the right, but not the obligation, (the "**Purchase Option**") to purchase, either directly or indirectly through an AVB Affiliate, any one of the multi-family apartment communities or other real estate assets held by the Partnership at the time of such Removal. The price for such Strategic Investment to be acquired by the General Partner shall be determined by an Appraisal of the applicable Strategic Investment conducted by an Independent Appraiser selected by the Advisory Committee. The General Partner shall notify the Partnership within a reasonable period of time of such Removal whether it intends to exercise the Purchase Option, and if so, the identity of the real estate asset selected by the General Partner and the anticipated date of acquisition, which date shall be promptly after delivering such notice. Prior to the receipt of such notice by the Partnership, the Purchase Option shall not be deemed to impair the Partnership's rights or title with respect to any of its real estate assets. Upon the receipt of such notice by the Partnership, (i) the Purchase Option shall not be deemed to impair the Partnership's rights or title with respect to any of its real estate assets other than the real estate asset selected by the General Partner, and (ii) the Partnership shall not sell, offer to sell, borrow against, pledge or otherwise encumber the real estate asset selected by the General Partner.

(e) In the event that the General Partner shall be Removed pursuant to Section 8.4(a), the General Partner shall return Incentive Distributions to the Partnership as calculated in accordance with Section 11.6 at the time of such Removal based on a hypothetical liquidation of the Partnership following a hypothetical sale of all of the assets of the Partnership at prices equal to their most recent valuations and the distribution of the proceeds thereof to the Partners pursuant to this Agreement (after the hypothetical payment of all actual Partnership indebtedness, and any other liabilities related to the Partnership's assets, limited, in the case of non-recourse liabilities, to the collateral securing or otherwise available to the lender to satisfy such liabilities). In the event that the General Partner shall be Removed in accordance with Section 8.4(b), the General Partner shall not be required to return any Incentive Distributions to the Partnership and all obligations of the General Partner under Section 11.6 shall be discharged at the time of such Removal.

8.7 Further Consequences of Removal or Withdrawal.

(a) If the Partnership does not terminate as provided in Section 8.8 hereof, then in the event of the Removal or Withdrawal of the General Partner as a general partner of the Partnership, the former General Partner shall, to the extent of any remaining interest in the Partnership, become a Limited Partner of the Partnership as of the effective date of its Withdrawal or Removal. Thereafter, except as otherwise provided in this Article 8, the former General Partner shall be treated as a Limited Partner for all purposes of this Agreement. Upon becoming a Limited Partner, the former General Partner's Capital Account and Commitment shall initially be the same as they were on the effective date of its Withdrawal or Removal (after giving effect to any adjustment required under or as a result of Section 8.6). The General Partner shall also retain any interest as a Stockholder of the Company as of the effective date of any Removal or Withdrawal.

(b) After Withdrawal or Removal of a General Partner, the Withdrawn or Removed General Partner or its estate or legal representatives shall remain liable for all obligations and liabilities incurred by it while a General Partner and for which it was liable as a General Partner, but shall be free of any obligation or liability incurred on account of or arising from the activities of the Partnership from and after the time such Withdrawal or Removal shall have become effective.

(c) If a court of competent jurisdiction determines that the Partnership has suffered any loss, damage or liability in consequence of the conduct that formed the basis for the General Partner's Removal under Section 8.4(a), the amount of any distributions to the former General Partner, in its capacity as the general partner pursuant to Sections 5.6(a) or Section 8.6 shall be reduced by the value of such loss, damage or liability (as determined by the court) to the extent not otherwise paid by the former General Partner.

8.8 Continuation of Partnership Business. If, following the Withdrawal or Removal of a General Partner, there is no remaining General Partner, any Limited Partner may notify the other Limited Partners of such circumstances. Any Limited Partner may then propose for admission a substitute General Partner. A substitute General Partner proposed pursuant to this Section 8.8 shall, with the specific written consent of Limited Partners representing a Voting Interest of the Limited Partners of at least sixty-six and two-thirds percent (66-2/3%), excluding from the vote any Limited Partner that is an AVB Affiliate, become a substitute General Partner as of the date of Withdrawal or Removal of the former General Partner, upon his or its execution of this Agreement and shall thereupon continue the Partnership business. If no substitute General Partner has received such consent of the Limited Partners and executed this Agreement within ninety (90) days from the date of the General Partner's Withdrawal or Removal, then the Partnership shall thereupon terminate and dissolve in accordance with Article 10 hereof.

9. Rights and Obligations of the Limited Partners

9.1 Limited Liability. A Limited Partner that receives the return of any part of its Capital Contribution shall be liable to the Partnership for the amount of its Capital Contribution so returned to the extent, and only to the extent, provided by the Act except as may otherwise be provided in Section 4.4(b)(ii). Except as provided in Sections 4.1 and 4.4 or the Act, the Limited Partners shall not otherwise be liable to the Partnership for the repayment, satisfaction, or discharge of the Partnership's debts, liabilities, and obligations. Except as provided in Sections 4.2 or 4.4 with respect to the payment of interest upon failure to pay when due any installment of a Capital Commitment and the payment of Catch-up Interest, respectively, no Limited Partner shall have any obligation to contribute money in excess of such Limited Partner's Capital Commitment. No Limited Partner shall be personally liable to any third party for any liability or other obligation of the Partnership.

9.2 Authority of Limited Partners. The Limited Partners shall not participate in or have any control over the management of the Partnership or its business and affairs and shall not have any power or authority to act for or bind the Partnership.

9.3 Confidentiality.

(a) All information (including, without limitation, processes, plans, data, reports, drawings, documents, business secrets, financial information or information of any other kind) received by any Limited Partner pursuant to the terms of this Agreement ("**Confidential Information**") shall be received and maintained in confidence by such Limited Partner.

(b) Confidential Information may be used by Limited Partners only for the purpose of monitoring their investments in the Partnership. The Limited Partners agree that they will not use any Confidential Information for any other purpose, including, without limitation, use in conducting or furthering their own business or that of any affiliates or any competing business.

(c) The obligations of limited use and nondisclosure contained in this Section 9.3 will not (i) restrict the disclosure of Confidential Information to a Limited Partner's attorneys, tax advisors, accountants or other professional advisors or consultants (so long as such Persons are under an obligation of confidentiality consistent with the terms of this Section 9.3), (ii) restrict the disclosure of Confidential Information to the extent required by law or legal process or to the extent permitted with the prior written consent of the General Partner or (iii) apply to information that (w) was publicly known or otherwise known to a Limited Partner prior to the time of such disclosure, (x) subsequently becomes publicly known through no act or omission by a Limited Partner or any person acting on a Limited Partner's behalf, (y) otherwise becomes known to a Limited Partner without breach of this Agreement other than through disclosure by the Partnership or (z) constitutes financial statements delivered to a Limited Partner under Section 12 that are otherwise publicly available.

(d) Stockholders shall have the same rights and obligations as a Limited Partner with respect to Confidential Information. Therefore, for purposes of this Section 9.3, the term "Limited Partner" shall be deemed to include Stockholders.

(e) The obligations of confidentiality provided for in this Section 9.3 shall not apply to the tax treatment and tax structure of the Partnership, the Company, a Partner's interests in the Partnership or a Stockholder's interests in the Company, which may be disclosed; provided, however, that this authorization to disclose the tax treatment and tax structure is limited to the extent that confidentiality is required to comply with any applicable securities laws.

9.4 Preservation of REIT Status. The Limited Partners shall cooperate with the General Partner to accommodate any requested changes to this Agreement that are reasonably necessary or desirable for the Company to maintain its status as a REIT as long as such changes do not have a material adverse economic or tax impact on the Limited Partners or a material adverse impact on the rights of the Limited Partners under this Agreement.

9.5 Special Rights of the Company. To facilitate the Company's input with respect to the management of the business of the Partnership, at all times the Company shall have the following management rights:

(i) the right to discuss, and provide advice with respect to, the business operations, properties and financial and other conditions of the Partnership with the Partnership's officers and employees and the right to consult with and advise the Partnership's management on matters affecting the business and affairs of the Partnership;

(ii) the right to submit business proposals or suggestions to the Partnership's management from time to time with the requirement that one or more members of the Partnership's management discuss such proposals or suggestions with the Company within a reasonable period after such submission and the right to call a meeting with the Partnership's management in order to discuss such proposals or suggestions; and

(iii) the right (a) upon reasonable notice and accompanied by the General Partner, to visit the Partnership's business premises and other properties during normal business hours, (b) to receive financial statements, operating reports, budgets or other financial reports of the Partnership on a regular basis describing the Partnership's financial performance, material developments or events, significant proposals and other material aspects of the Partnership's business and operations, (c) to examine the books and records of the Partnership, and (d) to request such other information at reasonable times and intervals in light of the Partnership's normal business operations concerning the general status of the Partnership's business, financial condition and operations.

The rights set forth in this Section 9.5 shall be in addition to all other rights that the Company has under this Agreement. The Company's exercise of its rights under this Section 9.5 shall not be deemed to be participation in or control of the management of the Partnership for purposes of determining whether the Company is acting as a general partner of the Partnership under the Act.

10. Duration and Termination of the Partnership

10.1 Duration. Except as provided in Section 8.8, the duration of the Partnership shall continue until the eighth anniversary of the Final Closing Date, provided, however, that the General Partner, after consultation with the Advisory Committee, may, in its sole discretion, elect to extend the Partnership's term for an additional year, and provided, further, that the term of the Partnership may be subsequently further extended for an additional year upon the approval of (i) the General Partner and (ii) the Limited Partners representing a Voting Interest of the Limited Partners in excess of fifty percent (50%), excluding from the vote any Partner that is an AVB Affiliate so long as the General Partner is an AVB Affiliate. If so extended, the duration of the Partnership shall continue until the ninth or tenth anniversary of the Final Closing Date, as applicable.

10.2 Bankruptcy of Limited Partner. The bankruptcy, insolvency, dissolution, or liquidation of, or the making of an assignment for the benefit of creditors by, or any other act or circumstance with respect to, a Limited Partner shall not cause the dissolution or termination of the Partnership.

10.3 Termination. The Partnership shall terminate and commence dissolution ninety (90) days from the earlier of (i) the date of the Withdrawal or Removal of a General Partner, unless the remaining General Partner or Partners or a substitute General Partner elect to continue the Partnership in accordance with Section 8.8, in which event the Partnership shall not terminate or dissolve, but shall continue as though no such Withdrawal or Removal had occurred; (ii) the expiration of the duration of the Partnership as provided in Section 10.1; (iii) upon the vote of the General Partner and Limited Partners representing a Voting Interest of the Limited Partners of at least sixty-six and two-thirds percent (66-2/3%), excluding from the vote any Limited Partner that is an AVB Affiliate so long as the General Partner is an AVB Affiliate; or (iv) at the election of the General Partner, any time after the first date following the Investment Period on which the Partnership no longer, directly or indirectly, owns any Strategic Investments.

11. Liquidation of the Partnership

11.1 General. Upon the termination and/or commencement of the dissolution of the Partnership, the Partnership shall be liquidated in accordance with this Article and the Act. The termination, dissolution and liquidation shall be conducted and supervised by the General Partner or, if there is no remaining General Partner and no substitute General Partner has been appointed following the Withdrawal or Removal of a General Partner, by a Person who shall be designated for such purpose by Limited Partners which have made a majority of the aggregate Capital Contributions made by all of the Limited Partners, excluding from the vote any Limited Partner that is an AVB Affiliate (the General Partner or such trustee or other Person, as applicable, being referred to in this Article 11 as the "**Liquidating Agent**"). The Liquidating Agent shall have all of the rights, powers, and authority with respect to the assets and liabilities of the Partnership in connection with the liquidation, dissolution and termination of the Partnership that the General Partner has with respect to the assets and liabilities of the Partnership during the term of the Partnership, and the Liquidating Agent is hereby expressly authorized and empowered to execute any and all documents necessary or desirable to effectuate the liquidation of the Partnership and the transfer of any assets or liabilities of the Partnership. The Liquidating Agent shall have the right from time to time, by revocable powers of attorney, to delegate to one or more Persons any or all of such rights and powers and such authority and power to execute documents and, in connection therewith, to fix the reasonable compensation of each such Person, which compensation shall be charged as an expense of liquidation.

The Liquidating Agent shall liquidate the Partnership as promptly as shall be practicable after termination, consistent with the preservation of capital. Without limiting the rights, powers, and authority of the Liquidating Agent as provided in this Section 11.1, any Partnership asset that the Liquidating Agent may sell shall be sold at such price and on such terms as the Liquidating Agent may, in its sole discretion, deem appropriate. Subject to Section 5.6(b)(ii), the Liquidating Agent may, if it so determines, distribute restricted securities and other assets of the Partnership in-kind to the Partners.

Notwithstanding any other provision of this Agreement, in the event that the Company adopts a plan of liquidation pursuant to Section 8.3 of the Charter, then the Partnership shall commence the liquidation of its assets at the same time as the Company commences liquidation of its assets pursuant to such plan.

11.2 Priority on Liquidation; Distributions. The proceeds of liquidation shall be applied in the following order of priority:

(a) To pay the costs and expenses of the dissolution and liquidation;

(b) To pay matured debts and liabilities of the Partnership to all creditors of the Partnership (including, without limitation, any liability to any Partner);

(c) To establish any reserves which the Liquidating Agent may deem necessary or advisable for any contingent or unmatured liability of the Partnership to all Persons who are not Partners;

(d) To pay any outstanding balances of promissory notes payable to a Removed General Partner pursuant to Section 8.6(b);

(e) To establish any reserves which the Liquidating Agent may deem necessary or advisable for any contingent or unmatured liability of the Partnership to Partners; and

(f) The balance, if any, to the Partners in accordance with Section 5.6(a).

11.3 Orderly Liquidation. A reasonable time shall be allowed for the orderly liquidation of the assets of the Partnership and the discharge of liabilities so as to minimize the losses normally attendant upon a liquidation. The Liquidating Agent shall, however, if possible consistent with the preceding sentence, dispose of Partnership assets and effect distributions to the Partners within one hundred eighty (180) days after the date of termination of the Partnership.

11.4 Source of Distributions. Subject to Section 11.6, the General Partner shall not be liable out of its own assets for the return of the Capital Contributions of the Limited Partners, it being expressly understood that any such return shall be made solely from the Partnership's assets.

11.5 Statements on Termination. Each Partner shall be furnished with a statement prepared by the Partnership's accountant, which shall set forth the assets and liabilities of the Partnership as at the date of complete liquidation, and each Partner's share thereof. Upon consummation of the liquidation of the Partnership set forth in Article 11 hereof, the Limited Partners shall cease to be such, and the Liquidating Agent shall execute, acknowledge, and cause to be filed a certificate of cancellation of the Partnership.

11.6 Return of Incentive Distributions. If upon liquidation of the Partnership, the aggregate Incentive Distributions received by the General Partner (net of any distributions previously returned by the General Partner) represent more than twenty percent (20%) of the aggregate distributions in excess of the aggregate Capital Contributions, then the General Partner shall repay such excess to the Partnership, and the Partnership shall distribute such amount to the Partners in accordance with their Equity Interest Percentages. If following such payment the Partners have not received the full Preferred Return (calculated through the date of liquidation), then the General Partner shall return such additional Incentive Distributions as necessary so that the Partners receive the full Preferred Return, and the Partnership shall pay such amount to the Partners in accordance with their Equity Interest Percentages. Notwithstanding the foregoing, in no event shall the aggregate amount payable by the General Partner to the Partnership pursuant to this Section 11.6 exceed the aggregate Incentive Distributions received by the General Partner. For so long as the General Partner is an AVB Affiliate, AVB shall guarantee the obligations of the General Partner to make the payments required by this Section 11.6 as and to the extent provided in the form of guaranty attached hereto as Exhibit A.

12. Books; Accounting; Tax Elections; Reports

12.1 Books and Accounts. Complete and accurate books and accounts shall be kept and maintained for the Partnership at its principal place of business. Such books and accounts shall be kept in accordance with generally accepted accounting principles consistently applied, the provisions of Section 5.1 and on such other basis, if any, as the General Partner determines is necessary to properly reflect the operations of the Partnership. Each Partner and each Stockholder or its duly authorized representative, at its own expense, shall at all reasonable times have access to, and may inspect and make copies of, such books and accounts and any other records of the Partnership for reasons reasonably related to such Partner's or such Stockholder's interest in the Partnership, upon reasonable prior written notice to the General Partner, subject to the General Partner's right to keep information confidential pursuant to and in accordance with Section 17-305(b) of the Act.

All funds received by the Partnership other than those invested in Interim or Strategic Investments shall be deposited in the name of the Partnership in such bank account or accounts, and all securities owned by the Partnership may be deposited with such custodian, as the General Partner may designate from time to time and withdrawals therefrom shall be made upon such signature or signatures on behalf of the Partnership as the General Partner may designate from time to time.

12.2 Records Available. The General Partner shall maintain at the Partnership's principal office the following documents: (i) a current list of the full name and last known business address of each Partner, (ii) a copy of the Certificate of Limited Partnership and all amendments thereto, (iii) copies of the Partnership's federal, state and local income tax returns and of any financial statements and accounting records of the Partnership during the term of the Partnership, as determined pursuant to Section 10.1 hereof, and for five (5) years thereafter, and (iv) copies of this Agreement and all amendments thereto, together with executed copies of any powers of attorney pursuant to which this Agreement, the Certificate of Limited Partnership, or any such amendment has been executed. Such documents and all other Partnership documents are subject to inspection and copying at the reasonable request and at the expense of any Partner or any Stockholder during ordinary business hours upon reasonable prior notice to the General Partner. Except to the extent requested by a Limited Partner, the General Partner shall have no obligation to deliver or mail a copy of the Partnership's Certificate of Limited Partnership or any amendment thereto to the Limited Partners. The General Partner shall have the right to preserve all records and accounts in original form or on microfilm, magnetic tape, or any other process or form that the General Partner reasonably determines is appropriate to preserve such records and accounts.

12.3 Annual Financial Statements and Valuation. The Partnership shall engage a nationally recognized accounting firm to act as the accountant for the Partnership. Within ninety (90) days after the end of each Fiscal Year, the General Partner, at Partnership expense, shall prepare and mail to each Limited Partner and to each former Partner who withdrew during such Fiscal Year (or to such former Partner's legal representative, as applicable) (i) a summary description of each acquisition or disposition by the Partnership during the previous Fiscal Year, including any transactions with any AVB Affiliate, and (ii) a statement of all distributions made to such Partner during the previous fiscal quarter and the previous Fiscal Year and such Partner's Capital Account balance and the Return Account balance as of the end of the immediately preceding Fiscal Year. The General Partner shall also furnish to the Limited Partners (x) a balance sheet of the Partnership as of the end of the Fiscal Year and statements of operations, Partners' Equity and cash flow for such Fiscal Year, prepared in accordance with generally accepted accounting principles, together with the auditors' report thereon indicating that the audit was performed in accordance with generally accepted auditing standards and (y) current value financial statement of the Partnership as of the end of the Fiscal Year. The financial statements described in clause (y) of the preceding sentence will be prepared in accordance with procedures established by the General Partner and shall be certified by the General Partner as having been prepared in accordance with such procedures.

12.4 Quarterly Financial Statements. Within sixty (60) days after the end of each of the first three calendar quarters of each Fiscal Year, the General Partner shall mail to each Partner unaudited current value financial statements of the Partnership as at such quarter-end, prepared in accordance with procedures established by the General Partner. At the same time the General Partner shall also provide the Partners with a detailed report of the Partnership's business and activities during such quarter, including a statement of Capital Accounts and remaining Capital Commitments, a summary of investments and dispositions made during such quarter and a summary of any transaction with any AVB Affiliate during such quarter.

12.5 Reliance on Accountants. All decisions as to accounting matters, except as specifically provided to the contrary herein, shall be made by the General Partner, to the extent consistent with the terms of this Agreement, in accordance with generally accepted accounting principles and procedures applied in a consistent manner. The General Partner may rely upon the advice of the Partnership's accountants as to whether such decisions are in accordance with generally accepted accounting principles.

12.6 Tax Matters Partner; Filing of Returns.

(a) The General Partner shall be the "tax matters partner" of the Partnership and shall, at the Partnership's expense, use commercially reasonable efforts to cause to be prepared and timely filed after the end of each Fiscal Year of the Partnership all Federal and state income tax returns required of the Partnership for such Fiscal Year. The Partnership shall make such elections pursuant to the provisions of the Internal Revenue Code as the General Partner, in its sole discretion, deems appropriate.

(b) The Partnership shall use commercially reasonable efforts to deliver to each Partner a Form K-1 by August 1st of each year (or the 1st day of the 8th month following the close of the Fiscal Year if the Fiscal Year is not the calendar year).

12.7 Fiscal Year. The fiscal year (the "**Fiscal Year**") of the Partnership shall be the period ending on December 31 of each year, or such other period as the General Partner may designate as the Fiscal Year of the Partnership, consistent with the requirements of the Code.

13. Power of Attorney

13.1 General. Each Limited Partner irrevocably constitutes and appoints each officer and director of the General Partner and each Liquidating Agent the true and lawful attorney-in-fact of such Limited Partner to execute, acknowledge, swear to and file (i) any certificate or other instrument which may be required to be filed by the Partnership under the laws of any jurisdiction in which the Partnership does business, or which the General Partner shall deem advisable to file, so long as no such certificate or instrument shall have the effect of amending this Agreement; (ii) any agreement, document, certificate or other instrument which any Limited Partner is required to execute in connection with the termination of such Limited Partner's interest in the Partnership and the withdrawal of such Limited Partner pursuant to Section 4.2 hereof and which such Limited Partner has failed to execute and deliver within ten (10) days after written request therefor by the General Partner; and (iii) any instrument which the General Partner deems necessary or appropriate to facilitate the implementation of the terms of this Agreement, including the pledging of Capital Commitment obligations as contemplated by Sections 3.2 and 4.1(d), so long as such instruments do not alter the rights or obligations of the Limited Partners under the terms of this Agreement.

13.2 Survival of Power of Attorney. It is expressly acknowledged by each Limited Partner that the foregoing power of attorney is coupled with an interest and shall survive death, legal incapacity, bankruptcy, insolvency, assignment for the benefit of creditors and assignment by a Limited Partner of its Limited Partner's interest in the Partnership; provided, however, that if a Limited Partner shall assign all of its interest in the Partnership and the assignee shall, in accordance with the provisions of this Agreement, become a substitute Limited Partner, such power of attorney shall survive such assignment only for the purpose of enabling the General Partner to execute, acknowledge, swear to and file any and all instruments necessary to effect such substitution.

13.3 Written Confirmation of Power of Attorney. Each Limited Partner hereby agrees to execute a confirmatory or special power of attorney, containing the substantive provisions of this Section substantially in the form attached hereto as Exhibit B.

14. Miscellaneous

14.1 Further Assurances. The Partners agree to execute such instruments and documents as may be required by the Act or by law or which the General Partner reasonably deems necessary or appropriate to carry out the intent of this Agreement so long as they do not alter the rights and obligations of the Limited Partners under this Agreement.

14.2 Successors and Assigns. The agreements contained herein shall be binding upon and inure to the benefit of the permitted successors and assigns of the respective parties hereto.

14.3 Applicable Law. This Agreement shall be governed by, and construed in accordance with, the Act and judicial interpretations thereof to the extent applicable and otherwise in accordance with the laws of the State of Delaware. Notwithstanding the foregoing, any legal proceeding involving any contract claim asserted against PSERS arising out of this Agreement may only be brought before and subject to the exclusive jurisdiction of the Board of Claims of the Commonwealth of Pennsylvania pursuant to §§1721-1726 of Title 62 Pa. Statutes, and such proceeding shall be governed by the procedural rules and laws of the Commonwealth of Pennsylvania, without regard to the principles of conflicts of law.

14.4 Severability. If any one or more of the provisions contained in this Agreement, or any application thereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and all other applications thereof shall not in any way be affected or impaired thereby, unless the absence of the invalid, illegal or unenforceable provision would materially affect the respective interests of the Partners, in which case the Partners shall use their best efforts to make such changes or adjustments in this Agreement as would restore the respective economic interests of the Partners as originally contemplated hereby.

14.5 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original of this Agreement binding on the parties hereto.

14.6 Entire Agreement. This Agreement represents the entire agreement among the parties hereto with respect to the subject matter hereof. In the event of any conflict or inconsistency between the terms of the Private Placement Memorandum of the Partnership, as supplemented or amended from time to time, and the terms of this Agreement, the Charter, the Bylaws of the Company, and/or any subscription agreement to acquire interests in the Partnership or REIT Shares, respectively, as such documents may be amended or restated from time to time, the terms of this Agreement, the Charter, the Bylaws of the Company, and any such subscription agreements, respectively, shall govern in all respects.

14.7 Amendment. Except as provided below in this Section 14.7, the provisions of this Agreement may be amended or waived at any time and from time to time only with the consent of the General Partner and of Limited Partners representing a Voting Interest of the Limited Partners in excess of fifty percent (50%), excluding from the vote any Limited Partner that is an AVB Affiliate so long as the General Partner is an AVB Affiliate. The General Partner may amend Schedule A hereto at any time and from time to time without the consent of any other Partner to reflect the admission or withdrawal of any Partner, or the change in any Partner's Capital Commitment, as contemplated by this Agreement. The General Partner may amend this Agreement, without the consent of the Limited Partners, for the purposes of correcting typographical errors, eliminating ambiguities or making other immaterial changes which it determines in good faith not to be materially adverse to the Limited Partners. No amendment shall become effective without the consent of a Limited Partner if such amendment would cause an increase in the Capital Commitment or adversely affect the limited liability of that Limited Partner. No amendment of this Section 14.7 shall become effective without the unanimous consent of the Partners. No amendment shall become effective without the unanimous consent of the Partners adversely affected if such amendment would materially adversely affect the allocations, distributions or deficit restoration obligations provided for by this Agreement. No amendment shall be made to Sections 3.3(c), 3.4 or 5.6(b)(ii) without the consent of the General Partner and of Limited Partners which are ERISA Partners and which made a majority of the aggregate Capital Contributions made by all ERISA Partners. No amendment shall be made to cause any provision(s) of this Agreement to comply with Section 514(c)(9) of the Code or to Sections 3.3(b) or 3.6 without the consent of the Board of Directors and Stockholders that hold in the aggregate REIT Shares representing at least seventy-five percent (75%) of all outstanding REIT Shares. Notwithstanding any provision of this Agreement or this Section 14.7 to the contrary, the General Partner may amend this Agreement, without the consent of the Limited Partners, to make such modifications as the General Partner reasonably determines are appropriate in order to qualify the Company as a REIT or preserve the Company's qualification as a REIT, provided that such modifications are approved in advance by the Advisory Committee.

14.8 Construction. The captions used herein are intended for convenience of reference only, and shall not modify or affect in any manner the meaning or interpretation of any of the provisions of this Agreement. As used herein, the singular shall include the plural, the masculine gender shall include the feminine and neuter, and the neuter gender shall include the masculine and feminine, unless the context otherwise requires. The words “hereof”, “herein”, and “hereunder”, and words of similar import, when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

14.9 Force Majeure. Whenever any act or thing is required of the Partnership or the General Partner hereunder to be done within any specified period of time, the Partnership or the General Partner, as the case may be, shall be entitled to such additional period of time to do such act or thing as shall equal any period of delay resulting from causes beyond the reasonable control of the Partnership or the General Partner, as the case may be, including, without limitation, bank holidays, actions of governmental agencies, and financial crises of a nature materially affecting the purchase and sale of securities; provided, that this provision shall not have the effect of relieving the Partnership or the General Partner from the obligation to perform any such act or thing.

14.10 Notices. All notices, demands, solicitations of consent or approval, and other communications hereunder shall be in writing and shall be sufficiently given if personally delivered, transmitted by facsimile, or sent postage prepaid by overnight courier or registered or certified mail, return receipt requested, addressed as follows: if intended for the Partnership or the General Partner, to the Partnership’s principal office determined pursuant to Section 2.4 hereof, and if intended for any Limited Partner to the address of such Limited Partner set forth on Schedule A hereto, or to such other address as such Partner may designate by written notice. Notices shall be deemed to have been given when personally delivered or when transmitted on a business day by facsimile with a machine-generated confirmation of transmission or, if mailed or sent by overnight courier, the date on which received. The provisions of this Section shall not prohibit the giving of written notice in any other manner; provided that any such written notice shall be deemed given only when actually received.

14.11 No Right of Partition for Redemption. No Partner and no successor-in-interest to any Partner shall have the right while this Agreement remains in effect to have the property of the Partnership partitioned, or to file a complaint or institute any proceeding at law or in equity to have the property of the Partnership partitioned or, except on such terms and conditions as the General Partner may, in its sole discretion, approve, to require the redemption of its interest in the Partnership.

14.12 Third-Party Beneficiaries. Except with respect to Section 3.6 hereof and except with respect to any rights expressly granted to Stockholders in this Agreement, the provisions of this Agreement are not intended to be for the benefit of any creditor or other person to whom any debts or obligations are owed by, or who may have any claim against, the Partnership or any of its Partners, except for Partners in their capacities as such. Notwithstanding any contrary provision of this Agreement, no such creditor or person shall obtain any rights under this Agreement or shall, by reason of this Agreement, be permitted to make any claim against the Partnership or any Partner.

14.13 General Partner as Limited Partner or Stockholder. A General Partner may also be a Limited Partner or may make a Capital Commitment as a General Partner or as a Stockholder, and in such event its rights, powers, restrictions and liabilities as a General Partner shall remain unaffected, and in addition it shall, in respect of its Capital Contributions as a Partner, have all of the rights and powers and be subject to all of the restrictions and liabilities of a Partner, except as otherwise expressly provided in this Agreement.

14.14 UCC Article 8 Election. Partnership interests in the Partnership shall be securities governed by Article 8 of the Delaware Uniform Commercial Code.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, this Amended and Restated Limited Partnership Agreement has been executed by the parties as of this 16th day of March, 2005.

GENERAL PARTNER:

AVALONBAY CAPITAL
MANAGEMENT, INC.

By: /s/ Thomas J. Sargeant
Name: Thomas J. Sargeant
Title: Executive Vice President and CFO

LIMITED PARTNERS:

See Signature Pages attached hereto

AVALONBAY VALUE ADDED FUND, L.P.

LIMITED PARTNERSHIP AGREEMENT

LIMITED PARTNER SIGNATURE PAGE

The Subscriber, desiring to become a Limited Partner of AvalonBay Value Added Fund, L.P., a Delaware limited partnership (the "**Partnership**"), hereby executes the Amended and Restated Limited Partnership Agreement of the Partnership to which AvalonBay Capital Management, Inc., a Maryland corporation, is a party as the General Partner. The Subscriber hereby agrees to all the provisions of said Limited Partnership Agreement, and agrees that this signature page may be attached to any counterpart copy of said Limited Partnership Agreement.

Name of Subscriber:

AvalonBay Value Added Fund, Inc.

By: /s/ Thomas J. Sargeant
Hereunto duly authorized

Print Name: Thomas J. Sargeant

Title: Executive Vice President and CFO

Date: March 16, 2005

AVALONBAY VALUE ADDED FUND, L.P.

LIMITED PARTNERSHIP AGREEMENT

LIMITED PARTNER SIGNATURE PAGE

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Date: March 16, 2005

Name of Subscriber:

COMMONWEALTH OF
PENNSYLVANIA PUBLIC SCHOOL
EMPLOYEES' RETIREMENT SYSTEM

By: /s/ Alan H. Van Noord
Name: Alan H. Van Noord, CFA
Title: Chief Investment Officer

By: /s/ Jeffrey B. Clay
Name: Jeffrey B. Clay
Title: Executive Director

Approved for form and legality:

/s/ David DeVries
Deputy General Counsel
Office of General Counsel

/s/ Robert Mulley
Chief Deputy Attorney General
Office of Attorney General

/s/ Gerald Gornish
Gerald Gornish, Chief Counsel
Public School Employees' Retirement System

AvalonBay Value Added Fund, L.P.

Schedule A

List of Partners and Capital Commitments

General Partner	Capital Commitment
AvalonBay Capital Management, Inc. c/o AvalonBay Communities, Inc. 2900 Eisenhower Avenue, Suite 300 Alexandria, VA 22314-5223	5% of the aggregate Capital Commitments

Limited Partner	Capital Commitment
AvalonBay Value Added Fund, Inc. c/o AvalonBay Communities, Inc. 2900 Eisenhower Avenue, Suite 300 Alexandria, VA 22314-5223	$238,500,000
Commonwealth of Pennsylvania **Public School Employees'** **Retirement System** Five North Fifth Street Harrisburg, Pennsylvania 17101	25% of the aggregate Capital Commitments up to a maximum of $75,000,000

[Note: AvalonBay Communities, Inc. has made a capital commitment of $50,000,000 to AvalonBay Capital Management, Inc. ("ACM"). ACM in turn has made capital commitments of (i) $16.5 million to AvalonBay Value Added Fund, L.P., for a general partnership interest, and (ii) $33.5 million to AvalonBay Value Added Fund, Inc., a Maryland corporation that intends to qualify as a real estate investment trust ("VAF"). Seven institutional investors have also made capital commitments to VAF totaling $205 million.]

Exhibit A

FORM OF GUARANTY

THIS GUARANTY (the “**Guaranty**”) is entered into as of **[___]**, by and between AvalonBay Communities, Inc., a Maryland corporation (the “**Guarantor**”), and AvalonBay Value Added Fund, L.P., a Delaware limited partnership (the “**Partnership**”). Any capitalized terms used herein but not defined shall have the meanings ascribed to them in the Partnership’s Amended and Restated Limited Partnership Agreement (the “**Partnership Agreement**”).

WHEREAS, for the purpose of inducing certain Persons to acquire Equity Interests in the Partnership, the Guarantor has agreed to guarantee the punctual payment of certain obligations of AvalonBay Capital Management, Inc., the General Partner of the Partnership.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Guarantor and the Partnership hereby agree as follows.

1. Guarantee.

1.1 Guarantee of General Partner’s Reimbursement Obligations. The Guarantor unconditionally, absolutely and irrevocably guarantees the punctual performance of the General Partner’s obligations under Sections 8.6(e) and 11.6 of the Partnership Agreement, subject to the limitations on payment contained therein (the “**Guaranteed Obligation**”).

1.2 Guarantee Absolute. The liability of the Guarantor under this Guaranty shall be irrevocable, absolute and unconditional, and the Guarantor hereby irrevocably waives any defenses it may now or hereafter have in any way relating to any or all of the following:

(a) any change in the time, manner or place of payment of, or in any other term of, all or any of the Guaranteed Obligation, or any other amendment or waiver of or any consent to departure from the Partnership Agreement including without limitation, any increase in the Guaranteed Obligation or any other modification adverse to the Guarantor;

(b) any other circumstance (including, without limitation, any statute of limitations) or any existence of or reliance on any representation by the Partnership that might otherwise constitute a defense available to, or a discharge of, the Guarantor;

(c) any merger or consolidation of the Partnership or the General Partner or any affiliate of any such entity;

(d) any change in the direct or indirect ownership or right to vote by the Guarantor or any other person, firm or entity of any partnership or other ownership interest of the General Partner or any of its affiliates;

(e) any release or discharge, by operation of law, of the Guarantor from the performance or observance of any obligation, covenant or agreement contained in this Guaranty;

(f) any failure by the Partnership, the General Partner or any Affiliate of any such entity to mitigate its damages;

(g) the effect of any foreign or domestic laws, rules, regulations or actions of a court or governmental body;

(h) or any other amendment or waiver of any consent to departure from the Partnership Agreement; or

(i) any other condition, event or circumstance which might otherwise constitute a legal or equitable discharge, release or defense of a surety or guarantor or otherwise, or which might otherwise limit recourse against the Guarantor, it being agreed that the Guaranteed Obligation of the Guarantor hereunder shall not be discharged except by performance of the Guaranteed Obligation as herein provided.

To the maximum extent permitted by applicable law, the Guarantor waives notice of acceptance of the Guaranty, notice of any Guaranteed Obligation, notice of protest, notice of dishonor or nonpayment of any Guaranteed Obligation, and any other notice to the Guarantor, and waives any defense, offset or counterclaim to any liability hereunder. To the maximum extent permitted by applicable law, the Guarantor hereby waives and agrees not to assert or take advantage of any rights or defenses based on any rights or defenses of the General Partner to the Guaranteed Obligation including, without limitation, any failure of consideration, any statute of limitations, or any insolvency or bankruptcy of the General Partner, and no invalidity, irregularity or unenforceability of all or any part of the Guaranteed Obligation shall affect, impair or be a defense to this Guaranty nor shall any other circumstance which might otherwise constitute a defense available to, or legal or equitable discharge of, the General Partner in respect of the Guaranteed Obligation affect, impair or be a defense to this Guaranty. One or more successive or concurrent actions may be brought hereon against the Guarantor either in the same action in which the General Partner is sued or in separate actions. If any claim or action, or action on any judgment, based on this Guaranty is brought against the Guarantor, the Guarantor agrees not to deduct, set-off or seek to counterclaim, for or recoup any amounts which are or may be owed by the Partnership to the Guarantor.

1.3 Continuing Guarantee. This Guaranty is a continuing guarantee and (a) shall remain in full force and effect until the later of the payment in full in cash of the Guaranteed Obligation or the date on which the Partnership has fully liquidated and no Guaranteed Obligation can arise, (b) shall be binding upon the Guarantor, its successors and assigns and (c) shall inure to the benefit of and be enforceable by the Partnership and its successors, transferees and assigns.

Each Limited Partner is a beneficiary of this Guaranty with the right to enforce it to the extent provided herein. The failure (by waiver, delay, consent or otherwise) of any Limited Partner to assert any claim or demand or to enforce any remedy under this Guaranty or under the

Partnership Agreement will not in any manner or to any extent vary or reduce the obligations of the Guarantor hereunder.

2. Entire Agreement. This Guaranty constitutes the entire agreement of the parties and supersedes any and all previous agreements between the Guarantor and the Partnership, whether written or oral, respecting the subject matter hereof and thereof. This Guaranty may not be modified or amended except by an instrument in writing signed by or on behalf of the parties hereto. No amendment or waiver of any provision hereof and no consent to any departure by the Guarantor herefrom, will be effective unless the same is in writing and signed by the General Partner and all Limited Partners adversely affected thereby, provided that any Limited Partner may grant such a waiver or consent with respect to such Limited Partner's rights hereunder if the same is in writing and signed by such Limited Partner. The Partnership Agreement may be amended, modified or supplemented in accordance with its terms without notice to, consent of or agreement by any Guarantor.

3. Severability. In the event that any provision or any part of any provision of this Guaranty is held to be illegal, invalid or unenforceable, such illegality, invalidity or enforceability shall not affect the validity or enforceability of any other provision or part thereof.

4. Governing Law. This Guaranty shall be construed and enforced in accordance with the laws of the State of Delaware**.**

5. Section Headings. The section headings in this Guaranty are included for convenience only, are not a part of this Guaranty and shall not be used in construing it.

This Guaranty is entered into for the sole and exclusive benefit of the Limited Partners, and their successor and assigns permitted under the Partnership Agreement, and no other Person shall have any rights with respect hereto. This Guaranty may not be assigned by the Guarantor without the prior written consent of the Limited Partners. This Guaranty shall be binding on the successors, including the heirs, executors, administrators and personal representatives, of the Guarantor.

IN WITNESS WHEREOF, the parties have executed this Guaranty as of the date first written above.

AVALONBAY COMMUNITIES, INC.

By: ______________________________
Name:
Title:

AVALONBAY VALUE ADDED FUND, L.P.

By: AvalonBay Capital Management, Inc., its General Partner

By: ______________________________
Name:
Title:

Exhibit B

FORM OF POWER OF ATTORNEY
FOR
AVALONBAY VALUE ADDED FUND, L.P.

Know all by these presents, that the undersigned Limited Partner of AvalonBay Value Added Fund, L.P. (the “**Partnership**”), pursuant to the Amended and Restated Limited Partnership Agreement of the Partnership (the “**Partnership Agreement**”), hereby constitutes and appoints each member of AvalonBay Capital Management, Inc. or its successor (the “**General Partner**”) and each Liquidating Agent (as defined in the Partnership Agreement), signing singly, the undersigned’s true and lawful attorney-in-fact to:

(1) execute, acknowledge, swear to and file any certificate or other instrument that may be required to be filed by the Partnership in order to conduct its business under the laws of any jurisdiction in which the Partnership does business, so long as no such certificate or instrument shall have the effect of amending the Partnership Agreement;

(2) execute, acknowledge, swear to and file any agreement, document, certificate or other instrument that any Limited Partner is required to execute in connection with the termination of the Limited Partner’s interest in the Partnership and the withdrawal of such Limited Partner pursuant to Section 4.2 of the Partnership Agreement and if such Limited Partner has failed to execute and deliver such required agreement, document, certificate or other instrument within ten days after written request therefor by the General Partner; and

(3) execute, acknowledge, swear to and file any instrument that the General Partner deems necessary or appropriate to facilitate the implementation of the terms of the Partnership Agreement, including the pledging of Capital Commitment obligations as contemplated by Sections 3.2 and 4.1(d) of the Partnership Agreement, so long as such instruments do not alter the rights or obligations of the Limited Partners under the terms of the Partnership Agreement.

In no instance shall such attorney-in-fact be permitted to create a partnership, special purpose vehicle or limited liability company without the prior advice and consent of the undersigned.

The undersigned hereby grants to each such attorney-in-fact full power and authority to do and perform any and every act and thing whatsoever requisite, necessary or proper to be done in the exercise of any of the rights and powers herein granted, as fully to all intents and purposes as the undersigned might or could do if personally present, with full power of substitution or revocation, hereby ratifying and confirming all that such attorney-in-fact, or such attorney-in-fact’s substitute or substitutes, shall lawfully do or cause to be done by virtue of this power of attorney and the rights and powers herein granted.

This power of attorney is coupled with an interest, is irrevocable and shall survive death, legal incapacity, bankruptcy, insolvency, assignment for the benefit of creditors and assignment by a Limited Partner of its limited partnership interest in the Partnership; provided, however, that

if a Limited Partner shall assign all of its interest in the Partnership and the assignee shall, in accordance with the provisions of the Partnership Agreement, become a substitute Limited Partner, this power of attorney shall survive such assignment only for the purpose of enabling the General Partner to execute, acknowledge, swear to and file any and all instruments necessary to effect such substitution.

IN WITNESS WHEREOF, the undersigned has caused this power of attorney to be executed as of this ___day of ___, 2005.

Name of Limited Partner:

____

By: ______________________________
Hereunto duly authorized

Print Name: ______________________________

Title: ______________________________

Exhibit 10.2

ENDORSEMENT SPLIT DOLLAR AGREEMENTS
AND AMENDMENTS THERETO WITH
MESSRS. BLAIR, NAUGHTON, SARGEANT,
FULLER, HOREY AND MEYER

[Form of individual Endorsement Split Dollar Agreements between the Company and Bryce Blair (dated January 16, 2003 for $2,500,000), Timothy J. Naughton (dated January 28, 2003 for $1,500,000), Thomas J. Sargeant (dated January 21, 2003 for $1,500,000), Samuel B. Fuller (dated January 23, 2003 for $1,500,000), Leo S. Horey (dated February 19, 2003 for $750,000), and Gilbert M. Meyer (February 5, 2003 for $2,500,000).]

ENDORSEMENT
SPLIT DOLLAR LIFE INSURANCE AGREEMENT
FOR ___________________________

THIS AGREEMENT is made as of the ___day of ___, 2003, between AvalonBay Communities, Inc. (the "Company"), and ___(the "Insured").

INTRODUCTION

_____________ (the "Insured") is a valuable employee of the Company. The Company wishes to continue this employment relationship and, as an inducement thereto, is willing to participate with the Insured in the payment of premiums on certain life insurance policies as an additional form of compensation for the Insured's services as an employee of the Company. This Agreement is intended to qualify as a life insurance employee benefit plan as described in Revenue Ruling 64-328.

NOW, THEREFORE, the parties agree as follows:

ARTICLE 1. GENERAL DEFINITIONS

The following terms shall have the meanings specified:

1.1. "Company" means AvalonBay Communities, Inc., or any successor thereto.

1.21. "Insured" means the Employee.

1.3. "Insurer(s)" means the insurance company or companies listed on Attachment 1 hereto.

1.4. "Policy" or "Policies" means the insurance policy or policies listed on Attachment I, issued on the life of the Insured by the Insurer(s), together with any supplementary contracts to such policies issued by the Insurer(s).

ARTICLE 2. PREMIUMS

2.1. Premium Payments. During the term of this Agreement, each annual premium on each Policy shall be paid as follows:

2.1.1. Insured's Portion. During the term of this Agreement the Insured shall be obligated to pay a portion of each premium equal to the current term rate for the Insured's age multiplied by the Insured's current interest in the death benefit of such Policy. The "current term rate" shall mean the lesser of the Insurer's term insurance rate or the PS 58 rate, as specified in Revenue Rulings 64-328 and 66-110, or any subsequently issued applicable authority. The Insured shall pay the Insured's portion of the premium through payroll deduction.

2.1.2. Company's Portion. During the term of this Agreement the Company shall pay any additional premium amounts not paid by the Insured that are required to meet the Company's premium obligations to the Insured under the Plan.

2.2. Timing. The Insured's portion of the premium and the Company's portion of the premium shall be remitted to the Insurer before expiration of the grace period.

ARTICLE 3. POLICY OWNERSHIP AND INSURED'S BENEFITS

3.1. Company's Interest. The Company shall be the sole and exclusive owner of each Policy and the direct beneficiary of an amount of the death proceeds of each Policy equal to the aggregate premiums paid by the Company under the Policy.

3.2. Insured's Interest. The Insured shall have the right, during the term of this Agreement, to designate and change direct and contingent beneficiaries (and to elect and change a payment plan for such beneficiaries) with respect to the amount of the death proceeds of each Policy in excess of that payable to the Company pursuant to Section 3.1.

3.3. Payment from Insurer. Benefits may be paid under each Policy by the applicable Insurer either by separate checks to the parties entitled thereto, or by a joint check. In the latter instance, the Insured and the Company (and, if applicable, their respective beneficiaries) shall divide the benefits as provided herein.

ARTICLE 4. TERMINATION OF AGREEMENT

This Agreement shall terminate upon the earlier to occur of the Insured's termination of employment, the Insured's failure to pay any amounts due under Section 2.1.1 of the Agreement, or the date mutually agreed to by the Company and the Insured. Upon termination of this Agreement, the Insured's rights hereunder shall terminate.

ARTICLE 5. INSURER(S)

Each Insurer shall be bound only by the provisions of and endorsements on its Policy, and any payments made or actions taken by it in accordance therewith shall fully discharge it from all claims, suits and demands of all persons. The Insurer shall in no way be bound by or be deemed to have notice of the provisions of this Agreement.

ARTICLE 6. MISCELLANEOUS

6.1. Termination/Amendment. The Company and the Insured may amend or terminate this Agreement by mutual consent. Any amendment to the Agreement shall be in writing and shall be filed with the Agreement.

6.2. Transferability. The Insured shall have the right to assign any part or all of the Insured's interests in each Policy and this Agreement to any person, entity or trust by execution of a written assignment delivered to the Company and the Insurer. The Company may also assign its rights in each Policy and in this Agreement.

6.3. Binding Effect. This Agreement shall bind the Insured and the Insured, their heirs, executors, administrators and transferees, and the Company and its successors and any Policy beneficiary.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the day and year first written above.

AvalonBay Communities, Inc.:

By: ______________________________

Its ______________________, and

INSURED:

____

ATTACHMENT I

ENDORSEMENT
SPLIT DOLLAR LIFE INSURANCE AGREEMENT
FOR ______________

SCHEDULE OF LIFE INSURANCE POLICIES ON
____

Policy No.	Insurer

Dated: _______________________

ATTACHMENT II

ERISA COMPLIANCE

The following provisions are part of the AvalonBay Communities, Inc. Endorsement Split Dollar Life Insurance Agreement for ___and are intended to meet the requirements of the Employee Retirement Income Security Act of 1974:

Plan Name and Company Identification Number. The name of the plan under which this benefit is offered is the AvalonBay Communities, Inc. Endorsement Split Dollar Life Insurance Agreement for ___. The Identification Number assigned to the Employer by the Internal Revenue Service is

Type of Plan. The Agreement provides a life insurance benefit.

Named Fiduciary, Plan Sponsor, Plan Administrator and Agent for Service of Legal Process. The Company is the named fiduciary, sponsor, Plan Administrator and agent for service of legal process for the Agreement. If you have any questions about the Agreement, you may contact:

Funding Policy. The funding policy under the Agreement is that all premiums on the Policy be remitted to the Insurer when due.

Basis of Benefit Payment. Direct payment by the Insurer is the basis of payment of benefits under the Agreement, with those benefits in turn being based on the payment of premiums as provided in the Agreement.

Plan Interpretation. The Company has the exclusive discretion to interpret the terms of the Agreement and to determine the eligibility and benefits of the participant and beneficiaries. The Company's determinations are final and binding, subject only to the claims procedure described below.

Claims Procedure. You or your beneficiary may file a written claim with the Company requesting benefits under the Agreement or objecting to the determination of your benefits.

The Company will notify you in writing with 90 days after your written application for benefits of your eligibility or non-eligibility for benefits under the Agreement. If the Company determines that you are not eligible for benefits or full benefits, the notice will tell you:

- the specific reasons for the denial,
- a specific reference to the provision of the Agreement on which denial is based,
- a description of any additional information or material necessary for you to perfect your claim (and an explanation of why such information or material is necessary), and
- an explanation of the Agreement's claims review procedure.

If the Company determines that you are not eligible for benefits, or if you believe that you are entitled to greater or different benefits, you will have the opportunity to have your claim reviewed by the Company by filing a petition for review with the Company within 60 days after you receive the notice issued by the Company. Your petition should state the specific reasons why you believe you are entitled to benefits, or greater or different benefits.

Within 60 days after the Company receives the petition, the Company will give you a written decision of its review. However, if the Company determines that there are special circumstances requiring additional time to make a decision, the Company will notify you of the special circumstances and the date by which a decision is expected to be made, and may extend the time for the written decision for up to an additional 60-day period. The Company may hold a hearing for the review of your claim if you request and the Company decides such a hearing is necessary. The Company's written decision will state the decision and the specific reasons for the decision and specific provisions of the Agreement on which the decision is based.

Rights Under ERISA. As a participant in the Agreement, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provisions require that all participants have the following information.

Plan Documents

ERISA provides that all plan participants shall be entitled to:

- Examine, without charge, at the Plan Administrator's office and at other specified locations, such as worksites, all plan documents, including insurance contracts and copies of all documents filed by the plan with the U.S. Department of Labor, such as detailed annual reports and plan descriptions, if any.

- Obtain copies of all plan documents and other plan information upon written request of the Plan Administrator. The Plan Administrator may make a reasonable charge for the copies.

Fiduciary Obligations

In addition to creating rights for plan participants, ERISA imposes duties upon the people who are responsible for the operation of the employee benefit plan. The people who operate your plan, called “fiduciaries” of the plan, have a duty to do so prudently and in the interest of you and your beneficiaries.

No one, including your employer or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a benefit under the plan or exercising your rights under ERISA. If your claim for a benefit is denied in whole or in part, you must receive a written explanation of the reason for the denial. You have the right to have the plan review and reconsider your claim. Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request materials which you are entitled to receive from the plan and do not receive them within 30 days, you may file suit in a federal court. In such a case, the court may require the Plan Administrator to provide the materials and pay up to $110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Plan Administrator. If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or federal court. If it should happen that plan fiduciaries misuse the plan’s money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees; for example, if it finds your claim is frivolous.

If you have any questions about your plan, you should contact the Plan Administrator. If you have any questions about this statement or about your rights under ERISA, you should contact the nearest Area Office of the U.S. Labor-Management Service Administration, Department of Labor.

ENDORSEMENT
SPLIT DOLLAR LIFE INSURANCE AGREEMENT
FOR _______________
ENDORSEMENT FORM

Contract No.,
or Policy No. ________________________________ (the "Policy")

Insured ___________________

Supplementing and amending the application of this date to ***Sun Life Financial*** (the "Insurer") the applicant requests and directs that:

1. The Owner of the Policy will be AvalonBay Communities, Inc., a VA corporation. The Owner alone may exercise all Policy rights, except that the Owner will not have the rights specified in paragraph 4, below.

2. The Owner designates itself or its successors as direct beneficiary of a portion of the death proceeds of the Policy equal to the greater of the Policy's cash value as of the date to which the Policy premiums have been paid, or the aggregate Policy premiums paid by the Owner.

3. The Insurer will have the right to rely on any statement signed by the Owner setting forth the amount referred to in paragraph 2.

4. The Insured will have the right to designate and change the beneficiaries of the Policy death proceeds in excess of those described in paragraph 2.

5. Any indebtedness on the Policy will first be deducted from the proceeds described in paragraph 2.

6. All prior designations of beneficiaries of the Policy death proceeds are hereby revoked.

APPLICANT

By: ______________________________
Its: ______________________________

INSURED

____

Date: __________________________

FIRST AMENDMENT
TO
ENDORSEMENT SPLIT DOLLAR LIFE INSURANCE AGREEMENT

The Endorsement Split Dollar Life Insurance Agreement entered into as of the 5th day of February, 2003 by and between AvalonBay Communities, Inc., a Maryland corporation (the "Company"), and Gilbert M. Meyer (the "Insured") is hereby amended as follows:

Article 1 of the Agreement is hereby amended by adding the following at the end thereof:

"1.5 'Retirement Agreement' means the Retirement Agreement made as of March 24, 2000 between the Company and the Insured, as amended from time to time."

Section 2.1.1 of the Agreement is hereby amended by adding the following at the end thereof:

"After the Insured ceases to be employed by the Company, if this Agreement remains in effect, the Insured shall pay the Insured's portion of the premium by personal check or cash."

Article 4 of the Agreement is hereby amended by deleting said Article in its entirety and substituting the following in lieu thereof:

"ARTICLE 4. TERMINATION OF AGREEMENT

This Agreement shall terminate 30 days after the payment of the full premiums due under the Policy for the Policy's 15th year (i.e., the payment due in 2017).

Upon termination of the Policy, the Company shall first withdraw from the cash surrender value in the Policy an amount equal to the lesser of the aggregate premiums paid by the Company under the Policy or the cash surrender value in the Policy, and the Company shall then transfer the ownership of the Policy to the Insured (subject to payment of any required withholding taxes). Upon the transfer of the Policy to the Insured, the Company's rights hereunder shall terminate. In the event the Agreement is terminated under any other circumstances, the Insured's rights hereunder shall terminate."

Except as amended herein, the Agreement is confirmed in all other respects.

IN WITNESS WHEREOF, this Amendment is entered into this 31st day of March, 2005.

AVALONBAY COMMUNITIES, INC.

By: /s/ Charlene Rothkopf
Charlene Rothkopf, EVP – Human Resources

/s/ Edward M. Schulman
Edward M. Schulman,
SVP, General Counsel & Secretary

Gilbert M. Meyer
Insured

[Note: Following is the form of amendment used for amendments to the agreements with Messrs. Blair, Naughton, Sargeant, Fuller and Horey.]

FIRST AMENDMENT
TO
ENDORSEMENT SPLIT DOLLAR LIFE INSURANCE AGREEMENT

The Endorsement Split Dollar Life Insurance Agreement entered into as of the ___day of ___, 2003 by and between AvalonBay Communities, Inc., a Maryland corporation (the "Company"), and ___(the "Insured") is hereby amended as follows:

Article 1 of the Agreement is hereby amended by adding the following at the end thereof:

"1.5 'Employment Agreement' means the Employment Agreement made as of ___ between the Company and the Insured, as amended from time to time."

Section 2.1.1 of the Agreement is hereby amended by adding the following at the end thereof:

"After the Insured ceases to be employed by the Company, if this Agreement remains in effect, the Insured shall pay the Insured's portion of the premium by personal check or cash."

Article 4 of the Agreement is hereby amended by deleting said Article in its entirety and substituting the following in lieu thereof:

"ARTICLE 4. TERMINATION OF AGREEMENT

This Agreement shall terminate 30 days after the earliest to occur of the following: (i) Insured's termination of employment by the Company for Cause (as defined in the Employment Agreement), (ii) the Insured's voluntary termination of employment which is not due to a Constructive Termination Without Cause (as defined in the Employment Agreement), or (iii) the payment of the full premiums due under the Policy for the Policy's 15th year (i.e., the payment due in 2017).

Upon termination of the Policy, the Company shall first withdraw from the cash surrender value in the Policy an amount equal to the lesser of the aggregate premiums paid by the Company under the Policy or the cash surrender value in the Policy, and the Company shall then transfer the ownership of the Policy to the Insured (subject to payment of any required withholding taxes); provided, however, that in the event of termination under clause (i) or (ii), transfer of the Policy to the Insured may not occur earlier than six months after the Insured's termination of employment with the Company. Upon the transfer of the Policy to the Insured, the Company's rights hereunder shall terminate. In the event the Agreement is terminated under any other circumstances, the Insured's rights hereunder shall terminate."

Except as amended herein, the Agreement is confirmed in all other respects.

IN WITNESS WHEREOF, this Amendment is entered into this 31st day of March, 2005.

AVALONBAY COMMUNITIES, INC.

By: ______________________________
Charlene Rothkopf, EVP – Human Resources

____
Edward M. Schulman,
SVP, General Counsel & Secretary

____
Insured

Exhibit 10.3

**FIRST AMENDMENT
TO
EMPLOYMENT AGREEMENT**

The Employment Agreement made as of the 10th day of January, 2003 by and between AvalonBay Communities, Inc., a Maryland corporation (the "Company"), and Bryce Blair ("Executive") is hereby amended as follows:

Section 7(c)(iii)(B) of the Employment Agreement is hereby amended by deleting said subsection in its entirety and substituting thereof the following:

"(B) Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive; and"

Section 7(c)(iv)(E) of the Employment Agreement is hereby amended by deleting said subsection in its entirety and substituting the following in lieu thereof:

"(E) Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive."

Section 7(c)(v) of the Employment Agreement is hereby amended by deleting subsection (B) thereof in its entirety and substituting the following in lieu thereof:

"(B) Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive; and"

Except as amended herein, the Employment Agreement is hereby confirmed in all other respects.

IN WITNESS WHEREOF, this Amendment is entered into this 31st day of March, 2005.

AVALONBAY COMMUNITIES, INC.

By: /s/ Charlene Rothkopf
Charlene Rothkopf, EVP – Human Resources

/s/ Edward M. Schulman
Edward M. Schulman,
SVP, General Counsel & Secretary

/s/ Bryce Blair
Executive

Exhibit 10.4

FIRST AMENDMENT
TO
EMPLOYMENT AGREEMENT

The Employment Agreement made as of the 26th day of February, 2001 by and between AvalonBay Communities, Inc., a Maryland corporation (the “Company”), and Timothy J. Naughton (“Executive”) is hereby amended as follows:

Section 7(c)(iii)(B) of the Employment Agreement is hereby amended by deleting said subsection in its entirety and substituting thereof the following:

“(B) Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive; and”

Section 7(c)(iv) of the Employment Agreement is hereby amended by deleting subsection II in the second paragraph thereof in its entirety and substituting the following in lieu thereof:

“II. Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive.”

Section 7(c)(v) of the Employment Agreement is hereby amended by deleting subsection (B) thereof in its entirety and substituting the following in lieu thereof:

“(B) Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive; and”

Section 7(c)(vi) of the Employment Agreement is amended by deleting subsection (B) thereof in its entirety and substituting the following in lieu thereof:

“(B) Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive; and

Except as amended herein, the Employment Agreement is hereby confirmed in all other respects.

IN WITNESS WHEREOF, this Amendment is entered into this 31st day of March, 2005.

AVALONBAY COMMUNITIES, INC.

By: /s/ Charlene Rothkopf
Charlene Rothkopf, EVP – Human Resources

/s/ Edward M. Schulman
Edward M. Schulman,
SVP, General Counsel & Secretary

Timothy J. Naughton
Executive

Exhibit 10.5

FIRST AMENDMENT
TO
EMPLOYMENT AGREEMENT

The Employment Agreement made as of the 1st day of July, 2003 by and between AvalonBay Communities, Inc., a Maryland corporation (the "Company"), and Thomas J. Sargeant ("Executive") is hereby amended as follows:

Section 7(c)(iii)(B) of the Employment Agreement is hereby amended by deleting said subsection in its entirety and substituting thereof the following:

"(B) Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive; and"

Section 7(c)(iv)(E) of the Employment Agreement is hereby amended by deleting said subsection in its entirety and substituting the following in lieu thereof:

"(E) Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive."

Section 7(c)(v) of the Employment Agreement is hereby amended by deleting subsection (B) thereof in its entirety and substituting the following in lieu thereof:

"(B) Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive; and"

Except as amended herein, the Employment Agreement is hereby confirmed in all other respects.

IN WITNESS WHEREOF, this Amendment is entered into this 31st day of March, 2005.

AVALONBAY COMMUNITIES, INC.

By: /s/ Charlene Rothkopf
Charlene Rothkopf, EVP – Human Resources

/s/ Edward M. Schulman
Edward M. Schulman,
SVP, General Counsel & Secretary

Thomas J. Sargeant
Executive

Exhibit 10.6

FIRST AMENDMENT
TO
EMPLOYMENT AGREEMENT

The Employment Agreement made as of the 10th day of September, 2001 by and between AvalonBay Communities, Inc., a Maryland corporation (the "Company"), and Leo S. Horey ("Executive") is hereby amended as follows:

Section 7(c)(iii)(B) of the Employment Agreement is hereby amended by deleting said subsection in its entirety and substituting thereof the following:

"(B) Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive; and"

Section 7(c)(iv) of the Employment Agreement is hereby amended by deleting subsection II in the second paragraph thereof in its entirety and substituting the following in lieu thereof:

"II. Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive."

Section 7(c)(v) of the Employment Agreement is hereby amended by deleting subsection (B) thereof in its entirety and substituting the following in lieu thereof:

"(B) Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive; and"

Section 7(c)(vi) of the Employment Agreement is amended by deleting subsection (B) thereof in its entirety and substituting the following in lieu thereof:

"(B) Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive; and

Except as amended herein, the Employment Agreement is hereby confirmed in all other respects.

IN WITNESS WHEREOF, this Amendment is entered into this 31st day of March, 2005.

AVALONBAY COMMUNITIES, INC.

By: /s/ Charlene Rothkopf
Charlene Rothkopf, EVP – Human Resources

/s/ Edward M. Schulman
Edward M. Schulman,
SVP, General Counsel & Secretary

/s/ Leo S. Horey
Executive

Exhibit 10.7

FIRST AMENDMENT
TO
EMPLOYMENT AGREEMENT

The Employment Agreement made as of the 31st day of December, 2001 by and between AvalonBay Communities, Inc., a Maryland corporation (the "Company"), and Samuel B. Fuller ("Executive") is hereby amended as follows:

Section 7(c)(iii)(B) of the Employment Agreement is hereby amended by deleting said subsection in its entirety and substituting thereof the following:

"(B) Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive; and"

Section 7(c)(iv) of the Employment Agreement is hereby amended by deleting subsection II in the second paragraph thereof in its entirety and substituting the following in lieu thereof:

"II. Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive."

Section 7(c)(v) of the Employment Agreement is hereby amended by deleting subsection (B) thereof in its entirety and substituting the following in lieu thereof:

"(B) Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive; and"

Section 7(c)(vi) of the Employment Agreement is amended by deleting subsection (B) thereof in its entirety and substituting the following in lieu thereof:

"(B) Continue to pay the premiums then due or thereafter payable on the whole-life portion of the split-dollar insurance policy referenced under Section 3(d) in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive; and

Except as amended herein, the Employment Agreement is hereby confirmed in all other respects.

IN WITNESS WHEREOF, this Amendment is entered into this 31st day of March, 2005.

AVALONBAY COMMUNITIES, INC.

By: /s/ Charlene Rothkopf
Charlene Rothkopf, EVP – Human Resources

/s/ Edward M. Schulman
Edward M. Schulman,
SVP, General Counsel & Secretary

/s/ Samuel B. Fuller
Executive

Exhibit 10.8

FIRST AMENDMENT
TO
RETIREMENT AGREEMENT

The Retirement Agreement made as of the 24th day of March, 2000 by and between AvalonBay Communities, Inc., a Maryland corporation (the "Company"), and Gilbert M. Meyer ("Director") is hereby amended as follows:

Section 3(a) of the Retirement Agreement is hereby amended by deleting the following language in the first sentence thereof:

"for so long as such payments are due"

and substituting thereof the following:

"in accordance with, and to the extent required by, the provisions of the Split Dollar Agreement between the Company and Executive,"

Except as amended herein, the Retirement Agreement is hereby confirmed in all other respects.

IN WITNESS WHEREOF, this Amendment is entered into this 31st day of March, 2005.

AVALONBAY COMMUNITIES, INC.

By: /s/ Charlene Rothkopf
Charlene Rothkopf, EVP – Human Resources

/s/ Edward M. Schulman
Edward M. Schulman,
SVP, General Counsel & Secretary

/s/ Gilbert M. Meyer
Director

Exhibit 10.9

April 6, 2005

Mr. Samuel B. Fuller
7 Indian Trail
Darien, CT 06820

Dear Sam:

Reference is made to your Employment Agreement dated December 31, 2001 (the "Employment Agreement") between you and AvalonBay Communities, Inc. (the "Company," a term which for purposes of this Agreement includes its related or affiliated entities). This letter agreement (this "Separation Agreement") sets forth the terms under which your employment with the Company will terminate and the Employment Agreement will be terminated (except for certain provisions, which will survive as described below).

1. Departure Date and Consulting Services.

(a) Termination of Employment and Departure Date. The effective date of the termination of your employment and office(s) with the Company and any of its related or affiliated entities will be April 30, 2005 (such date, or such earlier date as the parties may subsequently mutually agree each in their sole discretion, the "Departure Date"), and your termination on such date shall constitute a termination of your employment by the Company without cause under the Employment Agreement. By entering into this Separation Agreement, you are acknowledging that, as of the Departure Date, you are no longer an officer or employee of the Company and, to the extent applicable, you will no longer be a director and/or officer of any and all entities that are affiliates of the Company.

(b) Consulting Services and Termination Date. From and after the Departure Date, and until April 30, 2006 (April 30, 2006 or such earlier date as may apply in the event that the Company terminates the consulting arrangement as contemplated by the last sentence of this paragraph in Section 1(b) or by Section 5(b) or 11(b) below, the "Termination Date"), you will perform services for the Company as a consultant. The period from the Departure Date to the Termination Date is referred to herein as the "Consulting Period". The legal status of your consultancy during the Consulting Period will be as an independent contractor. You agree to make yourself available during the Consulting Period to perform consulting services on a part-time basis only (not to exceed 15 hours per month except as agreed to by you), at times and upon notice reasonably acceptable to you. Your services as a consultant may include advising the Company about development projects that are currently in progress or in pursuit as of the Departure Date and cooperating with various litigation matters as described in Section 8, whether now or hereafter existing. The Company agrees to utilize

your consulting services at times and places which do not interfere with your post-departure business or employment activities. During the Consulting Period, you shall be free to pursue other business opportunities or employment, provided that (x) such other business opportunities or employment do not violate Section 11 of this Separation Agreement (in which case the Company's remedy shall be limited as provided therein) or Sections 5, 7, 9 or 10 and (y) you do not, without the Company's written consent (which it may withhold in its sole discretion) pursue, or actively attempt to disrupt or interfere with, any development communities, development rights or development pursuits of the Company as of the Departure Date (which shall include, in all events, any development communities, development rights or development pursuits which have previously been identified in the Company's SEC filings or press releases with respect to periods ending on or prior to March 31, 2005 (i.e., including the first quarter 2004 earnings release) and any others that you and the Company mutually agree you should be aware of as of the Departure Date as set forth in an Exhibit B to be attached hereto promptly following the Departure Date). You shall not be required to provide consulting services in a manner that unreasonably interferes with your ability to pursue other business opportunities or employment. Upon presentation of invoices, the Company will reimburse you for any reasonable out-of-pocket expenses you incur in providing consulting services hereunder, such as any required travel expenses, provided that in the event you expect to incur meaningful out-of-pocket expenses such as airfare, you must receive advance permission from the Company. In no event would reimbursement of out-of-pocket expenses include overhead items such as office, telephone or clerical support except as the Company may otherwise agree in its sole discretion. Your compensation for services provided during the Consulting Period shall be $60,000, payable at the rate of $5,000 per month, to be paid before the end of each month starting in May 2005. The Company may terminate the Consulting Period if, following written notice and at least a 30 day opportunity to cure, you fail to perform your obligations under this Section 1(b).

Nothing in this Separation Agreement or otherwise shall be construed as identifying you or permitting you to identify yourself as an employee, agent or legal representative of the Company during the Consulting Period for any purpose whatsoever. You will not be authorized to transact business, incur obligations, sell goods, receive payments, solicit orders or assign or create any obligation of any kind, express or implied, on behalf of the Company, or to bind it in any way whatsoever, or to make any promise, warranty or representation on behalf of the Company with respect to any matter, except as expressly authorized in writing by a duly authorized officer of the Company. You shall not use any of the Company's trade names, trademarks, service names or servicemarks without the prior written approval of the Company.

(c) Technical Support. For a reasonable period of time following the Departure Date to be mutually reasonably agreed upon, but in no event beyond the Termination Date, the Company will maintain for you a direct dial telephone number of (203) 801-3311, including voicemail, and an email account with the address of Samf@avalonbay.com and Sam_Fuller@avalonbay.com (the Company may require that emails received at the Company email account be forwarded to a non-Company email account that you maintain).

2. Payments and Benefits. In consideration of your past services and the covenants and obligations which you have undertaken in this Separation Agreement, and your release of the Company of all claims set forth in paragraph 3 herein, and your execution of this Separation Agreement, the Company shall provide you with the following payments and benefits, and you agree that these payments and benefits shall fulfill the Company's severance obligations to you under the Employment Agreement, including Section 7 thereof:

(a) 2005 Base Salary. You will continue to earn a Base Salary through the Departure Date (aggregating approximately **$128,074**).

(b) 2005 Auto Allowance. In addition to salary you will be entitled to your regular monthly auto allowance for the period through April 30, 2005.

(c) Cash Severance Compensation. Promptly following the Departure Date, the Company will pay to you **$2,031,945**, subject to withholding taxes. In the event that a Change in Control (as defined in the Employment Agreement) of the Company occurs prior to August 24, 2005, then promptly thereafter the Company will pay to you an additional amount which is calculated such that the amount paid to you under this clause 2(c) plus such additional amount is equal to the increased amount as provided in Section 7 (c)(vi) of the Employment Agreement and as calculated as of your Departure Date).

(d) Medical/Dental. The Company shall pay for the cost of premiums for medical and dental insurance coverage provided to you and your children in accordance with the continuation requirements of COBRA for up to eighteen (18) months and for the cost of premiums for medical and dental coverage for up to an additional six (6) months under a comparable policy that you procure (for purposes of this Section 2(d), the cost of premiums for such additional coverage shall be deemed to be equal to the cost of premiums for COBRA coverage). Promptly following the Departure Date, the Company shall pay you a lump sum cash amount equal to the full amount due under this provision, and the Company shall thereafter have no further obligation to you under this provision and you shall be responsible for maintaining such policy(ies) and paying the premiums related thereto each month.

(e) Endorsement Split Dollar Policy. The Company will continue to pay, in accordance with the terms of a Split Dollar Agreement between you and the Company (as amended on March 31, 2005), all premiums then due and payable on, but only to the extent relating to the whole-life portion of, the endorsement split-dollar life insurance policy obtained pursuant to Section 3(d) of the Employment Agreement

(f) Common Stock.

(i) On or about February 11, 2005, the Company granted to you **8,041** shares in respect of 2004 (the "2005 Shares"), of which 20% were vested and the remaining 80% were granted subject to vesting in accordance with the Company's current practices.

(ii) All shares of the Company's stock that you were granted as Restricted Shares prior to the Departure Date (including the 2005 Shares) and that have not yet vested will vest as of the Departure Date. In addition to the above, the Company will grant to you, on the Departure Date, 1,637 fully vested shares in consideration of your partial-year 2005 service (the "Partial 2006 Shares").

(iii) To the extent the Company has not already done so, promptly following the Departure Date and subject to the restrictions set forth in paragraph 2(j) below, the Company shall deliver to you certificates representing the Partial 2006 Shares and all Restricted Shares which vest on the Departure Date, and such shares shall be freely transferable by you subject to applicable securities laws. You understand that on the Departure Date when you are granted the Partial 2006 Shares and all unvested Restricted Shares vest, you shall become liable for all applicable federal and state income tax due on the value of such stock. You may pay the withholding taxes in cash to the Company or, alternatively, the Company will cooperate in a sale of vested shares in a manner where a portion of the proceeds is directly paid over to the Company on account of withholding taxes.

(iv) The Company will permit you to elect to have a number of the shares you otherwise would receive on the Departure Date withheld to cover your withholding taxes on such shares, provided you irrevocably make such election at a time when the Company's insider trading window is open.

(g) Cash Bonuses.

(i) At or about the time when cash bonuses are made to other officers of the Company in respect of 2004 (i.e., on or about March 1, 2005), the Company paid to you (subject to withholding) a cash bonus in respect of 2004 of $425,715 (the "2004 Cash Bonus"), subject to withholding taxes.

(ii) On or prior to the Departure Date, the Company will also pay to you a prorated cash bonus of $68,074 for 2005 (subject to withholding) (the "Partial 2005 Cash Bonus").

(h) Stock Options.

(i) On or about February 11, 2005, the Company granted to you **49,461** options in respect of 2004 (the "2005 Options"), which were subject to vesting in accordance with the Company's current practices.

(ii) All employee stock options of the Company that you were granted prior to the Departure Date (including the 2005 Options) and that have not yet vested will vest as of the Departure Date.

(iii) In addition to the above, the Company will grant to you, on or prior to the Departure Date, **16,267** fully vested employee stock options in consideration of your partial-year 2005 service (the "Partial 2006 Options").

(iv) The Company has taken or will take such action such that the 2005 Options and Partial 2006 Options (the "Extended Term Options"), when granted, have a term that expires on their fifth anniversary of the date of grant, regardless of death, disability or termination of employment or other business relationship with the Company, provided, however, that the term of such options shall be subject to earlier expiration as contemplated by Section 15 hereof.

(v) Other than the Extended Term Options (which will expire five years after their grant date), your other options, in accordance with the term of each individual option agreement, will expire a period of time (such period generally being 3 months or 1 year, depending on the exact term provided in the applicable option agreement and any addendum thereto, and such period referred to herein as the "Tail Period") following the Termination Date. The Company acknowledges that, during your Consulting Period, you will have an "other business relationship" with the Company within the meaning set forth in your stock option agreements and the Company's stock incentive plan. For clarification, it is noted that the Tail Period in no event shall cause an option to extend beyond its original 10-year term. A list of all of the stock options and their respective outside exercise dates is outlined in Exhibit C attached hereto.

(i) Deferred Compensation. Pursuant to the Company's deferred compensation plan, the Company will pay to you any amounts owed there under in accordance with the Company's deferred compensation plan document and your elections there under.

(j) Offset for Withholding Tax and Loans. You acknowledge that income taxes or other legally mandated withholding will be due upon the payment of any cash compensation provided for herein, the transfer or vesting of stock or the exercise of stock options and the Company will not be obligated to deliver to you any share certificates until you have satisfied all withholding tax obligations. You agree and authorize the Company to withhold cash payments otherwise due to you under this Separation Agreement, and to use such withheld payments for the purpose of satisfying any obligations which you may have for taxes other legally-mandated withholding until such obligations are fully satisfied. In the event that the payments withheld are insufficient to satisfy such obligations, you agree to make any additional payments necessary directly to the Company until all such obligations are satisfied.

(k) Disability Insurance. Promptly following the Departure Date, the Company shall pay you a lump sum cash amount equal to 24 months premiums on the current disability policy

maintained for you by the Company. Thereafter, the Company shall have no further obligation to you under this provision and you shall be responsible for obtaining and maintaining a disability policy (if you choose to do so) and paying the premiums related thereto directly each month.

(l) 401(k) Account. Promptly following the Departure Date, your 401(k) account will be processed according to the Company's 401(k) plan document. The Company will cooperate with the processing of your 401(k) account should you decide to roll such account over into another deferred tax account as permitted under applicable law.

(m) Accrued Vacation. Promptly after the Departure Date, you will receive payment for all hours of actual accrued but unused vacation accrued prior to 12/31/04.

(n) Professional Advice and Outplacement Services. The Company will reimburse you for up to Fifteen Thousand Dollars ($15,000) in attorneys' fees actually incurred by you in association with your departure from and termination of employment with the Company, including review of the Employment Agreement, this Separation Agreement, and professional legal services leading to the execution of this Separation Agreement. The Company will reimburse you for up to Five Thousand Dollars ($5,000) for tax advice obtained by you from a public accounting firm or other financial advisor associated with and relating to your departure from and termination of employment with the Company. The Company will reimburse you up to $25,000 for outplacement services (provided that you may allocate up to $10,000 of this amount as additional compensation for attorneys' fees actually incurred by you as contemplated by the first sentence of this paragraph (n)). All reimbursements will be made promptly upon presentation of invoices and will be subject to tax withholding and reporting. All invoices for expenses must be submitted to the Company by March 1, 2006 so that the Company can reimburse you for any amounts due by March 15, 2006. Invoices should be submitted to Karen Hollinger, Senior Director of Human Resources, at the Company.

(o) Professional organizations: The Company will pay your 2005 annual membership costs for the Urban Land Institute and the NAHB Multifamily Leadership Council. Additionally the company will pay the registration, and travel costs for your attendance for the Spring meetings of these organizations. These payments are in addition to the reimbursements as outlined in paragraph (n) above.

3. Release of Claims. You agree that the payments made or to be made to you hereunder are in full satisfaction of all claims you may have in respect of your employment by the Company or its affiliates and are provided as the sole and exclusive benefits to be provided to you in respect of the termination of your employment. In consideration of these and the other payments described in Section 2 above and in accordance with Section 7(h) of the Employment Agreement, you hereby covenant and agree as follows:

(a) You, on behalf of yourself and your successors, heirs, assigns, executors, administrators and/or estate, hereby irrevocably and unconditionally release, acquit and forever

discharge the Company, its subsidiaries, divisions and related or affiliated entities, and each of their respective predecessors, successors or assigns, and the officers, directors, partners, shareholders, representatives, employees and agents of each of the foregoing (the "Releasees"), from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including attorneys' fees and costs actually incurred), known or unknown, that directly or indirectly arise out of, relate to or concern your employment or termination of employment with the Company ("Claims"), which you have, own or hold, or at any time heretofore had, owned or held against the Releasees up to the date on which you execute this Separation Agreement, including without limitation, express or implied, all Claims for: breach of express or implied contract; promissory estoppel; fraud, deceit or misrepresentation; intentional, reckless or negligent infliction of emotional distress; breach of any express or implied covenant of employment, including the covenant of good faith and fair dealing; interference with contractual or advantageous relations; discrimination or retaliation on any basis under federal, state or local law, including without limitation, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, as amended, and the Connecticut Human Rights Law, as amended; the Employee Retirement Income Security Act ("ERISA"), as amended, and all claims for defamation or damaged reputation.

(b) You acknowledge that you are releasing unknown claims.

(c) You represent and warrant that you have not filed any complaints or charges asserting any Claims against the Releasees with any local, state or federal agency or court. You further represent and warrant that you have not assigned or transferred to any person or entity any Claims or any part or portion thereof.

(d) You agree that you will not hereafter pursue any Claim against any Releasee by filing a lawsuit in any local, state or federal court for or on account of anything which has occurred up to the present time as a result of your employment, and you shall not seek or accept reinstatement with, or damages of any nature, severance, incentive or retention pay, attorney's fees, or costs from the Company or any of the other Releasees; provided, however, that nothing in this Section 3 shall be deemed to release the Company from any claims that you may have (i) under this Separation Agreement, (ii) for indemnification pursuant to and in accordance with applicable statutes, the by-laws of the Company and Section 4(b) of the Employment Agreement, (iii) vested pension or retirement benefits under the terms of qualified employee pension benefit plans, or (iv) accrued but unpaid wages. Nothing in this Separation Agreement shall be construed to prohibit you from filing a charge or complaint, including a challenge to the validity of this Separation Agreement, with the Equal Employment Opportunity Commission or participating in any investigation or proceeding conducted by the Equal Employment Opportunity Commission.

(e) You acknowledge that you are knowingly and voluntarily waiving and releasing any rights you may have under the federal Age Discrimination in Employment Act of 1967, as amended (the "ADEA"). You also acknowledge that the consideration given for the waiver and release in the preceding paragraphs hereof is in addition to anything of value to which you were already entitled. You further acknowledge that you are hereby advised by the Company through this Separation Agreement, as required by the ADEA, that: (a) your waiver and release do not apply to any rights or claims that may arise after the execution date of this Separation Agreement; (b) you have the right to consult with an attorney prior to executing this Separation

Agreement; (c) you have twenty-one (21) days to consider this Separation Agreement (although you may choose to voluntarily execute this Separation Agreement earlier); and (d) you have seven (7) days following the execution of this Separation Agreement to revoke this Separation Agreement. Any revocation within this period must be submitted, in writing, to Charlene Rothkopf, Executive Vice President of Human Resources, and state, "I hereby revoke my acceptance of our letter agreement dated as of ___, 2005 and the release contained therein." The revocation must be personally delivered to the Executive Vice President of Human Resources, or mailed to the Executive Vice President of Human Resources, 2900 Eisenhower Ave., Suite 300, Alexandria, VA 22314, and postmarked within seven (7) days of execution of this Separation Agreement. In the event that you choose not to revoke this Separation Agreement, please return the acknowledgment attached as Exhibit A. This Separation Agreement shall not become effective or enforceable until the revocation period has expired. If the last day of the revocation period is a Saturday, Sunday, or legal holiday in Virginia, then the revocation period shall not expire until the next following day which is not a Saturday, Sunday or legal holiday.

4. Release by the Company.

(a) The Company, on behalf of itself, its subsidiaries, divisions and related or affiliated entities and each of their respective predecessors, successors or assigns hereby irrevocably and unconditionally releases, acquits and forever discharges you, your successors, heirs, assigns, executors, administrators and/or estate (the "Employee Releasees"), from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including attorney's fees and costs actually incurred) known or unknown, that directly or indirectly arise out of, relate to or concern acts or omissions reasonably taken or not taken by you in the course of your employment with the Company in good faith (the "Company Claims").

(b) The Company represents and warrants that it has not filed any complaints or charges asserting any Company Claims against the Employee Releasees with any local, state or federal agency or court. The Company further represents and warrants that it has not assigned or transferred to any person or entity any Company Claims or any part or portion thereof.

(c) The Company agrees that it will not hereafter pursue any Company Claim against any Employee Releasee by filing a lawsuit in any local, state or federal court for or on account of anything which has occurred up to the present time as a result of your employment to the extent set forth in Subparagraph 4(a) above; provided, however, that nothing in this Section 4 shall be deemed to release you from any claims the Company may have (i) under this Separation Agreement or (ii) for claims not otherwise released by Section 4(a) above.

5. Employment Agreement and Non-Solicitation.

(a) Surviving Employment Agreement Provisions. Except as set forth in the next sentence or as expressly provided elsewhere in this Separation Agreement, this Separation Agreement supersedes all provisions of the Employment Agreement and all such provisions will terminate upon the Departure Date. Nothing contained herein, however, shall be deemed to terminate your obligations to the Company or the Company's obligations to you under Sections 4 (expenses/indemnification), 6 (Records/Nondisclosure/Company Policies) except as modified

herein, 7(d) (Excise Tax Payment), 8(b)-(c) (Non-Solicitation and Specific Enforcement) except as modified herein , and 13 (Resolution of Disputes) of the Employment Agreement, Annexes A (Code of Ethics) or B (Nondisclosure Agreement) thereto except as modified herein, or the Company's Stock Option Plan or the stock option agreements entered into by you from time to time, and all such provisions and agreements shall be deemed incorporated herein by reference. Any disputes under this Separation Agreement will be resolved by arbitration as provided in Section 13 of the Employment Agreement.

(b) Extension of Non-Solicitation Provision; Termination of Consulting Period for Violation. You agree that the Non-Solicitation Period in Section 8(b) of the Agreement shall apply during the Consulting Period and for a period of one year thereafter (i.e., until the one year anniversary of the Termination Date). You agree that in the event that you violate your non-solicitation agreement as provided herein and in Section 8(b) of the Agreement, in addition to seeking specific performance and money damages as well as suspension of the exercisability of the Extended Term Options as provided in Section 15 hereof, the Company may terminate the Consulting Period without further payment of any amounts due thereunder (thereby ending your business relationship with the Company and beginning the applicable Tail Period on any outstanding stock options of the Company that were issued to you and for which the Tail Period does not begin to run until the end of your business relationship with the Company).

6. Return of Property. In accordance with Section 4 of the Nondisclosure Agreement, dated as of December 31, 2001, by and between you and the Company and incorporated in the Employment Agreement as Annex B ("Nondisclosure Agreement"), to the extent you have not already done so, (i) you will return to the Company all records, correspondence, notes, financial statements, computer printouts and other documents and recorded material of every nature (including copies thereof) that may be in your possession or control dealing with Confidential Information (as defined in Section 8 of the Nondisclosure Agreement), and (ii) you will return to the Company all other property. You and the Company will mutually reasonably agree on any property or records that will not covered be covered by the prior sentence.

7. Adverse Actions. During the Consulting Period and for one year thereafter (i.e., until the one year anniversary of the Termination Date), you agree that without the prior written consent of the Company you shall not, directly or indirectly or in any manner, or solicit, request, advise, assist or encourage any other person or entity to, (a) undertake any action that would be reasonably likely to, or is intended to, result in a Change in Control (as that term is defined in the Employment Agreement) of the Company, including, for these purposes, without limitation, a valuation of the Company; (b) seek to change or control in any manner the management or the Board of Directors of the Company, or the business, operations or affairs of the Company; or (c) undertake an investment in the Company exceeding 1.0% of the outstanding shares of the Company.

8. Litigation Cooperation. You agree to continue to serve the Company as a litigation consultant and, in connection therewith, to cooperate reasonably with the Company in (i) the defense or prosecution of any claims or actions which already have been brought or which may be brought in the future against or on behalf of the Company and (ii) responding to, cooperating with, or contesting any governmental audit, inspection, inquiry, proceeding or investigation, which relate to events or occurrences that transpired in whole or in part during your

employment with the Company. Your cooperation in connection with such claims or actions shall include, without implication of limitation: (a) promptly notifying the Company in writing of any subpoena, interview, investigation, request for information, or other contact concerning events or occurrences that transpired during your employment with any of the Company; (b) being reasonably available to meet with counsel for any of the Company to prepare for discovery or trial; (c) testifying truthfully as a witness when reasonably requested and at reasonable times designated by the Company; (d) meeting with counsel or other designated representatives of the Company at reasonable times and places; and (e) preparing responses to and to cooperating with any Company's processing of governmental audits, inspections, inquiries, proceedings or investigations. The Company will try, in good faith, to exercise its rights under this Section so as not to unreasonably interfere with your personal schedule or ability to engage in gainful employment. In the event other commitments preclude you from being available to the Company when requested, you may decline a Company request for cooperation so long as you promptly provide to the Company reasonable alternative dates when you will be available to provide such cooperation. The Company agrees to reimburse you for any reasonable out-of-pocket expenses that you incur in connection with such cooperation, subject to reasonable documentation. During the Consulting Period, there shall be no extra compensation paid in connection with the time you spend complying with your obligations as a litigation consultant under this Section. After the Consulting Period, the Company shall compensate you at an hourly rate of $350 per hour for time that you reasonably spend complying with your obligations as a litigation consultant under this Section, except that the Company shall not, under any circumstances, compensate you for time spent (i) testifying under oath or (ii) responding to questions from governmental investigators in a capacity as a fact witness.

9. Confidentiality. In furtherance of your obligations under this Separation Agreement, you agree that you shall not disclose, provide or reveal, directly or indirectly, any confidential or proprietary information concerning the Company, including without implication of limitation, its operations, plans, strategies or administration, to any other person or entity unless compelled to do so pursuant to (a) a valid subpoena or (b) as otherwise required by law, but in either case only after providing the Company, to the attention of its Senior Vice President-General Counsel, with prior written notice and opportunity to contest such subpoena or other requirement. Written notice shall be provided to the Company as soon as practicable, but in no event less than five (5) business days before any such disclosure is compelled, or, if later, at least one business day after you receive notice compelling such disclosure.

10. Nondisparagement. You agree not to take any action or make any statement, written or oral, which disparages or criticizes the Company or its officers, directors, agents, or management and business practices, or which disrupts or impairs the Company's normal operations. The Company agrees to instruct its directors and executive officers not to take any action or make any statement, written or oral, which disparages or criticizes you or your management and business practices. The provisions of this Section 9 shall not apply to any truthful statement required to be made by you or any director or executive officer of the Company, as the case may be, in any legal proceeding, governmental or regulatory investigation, in any public filing or disclosure legally required to be filed or made, or in any confidential discussion or consultation with professional advisors related to any of the foregoing.

11. Exclusivity of Services (Non-Compete).

(a) As consideration for the Company's agreements hereunder, you agree that, during the

Consulting Period, you shall not, without the prior written consent of the Company, become employed as an officer or employee of any "Competing Enterprise." "Competing Enterprise," for purposes of this Separation Agreement, shall mean (i) any publicly-traded real estate investment trust or any publicly-traded real estate company, in either case involved primarily in multifamily rental real estate operations or (ii) any of the following private partnership ventures which are engaged in the business of managing, owning, developing, selling, leasing or joint venturing multifamily rental real estate in multiple regions of the United States, which regions meaningfully overlap with the Company's markets: JPI, Trammell Crow Residential, and Lincoln Properties.

(b) In the event that you choose to become employed by a Competing Enterprise, you shall promptly provide written notice to the Company and (i) the Consulting Period shall end, (ii) the Company shall pay you the balance due under the Consulting Arrangement, and (iii) the Termination Date shall be accelerated to the date of such employment (thereby ending your business relationship with the Company and beginning the applicable Tail Period on any outstanding stock options of the Company that were issued to you and for which the Tail Period does not begin to run until the end of your business relationship with the Company). Subject to your timely compliance with the notice provision provided in the prior sentence, the Company shall have no other remedy for a violation of this Section, provided that the Company may continue to enforce any other provision of this Separation Agreement or any other agreement then still surviving, including any non-solicitation provision, non-disparagement provision, and non-disclosure provision.

12. Exclusivity. This Separation Agreement sets forth all the consideration to which you are entitled by reason of the termination of your employment, and you agree that you hereby waive any entitlement or eligibility for any payments or benefits under any other Company severance, bonus, retention or incentive policy, arrangement or plan.

13. Tax Matters. All payments and other consideration provided to you pursuant to this Separation Agreement shall be subject to any deductions, withholding or tax reporting that is legally required for tax purposes.

14. Notices, Acknowledgments and Other Terms.

(a) You are advised to consult with an attorney and tax advisor before signing this Separation Agreement. You acknowledge that you have consulted with an attorney of your choice. You acknowledge that you have been given a reasonable period of time to consider this Separation Agreement before executing it.

(b) By signing this Separation Agreement, you acknowledge that you are doing so voluntarily and knowingly, fully intending to be bound by this Separation Agreement. You also acknowledge that you are not relying on any representations by any representative of the Company concerning the meaning of any aspect of this Separation Agreement. You understand that this Separation Agreement shall not in any way be construed as an admission by the Company of any liability or any act of wrongdoing whatsoever by the Company against you and that the Company specifically disclaims any liability or wrongdoing whatsoever against you on the part of itself and its officers, directors, shareholders, employees and agents. You understand that if you do not enter into this Separation Agreement and bring any claims against

the Company, the Company will dispute the merits of those claims and contend that it acted lawfully and for good business reasons with respect to you.

(c) In the event of any dispute, this Separation Agreement will be construed as a whole, will be interpreted in accordance with its fair meaning, and will not be construed strictly for or against either you or the Company. Section headings and parenthetical explanations of section references are for convenience only and shall not be used to interpret the meaning of any provision or term of this Separation Agreement.

(d) The law of the State of Maryland will govern any dispute about this Separation Agreement, including any interpretation or enforcement of this Separation Agreement.

(e) In the event that any provision or portion of a provision of this Separation Agreement shall be determined to be illegal, invalid or unenforceable, the remainder of this Separation Agreement shall be enforced to the fullest extent possible and the illegal, invalid or unenforceable provision or portion of a provision will be amended by a court of competent jurisdiction, or otherwise thereafter shall be interpreted, to reflect as nearly as possible without being illegal, invalid or unenforceable the parties' intent if possible. If such amendment or interpretation is not possible, the illegal, invalid or unenforceable provision or portion of a provision will be severed from the remainder of this Separation Agreement and the remainder of this Separation Agreement shall be enforced to the fullest extent possible as if such illegal, invalid or unenforceable provision or portion of a provision was not included.

(f) This Separation Agreement may be modified only by a written agreement signed by you and an authorized representative of the Company.

(g) This Separation Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and, except as expressly provided herein, supersedes all prior agreements between the parties with respect to any related subject matter.

(h) This Separation Agreement shall be binding upon each of the parties and upon their respective heirs, administrators, representatives, executors, successors and assigns, and shall inure to the benefit of each party and to their heirs, administrators, representatives, executors, successors, and assigns.

(i) Notices by the Company to you shall be made to your home address as Samuel B. Fuller, 7 Indian Trail, Darien, CT 06820, telephone: (203) 655-0022., and notices by you to the Company shall be made to the attention of the Executive Vice President- Human Resources and delivered to the Company's Alexandria office. Notices shall be by a nationally recognized overnight courier or by certified U.S. mail.

15. Certain Breaches and Effect on Exercisability of Extended Term Options. In the event that you willfully and materially breach the terms of Sections 5, 6, 7, 9 or 10 hereof (a "Material Breach") at any time after the date hereof and prior to the one year anniversary of the Termination Date then, in addition to the Company's rights to obtain equitable relief or damages for such breach or the Company's right to terminate the Consulting Period as provided in Section 5 for a breach of that Section, the Company may suspend the exercisability of any then outstanding Extended Term Options (any such suspended options, "Suspended Options"). The Company may suspend your right to exercise the Suspended Options by (i) filing a request for

arbitration within a reasonable time after the President or Chairman learns of the Material Breach, which request specifically states that in 30 days the Company is suspending your right to exercise, or (ii) in the event the Company reasonably determines that your asserted Material Breach is curable, by sending you a written notice describing the Material Breach and the steps you must take to cure such Material Breach in 30 days. In the event that the Company asks you to cure a Material Breach and you fail to cure such breach to the Company's satisfaction within 30 days following delivery to you of written notice from the Company, the Company then may commence an arbitration proceeding, in which case your right to exercise the Suspended Options will remain suspended. In the event that an arbitrator determines that you had not committed a Material Breach, the arbitrator may award you damages caused by the suspension of your right to exercise the Suspended Options. In the event that an arbitrator determines that you had committed a Material Breach, the exercise period of the Suspended Options may be terminated by the Company immediately without further action or decision by the arbitrator, without prejudice to the Company's right to obtain equitable relief or damages for such Material Breach; provided that an award of additional damages (if any) shall take into account termination of the Suspended Options. Nothing contained herein otherwise shall be deemed to limit the Company's right to obtain equitable relief or damages for any breach of this agreement.

[End of Text]

If you agree to these terms, please sign and date below and return this Separation Agreement to the Company's Executive Vice President-Human Resources within twenty-one (21) days of the date hereof. This Separation Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The execution of this Separation Agreement may be by actual or facsimile signature.

Sincerely,

AvalonBay Communities, Inc.

By: /s/ Timothy J. Naughton
Name: Timothy J. Naughton
Title: President

Accepted and Agreed to:

Signature: /s/ Samuel B. Fuller
Name (printed): Samuel B. Fuller
Dated: April 6, 2005

Exhibit 10.10

Certain Compensation Arrangements

Named Executive Officers

As disclosed in the Company's proxy statement for its 2004 Annual Meeting of Stockholders (the "2004 Proxy Statement"), the Compensation Committee of the Company's Board of Directors has for recent years, including 2004, structured the compensation of the executive officers who were named in the Summary Compensation Table of the Company's 2004 Proxy (the "Named Executive Officers,") as follows:

Base Salary. The Company establishes base salary for its key executives annually after reviewing their duties and making an evaluation of recent performance, periodically reviewing base salary levels and total compensation for key executives of comparable REITs, and after determining the appropriate level of total compensation in a year when target performance is achieved. The Compensation Committee approved (for Board ratification, as described below) revised base salaries for 2005 for the Named Executive Officers. The base salaries for the Named Executive Officers will be as follows (effective as of March 1, 2005 except as otherwise noted): Bryce Blair - $725,000 (with an interim increase to $682,500 as of December 6, 2004); Timothy J. Naughton - $435,716; Thomas J. Sargeant - $401,415; Samuel B. Fuller - $386,096; and Leo Horey - $330,174.

Cash Bonus. Under the Company's corporate (cash) bonus plan, the Compensation Committee may award annual cash bonuses to officers for the achievement of specified performance goals by the Company, the individual and the individual's business unit, with varying weightings applied to each category of goals based on the individual's position within the Company. Each year, the Compensation Committee sets for each officer the threshold, target or maximum cash bonuses that may be awarded to that officer if threshold, target or maximum goals are achieved. For bonuses awarded in 2005 with respect to 2004, the Company-wide goals used in determining cash bonuses were (i) the achievement of a targeted level of Funds from Operations ("FFO") per share, (ii) the achievement of growth in FFO per share as compared to a peer group of apartment REITs, (iii) the achievement of a targeted average fixed charge coverage ratio, (iv) the operating performance of development and construction activities as compared to the original budgeted performance, and (v) management's effectiveness at achieving various corporate initiatives. The same categories of goals will be used to determine cash bonus awards to be granted in 2006 with respect to 2005. The Compensation Committee approved (for Board ratification, as described below) the following cash bonus awards in respect of 2004 performance: Bryce Blair - $971,805; Timothy J. Naughton - $528,439; Thomas J. Sargeant - $507,247; Samuel B. Fuller - $425,715; and Leo S. Horey - $305,794. Cash bonus awards for 2005 performance will be determined and paid in early 2006.

Long-Term Incentive Awards. Under the Company's long-term incentive (equity) plan, stock options and restricted stock are granted under the Company's 1994 Stock Incentive Plan to provide long-term performance incentives and rewards tied to the price of the Company's Common Stock. Each year the Compensation Committee sets for each Named Executive Officer the threshold, target and maximum number of options and restricted shares that may be granted to that officer if threshold, target or maximum goals are achieved by the Company and the individual's business unit. The Company goals for 2004 were (i) total shareholder return as measured on both an absolute basis (based on a three-year average) and a relative basis as measured against a peer group of apartment REITs, (ii) the multiple that the price of the Common Stock represents to the Company's FFO per share, as measured against a peer group of apartment REITs, and (iii) management effectiveness at achieving various corporate initiatives. For awards

to be granted in 2006 with respect to 2005, the same categories of goals will be used. The Compensation Committee approved (for Board ratification, as described below) the following awards of stock options and restricted shares for the Named Executive Officers in respect of 2004 performance:

	Stock Options	Restricted Shares
Bryce Blair	146,005	23,765
Timothy J. Naughton	72,122	11,706
Thomas J. Sargeant	63,437	11,196
Samuel B. Fuller	49,461	8,041
Leo S. Horey	40,317	6,720

The Board's practice is that annual compensation arrangements affecting senior executive officers be approved by the Compensation Committee but not finalized until ratified by the full Board (or, in the case of the Chief Executive Officer, until ratified by the independent directors). Full Board (or independent director) ratification of the determinations made above were given. Mr. Fuller's employment as an executive of the Company terminated effective April 30, 2005. Mr Fuller's compensation in connection with such termination is set forth in an agreement dated April 6, 2005, filed with this Report on Form 10-Q by separate exhibit.

In March 2005, the Company closed the formation of the AvalonBay Valued Added Fund, L.P. (the "Fund"), a private institutional investment fund. The aggregate capital commitments to the Fund equal $330,000,000 (consisting of capital commitments from eight institutional investors and a $50,000,000 capital commitment from the Company). As a consequence of the closing of the Fund, management's effectiveness in managing the Fund will be measured and considered by the Compensation Committee of the Board in its review of management's effectiveness at achieving various corporate initiatives for purposes of determining annual bonuses under the Company's existing corporate bonus (cash) program and existing long-term incentive award (equity) program. For those officers directly involved in the management of the Fund as a full or major part of their employment with the Company, Fund performance will be an important element in determining their annual bonuses. While the amount of promoted distributions earned by the Company, net of estimated Company costs associated with the Fund, will be one factor measured by the Compensation Committee, this performance review will be done in the context of the Company's existing bonus and long-term incentive award programs so that no officer will be eligible to receive in any year a cash bonus or long term incentive award that exceeds the maximum award then allowed under the existing corporate bonus or long-term incentive award programs.

Directors

Compensation arrangements for the Company's non-employee directors were described in Exhibit 10.1 of the company's Form 10-Q for the quarter ended June 30, 2003, which exhibit is incorporated herein by reference. In addition to the arrangements described in that exhibit, the Board has approved the payment of $2,500 per month to the Lead Independent Director for serving in that capacity.

Exhibit 12.1

AVALONBAY COMMUNITIES, INC.
RATIOS OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED STOCK DIVIDENDS

	Three Months Ended March 31, 2005	Year Ended December 31, 2004	Year Ended December 31, 2003	Year Ended December 31, 2002	Year Ended December 31, 2001	Year Ended December 31, 2000
Income before gain on sale of communities and cumulative effect of change in accounting principle	$ 31,111	$ 86,329	$ 94,041	$ 97,217	$ 156,066	$ 143,793
(Plus) Minority interest in consolidated partnerships	513	150	950	865	948	1,038
Earnings before fixed charges	$ 31,624	$ 86,479	$ 94,991	$ 98,082	$ 157,014	$ 144,831
(Plus) Fixed charges:						
Portion of rents representative of the interest factor	$ 84	$ 323	$ 503	$ 527	$ 472	$ 461
Interest expense	32,153	131,314	133,637	118,288	99,456	78,927
Interest capitalized	5,662	20,566	24,709	29,937	27,635	18,328
Preferred dividend	2,175	8,700	10,744	17,896	40,035	39,779
Total fixed charges (1)	$ 40,074	$ 160,903	$ 169,593	$ 166,648	$ 167,598	$ 137,495
(Less):						
Interest capitalized	5,662	20,566	24,709	29,937	27,635	18,328
Preferred dividend	2,175	8,700	10,744	17,896	40,035	39,779
Earnings (2)	$ 63,861	$ 218,116	$ 229,131	$ 216,897	$ 256,942	$ 224,219
Ratio (2 divided by 1)	1.59	1.36	1.35	1.30	1.53	1.63

Exhibit 12.1 (continued)

AVALONBAY COMMUNITIES, INC.
RATIOS OF EARNINGS TO FIXED CHARGES

	Three Months Ended March 31, 2005	Year Ended December 31, 2004	Year Ended December 31, 2003	Year Ended December 31, 2002	Year Ended December 31, 2001	Year Ended December 31, 2000
Income before gain on sale of communities and extraordinary item	$ 31,111	$ 86,329	$ 94,041	$ 97,217	$ 156,066	$ 143,793
(Plus) Minority interest in consolidated partnerships	513	150	950	865	948	1,038
Earnings before fixed charges	$ 31,624	$ 86,479	$ 94,991	$ 98,082	$ 157,014	$ 144,831
(Plus) Fixed charges:						
Portion of rents representative of the interest factor	$ 84	$ 323	$ 503	$ 527	$ 472	$ 461
Interest expense	32,153	131,314	133,637	118,288	99,456	78,927
Interest capitalized	5,662	20,566	24,709	29,937	27,635	18,328
Total fixed charges (1)	$ 37,899	$ 152,203	$ 158,849	$ 148,752	$ 127,563	$ 97,716
(Less):						
Interest capitalized	5,662	20,566	24,709	29,937	27,635	18,328
Earnings (2)	$ 63,861	$ 218,116	$ 229,131	$ 216,897	$ 256,942	$ 224,219
Ratio (2 divided by 1)	1.69	1.43	1.44	1.46	2.01	2.29

Exhibit 31.1

CERTIFICATION

I, Bryce Blair, certify that:

1. I have reviewed this quarterly report on Form 10-Q of AvalonBay Communities, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 6, 2005

/s/ Bryce Blair
Bryce Blair
Chief Executive Officer

Exhibit 31.2

CERTIFICATION

I, Thomas J. Sargeant, certify that:

1. I have reviewed this quarterly report on Form 10-Q of AvalonBay Communities, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 6, 2005

/s/ Thomas J. Sargeant
Thomas J. Sargeant
Chief Financial Officer

Exhibit 32

CERTIFICATION

The undersigned officers of AvalonBay Communities, Inc. (the “Company”) hereby certify that the Company’s quarterly report on Form 10-Q to which this certification is attached (the “Report”), as filed with the Securities and Exchange Commission on the date hereof, fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 6, 2005

/s/ Bryce Blair
Bryce Blair
Chief Executive Officer

/s/ Thomas J. Sargeant
Thomas J. Sargeant
Chief Financial Officer

This certification is being furnished and not filed, and shall not be incorporated into any document for any purpose, under the Securities Exchange Act of 1934 or the Securities Act of 1933.