

AMERICAN CAMPUS COMMUNITIES INC

Form S-4

April 02, 2008

Use these links to rapidly review the document

[TABLE OF CONTENTS](#)

[AMERICAN CAMPUS COMMUNITIES, INC. AND SUBSIDIARIES INDEX TO UNAUDITED PRO FORMA CONSOLIDATED FINANCIAL STATEMENTS](#)

[ANNEX A](#)

As filed with the Securities and Exchange Commission on April 2, 2008

Registration No. 333-

---

## SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

---

### FORM S-4

REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

---

## AMERICAN CAMPUS COMMUNITIES, INC.

(Exact Name of Registrant as Specified in its Charter)

**Maryland**  
(State or Other Jurisdiction of  
Incorporation or Organization)

**6798**  
(Primary Standard Industrial  
Classification Code Number)  
**805 Las Cimas Parkway, Suite 400**  
**Austin, Texas 78746**  
**(512) 732-1000**

**76-0753089**  
(I.R.S. Employee  
Identification No.)

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

**William C. Bayless, Jr.**  
**President and Chief Executive Officer**  
**American Campus Communities, Inc.**  
**805 Las Cimas Parkway, Suite 400**  
**Austin, Texas 78746**  
**(512) 732-1000**

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

---

*Copies to:*

**Bryan L. Goolsby, Esq.**  
**Toni Weinstein, Esq.**  
**Locke Lord Bissell & Liddell LLP**  
**2200 Ross Avenue, Suite 2200**  
**Dallas, Texas 75201**  
**(214) 740-8000**  
**Facsimile: (214) 740-8800**

**Gilbert G. Menna, Esq.**  
**Suzanne D. Lecaroz, Esq.**  
**Goodwin Procter LLP**  
**Exchange Place**  
**Boston, Massachusetts 02109**  
**(617) 570-1000**  
**Facsimile No: (617) 523-1231**

---

**Approximate date of commencement of proposed sale to the public:** As soon as practicable after the effectiveness of this registration statement and the satisfaction or waiver of all conditions under the merger agreement described herein.

## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

If the securities being registered on this form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box.

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

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

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

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

### CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered(1)	Proposed Maximum Offering Price Per Note	Proposed Maximum Aggregate Offering Price(2)	Amount of Registration Fee(3)
Common Stock	5,449,832	N/A	\$392,941,319	\$15,443

(1) The number of shares of American Campus Communities, Inc.'s common stock to be registered pursuant to this Registration Statement is based on the maximum number of shares of American Campus Communities, Inc.'s common stock issuable to holders of GMH Communities Trust's common shares and partnership units in the mergers at the exchange ratio of 0.07642 of a share of American Campus Communities, Inc.'s common stock in exchange for each GMH Communities Trust common share and in certain circumstances, each GMH Communities, LP partnership unit (based on an aggregate of 71,314,214 common shares of GMH Communities Trust and partnership units of GMH Communities, LP expected to be outstanding

*(footnotes continue on following page)*

**The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8 of the Securities Act or until this Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8, may determine.**

## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

immediately prior to the effective time of the mergers). Includes up to 2,265,420 shares of American Campus Communities, Inc.'s common stock issuable upon conversion of 2,265,420 partnership units of American Campus Communities Operating Partnership LP (which represents the maximum number of partnership units of American Campus Communities Operating Partnership LP issuable in the mergers in exchange for partnership units of GMH Communities, LP). Pursuant to Rule 416(a) of the Securities Act of 1933, as amended, this registration statement also registers such additional shares of American Campus Communities, Inc. common stock as may become issuable to holders of partnership units to prevent dilution as a result of stock splits, stock dividends or similar transactions.

(2)

Pursuant to paragraphs (c), (f)(1) and (f)(3) of Rule 457 and estimated solely for the purpose of calculating the registration fee, the proposed maximum aggregate offering price equals: (i) the product of (A) \$8.87, the average of the high and low prices for GMH Communities Trust common shares as reported on the New York Stock Exchange on April 1, 2008, multiplied by (B) 71,314,214 common shares of GMH Communities Trust and partnership units of GMH Communities, LP expected to be outstanding immediately prior to the effective time of the mergers; less (ii) the amount of cash to be paid by American Campus Communities, Inc. in exchange for common shares of GMH Communities Trust and partnership units of GMH Communities, LP, or approximately \$239,615,759.

(3)

The registration fee for the securities registered hereby has been calculated pursuant to Section 6(b) of the Securities Act.

---

Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

Dear Shareholder:

On behalf of our Board of Trustees, I cordially invite you to attend a special meeting of shareholders of GMH Communities Trust, or GMH, a Maryland real estate investment trust, to be held on \_\_\_\_\_, 2008 at \_\_\_\_\_ a.m. local time. The special meeting will take place at \_\_\_\_\_.

At the special meeting, we will ask you to consider and approve the merger of American Campus Acquisition LLC, a Delaware limited liability company and a wholly-owned subsidiary of American Campus Communities Operating Partnership LP, the operating partnership of American Campus Communities, Inc., or ACC, with and into GMH. Upon completion of the merger, holders of our common shares will have the right to receive, in exchange for each common share owned, (i) \$3.36 in cash and (ii) 0.07642 of a common share of ACC, without interest and less any required withholding tax, as more fully described in the enclosed proxy statement/prospectus. On \_\_\_\_\_, 2008, the last trading date prior to the printing of the proxy statement/prospectus that accompanies this letter, the closing price of ACC's common shares as reported on the New York Stock Exchange was \$ \_\_\_\_\_ per share.

In addition, holders of our common shares are expected to receive, upon completion of the sale of GMH's military housing division to Balfour Beatty, Inc., a U.S. subsidiary of Balfour Beatty plc, a net distribution of approximately \$4.08 per share/unit, subject to adjustment as described in this proxy statement/prospectus. The closing of the military housing sale is a condition to the obligations of GMH and ACC to consummate the merger.

After careful consideration, our Board of Trustees unanimously approved the merger, the merger agreement and the other transactions contemplated by the merger agreement, and has declared each to be advisable and in the best interests of GMH and its shareholders. **Our Board of Trustees recommends that you vote "FOR" the approval of the merger.**

The affirmative vote of holders of at least two-thirds of our outstanding common shares that are entitled to vote at the special meeting is required to approve the merger. The proxy statement/prospectus accompanying this letter provides you with more specific information concerning the special meeting, the merger agreement and the other transactions contemplated by the merger agreement. We encourage you to read carefully the enclosed proxy statement/prospectus, including the appendices.

**Your vote is very important, regardless of the number of common shares that you own. Whether or not you plan to attend the special meeting, we request that you cast your vote in accordance with the instructions set forth on the enclosed proxy card. If you attend the special meeting, you may continue to have your shares voted as instructed in the proxy, or you may withdraw your proxy at the special meeting and vote your shares in person. If you fail to vote by proxy or in person, or fail to instruct your broker on how to vote, it will have the same effect as a vote against approval of the merger.**

**Please do not send your common share certificates at this time. If the merger is approved, we will send specific instructions regarding the exchange of your certificates.**

Thank you for your cooperation and continued support.

Very truly yours,

Gary M. Holloway, Sr.  
*Chairman, President and Chief Executive Officer*

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved, or passed upon the merits or fairness, of the merger, the merger agreement or the other transactions contemplated by the merger agreement, or**

**passed upon the adequacy or accuracy of the enclosed proxy statement/prospectus. Any representation to the contrary is a criminal offense.**

This proxy statement/prospectus is dated \_\_\_\_\_, 2008 and is first being mailed to our shareholders on or about \_\_\_\_\_, 2008.

---

**SOURCES OF ADDITIONAL INFORMATION**

This proxy statement/prospectus incorporates important business and financial information about ACC and GMH that is not included or delivered with this document. This information is available without charge to ACC and GMH shareholders upon written or oral request. You can obtain the documents incorporated by reference in this proxy statement/prospectus by requesting them in writing or by telephone from the appropriate company at the following addresses and telephone numbers:

American Campus Communities, Inc.  
805 Las Cimas Parkway, Suite 400  
Austin, Texas 78746  
Attention: Investor Relations  
Telephone: (512) 732-1000

GMH Communities Trust  
10 Campus Boulevard  
Newtown Square, Pennsylvania 19073  
Attention: Investor Relations  
Telephone: (610) 355-8000

To obtain timely delivery of requested documents prior to the special meeting of GMH shareholders, you must request them no later than , 2008, which is five business days prior to the date of the meeting.

Also see "Where You Can Find More Information" on page 137 of this proxy statement/prospectus.

**ELECTRONIC AND TELEPHONE PROXY AUTHORIZATION**

GMH shareholders of record on the close of business on , 2008, the record date for the GMH special meeting, may authorize their proxies to vote their shares by telephone or Internet by following the instructions on their proxy card or voting form. If you have any questions regarding how to authorize your proxy by telephone or by Internet, please call Georgeson Inc. toll-free at .

## GMH COMMUNITIES TRUST

10 Campus Boulevard  
Newtown Square, Pennsylvania 19073

### NOTICE OF SPECIAL MEETING OF SHAREHOLDERS TO BE HELD ON \_\_\_\_\_, 2008

Dear GMH Shareholder:

You are cordially invited to attend a special meeting of the shareholders of GMH Communities Trust, a Maryland real estate investment trust, on \_\_\_\_\_, 2008, beginning at \_\_\_\_\_ a.m. local time, at \_\_\_\_\_. The special meeting is being held for the purpose of acting on the following matters:

1. To consider and vote on a proposal to approve the merger of American Campus Acquisition LLC, a Delaware limited liability company and a wholly-owned subsidiary of American Campus Communities Operating Partnership LP, the operating partnership of American Campus Communities, Inc., with and into GMH Communities Trust, pursuant to the Agreement and Plan of Merger, dated as of February 11, 2008, by and among GMH Communities Trust, GMH Communities, Inc., GMH Communities, LP, American Campus Communities, Inc., American Campus Communities Operating Partnership LP, American Campus Acquisition LLC and American Campus Acquisition Limited Partnership LP, referred to as the merger agreement; and
2. To consider and vote on a proposal to approve any adjournment or postponement of the special meeting for the purpose of soliciting additional proxies if there are not sufficient votes at the time of the special meeting to approve the merger.

The merger agreement, which explains the merger, is attached to this proxy statement/prospectus as Annex A. Only shareholders of record as of the close of business on \_\_\_\_\_, 2008 will be entitled to notice of or to vote at the special meeting or any adjournment or postponement of that special meeting.

We encourage you to read the attached proxy statement/prospectus carefully. If you have any questions or need assistance voting your shares, please call our proxy solicitor, Georgeson Inc., toll-free at \_\_\_\_\_.

By Order of the Board of Trustees,

Joseph M. Macchione  
*Executive Vice President, General Counsel and Secretary*

Newtown Square, Pennsylvania  
\_\_\_\_\_, 2008

---

## TABLE OF CONTENTS

	<u>Page</u>
<u>SUMMARY</u>	1
<u>The Companies</u>	1
<u>The Mergers</u>	2
<u>Military Housing Sale</u>	3
<u>Home Office and Disposition Properties</u>	3
<u>The GMH Special Meeting</u>	4
<u>Risk Factors</u>	4
<u>GMH's Recommendation to its Shareholders</u>	4
<u>Opinion of GMH's Financial Advisor</u>	5
<u>Ownership of ACC Following the Mergers</u>	5
<u>Conditions to the Mergers</u>	5
<u>Termination</u>	7
<u>Termination Fees and Expenses</u>	8
<u>Financing of the Mergers</u>	9
<u>Interests of GMH's Trustees and Executive Officers in the Mergers</u>	10
<u>Accounting Treatment</u>	10
<u>Material U.S. Federal Income Tax Consequences to GMH Shareholders of the REIT Merger and Distributions</u>	11
<u>Regulatory Matters</u>	11
<u>Appraisal or Dissenters' Rights</u>	11
<u>The Rights of GMH Shareholders Will Change</u>	11
<u>Selected Historical Financial Data of ACC</u>	12
<u>Selected Historical Financial Data of GMH</u>	13
<u>Summary Unaudited Pro Forma Consolidated Financial Information</u>	15
<u>Comparative Per Share Data</u>	16
<u>Comparative Per Share Market Price and Dividend Information</u>	16
<u>Comparative Market Data</u>	18
<u>QUESTIONS AND ANSWERS ABOUT THE MERGERS</u>	19
<u>RISK FACTORS</u>	26
<u>Risk Factors Relating to the Mergers</u>	26
<u>Risk Factors Relating to ACC Following the Mergers</u>	30
<u>CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS</u>	32
<u>THE GMH SPECIAL MEETING</u>	33
<u>Date, Time and Place</u>	33
<u>Purpose</u>	33
<u>Recommendation of GMH's Board of Trustees</u>	33
<u>Voting by Trustees and Executive Officers</u>	33
<u>Record Date; Outstanding Shares and Voting Rights</u>	33
<u>Vote Required; Quorum</u>	33
<u>Voting of Proxies</u>	34
<u>Proxy Authorization Electronically or by Telephone</u>	34
<u>Appraisal or Dissenters' Rights</u>	35
<u>Revocation of Proxies</u>	35
<u>Solicitation of Proxies; Expenses</u>	35



<u>THE MERGERS AND RELATED TRANSACTIONS</u>	37
<u>General</u>	37
<u>Background of the Mergers</u>	37
<u>GMH's Reasons for the Mergers</u>	43
<u>Military Housing Sale</u>	47
<u>Home Office and Disposition Properties</u>	48
<u>Certain Effects of the Mergers</u>	49
<u>Effects on GMH if the Mergers are Not Completed</u>	49
<u>ACC's Reasons for the Mergers</u>	51
<u>Financing of the Mergers</u>	51
<u>Opinion of GMH's Financial Advisor</u>	54
<u>Accounting Treatment for the Mergers</u>	62
<u>Regulatory Matters</u>	62
<u>Delisting and Deregistration of GMH Common Shares; Listing of ACC Common Stock Issued in Connection with the Mergers</u>	62
<u>INTERESTS OF TRUSTEES AND EXECUTIVE OFFICERS OF GMH IN THE MERGERS</u>	63
<u>Equity Compensation Awards</u>	63
<u>Employment Agreements</u>	63
<u>Success Fees</u>	63
<u>Put Agreement</u>	64
<u>Indemnification</u>	64
<u>Appointment to ACC's Board of Directors</u>	65
<u>THE MERGER AGREEMENT</u>	66
<u>The Mergers</u>	66
<u>The Merger Consideration and Effects of the Mergers</u>	67
<u>Representations and Warranties of the GMH Parties</u>	69
<u>Representations and Warranties of the ACC Parties</u>	72
<u>Covenants Related to Conduct of Business of GMH</u>	74
<u>Covenants Related to Conduct of Business of ACC</u>	78
<u>Other Covenants</u>	79
<u>Non-Solicitation</u>	79
<u>Debt Financing</u>	81
<u>Home Office and Disposition Properties</u>	81
<u>Military Housing Sale</u>	82
<u>Fidelity Agreement</u>	82
<u>Conditions to the Mergers</u>	82
<u>Termination</u>	84
<u>Termination Fees and Expenses</u>	85
<u>Remedies</u>	86
<u>Amendment of the Merger Agreement</u>	86
<u>MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS</u>	87
<u>Material U.S. Federal Income Tax Consequences to GMH Shareholders of the REIT Merger and Distributions</u>	88
<u>Material U.S. Federal Income Tax Considerations Applicable to Holders of ACC Common Stock</u>	92
<u>ACC'S POLICIES WITH RESPECT TO CERTAIN ACTIVITIES</u>	112
<u>Investment Policies</u>	112
<u>Dispositions</u>	113

## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

<u>Financing Policies</u>	113
<u>Conflict of Interest Policies</u>	113
<u>Interested Director and Officer Transactions</u>	114
<u>Business Opportunities</u>	114
<u>Policies with Respect to Other Activities</u>	114
<u>GMH'S POLICIES WITH RESPECT TO CERTAIN ACTIVITIES</u>	115
<u>Investment Approval Policy</u>	115
<u>Leverage Ratio Target</u>	115
<u>Investments in Securities or Entities</u>	116
<u>Lending Policies</u>	116
<u>Equity Capital Policies</u>	117
<u>Review, Approval or Ratification of Transactions with Related Persons</u>	117
<u>COMPARISON OF RIGHTS OF STOCKHOLDERS OF ACC AND SHAREHOLDERS OF GMH</u>	119
<u>Capitalization</u>	119
<u>Composition of Boards</u>	119
<u>Vacancies on and Removal from the Boards</u>	120
<u>Charter and Bylaw Amendments</u>	120
<u>Transactions Outside the Ordinary Course of Business</u>	120
<u>Advance Notice of Director Nominations and New Business</u>	121
<u>Limits on Ownership and Transfer of Shares</u>	122
<u>Stockholder Meetings</u>	125
<u>Business Combination Act</u>	125
<u>Control Share Acquisition Act</u>	125
<u>DESCRIPTION OF ACC CAPITAL STOCK</u>	127
<u>General</u>	127
<u>Common Stock</u>	127
<u>Preferred Stock</u>	128
<u>Restrictions on Transfer</u>	128
<u>Transfer Agent and Registrar</u>	131
<u>SELLING STOCKHOLDERS</u>	132
<u>Exchange of Units</u>	132
<u>Selling Stockholders</u>	133
<u>Plan of Distribution</u>	134
<u>SHAREHOLDER PROPOSALS</u>	135
<u>LEGAL MATTERS</u>	136
<u>EXPERTS</u>	136
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	137
<u>AMERICAN CAMPUS COMMUNITIES, INC. AND SUBSIDIARIES INDEX TO UNAUDITED PRO FORMA CONSOLIDATED FINANCIAL STATEMENTS</u>	F-1
<u>Annex A Agreement and Plan of Merger</u>	
<u>Annex B Opinion of Wachovia Capital Markets, LLC</u>	

## SUMMARY

*This Summary, together with the "Questions and Answers About the Mergers," summarizes the material information in this proxy statement/prospectus. To understand the mergers fully and for a more complete description of the legal terms of the mergers, you should read carefully this entire document and the documents to which we have referred you. This Summary also highlights, to a limited extent, the sale of GMH's military housing division, which closing is a condition to the obligations of American Campus Communities, Inc. and GMH Communities Trust to consummate the mergers. See "Where You Can Find More Information." Page references have been included parenthetically to direct you to a more complete description of the topics in this document.*

### The Companies

#### *American Campus Communities, Inc.*

805 Las Cimas Parkway, Suite 400  
Austin, Texas 78746  
(512) 732-1000

American Campus Communities, Inc., or ACC, is a fully integrated, self-managed and self-administered equity real estate investment trust, or REIT. Through its controlling interest in American Campus Communities Operating Partnership LP, or the ACC Operating Partnership, ACC is one of the largest owners, managers and developers of high quality student housing properties in the United States in terms of beds owned and under management with expertise in the acquisition, design, financing, development, construction management, leasing and management of student housing properties. As of December 31, 2007, its property portfolio contained 44 student housing properties with approximately 28,600 beds and approximately 9,500 apartment units, consisting of 38 owned off-campus properties that are in close proximity to colleges and universities, two American Campus Equity (ACE ) on-campus properties currently under development that will be owned and operated under long-term ground/facility leases with a related university system and four on-campus participating properties operated under ground/facility leases with the related university systems. These communities contain modern housing units, offer resort-style amenities and are supported by a resident assistant system and other student-oriented programming.

ACC also provides construction management and development services primarily for student housing properties owned by colleges and universities, charitable foundations and others. As of December 31, 2007, ACC provided third-party management and leasing services for 19 properties (seven of which it served as the third-party developer and construction manager) that represented approximately 15,200 beds in approximately 6,000 units. Third-party management and leasing services are typically provided pursuant to multi-year management contracts that have initial terms that range from one to five years. As of December 31, 2007, ACC's total owned and managed portfolio included 63 properties with approximately 43,800 beds in approximately 15,500 units.

Each of American Campus Acquisition LLC and American Campus Acquisition Limited Partnership LP is a newly-formed subsidiary of American Campus Communities, Inc. that was formed solely for the purpose of effecting the mergers. Neither American Campus Acquisition LLC nor American Campus Acquisition Limited Partnership LP has conducted, nor will it conduct, any business prior to the mergers. ACC, the ACC Operating Partnership, American Campus Acquisition LLC and American Campus Acquisition Limited Partnership LP are collectively referred to as the ACC Parties in this proxy statement/prospectus.

***GMH Communities Trust***

10 Campus Boulevard  
Newtown Square, Pennsylvania 19073  
(610) 355-8000

GMH Communities Trust, or GMH, is a self-advised, self-managed, specialty housing company that focuses on providing housing to college and university students residing off-campus and to members of the U.S. military and their families. Through GMH Communities, LP, or the GMH Operating Partnership, GMH owns and operates its student housing properties and owns equity interests in joint ventures that own its military housing privatization projects. GMH generally provides the development, construction, renovation and management services for its military housing privatization projects and the property management services for student housing properties owned by others. In addition, through the GMH Operating Partnership, GMH provides consulting services with respect to the management of certain student housing properties owned by others, including colleges, universities and other private owners. GMH is one of the leading providers of housing, lifestyle and community solutions for students and members of the U.S. military and their families.

As of December 31, 2007, GMH owned or had ownership interests in 72 student housing properties, containing a total of 13,232 units and 42,670 beds and seven undeveloped or partially developed parcels of land held for development as student housing properties. Of this portfolio, it held a 10% interest in joint ventures that own eight of these student housing properties, covering a total of 1,140 units and 4,160 beds and provided management services for all of these properties. In addition to properties held through joint ventures, as of March 15, 2008, GMH managed a total of 12 student housing properties owned by others, containing a total of 2,239 units and 7,156 beds, including 48 units and 262 beds currently under construction. As of December 31, 2007, the GMH Operating Partnership had an ownership interest in and, through various wholly-owned subsidiaries, operated 12 military housing privatization projects, comprising an aggregate of approximately 25,288 end-state housing units on 37 military bases.

GMH Communities, Inc. is a newly-formed subsidiary of GMH Communities Trust that was formed solely for the purpose of effecting the mergers. GMH Communities, Inc. has not conducted, nor will it conduct, any business prior to the mergers. GMH, the GMH Operating Partnership and GMH Communities, Inc. are collectively referred to as the GMH Parties in this proxy statement/prospectus.

**The Mergers (Page 66)**

The merger agreement provides for the merger of American Campus Acquisition LLC, or the REIT Merger Sub, with and into GMH. In this proxy statement/prospectus, we refer to this merger as the REIT merger. Next, GMH, as the surviving entity, will be merged with and into GMH Communities, Inc., or the Delaware Company. In this proxy statement/prospectus, we refer to this merger as the reincorporation merger. Finally, American Campus Acquisition Limited Partnership LP, or the Partnership Merger Sub, will be merged with and into the GMH Operating Partnership. In this proxy statement/prospectus, we refer to this merger as the partnership merger. We also collectively refer to the REIT merger, the reincorporation merger and the partnership merger as the mergers. Each common share of GMH not owned by ACC, GMH or any of their respective subsidiaries and each unit of limited partnership in the GMH Operating Partnership not owned by GMH, the GMH Operating Partnership or its general partner will be entitled to receive at the closing of the REIT merger and the partnership merger, respectively, 0.07642 of a share of ACC's common stock and \$3.36 in cash, without interest, except, subject to certain conditions, in lieu of the receipt of ACC common stock, the holders of units in the GMH Operating Partnership may elect to receive 0.07642 of a common unit in the ACC Operating Partnership in the partnership merger.

## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

This proxy statement/prospectus does not constitute a solicitation of consents in respect of the partnership merger and does not constitute an offer to convert units of limited partnership in the GMH Operating Partnership that you may own for or into a common unit in the ACC Operating Partnership.

### **Military Housing Sale (Page 47)**

Concurrently with entering into the merger agreement, GMH and the GMH Operating Partnership entered into a securities purchase agreement with Balfour Beatty, Inc. (a U.S. subsidiary of Balfour Beatty plc), or Balfour Beatty, and, solely for the purpose of Article 8 of the securities purchase agreement, Balfour Beatty plc, for the sale of GMH's military housing division. Pursuant to the securities purchase agreement, Balfour Beatty will acquire GMH's military housing division by purchasing all of the issued and outstanding capital stock and limited liability company interests of the three GMH subsidiaries owned by GMH and the GMH Operating Partnership and through which the military housing business is conducted.

The closing of the military housing sale is a condition precedent to the mergers and is currently expected to close in the second quarter of 2008. The securities purchase agreement provides that the parties will close no earlier than April 30, 2008. The military housing sale does not require shareholder approval and accordingly, is expected to close prior to the special meeting. GMH's board of trustees has determined that, if the mergers are not completed for any reason, GMH expects to continue with the military housing sale.

As consideration for the military housing sale, GMH will receive \$350.0 million in cash, subject to adjustment pursuant to the terms of the securities purchase agreement. This amount may be increased or decreased to the extent the estimated working capital (including unrestricted cash and accounts receivable) of the military housing division as of the closing of the military housing sale, plus any project investments made during 2008 (other than investments in Fort Hamilton), exceeds or is below \$14.5 million. Following the completion of the military housing sale, GMH intends to distribute to its shareholders the proceeds from the sale plus excess cash, if any, above the minimum working capital generated by the military housing division, net of expenses from the sale. GMH anticipates making two separate distributions relating to the military housing sale - one shortly after the closing of the military housing sale (which will exclude such amounts to be held back as determined at the discretion of GMH's board of trustees) and one immediately prior to the completion of the REIT merger (which will include such held back amounts, plus interest earned which has not been previously distributed). We refer to these distributions in this proxy statement/prospectus as the military sale distributions. The military housing sale is currently anticipated to result in total distributions to GMH shareholders and unitholders of approximately \$4.08 per share/unit, subject to adjustment as described in this proxy statement/prospectus.

### **Home Office and Disposition Properties (Page 48)**

In connection with the mergers, GMH anticipates selling its home office immediately prior to the closing of the mergers, and will have the right, but not the obligation, to sell certain student housing properties, referred to in this proxy statement/prospectus as the disposition properties. A percentage of the amount received, if any, in connection with the sale of the home office and certain of the disposition properties is allowed to be paid under the merger agreement to GMH shareholders and unitholders as a special distribution preceding the closing of the mergers. Any amounts distributed as a special distribution will be in addition to the merger consideration.

If the home office is not sold to a third party unaffiliated with GMH prior to the closing of the mergers, then Gary M. Holloway, Sr., GMH's chairman, chief executive officer and president, is contractually obligated to purchase the home office pursuant to the put option to sell agreement, dated as of February 11, 2008, referred to in this proxy statement/prospectus as the put agreement, by no later than one business day prior to the REIT merger effective time for the sum of \$8.0 million.

GMH's board of trustees has established a committee of independent trustees, chaired by Denis J. Nayden, to sell the home office immediately prior to the closing of the mergers. This committee will decide whether or not to exercise GMH's rights under the put agreement. The home office committee has engaged Binswanger Corporation, a real estate broker, to market the home office.

### **The GMH Special Meeting**

#### ***The Meeting Time and Place (Page 33)***

The special meeting will be held on \_\_\_\_\_, 2008, at \_\_\_\_\_, starting at \_\_\_\_\_ a.m., local time.

#### ***Shareholders Entitled to Vote (Page 33)***

Holders of record of GMH common shares at the close of business on the record date of \_\_\_\_\_, 2008 are entitled to notice of, and to vote at, the special meeting. On the record date, there were \_\_\_\_\_ GMH common shares outstanding, each of which will be entitled to one vote on each matter to be acted upon at the special meeting. The approval of ACC stockholders is not required to consummate the mergers.

#### ***Share Ownership of Directors and Executive Officers (Page 33)***

As of the close of business on \_\_\_\_\_, 2008, the trustees and executive officers of GMH held and were entitled to vote, in the aggregate, \_\_\_\_\_ GMH common shares, representing approximately \_\_\_\_\_% of the outstanding GMH common shares. GMH currently expects that the trustees and executive officers of GMH will vote all of their GMH common shares "FOR" the approval of the REIT merger and, if necessary, in favor of adjournment to solicit additional proxies.

#### ***Proposals to be Considered at the Meeting (Page 33)***

At the special meeting, GMH shareholders will be asked to consider and vote upon:

the proposal to approve the REIT merger; and

any adjournment or postponement of the special meeting.

The persons named in the accompanying proxy will also have discretionary authority to vote upon other business, if any, that properly comes before the special meeting and any adjournment or postponement of the special meeting.

#### ***Vote Required (Page 33)***

The REIT merger requires the approval of the shareholders of GMH by the affirmative vote of at least two-thirds of the outstanding GMH common shares held of record as of the close of business on \_\_\_\_\_, 2008. Abstentions will be counted for quorum purposes and will have the same effect as votes "AGAINST" approval of the REIT merger proposal since the REIT merger proposal requires the affirmative vote of two-thirds of outstanding GMH common shares.

### **Risk Factors (Page 26)**

In evaluating the REIT merger, you should carefully consider the "Risk Factors" beginning on page 26.

### **GMH's Recommendation to its Shareholders (Page 33)**

GMH's board of trustees voted unanimously to approve the merger agreement, the mergers and the transactions contemplated under the merger agreement. GMH's board of trustees believes that



the REIT merger is in the best interests of GMH and its shareholders and recommends that GMH shareholders vote "FOR" the REIT merger.

**Opinion of GMH's Financial Advisor (Page 54)**

In connection with the mergers, GMH's board of trustees received a written opinion, dated February 11, 2008, from GMH's financial advisor, Wachovia Capital Markets, LLC, referred to in this proxy statement/prospectus as Wachovia Securities, as to the fairness, from a financial point of view and as of the date of such opinion, of the merger consideration, taken together with the payment of the military sale distributions, to be received by holders of GMH common shares and holders of GMH Operating Partnership units (other than GMH, the general partner of the GMH Operating Partnership and other subsidiaries of GMH). For purposes of its opinion, Wachovia Securities took into account, in the case of holders of GMH Operating Partnership units, only the merger consideration (taken together with the payment of the military sale distributions) that would be received by such holders if, prior to the consummation of the mergers, they converted their GMH Operating Partnership units into GMH common shares in accordance with the terms of the limited partnership agreement of the GMH Operating Partnership. **The full text of Wachovia Securities' written opinion, dated February 11, 2008, which sets forth, among other things, the assumptions made, procedures followed, matters considered and limitations on the review undertaken in connection with such opinion, is attached as Annex B to this proxy statement/prospectus and is incorporated by reference in its entirety into this proxy statement/prospectus. This summary is qualified in its entirety by reference to the full text of the opinion. Wachovia Securities provided its opinion for the information and assistance of GMH's board of trustees in connection with its evaluation of the merger consideration, taken together with the payment of the military sale distributions, from a financial point of view. Wachovia Securities' opinion does not address any other aspect of the mergers or any related transaction, does not address the relative merits of the mergers or any related transaction and does not constitute a recommendation as to how any securityholder should vote or act in connection with the mergers (including, in the case of holders of GMH Operating Partnership units, as to whether such holder should elect to receive ACC Operating Partnership units, in lieu of ACC common stock, in the mergers) or any other matters.**

**Ownership of ACC Following the Mergers**

Based on the capitalization of GMH and ACC as of \_\_\_\_\_, 2008, the record date for the special meeting, holders of outstanding GMH common shares and partnership units in the GMH Operating Partnership will be entitled to receive as a result of the mergers a total of approximately \_\_\_\_\_ million shares of ACC common stock, representing approximately \_\_\_\_\_ % of the shares of ACC common stock outstanding following the mergers.

**Conditions to the Mergers (Page 82)**

The obligations of the parties to complete the mergers are subject to the following mutual conditions:

approval of the REIT merger by the required vote of GMH shareholders;

effectiveness of this proxy statement/prospectus and the absence of a stop order or proceedings threatened or initiated by the SEC for that purpose;

authorization by the New York Stock Exchange, or the NYSE, of the listing of the ACC common stock to be issued in the mergers, subject to official notice of issuance;

receipt of all the material approvals, authorizations and consents of any governmental authority required to consummate the mergers (all of which must be in full force and effect), and expiration or termination of all waiting periods relating to the approvals, authorizations and consents;



## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

absence of any injunction, order, decree or ruling issued by a governmental authority in the United States which is then in effect and would make consummation of the mergers illegal or prohibits the consummation of the mergers (provided, that the party claiming such factor has used commercially reasonable efforts to prevent the entry of such injunction or order and to appeal as promptly as possible any injunction or other order that may be entered); and

consummation of the military housing sale in accordance with the securities purchase agreement; provided, however, if the securities purchase agreement has been terminated, GMH may sell the military housing subsidiaries to a substitute buyer reasonably satisfactory to ACC upon such terms and conditions substantially similar to those in the securities purchase agreement.

The obligations of the ACC Parties to complete the mergers are further conditioned on:

the truth and correctness of the GMH Parties' representations and warranties (subject to the GMH material adverse effect standard in the merger agreement);

the performance in all material respects of GMH's covenants and agreements under the merger agreement at or prior to the REIT merger effective time;

there having occurred no change that would, individually or in the aggregate, constitute a GMH material adverse effect since February 11, 2008;

receipt by ACC of a certificate signed on GMH's behalf by an officer of GMH as to the satisfaction of the three conditions described in the three preceding bullet points;

receipt by ACC of a written opinion of Reed Smith LLP, to the effect that GMH has been organized and operated in conformity with the requirements for qualification as a REIT under the Internal Revenue Code, or the Code, for all taxable periods commencing with GMH's taxable year ended December 31, 2004 until the closing of the mergers;

receipt by GMH of consents from certain lenders in form and substance reasonably satisfactory to ACC; and

approval of the settlement agreement relating to the pending securities litigation by the United States District Court for the Eastern District of Pennsylvania, and satisfaction of all payments and other material obligations thereunder.

The obligations of the GMH Parties to complete the mergers are further conditioned on:

the truth and correctness of the ACC Parties' representations and warranties (subject to the ACC material adverse effect standard in the merger agreement);

performance in all material respects of ACC's covenants and agreements under the merger agreement at or prior to the REIT merger effective time;

there having occurred no change that would, individually or in the aggregate, constitute an ACC material adverse effect since February 11, 2008;

receipt by GMH of a certificate signed on ACC's behalf by an officer of ACC as to the satisfaction of the three conditions described in the three preceding bullet points; and

receipt by GMH of a written opinion of Locke Lord Bissell & Liddell LLP, to the effect that ACC has been organized and operated in conformity with the requirements for qualification as a REIT under the Code for all taxable periods commencing with ACC's taxable year ended December 31, 2004 through and including the closing date.

**Termination (Page 84)**

The merger agreement may be terminated prior to the REIT merger effective time, whether before or after the required GMH shareholder approval for the REIT merger is obtained:

by mutual written consent of ACC and GMH;

by either GMH or ACC, if GMH shareholders fail to approve the REIT merger at a duly held meeting (including any adjournment or postponement of such meeting);

by either GMH or ACC, if the REIT merger effective time has not occurred by July 31, 2008 (provided that this right will not be available to a party whose failure to fulfill any obligation under the merger agreement materially contributed to the failure of the REIT merger effective time to occur on or before this date);

by either GMH or ACC, if any governmental authority issues a final and non-appealable injunction, order, decree or ruling or takes any other action which makes consummation of the mergers illegal or otherwise prohibits consummation of the mergers (provided that the terminating party has used commercially reasonable efforts to oppose and have vacated the injunction, order, decree, ruling or action);

by ACC, if any of the GMH Parties breaches or fails to perform any of its representations, warranties, or covenants contained in the merger agreement in either case such that the related conditions to the obligations of ACC to close the mergers would be incapable of being satisfied on July 31, 2008;

by GMH, if any of the ACC Parties breaches or fails to perform any of its representation, warranties or covenants contained in the merger agreement in either case such that the related conditions to the obligations of GMH to close the mergers would be incapable of being satisfied by July 31, 2008;

by GMH, if any GMH Party enters into certain acquisition agreements in accordance with, and subject to the terms and conditions of, the non-solicitation covenant in the merger agreement (provided that for the termination of the merger agreement pursuant to this provision to be effective, GMH will simultaneously pay the termination fee and expenses of ACC as described below);

by ACC, if prior to receipt of the approval of GMH shareholders, (1) GMH's board of trustees or any committee of GMH's board of trustees (a) withdraws, qualifies, or modifies or proposes publicly to withdraw, qualify or modify, in each case, in a manner adverse to ACC, its approval or recommendation of the mergers or (b) approves or recommends, or proposes publicly to approve or recommend, an acquisition proposal, (2) GMH enters into an acquisition agreement, (3) a tender offer or exchange offer relating to GMH's common shares is commenced by a third party and GMH's board of trustees does not recommend that GMH shareholders reject such tender or exchange offer within 10 business days following commencement of such tender offer or exchange offer, (4) GMH breaches in any material respect its obligation to call or hold the special meeting, (5) GMH breaches in any material respect its obligations under the non-solicitation covenant, (6) GMH fails to include in this proxy statement/prospectus the recommendation of approval of the REIT merger by GMH's board of trustees, or (7) GMH or GMH's board of trustees (or any committee thereof) authorizes or publicly proposes any of the foregoing;

by ACC, if none of the ACC Parties is in material breach of its obligations under the merger agreement, if the military housing sale is not closed prior to the REIT merger effective time; or

by GMH, if none of the GMH Parties is in material breach of its obligations under the merger agreement, if the military housing sale is not closed prior to the REIT merger effective time (provided that for the termination of the merger agreement pursuant to this provision to be effective, GMH will simultaneously pay the expenses of ACC as described below).

**Termination Fees and Expenses (Page 85)**

GMH will pay to ACC a termination fee of \$16.0 million plus the reasonable out-of-pocket costs and expenses incurred by ACC and its subsidiaries in connection with the merger agreement up to an aggregate maximum amount of \$7.5 million if the merger agreement is terminated:

by GMH, if GMH enters into an acquisition agreement in accordance with, and subject to the terms and conditions of, the non-solicitation covenant of the merger agreement;

by ACC, if prior to receipt of the approval of GMH shareholders, (1) GMH's board of trustees or any committee of GMH's board of trustees (a) withdraws, qualifies, or modifies or proposes publicly to withdraw, qualify or modify, in each case, in a manner adverse to ACC, its approval or recommendation of the mergers or (b) approves or recommends, or proposes publicly to approve or recommend, an acquisition proposal, (2) GMH enters into an acquisition agreement, (3) a tender offer or exchange offer relating to GMH's common shares is commenced by a third party and GMH's board of trustees does not recommend that GMH shareholders reject such tender or exchange offer within 10 business days following commencement of such tender offer or exchange offer, (4) GMH breaches in any material respect its obligation to call or hold the special meeting, (5) GMH breaches in any material respect its obligations under the non-solicitation covenant, (6) GMH fails to include in this proxy statement/prospectus the recommendation of approval of the REIT merger by GMH's board of trustees, or (7) GMH or GMH's board of trustees (or any committee thereof) authorizes or publicly proposes any of the foregoing; or

by either GMH or ACC, if prior to the special meeting, any qualifying acquisition proposal is publicly proposed or publicly disclosed and not withdrawn at or prior to the time of the special meeting and, concurrently with or within 12 months after the date of termination, GMH enters into a definitive agreement with respect to or consummates any qualifying acquisition proposal and the merger agreement is terminated (1) for failure to obtain GMH shareholder approval or (2) because the REIT merger effective time has not occurred before July 31, 2008 (provided that ACC did not breach its obligations with regards to SEC filings under the merger agreement).

In addition, GMH will pay to ACC the reasonable out-of-pocket costs and expenses incurred by ACC and its subsidiaries in connection with the merger agreement up to an aggregate maximum amount of \$7.5 million if the merger agreement is terminated:

by either GMH or ACC, if GMH shareholders fail to approve the REIT merger at the special meeting (including any adjournment or postponement of such meeting);

by ACC, if none of the ACC Parties is in material breach of its obligations under the merger agreement, if any of the GMH Parties breaches or fails to perform any of its representations, warranties or covenants contained in the merger agreement, in either case such that the related conditions to the obligations of the ACC Parties to close the mergers would be incapable of being satisfied by July 31, 2008;

by ACC, if none of the ACC Parties is in material breach of its obligations under the merger agreement, if the military housing sale is not closed prior to the REIT merger effective time; or

by GMH, if none of the GMH Parties is in material breach of its obligations under the merger agreement, if the military housing sale is not closed prior to the REIT merger effective time.

ACC will pay to GMH the reasonable out-of-pocket costs and expenses incurred by GMH and its subsidiaries in connection with the merger agreement up to an aggregate maximum amount of \$7.5 million if the merger agreement is terminated by GMH, if none of the GMH Parties is in material breach of its obligations under the merger agreement, if any of the ACC Parties breaches or fails to perform any of its representations, warranties or covenants contained in the merger agreement in either case such that the related conditions to the obligations of GMH to close the mergers would be incapable of being satisfied by July 31, 2008. The parties are also entitled to specific performance with respect to the merger agreement in addition to any other remedy at law or equity (including injunctions).

#### **Financing of the Mergers (Page 51)**

In connection with the mergers, ACC has entered into a commitment letter with KeyBank National Association, or KeyBank, for the arrangement of a senior secured term loan of \$200.0 million for the ACC Operating Partnership, which may be expanded by up to an additional \$100.0 million if one or more lenders agree to assume such increase. The commitment letter expires on July 31, 2008. ACC has also entered into a commitment letter with KeyBank to increase the existing senior unsecured revolving credit facility of the ACC Operating Partnership from \$115.0 million to \$160.0 million, with the ability, subject to the satisfaction of certain conditions, to expand this facility by up to an additional \$65.0 million. The commitment letter for the facility and the closing facility are subject to customary conditions for this type of financing, including (1) the absence of a material adverse change in the business, assets, operations, conditions (financial or otherwise) or prospects of ACC or the ACC Operating Partnership, (2) the negotiation and execution of definitive loan documentation and (3) the absence of defaults under any of ACC's financial obligations.

The merger agreement does not contain a financing condition. Under the terms of the merger agreement, ACC agreed that if any portion of the debt financing becomes unavailable on the terms and conditions contemplated in the commitment letter or the commitment letter is terminated for any reason, ACC will use reasonable commercial efforts to obtain alternative financing from alternative sources in an amount sufficient to consummate the mergers and pay any related costs and expenses, and, if obtained, ACC is obligated to provide GMH with a copy of the new financing commitment. ACC acknowledged and agreed in the merger agreement that the receipt of the debt financing or any other replacement financing is not a condition to the obligations of ACC to consummate the mergers.

In connection with the mergers, ACC and the ACC Operating Partnership have entered into an agreement with Fidelity Real Estate Growth Fund III, L.P., or Fidelity, pursuant to which ACC and Fidelity will, immediately prior to the effective time of the REIT merger, form a joint venture and ACC will cause certain property-owning subsidiaries of GMH to contribute to the joint venture 15 student housing properties with an estimated value of approximately \$325.9 million, including approximately \$210.2 million in assumed debt. ACC will retain a 10% minority interest in the joint venture and will provide property management services for the properties contributed to the joint venture. ACC will use the approximately \$105.7 million proceeds from this transaction to finance a portion of the cash consideration and merger costs.

If the joint venture transaction is not consummated, ACC will need to finance a portion of the cash consideration and merger costs by other means, which may result in ACC incurring increased interest costs on replacement financing. See "Risk Factors Risk Factors Relating to the Mergers If the joint venture transaction does not close, ACC will need to replace the funding that will be used to finance a portion of the cash consideration and merger costs."

## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

If all other closing conditions have been satisfied or waived but ACC fails to obtain adequate financing to complete the mergers, such failure will constitute a breach of its covenants under the merger agreement. In that event, so long as the GMH Parties are not in material breach of their obligations under the merger agreement, the GMH Parties would be entitled to terminate the merger agreement and receive from ACC the reasonable out-of-pocket costs and expenses incurred by GMH and its subsidiaries in connection with the merger agreement up to an aggregate maximum amount of \$7.5 million. GMH is also entitled to specific performance with respect to the merger agreement in addition to any other remedy at law or equity (including injunctions). See "The Merger Agreement Termination Fees and Expenses."

### Interests of GMH's Trustees and Executive Officers in the Mergers (Page 63)

Some of GMH's trustees and executive officers have interests in the mergers that are different from, or in addition to, yours, including the following:

restricted shares issued to trustees and executive officers pursuant to GMH's equity incentive plan that are not yet vested will become fully vested and any restrictions on such GMH restricted shares will terminate or lapse at the REIT merger effective time and will automatically be converted into the right to receive the merger consideration; and

each of GMH's executive officers have entered into employment agreements which, upon the completion of the mergers and the transactions contemplated by the merger agreement, will result in (i) accelerated vesting of any unvested equity awards, (ii) an entitlement to certain cash payments if GMH or a successor entity terminates the executive's employment without "cause" or the executive resigns for "good reason" and (iii) the payment of certain retention bonuses.

Certain of GMH's executive officers will be entitled to reimbursement from GMH of certain excise taxes. Gary M. Holloway, Sr. is entitled to a gross-up payment estimated to be approximately \$1,614,705. Additionally, if GMH's home office is not sold to a third party unaffiliated with GMH prior to the closing of the mergers, then Mr. Holloway is contractually obligated to purchase the home office pursuant to the put agreement by no later than one business day prior to the REIT merger effective time for the sum of \$8.0 million.

Subject to the approval of GMH's board of trustees, certain of GMH's executive officers and/or trustees will be paid a success fee in the aggregate amount of \$2.0 million for closing the military housing sale, the mergers and the transactions contemplated by the merger agreement, the allocation of the aggregate amount to be determined by GMH's board of trustees (or a committee thereof).

Also, GMH's trustees and executive officers are entitled to continued indemnification arrangements and directors' and officers' insurance coverage for a period of six years following the REIT merger effective time.

GMH's board of trustees was aware of the foregoing interests of GMH's trustees and executive officers in the military housing sale, the mergers and the transactions contemplated by the merger agreement and considered them, among other matters, in reaching its decision to approve the mergers and the transactions contemplated by the merger agreement.

### Accounting Treatment (Page 62)

The mergers will be accounted for under the purchase method for accounting and financial reporting purposes.

**Material U.S. Federal Income Tax Consequences to GMH Shareholders of the REIT Merger and Distributions (Page 88)**

The receipt of the merger consideration in exchange for GMH common shares pursuant to the REIT merger will be a taxable transaction for U.S. federal income tax purposes. Generally, a GMH shareholder will recognize gain or loss for U.S. federal income tax purposes measured by the difference, if any, between (1) the amount of cash received and the fair market value, as of the effective date of the REIT merger, of the ACC common stock received and (2) the GMH shareholder's adjusted tax basis in the GMH common shares exchanged for the merger consideration.

The receipt of the military sale distributions and the special distribution, if any (to the extent not designated as a capital gains dividend), will be taxable as ordinary income to the extent that GMH's earnings and profits for 2008 are allocable to the distributions; any such distribution in excess of earnings and profits will be treated as a return of capital and will reduce the tax basis of a GMH shareholder in its shares (but not below zero); and any such distribution in excess of tax basis is taxable as capital gain. Any part of the military sale distributions and special distribution designated as a capital gains dividend will be taxable as long-term capital gain or "unrecaptured Section 1250 gain" to the extent it does not exceed GMH's actual net capital gain for the year.

GMH shareholders should read "Material U.S. Federal Income Tax Considerations Material U.S. Federal Income Tax Consequences to GMH Shareholders of the REIT Merger and Distributions" beginning on page 88 for a more complete discussion of the U.S. federal income tax consequences to GMH shareholders of the REIT merger, the military sale distributions and the special distribution, if any. Tax matters can be complicated and the tax consequences of the REIT merger, military sale distributions and special distribution to a GMH shareholder will depend on such holder's particular circumstances.

**GMH shareholders should consult their own tax advisors to determine the particular tax consequences to them (including the application and effect of any state, local or non-U.S. income and other tax laws) of the REIT merger, military sale distributions and special distribution.**

**Regulatory Matters (Page 62)**

Neither ACC nor GMH is aware of any material U.S. federal or state regulatory approvals that must be obtained in connection with the mergers. However, the closing of the military housing sale (which is a condition precedent to the closing of the mergers) is subject to (a) obtaining necessary regulatory approvals, which include the expiration of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and (b) receipt of notice that the military housing sale is not subject to the Exon-Florio amendments to The Defense Production Act of 1950. GMH and Balfour Beatty each filed a Notification and Report Form with the Federal Trade Commission and the Antitrust Division of the U.S. Department of Justice. The waiting period expired at 11:59 p.m. on March 31, 2008, without any request for additional information. A filing under the Exon-Florio amendment to the Defense Production Act of 1950 was made on March 11, 2008 and the waiting period with respect to this filing will expire at 11:59 p.m. on April 10, 2008.

**Appraisal or Dissenters' Rights (Page 35)**

Maryland law does not provide any appraisal rights or dissenters' rights for ACC or GMH shareholders in connection with the mergers.

**The Rights of GMH Shareholders Will Change (Page 119)**

The rights of GMH shareholders are determined by Maryland law and by GMH's charter and bylaws. When the merger is completed, GMH shareholders will become stockholders of ACC. The rights of ACC stockholders are determined by Maryland law and ACC's charter and bylaws. As a result of these different organizational documents, GMH shareholders will have different rights as ACC stockholders than they currently have as GMH shareholders.

**Selected Historical Financial Data of ACC**

ACC's historical financial data for the annual periods presented below has been derived from its audited financial statements previously filed with the SEC. This information is only a summary and you should read it together with ACC's historical financial statements and related notes contained in the annual reports, quarterly reports and other information that ACC has filed with the SEC and incorporated by reference. See "Where You Can Find More Information."

The following table sets forth selected financial and operating data on a consolidated historical basis for ACC and on a combined historical basis for its predecessor. Results for the year ended December 31, 2004 represent the combined historical data for its predecessor for the period from January 1, 2004 to August 16, 2004 as well as the consolidated results for ACC for the period from August 17, 2004 to December 31, 2004.

	As of and for the Year Ended December 31,				
	2007	2006	2005	2004	2003
	(in thousands, except per share data)				
<b>Statements of Operations Information:</b>					
Revenues	\$ 147,135	\$ 118,953	\$ 82,522	\$ 56,230	\$ 52,792
(Loss) income from continuing operations	(1,686)	1,662	1,751	(1,350)	(186)
Discontinued operations:					
Income (loss) attributable to discontinued operations		2,287	2,028	50	(774)
Gain (loss) from disposition of real estate		18,648	5,883	(39)	16
Net (loss) income	(1,686)	22,597	9,662	1,339	(944)
<b>Per Share and Distribution Data:</b>					
Earnings per diluted share:					
(Loss) income from continuing operations	\$ (0.07)	\$ 0.08	\$ 0.12	\$ 0.05(1)	
Discontinued operations		1.09	0.53	0.10(1)	
Net (loss) income	(0.07)	1.17	0.65	0.15(1)	
Cash distributions declared per share / unit	1.35	1.35	1.35	0.1651(1)	
Cash distributions declared	32,931	25,287	20,180	2,084(1)	
<b>Balance Sheet Data:</b>					
Total assets	\$ 1,076,296	\$ 884,381	\$ 550,862	\$ 367,628	\$ 330,566
Secured debt	533,430	432,294	291,646	201,014	267,518
Unsecured revolving credit facility	9,600				
Capital lease obligations	2,798	2,348	1,679	598	410
Stockholders' and predecessor owners' equity(2)	444,377	369,474	223,227	138,229	27,658

(1) Represents per share information and cash distributions declared during the period from August 17, 2004 (the IPO date) through December 31, 2004.

(2) Information for the years ended December 31, 2007, 2006, 2005 and 2004 reflects stockholders' equity as a result of and subsequent to the IPO while the previous year reflects ACC's predecessor owners' equity.



**Selected Historical Financial Data of GMH**

GMH's combined financial data for the annual periods presented below has been derived from its audited consolidated financial statements previously filed with the SEC. This information is only a summary and you should read it together with GMH's historical financial statements and related notes contained in the annual reports, quarterly reports and other information that GMH has filed with the SEC and incorporated by reference. See "Where You Can Find More Information."

The following table sets forth selected financial and operating data on a consolidated historical basis for GMH and on a combined historical basis for its predecessor. Results for the year ended December 31, 2004 represent the combined historical data for its predecessor for the period from January 1, 2004 to November 2, 2004 as well as the consolidated results for GMH for the period from November 2, 2004 to December 31, 2004.

	For the Year Ended December 31,				
	GMH				Predecessor Entities
	2007	2006	2005	2004	2003
	(in thousands, except per share data)				
<b>Operating Data:</b>					
<b>Revenue:</b>					
Rental revenue	\$ 188,889	\$ 169,166	\$ 118,741	\$ 23,778	\$ 636
Expense reimbursements					
Related party	86,860	64,230	57,930	33,309	3,273
Third party	8,942	7,668	5,361	7,237	7,318
Fee income					
Related party	11,429	8,481	7,005	4,355	3,892
Third party	2,877	3,167	3,774	3,986	2,624
Other fee income-related party	32,790	21,635	18,321	8,460	842
Other income	735	546	368	913	230
	332,522	274,893	211,500	82,038	18,815
<b>Expenses:</b>					
Property operating expenses	90,684	78,878	51,423	20,258	9,218
Reimbursed expenses	95,802	71,898	63,291	40,546	10,591
Real estate taxes	17,773	16,050	10,921	1,736	83
Administrative expenses	17,410	17,682	12,254	6,006	1,405
Securities Litigation & Audit/Special Committee expense	1,844	7,821			
Profits interest and employee initial public offering bonus expense				37,502	
Depreciation and amortization	44,679	40,207	31,006	6,624	822
Interest	61,816	51,752	28,370	5,622	396
	330,008	284,288	197,265	118,294	22,515
Gain on sale to joint venture and development land	24,341				
Income (loss) before equity in earnings of unconsolidated entities, minority interest, and income taxes	26,855	(9,395)	14,235	(36,256)	(3,700)
Equity in earnings of unconsolidated entities	4,524	3,523	3,073		751
Income (loss) before minority interest and income taxes from continuing operations	31,379	(5,872)	17,308	(36,256)	(2,949)
Income taxes	7,616	4,733	5,580	312	
	23,763	(10,605)	11,728	(36,568)	(2,949)

Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

For the Year Ended December 31,

Income (loss) before minority interest from continuing operations					
Minority interest (income) loss attributable to continuing operations	(10,252)	4,625	(5,700)	256	
Income (loss) from continuing operations	13,511	(5,980)	6,028	(36,824)	(2,949)

<b>Discontinued Operations:</b>					
Income (loss) from discontinued operations before minority interest	2,125	1,762	60	(187)	
Gains on sales of student housing properties	29,339				
Minority interest (income) loss attributable to discontinued operations	(13,544)	(768)	(29)	9	
<b>Income (loss) from discontinued operations</b>	<b>17,920</b>	<b>994</b>	<b>31</b>	<b>(178)</b>	
<b>Net income (loss)</b>	<b>\$ 31,431</b>	<b>\$ (4,986)</b>	<b>\$ 6,059</b>	<b>\$ (37,002)</b>	<b>\$ (2,949)</b>
<b>Earnings (loss) per common share basic(1)</b>					
Continuing operations	\$ 0.33	\$ (0.14)	\$ 0.19	\$ 0.01	
Discontinued operations	0.43	0.02	0.00	0.00	
	<b>\$ 0.76</b>	<b>\$ (0.12)</b>	<b>\$ 0.19</b>	<b>\$ 0.01</b>	
<b>Earnings (loss) per common share diluted</b>					
Continuing operations	\$ 0.33	\$ (0.14)	\$ 0.18	\$ 0.01	
Discontinued operations	0.43	0.02	0.00	0.00	
	<b>\$ 0.76</b>	<b>\$ (0.12)</b>	<b>\$ 0.18</b>	<b>\$ 0.01</b>	

(1) Basic and diluted earnings per share reflect GMH's operations for the period November 2, 2004 (the date of the closing of its initial public offering) to December 31, 2004. Net income for this period was \$251,000.

As of December 31,

GMH				Predecessor Entities
2007	2006	2005	2004(1)	2003
(in thousands)				

<b>Balance Sheet Data:</b>					
Real estate investments, net	\$ 1,324,064	\$ 1,592,567	\$ 1,181,216	\$ 634,730	\$
Corporate office, net	8,560	8,425	7,613	11,384	6,963
Cash and cash equivalents	15,727	22,539	2,240	60,926	575

Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

As of December 31,

Total assets	1,488,846	1,713,990	1,277,951	773,061	16,146
Mortgage notes payable and line of credit	1,015,136	1,227,725	728,069	370,007	10,977
Total liabilities	1,085,344	1,298,718	792,452	395,242	12,552
Minority interest	136,422	157,972	188,633	182,118	
Equity	267,080	257,300	296,866	195,701	3,594

14

**Summary Unaudited Pro Forma Consolidated Financial Information**

In the table below, ACC presents summary unaudited pro forma consolidated balance sheet information for ACC and GMH for the year ended December 31, 2007, as if the mergers and the sale by GMH of approximately \$96.0 million of assets related to its military housing division had occurred on December 31, 2007 and summary unaudited pro forma consolidated statement of operations information for the year ended December 31, 2007 as if such transactions had occurred on January 1, 2007. The unaudited pro forma consolidated financial statements also give effect to properties acquired by ACC during 2007, ACC's October 2007 offering of 3.5 million shares of its common stock, the reclassification of 10 properties owned by GMH to Assets Held for Sale and the formation of a joint venture by ACC and Fidelity with respect to 15 properties owned by GMH, but do not give effect to the results of operations of ACC or GMH subsequent to December 31, 2007. The mergers will be, and have been for purposes of the pro forma data, accounted for under the purchase method of accounting in accordance with Statement of Financial Accounting Standards No. 141, "Business Combinations."

The pro forma consolidated financial information should be read together with the respective historical consolidated financial statements and financial statement notes of ACC and GMH incorporated by reference into this proxy statement/prospectus. See "Where You Can Find More Information." The unaudited pro forma statement of operations information is presented for comparative and illustrative purposes only and is not necessarily indicative of what the actual combined results of operations of ACC and GMH would have been for the periods presented, nor does this information purport to represent the results of future periods that the combined entity will experience after the mergers. See "American Campus Communities, Inc. and Subsidiaries Unaudited Pro Forma Consolidated Financial Statements" beginning on page F-1.

	<b>ACC Pro Forma</b>
	<b>(in thousands, except per share information)</b>
<b>Statement of Operations Information:</b>	
Revenues	\$ 285,772
Loss from continuing operations	(20,912)
<b>Per Share Information:</b>	
Loss from continuing operations per share basic	\$ (0.65)
Loss from continuing operations per share diluted	(0.63)
<b>Balance Sheet Information:</b>	
Total assets	\$ 2,242,877
Secured debt	1,457,489
Credit facility	43,666
Total stockholders' equity	597,853

**It is important to remember that this information is hypothetical and does not necessarily reflect the financial performance that would have actually resulted if the mergers had been completed on those dates. Furthermore, this information does not necessarily reflect future financial performance if the mergers actually occur.**

See "American Campus Communities, Inc. and Subsidiaries Unaudited Pro Forma Consolidated Financial Statements" attached to this proxy statement/prospectus for a more detailed explanation of this analysis.

**Comparative Per Share Data**

Set forth below are net income, book value and cash dividends per share data for ACC and GMH on a historical basis, for ACC and GMH on a pro forma basis and on a pro forma basis per GMH equivalent share.

The pro forma data was derived by combining the historical consolidated financial information of ACC and GMH using the purchase method of accounting.

You should read the information below together with the historical financial statements and related notes contained in the annual reports and other information that ACC and GMH have filed with the SEC and incorporated by reference. See "Where You Can Find More Information." The unaudited pro forma combined data below is for illustrative purposes only. The companies might have performed differently had they always been combined. You should not rely on this information as being indicative of the historical results that would have been achieved had the companies always been combined or the future results that the combined company will experience after the mergers.

	<b>ACC Historical Data</b>	<b>GMH Historical Data</b>	<b>ACC Pro Forma Combined Data</b>
(Year ended December 31, 2007)			
Loss (income) per share from continuing operations available to common stockholders basic	\$ (0.07)	\$ 0.33	\$ (0.65)
Loss (income) per share from continuing operations available to common stockholders diluted	\$ (0.07)	\$ 0.33	\$ (0.63)
Book value per share of common stock	\$ 16.29	\$ 6.42	\$ 18.27
Cash dividends per share of common stock	\$ 1.35	\$ 0.66	\$ 1.35

**Comparative Per Share Market Price and Dividend Information**

At the close of business on \_\_\_\_\_, 2008, the record date for the special meeting, there were approximately \_\_\_\_\_ holders of record of ACC common stock and approximately \_\_\_\_\_ holders of record of GMH common shares.

ACC common stock is listed on the NYSE under the symbol "ACC." The following table sets forth the high and low sale prices per share of ACC common stock as reported by the NYSE, based on published financial sources for the quarterly periods indicated:

	<b>ACC Common Stock</b>		
	<b>High</b>	<b>Low</b>	<b>Dividend Per Share</b>
<b>2006:</b>			
First Quarter	\$ 28.58	\$ 24.24	\$ 0.3375
Second Quarter	\$ 26.20	\$ 22.40	\$ 0.3375
Third Quarter	\$ 26.27	\$ 23.80	\$ 0.3375
Fourth Quarter	\$ 30.23	\$ 24.85	\$ 0.3375
<b>2007:</b>			
First Quarter	\$ 32.52	\$ 28.35	\$ 0.3375
Second Quarter	\$ 31.68	\$ 27.12	\$ 0.3375
Third Quarter	\$ 29.56	\$ 24.30	\$ 0.3375
Fourth Quarter	\$ 30.52	\$ 23.18	\$ 0.3375
<b>2008:</b>			
First Quarter	\$ 29.50	\$ 24.84	N/A
Second Quarter (through April 1, 2008)	\$ 28.39	\$ 27.43	N/A

## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

GMH common shares are listed on the NYSE under the symbol "GCT." The following table sets forth the high and low sale prices per GMH common share as reported by the NYSE, based on published financial sources for the quarterly periods indicated:

GMH Common Shares			
	High	Low	Dividend Per Share
<b>2006:</b>			
First Quarter	\$ 17.10	\$ 10.80	\$ 0.2275
Second Quarter	\$ 13.18	\$ 10.75	\$ 0.2275
Third Quarter	\$ 13.73	\$ 11.80	\$ 0.2275
Fourth Quarter	\$ 14.18	\$ 10.04	\$ 0.1650(1)
<b>2007:</b>			
First Quarter	\$ 10.84	\$ 9.14	\$ 0.1650
Second Quarter	\$ 10.99	\$ 9.40	\$ 0.1650
Third Quarter	\$ 10.05	\$ 7.51	\$ 0.1650
Fourth Quarter	\$ 7.99	\$ 5.44	\$ 0.1650(2)
<b>2008:</b>			
First Quarter	\$ 9.10	\$ 4.50	\$ 0.1650(3)
Second Quarter (through April 1, 2008)	\$ 9.01	\$ 8.73	N/A

- (1) Declared on December 18, 2006 and paid on February 1, 2007 to shareholders of record as of the close of business on December 29, 2007.
- (2) Declared on December 12, 2007 and paid on January 15, 2008 to shareholders of record as of the close of business on December 27, 2007.
- (3) Declared on March 20, 2008 and to be paid on April 15, 2008 to GMH shareholders of record at the close of business on March 31, 2008.

The following table sets forth the closing sale prices per GMH common shares as reported on the NYSE on February 11, 2008, the last trading day before ACC and GMH announced the proposed mergers, and on \_\_\_\_\_, 2008, the most recent practicable trading day before the date on which this proxy statement/prospectus was mailed to GMH shareholders.

Date	GMH Price Per Common Share
February 11, 2008	\$ 5.59
_____, 2008	\$

GMH is restricted by the terms of the merger agreement from paying regular dividends other than the regular cash distribution at a rate not in excess of \$0.165 per GMH common share for the first quarter of 2008 and certain dividends required for GMH to maintain its REIT status, to eliminate U.S. federal income tax liability and as set forth below.

The closing of the military housing sale is a condition precedent to the mergers and is currently expected to close in the second quarter of 2008. The securities purchase agreement provides that the parties will close no earlier than April 30, 2008. The military housing sale does not require shareholder approval and accordingly, is expected to close prior to the special meeting. GMH's board of trustees has determined that, if the mergers are not completed for any reason, GMH expects to continue with the military housing sale. As consideration for the military housing sale, GMH will receive \$350.0 million in cash, subject to adjustment pursuant to the terms of the securities purchase agreement. This amount may be increased or decreased to the extent the estimated working capital

(including unrestricted cash and accounts receivable) of the military housing division as of the closing of the military housing sale, plus any project investments made during 2008 (other than investments in Fort Hamilton), exceeds or is below \$14.5 million. Following the completion of the military housing sale, GMH intends to distribute to its shareholders the proceeds from the sale plus excess cash, if any, above the minimum working capital generated by the military housing division, net of expenses from the sale. GMH anticipates making two separate distributions relating to the military housing sale one shortly after the closing of the military housing sale (which will exclude such amounts to be held back as determined at the discretion of GMH's board of trustees) and one immediately prior to the completion of the REIT merger (which will include such held back amounts, plus interest earned which has not been previously distributed). The military housing sale is currently anticipated to result in total distributions to GMH's common shareholders and unitholders of approximately \$4.08 per share/unit, subject to adjustment as described in this proxy statement/prospectus. See "The Mergers and Related Transactions Military Housing Sale."

In connection with the mergers, GMH anticipates selling its home office immediately prior to the closing of the mergers, and will have the right, but not the obligation, to sell certain disposition properties. A percentage of the amount received, if any, in connection with the sale of the home office and certain of the disposition properties is allowed to be paid under the merger agreement as a special distribution to GMH shareholders and unitholders preceding the closing of the mergers. Any amounts distributed as a special distribution will be in addition to the merger consideration.

### Comparative Market Data

The following table presents trading information for ACC common stock and GMH common shares for February 11, 2008 and February 12, 2008. February 11, 2008 was the last full trading day prior to the public announcement of the proposed mergers. February 12, 2008 was the last practicable trading day for which information was available prior to the date of the first mailing of this proxy statement/prospectus. The GMH pro forma equivalent closing share price is equal to \$3.36, without interest (the cash portion of the consideration for each GMH common share in the mergers) plus the closing price of a share of ACC common stock on each such date multiplied by 0.07642 (the exchange ratio for the issuance of ACC common stock in the mergers). These prices will fluctuate prior to the special meeting and the closing date of the mergers, and GMH shareholders are urged to obtain current market quotations prior to making any decision with respect to the REIT merger.

	<u>ACC Common Stock Close</u>	<u>GMH Common Share Close</u>	<u>GMH Pro Forma Equivalent Close</u>
February 11, 2008	\$ 28.43	\$ 5.59	\$ 5.53
February 12, 2008	\$	\$ (1)	\$ (1)

(1) Excludes a distribution of \$ \_\_\_\_\_ per share made to GMH shareholders on \_\_\_\_\_, 2008 related to the military housing sale.



**QUESTIONS AND ANSWERS ABOUT THE MERGERS**

*The following are some questions that you, as a shareholder of GMH, may have regarding the mergers and the other matters being considered at the special meeting and the answers to those questions. GMH and ACC urge you to read carefully the remainder of this proxy statement/prospectus because the information in this section does not provide all the information that might be important to you with respect to the special meeting and the proposed mergers. Additional important information is contained in the annexes to, and the documents included and incorporated by reference in, this proxy statement/prospectus, including the merger agreement, a copy of which is attached as Annex A.*

**Q:**  
**Why am I receiving these materials?**

**A:**  
ACC and GMH have agreed to the acquisition of GMH by ACC under the terms of a merger agreement that is described in this proxy statement/prospectus. For the mergers to occur, holders of two-thirds of the outstanding GMH common shares must approve the REIT merger. GMH will hold a special meeting of its shareholders to obtain the necessary shareholder approval. This proxy statement/prospectus contains important information about the mergers and the meeting of the shareholders of GMH. ACC and GMH are sending you these materials to help you decide whether to approve the REIT merger.

**Q:**  
**What will I receive in the mergers?**

**A:**  
If the mergers are completed, you will receive \$3.36 in cash, without interest, and 0.07642 of a share of ACC common stock for each GMH common share you own. ACC common stock is listed on the NYSE under the symbol "ACC." The closing price per share of ACC common stock on February 11, 2008, the day before the mergers were publicly announced, was \$28.43, which would imply a value of \$5.53 for each GMH common share (excluding the value of the amounts payable to GMH shareholders from the military housing sale and the sale, if any, of certain of the disposition properties and the home office). Based on the closing price per share of ACC common stock on \_\_\_\_\_, 2008, the most recent practicable trading day before the date on which this proxy statement/prospectus was mailed to GMH shareholders (which was \$ \_\_\_\_\_ per share), you would receive cash and ACC common stock having an aggregate implied value of \$ \_\_\_\_\_ for each GMH common share you own share (excluding the value of the amounts payable to GMH shareholders from the military housing sale and the sale, if any, of certain of the disposition properties and the home office). However, because the stock exchange ratio is fixed at 0.07642 of a share of ACC common stock for each GMH common share, the value of the stock portion of the merger consideration will fluctuate with the market price per share of ACC common stock prior to the closing of the mergers. Accordingly, the value of the merger consideration at the time the mergers are completed may be different from the value at the time the merger agreement was signed or the GMH special meeting is held. ACC and GMH urge you to obtain a current market quotation for ACC common stock before voting at the special meeting. See "Risk Factors Risks Relating to the Mergers GMH shareholders cannot be certain of the market value of the shares of ACC common stock that will be issued in the REIT merger."

You will not receive any fractional shares of ACC common stock in the REIT merger. Instead, you will be paid cash (without interest) in lieu of the fractional share interest to which you would otherwise be entitled as described under "The Merger Agreement The Merger Consideration and Effects of the Mergers Fractional Shares." You will not be entitled to dividends, voting rights or any other rights in respect of any fractional share of ACC common stock.

**Q: What will I receive upon completion of the sale of GMH's military housing division?**

A: In addition to the merger consideration, holders of GMH common shares are expected to receive, upon completion of the sale of GMH's military housing division to Balfour Beatty, a net distribution of approximately \$4.08 per share/unit, subject to adjustment as described in this proxy statement/prospectus. See "The Mergers and Related Transactions Military Housing Sale." The closing of the military housing sale is a condition to the obligations of GMH and ACC to consummate the mergers.

**Q: Will I continue to receive dividends?**

A: Yes. Under the terms of the merger agreement, GMH is permitted to continue to declare and pay its regular first quarter dividend of \$0.165 per share. GMH declared the first quarter dividend on March 20, 2008, which will be payable on April 15, 2008 to GMH shareholders of record at the close of business on March 31, 2008. After March 31, 2008, GMH may not pay its regular quarterly dividend and may declare and pay dividends only as required for GMH to maintain its REIT status, to eliminate U.S. federal income tax liability and as set forth below.

As consideration for the military housing sale, GMH will receive \$350.0 million in cash, subject to adjustment pursuant to the terms of the securities purchase agreement. This amount may be increased or decreased to the extent the estimated working capital (including unrestricted cash and accounts receivable) of the military housing division as of the closing of the military housing sale, plus any project investments made during 2008 (other than investments in Fort Hamilton), exceeds or is below \$14.5 million. Following the completion of the military housing sale, GMH intends to distribute to its shareholders the proceeds from the sale plus excess cash, if any, above the minimum working capital generated by the military housing division, net of expenses from the sale. GMH anticipates making two separate distributions relating to the military housing sale one shortly after the closing of the military housing sale (which will exclude such amounts to be held back as determined at the discretion of GMH's board of trustees) and one immediately prior to the completion of the REIT merger (which will include such held back amounts, plus interest earned which has not been previously distributed). The military housing sale is currently anticipated to result in total distributions to GMH shareholders and unitholders of approximately \$4.08 per share/unit, subject to adjustment as described in this proxy statement/prospectus. See "The Mergers and Related Transactions Military Housing Sale."

In connection with the mergers, GMH anticipates selling its home office immediately prior to the closing of the mergers, and will have the right, but not the obligation, to sell certain disposition properties. A percentage of the amount received, if any, in connection with the sale of the home office and certain of the disposition properties is allowed to be paid under the merger agreement as a special distribution to GMH shareholders and unitholders preceding the closing of the mergers. Any amounts distributed as a special distribution will be in addition to the merger consideration.

**Q: Is the receipt of the merger consideration, military sale distributions or special distribution taxable?**

A: Yes. The receipt of the merger consideration in exchange for GMH common shares pursuant to the REIT merger will be a taxable transaction for U.S. federal income tax purposes. Generally, a GMH shareholder will recognize gain or loss for U.S. federal income tax purposes measured by the difference, if any, between (1) the amount of cash received and the fair market value, as of the effective date of the REIT merger, of the ACC common stock received and (2) the GMH shareholder's adjusted tax basis in the GMH common shares exchanged for the merger consideration.

## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

The receipt of the military sale distributions and the special distribution, if any (to the extent not designated as a capital gains dividend), will be taxable as ordinary income to the extent that GMH's earnings and profits for 2008 are allocable to the distributions; any such distribution in excess of earnings and profits will be treated as a return of capital and will reduce the tax basis of a GMH shareholder in its shares (but not below zero); and any such distribution in excess of tax basis is taxable as capital gain. Any part designated as a capital gains dividend will be taxable as long-term capital gain or "unrecaptured Section 1250 gain" to the extent it does not exceed GMH's actual net capital gain for the year.

GMH shareholders should read "Material U.S. Federal Income Tax Considerations Material U.S. Federal Income Tax Consequences to GMH Shareholders of the REIT Merger and Distributions" beginning on page 88 for a more complete discussion of the U.S. federal income tax consequences to GMH shareholders of the REIT merger, the military sale distributions and the special distribution, if any. Tax matters can be complicated and the tax consequences to GMH shareholders of the REIT merger, military sale distributions and special distribution to a GMH shareholder will depend on such holder's particular circumstances.

GMH shareholders should consult their own tax advisors to determine the particular tax consequences to them (including the application and effect of any state, local, or non-U.S. income and other tax laws) of the REIT merger, military sale distributions and special distribution.

**Q:**  
**What will happen to GMH as a result of the mergers?**

**A:**  
American Campus Acquisition LLC, a wholly-owned subsidiary of the ACC Operating Partnership, will be merged with and into GMH, which will be followed by the merger of GMH with and into GMH Communities, Inc. GMH Communities, Inc. will continue as the surviving entity of these mergers and will be a subsidiary of the ACC Operating Partnership. However, at the effective time of the REIT merger, GMH shareholders will cease to have direct ownership interests in GMH and will instead become holders of ACC common stock. After the REIT merger effective time, GMH will no longer be required to file periodic reports with the SEC. See "The Mergers and Related Transactions Certain Effects of the Mergers" on page 49 for further information.

**Q:**  
**Will the shares of ACC common stock issued in the mergers be listed for trading on the NYSE?**

**A:**  
Yes. The shares of ACC common stock to be issued in the mergers will be listed, upon official notice of issuance, on the NYSE under the symbol "ACC."

**Q:**  
**Why are ACC and GMH proposing to enter into the mergers?**

**A:**  
In making its determination with respect to the mergers, GMH's board of trustees considered a number of factors. See "The Mergers and Related Transactions GMH's Reasons for the Mergers" for a discussion of such factors. Similarly, ACC's board of directors also considered a number of factors in reaching its determination to approve the merger agreement. See "The Mergers and Related Transactions ACC's Reasons for the Mergers" for a discussion of such factors.

**Q:**  
**How does GMH's board of trustees recommend that I vote?**

**A:**  
GMH's board of trustees unanimously recommends that GMH shareholders vote "FOR" the proposal to approve the REIT merger and "FOR" the proposal to approve any adjournment or

## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

postponement of the special meeting to solicit additional proxies. For a more complete description of the recommendation of GMH's board of trustees, see page 33.

**Q: Do any of the GMH's trustees and executive officers have any interest in the mergers that is different from mine?**

A: Some of GMH's trustees and executive officers have interests in the mergers that are different from, or in addition to, yours. Restricted shares issued to trustees and executive officers that are not yet vested will become fully vested and any restrictions on such GMH restricted shares will terminate or lapse at the REIT merger effective time and will automatically be converted into the right to receive the merger consideration. Pursuant to the terms of their employment agreements, GMH's executive officers will be entitled to certain cash payments and benefits following the closing of the REIT merger in certain circumstances. In addition, certain of GMH's executive officers and/or trustees may be paid a success fee in the aggregate amount of \$2.0 million for closing the military housing sale, the mergers and the transactions contemplated by the merger agreement. Also, GMH's trustees and executive officers are entitled to continued indemnification arrangements and directors' and officers' insurance coverage for a period of six years following the REIT merger effective time. Please see "Interests of Trustees and Executive Officers of GMH in the Mergers" on page 63 for additional information about possible interests that GMH's trustees and executive officers may have in the mergers that are different from yours.

**Q: Where and when is the special meeting?**

A: The special meeting will take place at \_\_\_\_\_, on \_\_\_\_\_, 2008, at \_\_\_\_\_ a.m., local time.

**Q: What vote is required to approve the REIT merger?**

A: Holders of two-thirds of the outstanding GMH common shares must affirmatively vote to approve the REIT merger. Abstentions will be counted for quorum purposes and will have the same effect as votes "AGAINST" approval of the REIT merger proposal since the REIT merger proposal requires the affirmative vote of two-thirds of outstanding GMH common shares.

**Q: What vote of our common shareholders is required to approve an adjournment of the special meeting?**

A: Approval of any adjournment of the special meeting to solicit additional proxies requires the affirmative vote of at least a majority of votes cast on the matter in person or by proxy at the special meeting. For the purpose of this proposal, if you fail to attend the special meeting or vote by proxy, you will not be considered present in person or represented by proxy. However, the failure to vote your common shares will not have any effect on the outcome of this proposal. Abstentions and broker non-votes are considered present but are not considered votes cast. The special meeting may also be adjourned or postponed under other circumstances.

**Q: Who can vote and attend the special meeting?**

A: All common shareholders of GMH of record as of the close of business on \_\_\_\_\_, 2008, the record date for the special meeting, are entitled to receive notice of and to attend and vote at the special meeting or any adjournments or postponements thereof. Each share is entitled to one vote on each matter properly brought before the special meeting.

**Q: What happens if I sell my shares before the special meeting?**

A: The record date for the special meeting, the close of business on \_\_\_\_\_, 2008, is earlier than the date of the special meeting. If you held your GMH common shares on the record date but transfer them prior to the effective time of the REIT merger, you will retain your right to vote at the special meeting, but not the right to receive the merger consideration for GMH common shares. The right to receive such merger consideration will pass to the person who owns the shares you previously owned when the REIT merger becomes effective.

**Q: What do I need to do now?**

A: After you have read this document carefully, please authorize your proxy promptly by telephone, by Internet or by signing, dating and returning the enclosed proxy card in the prepaid envelope provided. You should authorize your proxy now, even if you expect to attend the special meeting and vote in person. Authorizing your proxy now will not prevent you from later canceling or revoking your proxy and changing your vote at any time before the vote at the special meeting and will ensure that your shares are voted if you later find you cannot attend the special meeting.

**Q: How will proxy holders vote my shares?**

A: If you authorize your proxy by telephone or by the Internet, or properly execute and return the proxy card enclosed with this proxy statement/prospectus prior to the special meeting, your shares will be voted as you authorize. If you execute your proxy card but no direction is otherwise made, your shares will be voted FOR approval of the REIT merger and in the discretion of the proxy holders on any other matter that may be properly presented at the meeting, including proposals to adjourn the meeting to obtain additional proxies.

**Q: What should I do if I hold my shares in "street name," i.e., through a bank, broker or other custodian?**

A: Please follow the instructions provided by your bank, broker or other custodian, in order to direct such custodian to vote your shares on your behalf.

**Q: Can my broker vote my shares, which are held in "street name"?**

A: Your broker is not able to vote your shares that are held in "street name" for you without your instructions. If you do not provide your broker with instructions on how to vote your shares held in "street name," your broker will not be permitted to vote your shares on the proposals being presented at the special meeting. Because the approval of the REIT merger requires the affirmative vote of the holders of two-thirds of GMH's outstanding common shares, a failure to provide your broker instructions will have the same effect as a vote against the REIT merger. You should therefore be sure to provide your broker with instructions on how to vote your shares.

**Q: What do I do if I want to change my vote?**

A: You may change your vote in three ways:

by delivering a written notice to the corporate secretary of GMH prior to the voting of the shares stating that you would like to revoke your proxy;

by signing and delivering a later-dated proxy card (or authorizing a later-dated proxy by telephone or by the Internet); or



by attending the special meeting and voting in person; however, your attendance alone will not revoke your proxy or change your vote.

If you have instructed a broker how to vote your shares, you must follow the directions provided by your broker to change those instructions.

**Q: What rights do I have if I oppose the mergers?**

A: You can either abstain from voting or vote against the REIT merger by indicating a vote against the proposal on your proxy card and signing and mailing your proxy card in accordance with the instructions provided, or by voting against the REIT merger in person at the special meeting. Pursuant to Maryland law, however, you are not entitled to dissenters' or appraisal rights with respect to the mergers.

**Q: Should I send my certificates representing my GMH common shares?**

A: No, do not submit your share certificates at this time. After ACC and GMH complete the mergers, ACC will send former holders of GMH common shares written instructions for exchanging their share certificates.

**Q: When do you expect to complete the mergers?**

A: ACC and GMH are working toward completing the mergers as quickly as possible. GMH must first obtain the approval of GMH shareholders at the special meeting and close the military housing sale. ACC and GMH expect to complete the mergers during the second quarter of 2008 assuming that the other conditions in the merger agreement are satisfied or waived. However, ACC and GMH cannot assure you as to when, or if, the mergers will occur.

**Q: If the mergers are completed, when can I expect to receive the merger consideration for my shares?**

A: As soon as practicable after the completion of the REIT merger, you will receive a letter of transmittal describing how you may exchange your shares for the merger consideration. At that time, you must send your completed letter of transmittal to the exchange agent (and, for GMH common shares represented by a certificate(s) only, your share certificate(s)) in order to receive the merger consideration. You should not send your share certificate(s) to ACC or GMH or anyone else until you receive the letter of transmittal.

**Q: What risks should I consider before I vote on the merger proposal?**

A: ACC and GMH encourage you to read carefully the detailed information about the mergers contained and incorporated by reference in this proxy statement/prospectus, including the section entitled "Risk Factors" beginning on page 26.

**Q: Where can I find more information about the companies?**

A: ACC and GMH each file reports and other information with the SEC. You may read and copy this information at the SEC's public reference facilities. Please call the SEC at 1-800-732-0330 for information about these facilities. This information is also available at the Internet site the SEC maintains at [www.sec.gov](http://www.sec.gov). In addition, GMH's SEC filings are available at the Internet site GMH maintains at [www.gmhcommunities.com](http://www.gmhcommunities.com), and ACC's SEC filings are available at the Internet site ACC maintains at [www.studenthousing.com](http://www.studenthousing.com). Information contained on ACC's website, GMH's website or the website of any other person is not incorporated by reference into this proxy statement/prospectus, and you should not consider information contained on

## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

those websites as part of this proxy statement/prospectus. You can also request copies of these documents from ACC or GMH. See "Where You Can Find More Information" on page 137.

**Q:**  
**Who can help answer my questions?**

**A:** If you have more questions about the mergers or need assistance voting your shares, please contact Georgeson Inc. at .

If you would like additional copies of this proxy statement/prospectus, you should contact Georgeson Inc. at .



## RISK FACTORS

*In addition to general investment risks and the other information contained in or incorporated by reference into this proxy statement/prospectus, you should carefully consider the following factors in evaluating the proposals to be voted on at the special meeting.*

### **Risk Factors Relating to the Mergers**

***GMH shareholders cannot be certain of the market value of the shares of ACC common stock that will be issued in the REIT merger.***

Upon the completion of the REIT merger, each GMH common share outstanding immediately prior to the REIT merger will be converted into the right to receive 0.07642 of a share of ACC common stock and \$3.36 in cash, without interest. Because the exchange ratio is fixed at 0.07642 of a share of ACC common stock for each GMH common share, the market value of the ACC common stock issued in the REIT merger will depend upon the market price of a share of ACC common stock upon completion of the REIT merger. The market value of ACC common stock will fluctuate prior to the completion of the REIT merger and therefore may be different at the time the REIT merger is consummated than it was at the time the merger agreement was signed and at the time of the special meeting. Stock price changes may result from a variety of factors that are beyond ACC's control, including general market and economic conditions and changes in business prospects. Accordingly, GMH shareholders cannot be certain of the market value of the ACC common stock that will be issued in the REIT merger or the market value of ACC common stock at any time after the mergers.

If the REIT merger is consummated, such consummation will not occur until after the special meeting and the satisfaction or waiver of all of the conditions to the REIT merger. Therefore, at the time of the special meeting you will not know the precise dollar value of the merger consideration you will become entitled to receive at the effective time of the REIT merger. You are urged to obtain a current market quotation for ACC common stock.

***The market price of ACC common stock and ACC's earnings per share may decline as a result of the mergers.***

The market price of ACC common stock may decline as a result of, among other things, the mergers if ACC does not achieve the perceived benefits of the mergers as rapidly or to the extent anticipated by financial or industry analysts or if the effect of the mergers on ACC's financial results is not consistent with the expectations of financial or industry analysts. In addition, the failure to achieve expected benefits and unanticipated costs relating to the mergers could reduce ACC's future earnings per share.

***There may be unexpected delays in the consummation of the mergers, which would delay GMH shareholders' receipt of the merger consideration and could impact ACC's ability to timely achieve cost savings associated with the mergers.***

The mergers are expected to close during the second quarter of 2008 assuming that all of the conditions in the merger agreement are satisfied or waived. Certain events may delay the consummation of the mergers. If these events were to occur, the receipt of cash and shares of ACC common stock by GMH shareholders would be delayed. Some of the events that could delay the consummation of the REIT merger include difficulties in obtaining the approval of GMH shareholders, closing the military housing sale or satisfying the other closing conditions to which the mergers are subject.

***The mergers and the military housing sale are each subject to a number of conditions which, if not satisfied or waived, would adversely impact GMH's ability to complete the transactions.***

The military housing sale, which is a condition precedent to the closing of the mergers and which is expected to close during the second quarter of 2008, is subject to certain closing conditions, including, among other things, (a) obtaining approvals from GMH's government partners in its military housing privatization projects and certain lenders and other parties that are parties to the agreements and related documents covering these projects, (b) obtaining regulatory approvals, if any, (c) receipt of notice that the military housing sale is not subject to the Exon-Florio amendments to The Defense Production Act of 1950, (d) repayment of all amounts under GMH's note facility, including evidence of the release of all liens related to the note facility, (e) the distribution of all the capital stock of College Park Management TRS, Inc. to the GMH Operating Partnership, and (f) accuracy of the other parties' representations and warranties and compliance with covenants, and the absence of an effect, event, development or change that could give rise to a termination of the securities purchase agreement, subject in each case to materiality standards. There can be no assurance that all of the various conditions will be satisfied or waived, if permitted, or the occurrence of any effect, event, development or change will not transpire. Therefore, there can be no assurance the military housing sale will be completed.

The mergers, which also are expected to close during the second quarter of 2008, are subject to certain closing conditions, including among other things, (a) the military housing sale, (b) obtaining regulatory approvals, if any, (c) the effectiveness of a registration statement on Form S-4 of ACC of which this proxy statement/prospectus is a part, (d) the approval of the REIT merger by at least two-thirds of all the votes entitled to be cast on the matter by the holders of all of GMH's outstanding common shares, (e) obtaining certain lender consents, (f) completion of all payments and performance of all other material obligations under GMH's settlement agreement relating to its class action litigation, (g) accuracy of the other parties' representations and warranties and compliance with covenants, subject in each case to materiality standards, and (h) delivery of tax opinions. There can be no assurance that all of the various conditions will be satisfied or waived, if permitted, or the occurrence of any effect, event, development or change will not transpire. Therefore, there can be no assurance with respect to the timing of the closing or whether the mergers will be completed.

***Failure to complete the military housing sale and/or the mergers could negatively impact GMH's operations and business and financial results.***

If either the military housing sale or the mergers are not completed, GMH's business and operations may be harmed to the extent that there is uncertainty surrounding the future direction of GMH and management's strategy. If the military housing sale is not completed, then GMH's ability to win additional awards of future military housing privatization projects could be negatively impacted were the Department of Defense to question GMH's ability to sustain its operations in the ordinary course going forward or become reluctant to enter into new relationships with a party that has been held for sale. In addition, in the event that the mergers are not completed, GMH's student housing residents, third-party management contract clients, vendors and others may similarly view GMH and its operations as unstable in the long-term and may attempt to terminate existing relationships or refuse to enter into new relationships with GMH. Moreover, in the event that the military housing sale is completed and the mergers are not, then GMH will have terminated its note facility with Merrill Lynch, Pierce, Fenner & Smith Incorporated, or Merrill Lynch, which GMH uses to fund continuing operations for its student housing business and general working capital. While management expects to retain an amount of the consideration received from the military housing sale necessary to provide sufficient working capital through the anticipated closing of the mergers or until a new credit facility can be established if the mergers are not completed, there can be no assurance that the retained cash proceeds will be sufficient to fund GMH's operations through the mergers, or going forward in the

event the mergers are not completed. Also, if the military housing sale is completed and the mergers are not, then GMH's overall operations will be reduced to only its student housing division, which could significantly impact GMH's overall financial condition going forward.

If the mergers and the military housing sale are not completed for any reason, GMH will be subject to several risks, including but not limited to the following:

the requirement that, under certain circumstances, including if GMH signs a definitive agreement with respect to a superior proposal from another potential buyer of GMH, GMH pay a termination fee of \$8.0 million to Balfour Beatty and \$16.0 million plus ACC expenses of up to \$7.5 million to ACC;

the requirement that, under certain circumstances, including if GMH breaches the merger agreement, GMH pay the costs and expenses of ACC in connection with the mergers up to \$7.5 million;

the incurrence of certain costs relating to the mergers and the military housing sale that are payable whether or not these transactions are completed;

the fact that activities relating to the mergers and the military housing sale and related uncertainties may lead to a loss of revenue that GMH may not be able to regain if these transactions do not occur;

the focus of GMH management being directed toward the mergers and the military housing sale and integration planning instead of on its core business and other opportunities that could have been beneficial to GMH; and

the loss of executive personnel and other employees integral to the continued operations of GMH whereby its continued management operations may be adversely impacted.

If the military housing sale and/or the mergers are not completed, there can be no assurance to GMH shareholders that these risks will not materialize or materially adversely affect GMH's business, its financial condition, its operating results, and its cash flows, including its ability to service debt and to make distributions to its shareholders.

***Provisions of the securities purchase agreement and the merger agreement may deter alternative business combinations and could negatively impact GMH's business and operations if the agreements are terminated in certain circumstances.***

Restrictions in the securities purchase agreement with Balfour Beatty generally prohibit GMH from soliciting any proposal to acquire GMH's military housing business, including a proposal that might be advantageous to its shareholders when compared to the terms and conditions of the military housing sale. In addition, there are restrictions in the merger agreement that generally prohibit GMH from soliciting any acquisition proposal or offer for a merger or business combination with any other party, including a proposal that might be advantageous to GMH shareholders when compared to the terms and conditions of the mergers. However, GMH does have the ability to terminate the merger agreement if it receives an acquisition proposal that its board of trustees determines in good faith constitutes a superior proposal, GMH is not in breach of the merger agreement non-solicitation provisions, and GMH provides ACC three business days to make any adjustments to the terms and conditions of the merger agreement. If the military housing sale is not completed, GMH may be unable to conclude another sale of its military housing division on as favorable terms, in a timely manner, or at all; and if the mergers are not completed, GMH may be unable to conclude another merger, sale or combination on as favorable terms, in a timely manner, or at all. If the securities purchase agreement or the merger agreement is terminated, GMH, in certain specified circumstances, may be required to

pay a termination fee of up to \$8.0 million to Balfour Beatty and \$16.0 million plus ACC expenses of up to \$7.5 million to ACC. In addition, under certain circumstances, GMH may be required to reimburse ACC for its expenses up to \$7.5 million. These provisions may deter third parties from proposing or pursuing alternative business combinations that might result in greater value to GMH shareholders than the mergers and the military housing sale.

***If the joint venture transaction does not close, ACC will need to replace the funding that will be used to finance a portion of the cash consideration and merger costs.***

ACC has entered into an agreement with Fidelity pursuant to which ACC and Fidelity will, immediately prior to the effective time of the REIT merger, form a joint venture and ACC will cause certain property-owning subsidiaries of GMH to contribute to the joint venture 15 student housing properties with an estimated value of approximately \$325.9, including approximately \$210.2 million in assumed debt. ACC will retain a 10% minority interest in the joint venture and will provide property management services for the properties contributed to the joint venture. ACC will use the approximately \$105.7 million proceeds from this transaction to finance a portion of the cash consideration and merger costs. If the joint venture transaction is not consummated, ACC will need to finance a portion of the cash consideration and merger costs by other means, which may result in ACC incurring increased interest costs on replacement financing. The interest rate on replacement financing will depend on prevailing market conditions at the time.

***Uncertainty regarding the mergers and the military housing sale may cause GMH's clients, vendors, business partners and others to delay or defer decisions concerning their business with GMH, which may harm its results of operations in the future if the military housing sale and/or the mergers are not completed.***

Because the mergers and the military housing sale are subject to several closing conditions, including, with respect to the mergers, the approval of the REIT merger by the required vote of GMH shareholders, uncertainty exists regarding the completion of these transactions. With respect to GMH's military housing business, this uncertainty may cause GMH's government and other business partners, vendors/suppliers, and service parties associated with GMH's military housing projects to delay or defer decisions concerning their business with GMH, which could negatively affect its military housing operations. In addition, with respect to GMH's student housing business, the uncertainty of the mergers may cause its tenants, third-party management contract customers, vendors/suppliers and others to delay or defer decisions concerning their business with GMH, which could negatively affect GMH's student housing business and results of operations.

***Certain of GMH's trustees and executive officers may have interests in the mergers that are different from, or in addition to, the interests of GMH shareholders generally.***

In considering the recommendation of GMH's board of trustees with respect to the REIT merger, GMH shareholders should be aware that certain of GMH's trustees and executive officers may have material financial interests in the mergers that are different from, or in addition to, the interests of GMH shareholders generally. See "Interests of Trustees and Executive Officers of GMH in the Mergers."

***If ACC is unable to successfully integrate the operations of GMH, its business and earnings may be negatively affected.***

The mergers with GMH will involve the integration of companies that have previously operated independently. Successful integration of the operations of GMH will depend primarily on ACC's ability to consolidate operations, systems procedures, properties and personnel and to eliminate redundancies and costs. The mergers will also pose other risks commonly associated with similar transactions, including unanticipated liabilities, unexpected costs and the diversion of management's attention to the

integration of the operations of ACC and GMH. ACC may not be able to integrate GMH's operations without encountering difficulties, including, but not limited to, the loss of key employees, the disruption of its respective ongoing businesses or possible inconsistencies in standards, controls, procedures and policies. Estimated cost savings are projected to come from various areas that ACC's management has identified through the due diligence and integration planning process. If ACC has difficulties with any of these integrations, it might not achieve the economic benefits it expects to result from the mergers, and this may hurt its business and earnings. In addition, ACC may experience greater-than-expected costs or difficulties relating to the integration of the business of GMH and/or may not realize expected cost savings from the mergers within the expected time frame, if at all.

*After the mergers are completed, GMH shareholders who receive ACC common stock in the REIT merger will have different rights that may be less advantageous than their current rights.*

After the closing of the REIT merger, GMH shareholders who receive ACC common stock in the REIT merger for their GMH common shares will have different rights than they currently have. You may conclude that your rights as a stockholder of ACC may be less advantageous than the rights you have as a shareholder of GMH. For a detailed discussion of your rights as a stockholder of ACC and the significant differences between your rights as a shareholder of GMH and your rights as a stockholder of ACC, see "Comparison of Rights of Stockholders of ACC and Shareholders of GMH."

*A portion of the gain from the military housing sale may not be qualifying income for REIT purposes.*

Certain gains generated from the military housing sale may not be qualifying income for purposes of one or more of the REIT income test requirements. Furthermore, the Internal Revenue Service, or the IRS, could seek to challenge the allocation of the purchase price among the assets sold as part of the military housing sale, causing a larger portion of the gain to constitute additional nonqualifying income. While GMH expects that it will have sufficient qualifying income in 2008 to satisfy the requirements for taxation as a REIT, this may not be the case. Therefore, there is a risk that the military housing sale could cause GMH to fail to qualify as a REIT. This risk may be significantly higher in the event that the mergers are not completed.

While Reed Smith LLP at the closing of the mergers will provide ACC an opinion, to the effect that GMH has been organized and operated in conformity with the requirements for qualification as a REIT under the Code for all taxable periods commencing with GMH's taxable year ended December 31, 2004 until the closing of the mergers, opinions of counsel are not binding upon the IRS or any court and there can be no assurances that GMH has in fact met the requirements for taxation as a REIT. Furthermore, in providing its opinion, Reed Smith LLP is relying, as to certain factual matters, upon the statements and representations contained in the certificates provided to Reed Smith LLP by GMH.

#### **Risk Factors Relating to ACC Following the Mergers**

ACC's business, operations and financial condition are subject to various risks. Some of these risks are described below; however, this section does not describe all risks applicable to ACC, its industry or its business, and it is intended only as a summary of certain material factors. Additional risks are described in ACC's Annual Report on Form 10-K for the fiscal year ended December 31, 2007 and are incorporated herein by reference. If any of the following risks actually occur, ACC's business could be materially and adversely affected.

*The market price of ACC common stock after the mergers may be affected by factors different from those affecting the shares of GMH currently.*

The businesses of ACC and GMH are different and, accordingly, the results of operations of ACC and the market price of ACC's common stock may be affected by factors different from those currently affecting the results of operations and market prices of GMH's common shares. For a discussion of the businesses of ACC and GMH and of certain factors to consider in connection with those businesses, see the documents incorporated by reference in this proxy statement/prospectus and referred to under "Where You Can Find More Information."

*ACC would incur adverse tax consequences if it or GMH failed to qualify as a REIT for U.S. federal income tax purposes.*

In order to qualify as a REIT, GMH must be owned by 100 or more persons. Following the REIT merger, if no further action is taken, GMH will fail this test. Accordingly, ACC anticipates that it will allow 100 or more persons to acquire preferred stock in GMH. However, if ACC is unable to find enough investors, or if the interests of the investors are disregarded by the IRS, GMH may fail to qualify as a REIT. If GMH has failed or fails to qualify as a REIT for any reason, including the 100 shareholder test discussed above, and the mergers are completed, ACC would succeed to or incur significant tax liabilities (including the significant tax liability that would result from the military housing sale and the sale of the disposition properties). Furthermore, if GMH has failed or fails to qualify as a REIT, ACC's ownership of GMH could result in ACC failing to qualify as a REIT.

REITs are subject to a range of complex organizational and operational requirements. As REITs, ACC and GMH must each distribute with respect to each year at least 90% of its REIT taxable income to its stockholders. Other restrictions apply to a REIT's income and assets. For any taxable year that ACC or GMH fails to qualify as a REIT, it will not be allowed a deduction for dividends paid to its stockholders in computing taxable income and thus would become subject to U.S. federal income tax as if it were a regular taxable corporation. In such an event, it could be subject to potentially significant tax liabilities. Unless entitled to relief under certain statutory provisions, ACC or GMH, as the case may be, would also be disqualified from treatment as a REIT for the four taxable years following the year in which it lost its qualification. If ACC or GMH failed to qualify as a REIT, the market price of ACC's common stock may decline and ACC may need to reduce substantially the amount of distributions to its stockholders because of its increased tax liability.

While Reed Smith LLP at the closing of the mergers will provide ACC an opinion to the effect that GMH has been organized and operated in conformity with the requirements for qualification as a REIT under the Code for all taxable periods commencing with GMH's taxable year ended December 31, 2004 until the closing of the mergers, opinions of counsel are not binding upon the IRS or any court and there can be no assurances that GMH has in fact met the requirements for taxation as a REIT. Furthermore, in providing its opinion, Reed Smith LLP is relying, as to certain factual matters, upon the statements and representations contained in the certificates provided to Reed Smith LLP by GMH.

Additionally, while Locke Lord Bissell & Liddell LLP has provided ACC (and at the closing of the mergers will provide GMH) an opinion that ACC has been organized and, for the taxable year ended December 31, 2004 through the taxable year ended December 31, 2007, ACC has operated in conformity with the requirements for qualification and taxation as a REIT under the Code, and ACC's current manner of organization and proposed method of operation will enable it to continue to satisfy the requirements for qualification and taxation as a REIT under the Code in the future, opinions of counsel are not binding upon the IRS or any court and there can be no assurances that ACC has in fact met the requirements for taxation as a REIT. Furthermore, in providing its opinion, Locke Lord Bissell & Liddell LLP is relying, as to certain factual matters, upon the statements and representations contained in certificates provided to Locke Lord Bissell & Liddell LLP by ACC.

**CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS**

This proxy statement/prospectus, including information included or incorporated by reference in this proxy statement/prospectus, may contain forward-looking statements. These forward-looking statements include, but are not limited to, statements about the benefits of the mergers, including future financial and operating results and performance; statements about ACC's and GMH's plans, objectives, expectations and intentions with respect to future operations, products and services; and other statements identified by words such as "expects," "anticipates," "intends," "plans," "believes," "seeks," "estimates," "should," "may" or words of similar meaning. These forward-looking statements are based upon the current beliefs and expectations of ACC's and GMH's management and are inherently subject to significant business, economic and competitive uncertainties and contingencies, many of which are difficult to predict and generally beyond the control of ACC and GMH. In addition, these forward-looking statements are subject to assumptions with respect to future business strategies and decisions that are subject to change. Actual results may differ materially from the anticipated results discussed in these forward-looking statements.

The following factors, among others, could cause actual results to differ materially from the anticipated results or other expectations expressed in the forward-looking statements:

those discussed and identified in public filings with the SEC made by ACC and GMH;

the failure to satisfy conditions to completion of the mergers, including the vote of GMH shareholders on the REIT merger at the special meeting;

the failure of the mergers and the military housing sale to close for any other reason;

ACC's ability to integrate the GMH business and to achieve expected synergies, operating efficiencies and other benefits within expected time-frames or at all, or within expected cost projections, and to preserve the goodwill of the acquired business;

risks that the proposed transactions disrupt current plans and operations;

the occurrence of any effect, event, development or change that could give rise to the termination of the merger agreement;

the amount of expenses and other liabilities incurred or accrued between the date of the signing of the merger agreement and date of the closing of the mergers; and

GMH and ACC each being able to maintain its qualification as a REIT.

You are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date of this proxy statement/prospectus or the date of any document incorporated by reference in this proxy statement/prospectus. All subsequent written and oral forward-looking statements concerning the mergers or other matters addressed in this proxy statement/prospectus and attributable to ACC or GMH or any person acting on their behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. Except to the extent required by applicable law or regulation, ACC and GMH undertake no obligation to update these forward-looking statements to reflect events or circumstances after the date of this proxy statement/prospectus or to reflect the occurrence of unanticipated events.

## THE GMH SPECIAL MEETING

### Date, Time and Place

There will be a special meeting of the shareholders of GMH on \_\_\_\_\_, 2008, at \_\_\_\_\_ a.m., local time, at \_\_\_\_\_.

### Purpose

At the special meeting, the holders of GMH common shares will be asked to consider and vote upon a proposal to approve the REIT merger described in this proxy statement/prospectus and to consider and vote upon any adjournment or postponement of the meeting.

### Recommendation of GMH's Board of Trustees

GMH's board of trustees voted unanimously to approve the merger agreement, the merger and the transactions contemplated under the merger agreement. GMH's board of trustees has declared the REIT merger and merger agreement advisable, fair to and in the best interests of GMH and its shareholders. Accordingly, GMH's board of trustees recommends that GMH shareholders vote "FOR" approval of the REIT merger and "FOR" the proposal to approve any adjournment or postponement of the special meeting to solicit additional proxies. See "The Mergers and Related Transactions Background of the Mergers" and "Interests of Trustees and Executive Officers of GMH in the Mergers."

### Voting by Trustees and Executive Officers

As of the close of business on \_\_\_\_\_, 2008, the record date of the special meeting, the trustees and executive officers of GMH held and were entitled to vote, in the aggregate, \_\_\_\_\_ GMH common shares, representing approximately \_\_\_\_\_ % of the outstanding GMH common shares. GMH currently expects that the trustees and executive officers of GMH will vote all of their GMH common shares "FOR" approval of the REIT merger and, if necessary, in favor of adjournment to solicit additional proxies.

### Record Date; Outstanding Shares and Voting Rights

GMH's board of trustees has fixed the close of business on \_\_\_\_\_, 2008, as the record date for the special meeting. Accordingly, only holders of record of issued and outstanding GMH common shares at the close of business on the record date are entitled to vote at the special meeting. At the close of business on the record date, there were \_\_\_\_\_ GMH common shares outstanding, held by approximately \_\_\_\_\_ holders of record. Each holder is entitled to one vote for each GMH common share held on the record date. Only common shareholders of record at the close of business on the record date may vote at the special meeting. Holders of units in the GMH Operating Partnership are not shareholders of GMH and therefore may not vote their shares at meetings of GMH's common shareholders.

### Vote Required; Quorum

Approval of the REIT merger proposal requires the affirmative vote of the holders of at least two-thirds of GMH's common shares outstanding as of the record date.

Although it is not currently expected, the special meeting may be adjourned for the purpose of soliciting additional proxies if GMH has not received sufficient proxies to constitute a quorum or sufficient votes for approval of the REIT merger at the special meeting of shareholders. The special meeting may be adjourned by the affirmative vote of at least a majority of the votes cast on the matter in person or by proxy at the special meeting, whether or not a quorum exists. The special meeting may



also be adjourned for other reasons in accordance with GMH's charter and bylaws. Any adjournment may be made to a date not more than 120 days after the original record date without notice, other than by an announcement at the special meeting. Any adjournment of the special meeting for the purpose of soliciting additional proxies will allow shareholders who have already sent in their proxies to revoke them at any time prior to their use.

At any time prior to convening the special meeting, GMH's board of trustees may postpone the special meeting for any reason without the approval of its shareholders. If postponed, as required by law, GMH will provide at least ten days' notice of the new meeting date. Although it is not currently expected, GMH's board of trustees may postpone the special meeting for the purpose of soliciting additional proxies if it has not received sufficient proxies to constitute a quorum or sufficient votes for approval of the REIT merger. Similar to adjournments, any postponement of the special meeting for the purpose of soliciting additional proxies will allow shareholders who have already sent in their proxies to revoke them at any time prior to their use.

The presence, in person or by properly executed proxy, of the holders of a majority of the GMH common shares entitled to vote at the special meeting is necessary to constitute a quorum at the special meeting. GMH common shares represented in person or by proxy will be counted for the purposes of determining whether a quorum is present at the special meeting. Abstentions will be counted for quorum purposes and will have the same effect as votes "AGAINST" approval of the REIT merger proposal since the REIT merger proposal requires the affirmative vote of two-thirds of outstanding GMH common shares. Under NYSE rules, brokers and nominees holding shares of record for customers are not entitled to vote on the REIT merger proposal unless they receive specific voting instructions from the beneficial owner of the shares. If a broker or nominee holding shares of record for a customer submits a properly executed proxy, but indicates that it does not have discretionary authority to vote as to a particular matter, those shares, which are referred to as broker non-votes, will be treated as present and entitled to vote at the special meeting for purposes of determining whether a quorum exists. Broker non-votes will have the same effect as shares voted "AGAINST" approval of the REIT merger.

If a quorum is not present, the shareholders entitled to vote at the special meeting, present in person or by proxy, may adjourn the meeting from time to time to a date not more than 120 days after the original record date without notice other than an announcement at the meeting. Any business may be transacted at an adjourned meeting, which might have been transacted at the special meeting as originally called.

#### **Voting of Proxies**

All GMH common shares that are entitled to vote and are represented at the special meeting by properly executed proxies received prior to or at the meeting, and not revoked, will be voted at the meeting in accordance with the instructions indicated on such proxies. GMH shareholders may choose to vote for or against or abstain from voting on the approval of the REIT merger. If a GMH shareholder returns a signed proxy card or initiates a proxy by telephone or by Internet, but does not indicate how the shares are to be voted (with the exception of broker non-votes), the underlying GMH common shares will be voted "FOR" the REIT merger. If a GMH shareholder does not return a signed proxy card or otherwise authorize a proxy by telephone or by Internet, that shareholder's shares will not be voted and will have the same effect as a vote against the approval of the REIT merger.

#### **Proxy Authorization Electronically or by Telephone**

Shareholders of record and many shareholders who hold their shares through a broker or bank will have the option to authorize their proxies to vote their shares electronically through the Internet or by telephone. Please note that there are separate arrangements for using the Internet and telephone

depending on whether your shares are registered in GMH's share records in your name or in the name of a broker, bank or other nominee who holds your shares. If you hold your shares through a broker, bank or other nominee, you should check your proxy card or voting instruction card forwarded by your broker, bank or other nominee who holds your shares to see which options are available.

In addition to submitting the enclosed proxy by mail, GMH shareholders of record may authorize their proxies by telephone or Internet by following the instructions on their proxy card or voting form. If you have any questions regarding how to authorize your proxy by telephone or by Internet, please call Georgeson Inc. at .

#### **Appraisal or Dissenters' Rights**

Under Section 3-202 of the Maryland General Corporation Law, GMH shareholders do not have the right to receive the appraised value of their shares in connection with the REIT merger because GMH common shares are listed on the NYSE. GMH shareholders can vote against the REIT merger by indicating a vote against the proposal on their proxy card and signing and mailing their proxy card in accordance with the instructions provided, or by voting against the REIT merger in person at the special meeting. If the requisite number of GMH shareholders vote in favor of the REIT merger, all GMH shareholders will be bound by the terms of the REIT merger under the merger agreement, and each of their GMH common shares, including the shares of those GMH shareholders that did not vote in favor of the REIT merger, will be converted into the right to receive 0.07642 of a share of ACC common stock and \$3.36 in cash, without interest.

#### **Revocation of Proxies**

A proxy card is enclosed. Any shareholder who executes and delivers the proxy card may revoke the authority granted under the proxy at any time before the shares are voted by:

delivering to the corporate secretary of GMH, at or before the vote is taken at the special meeting, a later-dated written notice stating that the shareholder would like to revoke its proxy and change its vote;

properly executing and delivering a new proxy card bearing a later date relating to the same shares (or authorize a later-dated proxy by telephone or Internet); or

attending the special meeting and voting in person, although attendance at the special meeting will not in and of itself constitute a revocation of a proxy or a change of the shareholder's vote.

If the shareholder has instructed its broker to vote its shares and the shareholder wishes to revoke those instructions, the shareholder must follow its broker's revocation procedures.

Any written notice of revocation or subsequent proxy should be sent to GMH Communities Trust, 10 Campus Boulevard, Newtown Square, Pennsylvania 19073, Attention: Secretary, so as to be received prior to the special meeting, or hand delivered to the corporate secretary of GMH at or before the taking of the vote at the special meeting. Shareholders that have instructed a broker to vote their shares must follow directions received from such broker in order to change their vote or to vote at the special meeting.

#### **Solicitation of Proxies; Expenses**

All expenses of GMH's solicitation of proxies, including the cost of mailing this proxy statement/prospectus to GMH shareholders, will be paid by GMH. In addition to solicitation by mail, GMH shareholders, trustees, officers and employees may solicit proxies by telephone, e-mail, fax or other means of communication. Such shareholders, trustees, officers and employees will not be

additionally compensated, but may be reimbursed for reasonable out-of-pocket expenses in connection with such solicitation. Arrangements will also be made with brokerage houses, custodians, nominees and fiduciaries for forwarding of proxy solicitation materials to beneficial owners of shares held of record by such brokerage houses, custodians, nominees and fiduciaries, and GMH will reimburse such brokerage houses, custodians, nominees and fiduciaries for their reasonable expenses incurred in forwarding such materials. GMH has retained Georgeson Inc., a proxy soliciting firm, to assist GMH in the solicitation of proxies. Georgeson Inc.'s solicitation fee is not to exceed \$8,500, plus out-of-pocket expenses.

**GMH SHAREHOLDERS SHOULD NOT SEND IN THEIR SHARE CERTIFICATES WITH THE PROXY CARDS. YOU WILL RECEIVE SEPARATE WRITTEN INSTRUCTIONS ON HOW TO EXCHANGE YOUR GMH SHARE CERTIFICATES FOR THE MERGER CONSIDERATION IF THE REIT MERGER IS COMPLETED.**

## THE MERGERS AND RELATED TRANSACTIONS

### General

This proxy statement/prospectus is being furnished to you in connection with the proposed merger of American Campus Acquisition LLC with and into GMH, which will be followed by the merger of GMH with and into GMH Communities, Inc. GMH Communities, Inc. will continue as the surviving entity of these mergers and will be a subsidiary of the ACC Operating Partnership. The merger agreement also provides for the merger of American Campus Acquisition Limited Partnership LP with and into the GMH Operating Partnership, with the GMH Operating Partnership continuing as the surviving entity of this merger. The mergers will be carried out as provided in the merger agreement. A copy of the merger agreement is attached as Annex A to this proxy statement/prospectus and is incorporated by reference in this proxy statement/prospectus.

This proxy statement/prospectus has been sent to you because you were a holder of GMH common shares on the record date set by GMH's board of trustees for a special meeting of GMH shareholders to consider and vote upon a proposal to approve the REIT merger and to consider and vote upon any adjournment or postponement of the meeting. This proxy statement/prospectus also constitutes a prospectus of ACC, which is a part of the Registration Statement on Form S-4 filed by ACC with the SEC under the Securities Act in order to register the shares of ACC common stock to be issued to GMH shareholders and unitholders in the mergers and the shares of ACC common stock issuable to unitholders upon the exchange of units in the ACC Operating Partnership issued in the partnership merger.

### Background of the Mergers

From time to time, GMH's board of trustees, in consultation with its senior management, reviewed alternative plans for achieving GMH's business objectives and enhancing shareholder value, including, among others, potential strategic initiatives, joint ventures and business combinations, in light of changing real estate capital market conditions.

On March 10, 2006, at GMH's board of trustees meeting, Gary M. Holloway, Sr., GMH's chairman and chief executive officer, informed the board of trustees that he was considering making an offer to purchase GMH and subsequently filed an amendment to his Schedule 13D to that effect with the SEC.

In response to Mr. Holloway's indication of interest, GMH formed a special committee of independent trustees to consider and analyze strategic and financial alternatives to remaining independent, including without limitation, any offer that might be made by Mr. Holloway, and on March 13, 2006, publicly announced that GMH's board of trustees had formed the special committee for that purpose. The special committee engaged two financial advisors, referred to as Financial Advisor A and Financial Advisor B. With assistance from Financial Advisor A and Financial Advisor B, the special committee solicited indications of interest from third parties to acquire GMH or portions of GMH. In connection with this multiround process, referred to as the 2006 Process, these financial advisors distributed a confidential information memorandum and contacted more than fifty potential bidders, including, but not limited to, private firms active in the real estate sector, public real estate companies, as well as institutional investors and advisors, of which approximately forty entered into confidentiality and standstill agreements and received non-public confidential information concerning GMH. The potential bidders that had signed confidentiality and standstill agreements were granted access to such information regarding GMH through access to an electronic data room. Senior management, with assistance from Financial Advisor A and Financial Advisor B, held multiple discussions with potential bidders and responded to their questions concerning GMH, its business and its assets.

## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

On July 10, 2006, Mr. Holloway informed GMH's board of trustees that he no longer intended to make an offer to purchase GMH. Mr. Holloway also publicly announced his decision in an amendment on Schedule 13D filed with the SEC.

Between July 2006 and December 2006, discussions and meetings continued with potential interested parties regarding a possible transaction involving GMH.

In December 2006, the special committee announced that the 2006 Process had been terminated because, among other reasons, the special committee had not received any firm offers for GMH.

Following this decision, GMH implemented a targeted operating initiative, which involved, among other things, the refinancing of certain assets, the sale of certain assets and joint venture transactions.

On March 7, 2007, Mr. Holloway received an unsolicited, non-binding indication of interest from Company A, a real estate management and investment firm, to acquire all of the outstanding common shares of GMH for a purchase price of \$10.50 per share in cash. Company A had previously received confidential information regarding GMH during the 2006 Process. The non-binding indication of interest indicated that Company A had allocated \$7.00 per share for the acquisition of the student housing business and \$3.50 per share for the acquisition of the military housing business. The letter stated that Company A would need, among other things, to complete its due diligence review and receive updated GMH financial statements for the months most recently preceding its indication of interest. Following a discussion of this non-binding indication of interest at a meeting of GMH's board of trustees held on March 12, 2007, senior management advised Company A that the non-binding indication of interest did not, in the board of trustees' view, provide adequate value to GMH's shareholders in light of GMH's experience with its previously announced operating initiatives and the current trading price of its common shares, which were trading during the period between January 1, 2007 and March 12, 2007 in the range of \$9.14 to \$10.84 per share. However, Mr. Joseph Macchione, executive vice president, general counsel and secretary of GMH, asked Company A to stay in contact with GMH over the next several months while GMH implemented its strategic operating initiatives.

During the summer of 2007, at the direction of the board of trustees, senior management of GMH undertook a valuation review of the military housing business and, in connection therewith, provided non-public confidential information regarding the military housing business to several financial institutions, following the execution of confidentiality agreements by these parties.

Following the valuation review, at a board of trustees meeting held on July 31, 2007, senior management informed GMH's board of trustees that the financial institutions had provided informal preliminary valuations ranging from approximately \$250.0 million to \$370.0 million for the military housing business. GMH's board of trustees directed senior management to continue discussions with these financial institutions with the expectation that the parties would provide a more definitive valuation of the military housing business.

In mid-August, senior management reported to the board of trustees that further discussion with the financial institutions had resulted in valuations in the range of \$225.0 million to \$360.0 million for the military housing business. Senior management noted that the high range assumed the availability of subordinated debt to finance a potential transaction.

In July 2007, Company B, a financial services company, orally communicated to senior management of GMH that it had an interest in a possible acquisition of only the assets of the student housing business at an approximate price of \$5.00 per share. This oral non-binding indication of interest did not include the acquisition of GMH's third party management agreements or its student housing joint ventures (including certain land owned by the student housing business). In response, GMH provided confidential non-public information to Company B following the execution of a

confidentiality agreement, and senior management engaged in multiple discussions with Company B and responded to questions regarding the student housing business.

In late August 2007, senior management of GMH had several informal conversations with senior management of Balfour Beatty plc, a U.K.-based diversified company that focuses on engineering and construction, regarding the value of the military housing business. A U.S. subsidiary of Balfour Beatty plc, Balfour Beatty Construction, is a primary contractor for GMH's military housing business and, accordingly, was familiar with GMH's military housing business. These conversations were of a general nature and did not result in the receipt of a written offer for the military housing business from Balfour Beatty. Balfour Beatty had not participated in the 2006 Process.

On September 28, 2007, Messrs. Holloway and Macchione received an unsolicited telephone call from Mr. William C. Bayless, Jr., the President and Chief Executive Officer of ACC. ACC had previously received certain confidential information regarding GMH during the 2006 Process. During this call, Mr. Bayless inquired in general terms whether GMH would be interested in either a potential business combination pursuant to which ACC would acquire the student housing business in exchange for either a combination of cash and stock of ACC or all cash. Mr. Macchione informed each member of GMH's board of trustees that GMH had been contacted by ACC and described the nature of the conversation with Mr. Bayless. There was a consensus from the board of trustees that an in-person, confidential meeting with senior management of ACC would be an appropriate next step.

On October 9, 2007, Messrs. Holloway and Macchione met in person with Messrs. Bayless and Mr. Brian Nickel, ACC's current senior executive vice president and chief investment officer. The parties had preliminary discussions regarding the value of the student housing business and discussed in general terms GMH's assets and operations with regard to the student housing business. The parties determined that further discussions were warranted.

In early October, Mr. Holloway received an unsolicited telephone call from the president of Company A. During this conversation, the president of Company A expressed Company A's continued interest in a potential acquisition of the student housing and military housing business. Later that week, Mr. Macchione discussed with the chief financial officer and managing director of Company A general terms regarding a potential transaction.

Following these discussions with Company A and ACC, each of Company A and ACC received updated confidential information about GMH, including internal projections and other data prepared by GMH's management.

At a meeting of GMH's board of trustees held on October 31, 2007, Mr. Holloway updated the board of trustees with regard to senior management's discussions with potential bidders, including Company A, Company B, ACC and Balfour Beatty, that had expressed preliminary interest in acquiring the student housing and/or the military housing divisions.

During the early part of November 2007, senior management of GMH had communications with potential bidders, including Company A, Company B, ACC, and Balfour Beatty, regarding their interest in pursuing a potential transaction with GMH and the timing for submitting preliminary indications of interest in writing. In the course of these conversations, Company A indicated it would be interested in acquiring only certain student housing assets. Senior management responded that GMH was not seeking to sell only certain student housing assets but rather was currently seeking bids for the entire student housing division and/or the entire military housing division. Given the expected receipt of bids from other potential interested parties in the near term, senior management suggested that Company A submit an initial bid promptly and offered to meet in-person with representatives of Company A.

On November 28, 2007, members of ACC senior management attended an in-person meeting in Philadelphia with members of GMH senior management. The parties discussed the possibility of a

business combination with ACC and GMH, following a sale of the military housing business, and the possible structure of such a combination, along with trailing twelve month and pro forma financial data related to GMH and a potential business combination with ACC.

On November 29, 2007, representatives of Company C delivered a letter to a member of GMH's board of trustees expressing an interest in acquiring all or part of the student housing business through a joint venture with Company C and a state pension fund. No indication of value was set forth in the letter.

On November 30, 2007, representatives of Company D, an investment arm of a publicly-traded financial services company, delivered a letter to Messrs. Holloway and Robinson which included a non-binding indication of interest to acquire the military housing business of GMH. This letter indicated that, based on limited due diligence and certain assumptions, Company D was prepared to make a non-binding indication of interest of approximately \$285.0 million for the net equity of the military housing business. The non-binding indication of interest was subject to, among other things, satisfactory completion of Company D's due diligence review and necessary internal approvals.

On December 3, 2007, Mr. Macchione received an e-mail from the chief financial officer of Company A which indicated a preliminary valuation of the student housing business (excluding GMH's management business, joint ventures and land) that would result in the GMH shareholders receiving approximately \$4.50 to \$5.00 per share. Mr. Macchione indicated to Company A's representative that senior management believed Company A's valuation of GMH was inadequate and asked that Company A reevaluate its valuation. Company A's representative stated that any future proposals by Company A would be made directly to GMH's board of trustees.

On December 5, 2007, GMH received a written non-binding indication of interest from Balfour Beatty regarding the acquisition of the military housing business. This indication of interest stated that Balfour Beatty's preliminary valuation for the military housing business was approximately \$315.0 to \$330.0 million, and that it was subject to completion of satisfactory due diligence and approval of its parent, Balfour Beatty plc, but was not subject to any financing contingency.

On December 12, 2007, GMH received a written non-binding indication of interest from ACC regarding the acquisition of the student housing business. This indication of interest stated that ACC estimated that the per share valuation to GMH shareholders would be approximately \$6.68 prior to transaction expenses. The non-binding indication of interest stated that ACC believed that it could utilize its UPREIT structure to design a transaction in a tax efficient manner to maximize the value to GMH shareholders and GMH unitholders. The non-binding indication of interest also stated that it was not contingent on the receipt of financing and that ACC had conducted significant business, financial and property due diligence and was prepared to complete all remaining components of its due diligence review expeditiously.

On December 12, 2007, at a special telephonic meeting of GMH's board of trustees, the board of trustees reviewed with senior management the non-binding indications of interest received from potential bidders, including Company A, Company B, Company D, ACC and Balfour Beatty. It was noted that, unlike ACC and Balfour Beatty, Company A and Company B had not come forward with a written proposal letter. GMH's board of trustees also discussed the desirability of engaging a financial advisor to assist with a potential sale of the student and military housing business. Following this meeting, GMH engaged Wachovia Securities as its financial advisor and Goodwin Procter LLP and Reed Smith LLP as its outside corporate and real estate counsel, respectively, in connection with GMH's consideration of possible sale transactions involving the student housing business and the military housing business.

On December 14, 2007, Mr. Peter Zinkin, the planning and development director of Balfour Beatty, communicated to Mr. Holloway via e-mail that Balfour Beatty would be willing to increase its initial non-binding indication of value of the military housing business to \$337.5 million.

## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

On December 26, 2007, Goodwin Procter circulated a draft securities purchase agreement to Balfour Beatty's counsel, Allen & Overy LLP. Throughout the next several weeks, the parties' respective management teams, with the assistance of the parties' respective legal and financial advisors, negotiated the terms of the securities purchase agreement, including among others, representations and warranties, termination fees and triggers, closing conditions and the terms of a possible working capital adjustment.

On January 8, 2008, Goodwin Procter provided a draft merger agreement to ACC's outside legal counsel, Locke Lord Bissell & Liddell LLP. Due to the fact that Company A and Company B had not submitted indications of interest in writing, Company A and Company B did not receive a draft of the merger agreement.

On January 16, 2008, Company E, a publicly traded real estate company, submitted a written non-binding indication of interest to the management of GMH expressing interest in acquiring the military housing business for a valuation range of \$340.0 to \$360.0 million, subject to additional analysis and due diligence review. Company E had previously received certain confidential information during the 2006 Process.

On January 17, 2008, in accordance with GMH's directives, representatives of Wachovia Securities communicated to Company E's financial advisor that GMH would grant Company E an additional period to submit a more definitive proposal reflecting a specified price rather than a valuation range and that GMH would provide additional financial information.

On January 18, 2008, representatives of GMH and representatives of Goodwin Procter discussed with representatives of Company E the structure for the acquisition of the student housing business, following the sale of the military housing business. Also, GMH supplied Company E with certain additional financial information, including internal projections.

On January 21, 2008, Locke Lord responded with a mark-up of the merger agreement. Throughout the next several weeks, the parties' respective management teams, with the assistance of the parties' respective legal and financial advisors, negotiated the terms of the mergers, including, among others, the proposed structure of the transactions, the form of the consideration to be received by GMH shareholders and GMH unitholders, which would ultimately consist of a mix of cash and shares of ACC common stock with a fixed exchange ratio (with GMH unitholders being afforded an election to receive ACC Operating Partnership common units in lieu of ACC common stock), termination fees and triggers and closing conditions, including, among others, the receipt of certain lender consents. The parties agreed that GMH would have the right but not the obligation to sell certain disposition properties and GMH's home office immediately prior to the closing of the mergers with the possibility of a special distribution to GMH shareholders upon the sale of certain of these disposition properties. (See " Home Office and Disposition Properties").

On January 22, 2008, representatives of Company E's financial advisor orally conveyed to GMH's financial advisor that Company E was interested in acquiring the military housing business for \$350.0 million, subject to additional due diligence review, and indicated further that Company E would need an additional five business days to complete its due diligence review. Company E also indicated that it expected that GMH would not announce a transaction with another party during this diligence period.

On January 28, 2008, GMH's board of trustees convened a special telephonic meeting for the purpose of discussing the current proposals of each of ACC, Balfour Beatty and Company E. Senior management gave an overview of the proposed structure of the transaction with ACC and the transaction with Balfour Beatty and noted that based on current transaction valuations, GMH would receive approximately \$350.0 million in cash, such price to be increased or decreased depending on the estimated working capital of the military housing business as of the closing of this sale, as a result of the military housing sale to Balfour Beatty. Furthermore, GMH and ACC continued to negotiate the



total value of the per share price to be received by GMH shareholders upon the closing of the mergers. In addition, representatives of Goodwin Procter and Reed Smith reviewed the current status of the negotiations with each of ACC and Balfour Beatty with respect to the merger agreement, securities purchase agreement and the ancillary agreements, including fiduciary-out provisions, termination fees and triggers, closing conditions, lender consents and the sale of the disposition properties and the home office. There was also a discussion of possibly consummating the military housing sale whether or not the mergers occurred. Although the sale of the disposition properties or the home office would not be a condition precedent to the closing of the mergers, representatives of Goodwin Procter explained that the GMH shareholders could possibly receive special distributions related to the disposition of certain of these assets. (See " Home Office and Disposition Properties"). The board of trustees also discussed at length the preliminary indication of interest submitted by Company E. In light of the level of Company E's bid and the timing associated with Company E's additional due diligence request, the board of trustees determined not to pursue Company E's proposal at that time for, among other reasons, the risk that Balfour Beatty would terminate its advanced negotiations with GMH, although, if Company E were to submit an enhanced proposal at a higher price and with an accelerated timeline, the board of trustees would reconsider its decision.

Subsequent to the meeting, Company E was informed of the decision of GMH's board of trustees. Shortly thereafter, Company E sent a letter to GMH stating that it was no longer interested in pursuing an acquisition of the military housing business.

During the period from January 28 through February 8, 2008, the parties and their respective representatives continued to negotiate the terms of the merger agreement, securities purchase agreement and ancillary agreements. In addition, representatives of ACC negotiated the terms of a contribution agreement with regard to the sale of certain joint venture assets concurrently with the closing of the mergers (See " Financing of the Mergers Joint Venture").

On February 8, 2008, GMH's board of trustees convened a special telephonic meeting for the purpose of updating the board of trustees on the current proposals of each of ACC and Balfour Beatty. Members of senior management and representatives of Goodwin Procter, Reed Smith and Wachovia Securities provided the board of trustees with an overview of the status of the negotiations with each of ACC and Balfour Beatty. It was noted that, with regard to the military housing sale, Balfour Beatty had increased its purchase price from \$337.5 million to \$350.0 million, reflecting the agreement reached by the parties on the estimated working capital required to be present at the closing, such price to be increased or decreased depending on the estimated working capital of the military housing business as of the closing of the military housing sale, and that, with regard to the mergers, ACC and GMH had reached agreement on the price of ACC common stock to be used in determining the merger consideration. It was further noted that GMH unitholders would have the right to receive the same merger consideration as the GMH shareholders but could, at the holder's option, elect to receive common units in the ACC Operating Partnership in lieu of shares of ACC common stock. Representatives of Goodwin Procter then reviewed with respect to each agreement, among other things, the current provisions regarding closing conditions, termination rights and break-up fees and termination expenses. After further discussion, the board of trustees authorized GMH's senior management, with assistance from GMH's legal and financial advisors, to continue to negotiate with ACC and Balfour Beatty.

During the period from February 8 through February 11, 2008, the parties and their respective representatives continued to negotiate the merger agreement, the securities purchase agreement and ancillary agreements.

In the morning of February 11, 2008, ACC's board of directors held a special meeting to consider the proposed merger agreement with GMH at which ACC's board of directors approved the merger agreement and the transactions contemplated by this agreement.

## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

In the afternoon of February 11, 2008, GMH's board of trustees held a special meeting to consider the proposed merger agreement and securities purchase agreement with ACC and Balfour Beatty, respectively. Members of the senior management team and representatives of GMH's legal and financial advisors also participated in the meeting. Prior to the meeting, the members of the board of trustees were provided with near-final drafts of the merger agreement and securities purchase agreement, a detailed summary of each of the agreements and various other materials. Representatives of Goodwin Procter reviewed with GMH's board of trustees the terms of the merger agreement and securities purchase agreement, including with regard to each agreement, closing conditions, termination rights and provisions regarding break-up fees and termination expenses. The disposition properties and sale of GMH's home office also was discussed and it was explained that the GMH shareholders could potentially receive an additional special distribution as a result of certain asset sales. In addition, the board of trustees formed a special committee, chaired by Denis Nayden, to oversee and implement the sale of GMH's home office and the enforcement of the put agreement. Also at this meeting, Wachovia Securities reviewed with GMH's board of trustees its financial analysis of the merger consideration (taken together with the payment of the distributions from the military housing sale) and rendered to the board of trustees an oral opinion, which opinion was confirmed by delivery of a written opinion, dated February 11, 2008, to the effect that, as of that date and based on and subject to various assumptions made, procedures followed, matters considered and limitations described in such opinion, the merger consideration, taken together with the payment of the distributions from the military housing sale, to be received by holders of GMH common shares and holders of GMH Operating Partnership units (other than GMH, the general partner of the GMH Operating Partnership and other subsidiaries of GMH) was fair, from a financial point of view, to such holders. For purposes of its opinion, Wachovia Securities took into account, in the case of holders of GMH Operating Partnership units, only the merger consideration (taken together with the payment of the distributions from the military housing sale) that would be received by such holders if, prior to the consummation of the mergers, they converted their GMH Operating Partnership units into GMH common shares in accordance with the terms of the limited partnership agreement of GMH Operating Partnership. After further discussion, the board of trustees approved the merger agreement and securities purchase agreement with ACC and Balfour Beatty and the transactions contemplated by these agreements.

After the meetings of the board of trustees of GMH and the board of directors of ACC adjourned on February 11, 2008, the definitive documentation for the transactions was finalized and the merger agreement was executed late that evening. Contemporaneously with the execution and delivery of the merger agreement, GMH entered into the securities purchase agreement with Balfour Beatty.

On the morning of February 12, 2008, press releases were issued announcing the transactions.

### **GMH's Reasons for the Mergers**

After careful consideration, GMH's board of trustees determined that the mergers and the other transactions contemplated by the merger agreement are advisable and in the best interests of GMH and its shareholders, and have unanimously approved the merger agreement, the mergers and the other transactions contemplated by the merger agreement. In evaluating the mergers and the other transactions contemplated by the merger agreement, GMH's board of trustees consulted with members of GMH's senior management as well as GMH's legal and financial advisors and, in reaching its decision to approve the merger agreement, the mergers and the other transactions contemplated by the merger agreement, GMH's board of trustees considered a number of factors that GMH's board of trustees believed supported its decision, including the following:

the trustees' knowledge of the current environment in the real estate industry, both on an historical and on a prospective basis, including national and regional economic conditions, capital markets conditions, and the overall challenges of implementing GMH's operating plans in the absence of the proposed transactions;

## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

GMH's future prospects, including market conditions, the future performance of its assets and the potential risks to successful execution of its business strategy;

the belief that the mergers and the transactions contemplated by the merger agreement, including the military housing sale, were more favorable to GMH shareholders than other strategic alternatives available to GMH after conducting comprehensive reviews of strategic alternatives during the several months;

the extensive solicitation effort that was undertaken from March 2006 through December 2006 to explore a possible sale of GMH to third parties (See, the 2006 Process as described in " Background of the Mergers");

the scale, scope, strength and diversification of markets and expected synergies that could be achieved by combining the student housing division of GMH with ACC;

the absence of a bid from another party or group of parties that would be more desirable than that from ACC and Balfour Beatty, notwithstanding the fact that GMH actively solicited interests in a potential transaction involving GMH in the 2006 Process;

the fact that the financial and other terms and conditions of the merger agreement and the transactions contemplated thereby were the product of extensive arm's-length negotiations among the parties;

its belief that selling the student housing division and the military housing division to two different buyers would produce a greater value for GMH shareholders than selling all of GMH to one buyer;

its belief that the merger agreement and the transactions contemplated thereby were more favorable to shareholders than other strategic alternatives reasonably available to GMH and its shareholders due to the fact that as a result of the merger, GMH shareholders will immediately realize the value of their investment in GMH through their receipt of the per share/unit distribution of approximately \$4.08 following the closing of the military housing sale, plus the per share/unit merger consideration of \$3.36 in cash and 0.07642 of a share of ACC common stock from the REIT merger, while still maintaining the opportunity for GMH shareholders to participate in future earning or growth and benefit from any appreciation in value of ACC common shares/units;

the fact that the per share/unit price of approximately \$9.61 (based on the ACC stock price of \$28.43 per share on the last trading day before the mergers were announced) being paid for each GMH common share in the merger agreement and for the military housing sale represented a premium of 72% based on the closing price of GMH's common shares on February 11, 2008 (the last full trading day before the announcement of the mergers);

the opportunity for GMH shareholders to benefit from any increase in the trading price of ACC common stock between the announcement of the mergers and the completion of the mergers because a portion of the merger consideration consists of a fixed number of shares of ACC common stock;

the fact that GMH's unitholders have the option to receive units in the ACC Operating Partnership in lieu of shares of ACC common stock, enabling holders of GMH Operating Partnership units, upon their election, to obtain favorable tax treatment on a portion of their consideration;

## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

the written opinion of Wachovia Securities, dated February 11, 2008, to GMH's board of trustees as to the fairness, from a financial point of view and as of the date of such opinion and based on and subject to the matters set forth in such opinion, of the merger consideration, taken together with the payment of the military sale distributions, to be received by holders of GMH common shares and holders of GMH Operating Partnership units (other than GMH, the general partner of the GMH Operating Partnership and other subsidiaries of GMH), as more fully described under the caption " Opinion of GMH's Financial Advisor." For purposes of its opinion, Wachovia Securities took into account, in the case of holders of GMH Operating Partnership units, only the merger consideration (taken together with the payment of the military sale distributions) that would be received by such holders if, prior to the consummation of the mergers, they converted their GMH Operating Partnership units into GMH common shares in accordance with the terms of the limited partnership agreement of the GMH Operating Partnership;

the fact that, subject to compliance with the terms and conditions of the merger agreement, GMH is permitted to terminate the merger agreement in order to enter into an agreement with respect to a superior proposal (as defined in the section entitled "The Merger Agreement Non-Solicitation"), upon the payment to ACC of a \$16.0 million termination fee and up to \$7.5 million of expenses (see "The Merger Agreement Termination" and "The Merger Agreement Termination Fees and Expenses");

the fact that the completion of the mergers is subject to approval by GMH shareholders and the right of its board of trustees, under certain circumstances specified in the merger agreement, to change its recommendation that GMH shareholders vote in favor of the REIT merger, subject to ACC's right to terminate the merger agreement and receive the termination fee and expense amount;

the fact that GMH may terminate the securities purchase agreement if GMH exercises its fiduciary out under the merger agreement;

GMH's ability to take action to cause specific performance and require ACC to complete the mergers;

GMH's management team's recommendation in favor of the mergers and the military housing sale to GMH's board of trustees;

the receipt by ACC of an executed commitment letter from its source of debt financing for the mergers;

the fact that completion of the mergers and the military housing sale is not based upon the receipt of financing by ACC or Balfour Beatty, respectively;

the fact that ACC agreed to appoint Mr. Macchione to its board of directors so that the interests of GMH shareholders would continue to be represented following the mergers; and

GMH's right, but not the obligation, to sell certain disposition properties and its home office, which could result in the payment of the special distribution (as described in "The Merger Agreement Home Office and Disposition Properties").

## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

GMH's board of trustees also considered a variety of risks and other potentially negative factors concerning the merger agreement, the mergers and the other transactions contemplated by the merger agreement, including the following:

the fact that the mergers and the military housing sale are each subject to a number of conditions which, if not satisfied or waived, would adversely impact GMH's ability to complete the transactions;

the risk that the failure to complete the military housing sale and/or the mergers could negatively impact GMH's operations and business and financial results;

the risk that provisions of the securities purchase agreement and the merger agreement may deter alternative business combinations and could negatively impact GMH's business and operations if the agreements are terminated in certain circumstances;

the risk that uncertainty regarding the mergers and the military housing sale may cause GMH's clients, vendors, business partners and others to delay or defer decisions concerning their business with GMH, which may harm its results of operations in the future if the military housing sale and/or the mergers are not completed;

the fact that the receipt of the merger consideration in exchange for GMH shares (including the share component of the merger consideration) pursuant to the REIT merger and the receipt by shareholders of the distribution from the military housing sale and the sale of the disposition properties will be taxable for U.S. federal income tax purposes;

the possibility that GMH shareholders could be adversely affected by a decrease in the trading price of ACC common stock between the announcement of execution of the merger agreement and the closing of the mergers because a portion of the merger consideration consists of a fixed number of shares of ACC common stock;

the restrictions on the conduct of GMH's business prior to the completion of the mergers, requiring GMH to conduct its business in all material respects only in the ordinary course, subject to specific limitations, which may delay or prevent GMH from undertaking business opportunities that may arise during the term of the merger agreement, whether or not the mergers are consummated;

the fact that GMH shareholders do not have the right under Maryland law to seek appraisal of their shares;

the limitations contained in the merger agreement on GMH's ability to declare and pay dividends (other than the military sale distributions and the special distribution);

the fact that the net proceeds received on the sales, if any, of the disposition properties and home office prior to closing may not exceed agreed target levels, and that GMH shareholders should not assume that the special distribution would be made; and

the fact that certain GMH trustees and executive officers may have material financial interests in the transaction that are different from, or in addition to, those of its shareholders (see "Interest of Trustees and Executive Officers of GMH in the Mergers").

The foregoing discussion summarizes the material factors considered by GMH's board of trustees in its consideration of the mergers and the transactions contemplated by the merger agreement. After considering these factors, GMH's board of trustees concluded that the positive factors relating to the mergers and the transactions contemplated by the merger agreement outweighed the negative factors. In view of the wide variety of factors considered by GMH's board of trustees, the



## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

trustees did not find it practicable to quantify or otherwise assign relative weights to the foregoing factors. In addition, individual members of GMH's board of trustees may have assigned different weights to various factors. GMH's board of trustees considered all these factors as a whole and overall deemed the factors to be favorable to, and to support, its determination.

In addition, the general partner of the GMH operating partnership, as the sole general partner of the GMH operating partnership, approved the merger agreement, the partnership merger and the other transactions contemplated by the merger agreement.

**For the reasons set forth above, GMH's board of trustees unanimously determined that the mergers, the merger agreement and the transactions contemplated by the merger agreement are advisable and in the best interests of GMH and its shareholders, and unanimously approved and adopted the merger agreement. GMH's board of trustees unanimously recommends that GMH shareholders vote "FOR" the proposal to approve the mergers.**

### **Military Housing Sale**

Concurrently with entering into the merger agreement, GMH and the GMH Operating Partnership entered into a securities purchase agreement with Balfour Beatty, Inc. (a U.S. subsidiary of Balfour Beatty plc), or Balfour Beatty, and, solely for the purpose of Article 8 of the securities purchase agreement, Balfour Beatty plc, for the sale of GMH's military housing division. Pursuant to the securities purchase agreement, Balfour Beatty will acquire GMH's military housing division by purchasing all of the issued and outstanding capital stock and limited liability company interests of three GMH subsidiaries owned by GMH and the GMH Operating Partnership and through which the military housing business is conducted: GMH Communities TRS, Inc., GMH Military Housing Investments, LLC and GMH AF Housing Construction LLC.

The military housing sale is a condition precedent to the mergers and is currently expected to close in the second quarter of 2008. The securities purchase agreement provides that the parties will close no earlier than April 30, 2008. The military housing sale does not require shareholder approval and accordingly, is expected to close prior to the special meeting. GMH's board of trustees has determined that, if the mergers are not completed for some reason, GMH expects to continue with the military housing sale.

### ***Purchase Price for Military Housing Sale***

As consideration for the military housing sale, GMH will receive \$350.0 million in cash, subject to adjustment pursuant to the terms of the securities purchase agreement. This amount may be increased or decreased to the extent the estimated working capital (including unrestricted cash and accounts receivable) of the military housing division as of the closing of the military housing sale, plus any project investments made during 2008 (other than investments in Fort Hamilton), exceeds or is below \$14.5 million. Following the completion of the military housing sale, GMH intends to distribute to its shareholders the proceeds from the sale plus excess cash, if any, above the minimum working capital generated by the military housing division, net of expenses from the sale. GMH anticipates making two separate distributions relating to the military housing sale one shortly after the closing of the military housing sale (which will exclude such amounts to be held back as determined at the discretion of GMH's board of trustees) and one immediately prior to the completion of the REIT merger (including such held back amounts, plus interest earned which has not been previously distributed). The military housing sale is currently anticipated to result in total distributions to GMH's common shareholders and unitholders of approximately \$4.08 per share/unit, subject to adjustment as described in this proxy statement/prospectus. See "The Mergers and Related Transactions Military Housing Sale."

***Representations, Warranties and Covenants; Non-Solicitation***

GMH and Balfour Beatty have made customary representations, warranties and covenants in the securities purchase agreement, including, among others, GMH's covenant not to solicit alternative transactions with respect to the military housing division by a third party or, subject to certain limited exceptions, participate in discussions relating to an acquisition of the military housing division to a third party or furnish non-public information relating to an acquisition of the military housing division. In view of the merger transaction, however, this covenant is subject to a significant exception. If a proposal for the entire company (i.e., both the military housing division and the student housing division) is made that complies with the exception to the non-solicitation provisions of the merger agreement (see "The Merger Agreement - Non-Solicitation"), then GMH may participate in discussions concerning that alternative proposal and terminate the securities purchase agreement if it terminates the merger agreement to accept the alternative proposal. This exception to the prohibition on addressing alternative proposals for acquiring the military housing division is only applicable in the context of proposals for GMH's entire business and are not applicable to alternative proposals solely for the military housing division.

***Termination***

The securities purchase agreement contains certain customary termination rights for GMH and Balfour Beatty, as well as a right for GMH to terminate the securities purchase agreement if it has terminated the merger agreement in order to take a superior proposal, and it terminates the securities purchase agreement within ten business days of the merger agreement being terminated. If GMH terminates the securities purchase agreement for this reason, or if Balfour Beatty terminates the securities purchase agreement because of a material breach of representations, warranties or covenants by GMH, GMH will be required to pay a termination fee of \$8.0 million to Balfour Beatty. Alternatively, if GMH terminates the securities purchase agreement on account of a material breach of representations, warranties or covenants by Balfour Beatty, Balfour Beatty must reimburse GMH's expenses, up to a maximum of \$12.0 million, which amount may include the amount GMH will be obligated to reimburse ACC for its expenses pursuant to the merger agreement.

***Closing***

The military housing sale is subject to certain customary closing conditions, including, among other things, (a) obtaining necessary regulatory approvals, (b) receipt of notice that the military housing transaction is not subject to the Exon-Florio amendments to The Defense Production Act of 1950, (c) repayment of GMH's existing credit facility secured by the military housing division's cash flows, (d) the distribution to GMH Communities, LP of all of the capital stock of the taxable REIT subsidiary focused on student housing-related activities, (e) accuracy of the other parties' representations and warranties and compliance with covenants other than as would not result in a material adverse effect, (f) the absence of a material adverse effect having occurred with respect to the business, assets, financial conditions or results of operations of GMH's military housing division, and (g) the receipt of certain third-party consents under existing material contracts. The consummation of the military housing sale is not subject to any financing condition.

**Home Office and Disposition Properties**

In connection with the mergers, GMH anticipates selling its home office immediately prior to the closing of the mergers, and will have the right, but not the obligation, to sell certain disposition properties. A percentage of the amount received, if any, in connection with the sale of the home office and certain of the disposition properties is allowed to be paid under the merger agreement to GMH shareholders and unitholders as a special distribution preceding the closing of the mergers. Any amounts distributed as a special distribution will be in addition to the merger consideration.



## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

If the home office is not sold to a third party unaffiliated with GMH prior to the closing of the mergers, then Gary M. Holloway, Sr., GMH's chairman, chief executive officer and president, is contractually obligated to purchase the home office pursuant to the put agreement. GMH's board of trustees has established a committee of independent trustees, chaired by Denis J. Nayden, referred to as the home office committee, to sell the home office immediately prior to the closing of the mergers. This committee will decide whether or not to exercise GMH's rights under the put agreement. The home office committee has engaged Binswanger Corporation, a real estate broker, to market the home office. Binswanger Corporation is periodically reporting to the home office committee on the success of its marketing efforts.

In addition, GMH has received interest in some of the disposition properties and certain of these disposition properties have either been placed under a contract for sale or are the subject of a letter of intent that may lead to a contract for sale. As of the date of this proxy statement/prospectus, in those cases in which a disposition property is subject to a contract for sale, the contract terms include due diligence review periods and conditions precedent to the purchasers' obligations to proceed with the sale. Accordingly, there can be no assurance that any of these disposition properties will be sold and, if they are sold, that the proceeds from the sale will be sufficient in amount to enable GMH to make a special distribution prior to the closing of the mergers. GMH will update its shareholders and unitholders through the use of press releases as and when it becomes more certain as to whether any one or more of the disposition properties or the home office are likely to be sold prior to the closing of the mergers.

### **Certain Effects of the Mergers**

At the REIT merger effective time, GMH shareholders will cease to have direct ownership interests in GMH and will instead become holders of ACC common stock. Therefore, current GMH shareholders will participate in future earnings or growth of GMH and benefit from any appreciation in the value of GMH only indirectly through their investment in ACC.

GMH common shares are currently registered under the Securities Exchange Act of 1934, as amended, or the Exchange Act, and are listed on the NYSE under the symbol "GCT." As a result of the mergers, there will be no public market for GMH common shares. After the mergers, GMH common shares will cease to be listed on the NYSE. In addition, registration of the GMH common shares under the Exchange Act will be terminated. After the REIT merger effective time, GMH will also no longer be required to file periodic reports with the SEC.

At the effective time of the reincorporation merger, the directors and officers of American Campus Acquisition LLC will be the directors and officers of the surviving entity. At the effective time of the reincorporation merger, the charter and bylaws of GMH Communities, Inc. in effect immediately prior to the effective time will be the charter and bylaws of the surviving entity.

Immediately following the effective time of the partnership merger, ACC's board of directors will be increased by one member and ACC's board of directors will appoint Joseph M. Macchione, the executive vice president, general counsel and secretary of GMH, to ACC's board of directors. Mr. Macchione will serve until the next annual meeting of ACC stockholders and will be nominated for reelection to ACC's board of directors at the next subsequent annual meeting of ACC stockholders.

### **Effects on GMH if the Mergers are Not Completed**

If the REIT merger is not approved by GMH shareholders or if the mergers are not completed for any other reason, GMH shareholders will not receive any payment for their shares in connection with the REIT merger. GMH shareholders will, however, receive distributions of \$4.08 following the closing of the military housing sale less such amounts to be held back as determined at the discretion

of GMH's board of trustees. In this event, GMH will remain an independent public company and its common shares will continue to be listed and traded on the NYSE.

GMH expects to close the military housing sale in the second quarter of 2008 prior to the closing of the mergers. The securities purchase agreement provides that the parties will close no earlier than April 30, 2008. The military housing sale does not require shareholder approval and accordingly, is expected to close prior to the special meeting. GMH's board of trustees has determined that, if the mergers are not completed for some reason, GMH expects to continue with the military housing sale. If the mergers are not completed, GMH expects that management will operate the student housing business in a manner similar to that in which it is being operated today and that GMH shareholders will continue to be subject to the same risks and opportunities relating to the student housing business as they currently are, including, among other things, the nature of the student housing industry on which GMH's business depends, and general industry, economic and market conditions, as well as other risks associated with operating GMH without the military housing division that are discussed in the section entitled "Risk Factors Risk Factors Relating to the Mergers." As noted in "Risk Factors Risk Factors Relating to the Mergers A portion of the gains from the military housing sale may not be qualifying income for REIT purposes," certain gains generated from the military housing sale may not be qualifying income for purposes of one or more of the REIT income test requirements. Furthermore, the IRS could seek to challenge the allocation of the purchase price among the assets sold as part of the military housing sale, causing a larger portion of the gain to constitute nonqualifying income. While GMH expects that it will have sufficient qualifying income in 2008 to satisfy the requirements for taxation as a REIT, this may not be the case. Therefore, there is a risk that the military housing sale could cause GMH to fail to qualify as a REIT. This risk may be significantly higher in the event that the mergers are not completed.

If the mergers are not consummated, there can be no assurance as to the effect of these risks and opportunities on the future value of GMH common shares. See "Risk Factors Risk Factors Relating to the Mergers Failure to complete the military housing sale and/or the mergers could negatively impact GMH's operations and business and financial results." From time to time, GMH's board of trustees will evaluate and review the business operations, properties, dividend policy and capitalization of GMH, among other things, make such changes as are deemed appropriate and continue to seek to identify strategic alternatives to maximize shareholder value. If the merger agreement is not adopted by GMH shareholders or if the mergers are not consummated for any other reason, there can be no assurance that any other transaction acceptable to GMH will be offered, or that the business, prospects or results of operations of GMH will not be adversely impacted.

Additionally, if the mergers are not consummated, the costs involved in connection with pursuing the mergers, the substantial management time and effort required to effectuate the mergers and the related disruption of GMH's operations (including the military housing sale and potential loss of key employees) would be borne by GMH.

If the merger agreement is terminated under certain circumstances, GMH may be required to pay ACC a termination fee of \$16.0 million plus the reasonable out-of-pocket costs and expenses incurred by ACC and its subsidiaries in connection with the merger agreement up to an aggregate maximum amount of \$7.5 million. For a description of the circumstances triggering payment of the termination fee or reimbursement of ACC's costs and expenses, see "The Merger Agreement Termination Fees and Expenses."

### **ACC's Reasons for the Mergers**

The factors that ACC's board of directors of directors considered in reaching its determination to approve the merger agreement were as follows:

the mergers present an opportunity to solidify ACC's position as the dominant student housing platform in the U.S.;

the assets being acquired from GMH are expected to provide ACC with a significant opportunity for net asset value appreciation with improved operational performance for these assets;

the acquired assets compare favorably with ACC's current investment criteria and portfolio;

the mergers will provide ACC with a presence in 39 new university markets presenting growth opportunities;

the mergers are expected to provide significant synergies;

the mergers will provide ACC with the ability to sell both GMH's assets and ACC's existing assets, enabling ACC to fund its owned development pipeline; and

the belief of ACC's board of directors that the overall terms of the merger agreement are in the best interests of ACC and its stockholders.

ACC's board of directors of directors also considered certain potentially negative factors that could arise from the proposed mergers. The material potentially negative factors considered were as follows:

the potential difficulties that ACC might experience integrating the GMH businesses into ACC's existing businesses;

the risk and costs to ACC if the mergers do not close;

the risk that GMH shareholders might not approve the REIT merger; and

the risk that the anticipated benefits of the mergers might not be fully realized.

The foregoing discussion addresses the material information and factors considered by ACC's board of directors in its consideration of the mergers. In view of the variety of factors and the amount of information considered, ACC's board of directors did not find it practicable to, and did not, make specific assessments of, quantify or otherwise assign relative weights to, the specific factors considered in reaching its determination. The determination of ACC's board of directors was made after consideration of all the factors as a whole. In addition, individual members of ACC's board of directors may have given different weights to different factors.

### **Financing of the Mergers**

#### ***Debt Financing***

In connection with the mergers, ACC has entered into a commitment letter with KeyBank for the arrangement of a senior secured term loan of \$200.0 million for the ACC Operating Partnership, which may be expanded by up to an additional \$100.0 million if one or more lenders agree to assume such increase. The loan will bear interest at a variable rate, at ACC's option, based upon a base rate or one-, two-, three-, or six-month LIBOR plus, in each case, a spread based upon its total leverage. There is no prepayment penalty on the term loan and the ACC

Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

Operating Partnership pays interest only on the loan until maturity, which is three years from the effective time of the REIT merger with a one-year extension option. The ACC Operating Partnership expects to repay the term loan from using

## Edgar Filing: AMERICAN CAMPUS COMMUNITIES INC - Form S-4

the proceeds from future equity offerings, asset sales, additional borrowings and its working capital. The commitment letter is subject to customary conditions for this type of financing, including (1) the absence of a material adverse change in the financial condition, business, operations, assets or prospects of ACC or the ACC Operating Partnership, (2) the absence of a material adverse change in the market for syndicated loans of the same type as the term loan, (3) the absence of a material disruption of, or material adverse change in, financial, banking or capital market conditions which materially and adversely affect the market for syndication of a facility of the same type as the term loan, (4) the negotiation and execution of definitive loan documentation consistent with the commitment letter and any term sheet, and (5) the absence of defaults under any of ACC's financial obligations. The commitment letter expires on July 31, 2008.

ACC has also entered into a commitment letter with KeyBank to increase the existing senior unsecured revolving credit facility of the ACC Operating Partnership from \$115.0 million to \$160.0 million, with the ability, subject to the satisfaction of certain conditions to expand this facility by up to an additional \$65.0 million. Under this arrangement, a swingline of \$15.0 million and letters of credit up to \$15.0 million will also be available to the ACC Operating Partnership. The facility bears interest at a variable rate, at ACC's option, based upon a base rate or one-, two-, three-, or six-month LIBOR plus, in each case, a spread based upon its total leverage. The facility matures August 17, 2009 and ACC guarantees the ACC Operating Partnership's obligations under the facility. Availability under the revolving credit facility is limited to an "aggregate borrowing base amount" equal to the lesser of (i) 65% of the value of certain properties, calculated as set forth in the credit facility, and (ii) the adjusted net operating income from these properties divided by a formula amount. Additionally, ACC is required to pay an unused commitment fee ranging from 0.15% to 0.20% per annum, depending on the aggregate unused balance. As of December 31, 2007, the balance outstanding on the revolving credit facility totaled \$9.6 million, bearing interest at a weighted average rate of 6.97%, with remaining availability under the facility (subject to the satisfaction of certain financial covenants) totaling approximately \$103.8 million. The terms of the facility include certain restrictions and covenants, which limit, among other items, the incurrence of additional indebtedness, liens, and the disposition of assets. The facility contains customary affirmative and negative covenants and also contains financial covenants that, among other things, require ACC to maintain certain minimum ratios of "EBITDA" (earnings before interest, taxes, depreciation and amortization) to fixed charges. ACC may not pay distributions that exceed 100% of funds from operations for any four consecutive quarters. The financial covenants also include consolidated net worth and leverage ratio tests. As of December 31, 2007, ACC was in compliance with all such covenants.

The ACC Operating Partnership expects to repay the term loan from the proceeds from future equity offerings, asset sales, additional borrowings and its working capital. The commitment letter for the facility and the closing facility are subject to customary conditions for this type of financing, including (1) the absence of a material adverse change in the business, assets, operations, condition