

INCOME OPPORTUNITY REALTY INVESTORS INC /TX/

Form 10-Q/A

September 29, 2005

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 10-Q/A**

(Mark One)

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 5(d) OF
THE SECURITIES EXCHANGE ACT OF 1934
For the quarter year ended March 31, 2005**

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF
THE SECURITIES EXCHANGE ACT OF 1934
Commission File Number 001-14784
Income Opportunity Realty Investors, Inc.**

(Exact name of registrant as specified in its charter)

Nevada

75-2615944

(State or other jurisdiction of
Incorporation or organization)

(IRS Employer Identification
Number)

1755 Wittington Place, Suite 340, Dallas, Texas

75234

(Address of principal executive offices)

(Zip Code)

Registrant's Telephone Number, including area code **214-750-5800**

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class
Common Stock, \$0.01 par value

Name of each exchange on which registered
American Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. **Yes No**

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Act).
Yes No

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act).
Yes No

The aggregate market value of the shares of voting and non-voting common equity held by non-affiliates of the Registrant, computed by reference to the closing sales price of the Common Stock on the American Stock Exchange as of June 30, 2004 (the last business day of the Registrant's most recently completed second fiscal quarter) was

\$4,034,394 based upon a total of 298,844 shares held as of June 30, 2004 by persons believed to be non-affiliates of the Registrant. The basis of the calculation does not constitute a determination by the Registrant as defined in Rule 405 of the Securities Act of 1933, as amended, such calculation, if made as of a date within sixty days of this filing, would yield a different value. As of March 18, 2005, there were 1,389,345 shares of common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

None

**AMENDMENT NO. 2 TO
QUARTERLY REPORT ON FORM 10-Q FOR
INCOME OPPORTUNITY REALTY INVESTORS, INC.
FOR THE QUARTER ENDED MARCH 31, 2005**

The undersigned Registrant hereby amends the following items, exhibits, or other portions of its Quarterly Report on Form 10-Q for the quarter year ended March 31, 2005 as set forth below and as reflected in the substituted pages attached hereto which replace the same numbered pages in the original filing and/or Amendment No. 1 (this Amendment No. 2 is necessitated by virtue of certain comments of the Staff of the Securities and Exchange Commission by letter dated September 19, 2005):

Pages 7-8 Item 1. Financial Statements. Note 5 to the consolidated financial statements is further amended to provide enhanced disclosure with respect to the Metra transaction.

Exhibit 31.1 Certification Required by Exchange Act Rules 13a-14(a) and 15d-14(a).

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this Amendment to be signed on its behalf by the undersigned, thereunto duly-authorized.

Date: September 28, 2005.

INCOME OPPORTUNITY REALTY
INVESTORS, INC.

By: /s/ R. Neil Crouch, II
R. Neil Crouch, II, Executive Vice
President
and Chief Financial Officer and Acting
Principal Executive Officer

On December 30, 2003, a Secured Promissory Note in the amount of \$6,363,360 given by Housing for Seniors of Humble, LLC (Humble) to NLP Lakeshore Villas, LLC (NLP) was assigned from American Realty Investors, Inc. (ARI) to IORI as a paydown in the amount of \$6,363,360 of certain intercompany receivables.

On December 30, 2003, a Secured Promissory Note in the amount of \$2,000,000 given by Humble to NLP was assigned from ARI to IORI as additional paydown in the amount of \$2,000,000 of certain intercompany receivables.

On October 14, 2003, IORI purchased, sold and conveyed an office building known as One Hickory Centre, and sold 202 acres of unimproved real property known as the Travelers Land in Dallas County, Texas to Encino Executive Plaza, Ltd. The sale price for One Hickory Centre was \$12,200,000 and Encino Executive Plaza, Ltd. executed a wrap-around promissory note in the amount of \$11,973,025 payable to the order of IORI secured by a Deed of Trust encumbering One Hickory Centre. The remaining difference of which was as a result of prorations and various expenses paid by IORI in connection with the closing of the transaction. The note bears interest at 5.5% per annum. The sale price for the Travelers Land was \$25,000,000. At closing, Encino Executive Plaza, Ltd. executed an all inclusive wrap-around promissory note payable to the order of IORI in the principal amount of \$22,801,987 secured by a Deed of Trust covering the Travelers Land sold and delivered cash to IORI in the amount of \$1,976,715. As with the prior transaction, the difference between the purchase price and the promissory note represented adjustments for various prorations. The note bears interest at 5.5% per annum. Subsequently, IORI made a loan to Encino Executive Plaza, Ltd. in the amount of \$1,567,232 payable upon demand or, if no demand is made prior thereto, on June 30, 2006, with a market rate of interest. Encino Executive Plaza, Ltd. executed and delivered a promissory note payable to the order of IORI in the stated principal amount of \$1,567,232. The note bears interest at 5.5% per annum.

NOTE 4. RECEIVABLE FROM AND PAYABLE TO AFFILIATES

Related Party. On September 19, 2002, IORI's Board of Directors authorized the Chief Financial Officer of the Company to advance funds either to or from the Company, through the advisor without interest, in an amount up to \$5 million on the condition that such advances shall be repaid in cash or transfers of assets within 90 days. From time-to-time, IORI and its affiliates and related parties have made unsecured advances to each other to fund their respective operations, which generally have not had specific repayment terms and have been reflected in IORI's financial statements as other assets. At March 31, 2005 and 2004, IORI held a receivable of \$261,000 from TCI. IORI had payables of \$1.5 million and \$1.3 million to SWI at March 31, 2005 and December 31, 2004, respectively. See also NOTE 6. RELATED PARTY TRANSACTIONS.

NOTE 5. NOTES AND INTEREST PAYABLE

In April 2002, the Company transferred all of its residential properties to partnerships formed with Metra Capital LLC (Metra). The properties included the 60-unit Brighton Court, the 92-unit Del Mar, the 68-unit Enclave, the 280-unit Meridian, the 57-unit Signature, and the 114-unit Sinclair, all located in Midland, Texas, and the 106-unit Treehouse located in San Antonio, Texas. Innovo Realty, Inc., a subsidiary of Innovo Group, Inc. (Innovo) is a limited partner in the partnerships that purchased the properties. A former director of ARI, a related party, controlled approximately 11.67% of the outstanding common stock of Innovo. The transfer constituted 23% of the total assets of the Company as of December 31, 2001. The transfer price for the properties totaled \$26.2 million, of which the Company received \$5.3 million in cash after the payment of \$15.9 million in debt and various closing costs. Management determined to account for the transaction as a refinancing transaction (rather than a sale) in accordance with SFAS 66 Accounting for Sales of Real Estate. At the time of the transaction in April 2002, ARI was a related party to the Company by virtue of ARI's subsidiaries' ownership of approximately 28.5% of the then outstanding common stock of the Company, and the fact that ARI and the Company had the same persons as executive officers. The compensation price for the properties transferred totaled \$26.2 million and possible additional contingent consideration depending upon the sale price of the properties by the Metra partnerships. The Company also received \$5.2 million in value of 8% in non-recourse, non-convertible preferred stock of Innovo. Based upon the prospect of additional consideration, ultimate continued involvement through the preferred stock and the related-party nature of the former ARI director's involvement, as well as the Company retaining a right to approve the price of any ultimate sale by a Metra partnership of the properties, and a process by which the Company effectively guaranteed a preferential return to the Metra investors, management determined that the transaction must be classified as a financing transaction and not a sale. The Company continued to be able to exert control over the Metra partnerships, and no sale was recorded. The Treehouse

property was subsequently sold to a non-related party in February 2004, and all of its debts have been repaid to the lenders at the time of the sale. During August 2004, certain entities, including the Company, instituted an action in a Texas state court against Innovo and Metra and

others over the process, as well as distribution questions. During April 2005, a resolution of the litigation occurred settling all liabilities remaining from the original partnership arrangements which included a return of the Metra investor equity, prepayment of prospective asset management fees and miscellaneous fees and transaction costs from the Company and the other plaintiffs as a payment of the Preferential Return along with the delegation of management to another entity. Of the payment made, the Company recognized expense of \$56,000 and a reduction of \$1,476,000 in liabilities during the second quarter of 2005.

NOTE 6. RELATED PARTY TRANSACTIONS

On September 30, 2004, a Secured Promissory Note in the amount of \$1,222,500 given by Unified Housing Foundation, Inc. (UHF) for Unified Housing of Parkside Crossing, LLC to Regis Realty I, LLC (Regis I) and the accrued interest receivable of \$112,878 were assigned from Regis I to IORI as a paydown in the amount of \$1,335,378 of certain intercompany receivables.

On September 30, 2004, a Secured Promissory Note in the amount of \$1,053,616 given by UHF for Unified Housing of Temple, LLC to Regis I and the accrued interest receivable of \$98,338 were assigned from Regis I to IORI as a paydown in the amount of \$1,151,954 of certain intercompany receivables.

On September 30, 2004, a Secured Promissory Note in the amount of \$835,658 given by UHF for Unified Housing of Terrell, LLC to Regis I and the accrued interest receivable of \$80,223 were assigned from Regis I to IORI as a paydown in the amount of \$915,881 of certain intercompany receivables.

On September 30, 2004, a Secured Promissory Note in the amount of \$1,770,000 given by UHF for Housing for Seniors of Lewisville, LLC to Regis I and the accrued interest receivable of \$174,640 were assigned from Regis I to IORI as a paydown in the amount of \$1,944,640 of certain intercompany receivables.

On May 24, 2004, a Secured Promissory Note in the amount of \$2,990,000 given by UHF for UHM to Transcontinental Eldorado, Inc. was assigned from TCI to IORI as a partial payment for TCI's repurchase of 100% of the outstanding common shares of Treehouse-IR from IORI.

On December 30, 2003, a Promissory Note in the amount of \$6.3 million given by Humble to NLP was assigned from ARI to IORI. On December 30, 2003, a Promissory Note in the amount of \$2 million given by Humble to NLP was assigned from ARI to IORI. These assignments were payments in the amount of \$8.3 million on certain intercompany receivables due to IORI.

On September 19, 2002, IORI's Board of Directors authorized the Chief Financial Officer of the Company to advance funds either to or from the Company, through the advisor, in an amount up to \$5 million on the condition that such advances shall be repaid in cash or transfers of assets within 90 days.

The following table reconciles the beginning and ending balances of Accounts Receivable from Affiliates as of March 31, 2005:

	SWI	TCI
Balance, December 31, 2004 (as restated)	(1,248)	261
Cash transfers	553	
Cash repayments	(592)	
Other additions		
Other repayments (as restated)	(210)	
Balance, March 31, 2005 (as restated)	(1,497)	261

Returns on Metra Properties. As described in Note 5, IORI sold all of its residential properties during 2002 to partnerships controlled by Metra. The partnership agreement for each of these partnerships states that the Metra Partners, as defined, receives cash flow distributions at least quarterly in an amount sufficient to provide them with a fifteen percent cumulative compounded annual rate of return on their invested capital, as well as a cumulative annual amount of 0.50% of the average outstanding balance of the mortgage indebtedness secured by any of these residential properties. These distributions to the Metra Partners are to have priority over distributions to any of the other partners. See also ITEM 1. LEGAL PROCEEDINGS in PART II. OTHER INFORMATION concerning resolution of other

litigation and a reduction of liabilities of \$1,476,000.