

EQUITY RESIDENTIAL  
Form 10-K  
February 23, 2017  
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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549  
FORM 10-K  
x ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934  
For the Fiscal Year Ended DECEMBER 31, 2016  
OR  
“ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934  
For the transition period from                      to  
Commission File Number: 1-12252 (Equity Residential)  
Commission File Number: 0-24920 (ERP Operating Limited Partnership)

EQUITY RESIDENTIAL  
ERP OPERATING LIMITED PARTNERSHIP  
(Exact name of registrant as specified in its charter)  
Maryland (Equity Residential)  
Illinois (ERP Operating Limited Partnership)  
(State or other jurisdiction of incorporation or organization)

13-3675988 (Equity Residential)  
36-3894853 (ERP Operating Limited Partnership)  
(I.R.S. Employer Identification No.)

Two North Riverside Plaza, Chicago, Illinois 60606                      (312) 474-1300  
(Address of principal executive offices) (Zip Code)                      (Registrant's telephone number, including area code)

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

Common Shares of Beneficial Interest, \$0.01 Par Value (Equity Residential)

New York Stock Exchange

7.57% Notes due August 15, 2026 (ERP Operating Limited Partnership)

New York Stock Exchange

(Title of each class)

(Name of each exchange on which registered)

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

None (Equity Residential)

Units of Limited Partnership Interest (ERP Operating Limited Partnership)

(Title of each class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Equity Residential Yes  No  ERP Operating Limited Partnership Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

Equity Residential Yes  No  ERP Operating Limited Partnership Yes  No

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

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required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Equity Residential Yes  No  ERP Operating Limited Partnership Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Equity Residential Yes  No  ERP Operating Limited Partnership 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.

Equity Residential  ERP Operating Limited Partnership

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Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act.

Equity Residential:

Large accelerated filer <input checked="" type="checkbox"/>	Accelerated filer <input type="checkbox"/>
Non-accelerated filer <input type="checkbox"/> (Do not check if a smaller reporting company)	Smaller reporting company <input type="checkbox"/>

ERP Operating Limited Partnership:

Large accelerated filer <input type="checkbox"/>	Accelerated filer <input type="checkbox"/>
Non-accelerated filer <input checked="" type="checkbox"/> (Do not check if a smaller reporting company)	Smaller reporting company <input type="checkbox"/>

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act).

Equity Residential Yes  No  ERP Operating Limited Partnership Yes  No

The aggregate market value of Common Shares held by non-affiliates of the Registrant was approximately \$24.8 billion based upon the closing price on June 30, 2016 of \$68.88 using beneficial ownership of shares rules adopted pursuant to Section 13 of the Securities Exchange Act of 1934 to exclude voting shares owned by Trustees and Executive Officers, some of whom may not be held to be affiliates upon judicial determination.

The number of Common Shares of Beneficial Interest, \$0.01 par value, outstanding on February 17, 2017 was 367,097,667.

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DOCUMENTS INCORPORATED BY REFERENCE

Part III incorporates by reference certain information that will be contained in Equity Residential's Proxy Statement relating to its 2017 Annual Meeting of Shareholders, which Equity Residential intends to file no later than 120 days after the end of its fiscal year ended December 31, 2016, and thus these items have been omitted in accordance with General Instruction G(3) to Form 10-K. Equity Residential is the general partner and 96.2% owner of ERP Operating Limited Partnership.

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EXPLANATORY NOTE

This report combines the annual reports on Form 10-K for the year ended December 31, 2016 of Equity Residential and ERP Operating Limited Partnership. Unless stated otherwise or the context otherwise requires, references to “EQR” mean Equity Residential, a Maryland real estate investment trust (“REIT”), and references to “ERPOP” mean ERP Operating Limited Partnership, an Illinois limited partnership. References to the “Company,” “we,” “us” or “our” mean collectively EQR, ERPOP and those entities/subsidiaries owned or controlled by EQR and/or ERPOP. References to the “Operating Partnership” mean collectively ERPOP and those entities/subsidiaries owned or controlled by ERPOP. The following chart illustrates the Company's and the Operating Partnership's corporate structure:

EQR is the general partner of, and as of December 31, 2016 owned an approximate 96.2% ownership interest in, ERPOP. The remaining 3.8% interest is owned by limited partners. As the sole general partner of ERPOP, EQR has exclusive control of ERPOP's day-to-day management. Management operates the Company and the Operating Partnership as one business. The management of EQR consists of the same members as the management of ERPOP.

The Company is structured as an umbrella partnership REIT (“UPREIT”) and EQR contributes all net proceeds from its various equity offerings to ERPOP. In return for those contributions, EQR receives a number of OP Units (see definition below) in ERPOP equal to the number of Common Shares it has issued in the equity offering. The Company may acquire properties in transactions that include the issuance of OP Units as consideration for the acquired properties. Such transactions may, in certain circumstances, enable the sellers to defer in whole or in part, the recognition of taxable income or gain that might otherwise result from the sales. This is one of the reasons why the Company is structured in the manner shown above. Based on the terms of ERPOP's partnership agreement, OP Units can be exchanged with Common Shares on a one-for-one basis because the Company maintains a one-for-one relationship between the OP Units of ERPOP issued to EQR and the outstanding Common Shares.

The Company believes that combining the reports on Form 10-K of EQR and ERPOP into this single report provides the following benefits:

- enhances investors' understanding of the Company and the Operating Partnership by enabling investors to view the business as a whole in the same manner as management views and operates the business;
- eliminates duplicative disclosure and provides a more streamlined and readable presentation since a substantial portion of the disclosure applies to both the Company and the Operating Partnership; and
- creates time and cost efficiencies through the preparation of one combined report instead of two separate reports.

The Company believes it is important to understand the few differences between EQR and ERPOP in the context of how EQR and ERPOP operate as a consolidated company. All of the Company's property ownership, development and related business operations are conducted through the Operating Partnership and EQR has no material assets or liabilities other than its investment in ERPOP. EQR's primary function is acting as the general partner of ERPOP. EQR also issues equity from time to time, the net proceeds of which it is obligated to contribute to ERPOP, and guarantees certain debt of ERPOP, as disclosed in this report. EQR does not have any indebtedness as all debt is incurred by the Operating Partnership. The Operating Partnership holds substantially all of the assets of the Company, including the Company's ownership interests in its joint ventures. The Operating Partnership conducts the operations of the business and is structured as a partnership with no publicly traded equity. Except for the net proceeds from equity offerings by EQR, which are contributed to the capital of ERPOP in exchange for additional partnership interests in ERPOP (“OP Units”) (on a one-for-one Common Share per OP Unit basis) or additional preference units in ERPOP (on a one-



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for-one preferred share per preference unit basis), the Operating Partnership generates all remaining capital required by the Company's business. These sources include the Operating Partnership's working capital, net cash provided by operating activities, borrowings under its revolving credit facility and/or commercial paper program, the issuance of secured and unsecured debt and equity securities and proceeds received from disposition of certain properties and joint venture interests.

Shareholders' equity, partners' capital and noncontrolling interests are the main areas of difference between the consolidated financial statements of the Company and those of the Operating Partnership. The limited partners of the Operating Partnership are accounted for as partners' capital in the Operating Partnership's financial statements and as noncontrolling interests in the Company's financial statements. The noncontrolling interests in the Operating Partnership's financial statements include the interests of unaffiliated partners in various consolidated partnerships and development joint venture partners. The noncontrolling interests in the Company's financial statements include the same noncontrolling interests at the Operating Partnership level and limited partner OP Unit holders of the Operating Partnership. The differences between shareholders' equity and partners' capital result from differences in the equity issued at the Company and Operating Partnership levels.

To help investors understand the differences between the Company and the Operating Partnership, this report provides separate consolidated financial statements for the Company and the Operating Partnership; a single set of consolidated notes to such financial statements that includes separate discussions of each entity's debt, noncontrolling interests and shareholders' equity or partners' capital, as applicable; and a combined Management's Discussion and Analysis of Financial Condition and Results of Operations section that includes discrete information related to each entity.

This report also includes separate Part II, Item 9A. Controls and Procedures sections and separate Exhibits 31 and 32 certifications for each of the Company and the Operating Partnership in order to establish that the requisite certifications have been made and that the Company and the Operating Partnership are compliant with Rule 13a-15 or Rule 15d-15 of the Securities Exchange Act of 1934 and 18 U.S.C. §1350.

In order to highlight the differences between the Company and the Operating Partnership, the separate sections in this report for the Company and the Operating Partnership specifically refer to the Company and the Operating Partnership. In the sections that combine disclosure of the Company and the Operating Partnership, this report refers to actions or holdings as being actions or holdings of the Company. Although the Operating Partnership is generally the entity that directly or indirectly enters into contracts and joint ventures and holds assets and debt, reference to the Company is appropriate because the Company is one business and the Company operates that business through the Operating Partnership.

As general partner with control of ERPOP, EQR consolidates ERPOP for financial reporting purposes, and EQR essentially has no assets or liabilities other than its investment in ERPOP. Therefore, the assets and liabilities of the Company and the Operating Partnership are the same on their respective financial statements. The separate discussions of the Company and the Operating Partnership in this report should be read in conjunction with each other to understand the results of the Company on a consolidated basis and how management operates the Company.

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ERP OPERATING LIMITED PARTNERSHIP  
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## PART I

## Item 1. Business

## General

Equity Residential (“EQR”), a Maryland real estate investment trust (“REIT”) formed in March 1993, is an S&P 500 company focused on the acquisition, development and management of rental apartment properties in urban and high-density suburban coastal gateway markets where today's affluent renters want to live, work and play. ERP Operating Limited Partnership (“ERPOP”), an Illinois limited partnership, was formed in May 1993 to conduct the multifamily residential property business of Equity Residential. EQR has elected to be taxed as a REIT. References to the “Company,” “we,” “us” or “our” mean collectively EQR, ERPOP and those entities/subsidiaries owned or controlled by EQR and/or ERPOP. References to the “Operating Partnership” mean collectively ERPOP and those entities/subsidiaries owned or controlled by ERPOP.

EQR is the general partner of, and as of December 31, 2016 owned an approximate 96.2% ownership interest in, ERPOP. All of the Company's property ownership, development and related business operations are conducted through the Operating Partnership and EQR has no material assets or liabilities other than its investment in ERPOP. EQR issues public equity from time to time, the net proceeds of which it is obligated to contribute to ERPOP, but does not have any indebtedness as all debt is incurred by the Operating Partnership. The Operating Partnership holds substantially all of the assets of the Company, including the Company's ownership interests in its joint ventures. The Operating Partnership conducts the operations of the business and is structured as a partnership with no publicly traded equity.

As of December 31, 2016, the Company, directly or indirectly through investments in title holding entities, owned all or a portion of 302 properties located in 10 states and the District of Columbia consisting of 77,458 apartment units. The ownership breakdown includes (table does not include various uncompleted development properties):

	Properties	Apartment Units
Wholly Owned Properties	280	72,445
Master-Leased Properties – Consolidated	3	853
Partially Owned Properties – Consolidated	17	3,215
Partially Owned Properties – Unconsolidated	2	945
	302	77,458

The Company's corporate headquarters is located in Chicago, Illinois and the Company also operates property management offices in each of its six core coastal markets. As of December 31, 2016, the Company had approximately 2,700 employees who provided real estate operations, leasing, legal, financial, accounting, acquisition, disposition, development and other support functions.

Certain capitalized terms used herein are defined in the Notes to Consolidated Financial Statements. See also Note 17 in the Notes to Consolidated Financial Statements for additional discussion regarding the Company's segment disclosures.

## Available Information

You may access our Annual Report on Form 10-K, our Quarterly Reports on Form 10-Q, our Current Reports on Form 8-K and any amendments to any of those reports we file with the SEC free of charge at our website, [www.equityapartments.com](http://www.equityapartments.com). These reports are made available at our website as soon as reasonably practicable after

we file them with the SEC. The information contained on our website, including any information referred to in this report as being available on our website, is not a part of or incorporated into this report.

#### Business Objectives and Operating and Investing Strategies

The Company invests in apartment communities located in strategically targeted markets with the goal of maximizing our risk adjusted total return (operating income plus capital appreciation) on invested capital.

We seek to maximize the income and capital appreciation of our properties by investing in markets that are characterized by conditions favorable to multifamily property operations and appreciation. We are focused on the six coastal markets of Boston, New York, Washington D.C., Southern California (including Los Angeles, Orange County and San Diego), San Francisco and Seattle. These markets generally feature one or more of the following characteristics that allow us to increase rents:

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High home ownership costs;

Strong economic growth leading to job growth and household formation, which in turn leads to high demand for our apartments;

Urban core and high-density suburban locations with an attractive quality of life leading to high resident demand and retention;

Favorable demographics contributing to a larger pool of target residents with a high propensity to rent apartments; and Higher barriers to entry where, because of land scarcity or government regulation, it is typically more difficult or costly to build new apartment properties, creating limits on new supply.

We believe our strategy also capitalizes on the increasing preference of renters of all ages to live in the urban core of cities or dense suburban locations near transit, entertainment and cultural amenities. Millennials, the 83 million people between ages 18 and 34, are a prime apartment rental demographic. Reports also show a growing trend among aging Baby Boomers, a demographic of more than 76 million people between the ages of 53 and 71, toward apartment rentals. We believe that both groups appreciate the locational values described above as well as the flexibility that rental apartments offer.

Our operating focus is on balancing occupancy and rental rates to maximize our revenue while exercising tight cost control to generate the highest possible return to our shareholders. Revenue is maximized by attracting qualified prospects to our properties, cost-effectively converting these prospects into new residents and keeping our residents satisfied so they will renew their leases upon expiration. While we believe that it is our high-quality, well-located assets that bring our customers to us, it is the customer service and superior value provided by our on-site personnel that keeps them renting with us and recommending us to their friends.

We use technology to engage our customers in the way that they want to be engaged. Many of our residents utilize our web-based resident portal which allows them to sign and renew their leases, review their accounts and make payments, provide feedback and make service requests on-line.

Acquisitions and developments may be financed from various sources of capital, which may include retained cash flow, issuance of additional equity and debt, sales of properties and joint venture agreements. In addition, the Company may acquire properties in transactions that include the issuance of partnership interests in the Operating Partnership ("OP Units") as consideration for the acquired properties. Such transactions may, in certain circumstances, enable the sellers to defer, in whole or in part, the recognition of taxable income or gain that might otherwise result from the sales. As part of its strategy, the Company purchases completed and fully occupied apartment properties, partially completed or partially occupied properties and may acquire land parcels to hold and/or sell based on market opportunities as well as options to buy more land in the future. The Company may also seek to acquire properties by purchasing defaulted or distressed debt that encumbers desirable properties in the hope of obtaining title to property through foreclosure or deed-in-lieu of foreclosure proceedings.

Over the past several years, the Company has done an extensive repositioning of its portfolio into urban and highly walkable, close-in suburban assets. Since 2005, the Company has sold nearly 198,000 apartment units primarily located in the less dense portions of suburban markets for an aggregate sales price of approximately \$23.5 billion, acquired nearly 69,000 apartment units primarily located in urban and high-density suburban markets for approximately \$20.0 billion and began approximately \$5.7 billion of development projects primarily located in urban and high-density suburban markets. We are currently seeking to acquire and develop assets in the following six core coastal metropolitan areas: Boston, New York, Washington D.C., Southern California, San Francisco and Seattle. The sale of the Starwood Portfolio (as defined below) combined with the other 2016 dispositions has resulted in the Company's exit from the South Florida, Denver and New England (excluding Boston) markets and has substantially completed the Company's portfolio transformation which started approximately ten years ago. See further discussion below regarding the Company's 2016 disposition activity.

We endeavor to attract and retain the best employees by providing them with the education, resources and opportunities to succeed. We have a commitment to diversity in all of its forms and strive to promote and maintain a work environment where all employees are treated with dignity and respect, offered opportunities for professional development and valued for their unique contributions to the Company's success. We provide many classroom and on-line training courses to assist our employees in interacting with prospects and residents as well as extensively train our customer service specialists in maintaining our properties and improvements, equipment and appliances. We actively promote from within and many senior corporate and property leaders have risen from entry level or junior positions. We monitor our employees' engagement by surveying them annually and have consistently received high engagement scores.

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We have a commitment to sustainability and consider the environmental impacts of our business activities. Sustainability and social responsibility are key drivers of our focus on creating the best apartment communities for residents to live, work and play. We have a dedicated in-house team that initiates and applies sustainable practices in all aspects of our business, including investment activities, development, property operations and property management activities. With its high density, multifamily housing is, by its nature, an environmentally friendly property type. Our recent acquisition and development activities have been primarily concentrated in pedestrian-friendly urban and close-in suburban locations near public transportation. When developing and renovating our properties, we strive to reduce energy and water usage by investing in energy saving technology while positively impacting the experience of our residents and the value of our assets. We continue to implement a combination of irrigation, lighting, HVAC and renewable energy improvements at our properties that will reduce energy and water consumption. The Company was named the 2016 Global Residential Listed Sector Leader in Sustainability by GRESB, a globally recognized analysis of the sustainability indicators of more than 750 real estate portfolios worldwide. The Company was also recently awarded the Residential Leader in the Light award for sustainability by the National Association of Real Estate Investment Trusts ("NAREIT"). For additional information regarding our sustainability efforts, see our December 2016 Corporate Social Responsibility and Sustainability Report at our website, [www.equityapartments.com](http://www.equityapartments.com). For 2017, we continue to have an express company-wide goal regarding enhanced sustainability efforts. Employees, including our executives, will have their performance against our various social responsibility goals evaluated as part of our annual performance review process.

### Competition

All of the Company's properties are located in developed areas that include other multifamily properties. The number of competitive multifamily properties in a particular area could have a material effect on the Company's ability to lease apartment units at its properties and on the rents charged. The Company may be competing with other entities that have greater resources than the Company and whose managers have more experience than the Company's managers. In addition, other forms of rental properties and single family housing provide housing alternatives to potential residents of multifamily properties. See Item 1A. Risk Factors for additional information with respect to competition.

### Starwood Transaction

Following the approval by the Company's Board of Trustees, the Company executed an agreement with controlled affiliates of Starwood Capital Group ("Starwood") on October 23, 2015 to sell a portfolio of 72 operating properties consisting of 23,262 apartment units located in five markets across the United States for \$5.365 billion (the "Starwood Transaction" or "Starwood Portfolio"). On January 26 and 27, 2016, the Company closed on the sale of the entire portfolio described above. The sale of the Starwood Portfolio, combined with the other 2016 dispositions, has resulted in the Company's exit from the South Florida, Denver and New England (excluding Boston) markets and has substantially completed the Company's portfolio transformation which started approximately ten years ago. These sales have narrowed the Company's focus, which is now entirely directed towards our six coastal markets. We believe the assets sold will have lower long-term returns (as compared to investments in our six coastal markets) and that we sold them for prices that are favorable. Given the strong demand for multifamily assets in our six coastal markets from institutional investors and the challenge in recycling \$6.8 billion of capital in this competitive marketplace, the Company believed the best risk-adjusted use of the sale proceeds was to distribute a portion to our shareholders and use the remainder to repay outstanding debt (see further discussion below).

The Company used the majority of the proceeds from the Starwood Transaction and other 2016 dispositions to pay two special dividends to its shareholders and holders of OP Units of \$11.00 per share/unit in the aggregate. The Company paid special dividends of \$8.00 per share/unit (approximately \$3.0 billion) on March 10, 2016 and \$3.00 per

share/unit (approximately \$1.1 billion) on October 14, 2016. The Company used the majority of the remaining proceeds to reduce aggregate indebtedness in order to make the transaction leverage neutral. The Company retired approximately \$2.0 billion in secured and unsecured debt, the majority of which was scheduled to mature in 2016 and 2017, improving the Company's already strong credit metrics.

#### Debt and Equity Activity

EQR issues public equity from time to time and guarantees certain debt of ERPOP. EQR does not have any indebtedness as all debt is incurred by the Operating Partnership. In addition, ERPOP issues OP Units and preference interests ("Preference Units") from time to time.

Please refer to Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations, for the Company's and the Operating Partnership's Capital Structure charts as of December 31, 2016.

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Major Debt and Equity Activities for the Years Ended December 31, 2016, 2015 and 2014

During 2016:

- The Company repaid \$440.8 million of 6.256% mortgage debt held in a Fannie Mae loan pool maturing in 2017 and incurred a prepayment penalty of approximately \$29.3 million;
- The Company repaid \$65.5 million of various tax-exempt mortgage bonds maturing in 2026 through 2037 and incurred a prepayment penalty of approximately \$0.2 million
- The Company repaid \$75.9 million of conventional fixed-rate mortgage loans and incurred prepayment penalties of approximately \$2.2 million;
- The Company repaid \$0.9 million of conventional floating-rate mortgage loans;
- The Company repaid \$8.5 million of scheduled principal repayments on various mortgage debt;
- The Company assumed \$43.4 million of mortgage debt on one acquired property;
- The Company repaid \$228.9 million of 5.125% unsecured notes maturing in 2016 and incurred a prepayment penalty of approximately \$1.4 million and repaid the remaining \$271.1 million of 5.125% unsecured notes at maturity;
  - The Company repaid \$400.0 million of 5.375% unsecured notes maturing in 2016 and incurred a prepayment penalty of approximately \$9.5 million;
- The Company repaid \$255.9 million of 5.750% unsecured notes maturing in 2017 and incurred a prepayment penalty of approximately \$16.5 million;
- The Company repaid \$46.1 million of 7.125% unsecured notes maturing in 2017 and incurred a prepayment penalty of approximately \$4.6 million;
- The Company repaid \$250.0 million of 4.625% unsecured notes maturing in 2021 and incurred a prepayment penalty of approximately \$31.6 million;
  - The Company repaid \$48.0 million of 7.570% unsecured notes maturing in 2026 and incurred a prepayment penalty of approximately \$19.3 million;
- The Company issued \$500.0 million of ten-year 2.85% fixed rate public notes, receiving net proceeds of \$496.7 million before underwriting fees, hedge termination costs and other expenses, at an all-in effective interest rate of approximately 3.10% after termination of a forward starting swap in conjunction with the issuance (see Note 9 in the Notes to Consolidated Financial Statements for further discussion);
- The Company issued 815,044 Common Shares pursuant to its Share Incentive Plans and received net proceeds of approximately \$35.8 million; and
- The Company issued 63,909 Common Shares pursuant to its Employee Share Purchase Plan and received net proceeds of approximately \$3.7 million.

During 2015:

- The Company repaid \$368.5 million of mortgage debt;
- The Company repaid \$300.0 million of 6.584% unsecured notes at maturity;
- The Company issued \$450.0 million of ten-year 3.375% fixed rate public notes, receiving net proceeds of \$447.5 million before underwriting fees, hedge termination costs and other expenses, at an all-in effective interest rate of 3.81% after termination of various forward starting swaps in conjunction with the issuance (see Note 9 in the Notes to Consolidated Financial Statements for further discussion);
- The Company issued \$300.0 million of thirty-year 4.50% fixed rate public notes, receiving net proceeds of \$298.9 million before underwriting fees and other expenses, at an all-in effective interest rate of 4.55%;
- The Company issued 1,456,363 Common Shares pursuant to its Share Incentive Plans and received net proceeds of approximately \$59.5 million;
- The Company issued 68,462 Common Shares pursuant to its Employee Share Purchase Plan and received net proceeds of approximately \$4.4 million; and



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The Company repurchased and retired 254,400 of its Series K Cumulative Redeemable Preferred Shares with a par value of \$12.7 million for total cash consideration of approximately \$16.3 million inclusive of premiums and accrued dividends through the redemption date.

During 2014:

- The Company assumed \$28.9 million of mortgage debt on one property;
- The Company repaid \$100.7 million of mortgage debt;

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• The Company repaid \$500.0 million of 5.250% unsecured notes at maturity;

• The Company repaid its \$750.0 million unsecured term loan facility in conjunction with the note issuances discussed below;

• The Company issued \$450.0 million of five-year 2.375% fixed rate public notes, receiving net proceeds of \$449.6 million before underwriting fees and other expenses, at an all-in effective interest rate of 2.52% and swapped the notes to a floating interest rate in conjunction with the issuance (see Note 9 in the Notes to Consolidated Financial Statements for further discussion);

• The Company issued \$750.0 million of thirty-year 4.50% fixed rate public notes, receiving net proceeds of \$744.7 million before underwriting fees, hedge termination costs and other expenses, at an all-in effective interest rate of 4.57% after termination of various forward starting swaps in conjunction with the issuance (see Note 9 in the Notes to Consolidated Financial Statements for further discussion);

• The Company issued 2,086,380 Common Shares pursuant to its Share Incentive Plans and received net proceeds of approximately \$82.6 million;

• The Company issued 68,807 Common Shares pursuant to its Employee Share Purchase Plan and received net proceeds of approximately \$3.4 million; and

• The Company repurchased and retired 31,240 of its Common Shares at a price of \$56.87 per share for total consideration of \$1.8 million (all related to the vesting of employee restricted shares). See Note 3 in the Notes to Consolidated Financial Statements for further discussion.

EQR and ERPOP currently have an active universal shelf registration statement for the issuance of equity and debt securities that automatically became effective upon filing with the SEC on June 28, 2016 and expires on June 28, 2019. Per the terms of ERPOP's partnership agreement, EQR contributes the net proceeds of all equity offerings to the capital of ERPOP in exchange for additional OP Units (on a one-for-one Common Share per OP Unit basis) or preference units (on a one-for-one preferred share per preference unit basis).

Credit Facilities

EQR does not have any indebtedness as all debt is incurred by the Operating Partnership. EQR guarantees the Operating Partnership's revolving credit facility up to the maximum amount and for the full term of the facility.

On November 3, 2016, the Company replaced its existing \$2.5 billion facility with a \$2.0 billion unsecured revolving credit facility maturing January 10, 2022. The Company has the ability to increase available borrowings by an additional \$750.0 million by adding additional banks to the facility or obtaining the agreement of existing banks to increase their commitments. The interest rate on advances under the facility will generally be LIBOR plus a spread (currently 0.825%), or based on bids received from the lending group, and the Company pays an annual facility fee (currently 12.5 basis points). Both the spread and the facility fee are dependent on the credit rating of the Company's long-term debt.

The Company's previous \$2.5 billion unsecured revolving credit facility was set to mature on April 2, 2018. The Company had the ability to increase available borrowings by an additional \$500.0 million by adding additional banks to the facility or obtaining the agreement of existing banks to increase their commitments. The interest rate on advances under the facility was generally LIBOR plus a spread (was 0.95% at termination), or based on bids received from the lending group, and the Company paid an annual facility fee (was 15 basis points at termination). Both the spread and the facility fee were dependent on the credit rating of the Company's long-term debt.

On February 2, 2015, the Company entered into an unsecured commercial paper note program in the United States. The Company may borrow up to a maximum of \$500.0 million under this program subject to market conditions. The notes will be sold under customary terms in the United States commercial paper note market and will rank pari passu with all of the Company's other unsecured senior indebtedness. The Company does not intend to borrow more than

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\$2.0 billion on the commercial paper program and new revolving credit facility combined. As of February 17, 2017, there was a balance of \$100.0 million outstanding on the commercial paper program. As of December 31, 2016, there was a balance of \$20.0 million outstanding on the commercial paper program. As of December 31, 2015, there was a balance of \$387.3 million on the commercial paper program (\$387.5 million in principal outstanding net of an unamortized discount of \$0.2 million). The notes bear interest at various floating rates with a weighted average of 0.90% and 0.56% for the years ended December 31, 2016 and 2015, respectively, and a weighted average maturity of 4 days and 19 days as of December 31, 2016 and 2015, respectively.

As of February 17, 2017, no amounts were outstanding and the amount available on the revolving credit facility was \$1.88 billion (net of \$20.6 million which was restricted/dedicated to support letters of credit and net of the \$100.0 million outstanding

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on the commercial paper program). As of December 31, 2016, the amount available on the revolving credit facility was \$1.96 billion (net of \$20.6 million which was restricted/dedicated to support letters of credit and net of the \$20.0 million outstanding on the commercial paper program). During the year ended December 31, 2016, the weighted average interest rate on the revolving credit facility was 1.37%. As of December 31, 2015, the amount available on the revolving credit facility was \$2.07 billion (net of \$45.1 million which was restricted/dedicated to support letters of credit and net of the \$387.5 million outstanding on the commercial paper program). During the year ended December 31, 2015, the weighted average interest rate on the revolving credit facility was 1.07%.

Environmental Considerations

See Item 1A. Risk Factors for information concerning the potential effects of environmental regulations on our operations.

Item 1A. Risk Factors

General

References to "EQR" mean Equity Residential, a Maryland real estate investment trust ("REIT"), and references to "ERPOP" mean ERP Operating Limited Partnership, an Illinois limited partnership. Unless otherwise indicated, when used in this section, the terms "Company," "we," "us" or "our" mean collectively EQR, ERPOP and those entities/subsidiaries owned or controlled by EQR and/or ERPOP and the term "Operating Partnership" means collectively ERPOP and those entities/subsidiaries owned or controlled by ERPOP. This Item 1A. includes forward-looking statements. You should refer to our discussion of the qualifications and limitations on forward-looking statements included in Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations.

The occurrence of the events discussed in the following risk factors could adversely affect, possibly in a material manner, our business, financial condition or results of operations, which could adversely affect the value of our common shares of beneficial interest or preferred shares of beneficial interest (which we refer to collectively as "Shares"), Preference Units, OP Units, restricted units and our public unsecured debt. In this section, we refer to the Shares, Preference Units, OP Units, restricted units and public unsecured debt together as our "securities" and the investors who own such securities as our "security holders".

Our performance and securities value are subject to risks associated with the real estate industry.

General

Real property investments are subject to varying degrees of risk and are relatively illiquid. Numerous factors may adversely affect the economic performance and value of our properties and the ability to realize that value. These factors include changes in the global, national, regional and local political and economic climates, local conditions such as an oversupply of multifamily properties or a reduction in demand for our multifamily properties, the attractiveness of our properties to residents, competition from other multifamily properties and single family homes (both as rentals and owned housing) and changes in market rental rates. Our performance also depends on our ability to collect rent from residents and to pay for adequate maintenance, insurance and other operating costs, including real estate taxes, all of which could increase over time. These operating expenses could rise faster than our revenues causing our income to decline. In circumstances where we buy or sell properties, including large portfolios of properties, overhead (property management expense and general and administrative expense) may not increase/decrease proportionally with the associated changes in revenue. Costs of labor and materials required for maintenance, repair, capital expenditure or development may be more expensive than anticipated. Also, the expenses of owning and operating a property are not necessarily reduced when circumstances such as market factors and

competition cause a reduction in income from the property.

We may be unable to renew leases or relet units as leases expire.

When our residents decide to leave our apartments, we may not be able to relet their apartment units. Even if the residents do renew or we can relet the apartment units, the terms of renewal or reletting may be less favorable than current lease terms. If we are unable to promptly renew the leases or relet the apartment units, or if the rental rates upon renewal or reletting are significantly lower than expected rates, then our results of operations and financial condition will be adversely affected. If residents do not experience increases in their income, we may be unable to increase rent and/or delinquencies may increase. Occupancy levels and market rents may be adversely affected by national and local political, economic and market conditions including, without limitation, new construction and excess inventory of multifamily and owned housing/condominiums, increasing portions of owned housing/condominium stock being converted to rental use, rental housing subsidized by the government, other government programs that favor single family rental housing or owner occupied housing over multifamily rental housing, governmental

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regulations, slow or negative employment growth and household formation, the availability of low-interest mortgages or the availability of mortgages requiring little or no down payment for single family home buyers, changes in social preferences and the potential for geopolitical instability, all of which are beyond our control. In addition, various state and local municipalities have enacted and may continue to enact rent control legislation or take other actions which could limit our ability to raise rents. Finally, the federal government's policies, many of which may encourage home ownership, can increase competition and possibly limit our ability to raise rents. Consequently, our cash flow and ability to service debt and make distributions to security holders could be reduced.

The retail/commercial space at our properties primarily serves as an additional amenity for our residents and neighbors. The long term nature of our retail/commercial leases (generally five to ten years with market based renewal options) and the characteristics of many of our tenants (generally small, local businesses) may subject us to certain risks. We may not be able to lease new space for rents that are consistent with our projections or for market rates. Also, when leases for our existing retail/commercial space expire, the space may not be relet or the terms of reletting, including the cost of allowances and concessions to tenants, may be less favorable than the current lease terms. Our properties compete with other properties with retail/commercial space. The presence of competitive alternatives may affect our ability to lease space and the level of rents we can obtain. If our retail/commercial tenants experience financial distress or bankruptcy, they may fail to comply with their contractual obligations, seek concessions in order to continue operations or cease their operations which could adversely impact our results of operations and financial condition. The revenues from our retail/commercial space represent approximately 4.5% of our total rental income.

We have increased our concentration of properties in our core markets, which could have an adverse effect on our operations if a particular market is adversely affected by economic or other conditions.

Over the past ten years, the Company has exited its non-core markets as part of its strategy to reposition its portfolio, leaving the Company highly concentrated in its six core coastal markets. If any one or more of our core markets (Boston, New York, Washington D.C., Southern California, San Francisco and Seattle) is adversely affected by local or regional economic conditions (such as business layoffs, industry slowdowns, changing demographics and other factors) or local real estate conditions (such as oversupply of or reduced demand for multifamily properties), such conditions may have an increased adverse impact on our results of operations than if our portfolio were more geographically diverse.

Because real estate investments are illiquid, we may not be able to sell properties when appropriate.

Real estate investments generally cannot be sold quickly. We may not be able to reconfigure our portfolio promptly in response to economic or other conditions. We may be unable to consummate such dispositions in a timely manner, on attractive terms, or at all. This inability to reallocate our capital promptly could adversely affect our financial condition and ability to make distributions to our security holders.

New acquisitions, development projects and/or rehabs may fail to perform as expected and competition for acquisitions may result in increased prices for properties that we would like to acquire.

We intend to actively acquire, develop and rehab multifamily properties for rental operations as market conditions dictate. We may also acquire multifamily properties that are unoccupied or in the early stages of lease up. We may be unable to lease up these apartment properties on schedule, resulting in decreases in expected rental revenues and/or lower yields due to lower occupancy and rental rates as well as higher than expected concessions or higher than expected operating expenses. We may not be able to achieve rents that are consistent with expectations for acquired, developed or rehabbed properties. We may underestimate the costs necessary to bring an acquired property up to standards established for its intended market position, to complete a development property or to complete a rehab.

Additionally, we expect that other real estate investors with capital will compete with us for attractive investment opportunities or may also develop properties in markets where we focus our development and acquisition efforts. This competition (or lack thereof) may increase (or depress) prices for multifamily properties. We may not be in a position or have the opportunity in the future to make suitable property acquisitions on favorable terms. We have acquired in the past and intend to continue to pursue the acquisition of properties, including large portfolios of properties, that could increase our size and result in alterations to our capital structure. The total number of apartment units under development, costs of development and estimated completion dates are subject to uncertainties arising from changing economic conditions (such as the cost of labor and construction materials), competition and local government regulation.

In connection with such government regulation, we may incur liability if our properties are not constructed and operated in compliance with the accessibility provisions of the Americans with Disabilities Act, the Fair Housing Act or other federal, state or local requirements. Noncompliance could result in fines, subject us to lawsuits and require us to remediate or repair the noncompliance.

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Development and construction risks could affect our profitability.

We intend to continue to develop multifamily properties. These activities can include long planning and entitlement timelines and can involve complex and costly activities, including significant environmental remediation or construction work in high-density urban and close-in suburban areas. We may abandon opportunities (including land that we have optioned for purchase) that we have already begun to explore for a number of reasons, including changes in local market conditions or increases in construction or financing costs, and, as a result, we may fail to recover expenses or option payments already incurred in exploring those opportunities. The occupancy rates and rents at a property may fail to meet our original expectations for a number of reasons, including changes in market and economic conditions beyond our control and the development by competitors of competing properties. We may be unable to obtain, or experience delays in obtaining, necessary zoning, occupancy, or other required governmental or third party permits and authorizations, which could result in increased costs or the delay or abandonment of opportunities.

We own certain properties subject to ground leases that may limit our use of the properties, restrict our ability to finance, sell or otherwise transfer our interests in these properties and expose us to loss of the properties if such agreements are breached by us or terminated.

The Company owns the building and improvements and leases the land underlying the improvements under several long-term ground leases. These ground leases may impose limitations on our use of the properties, restrict our ability to finance, sell or otherwise transfer our interests in the properties or restrict the leasing of the properties. These restrictions may limit our ability to timely sell or exchange the properties, impair the properties' value or negatively impact our ability to find suitable residents for the properties. In addition, we could lose our interests in the properties if the ground leases are breached by us or terminated. Certain of these ground leases have payments subject to annual escalations and/or periodic fair market value adjustments which could adversely affect our financial condition or results of operations.

Our investments in joint ventures could be adversely affected by our lack of sole decision-making authority regarding major decisions, our reliance on our joint venture partners' financial condition, any disputes that may arise between us and our joint venture partners and our exposure to potential losses from the actions of our joint venture partners.

We currently do and may continue in the future to develop and acquire properties in joint ventures with other persons or entities when we believe circumstances warrant the use of such structures. We have several joint ventures with other real estate investors. Joint venture investments involve risks not present with respect to our wholly owned properties, including the following:

- our joint venture partners might experience financial distress, become bankrupt or fail to fund their share of required capital contributions, which may delay construction or development of a property or increase our financial commitment to the joint venture;
- we may be responsible to our partners for indemnifiable losses;
- our joint venture partners may have business interests or goals with respect to a property that conflict with our business interests and goals, which could increase the likelihood of disputes regarding the ownership, management or disposition of the property;
- we may be unable to take actions that are opposed by our joint venture partners under arrangements that require us to share decision-making authority over major decisions affecting the ownership or operation of the joint venture and any property owned by the joint venture, such as the sale or financing of the property or the making of additional capital contributions for the benefit of the property;



our joint venture partners may take actions that we oppose;

- our ability to sell or transfer our interest in a joint venture to a third party may be restricted without prior consent of our joint venture partners;

we may disagree with our joint venture partners about decisions affecting a property or the joint venture, which could result in litigation or arbitration that increases our expenses, distracts our officers and disrupts the day-to-day operations of the property, including by delaying important decisions until the dispute is resolved; and

we may suffer losses as a result of actions taken by our joint venture partners with respect to our joint venture investments.

At times we have entered into agreements providing for joint and several liability with our partners. We also have in the past and could choose in the future to guarantee part of or all of certain joint venture debt. Frequently, we and our partners may each have the right to trigger a buy-sell arrangement, which could cause us to sell our interest, or acquire our partners' interest, at a time when we otherwise would not have initiated such a transaction. Any of these risks could materially and adversely affect

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our ability to generate and recognize attractive returns on our joint venture investments, which could have a material adverse effect on our results of operations, financial condition and distributions to our shareholders.

Several of the assets we acquired in the Archstone transaction along with certain preferred interests acquired in joint ventures as part of the Archstone transaction, as well as certain other tax protected properties we have acquired over the years, are subject to tax protection agreements, which could limit our flexibility with respect to our ownership of such assets or cause us to incur material costs.

Several of the assets we acquired from Archstone Enterprise LP ("Archstone") in February 2013 were contributed to Archstone subject to various agreements limiting the ability of the owner of the property to take actions that would trigger income tax liability for the contributing owner of the property, including a taxable disposition of the property. In addition, we will also be required to maintain a certain amount of qualified nonrecourse financing on the tax protected properties during their respective restricted periods. Our obligations relating to these tax protected properties (as well as certain other tax protected properties we have acquired over the years) may affect the way in which we conduct our business, including whether, when and under what circumstances we sell properties or interests therein and the timing and nature of our financings and refinancing transactions. As a result, we may not be able to dispose of or refinance the tax protected properties when to do so may have otherwise been favorable to us and our shareholders, which could have a material adverse effect on our results of operations and financial condition. Certain preferred interests acquired in joint ventures as part of the Archstone transaction have complex tax requirements that, if violated, may cause us to be required to indemnify the preferred stockholders or our joint venture partner for certain tax protection costs.

Changes in market conditions and volatility of share prices could adversely affect the market price of our Common Shares.

The stock markets, including the New York Stock Exchange, on which we list our Common Shares, have experienced significant price and volume fluctuations over time. As a result, the market price of our Common Shares could be similarly volatile, and investors in our Common Shares may experience a decrease in the value of their shares, including decreases unrelated to our operating performance or prospects. The market price of our Common Shares may decline or fluctuate significantly in response to many factors, including but not limited to the following:

- general political, market and economic conditions;
- actual or anticipated variations in our guidance, quarterly operating results or dividends;
- changes in our net operating income ("NOI"), earnings, funds from operations or normalized funds from operations estimates;
- difficulties or inability to access capital or extend or refinance debt;
- large portfolio acquisitions or dispositions;
- decreasing (or uncertainty in) real estate valuations;
  - rising crime rates in markets where our primarily urban and close-in suburban portfolio is concentrated;
- a change in analyst and/or credit ratings;
- adverse market reaction to any additional debt we incur in the future;
- governmental regulatory action, including changes or proposed changes to the mandates of Fannie Mae or Freddie Mac, and changes in tax laws;
- the payment of any special dividends;
- the issuance of additional Common Shares, or the perception that such issuances might occur, including under EQR's At-The-Market ("ATM") share offering program; and
-

the resale of substantial amounts of our common shares, or the anticipation of the resale of such shares, by large holders of our securities.

Issuances or sales of our Common Shares may be dilutive.

The issuance or sale of substantial amounts of our Common Shares, whether directly by us or in the secondary market, the perception that such issuances or sales of our Common Shares could occur or the availability for future issuance or sale of our Common Shares or securities convertible into or exchangeable or exercisable for our Common Shares could have a dilutive effect on our actual and expected earnings per share, funds from operations (“FFO”) per share and Normalized FFO per share. The actual amount of dilution cannot be determined at this time and would be dependent upon numerous factors which are not currently known to us.

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We may not have sufficient cash flows from operations after capital expenditures to cover our distributions and our dividend policy may lead to quicker dividend reductions.

We generally consider our cash flows provided by operating activities after capital expenditures to be adequate to meet operating requirements and payment of regular distributions to our security holders. While our current dividend policy makes it less likely that we will over distribute, it will also lead to a dividend reduction more quickly should operating results deteriorate or large portfolio sales occur. However, whether due to changes in the dividend policy or otherwise, there may be times when we experience shortfalls in our coverage of distributions, which may cause us to consider reducing our distributions and/or using the proceeds from property dispositions or additional financing transactions to make up the difference. Should these shortfalls occur for lengthy periods of time or be material in nature, our financial condition may be adversely affected and we may not be able to maintain our current distribution levels. See Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations, for additional discussion regarding our dividend policy.

The value of investment securities could result in losses to the Company.

From time to time, the Company holds investment securities and/or cash investments that have various levels of repayment and liquidity risk, including government obligations and bond funds, money market funds or bank deposits. On occasion we also may purchase securities of companies in our own industry as a means to invest funds. There may be times when we experience declines in the value of these investment securities, which may result in losses to the Company and our financial condition or results of operations could be adversely affected. Sometimes the cash we deposit at a bank substantially exceeds the FDIC insurance limit or we invest cash in money market or similar type funds with investment management institutions that may be subject to, now or in the future, liquidity and/or withdrawal restrictions, resulting in risk to the Company of loss or lack of immediate availability of funds if these banks or institutions fail to meet their obligations.

Any weaknesses identified in our internal control over financial reporting could have an adverse effect on our share price.

Section 404 of the Sarbanes-Oxley Act of 2002 requires us to evaluate and report on our internal control over financial reporting. If we identify one or more material weaknesses in our internal control over financial reporting, we could lose investor confidence in the accuracy and completeness of our financial reports, which in turn could have an adverse effect on our share price.

The occurrence of cyber incidents, or a deficiency in our cybersecurity, could negatively impact our business by causing a disruption to our operations, a compromise or corruption of our confidential information, and/or damage to our reputation and business relationships, all of which could negatively impact our financial results.

A cyber incident is considered to be any adverse event that threatens the confidentiality, integrity or availability of our information resources. More specifically, a cyber incident is an intentional attack or an unintentional event that can include gaining unauthorized access to systems to disrupt operations, corrupt data or steal confidential information, including information regarding our residents and employees. As our reliance on technology has increased, so have the risks posed to our systems, both internal and those we have outsourced to third party service providers. In addition, information security risks have generally increased in recent years due to the rise in new technologies and the increased sophistication and activities of perpetrators of cyber attacks. Our primary risks that could directly result from the occurrence of a cyber incident include operational interruption, damage to our reputation, damage to our business relationships and private data exposure. We have implemented processes, procedures and controls to help

mitigate these risks, but these measures, as well as our increased awareness of a risk of a cyber incident, do not guarantee that our financial results will not be negatively impacted by such an incident.

Changes in laws and litigation risk could affect our business.

We are generally not able to pass through to our residents under existing leases any real estate or other federal, state or local taxes. Consequently, any such tax increases may adversely affect our financial condition and limit our ability to make distributions to our security holders.

We may become involved in legal proceedings, including but not limited to, proceedings related to consumer, shareholder, securities, employment, environmental, development, condominium conversion, tort and commercial legal issues that, if decided adversely to or settled by us, could result in liability material to our financial condition or results of operations.

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Environmental problems are possible and can be costly.

Federal, state and local laws and regulations relating to the protection of the environment may require a current or previous owner or operator of real estate to investigate and clean up hazardous or toxic substances or petroleum product releases at such property. The owner or operator may have to pay a governmental entity or third parties for property damage and for investigation and clean-up costs incurred by such parties in connection with the contamination. These laws typically impose clean-up responsibility and liability without regard to whether the owner or operator knew of or caused the presence of the contaminants. Even if more than one person may have been responsible for the contamination, each person covered by the environmental laws may be held responsible for all of the clean-up costs incurred. In addition, third parties may sue the owner or operator of a site for damages and costs resulting from environmental contamination emanating from that site.

Substantially all of our properties have been the subject of environmental assessments completed by qualified independent environmental consulting companies. While these environmental assessments have not revealed, nor are we aware of, any environmental liability that our management believes would have a material adverse effect on our business, results of operations, financial condition or liquidity, there can be no assurance that we will not incur such liabilities in the future.

We are aware that some of our properties have lead paint and have implemented an operations and maintenance program at each of those properties. While we do not currently anticipate that we will incur any material liabilities as a result of the presence of lead paint at our properties, there can be no assurance that we will not incur such liabilities in the future.

There have been a number of lawsuits against owners and managers of multifamily properties alleging personal injury and property damage caused by the presence of mold in residential real estate. While we have adopted programs designed to minimize the existence of mold in any of our properties as well as guidelines for promptly addressing and resolving reports of mold to minimize any impact mold might have on our residents or the property, should mold become an issue in the future, our financial condition or results of operations may be adversely affected.

We cannot be assured that existing environmental assessments of our properties reveal all environmental liabilities, that any prior owner of any of our properties did not create a material environmental condition not known to us, or that a material environmental condition does not otherwise exist as to any of our properties.

Insurance policies can be costly and may not cover all losses, which may adversely affect our financial condition or results of operations.

As of December 31, 2016, the Company's property insurance policies provide for a per occurrence deductible of \$250,000. Earthquake losses are subject to a 2% deductible in the state of Washington and a 5% deductible in California, applied to the values of the buildings involved in the loss. The Company also typically self-insures a substantial portion of the first \$50 million of a property loss in excess of these base deductibles. Should a claim exceed these amounts, it would be 100% covered by insurance. Furthermore, the Company purchased additional coverage in the event that the Company suffers multiple non-catastrophic occurrences with losses from \$25 million to \$50 million within the same policy year. The Company's general liability and worker's compensation policies at December 31, 2016 provide for a \$2.0 million and \$1.0 million per occurrence deductible, respectively. These higher deductible and self-insured retention amounts do expose the Company to greater potential for uninsured losses. The Company also has become more susceptible to large losses as it has transformed its portfolio, becoming more concentrated in fewer, more valuable assets over a smaller geographical footprint. Furthermore, the potential impact of

climate change, increased severe weather or earthquakes could cause a significant increase in insurance premiums and deductibles, or a decrease in the availability of coverage, either of which could expose the Company to even greater uninsured losses which may adversely affect our financial condition or results of operations.

The Company also has \$750.0 million in terrorism insurance coverage, with a \$100,000 deductible. This coverage excludes losses from nuclear, biological and chemical attacks. In the event of a terrorist attack impacting one or more of our properties, we could lose the revenues from the property, our capital investment in the property and possibly face liability claims from residents or others suffering injuries or losses.

As of December 31, 2016, the Company's cyber liability insurance policy provides for a \$5.0 million policy aggregate limit and a per occurrence deductible of \$250,000. Cyber liability insurance generally covers costs associated with the wrongful release, through inadvertent breach or network attack, of personally identifiable information such as social security or credit card numbers. This cyber policy would cover the cost of victim notification, credit monitoring and other crisis response expenses.

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The Company relies on third party insurance providers for its property, general liability and worker's compensation insurance. While there has yet to be any non-performance by these major insurance providers, should any of them experience liquidity issues or other financial distress, it could negatively impact the Company. In addition, the Company annually assesses its insurance needs based on the cost of coverage and other factors. We may choose to self insure a greater portion of this risk in the future or may choose to have higher deductibles or lesser policy terms.

Damage from catastrophic weather and other natural events and climate change could result in losses to the Company.

Certain of our properties are located in areas that may experience catastrophic weather and other natural events from time to time, including fires, snow or ice storms, windstorms or hurricanes, earthquakes, flooding or other severe weather. These adverse weather and natural events could cause substantial damages or losses to our properties which could exceed our insurance coverage. In the event of a loss in excess of insured limits, we could lose our capital invested in the affected property, as well as anticipated future revenue from that property. We could also continue to be obligated to repay any mortgage indebtedness or other obligations related to the property. Any such loss could materially and adversely affect our business and our financial condition and results of operations.

To the extent that significant changes in the climate occur in areas where our properties are located, we may experience extreme weather and changes in precipitation and temperature, all of which may result in physical damage to or a decrease in demand for properties located in these areas or affected by these conditions. Should the impact of climate change be material in nature, including destruction of our properties, or occur for lengthy periods of time, our financial condition or results of operations may be adversely affected.

In addition, changes in federal and state legislation and regulation on climate change could result in increased capital expenditures to improve the energy efficiency of our existing properties and could also require us to spend more on our new development properties without a corresponding increase in revenue.

The inability of Lehman to fulfill its indemnification obligations to us under the purchase agreement for the Archstone transaction could increase our liabilities and adversely affect our results of operations and financial condition.

In addition to certain indemnification obligations of each party to the purchase agreement for the Archstone transaction relating to breaches of fundamental representations and warranties and breaches of covenants and certain other specified matters, we negotiated as a term in the purchase agreement that Lehman Brothers Holdings Inc. ("Lehman") retain responsibility for and indemnify us against damages resulting from certain third-party claims or other liabilities. These third-party claims and other liabilities include, without limitation, costs associated with various litigation matters. Lehman filed for bankruptcy protection under Chapter 11 of the Bankruptcy Code in September 2008 and is currently in the process of post-petition liquidation. If Lehman completes its liquidation prior to the termination of their indemnity obligations to us under the purchase agreement, or otherwise distributes substantially all of its assets to its creditors prior to such time, Lehman may not be able to satisfy its obligations with respect to claims and retained liabilities covered by the purchase agreement. The failure of Lehman to satisfy such obligations could have a material adverse effect on our results of operations and financial condition because claimants may successfully assert that we are liable for those claims and/or retained liabilities. In addition, we expect that certain obligations of Lehman to indemnify us will terminate upon expiration of the applicable indemnification period (generally no more than four years following the closing, which will be February 27, 2017). The assertion of third-party claims after the expiration of the applicable indemnification period, or the failure of Lehman to satisfy its indemnification obligations, could have a material adverse effect on our results of operations and financial condition.

Non-performance by our operating counterparties could adversely affect our performance.



We have relationships with and, from time to time, we execute transactions with or receive services from many counterparties. As a result, defaults by counterparties could result in services not being provided, or volatility in the financial markets could affect counterparties' ability to complete transactions with us as intended, both of which could result in disruptions to our operations that may adversely affect our business and results of operations.

Debt financing and preferred shares/preference units could adversely affect our performance.

#### General

Please refer to Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations, for the Company's total debt and unsecured debt summaries as of December 31, 2016.

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In addition to debt, we have a liquidation value of \$37.3 million of outstanding preferred shares of beneficial interest/preference units with a dividend preference of 8.29% per annum as of December 31, 2016. Our use of debt and preferred equity financing creates certain risks, including the following:

Disruptions in the financial markets could adversely affect our ability to obtain debt financing and impact our acquisitions and dispositions.

Dislocations and liquidity disruptions in capital and credit markets could impact liquidity in the debt markets, resulting in financing terms that are less attractive to us and/or the unavailability of certain types of debt financing. Should the capital and credit markets experience volatility and the availability of funds again become limited, or be available only on unattractive terms, we will incur increased costs associated with issuing debt instruments. In addition, it is possible that our ability to access the capital and credit markets may be limited or precluded by these or other factors at a time when we would like, or need, to do so, which would adversely impact our ability to refinance maturing debt and/or react to changing economic and business conditions. Uncertainty in the credit markets could negatively impact our ability to make acquisitions and make it more difficult or not possible for us to sell properties or may adversely affect the price we receive for properties that we do sell, as prospective buyers may experience increased costs of debt financing or difficulties in obtaining debt financing. Potential continued disruptions in the financial markets could also have other unknown adverse effects on us or the economy generally and may cause the price of our securities to fluctuate significantly and/or to decline.

Potential reforms to Fannie Mae and Freddie Mac could adversely affect our performance.

Through their lender originator networks, Fannie Mae and Freddie Mac (the "Government Sponsored Enterprises" or "GSEs") are significant lenders and enhancers of tax-exempt bonds both to the Company and to buyers of the Company's properties. The GSEs have a mandate to support multifamily housing through their financing activities. Any changes to their mandates, reductions in their size or the scale of their activities or loss of key personnel could have an impact on the Company and may, among other things, lead to lower values for our assets and higher interest rates on our secured borrowings. Disruptions in the floating rate tax-exempt bond market (where interest rates reset weekly) and in the credit market's perception of the GSEs, which guarantee and provide liquidity for many of these bonds, have been experienced in the past and may be experienced in the future and could result in an increase in interest rates on our tax-exempt debt obligations. These bonds could also be put to our consolidated subsidiaries if the GSEs fail to satisfy their guaranty obligations. While this obligation is in almost all cases non-recourse to us, this could cause the Company to have to repay these obligations on short notice or risk foreclosure actions on the collateralized assets.

Non-performance by our financial counterparties could adversely affect our performance.

Although we have not experienced any material counterparty non-performance, disruptions in financial and credit markets could, among other things, impede the ability of our counterparties to perform on their contractual obligations. There are multiple financial institutions that are individually committed to lend us varying amounts as part of our revolving credit facility. Should any of these institutions fail to fund their committed amounts when contractually required, our financial condition could be adversely affected. Should several of these institutions fail to fund, we could experience significant financial distress.

The Company also has developed assets with joint venture partners which were financed by financial institutions that have experienced varying degrees of distress in the past and could experience similar distress as economic conditions change. If one or more of these lenders fail to fund when contractually required, the Company or its joint venture partner may be unable to complete construction of its development properties.

A significant downgrade in our credit ratings could adversely affect our performance.

A significant downgrade in our credit ratings, while not affecting our ability to draw proceeds under the revolving credit facility, would cause our borrowing costs to increase under the revolving credit facility, impact our ability to borrow secured and unsecured debt, impair our ability to access the commercial paper market or otherwise limit our access to capital. In addition, a downgrade below investment grade would require us to post cash collateral and/or letters of credit in favor of some of our secured lenders to cover our self-insured property and liability insurance deductibles or to obtain lower deductible insurance compliant with the lenders' requirements at the lower ratings level.

Scheduled debt payments could adversely affect our financial condition.

In the future, our cash flow could be insufficient to meet required payments of principal and interest or to pay distributions on our securities at expected levels.

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We may not be able to refinance existing debt, including joint venture indebtedness (which in virtually all cases requires substantial principal payments at maturity) and, if we can, the terms of such refinancing might not be as favorable as the terms of existing indebtedness. If principal payments due at maturity cannot be refinanced, extended or paid with proceeds of other capital transactions, such as new equity capital, our operating cash flow will not be sufficient in all years to repay all maturing debt. As a result, certain of our other debt may cross default, we may be forced to postpone capital expenditures necessary for the maintenance of our properties, we may have to dispose of one or more properties on terms that would otherwise be unacceptable to us or we may be forced to allow the mortgage holder to foreclose on a property. Foreclosure on mortgaged properties or an inability to refinance existing indebtedness would likely have a negative impact on our financial condition and results of operations.

Please refer to Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations, for the Company's debt maturity schedule as of December 31, 2016.

Financial covenants could adversely affect the Company's financial condition.

The mortgages on our properties may contain customary negative covenants that, among other things, limit our ability, without the prior consent of the lender, to further mortgage the property and to reduce or change insurance coverage. In addition, our revolving credit facility contains certain restrictions, requirements and other limitations on our ability to incur debt. The indentures under which a substantial portion of our unsecured debt was issued also contain certain financial and operating covenants including, among other things, maintenance of certain financial ratios, as well as limitations on our ability to incur secured and unsecured debt (including acquisition financing), and to sell all or substantially all of our assets. Our revolving credit facility and indentures are cross-defaulted and also contain cross default provisions with other material debt. While the Company believes it was in compliance with its unsecured public debt covenants for both the years ended December 31, 2016 and 2015, should it fall out of compliance, it would likely have a negative impact on our financial condition and results of operations.

Some of the properties were financed with tax-exempt bonds or otherwise contain certain restrictive covenants or deed restrictions, including affordability requirements. The Company, and from time to time its consultants, monitor compliance with the restrictive covenants and deed restrictions that affect these properties. If these compliance requirements restrict our ability to increase our rental rates to low or moderate-income residents, or eligible/qualified residents, then our income from these properties may be limited. While we generally believe that the interest rate benefit attendant to properties with tax-exempt bonds more than outweighs any loss of income due to restrictive covenants or deed restrictions, this may not always be the case. Some of these requirements are complex and our failure to comply with them may subject us to material fines or liabilities.

Our degree of leverage could limit our ability to obtain additional financing.

Our degree of leverage could have important consequences to security holders. For example, the degree of leverage could affect our ability to obtain additional financing in the future for working capital, capital expenditures, acquisitions, development or other general corporate purposes, making us more vulnerable to a downturn in business or the economy in general. Our consolidated debt-to-total market capitalization ratio was 26.8% as of December 31, 2016. In addition, our most restrictive unsecured public debt covenants are as follows:

	December 31, 2016		December 31, 2015	
Total Debt to Adjusted Total Assets (not to exceed 60%)	35.4	%	38.5	%
Secured Debt to Adjusted Total Assets (not to exceed 40%)	16.2	%	16.5	%

Consolidated Income Available for Debt Service to Maximum Annual Service Charges (must be at least 1.5 to 1)	3.73		3.67	
Total Unsecured Assets to Unsecured Debt (must be at least 150%)	390.8	%	336.8	%

Rising interest rates could adversely affect cash flow.

Advances under our revolving credit facility bear interest at a variable rate based upon LIBOR at various interest periods, plus a spread dependent upon the Operating Partnership's credit rating, or based upon bids received from the lending group. Borrowings under our commercial paper program also bear interest at variable rates. Certain public issuances of our senior unsecured debt instruments may also, from time to time, bear interest at floating rates or be swapped to a floating rate of interest.

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We may also borrow additional money with variable interest rates in the future. Increases in interest rates would increase our interest expense under these debt instruments and would increase the costs of refinancing existing debt and of issuing new debt. Accordingly, higher interest rates could adversely affect cash flow and our ability to service our debt and make distributions to security holders.

Derivatives and hedging activity could adversely affect cash flow.

In the normal course of business, we use derivatives to manage our exposure to interest rate volatility on debt instruments, including hedging for future debt issuances. At other times we may utilize derivatives to increase our exposure to floating interest rates. We may also use derivatives to manage commodity prices in the daily operations of our business. There can be no assurance that these hedging arrangements will have the desired beneficial impact. These arrangements, which can include a number of counterparties, may expose us to additional risks, including failure of any of our counterparties to perform under these contracts, and may involve extensive costs, such as transaction fees or breakage costs, if we terminate them. No strategy can completely insulate us from the risks associated with interest rate or commodity pricing fluctuations.

We depend on our key personnel.

We depend on the efforts of the Chairman of our Board of Trustees, Samuel Zell, and our executive officers, particularly David J. Neithercut, our President and Chief Executive Officer (“CEO”). If they resign or otherwise cease to be employed by us, our operations could be temporarily adversely affected. Mr. Zell has entered into retirement benefit and noncompetition agreements with the Company.

Shareholders' ability to effect changes in control of the Company is limited.

Provisions of our declaration of trust and bylaws could inhibit changes in control.

Certain provisions of our Declaration of Trust and Bylaws may delay or prevent a change in control of the Company or other transactions that could provide the security holders with a premium over the then-prevailing market price of their securities or which might otherwise be in the best interest of our security holders. This includes the 5% Ownership Limit described below. While our existing preferred shares/preference units do not have these provisions, any future series of preferred shares/preference units may have certain voting provisions that could delay or prevent a change in control or other transactions that might otherwise be in the interest of our security holders. Our Bylaws require certain information to be provided by any security holder, or persons acting in concert with such security holder, who proposes business or a nominee at an annual meeting of shareholders, including disclosure of information related to hedging activities and investment strategies with respect to our securities. These requirements could delay or prevent a change in control or other transactions that might otherwise be in the interest of our security holders.

We have a share ownership limit for REIT tax purposes.

To remain qualified as a REIT for federal income tax purposes, not more than 50% in value of our outstanding Shares may be owned, directly or indirectly, by five or fewer individuals at any time during the last half of any year. To facilitate maintenance of our REIT qualification, our Declaration of Trust, subject to certain exceptions, prohibits ownership by any single shareholder of more than 5% of the lesser of the number or value of any outstanding class of common or preferred shares. We refer to this restriction as the “Ownership Limit.” Absent any exemption or waiver granted by our Board of Trustees, securities acquired or held in violation of the Ownership Limit will be transferred to a trust for the exclusive benefit of a designated charitable beneficiary, and the security holder's rights to distributions and to vote would terminate. A transfer of Shares may be void if it causes a person to violate the Ownership Limit.

The Ownership Limit could delay or prevent a change in control and, therefore, could adversely affect our security holders' ability to realize a premium over the then-prevailing market price for their Shares. To reduce the ability of the Board to use the Ownership Limit as an anti-takeover device, the Company's Ownership Limit requires, rather than permits, the Board to grant a waiver of the Ownership Limit if the individual seeking a waiver demonstrates that such ownership would not jeopardize the Company's status as a REIT. We have issued several of these waivers in the past.

Our preferred shares may affect changes in control.

Our Declaration of Trust authorizes the Board of Trustees to issue up to 100 million preferred shares, and to establish the preferences and rights (including the right to vote and the right to convert into common shares) of any preferred shares issued. The Board of Trustees may use its powers to issue preferred shares and to set the terms of such securities to delay or prevent a change in control of the Company, even if a change in control were in the interest of security holders.

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Inapplicability of Maryland law limiting certain changes in control.

Certain provisions of Maryland law applicable to real estate investment trusts prohibit “business combinations” (including certain issuances of equity securities) with any person who beneficially owns ten percent or more of the voting power of outstanding securities, or with an affiliate who, at any time within the two-year period prior to the date in question, was the beneficial owner of ten percent or more of the voting power of the Company's outstanding voting securities (an “Interested Shareholder”), or with an affiliate of an Interested Shareholder. These prohibitions last for five years after the most recent date on which the Interested Shareholder became an Interested Shareholder. After the five-year period, a business combination with an Interested Shareholder must be approved by two super-majority shareholder votes unless, among other conditions, holders of common shares receive a minimum price for their shares and the consideration is received in cash or in the same form as previously paid by the Interested Shareholder for its common shares. As permitted by Maryland law, however, the Board of Trustees of the Company has opted out of these restrictions with respect to any business combination involving Mr. Zell and certain of his affiliates and persons acting in concert with them. Consequently, the five-year prohibition and the super-majority vote requirements will not apply to a business combination involving us and/or any of them. Such business combinations may not be in the best interest of our security holders.

Our status as a REIT is dependent on compliance with federal income tax requirements.

Our failure to qualify as a REIT would have serious adverse consequences to our security holders.

We believe that we have qualified for taxation as a REIT for federal income tax purposes since our taxable year ended December 31, 1992 based, in part, upon opinions of tax counsel received whenever we have issued equity securities or engaged in significant merger transactions. We plan to continue to meet the requirements for taxation as a REIT. Many of these requirements, however, are highly technical and complex. We cannot, therefore, guarantee that we have qualified or will qualify as a REIT in the future. The determination that we are a REIT requires an analysis of various factual matters that may not be totally within our control. For example, to qualify as a REIT, our gross income must generally come from rental and other real estate or passive related sources that are itemized in the REIT tax laws. We are also required to distribute to security holders at least 90% of our REIT taxable income excluding net capital gains. The fact that we hold our assets through the Operating Partnership further complicates the application of the REIT requirements. In addition, certain of our subsidiary entities have elected to be taxed as REITs. As such, each must separately satisfy all of the requirements to qualify for REIT status. Our failure to comply with the complex REIT rules at the subsidiary REIT level can materially and adversely impact EQR's REIT status.

Even a technical or inadvertent mistake could jeopardize our REIT status; however, the REIT qualification rules permit REITs in certain circumstances to pay a monetary penalty for inadvertent mistakes rather than lose REIT status. There is also risk that Congress and the IRS might make changes to the tax laws and regulations, and the courts might issue new rulings that make it more difficult, or impossible, for us to remain qualified as a REIT. We do not believe, however, that any pending or proposed tax law changes would jeopardize our REIT status.

If we fail to qualify as a REIT, we would be subject to federal income tax at regular corporate rates. Also, unless the IRS granted us relief under certain statutory provisions, we would remain disqualified from taxation as a REIT for four years following the year in which we failed to qualify as a REIT. If we fail to qualify as a REIT, we would have to pay significant income taxes. We therefore would have less money available for investments or for distributions to security holders. This would likely have a significant adverse effect on the value of our securities. In addition, we would no longer be required to make any distributions to security holders. Even if we qualify as a REIT, we are and



will continue to be subject to certain federal, state and local taxes on our income and property. In addition, various business activities which generate income that is not qualifying income for a REIT are conducted through taxable REIT subsidiaries and will be subject to federal and state income tax at regular corporate rates to the extent they generate taxable income.

We could be disqualified as a REIT or have to pay taxes if our merger partners did not qualify as REITs.

If any of our prior merger partners had failed to qualify as a REIT throughout the duration of their existence, then they might have had undistributed "Subchapter C corporation earnings and profits" at the time of their merger with us. If that were the case and we did not distribute those earnings and profits prior to the end of the year in which the merger took place, we might not qualify as a REIT. We believe, based in part upon opinions of legal counsel received pursuant to the terms of our merger agreements as well as our own investigations, among other things, that each of our prior merger partners qualified as a REIT and that, in any event, none of them had any undistributed "Subchapter C corporation earnings and profits" at the time of their merger with us. If any of our prior merger partners failed to qualify as a REIT, an additional concern would be that they could have been required to recognize taxable gain at the time they merged with us. We would be liable for the tax on such gain. We also could

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have to pay corporate income tax on any gain existing at the time of the applicable merger on assets acquired in the merger if the assets are sold within ten years of the merger.

Compliance with REIT distribution requirements may affect our financial condition and our shareholders' liquidity.

Distribution requirements may increase the indebtedness of the Company.

We may be required from time to time, under certain circumstances, to accrue as income for tax purposes interest and rent earned but not yet received. In such event, or upon our repayment of principal on debt, we could have taxable income without sufficient cash to enable us to meet the distribution requirements of a REIT. Accordingly, we could be required to borrow funds or liquidate investments on adverse terms in order to meet these distribution requirements.

Tax elections regarding distributions may impact future liquidity of the Company or our shareholders.

Under certain circumstances we have made and/or may consider making again in the future, a tax election to treat future distributions to shareholders as distributions in the current year. This election, which is provided for in the Internal Revenue Code, may allow us to avoid increasing our dividends or paying additional income taxes in the current year. However, this could result in a constraint on our ability to decrease our dividends in future years without creating risk of either violating the REIT distribution requirements or generating additional income tax liability.

The Internal Revenue Service has published several rulings that allow REITs to offer shareholders the choice of stock or cash with respect to the receipt of a dividend (an "elective stock dividend"). However, REITs are also permitted to limit the amount of cash paid to all shareholders to 20% of the total dividend paid. Therefore, it is possible that the total tax burden to shareholders resulting from an elective stock dividend may exceed the amount of cash received by the shareholder.

## Federal Income Tax Considerations

### General

The following discussion summarizes the federal income tax considerations material to a holder of common shares. It is not exhaustive of all possible tax considerations. For example, it does not give a detailed discussion of any state, local or foreign tax considerations. The following discussion also does not address all tax matters that may be relevant to prospective shareholders in light of their particular circumstances. Moreover, it does not address all tax matters that may be relevant to shareholders who are subject to special treatment under the tax laws, such as insurance companies, tax-exempt entities, financial institutions or broker-dealers, foreign corporations, persons who are not citizens or residents of the United States and persons who own shares through a partnership or other entity treated as a flow-through entity for federal income tax purposes.

The specific tax attributes of a particular shareholder could have a material impact on the tax considerations associated with the purchase, ownership and disposition of common shares. Therefore, it is essential that each prospective shareholder consult with his or her own tax advisors with regard to the application of the federal income tax laws to the shareholder's personal tax situation, as well as any tax consequences arising under the laws of any state, local or foreign taxing jurisdiction.

The information in this section is based on the current Internal Revenue Code, current, temporary and proposed Treasury regulations, the legislative history of the Internal Revenue Code, current administrative interpretations and

practices of the Internal Revenue Service, including its practices and policies as set forth in private letter rulings, which are not binding on the Internal Revenue Service, and existing court decisions. Future legislation, regulations, administrative interpretations and court decisions could change current law or adversely affect existing interpretations of current law. Any change could apply retroactively. Thus, it is possible that the Internal Revenue Service could challenge the statements in this discussion, which do not bind the Internal Revenue Service or the courts, and that a court could agree with the Internal Revenue Service.

#### Comprehensive tax reform

The potential enactment of comprehensive U.S. federal tax reform legislation may adversely impact the taxation of the REIT, its subsidiaries or its shareholders. Tax reform legislation could result in a material increase in both our federal and state tax liabilities and may change the size and tax character of our distributions in a way that increases our shareholders' tax liabilities as compared to current law or requires the Company to distribute more than it otherwise would have. In addition, comprehensive tax reform could increase the complexity of our compliance efforts and increase tax compliance costs and could have a material impact on our operations.

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Our taxation

We elected REIT status beginning with the year that ended December 31, 1992. In any year in which we qualify as a REIT, we generally will not be subject to federal income tax on the portion of our REIT taxable income or capital gain that we distribute to our shareholders. This treatment substantially eliminates the double taxation that applies to most corporations, which pay a tax on their income and then distribute dividends to shareholders who are in turn taxed on the amount they receive. We elected taxable REIT subsidiary status for certain of our corporate subsidiaries engaged in activities which cannot be performed directly by a REIT, such as condominium conversion and sale activities. As a result, we will be subject to federal income tax on the taxable income generated by these activities in our taxable REIT subsidiaries.

We will be subject to federal income tax at regular corporate rates upon our REIT taxable income or capital gains that we do not distribute to our shareholders. In addition, we will be subject to a 4% excise tax if we do not satisfy specific REIT distribution requirements. We could also be subject to the “alternative minimum tax” on our items of tax preference. In addition, any net income from “prohibited transactions” (i.e., dispositions of property, other than property held by a taxable REIT subsidiary, held primarily for sale to customers in the ordinary course of business) will be subject to a 100% tax. We could also be subject to a 100% penalty tax on certain payments received from or on certain expenses deducted by a taxable REIT subsidiary if any such transaction is not respected by the Internal Revenue Service. If we fail to satisfy the 75% gross income test or the 95% gross income test (described below) but have maintained our qualification as a REIT because we satisfied certain other requirements, we will still generally be subject to a 100% penalty tax on the taxable income attributable to the gross income that caused the income test failure. If we fail to satisfy any of the REIT asset tests (described below) by more than a de minimis amount, due to reasonable cause, and we nonetheless maintain our REIT qualification because of specified cure provisions, we will be required to pay a tax equal to the greater of \$50,000 or the highest marginal corporate tax rate multiplied by the net income generated by the non-qualifying assets. If we fail to satisfy any provision of the Internal Revenue Code that would result in our failure to qualify as a REIT (other than a violation of the REIT gross income or asset tests described below) and the violation is due to reasonable cause, we may retain our REIT qualification but we will be required to pay a penalty of \$50,000 for each such failure. Moreover, we may be subject to taxes in certain situations and on certain transactions that we do not presently contemplate.

We believe that we have qualified as a REIT for all of our taxable years beginning with 1992. We also believe that our current structure and method of operation is such that we will continue to qualify as a REIT. However, given the complexity of the REIT qualification requirements, we cannot provide any assurance that the actual results of our operations have satisfied or will satisfy the requirements under the Internal Revenue Code for a particular year.

If we fail to qualify for taxation as a REIT in any taxable year and the relief provisions described herein do not apply, we will be subject to tax on our taxable income at regular corporate rates. We also may be subject to the corporate “alternative minimum tax.” As a result, our failure to qualify as a REIT would significantly reduce the cash we have available to distribute to our shareholders. Unless entitled to statutory relief, we would not be able to re-elect to be taxed as a REIT until our fifth taxable year after the year of disqualification. It is not possible to state whether we would be entitled to statutory relief.

Our qualification and taxation as a REIT depend on our ability to satisfy various requirements under the Internal Revenue Code. We are required to satisfy these requirements on a continuing basis through actual annual operating and other results. Accordingly, there can be no assurance that we will be able to continue to operate in a manner so as to remain qualified as a REIT.

Ownership of Taxable REIT Subsidiaries by Us. The Internal Revenue Code provides that REITs may own greater than ten percent of the voting power and value of the securities of a “taxable REIT subsidiary” or “TRS”, provided that the aggregate value of all of the TRS securities held by the REIT does not exceed 25% of the REIT's total asset value (20% for taxable years beginning January 1, 2018). TRSs are corporations subject to tax as a regular “C” corporation that have elected, jointly with a REIT, to be a TRS. Generally, a taxable REIT subsidiary may own assets that cannot otherwise be owned by a REIT and can perform impermissible tenant services (discussed below), which would otherwise taint our rental income under the REIT income tests. However, the REIT will be obligated to pay a 100% penalty tax on some payments that we receive or on certain expenses deducted by our TRSs if the economic arrangements between us, our tenants and the TRS are not comparable to similar arrangements among unrelated parties. A TRS may also receive income from prohibited transactions without incurring the 100% federal income tax liability imposed on REITs. Income from prohibited transactions may include the purchase and sale of land, the purchase and sale of completed development properties and the sale of condominium units.

TRSs pay federal and state income tax at the full applicable corporate rates. The amount of taxes paid on impermissible tenant services income and the sale of real estate held primarily for sale to customers in the ordinary course of business may be

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material in amount. The TRSs will attempt to reduce, if possible, the amount of these taxes, but we cannot guarantee whether, or the extent to which, measures taken to reduce these taxes will be successful. To the extent that these companies are required to pay taxes, less cash may be available for distributions to shareholders.

**Share Ownership Test and Organizational Requirement.** In order to qualify as a REIT, our shares of beneficial interest must be held by a minimum of 100 persons for at least 335 days of a taxable year that is 12 months, or during a proportionate part of a taxable year of less than 12 months. Also, not more than 50% in value of our shares of beneficial interest may be owned directly or indirectly by applying certain constructive ownership rules, by five or fewer individuals during the last half of each taxable year. In addition, we must meet certain other organizational requirements, including, but not limited to, that (i) the beneficial ownership in us is evidenced by transferable shares and (ii) we are managed by one or more trustees. We believe that we have satisfied all of these tests and all other organizational requirements and that we will continue to do so in the future. In order to ensure compliance with the 100 person test and the 50% share ownership test discussed above, we have placed certain restrictions on the transfer of our shares that are intended to prevent further concentration of share ownership. However, such restrictions may not prevent us from failing these requirements, and thereby failing to qualify as a REIT.

**Gross Income Tests.** To qualify as a REIT, we must satisfy two gross income tests:

(1) At least 75% of our gross income for each taxable year must generally be derived directly or indirectly from rents from real property, interest on obligations secured by mortgages on real property or on interests in real property, gain from the sale or other disposition of non-dealer real property and shares of REIT stock, dividends paid by another REIT and from some types of temporary investments (excluding certain hedging income).

(2) At least 95% of our gross income for each taxable year must generally be derived from sources qualifying under the 75% test described in (1) above, non-REIT dividends, non-real estate mortgage interest and gain from the sale or disposition of non-REIT stock or securities (excluding certain hedging income).

To qualify as rents from real property for the purpose of satisfying the gross income tests, rental payments must generally be received from unrelated persons and not be based on the net income of the resident. Also, the rent attributable to personal property must not exceed 15% of the total rent. We may generally provide services to residents without “tainting” our rental income only if such services are “usually or customarily rendered” in connection with the rental of real property and not otherwise considered “impermissible services”. If such services are impermissible, then we may generally provide them only if they are considered de minimis in amount, or are provided through an independent contractor from whom we derive no revenue and that meets other requirements, or through a taxable REIT subsidiary. We believe that services provided to residents by us either are usually or customarily rendered in connection with the rental of real property and not otherwise considered impermissible, or, if considered impermissible services, will meet the de minimis test or will be provided by an independent contractor or taxable REIT subsidiary. However, we cannot provide any assurance that the Internal Revenue Service will agree with these positions.

If we fail to satisfy one or both of the gross income tests for any taxable year, we may nevertheless qualify as a REIT for the year if we are entitled to relief under certain provisions of the Internal Revenue Code. In this case, a penalty tax would still be applicable as discussed above. Generally, it is not possible to state whether in all circumstances we would be entitled to the benefit of these relief provisions and in the event these relief provisions do not apply, we will not qualify as a REIT.

**Asset Tests.** In general, on the last day of each quarter of our taxable year, we must satisfy five tests relating to the nature of our assets:

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- (1) At least 75% of the value of our total assets must consist of real estate assets (which include for this purpose shares in other real estate investment trusts) and certain cash related items;
- (2) Not more than 25% of the value of our total assets may consist of securities other than those in the 75% asset class; Except for securities included in item 1 above, equity investments in other REITs, qualified REIT subsidiaries (i.e., corporations owned 100% by a REIT that are not TRSs or REITs), or taxable REIT subsidiaries: (a) the value of
- (3) any one issuer's securities owned by us may not exceed 5% of the value of our total assets and (b) we may not own securities representing more than 10% of the voting power or value of the outstanding securities of any one issuer;
- (4) Not more than 25% of the value of our total assets may consist of securities of one or more taxable REIT subsidiaries (20% for taxable years beginning January 1, 2018); and
- (5) Not more than 25% of the value of our total assets may be represented by nonqualified publicly offered REIT debt instruments.

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The 10% value test described in clause (3)(b) above does not apply to nonqualified publicly offered REIT debt instruments or to certain securities that fall within a safe harbor under the Code. Under the safe harbor, the following are not considered “securities” held by us for purposes of this 10% value test: (i) straight debt securities, (ii) any loan of an individual or an estate, (iii) certain rental agreements for the use of tangible property, (iv) any obligation to pay rents from real property, (v) any security issued by a state or any political subdivision thereof, foreign government or Puerto Rico only if the determination of any payment under such security is not based on the profits of another entity or payments on any obligation issued by such other entity, or (vi) any security issued by a REIT. The timing and payment of interest or principal on a security qualifying as straight debt may be subject to a contingency provided that (A) such contingency does not change the effective yield to maturity, not considering a de minimis change which does not exceed the greater of ¼ of 1% or 5% of the annual yield to maturity or we own \$1,000,000 or less of the aggregate issue price or value of the particular issuer's debt and not more than 12 months of unaccrued interest can be required to be prepaid or (B) the contingency is consistent with commercial practice and the contingency is effective upon a default or the exercise of a prepayment right by the issuer of the debt. If we hold indebtedness from any issuer, including a REIT, the indebtedness will be subject to, and may cause a violation of, the asset tests, unless it is a qualifying real estate asset or otherwise satisfies the above safe harbor. We currently own equity interests in certain entities that have elected to be taxed as REITs for federal income tax purposes and are not publicly traded. If any such entity were to fail to qualify as a REIT, we would not meet the 10% voting stock limitation and the 10% value limitation and we would, unless certain relief provisions applied, fail to qualify as a REIT. We believe that we and each of the REITs we own an interest in have and will comply with the foregoing asset tests for REIT qualification. However, we cannot provide any assurance that the Internal Revenue Service will agree with our determinations.

If we fail to satisfy the 5% or 10% asset tests described above after a 30-day cure period provided in the Internal Revenue Code, we will be deemed to have met such tests if the value of our non-qualifying assets is de minimis (i.e., does not exceed the lesser of 1% of the total value of our assets at the end of the applicable quarter or \$10,000,000) and we dispose of the non-qualifying assets within six months after the last day of the quarter in which the failure to satisfy the asset tests is discovered. For violations due to reasonable cause and not willful neglect that are in excess of the de minimis exception described above, we may avoid disqualification as a REIT under any of the asset tests, after the 30-day cure period, by disposing of sufficient assets to meet the asset test within such six month period, paying a tax equal to the greater of \$50,000 or the highest corporate tax rate multiplied by the net income generated by the non-qualifying assets and disclosing certain information to the Internal Revenue Service. If we cannot avail ourselves of these relief provisions, or if we fail to timely cure any noncompliance with the asset tests, we would cease to qualify as a REIT.

**Annual Distribution Requirements.** To qualify as a REIT, we are generally required to distribute dividends, other than capital gain dividends, to our shareholders each year in an amount at least equal to 90% of our REIT taxable income. These distributions must be paid either in the taxable year to which they relate, or in the following taxable year if declared before we timely file our tax return for the prior year and if paid with or before the first regular dividend payment date after the declaration is made. We intend to make timely distributions sufficient to satisfy our annual distribution requirements. To the extent that we do not distribute all of our net capital gain or distribute at least 90%, but less than 100% of our REIT taxable income, as adjusted, we are subject to tax on these amounts at regular corporate rates. We will be subject to a 4% excise tax on the excess of the required distribution over the sum of amounts actually distributed and amounts retained for which federal income tax was paid, if we fail to distribute during each calendar year at least the sum of: (1) 85% of our REIT ordinary income for the year; (2) 95% of our REIT capital gain net income for the year; and (3) any undistributed taxable income from prior taxable years. A REIT may elect to retain rather than distribute all or a portion of its net capital gains and pay the tax on the gains. In that case, a REIT may elect to have its shareholders include their proportionate share of the undistributed net capital gains in income as long-term capital gains and receive a credit for their share of the tax paid by the REIT. For purposes of the 4% excise tax described above, any retained amounts would be treated as having been distributed.



Ownership of Partnership Interests By Us. As a result of our ownership of the Operating Partnership, we will be considered to own and derive our proportionate share of the assets and items of income of the Operating Partnership, respectively, for purposes of the REIT asset and income tests, including its share of assets and items of income of any subsidiaries that are partnerships or limited liability companies.

State and Local Taxes. We may be subject to state or local taxation in various jurisdictions, including those in which we transact business or reside. Generally REITs have seen increases in state and local taxes in recent years. Our state and local tax treatment may not conform to the federal income tax treatment discussed above and any changes in the federal tax code may not be adopted by the states, potentially leading to material tax liabilities for the Company and its shareholders. Consequently, prospective shareholders should consult their own tax advisors regarding the effect of state and local tax laws on an investment in common shares.

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Taxation of domestic shareholders subject to U.S. tax

General. If we qualify as a REIT, distributions made to our taxable domestic shareholders with respect to their common shares, other than capital gain distributions and distributions attributable to taxable REIT subsidiaries, will be treated as ordinary income to the extent that the distributions come out of earnings and profits. These distributions will not be eligible for the dividends received deduction for shareholders that are corporations nor will they constitute “qualified dividend income” under the Internal Revenue Code, meaning that such dividends will be taxed at marginal rates applicable to ordinary income rather than the special capital gain rates currently applicable to qualified dividend income distributed to shareholders who satisfy applicable holding period requirements. In determining whether distributions are out of earnings and profits, we will allocate our earnings and profits first to preferred shares and second to the common shares. The portion of ordinary dividends which represent ordinary dividends we receive from a TRS, will be designated as “qualified dividend income” to REIT shareholders. These qualified dividends are eligible for preferential tax rates if paid to our non-corporate shareholders.

To the extent we make distributions to our taxable domestic shareholders in excess of our earnings and profits, such distributions will be considered a return of capital. Such distributions will be treated as a tax-free distribution and will reduce the tax basis of a shareholder's common shares by the amount of the distribution so treated. To the extent such distributions cumulatively exceed a taxable domestic shareholder's tax basis, such distributions are taxable as gain from the sale of shares. Shareholders may not include in their individual income tax returns any of our net operating losses or capital losses.

Dividends declared by a REIT in October, November, or December are deemed to have been paid by the REIT and received by its shareholders on December 31 of that year, so long as the dividends are actually paid during January of the following year. However, this treatment only applies to the extent of the REIT's earnings and profits existing on December 31. To the extent the shareholder distribution paid in January exceeds available earnings and profits as of December 31, the excess will be treated as a distribution taxable to shareholders in the year paid. As such, for tax reporting purposes, January distributions paid to our shareholders may be split between two tax years.

A REIT may make an election under the Internal Revenue Code to treat certain dividends that are paid in a taxable year, as being made by the REIT in the previous taxable year. A shareholder is required to include the amount of the dividend in the taxable year that it is paid by the REIT.

Distributions made by us that we properly designate as capital gain dividends will be taxable to taxable domestic shareholders as gain from the sale or exchange of a capital asset held for more than one year. This treatment applies only to the extent that the designated distributions do not exceed our actual net capital gain for the taxable year or the amount of distributions treated as dividends for the taxable year. It applies regardless of the period for which a domestic shareholder has held his or her common shares. Despite this general rule, corporate shareholders may be required to treat up to 20% of certain capital gain dividends as ordinary income.

Generally, our designated capital gain dividends will be broken out into net capital gains distributions (which are taxable to taxable domestic shareholders that are individuals, estates or trusts at a maximum rate of 20% for individual taxpayers in the highest tax bracket) and unrecaptured Section 1250 gain distributions (which are taxable to taxable domestic shareholders that are individuals, estates or trusts at a maximum rate of 25%).

Certain U.S. shareholders that are taxed as individuals, estates or trusts may also be required to pay an additional 3.8% tax on, among other things, dividends on and capital gains from the sale or other disposition of shares.

If, for any taxable year, we elect to designate as capital gain dividends any portion of the dividends paid or made available for the year to holders of all classes of shares of beneficial interest, then the portion of the capital gains dividends that will be allocable to the holders of common shares will be the total capital gain dividends multiplied by a fraction. The numerator of the fraction will be the total dividends paid or made available to the holders of the common shares for the year. The denominator of the fraction will be the total dividends paid or made available to holders of all classes of shares of beneficial interest.

We may elect to retain (rather than distribute as is generally required) net capital gain for a taxable year and pay the income tax on that gain. If we make this election, shareholders must include in income, as long-term capital gain, their proportionate share of the undistributed net capital gain. Shareholders will be treated as having paid their proportionate share of the tax paid by us on these gains. Accordingly, they will receive a tax credit or refund for the amount. Shareholders will increase the basis in their common shares by the difference between the amount of capital gain included in their income and the amount of the tax they are treated as having paid. Our earnings and profits will be adjusted appropriately.

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In general, a shareholder will recognize gain or loss for federal income tax purposes on the sale or other disposition of common shares in an amount equal to the difference between:

- (a) the amount of cash and the fair market value of any property received in the sale or other disposition; and
- (b) the shareholder's adjusted tax basis in the common shares.

The gain or loss will be capital gain or loss if the common shares were held as a capital asset. Generally, the capital gain or loss will be long-term capital gain or loss if the common shares were held for more than one year.

In general, a loss recognized by a shareholder upon the sale of common shares that were held for six months or less, determined after applying certain holding period rules, will be treated as long-term capital loss to the extent that the shareholder received distributions that were treated as long-term capital gains. For shareholders who are individuals, trusts and estates, the long-term capital loss will be apportioned among the applicable long-term capital gain rates to the extent that distributions received by the shareholder were previously so treated.

### Taxation of domestic tax-exempt shareholders

Most tax-exempt organizations are not subject to federal income tax except to the extent of their unrelated business taxable income, which is often referred to as UBTI. Unless a tax-exempt shareholder holds its common shares as debt financed property or uses the common shares in an unrelated trade or business, distributions to the shareholder should not constitute UBTI. Similarly, if a tax-exempt shareholder sells common shares, the income from the sale should not constitute UBTI unless the shareholder held the shares as debt financed property or used the shares in a trade or business.

However, for tax-exempt shareholders that are social clubs, voluntary employee benefit associations, supplemental unemployment benefit trusts, and qualified group legal services plans, income from owning or selling common shares will constitute UBTI unless the organization is able to properly deduct amounts set aside or placed in reserve so as to offset the income generated by its investment in common shares. These shareholders should consult their own tax advisors concerning these set aside and reserve requirements which are set forth in the Internal Revenue Code.

In addition, certain pension trusts that own more than 10% of a "pension-held REIT" must report a portion of the distributions that they receive from the REIT as UBTI. We have not been and do not expect to be treated as a pension-held REIT for purposes of this rule.

### Taxation of foreign shareholders

The following is a discussion of certain anticipated United States federal income tax consequences of the ownership and disposition of common shares applicable to a foreign shareholder. For purposes of this discussion, a "foreign shareholder" is any person other than:

- (a) a citizen or resident of the United States;
- (b) a corporation or partnership created or organized in the United States or under the laws of the United States or of any state thereof; or
- (c) an estate or trust whose income is includable in gross income for United States federal income tax purposes regardless of its source.

Distributions by Us. Distributions by us to a foreign shareholder that are neither attributable to gain from sales or exchanges by us of United States real property interests nor designated by us as capital gains dividends will be treated

as dividends of ordinary income to the extent that they are made out of our earnings and profits. These distributions ordinarily will be subject to withholding of United States federal income tax on a gross basis at a 30% rate, or a lower treaty rate, unless the dividends are treated as effectively connected with the conduct by the foreign shareholder of a United States trade or business. Please note that under certain treaties lower withholding rates generally applicable to dividends do not apply to dividends from REITs. Dividends that are effectively connected with a United States trade or business will be subject to tax on a net basis at graduated rates, and are generally not subject to withholding. Certification and disclosure requirements must be satisfied before a dividend is exempt from withholding under this exemption. A foreign shareholder that is a corporation also may be subject to an additional branch profits tax at a 30% rate or a lower treaty rate.

We expect to withhold United States income tax at the rate of 30% on any such distributions made to a foreign shareholder unless:

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- (a) a lower treaty rate applies and any required form or certification evidencing eligibility for that reduced rate is filed with us; or
- (b) the foreign shareholder files an IRS Form W-8ECI with us claiming that the distribution is effectively connected income.

If such distribution is in excess of our current or accumulated earnings and profits, it will not be taxable to a foreign shareholder to the extent that the distribution does not exceed the adjusted basis of the shareholder's common shares. Instead, the distribution will reduce the adjusted basis of the common shares. To the extent that the distribution exceeds the adjusted basis of the common shares, it will give rise to gain from the sale or exchange of the shareholder's common shares. The tax treatment of this gain is described below.

We intend to withhold at a rate of 30%, or a lower applicable treaty rate, on the entire amount of any distribution not designated as a capital gain distribution. In such event, a foreign shareholder may seek a refund of the withheld amount from the IRS if it is subsequently determined that the distribution was, in fact, in excess of our earnings and profits, and the amount withheld exceeded the foreign shareholder's United States tax liability with respect to the distribution.

Distributions to a foreign shareholder that we designate at the time of the distributions as capital gain dividends, other than those arising from the disposition of a United States real property interest, generally will not be subject to United States federal income taxation unless:

- (a) the investment in the common shares is effectively connected with the foreign shareholder's United States trade or business, in which case the foreign shareholder will be subject to the same treatment as domestic shareholders, except that a shareholder that is a foreign corporation may also be subject to the branch profits tax, as discussed above; or
- (b) the foreign shareholder is a nonresident alien individual who is present in the United States for 183 days or more during the taxable year and has a "tax home" in the United States, in which case the nonresident alien individual will be subject to a 30% tax on the individual's capital gains.

Under the Foreign Investment in Real Property Tax Act, which is known as FIRPTA, distributions to a foreign shareholder (other than certain qualified shareholders and qualified foreign pension funds discussed below) that are attributable to gain from sales or exchanges of United States real property interests will cause the foreign shareholder to be treated as recognizing the gain as income effectively connected with a United States trade or business. This rule applies whether or not a distribution is designated as a capital gain dividend. Accordingly, foreign shareholders generally would be taxed on these distributions at the same rates applicable to U.S. shareholders, subject to a special alternative minimum tax in the case of nonresident alien individuals. In addition, a foreign corporate shareholder might be subject to the branch profits tax discussed above, as well as U.S. federal income tax return filing requirements. We are required to withhold 35% of these distributions. The withheld amount can be credited against the foreign shareholder's United States federal income tax liability.

Although the law is not entirely clear on the matter, it appears that amounts we designate as undistributed capital gains in respect of the common shares held by U.S. shareholders would be treated with respect to foreign shareholders in the same manner as actual distributions of capital gain dividends. Under that approach, foreign shareholders would be able to offset as a credit against their United States federal income tax liability their proportionate share of the tax paid by us on these undistributed capital gains. In addition, if timely requested, foreign shareholders might be able to receive from the IRS a refund to the extent their proportionate share of the tax paid by us were to exceed their actual United States federal income tax liability.

Foreign Shareholders' Sales of Common Shares. Gain recognized by a foreign shareholder upon the sale or exchange of common shares generally will not be subject to United States taxation unless the shares constitute a "United States real property interest" within the meaning of FIRPTA. The common shares will not constitute a United States real property interest so long as we are a domestically controlled REIT. A domestically controlled REIT is a REIT in which at all times during a specified testing period less than 50% in value of its stock is held directly or indirectly by foreign shareholders. We believe that we are a domestically controlled REIT. Therefore, we believe that the sale of common shares will not be subject to taxation under FIRPTA. However, because common shares and preferred shares are publicly traded, we cannot guarantee that we will continue to be a domestically controlled REIT. In any event, gain from the sale or exchange of common shares not otherwise subject to FIRPTA will be subject to U.S. tax, if either:

the investment in the common shares is effectively connected with the foreign shareholder's United States trade or (a) business, in which case the foreign shareholder will be subject to the same treatment as domestic shareholders with respect to the gain; or

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the foreign shareholder is a nonresident alien individual who is present in the United States for 183 days or more (b) during the taxable year and has a tax home in the United States, in which case the nonresident alien individual will be subject to a 30% tax on the individual's capital gains.

Even if we do not qualify as or cease to be a domestically controlled REIT, gain arising from the sale or exchange by a foreign shareholder of common shares still would not be subject to United States taxation under FIRPTA as a sale of a United States real property interest if:

- (a) the class or series of shares being sold is “regularly traded,” as defined by applicable IRS regulations, on an established securities market such as the New York Stock Exchange; and
- (b) the selling foreign shareholder owned 10% or less of the value of the outstanding class or series of shares being sold throughout the five-year period ending on the date of the sale or exchange.

If gain on the sale or exchange of common shares were subject to taxation under FIRPTA, the foreign shareholder would be subject to regular United States income tax with respect to the gain in the same manner as a taxable U.S. shareholder, subject to any applicable alternative minimum tax, a special alternative minimum tax in the case of nonresident alien individuals and the possible application of the branch profits tax in the case of foreign corporations. The purchaser of the common shares would be required to withhold and remit to the IRS 15% of the purchase price.

**Exception to FIRPTA for Qualified Shareholders.** For dispositions and distributions after December 18, 2015, stock of a REIT held (directly or through partnerships) by a “qualified shareholder” will not be treated as United States real property interest, and capital gain dividends from such a REIT will not be treated as gain from the sale of a United States real property interest. This exception does not apply to persons that hold an interest, taking into account applicable constructive ownership rules, more than 10% of the stock of the REIT (unless that interest is solely as a creditor (an “applicable investor”). If the qualified shareholder has such an “applicable investor,” the portion of REIT stock indirectly owned through the qualified shareholder by the applicable investor will be treated as gains from the sale of United States real property interests. For these purposes, a “qualified shareholder” is a foreign person which is in a treaty jurisdiction and satisfies certain publicly traded requirements, is a “qualified collective investment vehicle” and maintains records on the identity of certain 5% owners. A “qualified collective investment vehicle” is a foreign person that is eligible for a reduced withholding rate with respect to ordinary REIT dividends even if such person holds more than 10% of the REIT’s stock, a publicly traded partnership that is a withholding foreign partnership that would be a United States real property holding corporation if it were a United States corporation, or is designated as a qualified collective investment vehicle by the Secretary of the Treasury and is either fiscally transparent within the meaning of the Code or required to include dividends in its gross income but entitled to a deduction for distribution to its investors. Finally, capital gain dividends and nondividend redemption and liquidating distributions to a qualified shareholder that are not allocable to an applicable investor will be treated as ordinary dividends.

**Exception to FIRPTA Withholding for Qualified Foreign Pension Funds.** For distributions or disposition of REIT stock after December 18, 2015, “qualified foreign pension funds” and entities that are wholly owned by a qualified foreign pension fund are exempted from FIRPTA withholding. For these purposes, a “qualified foreign pension fund” is any trust, corporation, or other organization or arrangement if (i) it was created or organized under foreign law, (ii) it was established to provide retirement or pension benefits to participants or beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, (iii) it does not have a single participant or beneficiary with a right to more than 5% of its assets or income, (iv) it is subject to government regulation and provides annual information reporting about its beneficiaries to the relevant tax authorities in the country in which it is established or operates, and (v) under the laws of the country in which it is established or operates, either contributions to such fund which would otherwise be subject to tax under such laws are deductible or excluded from the gross income of such fund or taxed at a reduced rate, or taxation of any



investment income of such fund is deferred or such income is taxed at a reduced rate.

Information reporting requirement and backup withholding

We will report to our domestic shareholders and the Internal Revenue Service the amount of distributions paid during each calendar year and the amount of tax withheld, if any. Under certain circumstances, domestic shareholders may be subject to backup withholding. Backup withholding will apply only if such domestic shareholder fails to furnish certain information to us or the Internal Revenue Service. Backup withholding will not apply with respect to payments made to certain exempt recipients, such as corporations and tax-exempt organizations. Domestic shareholders should consult their own tax advisors regarding their qualification for exemption from backup withholding and the procedure for obtaining such an exemption. Backup withholding is not an additional tax. Rather, the amount of any backup withholding with respect to a payment to a domestic shareholder will be allowed as a credit against such person's United States federal income tax liability and may entitle such person to a refund,

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provided that the required information is timely furnished to the Internal Revenue Service.

#### Withholding on foreign financial institutions and non-U.S. shareholders

The Foreign Account Tax Compliance Act (“FATCA”) imposes a U.S. withholding tax at a 30% rate on dividends and on proceeds from the sale of our shares paid beginning January 1, 2019 to “foreign financial institutions” (as defined under FATCA) and certain other foreign entities if certain due diligence and disclosure requirements related to U.S. accounts with, or ownership of, such entities are not satisfied or an exemption does not apply. If FATCA withholding is imposed, non-U.S. beneficial owners that are otherwise eligible for an exemption from, or a reduction of, U.S. withholding tax with respect to such distributions and sale proceeds would be required to seek a refund from the Internal Revenue Service to obtain the benefit of such exemption or reduction. Any payment made by us that is subject to withholding under FATCA or otherwise will be net of the amount required to be withheld.

#### Item 1B. Unresolved Staff Comments

None.

#### Item 2. Properties

As of December 31, 2016, the Company, directly or indirectly through investments in title holding entities, owned all or a portion of 302 properties located in 10 states and the District of Columbia consisting of 77,458 apartment units. See Note 4 in the Notes to Consolidated Financial Statements for discussion of the Starwood Transaction and the significant dispositions which occurred during 2016. See also Item 1, Business, for additional information regarding the Company's properties and the markets/metro areas upon which we are focused. The Company's properties are summarized by building type in the following table:

Type	Properties	Apartment Units	Average Apartment Units
Garden	110	27,769	252
Mid/High-Rise	192	49,689	259
	302	77,458	256

The Company's properties are summarized by ownership type in the following table:

	Properties	Apartment Units
Wholly Owned Properties	280	72,445
Master-Leased Properties – Consolidated	3	853
Partially Owned Properties – Consolidated	17	3,215
Partially Owned Properties – Unconsolidated	2	945