

MID AMERICA APARTMENT COMMUNITIES INC
Form S-3
April 08, 2005

As filed with the Securities and Exchange Commission on April 8, 2005

Registration No. 333-

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-3

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

MID-AMERICA APARTMENT COMMUNITIES, INC.

(Exact name of registrant as specified in its charter)

TENNESSEE
(State or other jurisdiction of
incorporation or organization)

62-1543819
(I.R.S. Employer
Identification No.)

6584 Poplar Avenue, Suite 300

Memphis, Tennessee 38138

(901) 682-6600

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive office)

H. Eric Bolton, Jr.

6584 Poplar Avenue, Suite 300

Memphis, Tennessee 38138

(901) 682-6600

(Name, address, including zip code and telephone number, including area code, of agent for service)

Copies to:

Robert J. DelPriore, Esq.

Bass, Berry & Sims PLC

100 Peabody Place, Suite 900

Memphis, Tennessee 38103

Telephone (901) 543-5999

Title of Securities Being Registered	Amount Being Registered ⁽¹⁾	Proposed Maximum Offering Price Per Share ⁽²⁾	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee ⁽³⁾
Common Stock, \$.01 par value	3,000,000	\$36.50	\$109,500,000	\$12,888.15

⁽¹⁾ Pursuant to the Rule 429 under the Securities Act of 1993, as amended, the prospectus included in this Registration Statement relates also to 1,600,000 shares of Common Stock registered on Form S-3, registration no. 333-71315.

⁽²⁾ The offering price is estimated solely for the purpose of determining the amount of the registration fee. Such estimate has been calculated in accordance with Rule 457(c) under the Securities Act and based upon the average of the high and low sales prices of the Common Stock as reported on the New York Stock Exchange on April 1, 2005.

⁽³⁾ The registration fee has been calculated and in accordance with Rule 457(c) under the Securities Act and based upon the average of the high and low sales prices of the Common Stock as reported on the New York Stock Exchange on April 1, 2005.

Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this Registration Statement.

If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, 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, please 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(c) 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 delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box.

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(a) of the Securities Act of 1933 or until this Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

SUBJECT TO COMPLETION, DATED APRIL 8, 2005

MID-AMERICA APARTMENT COMMUNITIES, INC.

DIRECT STOCK PURCHASE AND DISTRIBUTION

REINVESTMENT PLAN

The plan gives you:

- the ability to reinvest all or part of your distributions from your Mid-America common stock, preferred stock or limited partnership interests in Mid-America Apartments, L.P.; and
- the opportunity to buy additional shares through optional cash investments

You:

- do not have to be a current Mid-America shareholder to participate in the plan
- can begin participating with an initial investment of as little as \$250; and
- do not have to return a new enrollment form if you are currently participating in Mid-America's current plan

To ensure that we qualify as a REIT, no person may own more than 9.9% of the total value of our outstanding capital stock, unless our Board of Directors waives this limitation.

SEE RISK FACTORS BEGINNING ON PAGE 4 FOR INFORMATION THAT SHOULD BE CONSIDERED BY PROSPECTIVE INVESTORS.

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED THESE SECURITIES OR PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY

IS A CRIMINAL OFFENSE.

THIS PROSPECTUS IS DATED APRIL 8, 2005.

SUMMARY

THIS SUMMARY HIGHLIGHTS SELECTED INFORMATION FROM THIS DOCUMENT AND MAY NOT CONTAIN ALL OF THE INFORMATION THAT IS IMPORTANT TO YOU. TO UNDERSTAND THE PLAN, YOU SHOULD CAREFULLY READ THIS DOCUMENT. YOU SHOULD READ THE SUMMARY OF THE PLAN ON PAGE 8, AND THE PLAN BEGINNING ON PAGE 9 FOR A MORE COMPLETE DESCRIPTION OF THE OPERATION OF THE PLAN. YOU SHOULD ALSO READ THE DOCUMENTS WE HAVE REFERRED YOU TO IN WHERE YOU CAN FIND MORE INFORMATION ON PAGE 2 FOR INFORMATION ON MID-AMERICA AND OUR FINANCIAL STATEMENTS.

MID-AMERICA APARTMENT COMMUNITIES, INC.

We are a Memphis, Tennessee-based real estate investment trust, or REIT. As of December 31, 2004, we owned, or had an ownership interest in, and operated 132 apartment communities containing 37,904 apartment units in 12 states. Our apartment communities appeal to middle income residents and we are located across large, mid-size and small cities in the southeastern United States and Texas. Approximately 76% of our apartment units are located in Tennessee, Georgia, Florida and Texas markets. As of December 31, 2004, our apartment communities had an average occupancy rate of 93.5%. We presently employ approximately 1,200 people. Currently our executive officers and directors beneficially own approximately 10% of our common stock.

Our strategic focus is to provide our residents high quality apartment units in attractive community settings, characterized by extensive landscaping and attention to aesthetic detail. We utilize our experience and expertise in maintenance, landscaping and management to provide highly competitive apartment communities, with a goal of maintaining high occupancy levels and increasing per unit average rentals. We manage expenses through our system of detailed management reporting and accountability in order to achieve increases in cash flow from operations. We seek to increase cash flow from operations and earnings per share to maximize shareholder value through a balanced strategy of internal and external growth.

In order to meet our strategic and financial objectives, we strive to:

- empower our property managers to adjust rents in response to local market conditions and to concentrate resident turnover during peak rental demand months;
- offer new services to residents, including telephone, cable, and internet access, on which we generate fee and commission income;
- implement programs to control expenses through investment in cost-saving initiatives, such as the installation of individual apartment unit water and utility meters in certain communities;
- analyze individual asset productivity performances to identify best practices and improvement areas;
- improve the curb appeal of the communities through extensive landscaping and exterior improvements and reposition communities from time to time to maintain market leadership positions;

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- compensate employees through performance-based compensation and stock ownership programs;
- maintain a hands-on management style and flat organizational structure that emphasizes senior management's continued close contact with the market and employees;
- sell or exchange underperforming assets and repurchase or issuing shares of common and preferred stock when cost of capital and asset values permit;

- allocate additional capital where the investment will generate the highest returns; and
- develop new ancillary income programs aimed at delivering new consumer services and products to its residents while generating fee income.

Our principal executive offices are located at 6584 Poplar Avenue, Suite 300, Memphis, Tennessee 38138 and our telephone number is (901) 682-6600.

THE PLAN

The plan gives you a convenient and attractive method of investing cash distributions and optional cash payments in our common stock without paying brokerage commissions or service charges. The price you will pay for the common stock bought directly from us under the plan will be discounted between 0% and 5% from the market price of the common stock. If we have to buy the shares on the open market, you will not receive a discount. We may change the discount at our discretion; however it will not vary from the range of between 0% and 5%.

- **ENROLLMENT.** New shareholders can join by making an initial investment of at least \$250. If you were enrolled in our dividend reinvestment and stock purchase plan on March 1, 2005, you will continue to be enrolled in the revised Plan. If not, you can participate by submitting a completed Authorization Form. If you are a limited partner of Mid-America Apartments, L.P., you can invest your cash distributions in the Plan. If your shares are held in a brokerage account, you may participate directly by registering some or all of your shares in your name.
- **REINVESTMENT OF DISTRIBUTIONS.** You can reinvest all or a portion of your cash distributions towards the purchase of common stock without paying brokerage commissions.
- **OPTIONAL CASH INVESTMENTS.** After you are enrolled in the Plan, you can buy additional shares of common stock without paying any brokerage commissions. You can invest between \$250 and \$5,000 per month. We may allow purchases in excess of \$5,000 per month at our discretion.
- **FULL INVESTMENT.** Full investment of your optional cash investments and distributions is possible because we will credit your account with both whole and fractional shares. We pay distributions on both whole shares and fractional shares participating in the Plan.
- **GIFTS OR TRANSFERS OF SHARES.** You can give or transfer your shares to others.
- **SELL SHARES CONVENIENTLY.** If you choose to sell the common stock held in your Plan account, you will generally pay fees lower than those typically charged by stockbrokers.
- **TRACKING YOUR INVESTMENT.** You will receive a statement after each transaction you make under the Plan. These statements will provide the details of the particular transaction and show the share balance in your Plan account.
- **ADMINISTRATOR.** Wachovia Bank

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- **REQUESTS FOR INFORMATION.** All written requests and notices should be mailed as follows:

Wachovia Bank

Shareholder Services NC1153

1525 West W.T. Harris Blvd., 3C3

Charlotte, NC 28262-8522

Telephone Number (704) 590-7426 or

toll free: 800-829-8432

WHERE YOU CAN FIND

MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC. In addition, the registration statement that contains this prospectus (including the exhibits to the registration statement) has been filed with the SEC. All of these filings are available to the

public over the Internet at the SEC's web site at <http://www.sec.gov>. You may also read and copy documents at the SEC's public reference rooms in Washington, D.C., New York, New York and Chicago, Illinois. Please call the SEC at 1-800-SEC-0330 for further information on the public reference rooms. Our reports, proxy statements and other information about us may also be inspected at The New York Stock Exchange, 20 Broad Street, New York, New York 10005.

The SEC allows us to incorporate by reference the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. We incorporate by reference the documents listed below. We also incorporate all future filings made with the SEC under Sections 13(a), 13(c), 14, or 15(d) of the Securities Exchange Act of 1934 until we have sold all of the securities.

- Annual Report on Form 10-K/A for the year ended December 31, 2004;
- Current Reports on Form 8-K filed with the SEC on January 7, 2005, January 21, 2005, February 10, 2005, February 22, 2005, March 11, 2005, March 14, 2005, and March 25, 2005;
- the description of our common stock contained in Form 8-A filed with the SEC on December 14, 1993;
- the description of our 9¹/₄% Series F Cumulative Redeemable Preferred Stock contained in Form 8-A/A filed with the SEC on October 11, 2002; and
- the description of our 8.30% Series H Cumulative Redeemable Preferred Stock contained in Form 8-A filed with the SEC on July 10, 2003.

You may request a copy of these filings at no cost, by writing or telephoning us at the following address: Investor Relations, Mid-America Apartment Communities, Inc., 6584 Poplar Avenue, Suite 300, Memphis, Tennessee 38138, (901) 682-6600.

RISK FACTORS

Before you invest in our securities, you should be aware that your investment is subject to various risks, including those described below. You should consider carefully these risks together with all of the other information included in this Prospectus before you decide to purchase any of our securities.

Our Ability To Make Distributions May Be Adversely Affected By Factors Beyond Our Control.

Our ability to make distributions to you depends on our ability to generate funds from operations in excess of scheduled principal payments on debt and capital expenditure requirements and to have access to debt and equity markets. Funds from operations and the value of our properties may be less than expected because of factors that are beyond our control. Such events or conditions could include:

competition from other apartment communities;

overbuilding of new apartment units or oversupply of available apartment units in our markets, which might adversely affect apartment occupancy or rental rates and/or require rent concessions in order to lease apartment units;

increases in operating costs (including real estate taxes and insurance premiums) due to inflation and other factors, which may not be offset by increased rents;

our inability to rent apartments on favorable economic terms;

changes in governmental regulations and the related costs of compliance;

changes in tax laws and housing laws including the enactment of rent control laws or other laws regulating multifamily housing;

changes in interest rate levels and the availability of financing, which could lead renters to purchase homes (if interest rates drop and home loans are more readily available) or increase our acquisition and operating costs (if interest rates increase and financing is less readily available);

weakness in the overall economy which lowers job growth and the associated demand for apartment housing;

decisions relating to the dispositions of assets by our joint ventures; and

the relative illiquidity of real estate investments.

Currently, we rely on external funding sources to fully fund the payment of distributions to shareholders at the current rate. While we have sufficient liquidity to permit distributions at current rates through additional borrowings, any significant and sustained deterioration in operations could result in our financial resources being insufficient to pay distributions to shareholders at the current rate and to cause or threaten a default

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under the terms of loan covenants with various debt providers, in which event we would be required to cut the distribution rate. Any decline in our funds from operations or property values because of these factors which are beyond our control could adversely affect our ability to make distributions to our shareholders and could have a material adverse effect on our stock price.

Our Current Debt Service And Distribution Rate Exceed Our Cash Available For Distribution.

We currently have a substantial amount of debt. Payments of principal and interest on borrowings and the payment of distributions at our current rate presently exceed our cash available for distribution. Accordingly, we are borrowing on existing credit lines to pay our distributions at current rates. Any significant decline in our operating results could leave us with insufficient cash resources to service our debt, operate the apartment communities or pay distributions that we must pay in order for us to maintain our qualification as a REIT, and in addition could cause us to go into default under the terms of our credit facilities. We intend to keep our total debt below 60% of the undepreciated book value of our assets, although our charter and bylaws do not limit our debt levels. Circumstances may cause us to exceed that target from time to time. As of December 31, 2004, our ratio

of debt to undepreciated book value was approximately 56%. Our Board of Directors can modify this policy at any time that could allow us to become more highly leveraged and decrease our ability to make distributions to our shareholders.

Variable Interest Rates May Prevent Us From Making Distributions.

At December 31, 2004, effectively \$251.6 million of our debt bore interest at a variable rate and was unhedged and uncapped. In addition, we may incur additional debt in the future that also bears interest at variable rates. Variable-rate debt creates higher debt service requirements if market interest rates increase, which would adversely affect our funds from operations and the amounts available to pay distributions to shareholders. Our \$950 million secured credit facilities with Prudential Mortgage Capital, credit enhanced by Fannie Mae, are predominately floating rate facilities, large portions of the interest rates on which have been hedged by means of a number of interest rate swaps and caps. Upon the termination of these swaps and caps, we will be exposed to the risks of varying interest rates.

Inability To Access Debt Or Equity Capital Markets Or Loss of Existing Credit Facilities May Adversely Affect Our Financial Condition And Ability To Pay Distributions.

As a REIT, we are required to pay out as distributions to shareholders substantially all our earnings. Moreover, our business of owning and operating real estate assets is a capital-intensive business. Accordingly, we are heavily dependent upon availability of debt and equity capital to finance acquisitions and growth in our business. In addition, our existing credit facilities must be renewed from time to time, and our lenders have the option to refuse to renew our credit facilities. Availability of debt financing at an acceptable cost may vary from time to time. Our inability to renew our existing credit facilities, access equity capital or obtain debt financing at an acceptable cost could have a material adverse effect on our growth, financial condition and operating results.

Each of our credit facilities is subject to various covenants and conditions on usage. If we were to fail to satisfy a condition to borrowing, the available credit under one or more of our credit facilities could not be drawn, which could adversely affect our liquidity. Moreover, if we were to violate a covenant under a credit facility, after applicable cure periods one or more of our lenders could declare a default, accelerate the due date for repayment of all amounts outstanding and/or foreclose on properties securing such facilities. Covenant violations can occur for a number of reasons, including distributing cash in excess of 90% of our funds from operations, failing to meet certain coverage and capitalization ratios, and other financial performance measures which the company may fail to meet, some of which may be hard to foresee. In order to repay such debt, we could be required to, among other things, sell properties, possibly at losses or at non-optimal prices, suspend or reduce the rate of our dividend or file a petition in bankruptcy to reorganize or liquidate the company.

Increasing Real Estate Taxes And Insurance Costs May Negatively Impact Financial Condition.

Because we have substantial real estate holdings, the cost of real estate taxes and insuring our properties is a significant component of expense. Real estate taxes and insurance premiums are subject to significant increases and fluctuations which can be widely outside of our control. If the costs associated with real estate taxes and insurance should rise, our financial condition could be negatively impacted and our ability to pay dividends could be affected.

Noncompliance With Government Regulations May Affect Operating Results.

Environmental Matters

Phase I environmental site assessments have been obtained on all of our apartment communities. The purpose of Phase I environmental site assessments is to identify potential sources of contamination for which we may be responsible and to assess the status of environmental regulatory compliance. The Phase I environmental site assessments did not reveal any environmental condition, liability or compliance concern that we believe would have a material adverse effect on our business, assets or results of operations, nor are we aware of any

such condition, liability or concern by any other means. However, it is possible that the environmental site assessments relating to any one of the properties did not reveal all environmental conditions, liabilities or compliance concerns. It is also possible that there are material environmental conditions, liabilities or compliance concerns that arose at a property after the related review was completed. If environmental contamination exists or existed at an apartment community, we may be liable for the costs of removal or remediation of the contamination and may be liable for personal injury or similar claims by private plaintiffs. Moreover, the existence of an environmental contamination at an apartment community could adversely affect the occupancy of the apartment community and our ability to sell or borrow against that apartment community.

Americans With Disabilities Act Compliance

Under the Americans with Disabilities Act of 1990 (the ADA), all public accommodations and commercial facilities must meet certain Federal requirements related to access and use by disabled persons. Compliance with the ADA requirements could require removal of access barriers, and non-compliance could result in the U.S. government imposing fines or private litigants winning damages. The ADA does not consider apartment communities to be public accommodations or commercial facilities, except to the extent portions of such facilities, such as a leasing office, are open to the public. We believe that our properties are substantially in compliance with these requirements.

Fair Housing Amendments Act Compliance

The Fair Housing Amendments Act of 1988 (the FHA) requires apartment communities first occupied after March 13, 1990 to be accessible to the handicapped. Noncompliance with the FHA could result in the U.S. government imposing fines or private litigants winning damages. We believe that our properties are substantially in compliance with these requirements.

Our Failure To Qualify As A REIT Would Have A Substantial Negative Effect On Our Ability To Pay Distributions.

We believe that we operate in a manner that enables us to meet the requirements for qualification as a REIT for federal income tax purposes. We have not requested, and do not plan to request, a ruling from the Internal Revenue Service that we qualify as a REIT. We have, however, received an opinion from the law firm of Bass, Berry & Sims PLC that we met the requirements for qualification as a REIT for the taxable years ended December 31, 1994 through 2004, and that we are in a position to continue such qualification. You should be aware that opinions of counsel are not binding on the IRS or any court. Furthermore, the conclusions stated in the opinion are conditioned on, and our continued qualification as a REIT will depend on, our meeting various requirements.

If we fail to qualify as a REIT, we would not be allowed a deduction for distributions to shareholders in computing our taxable income and would be required to pay substantial federal and state income taxes. We also could be subject to the federal alternative minimum tax. Therefore, if we lose our REIT status, the funds available for distribution to you would be reduced substantially for each of the years involved. Unless we were entitled to relief under specific statutory provisions, we could not elect to be taxed as a REIT for four taxable years following the year during which we were disqualified.

Limits On Ownership Of Shares May Result in Adverse Consequences.

Our charter limits ownership of our capital stock by any single shareholder to 9.9% of the value of all outstanding shares of our capital stock, both common and preferred, unless our Board of Directors waives this limitation. The charter also prohibits anyone from buying shares if the

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purchase would result in our losing REIT status. This could happen if a share transaction results in fewer than 100 persons owning all of our shares or in five or fewer persons, applying certain broad attribution rules of the Internal Revenue Code, owning 50% or more of our shares. If you acquire shares in excess of the ownership limit or in violation of the ownership requirements of the Internal Revenue Code for REITs, we:

will consider the transfer to be null and void;

will not reflect the transaction on our books;

may institute legal action to enjoin the transaction;

will not pay dividends or other distributions with respect to those shares;

will not recognize any voting rights for those shares;

will consider the shares held in trust for our benefit; and

will either direct you to sell the shares and turn over any profit to us, or we will redeem the shares. If we redeem the shares, you will be paid a price equal to the lesser of:

(a) the price you paid for the shares; or

(b) the average of the last reported sales prices on the New York Stock Exchange on the ten trading days immediately preceding the date fixed for redemption by our Board of Directors.

If you acquire shares in violation of the limits on ownership described above:

you may lose your power to dispose of the shares;

you may not recognize profit from the sale of such shares if the market price of the shares increases; and

you may be required to recognize a loss from the sale of such shares if the market price decreases.

Ability Of Board Of Directors To Change Certain Policies

Our major policies, including our policies with respect to acquisitions, financing, growth, operations, debt capitalization and distributions, will be determined by the Board of Directors. The Board of Directors may amend or revise these policies from time to time without your consent, which could affect our ability to make distributions.

Provisions Of Our Charter And Tennessee Law May Limit The Ability Of A Third Party To Acquire Control Of Us.

Ownership Limit

The 9.9% ownership limit discussed above may have the effect of precluding acquisition of control of us by a third party without the consent of our Board of Directors.

Preferred Stock

Our charter authorizes our Board of Directors to issue up to 20 million shares of preferred stock. The Board of Directors may establish the preferences and rights of any preferred shares issued. The issuance of preferred stock could have the effect of delaying or preventing someone from taking control of us, even if a change in control were in our shareholders' best interests. Currently, we have the following amounts of preferred stock issued and outstanding:

474,500 shares of 9¹/₄% Series F Cumulative Redeemable Preferred Stock;

400,000 shares of 8⁵/₈% Series G Cumulative Redeemable Preferred Stock; and

6,200,000 shares of 8.30% Series H Cumulative Redeemable Preferred Stock

Tennessee Anti-Takeover Statutes

As a Tennessee corporation, we are subject to various legislative acts which impose restrictions on and require compliance with procedures designed to protect shareholders against unfair or coercive mergers and acquisitions. These statutes may delay or prevent offers to acquire us and increase the difficulty of consummating any such offers, even if our acquisition would be in our shareholders' best interests.

SUMMARY OF THE PLAN

The Plan provides investors with a convenient and attractive method of investing cash distributions and optional cash payments in additional Common Stock without payment of any brokerage commission or service charge. The price to be paid for Common Stock purchased under the Plan will be a price reflecting a discount ranging between 0% and 5% (the Discount) from the Market Price (as defined) to the extent shares are purchased directly from the Company. The Discount is subject to change (but will not vary from the range of between 0% and 5%) from time to time or discontinuance at the Company's discretion after a review of current market conditions, the level of participation in the Plan and the Company's current and projected capital needs.

Subject to the availability of Common Stock registered for issuance under the Plan, there is no minimum or maximum limitation on the amount of distributions a Participant may reinvest under the Plan. See Question 2.

Participants electing to invest optional cash payments in additional Common Stock are subject to a minimum per month purchase limit of \$250 and a maximum per month purchase limit of \$5,000 (subject to waiver). See Question 17. Optional cash payments in excess of \$5,000 may be made only upon acceptance by the Company of a completed Request for Waiver form from a Participant. See Question 17. Each month, at least three business days prior to each record date (as defined in Question 18), the Company will establish the Discount and Threshold Price, if any (each as defined in Question 17), applicable to optional cash payments that exceed \$5,000. The Discount, which may vary each month, will be established in the Company's sole discretion after a review of current market conditions, the level of participation in the Plan and the Company's current and projected capital needs. With respect to optional cash payments that exceed \$5,000 only, for each Trading Day of the related Pricing Period (each as defined in Question 12) on which the Threshold Price is not satisfied, one-tenth of a Participant's optional cash payment will be returned without interest. Optional cash payments that do not exceed \$5,000 and the reinvestment of distributions in additional Common Stock will not be subject to the Threshold Price, if any. Optional cash payments of less than \$250 and that portion of any optional cash payment which exceeds the maximum monthly purchase limit of \$5,000, unless such limit has been waived, are subject to return to the Participant without interest. Participants may request that any or all shares held in the Plan be sold by the Plan Administrator on behalf of such Participants. See Question 27.

Subject to the availability of Common Stock registered for issuance under the Plan, there is no total maximum number of shares that can be issued pursuant to the reinvestment of distributions and no pre-established maximum limit applies to optional cash payments that may be made pursuant to Requests for Waiver. As of the date hereof, 4,600,000 Common Stock have been registered and are available for sale under the Plan.

The Company expects to grant Requests for Waiver to financial intermediaries, including brokers and dealers, and other Participants in the future. Grants of Requests for Waiver will be made in the sole discretion of the Company based on a variety of factors, which may include: the Company's current and projected capital needs, the alternatives available to the Company to meet those needs, prevailing market prices for Common Stock, general economic and market conditions, expected aberrations in the price or trading volume of the Common Stock, the potential disruption of the price of the Common Stock by a financial intermediary, the number of shares of Common Stock held by the Participant submitting the waiver request, the past actions of a Participant under the Plan, the aggregate amount of optional cash payments for which such waivers have been submitted and the administrative constraints associated with granting such waivers. If such Requests for Waiver are granted, a portion of the Common Stock available for issuance under the Plan will be purchased by Participants (including brokers or dealers) who, in connection with any resales of such Common Stock, may be deemed to be underwriters within the meaning of the Securities Act. To the extent that Requests for Waivers are granted, it is expected that a greater number of Common Stock will be issued under the optional cash payment feature of the Plan as opposed to the distribution reinvestment feature of the Plan.

Financial intermediaries may purchase a significant portion of the Common Stock issued pursuant to the optional cash payment feature of the Plan. The Company does not have any formal or informal understanding

with any such organizations and, therefore, the extent of such financial intermediaries' participation under the Plan cannot be estimated at this time. Participants that are financial intermediaries that acquire Common Stock under the Plan with a view to distribution of such Common Stock or that offer or sell Common Stock for the Company in connection with the Plan may be deemed to be underwriters within the meaning of the Securities Act.

From time to time, financial intermediaries, including brokers and dealers, may engage in positioning transactions in order to benefit from the discount from the Market Price of the Common Stock acquired through the cash payment feature of the Plan. Such transactions may cause fluctuations in the price or trading volume of the Common Stock. Financial intermediaries which engage in positioning transactions may be deemed to be underwriters within the meaning of the Securities Act. The Plan is intended for the benefit of investors in the Company and not for individuals or investors who engage in transactions which may cause aberrations in the price or trading volume of the Common Stock.

THE PLAN

The Plan, as amended, was adopted by the Board of Directors of the Company on March 8, 2005. The following questions and answers explain and constitute the Plan. Shareholders and Unit holders who do not participate in the Plan will receive cash distributions, as declared, and paid in the usual manner.

Purpose

1. *What is the purpose of the Plan?*

The primary purpose of the Plan is to provide eligible holders of Common Stock and Preferred Stock of the Company, holders of Class A units of limited partnership interest of the Operating Partnership (Units) and interested new investors (collectively, Participants) with a convenient and simple method of increasing their investment in the Company by investing cash distributions in additional Common Stock without payment of any brokerage commission or service charge, to the extent shares are purchased directly from the Company, and by investing optional cash payments in additional Common Stock without payment of any brokerage commission or service charge. See Question 5 for a description of the holders who are eligible to participate in the Plan. The Plan may also be used by the Company to raise additional capital through the sale each month of a portion of the Common Stock available for issuance under the Plan to current holders and interested new investors (including brokers or dealers) who, in connection with any resales of such shares, may be deemed to be underwriters. These sales will be effected through the Company's ability to waive limitations applicable to the amounts which Participants (as defined in Question 2) may invest pursuant to the Plan's optional cash payment feature.

See Question 17 for information concerning limitations applicable to optional cash payments and certain of the factors considered by the Company in granting waivers. To the extent shares are purchased from the Company under the Plan, it will receive additional funds to purchase additional multifamily properties and for general corporate purposes. The Plan is intended for the benefit of investors in the Company and not for individuals or investors who engage in transactions which may cause aberrations in the price or trading volume of Common Stock. From time to time, financial intermediaries may engage in positioning transactions in order to benefit from the discount from the Market Price of the Common Stock acquired through the reinvestment of distributions or optional cash payments under the Plan. Such transactions may cause fluctuations in the price or trading volume of the Common Stock. The Company reserves the right to modify, suspend or terminate participation in the Plan by otherwise eligible holders of Common Stock, Preferred Stock, Units or interested new investors in order to eliminate practices which are, in the sole discretion of the Company, not consistent with the purposes or operation of the Plan or which adversely affect the price of the Common Stock.

Options Available to Participants

2. *What options are available to enrolled Participants?*

Eligible holders of Common Stock, Preferred Stock and Units may elect to have cash distributions paid on all or a portion of their Common Stock, Preferred Stock or Units automatically reinvested in additional Common Stock. Subject to the availability of Common Stock registered for issuance under the Plan, there is no minimum limitation on the amount of distributions a Participant may reinvest under the distribution reinvestment feature of the Plan.

Each month, Participants may also elect to invest optional cash payments in additional Common Stock, subject to a minimum per month purchase limit of \$250 and a maximum per month purchase limit of \$5,000, subject to waiver. See Question 17 for information concerning limitations applicable to optional cash payments and the availability of waivers with respect to such limitations. Participants may make optional cash payments each month even if distributions on their Common Stock are not being reinvested and whether or not a distribution has been declared.

Advantages and Disadvantages

3. *What are the advantages and disadvantages of the Plan?*

Advantages:

- (a) The Plan provides Participants with the opportunity to reinvest cash distributions paid on all or a portion of their Common Stock, Preferred Stock or Units in additional Common Stock without payment of any brokerage commission or service charge to the extent shares are purchased directly from the Company, which purchases may be made at a Discount to the Market Price at the discretion of the Company.
- (b) The Plan provides Participants with the opportunity to make monthly investments of optional cash payments, subject to minimum and maximum amounts, for the purchase of additional shares of Common Stock without payment of any brokerage commission or service charge if such shares of Common Stock are purchased directly from the Company, which purchases may be made at a Discount to the Market Price at the discretion of the Company.
- (c) Subject to the availability of Common Stock registered for issuance under the Plan, all cash distributions paid on Participants Common Stock can be fully invested in additional Common Stock because the Plan permits fractional shares to be credited to Plan accounts. Distributions on such fractional shares, as well as on whole shares, will also be reinvested in additional shares which will be credited to Plan accounts.
- (d) The Plan Administrator, at no charge to Participants, provides for the safekeeping of the Common Stock credited to each Plan account.
- (e) Periodic statements reflecting all current activity, including share purchases and latest Plan account balance, simplify Participants record keeping. See Question 22 for information concerning reports to Participants.

Disadvantages:

- (a) No interest will be paid by the Company or the Plan Administrator on distributions or optional cash payments held pending reinvestment or investment. See Question 11. In addition, optional cash payments in excess of \$5,000 may be subject to return to the Participant without interest in the event that the Threshold Price, if any, is not met for any Trading Day during the related Pricing Period. See Question 17.
- (b) With respect to optional cash payments, the actual number of shares to be issued to a Participant's Plan account will not be determined until after the end of the relevant Pricing Period. Therefore, during the Pricing Period Participants will not know the actual number of shares they have purchased.

- (c) With respect to optional cash payments, the Market Price may exceed the price at which Common Stock is trading after the Investment Date.
- (d) Because optional cash payments must be received by the Plan Administrator prior to the related Pricing Period, such payments may be exposed to changes in market conditions for a longer period of time than in the case of typical secondary market transactions. In addition, optional cash payments once received by the Plan Administrator will not be returned to Participants unless a written request is directed to the Plan Administrator at least five business days prior to the record date for the Investment Date with respect to which optional cash payments have been delivered by such Participant. See Questions 18 and 20.
- (e) Resales of Common Stock credited to a Participant's account under the Plan will involve a nominal fee per transaction paid to the Plan Administrator (if such resale is made by the Plan Administrator at the request of a Participant), a brokerage commission and any applicable share transfer taxes on the resales. See Questions 21 and 27.
- (f) Prospective investors in Common Stock should carefully consider the matters described above in Risk Factors prior to making an investment in the Common Stock.

Administration

4. Who administers the Plan?

The Company has retained Wachovia Bank, as plan administrator (the Plan Administrator), to administer the Plan, keep records, send statements of account activity to each Participant and perform other duties relating to the Plan. See Question 22 for information concerning reports to Participants. Shares purchased under the Plan and held by the Plan Administrator will be registered in the Plan Administrator's name or the name of its nominee for the benefit of the Participants. In the event that the Plan Administrator resigns or otherwise ceases to act as plan administrator, the Company will appoint a new plan administrator to administer the Plan.

The Plan Administrator also acts as distribution disbursing agent, transfer agent and registrar for the Company's Common Stock.

Participation

For purposes of this section, responses will generally be based upon the method by which the holder holds his or her Common Stock, Preferred Stock or Units. Generally, holders are either Record Owners or Beneficial Owners. A Record Owner is a holder who owns Common Stock, Preferred Stock or Units in his or her own name. A Beneficial Owner is a holder who beneficially owns Common Stock, Preferred Stock or Units that are registered in a name other than his or her own name (for example, the shares are held in the name of a broker, bank or other nominee). A Record Owner may participate directly in the Plan, whereas a Beneficial Owner will have to either become a Record Owner by having one or more shares transferred into his or her own name or coordinate his or her participation in the Plan through the broker, bank or other nominee in whose name the Beneficial Owner's shares are held. If a Beneficial Owner who desires to become a Participant encounters any difficulties in coordinating his or her participation in the Plan with his or her broker, bank or other nominee, he or she should call the Company's Investor Relations department at (901) 682-6600.

5. Who is eligible to participate?

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All Record Owners or Beneficial Owners of at least one share of Common Stock or Preferred Stock or one Unit are eligible to participate in the Plan. A Record Owner may participate directly in the Plan. A Beneficial Owner must either become a Record Owner by having one or more shares transferred into his or her own name or arrange with the broker, bank or other nominee who is the record holder to participate on his or her behalf. In addition, interested new investors may participate in the optional cash payment feature of the Plan. See Question 6.

To facilitate participation by Beneficial Owners, the Company has made arrangements with the Plan Administrator to reinvest distributions, on a per distribution basis, and accept optional cash payments under the Plan by record holders such as brokers, banks and other nominees, on behalf of beneficial owners. See Question 6.

The Company may terminate, by written notice, at any time any Participant's individual participation in the Plan if such participation would be in violation of the restrictions contained in the Charter or Bylaws, each as amended and/or restated from time to time, of the Company. Such restrictions prohibit any person or group of persons from acquiring or holding, directly or indirectly, ownership of a number of shares of beneficial interest of any class or series of shares of beneficial interest of the Company in excess of 9.9% of the number or value of the outstanding shares of such class or series. The meanings ascribed to the terms "group" and "ownership" may cause a person who individually owns less than 9.9% of the shares outstanding to be deemed to be holding shares in excess of the foregoing limitation. See Risk Factors Possible Adverse Consequences of Limits on Ownership of Shares. Under the Charter, certain transfers or attempted transfers that would jeopardize the qualification of the Company as a real estate investment trust for tax purposes may be void to the fullest extent permitted by law.

6. How does an eligible shareholder or interested new investor participate?

Record Owners may join the Plan by completing and signing the Authorization Form included with the Plan and returning it to the Plan Administrator. A non-postage-paid return envelope is provided for this purpose. Authorization Forms may be obtained at any time by written request to the Plan Administrator or by telephoning the Plan Administrator at (800) 829-8432.

Beneficial Owners who wish to join the Plan must instruct their broker, bank or other nominee to complete and sign the Authorization Form. The broker, bank or other nominee will forward the completed Authorization Form to its securities depository and the securities depository will provide the Plan Administrator with the information necessary to allow the Beneficial Owner to participate in the Plan. See Question 8 for a discussion of the Broker and Nominee form (the B&N Form), which is required to be used for optional cash payments of a Beneficial Owner whose broker, bank or other nominee holds the Beneficial Owner's shares in the name of a major securities depository. See also Question 16.

If a Record Owner or the broker, bank or other nominee on behalf of a Beneficial Owner submits a properly executed Authorization Form without electing an investment option, such Authorization Form will be deemed to indicate the intention of such Record Owner or Beneficial Owner, as the case may be, to apply all cash distributions and optional cash payments, if applicable, toward the purchase of additional Common Stock. See Question 7 for investment options.

Interested new investors may join the Plan by requesting a copy of the Plan from the Plan Administrator by telephoning the Plan Administrator at (800)829-8432. Upon receipt of the Plan, interested new investors must complete and sign the Authorization Form included with the Plan and return it to the Plan Administrator. A non-postage-paid return envelope will be provided for this purpose.

7. What does the Authorization Form provide?

The Authorization Form appoints the Plan Administrator as agent for the Participant and directs the Company to pay to the Plan Administrator each Participant's cash distributions on all or a specified number of shares of Common Stock, Preferred Stock or number of Units owned by the Participant on the applicable record date ("Participating Shares"), as well as on all whole and fractional Common Stock credited to a Participant's Plan account ("Plan Shares"). The Authorization Form directs the Plan Administrator to purchase on the Investment Date (as defined in Question 11) additional Common Stock with such distributions and optional cash payments, if any, made by the Participant. See Question 8 for a discussion of the B&N Form which is required to

be used for optional cash payments of a Beneficial Owner whose broker, bank or other nominee holds the Beneficial Owner's shares in the name of a major securities depository. The Authorization Form also directs the Plan Administrator to reinvest automatically all subsequent distributions with respect to Plan Shares. Distributions will continue to be reinvested on the number of Participating Shares and on all Plan Shares until the Participant specifies otherwise by contacting the Plan Administrator, withdraws from the Plan (see Questions 26 and 27), or the Plan is terminated. See Question 6 for additional information about the Authorization Form.

The Authorization Form provides for the purchase of additional Common Stock through the following investment options:

- (1) If Full Distribution Reinvestment is elected, the Plan Administrator will apply all cash distributions on all Common Stock, Preferred Stock or Units then or subsequently registered in the Participant's name, and all cash distributions on all Plan Shares toward the purchase of additional Common Stock.
- (2) If Partial Distribution Reinvestment is elected, the Plan Administrator will apply all cash distributions on only the number of shares of Common Stock, Preferred Stock or number of Units registered in the Participant's name and specified on the Authorization Form and all cash distributions on all Plan Shares toward the purchase of additional Common Stock.
- (3) If Optional Cash Payments with Full Distribution Reinvestment is elected, the Plan Administrator will apply any optional cash payments and all subsequent cash distributions toward the purchase of additional Common Stock.
- (4) If Optional Cash Payments with Partial Distribution Reinvestment is elected, the Plan Administrator will apply any optional cash payments and all subsequent cash distributions on only the number of shares of Common Stock in the Participant's name and specified on the Authorization Form toward the purchase of additional Common Stock.

Each Participant may select any one of these four options. In each case, distributions will be reinvested on all Participating Shares and on all Plan Shares held in the Plan account, including distributions on Common Stock purchased with any optional cash payments, until a Participant specifies otherwise by contacting the Plan Administrator, or withdraws from the Plan altogether (see Questions 26 and 27), or until the Plan is terminated. If a Participant would prefer to receive cash payments of distributions paid on Plan Shares rather than reinvest such distributions, those shares must be withdrawn from the Plan by written notification to the Plan Administrator. See Questions 26 and 27 regarding withdrawal of Plan Shares.

Participants may change their investment options at any time by requesting a new Authorization Form and returning it to the Plan Administrator at the address set forth in Question 37. See Question 11 for the effective date for any change in investment options.

8. *What does the B&N Form provide?*

The B&N Form provides the only means by which a broker, bank or other nominee holding shares of a Beneficial Owner in the name of a major securities depository may invest optional cash payments on behalf of such Beneficial Owner. A B&N Form must be delivered to the Plan Administrator each time such broker, bank or other nominee transmits optional cash payments on behalf of a Beneficial Owner. B&N Forms will be furnished at any time upon request of the Company's Investor Relations Department at (901) 682-6600.

Prior to submitting the B&N Form, the broker, bank or other nominee for a Beneficial Owner must submit a completed Authorization Form on behalf of the Beneficial Owner. See Questions 6 and 7.

THE B&N FORM AND APPROPRIATE INSTRUCTIONS MUST BE RECEIVED BY THE PLAN ADMINISTRATOR NOT LATER THAN THE APPLICABLE RECORD DATE OR THE OPTIONAL CASH PAYMENT WILL NOT BE INVESTED UNTIL THE FOLLOWING INVESTMENT DATE.

9. *Is partial participation possible under the Plan?*

Yes. Record Owners or the broker, bank or other nominee for Beneficial Owners may designate on the Authorization Form a number of shares for which distributions are to be reinvested. Distributions will thereafter be reinvested only on the number of shares specified, and the Record Owner or Beneficial Owner, as the case may be, will continue to receive cash distributions on the remainder of the shares.

10. *When may an eligible shareholder or interested new investor join the Plan?*

A Record Owner, Beneficial Owner or interested new investor may join the Plan at any time. Once in the Plan, a Participant remains in the Plan until he or she withdraws from the Plan, the Company terminates his or her participation in the Plan or the Company terminates the Plan. See Question 27 regarding withdrawal from the Plan.

11. *When will distributions be reinvested and/or optional cash payments be invested?*

When shares are purchased from the Company, such purchases will be made on the Investment Date in each month. The Investment Date with respect to Common Stock acquired directly from the Company and relating to a distribution reinvestment will be either the distribution payment date relating to the Common Stock or Units, or, if a distribution payment date relating to any series of Preferred Stock is later in the month than such Common Stock distribution payment date, such later distribution payment date relating to such Preferred Stock, each as declared by the Board of Directors, as the case may be (unless such date is not a business day in which case it is the first business day immediately thereafter) or, in the case of open market purchases, no later than ten business days following the distribution payment date.

The Investment Date with respect to Common Stock acquired directly from the Company and relating to optional cash payments of \$5,000 or less shall be the last day (or Pricing Period conclusion date) of a Pricing Period (as defined below).

The Investment Date with respect to Common Stock acquired directly from the Company and relating to an optional cash payment of greater than \$5,000 made pursuant to a Request for Waiver will be on each day on which the NYSE is open for business in a Pricing Period, on which date 1/10 of a Participant's optional cash payment in each month will be invested, or, in the case of open market purchases, no later than 30 days from the corresponding Record Date. With respect to all optional cash payments, regardless of the amount being invested, the period encompassing the ten consecutive Investment Dates in each month constitutes the relevant Pricing Period. See Schedule A attached hereto for a list of the expected Pricing Period commencement dates and conclusion dates (with the Pricing Period conclusion date being the Investment Date for optional cash payments of \$5,000 or less).

When open market purchases are made by the Plan Administrator, such purchases may be made on any securities exchange where the shares are traded, in the over-the-counter market or by negotiated transactions, and may be subject to such terms with respect to price, delivery and other matters as agreed to by the Plan Administrator. Neither the Company nor any Participant shall have any authorization or power to direct the time or price at which shares will be purchased or the selection of the broker or dealer through or from whom purchases are to be made by the Plan Administrator. However, when open market purchases