Risk Factors Comparison 2024-02-23 to 2023-02-24 Form: 10-K

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Set forth below are the risks that we believe are material to our shareholders. You should consider these risks carefully when evaluating our company and our business. The risks described below may not be the only risks we face. Additional risks of which we are currently unaware or that we currently consider immaterial also may impact our business. Some statements in the following risk factors are forward- looking statements. See the section entitled " Cautionary Note Regarding Forward- Looking Statements. " Risks Related to Our Business Our revenue and expenses are not directly correlated, and because a large percentage of our costs and expenses are fixed, we may not be able to adapt our cost structure to offset declines in our revenue. Most of the expenses associated with our business, such as repairs and maintenance costs, real estate taxes, HOA fees, insurance, utilities, personal and ad valorem taxes, employee wages and benefits and other general corporate expenses, are relatively inflexible and will not necessarily decrease with a reduction in revenue from our business. Some components of our fixed assets depreciate more rapidly and will require a significant amount of ongoing capital expenditures. Our expenses and ongoing capital expenditures also will be affected by inflationary increases, and certain of our cost increases may exceed the rate of inflation in any given period. By contrast, our rental income is affected by many factors beyond our control such as the availability of alternative rental housing and economic conditions in our target markets. In addition, state and local regulations may require us to maintain properties that we own, even if the cost of maintenance is greater than the value of the property or any potential benefit from renting the property. As a result, we may not be able to fully offset rising costs and capital spending by raising rental rates, which could have a material adverse effect on our results of operations and cash available for distribution. High inflation could adversely affect our operating results. Inflation has significantly increased since the start of 2021 and continues to remain at elevated levels compared to ~~recent~~ years **prior to 2021** . Inflationary pressures have increased our direct and indirect operating and development costs, including for labor at the corporate, property management and development levels, third- party contractors and vendors, building materials, insurance, transportation and taxes. Although our leases permit some price increases to be charged back to our tenants, such as with increased energy prices, to the extent we are unable to offset these cost increases through higher rents or other measures, our operating results will be adversely affected. Our residents may also be adversely impacted by higher cost of living expenses, including food, energy and transportation, which may increase our rate of tenant defaults and harm our operating results. **Significant increases in property taxes could adversely affect our operating results. Property taxes are a significant component of our property operating expenses. We have faced and expect to continue to face significant increases in property taxes. If property taxes, over which we have no control, continue to increase at recent rates, and if we are unable to increase rental rates to offset such increased expense, it would adversely affect our operating results, including our net operating income.** The loss of key management and staff could materially and adversely affect us. We rely on our key management and staff to carry out our business and to execute on our strategic plan. We face intense competition for retaining and hiring skilled employees, particularly with respect to our development activities. The loss of the services of key management and staff, or our inability to recruit and retain qualified personnel in the future, could have an adverse effect on our business and financial results. In addition, the costs of retaining skilled management and staff could reduce our profitability. Our investments are, and are expected to continue to be, concentrated in single- family properties and we have a significant number of properties in certain geographic markets, which exposes us to significant risks if there are adverse conditions in our sector or our key markets. Our investments are, and are expected to continue to be, concentrated in single- family properties. In addition, our strategy is to concentrate our properties in select geographic markets that we believe favor future growth in rents and valuations. For example, 58. ~~7~~ **4** % of our properties are located in Atlanta, GA, Dallas- Fort Worth, TX, Charlotte, NC, Phoenix, AZ, Nashville, TN, **Jacksonville, FL,** Indianapolis, IN, **Tampa, FL,** Houston, TX ~~, Jacksonville, FL, Tampa, FL~~ and Raleigh, NC. A downturn or slowdown in the rental demand for single- family housing generally, or in our target markets specifically, caused by adverse economic, regulatory or environmental conditions, or other events, would have a greater impact on our operating results than if we had more diversified investments. Similarly, given our geographic concentrations, a natural disaster, such as an earthquake, tornado, hurricane, flood or wildfire in one of our key markets could have a significant negative effect on our financial condition and results of operations. We may not be able to effectively control the timing and costs relating to the renovation of properties, which may adversely affect our operating results and our ability to make distributions. Nearly all of our properties acquired through traditional channels require some level of renovation immediately upon their acquisition or in the future following expiration of a lease or otherwise. We may acquire properties that we plan to renovate extensively. We also may acquire properties that we expect to be in good condition only to discover unforeseen defects that require extensive renovation and capital expenditures. To the extent properties are leased to existing tenants, renovations may be postponed until the tenant vacates the premises, and we will pay the costs of renovating. In addition, from time to time, in order to reposition properties in the rental market, we will be required to make ongoing capital improvements and replacements and perform significant renovations and repairs that tenant deposits and insurance may not cover. Our properties also have infrastructure and appliances of varying ages and conditions. We routinely retain independent contractors and trade professionals to perform repair work and are exposed to all risks inherent in property renovation and maintenance, including potential cost overruns, increases in labor and materials costs, delays by contractors, delays in receiving work permits, certificates of occupancy and poor workmanship. ~~The current supply~~ **Supply** chain issues and labor force issues **have** ~~in the U. S. has~~ increased these risks. If our assumptions regarding the costs or timing of renovation and maintenance across our properties prove to be materially inaccurate, our operating results may be adversely affected. We face significant competition for acquisitions of our target properties, which may limit our strategic opportunities and increase the cost to acquire those properties. We face significant competition for acquisition opportunities in our target markets from other large real estate investors, including developers **and private equity firms** , some of which may have greater financial resources and a lower cost of capital than we do. We also compete with private home buyers and small- scale investors. Several REITs and other funds have deployed, and others may in the future deploy, significant amounts of capital to purchase single- family homes and may have investment objectives that compete with ours, including in our target markets. This activity has adversely impacted our level of purchases in certain of our target markets. As more well- capitalized companies pursue our business strategy, we expect competition will continue to intensify. As a result, the purchase price of potential acquisitions may be significantly elevated, or we may be unable to acquire properties on desirable terms or at all. Our success depends on us attracting and retaining quality tenants. We depend on rental income for substantially all of our revenues, and to succeed we must attract and retain qualified tenants. We face competition for quality tenants from other lessors of single- family properties, apartment buildings and condominium units, and the continuing development of single- family properties, apartment buildings and condominium units in many of our markets increases the supply of housing and exacerbates competition for tenants. Competing properties may be newer, better located and more attractive to tenants, or may be offered at more attractive rents. Additionally, some competing housing options, like home ownerships, may qualify for government subsidies or other incentives that may make such options more affordable and therefore more attractive than renting our properties. These competitive factors will impact our occupancy and the rents we can charge. If we are not effective at leasing our properties to quality tenants, a significant number of our tenants may fail to meet their lease obligations or fail to renew their leases. Damage to our properties caused by tenants may delay re- leasing after eviction, necessitate expensive repairs or impair the rental income or value of the property resulting in a lower than expected rate of return. In the event of a tenant default or bankruptcy, we may experience delays in enforcing our rights as landlord at that property and will incur costs in protecting our investment and re-leasing the property. Bulk portfolio acquisitions subject us to the risk of acquiring properties that do not fit our target investment criteria and may be costly or time consuming to divest, which may adversely affect our operating results. We have occasionally acquired and may continue to acquire properties purchased as portfolios in bulk from other owners of single- family homes. To the extent the management and leasing of such properties has not been consistent with our property management and leasing standards, we may be subject to risks relating to the condition of the properties, the credit quality and employment stability of the tenants and compliance with applicable laws, among others. In addition, financial and other information provided to us regarding such portfolios during our due diligence may be inaccurate, and we may not discover such inaccuracies until it is too late to seek remedies against such sellers. To the extent we timely pursue such remedies, we may not be able to successfully prevail against the seller in an action seeking damages for such inaccuracies. If we conclude that certain properties purchased in bulk portfolios do not fit our target investment criteria, we may decide to sell, rather than renovate and rent, these properties, which could take an extended period of time and may not result in a sale at an attractive price. We may also experience delays in integrating the information systems and property and tenant information of the acquired properties which could adversely affect operating results. Our significant development activities expose us to additional operational and real estate risks, which may adversely affect our financial condition and operating results. We have a significant development program that involves the acquisition of land and construction of homes. Rental home construction can involve substantial up- front costs to acquire land and to build a rental home or rental community before a home is available for rent and generates income. Building rental homes and rental communities also involves significant risks to our business, such as delays or cost increases due to changes in or failure to meet regulatory requirements, including permitting and zoning regulations, failure of lease rentals on newly-constructed properties to achieve anticipated investment returns, inclement weather, adverse site selection, unforeseen site conditions or shortages of suitable land, construction materials and labor and other risks described below. We may be unable to achieve building new rental homes and rental communities that generate acceptable returns and, as a result, our growth and results of operations may be adversely impacted. Our success in expanding our development activities depends in large part on our ability to acquire land **in our target markets** that is suitable for residential homebuilding and meets our land investment criteria. There is strong competition among homebuilders for land that is suitable for residential development. The future availability of finished and partially finished developed lots and undeveloped land that meet our internal criteria depends on a number of factors outside our control, including land availability in general, competition with other homebuilders and land buyers for desirable property, inflation in land prices, zoning, allowable housing density, and other regulatory requirements. Should suitable lots or land become less available **in our target markets** , the number of homes we could build and lease could be reduced **or we may need to expand to potentially less desirable areas** , and the cost of land could increase, perhaps substantially, which could adversely impact our growth and results of operations. If we experience disruptions, shortages or increased costs of labor and supplies or other circumstances beyond our control, there could be delays or increased costs in constructing new rental homes, which could adversely affect our business. Our ability to build new rental homes may be adversely affected by circumstances beyond our control, including: work stoppages, labor disputes, and shortages of qualified trades people, such as carpenters, roofers, masons, electricians, and plumbers; changes in laws relating to union organizing activity; lack of availability of adequate utility or infrastructure and services; our need to rely on local subcontractors who may not be adequately capitalized or insured or may not, despite our quality control efforts, engage in proper construction practices or comply with applicable regulations; inadequacies in components purchased from building supply companies; and shortages or delays in availability of building materials, including as a result of supply- chain issues, or fluctuations in prices of building materials, such as the cost of lumber, or in labor costs. Any of these circumstances could give rise to delays in the start or completion of, or could increase the cost of, constructing new rental homes. Our short- term leases require us to re- lease our properties frequently, which we may be unable to do on attractive terms, on a timely basis or at all. The majority of our new leases have a duration of one year. As these leases permit tenants to leave at the end of the lease term without penalty, we anticipate our rental revenues may be affected by declines in market rents more quickly than if our leases were for longer terms. Short- term leases may result in high turnover, which involves costs such as restoring the properties, marketing costs and lower occupancy levels. Our tenant turnover rate and related cost estimates may be less accurate than if we had more operating data upon which to base such estimates. Moreover, we cannot assure you that our leases will be renewed on equal or better terms or at all. If our tenants do not renew their leases or the rental rates for our properties decrease, our operating results and ability to make distributions to our shareholders could be adversely affected. We are self- insured against many potential losses, and uninsured or underinsured losses relating to properties may adversely affect our financial condition, operating results, cash flows and ability to make distributions. We attempt to ensure that our properties are adequately insured to cover casualty losses. However, many of the policies covering casualty losses may be subject to substantial deductibles and carveouts, and we will be self- insured up to the amount of the deductibles and carveouts **. Our wholly- owned captive insurance company, American Dream Insurance, LLC, provides general liability insurance coverage for losses below the deductible under our third- party liability insurance policy, and we may increase our utilization of our captive insurance company for additional insurance coverage over time. If we experience a loss and our captive insurance company is required to pay under its insurance policies, we would ultimately record the loss to the extent of the required payment. Therefore, insurance coverage provided by our captive insurance company should not be considered the equivalent of third- party insurance, but rather as a modified form of self- insurance** . There are also some losses, including losses from floods, windstorms, fires, earthquakes, hurricanes, acts of war, acts of terrorism or riots, that may not always be insured against or that are not generally fully insured against because it is not practical to do so. In addition, changes in the cost or availability of insurance could expose us to **greater** uninsured **or self- insured** casualty losses. If we incur a casualty loss that is not fully covered by **third- party** insurance, the value of our assets will be reduced by the amount of any such uninsured **or self- insured** loss, and we could experience a significant loss of capital invested and potential revenues in these properties and could potentially remain obligated under any recourse debt associated with the property. Inflation, changes in building codes and ordinances, environmental considerations and other factors might also keep us from using insurance proceeds to replace or renovate a property after it has been damaged or destroyed. Under those circumstances, the insurance proceeds we receive might be inadequate to restore our economic position on the damaged or destroyed property. Any such losses could adversely affect our financial condition, operating results, cash flows and ability to make distributions. In addition, we may have no source of funding to repair or reconstruct the damaged property, and we cannot assure you that any such sources of funding will be available to us for such purposes in the future. Contingent or unknown liabilities could adversely affect our financial condition, cash flows and operating results. We may acquire properties that are subject to contingent or unknown liabilities for which we may have limited or no recourse against the sellers. Unknown or contingent liabilities might include liabilities for or with respect to liens attached to properties, unpaid real estate tax, utilities or HOA charges for which a subsequent owner remains liable, clean- up or remediation of environmental conditions or code violations, claims of customers, vendors or other persons dealing with the acquired entities and tax liabilities, among other things. Purchases of single- family properties acquired from lenders or in bulk purchases typically involve few or no representations or warranties with respect to the properties. Such properties often have unpaid tax, utility and HOA liabilities for which we may be obligated but fail to anticipate. In each case, our acquisition may be without any, or with only limited, recourse against the sellers with respect to unknown liabilities or conditions. As a result, if any such liability were to arise relating to our properties, or if any adverse condition exists with respect to our properties that is in excess of our insurance coverage, we might have to pay substantial amounts to settle or cure it, which could adversely affect our financial condition, cash flows and operating results. In addition, the properties we acquire may be subject to covenants, conditions or restrictions that restrict the use or ownership of such properties, including prohibitions on leasing or requirements to obtain the approval of HOAs prior to leasing. We may not discover such restrictions during the acquisition process, and such restrictions may adversely affect our ability to utilize such properties as we intend. Municipalities, counties, or HOAs could also enact new covenants, ordinances, moratoria, or other regulations restricting or prohibiting leasing, which could adversely affect our ability to acquire, develop, or utilize properties. We are highly dependent on information systems and systems failures and delays could significantly disrupt our business, which may, in turn, adversely affect our financial condition and operating results. Our operations are dependent upon our resident portal and property management platforms, including marketing, leasing, vendor communications, finance, intracompany communications, resident portal and property management platforms, which include certain automated processes that require access to telecommunications or the Internet, each of which is subject to system security risks. Certain critical components of our platform are dependent upon third- party service providers and a significant portion of our business operations are conducted over the Internet. As a result, we could be severely impacted by a catastrophic occurrence, such as a natural disaster or a terrorist attack, or a circumstance that disrupted access to telecommunications, the Internet or operations at our third- party service providers, including viruses or hackers that could penetrate network security defenses and cause system failures and disruptions of operations. Even though we believe we utilize appropriate duplication and back- up procedures, a significant outage in telecommunications, the Internet or at our third- party service providers could negatively impact our operations. If our confidential information is compromised or corrupted, including as a result of a cybersecurity ~~breach~~ **incident** , our business operations and reputation could be damaged, which could adversely affect our financial condition and operating results. We have been and **we expect we** will in the future be subject to third party attempts to gain unauthorized access to our systems in order to disrupt operations, corrupt data or steal confidential information, including information regarding our residents, prospective tenants, and employees. Information security risks have generally increased in recent years due to the rise in new technologies and the increased sophistication and activities of perpetrators of cyber- attacks. In the ordinary course of our business we acquire and store sensitive data, including intellectual property, our proprietary business information and personally identifiable information of our prospective and current tenants, our employees and third- party service providers in our branch offices and on our networks and website. The secure processing and maintenance of this information is critical to our operations and business strategy. Notwithstanding our security measures, our information technology and infrastructure may be vulnerable to attacks by hackers or breached due to employee error, malfeasance or other disruptions. Despite **protective** ~~system redundancy, the implementation of security~~ measures **we have taken** ~~, required employee awareness training and the existence of a disaster recovery plan for our internal information technology systems~~ , our systems and systems maintained by third- party vendors with which we do business are vulnerable to damage from any number of sources. We face ~~risks associated with security~~ **cybersecurity** ~~breaches~~ **threats** , ~~whether through~~ **including system, network or Internet failures,** cyber- attacks ~~or cyber intrusions over the Internet~~ , ransomware and other forms of malware, computer viruses, attachment to emails, phishing attempts or other scams. These attacks may also originate from persons inside our organization and persons / vendors with access to our systems. Our information technology networks and related systems are essential to the operation of our business and our ability to perform day- to- day operations. Even the most well- protected information systems remain potentially vulnerable because the techniques used in such attempted security breaches evolve and generally are not recognized until launched against a target, and in some cases are designed not to be detected, and, in fact, may not be detected. Accordingly, we may be unable to anticipate these techniques or to implement adequate security barriers or other preventative measures and thus it is impossible for us to entirely mitigate this risk. **Although we have** ~~We address potential breaches or disclosure of this confidential personally identifiable information by implementing~~ **implemented** a variety of security measures intended to protect the confidentiality and security of this information ~~including, among others:~~ (~~a~~ **refer to Item 1C. " Cybersecurity " in this report for more information about our cybersecurity risk management and governance**) ~~engaging reputable, recognized firms to help us design~~ and ~~maintain our information technology and data security stems; (b) conducting periodic testing and verification of information and data security systems, including performing ethical hacks of our systems to discover where any vulnerabilities may exist; and (c) providing periodic employee awareness training around phishing and other scams, malware and other cyber risks. We~~ also maintain cyber risk insurance to provide some coverage for certain risks arising out of data and network breaches ~~. However~~ , there can be no assurance that these measures will prevent a ~~cyber~~ **cybersecurity** incident or that our cyber risk insurance coverage will be sufficient in the event of a cyber-attack. Any such ~~breach~~ **cybersecurity incident** could compromise our networks and the information stored there could be accessed, publicly disclosed, lost or stolen. Any such access, disclosure or other loss of information could result in legal claims or proceedings, liability under laws that protect the privacy of personal information, regulatory penalties, the loss of our residents, disruption to our operations and the services we provide to residents or damage our reputation, any of which could adversely affect our financial condition and operating results. **Furthermore** ~~As of December 31~~ , ~~2022~~ **increased regulation of data collection** , **use and retention practices, including self- regulation and industry standards, changes in existing laws and regulations, enactment of new laws and regulations, increased enforcement activity, and changes in interpretation of laws, could increase our cost of compliance and operation, limit our ability to grow our business or otherwise harm us. Although none of the cyber- attacks and incidents** we have ~~not~~ **identified to date has** had **a material impact on our business or operations, we expect to continue to identify cyber- attacks and cybersecurity incidents on our systems and those of third parties, and we cannot predict the potential impact of future cyber- attacks and cybersecurity incidents on our business. The occurrence of** any ~~material incidences involving~~ **substantial future cyber- attacks and** cybersecurity ~~attacks~~ **incidents could materially impact our business, which could adversely affect our financial condition and operating results** . HOA rules and restrictions subject us to increased costs and restrict our business operations. A significant number of our properties are part of HOAs, which are private entities that regulate the activities of, and levy assessments on properties in, a residential subdivision. HOAs in which we own properties may have onerous or arbitrary rules that restrict our ability to renovate, market or lease our properties or require us to renovate or maintain such properties at standards or costs that are in excess of our planned operating budgets. Such rules may include requirements for landscaping, limitations on signage promoting a property for lease or sale, or the use of specific materials in renovations. The number of HOAs that impose limits on the number of property owners who may rent their homes is increasing. Such restrictions limit acquisition opportunities and could cause us to incur additional costs to resell the property and opportunity costs of lost rental income. Furthermore, many HOAs impose restrictions on the conduct of occupants of homes and the use of common areas and we may have tenants who violate HOA rules and for which we may be liable as the property owner and for which we may not be able to obtain reimbursement from the resident. Additionally, the boards of directors of the HOAs may not make important disclosures about the properties or may block our access to HOA records, initiate litigation, restrict our ability to sell our properties, impose assessments or arbitrarily change the HOA rules. We may be unaware of or unable to review or comply with HOA rules before purchasing the property and any such excessively restrictive or arbitrary regulations may cause us to sell such property at a loss, prevent us from renting such property or otherwise reduce our cash flow from such property, which would have an adverse effect on our returns on these properties. Joint venture investments that we make could be adversely affected by our lack of sole decision- making authority, our reliance on joint venture partners' financial condition and disputes between us and our joint venture partners. We have co- invested, and may continue to co- invest in the future, with third parties through partnerships, joint ventures or other entities, acquiring noncontrolling interests in or sharing responsibility for managing the affairs of a property, partnership, joint venture or other entity. As a result, we would not be in a position to exercise sole decision- making authority regarding the property, partnership, joint venture or other entity which could, among other things, impact our ability to satisfy the REIT requirements. Investments in partnerships, joint ventures or other entities may, under certain circumstances, involve risks not present were a third- party not involved, including the possibility that joint venture partners might become bankrupt or fail to fund their share of required capital contributions. Joint venture partners may have economic or other business interests or goals that are inconsistent with our business interests or goals and may be in a position to take actions contrary to our policies or objectives. Such investments also may have the potential risk of impasses on decisions, such as a sale, because neither we nor our partners would have full control over the partnership or joint venture. Disputes between us and our partners may result in litigation or arbitration that would increase our expenses and prevent our officers and / or trustees from focusing their time and effort on our business. Consequently, actions by, or disputes with, our partners might result in subjecting properties owned by the partnership or joint venture to additional risk. In addition, we may in certain circumstances be liable for the actions of our third- party partners or co- venturers. In addition, we may not be able to close joint ventures on the anticipated schedule or at all. Each of these factors may result in returns on these investments being less than we expect and our financial and operating results may be adversely impacted. We are involved in a variety of litigation. We are involved in a range of legal actions in the ordinary course of business. These actions may include, among others, eviction proceedings and other landlord-tenant disputes, challenges to title and ownership rights (including actions brought by prior owners alleging wrongful foreclosure by their lender or servicer), disputes arising over potential violations of HOA rules and regulations and issues with local housing officials arising from the condition or maintenance of the property, outside vendor disputes and employee disputes. These actions can be time consuming and expensive and may adversely affect our reputation. For example, eviction proceedings by owners and operators of single- family homes for lease have recently been the focus of negative media attention. While we intend to vigorously defend any non- meritorious action or challenge, we cannot assure you that we will not be subject to expenses and losses that may adversely affect our operating results. Government investigations or legal proceedings brought by governmental authorities may result in significant costs and expenses and reputational harm and may divert resources from our operations. We are subject to new and changing legislation and regulations, including the Fair Housing Act, legislation and regulation relating to residential housing, and environmental regulations. From time to time, we are subject to government inquiries and investigations and legal proceedings brought by governmental authorities. These inquiries, investigations and any related legal proceedings may result in significant costs and expenses, including legal fees, and divert management attention and company resources from our operations and execution of our business strategy. If any such proceedings are resolved adversely, governmental agencies could impose damages and fines, and may issue injunctions, cease and desist orders, bars on serving as a public company officer or director and other equitable remedies against us or our directors and officers. The financial costs could be in excess of our insurance coverage or not be covered by our insurance coverage. Any governmental legal proceeding, whether or not resolved adversely, could also negatively impact our reputation. Recent significant increases in interest rates could adversely impact us and our tenants. **Since** ~~In response to high inflation the Federal Reserve significantly increased the benchmark federal funds rate during~~ 2022 **,** ~~and has signaled its intention to continue with additional increases in 2023. These actions have significantly increased~~ interest rates ~~. These increases~~ have ~~significantly~~ **been at relatively high levels compared to recent years. This has** increased our cost of new debt or preferred capital, increased the borrowing costs under our credit facility, and **has** ~~have adversely~~ impacted the relative attractiveness of the dividend yield on our common shares. Increases in our cost of capital impact our assessment of the yields we consider appropriate to support pursuing property acquisition and development opportunities and thus can impact our external growth prospects. The degree and pace of these changes have had and may continue to have adverse macroeconomic effects that have and may continue to have adverse impacts on our tenants, including as a result of economic recession, increased unemployment, and increased financing costs. For more information on interest rate risk, see Part II, " Item 7A. Quantitative and Qualitative Disclosures About Market Risk — Interest Rate Risk. " Our revolving credit facility, unsecured senior notes and securitizations contain financial and operating covenants that could restrict our business and investment activities. Our revolving credit facility, unsecured senior notes and securitizations contain financial and operating covenants, such as debt ratios, minimum liquidity, unencumbered asset value, minimum debt service coverage ratio, and other limitations that may restrict our ability to make distributions or other payments to the Company' s shareholders and the Operating Partnership' s ability to make distributions on its OP units and may restrict our investment activities. Our securitizations require, among other things, that a cash management account controlled by the lender collect all rents and cash generated by the properties securing the portfolio. Upon the occurrence of an event of default or failure to satisfy the required minimum debt yield or debt service coverage ratio, the lender may apply any excess cash as the lender elects, including prepayment of principal and amounts due under the loans. These covenants may restrict our ability to engage in transactions that we believe would otherwise be in the best interests of our shareholders. Further, such restrictions could adversely impact our ability to maintain our qualification as a REIT for tax purposes. Failure to meet our financial covenants could result from, among other things, changes in our results of operations, the incurrence of additional debt, substantial impairments in the value of our properties or changes in general economic conditions. If we violate covenants in our financing arrangements, we could be required to repay all or a portion of our indebtedness before maturity at a time when we might be unable to arrange financing for such repayment on attractive terms or at all. **Pandemics and other public health emergencies could have a material adverse effect on our business, results of operations, cash flows, and financial condition.** A pandemic, ~~including~~ **such as** the ~~ongoing~~ COVID- 19 pandemic, ~~and measures intended to prevent its spread, could have a material adverse effect on our~~ - **or similar public health** ~~business, results of operations, cash flows, and financial condition. A pandemic, such as the ongoing COVID- 19 pandemic, and emergence~~ **emergencies** ~~of new variants~~ could negatively impact the global economy, disrupt financial markets and international trade, and result in varying unemployment levels, all of which could negatively impact our business, results of operations, cash flows, and financial condition. ~~Pandemic outbreaks~~ **These types of events** could lead ~~(and the current outbreak of COVID- 19 has led)~~ governments and other authorities around the world, including federal, state and local authorities in the United States, to impose measures intended to mitigate ~~its spread~~ **the issue** , including restrictions on freedom of movement and business operations such as issuing guidelines, travel bans, border closings, business closures, quarantine orders, and orders not allowing the collection of rents, rent increases, or eviction of non- paying tenants. Risks Related to the Real Estate Industry Environmentally hazardous conditions may adversely affect our financial condition, cash flows and operating results. Under various federal, state and local environmental laws, a current or previous owner or operator of real property may be liable for the cost of removing or remediating hazardous or toxic substances on such property. Such laws often impose liability whether or not the owner or operator knew of, or was responsible for, the presence of such hazardous or toxic substances. Even if more than one person may have been responsible for the contamination, each person covered by applicable environmental laws may be held responsible for all of the clean- up costs incurred. In addition, third parties may sue the owner or operator of a site for damages based on personal injury, natural resources or property damage or other costs, including investigation and clean- up costs, resulting from the environmental contamination. The presence of hazardous or toxic substances on one of our properties, or the failure to properly remediate a contaminated property, could give rise to a lien in favor of the government for costs it may incur to address the contamination, or otherwise adversely affect our ability to sell or lease the property or borrow using the property as collateral. Environmental laws also may impose restrictions on the manner in which properties may be used or businesses may be operated. A property owner who violates environmental laws may be subject to sanctions which may be enforced by governmental agencies or, in certain circumstances, private parties. In connection with the acquisition, development and ownership of our properties, we may be exposed to such costs. The cost of defending against environmental claims, of compliance with environmental regulatory requirements or of remediating any contaminated property could materially adversely affect our business, financial condition, results of operations and, consequently, amounts available for distribution to shareholders and unitholders. Compliance with new or more stringent environmental laws or regulations or stricter interpretation of existing laws may require material expenditures by us. We may be subject to environmental laws or regulations relating to our properties, such as those concerning lead- based paint, mold, asbestos, proximity to power lines or other issues. We cannot assure you that future laws, ordinances or regulations will not impose any material environmental liability, or that the current environmental condition of our properties will not be affected by the operations of residents, existing conditions of the land, operations in the vicinity of the properties or the activities of unrelated third parties. In addition, we may be required to comply with various local, state and federal fire, health, life- safety and similar regulations. Failure to comply with applicable laws and regulations could result in fines and / or damages, suspension of personnel, civil liability and / or other sanctions. Tenant relief laws, including laws restricting evictions, rent control laws and other regulations that limit our ability to increase rental rates may negatively impact our rental income and profitability. As landlord of numerous properties, we are involved regularly in evicting tenants who are not paying their rent or are otherwise in material violation of their lease. Eviction activities impose legal and managerial expenses that raise our costs. The eviction process is typically subject to legal barriers, mandatory " cure " policies and other sources of expense and delay, each of which may delay our ability to gain possession and stabilize the property. Additionally, landlord- tenant laws may impose legal duties to assist tenants in relocating to new housing, or restrict the landlord' s ability to recover certain costs or charge tenants for damage caused by them. Because such laws vary by state and locality, we and any regional and local property managers we hire will need to take all appropriate steps to comply with all applicable landlord tenant laws, and we will need to incur supervisory and legal expenses to ensure such compliance. To the extent that we do not comply with state or local laws, we may be subjected to civil litigation filed by individuals, in class actions or by state or local law enforcement. We may be required to pay our adversaries' litigation fees and expenses if judgment is entered against us in such litigation, or if we settle such litigation. Furthermore, rent control laws or other regulations that may limit our ability to increase rental rates may affect our rental income. If rent controls unexpectedly became applicable to certain of our properties, our revenue from and the value of such properties could be adversely affected. **We** ~~Since the onset of the COVID- 19 pandemic, there have been increases in restrictions and other regulations on evictions and rent increases and we~~ believe these ~~increases~~ **types of measures** will continue given increasing political support ~~for these types of regulations~~ . Class action, tenant rights and consumer demands, litigation and adverse media publicity could directly limit and constrain our operations and may result in significant litigation expenses. Certain organizations, including tenant rights and housing advocacy organizations have been critical of our business model. We have been and may in the future be a target of litigation and adverse media publicity driven by these organizations. While we intend to conduct our business lawfully and in compliance with applicable landlord- tenant and consumer laws, such organizations might work in conjunction with trial and pro bono lawyers to attempt to bring claims against us on a class action basis for damages or injunctive relief and to seek to publicize our activities in a negative light. We cannot anticipate what form such actions might take, or what remedies they may seek. Additionally, these organizations may lobby local county and municipal attorneys or state attorneys general to pursue enforcement or litigation against us, may lobby state and local legislatures to pass new laws and regulations to constrain our business operations or may generate unfavorable publicity for our business. If they are successful in any such endeavors, they could directly limit and constrain our operations, adversely impact our business and may impose on us significant litigation expenses, including settlements to avoid continued litigation or judgments for damages or injunctions. The direct and indirect impacts of climate change may adversely affect our business. We have been and may continue to be adversely impacted by the direct consequences of climate change, such as property damage due to increases in the frequency, duration and severity of extreme weather events, such as hurricanes and floods. Similarly, changes in precipitation levels could lead to increases in droughts or wildfires that could adversely impact demand for our communities. The increases in property damage due to these events have also contributed to the increases in costs we have faced in property insurance. The ongoing transition to non- carbon based energy also presents certain risks for us and our tenants, including macroeconomic risks related to high energy costs and energy shortages, among other things. In addition, changes in federal, state and local legislation and regulation based on concerns about climate change could result in delays and increased costs to complete our development projects and increased capital expenditures on our existing properties (for example, to improve their energy efficiency and / or resistance to inclement weather) without a corresponding increase in revenue, and, as a result, adversely impact our financial results and operations. We also face investor- related climate risks. Investors are increasingly taking into account environmental, social, and governance factors, including climate risks, in determining whether to invest in companies. Our reputation and investor relationships could be damaged as a result of our involvement with activities perceived to be causing or exacerbating climate change, as well as any decisions we make to continue to conduct or change our activities in response to considerations relating to climate change. It would be difficult for us to quickly generate cash from sales of our properties. Real estate investments, particularly large portfolios of properties, are relatively illiquid. If we had a sudden need for significant cash, it would be difficult for us to quickly sell our properties. Our ability to sell our properties may also be limited by our need to avoid the 100 % prohibited transactions tax that is imposed on gain recognized by a REIT from the sale of property characterized as dealer property. In order to ensure that we avoid such characterization, we may be required to hold our properties for a minimum period of time and comply with certain other requirements in the Code or dispose of our properties through a TRS. Risks Related to Our Ownership, Organization and Structure AMH' s fiduciary duties as the general partner of the Operating Partnership could create conflicts of interest, which may impede business decisions that could benefit our shareholders. As the sole general partner of the Operating Partnership, AMH has a fiduciary duty to the other limited partners in the Operating Partnership, which may conflict with the interests of the Company' s shareholders. The limited partners of the Operating Partnership have agreed that, in the event of a conflict in the fiduciary duties owed by AMH to the Company' s shareholders and in AMH' s capacity as the general partner of the Operating Partnership to such limited partner, AMH is under no obligation to give priority to the interests of such limited partner. In addition, the limited partners have the right to vote on certain amendments to the Agreement of Limited Partnership of the Operating Partnership and to approve certain amendments that would adversely affect their rights. These voting rights may be exercised in a manner that conflicts with the interests of the Company' s shareholders. Our senior management, trustees and their affiliates may have significant voting influence due to their stock ownership. Members of the Company' s senior management, trustees and their affiliates collectively hold significant amounts of the Company' s Class A common shares, entitled to one vote each, and Class B common shares, entitled to 50 votes each and which convert into Class A common shares on a one for one basis for every 49 partnership units converted, and Class A units in the Operating Partnership, which are nonvoting. This structure was put in place when the Company was organized to provide voting rights to holders of units in the Operating Partnership corresponding with their equity ownership. All members of the Company' s senior management, trustees and their affiliates collectively hold Class A common shares or Class B common shares that represent approximately ~~20~~ **19** . ~~1~~ **5** % of the current voting power of the Company as of December 31, ~~2022~~ **2023** . Assuming the conversion of all of the Class A units held by these individuals into Class A common shares, they would own approximately ~~29~~ **28** . ~~4~~ **6** % of the voting power of the Company based on the Company' s outstanding common shares as of December 31, ~~2022~~ **2023** . The Hughes Family and affiliates own all of the Class B common shares and, together with the Class A common shares they own, hold 19. ~~9~~ **3** % of the voting power of the Company. Our senior management, trustees and affiliates have and are expected to continue to have the ability to significantly influence all matters submitted to a vote of the Company' s shareholders, including electing trustees, changing the Company' s charter documents and approving extraordinary transactions, such as mergers. Their interest in such matters may differ from other shareholders and may also make it more difficult for another party to acquire or control the Company with their votes. Provisions of the Company' s declaration of trust may limit the ability of a third- party to acquire control of the Company by authorizing the Company' s board of trustees to issue additional securities. The Company' s board of trustees may, without shareholder approval, amend its declaration of trust to increase or decrease the aggregate number of the Company' s shares or the number of shares of any class or series that the Company has the authority to issue and to classify or reclassify any unissued common or preferred shares, and set the preferences, rights and other terms of the classified or reclassified shares. As a result, the Company' s board of trustees may authorize the issuance of additional shares or establish a series of common or preferred shares that may delay or prevent a change in control of the Company, including transactions at a premium over the market price of the Company' s shares, even if the Company' s shareholders believe that a change in control is in their interest. These provisions, along with the restrictions on ownership and transfer contained in the Company' s declaration of trust and certain provisions of Maryland law, could discourage unsolicited acquisition proposals or make it more difficult for a third- party to gain control of the Company, which could adversely affect the market price of the Company' s securities. Provisions of Maryland law may limit the ability of a third- party to acquire control of us by requiring the Company' s board of trustees or shareholders to approve proposals to acquire our company or effect a change in control. Certain provisions of the Maryland General Corporation Law (the " MGCL ") applicable to Maryland real estate investment trusts may have the effect of inhibiting a third- party from making a proposal to acquire us or of impeding a change in control under circumstances that otherwise could provide our shareholders with the opportunity to realize a premium over the then- prevailing market price of their shares, including: • " business combination " provisions that, subject to limitations, prohibit certain business combinations between us and an " interested shareholder " (defined generally as any person who beneficially owns 10 % or more of the voting power of our outstanding voting shares or an affiliate or associate of ours who, at any time within the two- year period immediately prior to the date in question, was the beneficial owner of 10 % or more of the voting power of our then outstanding shares) or an affiliate of any interested shareholder for five years after the most recent date on which the shareholder becomes an interested shareholder, and thereafter imposes two super- majority shareholder voting requirements on these combinations, unless, among other conditions, our common shareholders receive a minimum price, as defined in the MGCL, for their shares and the consideration is received in cash or in the same form as previously paid by the interested shareholder for its shares; and • " control share " provisions that provide that our " control shares " (defined as voting shares that, when aggregated with all other shares controlled by the shareholder, entitle the shareholder to exercise one of three increasing ranges of voting power in electing trustees) acquired in a " control share acquisition " (defined as the direct or indirect acquisition of ownership or control of issued and outstanding " control shares ") have no voting rights except to the extent approved by our shareholders by the affirmative vote of at least two- thirds of all the votes entitled to be cast on the matter, excluding shares owned by the acquirer, by our officers or by our employees who are also trustees of our company. By resolution of the Company' s board of trustees, we have opted out of the business combination provisions of the MGCL and provided that any business combination between us and any other person is exempt from those provisions, provided that the business combination is first approved by the Company' s board of trustees (including a majority of trustees who are not affiliates or associates of such persons). In addition, pursuant to a provision in the Company' s bylaws, we have opted out of the MGCL' s control share provisions of the MGCL. However, the Company' s board of trustees may by resolution opt into the business combination provisions and we may, by amending the Company' s bylaws, opt into the control share provisions of the MGCL in the future. Risks Related to Qualification and Operation as a REIT Failure to qualify as a REIT, or failure to remain qualified as a REIT, would cause us to be taxed as a regular corporation, which would substantially reduce funds available for distribution to our shareholders. We believe that we have been organized and have operated in conformity with the requirements for qualification and taxation as a REIT and that our current organization and proposed method of operation will enable us to continue to qualify as a REIT. However, we have not requested and do not intend to request a ruling from the Internal Revenue Service (the " IRS ") that we qualify as a REIT. As a result, we cannot assure you that we qualify or that we will remain qualified as a REIT. Qualification as a REIT involves the application of highly technical and complex Code provisions for which only limited judicial and administrative authorities exist. Even a technical or inadvertent violation could jeopardize our REIT qualification. Our qualification as a REIT depends upon our satisfaction of certain asset, income, organizational, distribution, shareholder ownership and other requirements on a continuing basis. New legislation, court decisions or administrative guidance, in each case possibly with retroactive effect, may make it more difficult or impossible for us to qualify as a REIT. If we fail to qualify as a REIT in any taxable year, and we do not qualify for certain statutory relief provisions, we will face serious tax consequences that will substantially reduce the funds available for distributions to our shareholders because: • we would not be allowed a deduction for dividends paid to our shareholders in computing our taxable income and would be subject to U. S. federal income tax at the regular corporate tax rate (currently 21 %); and • unless we are entitled to relief under certain U. S. federal income tax laws, we could not re- elect REIT status until the fifth calendar year after the year in which we failed to qualify as a REIT. In addition, if we fail to qualify as a REIT, we will no longer be required to make distributions to our shareholders and may choose to deploy available cash in a different manner. As a result of all these factors, our failure to qualify as a REIT could impair our ability to expand our business and raise capital, and it could adversely affect the value of our preferred and common shares. Even if we qualify as a REIT, we may face other tax liabilities that reduce our cash flow. Even if we qualify as a REIT, we may be subject to certain U. S. federal, state and local taxes on our income and assets, including taxes on any undistributed income, tax on income from some activities conducted as a result of a foreclosure, and state or local income, property and transfer taxes. In addition, we will be subject to a 4 % nondeductible excise tax if the actual amount that we distribute to our shareholders in a calendar year is less than a minimum amount specified under the Code **.** **Finally** , ~~and~~ we could, in certain circumstances, be required to pay an excise or penalty tax **or interest charge** (which could be significant in amount) in order to utilize one or more relief provisions under the Code to maintain our qualification as a REIT **and to avoid the imposition of an entity- level tax** . Any of these taxes **or interest charges** would decrease cash available for distribution to our shareholders. In addition, in order to meet the REIT qualification requirements, or to avert the imposition of a 100 % tax that applies to certain gains derived by a REIT from dealer property or inventory, we hold some of our assets through a TRS or other subsidiary corporations that are subject to U. S. federal, state and local corporate taxes. Any of these taxes would decrease cash available for distribution to our shareholders. Complying with the REIT requirements may cause us to forgo and / or liquidate otherwise attractive investments. To qualify as a REIT, we must continually satisfy tests concerning, among other things, the sources of our income, the nature and diversification of our assets, the amounts that we distribute to our shareholders and the ownership of our shares. To meet these tests, we may be required to take or forgo taking actions that we would otherwise consider advantageous. For instance, in order to satisfy the gross income or asset tests applicable to REITs under the Code, we may be required to forgo investments that we otherwise would make. Furthermore, we may be required to liquidate from our portfolio otherwise attractive investments. In addition, we may be required to make distributions to our shareholders at disadvantageous times or when we do not have funds readily available for distribution. These actions could reduce our income and amounts available for distribution to our shareholders. Thus, compliance with the REIT requirements may hinder our investment performance. The prohibited transactions tax may limit our ability to engage in sale transactions. A REIT' s income from " prohibited transactions " is subject to a 100 % tax. In general, " prohibited transactions " are sales or other dispositions of property other than foreclosure property, held primarily for sale to customers in the ordinary course of business. We may be subject to the prohibited transactions tax equal to 100 % of net gain upon a disposition of real property that we hold. Although a safe harbor is available, for which certain sales of property by a REIT are not subject to the 100 % prohibited transaction tax, we cannot assure you that we can comply with the safe harbor or that we will avoid owning property that may be characterized as held primarily for sale to customers in the ordinary course of business. Consequently, we may choose not to engage in certain sales of our properties or we may conduct such sales through our TRS, which would be subject to U. S. federal and state income taxation. In addition, we may have to sell numerous properties to a single or a few purchasers, which could cause us to be less profitable than would be the case if we sold properties on a property- by- property basis. For example, if we decide to acquire properties opportunistically to renovate in anticipation of immediate resale, we will need to conduct that activity through our TRS to avoid the 100 % prohibited transactions tax. The 100 % tax described above may limit our ability to enter into transactions that would otherwise be beneficial to us. For example, if circumstances make it not profitable or otherwise uneconomical for us to remain in certain states or geographical markets, the 100 % tax could delay our ability to exit those states or markets by selling our assets in those states or markets other than through a TRS, which could harm our operating profits and the trading price of our shares. In addition, in order to avoid the prohibited transactions tax, we may be required to limit the structures we utilize for our securitization transactions, even though the sales or structures might otherwise be beneficial to us. Complying with REIT requirements may limit our ability to hedge effectively and may cause us to incur tax liabilities. The REIT provisions of the Code may limit our ability to hedge our assets and operations. Under the Code, any income that we generate from transactions intended to hedge our interest rate risk will be excluded from gross income for purposes of the REIT 75 % and 95 % gross income tests if the instrument hedges interest rate risk on liabilities used to carry or acquire real estate assets or manages the risk of certain currency fluctuations, and such instrument is properly identified under applicable Treasury Regulations. Income from hedging transactions that do not meet these requirements will generally constitute non- qualifying income for purposes of both the REIT 75 % and 95 % gross income tests. As a result of these rules, we may have to limit our use of hedging techniques that might otherwise be advantageous or implement those hedges through a TRS. This could increase the cost of our hedging activities because our TRS would be subject to tax on gains or expose us to greater risks associated with changes in interest rates than we would otherwise want to bear. In addition, losses in our TRS may only be carried forward and may only be deducted against 80 % of future taxable income in the TRS. Our ownership of our TRS is subject to limitations and our transactions with our TRS will cause us to be subject to a 100 % penalty tax on certain income or deductions if those transactions are not conducted on arm' s- length terms. The Code provides that no more than 20 % of the value of a REIT' s assets may consist of shares or securities of one or more TRS. Our TRS earn income that otherwise would be nonqualifying income if earned by us. Our TRS also hold certain properties the sale of which may not qualify for the safe harbor for prohibited transactions described above. The limitation on ownership of TRS stock could limit the extent to which we can conduct these activities and other activities through our TRS. In addition, ~~for taxable years beginning after December 31, 2017,~~ taxpayers, including TRS, are subject to a limitation on their ability to deduct net business interest generally equal to 30 % of adjusted taxable income, subject to certain exceptions. This provision may limit the ability of our TRS to deduct interest, which could increase its taxable income. The Code also imposes a 100 % excise tax on certain transactions between a TRS and its parent REIT that are not conducted on an arm' s- length basis. There can be no assurance that we will be able to comply with the TRS limitation or avoid application of the 100 % excise tax. You may be restricted from acquiring or transferring certain amounts of our shares. In order to qualify as a REIT, for each taxable year beginning with our taxable year ended December 31, 2013, five or fewer individuals, as defined in the Code, may not own, beneficially or constructively, more than 50 % in value of our issued and outstanding equity shares at any time during the last half of a taxable year. Attribution rules in the Code determine if any individual or entity beneficially or constructively owns our equity shares under this requirement. Additionally, at least 100 persons must beneficially own our equity shares during at least 335 days of a taxable year for each taxable year after 2012. To help insure that we meet these tests, the declaration of trust restricts the acquisition and ownership of our equity shares. The Company' s declaration of trust, with certain exceptions, authorizes the Company' s board of trustees to take such actions as are necessary and desirable to preserve our qualification as a REIT. Unless exempted by the Company' s board of trustees, the Company' s declaration of trust prohibits any person, other than the Hughes family, which is subject to the " excepted holder limit " (as defined in the declaration of trust), and " designated investment entities " (as defined in the declaration of trust), from beneficially or constructively owning more than 8. 0 % in value or number of shares, whichever is more restrictive, of our outstanding common shares and more than 9. 9 % in value or number of shares, whichever is more restrictive, of any class or series of our preferred shares. The Company' s board of trustees may not grant an exemption from these restrictions to any proposed transferee whose ownership in excess of the applicable ownership limit would result in our failing to qualify as a REIT. These restrictions on ownership and transfer will not apply, however, if the Company' s board of trustees determines that it is no longer in our best interest to continue to qualify as a REIT. The share ownership restrictions of the Code for REITs and the ownership and transfer restrictions in our declaration of trust may inhibit market activity in our equity shares and restrict our business combination opportunities. To satisfy the REIT distribution requirements, we may be forced to take certain actions to raise funds if we have insufficient cash flow which could materially and adversely affect us and the trading price of our common or preferred shares. To qualify as a REIT, we generally must distribute to our stockholders at least 90 % of our REIT taxable income each year, computed without regard to the dividends paid deduction and any net capital gains, and we will be subject to corporate income tax on our undistributed taxable income to the extent that we distribute less than 100 % of our REIT taxable income each year, computed without regard to the dividends paid deduction. In addition, we will be subject to a 4 % nondeductible excise tax on the amount, if any, by which distributions paid by us in any calendar year are less than the sum of 85 % of our ordinary income, 95 % of our capital gain net income and 100 % of our undistributed income from prior years. In order to satisfy these distribution requirements to maintain our REIT status and avoid the payment of income and excise taxes, we may need to take certain actions to raise funds if we have insufficient cash flow, such as borrowing funds, raising additional equity capital, selling a portion of our assets or finding another alternative to make distributions to our stockholders. We may be forced to take those actions even if the then- prevailing market conditions are not favorable for those actions. This situation could arise from, among other things, differences in timing between the actual receipt of cash and recognition of income for U. S. federal income tax purposes, or the effect of non- deductible capital expenditures or other non- deductible expenses, the creation of reserves, or required debt or amortization payments. Such actions could increase our costs and reduce the value of our common or preferred shares. These sources, however, may not be available on favorable terms or at all. Our access to third- party sources of capital depends on a number of factors, including the market' s perception of our growth potential, our current debt levels, the market price of our common or preferred shares, and our current and potential future earnings. We cannot assure you that we will have access to such capital on favorable terms at the desired times, or at all, which may cause us to curtail our investment activities and / or to dispose of assets at inopportune times, and could materially and adversely affect us and the trading price of our common or preferred shares **. If a transaction intended to qualify as a Section 1031 tax- deferred exchange is later determined to be taxable or if we are unable to identify and complete the acquisition of a suitable replacement property to effect such a Section 1031 exchange, we may face adverse consequences, and if the laws applicable to such transactions are amended or repealed, we may not be able to dispose of real properties on a tax- deferred basis. From time to time we may dispose of real properties in transactions that are intended to qualify as tax- deferred exchanges under Section 1031 of the Code (" Section 1031 Exchanges "). It is possible that the qualification of a transaction as a Section 1031 Exchange could be successfully challenged and determined to be currently taxable. In such cases, our taxable income would increase as would the amount of distributions we are required to make to satisfy our REIT distribution requirements and to avoid the imposition of an**

entity- level tax. This could increase the dividend income to our stockholders by reducing any return of capital they receive. In some circumstances, we may be required to pay additional dividends or, in lieu of that, corporate income tax, possibly including interest and penalties. As a result, we may be required to borrow in order to pay additional dividends or taxes, and the payment of such taxes could cause us to have less cash available to distribute to our shareholders. If a Section 1031 Exchange were later to be determined to be taxable, we may be required to amend our tax returns for the applicable year in question, including any reports we distributed to our shareholders. It is possible that legislation could be enacted that could modify or repeal the laws with respect to Section 1031 Exchanges, which could make it more difficult or not possible for us to dispose of real properties on a tax- deferred basis . We may be subject to adverse legislative or regulatory tax changes that could reduce the market price of our outstanding common or preferred shares. The IRS, the United States Treasury Department and Congress frequently review U. S. federal income tax legislation, regulations and other guidance. We cannot predict whether, when or to what extent new U. S. federal tax laws, regulations, interpretations or rulings will be adopted. Any legislative action may prospectively or retroactively modify our tax treatment and, therefore, may adversely affect our taxation or our shareholders. We urge you to consult with your tax advisor with respect to the status of legislative, regulatory or administrative developments and proposals and their potential effect on an investment in our stock. Although REITs generally receive certain tax advantages compared to entities taxed as " C " corporations, it is possible that future legislation would result in a REIT having fewer tax advantages, and it could become more advantageous for a company that invests in real estate to elect to be treated for U. S. federal income tax purposes as a " C " corporation. The " fast- pay stock " rules could apply if we issue preferred shares in a reopening, which could subject our shareholders to adverse U. S. federal income tax consequences. We have, and may continue to have, series of preferred shares outstanding with respect to which we have the ability to issue additional preferred shares of that series without shareholder approval (referred to as a " reopening " of the preferred shares). We may issue additional series of preferred shares in the future with the reopening feature. If we issue preferred shares in a reopening at a price that exceeds the redemption price of such preferred shares by more than a de minimis amount, those shares could be considered to be " fast- pay stock " under Treasury Regulations promulgated under Section 7701 (l) of the Code (the " Fast- Pay Stock Regulations "). Under the Fast- Pay Stock Regulations, if stock of a REIT is structured so that dividends paid with respect to the stock are economically (in whole or in part) a return of the stockholder' s investment (rather than a return on the stockholder' s investment), the stock is characterized as " fast- pay stock, " resulting in the adverse tax consequences described below. Under the Fast- Pay Stock Regulations, unless clearly demonstrated otherwise, our preferred shares are presumed to be fast- pay stock if they are issued for an amount that exceeds (by more than a de minimis amount, as determined under certain other Treasury Regulations) the amount at which the shareholder can be compelled to dispose of the shares (" Fast- Pay Stock "). Apart from the Fast- Pay Stock Regulations, no meaningful guidance exists regarding the determination of whether a dividend economically constitutes a return of investment for these purposes or how a taxpayer could clearly demonstrate otherwise. If any of our preferred shares are determined to be Fast- Pay Stock, the U. S. federal income tax treatment of the holders of such Fast- Pay Stock (the " FP Shareholders ") and our other shareholders (the " NFP Shareholders ") would be as described below: • The FP Shareholders would be treated as having purchased financing instruments from the NFP Shareholders. Such financing instruments would be deemed to have the same terms as the Fast- Pay Stock. • Payments made by us on the Fast- Pay Stock would be deemed to be made by us to the NFP Shareholders, and the NFP Shareholders would be deemed to pay equal amounts to the FP Shareholders under the deemed financing instruments. • Any Fast- Pay Stock would not be fungible for U. S. federal income tax purposes with other preferred shares. • If an NFP Shareholder sells our shares, in addition to any consideration actually paid and received for such shares, (i) the buyer would be deemed to pay, and such NFP Shareholder would be deemed to receive, the amount necessary to terminate the NFP Shareholder' s position in the deemed financing instruments at fair market value, and (ii) the buyer would be deemed to issue a financing instrument to the appropriate FP Shareholders in exchange for the amount necessary to terminate the NFP Shareholder' s position in the deemed financing instruments. For any transactions that are not sales, but that affect any of our shares that are not Fast- Pay Stock, the parties to the transaction must make appropriate adjustments to properly take into account the Fast- Pay Stock arrangement. While the character of the deemed payments and deemed financing instruments (for example, stock or debt) described above are determined under general U. S. federal income tax principles and depend on all the facts and circumstances, there is a lack of meaningful guidance regarding the consequences to us, the FP Shareholders and NFP Shareholders of the payments deemed made and received. For example, dividends received by the FP Shareholders generally could be treated as (i) additional dividend income to the NFP Shareholders and (ii) ordinary income, in whole or in part, to the FP Shareholders. In addition, the extent to which NFP Shareholders could deduct payments deemed made on the financing instruments and the withholding taxes and information reporting requirements that could apply are uncertain. Transactions involving fast- pay stock arrangements are treated as " listed transactions " for U. S. federal income tax purposes. Thus, if any preferred shares issued by us are treated as Fast- Pay Stock, we and our shareholders would be required to report our and their participation in the transaction on IRS Form 8886 on an annual basis with our and their U. S. federal income tax returns and also would be required to mail a copy of that form to the IRS Office of Tax Shelter Analysis. Failure to comply with those disclosure requirements could result in the assessment by the IRS of interest, additions to tax and onerous penalties. In addition, an accuracy- related penalty applies under the Code to any reportable transaction understatement attributable to a listed transaction if a significant purpose of the transaction is the avoidance or evasion of U. S. federal income tax. Finally, treatment as a listed transaction would mean that certain of our " material advisors " (as defined under applicable Treasury Regulations) also would be required to file a disclosure statement with the IRS. We and certain of our advisors could decide to file disclosure statements with the IRS on a protective basis to avoid the risk of penalties, even if it is uncertain that our preferred shares are in fact Fast- Pay Stock or that such advisor is a " material advisor. " Prospective shareholders should consult their own tax advisors as to the application of these rules to their individual circumstances.