

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

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of
the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported) **September 19, 2012**

AVALONBAY COMMUNITIES, INC.

(Exact Name of Registrant as Specified in Its Charter)

Maryland

(State or Other Jurisdiction of Incorporation)

1-12672

(Commission File Number)

77-0404318

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

671 N. Glebe Road, Suite 800, Arlington, Virginia
(Address of Principal Executive Offices)

22203
(Zip Code)

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

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

On September 19, 2012, the Board of Directors of the Company amended the Company's bylaws, effective immediately, to provide that a nominee for Director shall be elected only if such nominee receives (a) the affirmative vote of a majority of the total votes cast as to such nominee in an uncontested election, or (b) a plurality of the total votes cast in a contested election. The amended bylaws further provide that if an incumbent Director fails to receive the required vote for reelection in an uncontested election he or she shall offer to resign from the Board of Directors, whereupon (a) the Nominating and Corporate Governance Committee of the Board will consider such offer and submit a recommendation to the full Board of Directors as to whether to accept such resignation, and (b) the Board will, within 90 days after the election results, disclose its decision and basis for whether to accept the resignation (or the reasons for not accepting the resignation, if applicable). The full text of the Company's Amendment to Amended and Restated Bylaws is being filed with this Current Report on Form 8-K as Exhibit 3.2 and is incorporated herein by reference.

Item 7.01 Regulation FD Disclosure.

a) Compensation Clawback Policy. On September 19, 2012, the Board of Directors adopted a Policy for Recoupment of Incentive Compensation (i.e., a compensation clawback policy), which applies to senior officers (generally senior vice presidents and above). Pursuant to this policy, in the event the Company is required to prepare an accounting restatement due to the material non-compliance of the Company with any financial reporting requirement, then an independent committee of the Board of Directors may require any covered officer to repay to the Company all or part of any "Excess Compensation" that such officer had previously received. Excess Compensation is defined as that part of the incentive compensation received by a covered officer during the 3-year period preceding the publication of the restated financial statement that was in excess of the amount that such officer would have received had such incentive compensation been calculated based on the financial results reported in the restated financial statement. The full text of the Company's Policy for Recoupment of Incentive Compensation is being furnished with this Current Report on Form 8-K as Exhibit 99.1.

b) Debt Issuance. As previously disclosed in its Current Report filed on September 13, 2012, on September 13, 2012, the Company completed the offering and sale of \$450,000,000 aggregate principal amount of its 2.95% Notes due September 15, 2022 (the "Notes"). The Notes will have an all-in effective interest rate of approximately 4.3% including the effect of fees and the termination of a previously disclosed interest rate hedge. Proceeds from the issuance are being used for working capital, capital expenditures and other general corporate purposes, which may include the acquisition and development and redevelopment of apartment communities and repayment and refinancing of other debt.

ITEM 9.01 Financial Statements and Exhibits.

- (d) Exhibits.

Exhibit No.	Description
3.2	Amendment to Amended and Restated Bylaws of AvalonBay Communities, Inc., dated September 19, 2012.

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 hereunto duly authorized.

AVALONBAY COMMUNITIES, INC.

September 20, 2012

By: /s/ Thomas J. Sargeant

Name: Thomas J. Sargeant

Title: Chief Financial Officer

EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Description</u>
3.2	Amendment to Amended and Restated Bylaws of AvalonBay Communities, Inc., dated September 19, 2012.
99.1	Policy for Recoupment of Incentive Compensation (adopted by the Board of Directors on September 19, 2012).

Secretary's Certificate

Amendment to Bylaws

On September 19, 2012, at a duly called and held meeting of the Board of Directors of AvalonBay Communities, Inc. (the "Company"), the Board adopted the following amendment to the Company's Bylaws:

That Section 1.08 of the Amended and Restated Bylaws of the Company, as adopted by the Board of Directors on May 21, 2009 and amended on February 10, 2012, is hereby amended in its entirety to read as follows (new language is **bold and underlined** and deleted language is ~~struck through~~):

1.08 VOTING.

(a) A majority of the votes cast at a meeting of Stockholders duly called and at which a quorum is present shall be sufficient to take or authorize action upon any matter which may properly come before the meeting, unless more than a majority of the votes cast is specifically required by statute, the Charter or these Bylaws. Unless otherwise provided by statute or by the Charter, each outstanding share (a "Share") of Stock of the Corporation, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of Stockholders. Any holder of shares entitled to vote on any matter may vote part of the shares in favor of the proposal and refrain from voting the remaining shares or, other than elections to office, vote them against the proposal but, if the Stockholder fails to specify the number of shares such Stockholder is voting affirmatively, it shall be conclusively presumed that the Stockholder's approving vote is with respect to all votes said Stockholder is entitled to cast. Shares of its own Stock directly or indirectly owned by the Corporation shall not be voted at any meeting and shall not be counted in determining the total number of outstanding Shares entitled to vote at any given time, but Shares of its own voting Stock held by it in a fiduciary capacity may be voted and shall be counted in determining the total number of outstanding Shares at any given time. Notwithstanding anything else contained in these Bylaws, the rights of any class of "Excess Stock" (as such term is defined in the Charter) and the rights of holders of any class of Excess Stock shall be limited to the rights with respect thereto provided in the Charter. ~~Notwithstanding the foregoing, the affirmative vote of holders of Shares entitled to cast a majority of all of the votes entitled to be cast in the election of Directors shall be required to elect a Director. Each share may be voted for as many individuals as there are directors~~ **Notwithstanding the foregoing, a nominee for Director shall be elected as a Director only if such nominee receives the affirmative vote of a majority of the total votes cast for and affirmatively withheld as to such nominee at a meeting of Stockholders duly called and at which a quorum is present. However, Directors shall be elected by a plurality of votes cast at a meeting of Stockholders duly called and at which a quorum is present for which (i) the Secretary of the Corporation receives notice that a Stockholder has nominated an individual for election as a Director in compliance with the requirements of advance notice of Stockholder nominees for Director set forth in Section 1.03, and (ii) such nomination has not been withdrawn by such Stockholder on or before the close of business on the tenth day before the date of filing of the definitive proxy statement of the Corporation with the Securities and Exchange Commission, and, as a result of which, the number of nominees is greater than the number of Directors to be elected at the meeting. Each share may be voted for as many individuals as there are Directors** to be elected and for whose election the share is entitled to be voted.

(b) **If an incumbent Director fails to receive the required vote for re-election in accordance with paragraph (a) of this Section 1.08 in an election where the number of nominees is not greater than the number of Directors to be elected at the meeting, he or she shall offer to resign from the Board of Directors and the Nominating and Corporate Governance Committee of the Board of Directors will consider such offer to resign, will act on an expedited basis to determine whether to accept such Director's**

resignation and will submit such recommendation for prompt consideration by the Board of Directors. The Director whose resignation is under consideration shall not participate in any deliberation or vote of the Nominating and Corporate Governance Committee or the Board of Directors regarding that resignation but may participate in the deliberation or vote on any other business transacted by the Board of Directors or any committee thereof. Notwithstanding the foregoing, in the event that no nominee for Director receives the vote required in paragraph (a) of this Section 1.08, the Nominating and Corporate Governance Committee shall make a final determination as to whether to recommend to the Board of Directors whether to accept any or all resignations, including those resignations from members of the Nominating and Corporate Governance Committee, and any and all Directors may participate in the Board of Directors' deliberation and vote on such recommendation. The Nominating and Corporate Governance Committee and the Board of Directors may consider any factors they deem relevant in deciding whether to accept a Director's resignation. Within 90 days after the date of certification of the election results, the Board of Directors will promptly disclose its decision and basis for whether to accept the resignation (or the reasons for not accepting the resignation, if applicable) in a press release, in a filing with the Securities and Exchange Commission or by other public announcement (including a posting on the Corporation's website). If such incumbent Director's resignation is not accepted by the Board of Directors, such Director will continue to serve until his or her successor is elected and qualifies, or his or her death, resignation, retirement or removal, whichever event shall occur first. If a Director's resignation is accepted by the Board of Directors, or if a nominee for Director is not elected and the nominee is not an incumbent Director, then the Board of Directors, in its sole discretion, may fill any resulting vacancy pursuant to the Charter or decrease the size of the Board of Directors pursuant to Section 2.03.

AvalonBay Communities, Inc.
Policy for Recoupment of Incentive Compensation

Definitions

As used herein, the following terms have the following meaning:

“Independent Director Committee” or “Committee” means the Compensation Committee of the Company’s Board of Directors (the “Board”), or, in the discretion of the Board, any other committee or body of the Board consisting only of independent directors of the Board.

“Covered Officer” means any officer of the Company whom the Board or the independent directors of the Board have previously determined is subject to the reporting requirements of Section 16 of the Securities Exchange Act of 1934, and any other officer holding the title Senior Vice President or a more senior title. This policy shall apply to persons who were Covered Officers during the relevant period but are no longer employees of the Company at the time the determination to recoup compensation is made.

“Incentive Compensation” means annual cash bonus and long term equity incentive compensation (e.g., employee stock options and restricted stock).

Policy

If AvalonBay Communities, Inc. (the “Company”) is required to prepare an accounting restatement due to the material non-compliance of the Company with any financial reporting requirement, then the Independent Director Committee may require any Covered Officer to repay to the Company “Excess Compensation,” which is defined as that part of the Incentive Compensation received by that Covered Officer during the 3-year period preceding the publication of the restated financial statement that the Independent Director Committee determines was in excess of the amount that such Covered Officer would have received had such Incentive Compensation been calculated based on the financial results reported in the restated financial statement.

The Independent Director Committee may take into account any factors it deems reasonable in determining whether to seek recoupment of previously paid Excess Compensation and how much Excess Compensation to recoup from individual Covered Officers (which need not be the same amount or proportion for every Covered Officer), including any conclusion by the Committee that a Covered Officer engaged in wrongdoing or committed grossly negligent acts or omissions. The amount and form of the compensation to be recouped shall be determined by the Independent Director Committee in its discretion, and recoupment of compensation paid as annual cash bonuses or long term incentives may be made, in the Committee’s discretion, through cancellation of vested or unvested stock options, cancellation of unvested restricted stock, and/or cash payment.

Implementation rules for the mandatory clawback requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”) have yet to be finalized as of the date of initial adoption of this policy. However, to the extent necessary, this policy will be amended to conform with the final Dodd-Frank rules once issued and applicable to the Company.
