Risk Factors Comparison 2024-02-15 to 2023-02-16 Form: 10-K

Legend: **New Text** ~~Removed Text~~ Unchanged Text Moved Text Section

Risks Related to our Business Strategy Investing in real estate is inherently subject to risks that could negatively impact our business. Investing in real estate is subject to varying degrees and types of risk. While we seek to mitigate these risks through various strategies, including geographic diversification, market research and proactive asset management, among other techniques, these risks cannot be eliminated **entirely**. Factors that may impact cash flows and real estate values include, but are not limited to: • Local economic conditions, particularly oversupply or reductions in demand; • National, regional and local political and regulatory climates, governmental fiscal health and governmental policies; • The inability or unwillingness of residents to pay rent increases; • Increases in our operating expenses due to inflationary or other pressures; • Cost and availability of labor and materials required to maintain our properties at acceptable standards; • Availability of attractive financing opportunities; • Changes in social preferences **, demographics or migration patterns**; and • Additional risks that are discussed below. The geographic concentration of our properties could have an adverse effect on our operations. While the Company continues to diversify its portfolio with the addition of the expansion markets, the Company' s properties are still predominantly concentrated in our established coastal markets (generally within certain dense urban and suburban submarkets). If one or more of these markets is unfavorably impacted by specific geopolitical and / or economic conditions, local real estate conditions, increases in social unrest, increases in real estate and other taxes, reduced quality of life, deterioration of local or state government health, rent control or **rent** stabilization laws **, other similar regulations,** or localized environmental and climate issues, the impact of such conditions may have a more negative impact on our results of operations than if our properties were more geographically diverse. Additionally, to the extent that these markets or submarkets become less desirable to operate in, including changes in multifamily housing supply and demand, our results of operations could be more negatively impacted than if we were more diversified within our markets or invested in a greater number of markets. Competition for housing may negatively affect operations and demand for the Company' s properties or residents. Our properties face competition for residents from other existing or new multifamily properties, condominiums, single family homes and other living arrangements, whether owned or rental, that may attract residents from our properties or prospective residents that would otherwise choose to live with us. As a result, we may not be able to renew existing resident leases or enter into new resident leases, or if we are able to renew or enter into new leases, they may be at rates or terms that are less favorable than our current rates or terms, resulting in a material impact on our results of operations. Additionally, our properties face competition for residents as a result of ~~technological innovation~~ **innovations in technology and amenities**. Therefore, we may not be able to retain residents or attract new residents if we are unable to identify and cost effectively implement new, relevant technologies **/ amenities** and keep up with constantly changing resident demand for the latest innovations **in these areas**. The short- term nature of apartment leases exposes us more quickly to the effects of declining market rents, potentially making our results of operations and cash flows more volatile. Generally, our residential apartment leases are for twelve months or less. If the terms of the renewal or releasing are less favorable than current terms, then the Company' s results of operations and financial condition could be negatively affected. Given our generally shorter- term lease structure, our rental revenues are impacted by declines in market rents more quickly than if our leases were for longer terms. In addition, operating expenses associated with each property, such as real estate taxes, insurance, utilities, maintenance costs and employee wages and benefits, may not decline ~~as quickly~~ **at all** or **decline** at the same rate as revenues when circumstances might cause a reduction of those revenues at our properties. Because real estate investments are illiquid, we may not be able to sell properties when appropriate. Real estate investments often cannot be sold quickly due to regulatory constraints, market conditions or otherwise. As a result, we may not be able to reconfigure our portfolio, including the diversification of our portfolio into the expansion markets, as promptly as desired or as quickly in response to changing economic or other conditions. We may also be unable to consummate dispositions in a timely manner, on attractive terms, or at all. The capitalization rates / disposition yields at which properties may be sold could also be higher than historic rates, thereby reducing our potential proceeds from sale. In some cases, we may also determine that we will not recover the carrying amount of the property upon disposition, potentially causing an impairment charge. This inability to reallocate our capital promptly could negatively affect our financial condition, including our ability to make distributions to our security holders. Competition ~~for acquisitions~~ may prevent us from acquiring properties on favorable terms. We may not be successful in pursuing acquisition and development opportunities. We expect that other real estate investors will compete with us for attractive investment opportunities or may also develop properties in markets where we focus our development and acquisition efforts. We may not be in a position or have the opportunity in the future to make suitable property acquisitions on favorable terms. Operations from new acquisitions, development projects and renovations may fail to perform as expected. We intend to actively acquire, develop and renovate multifamily operating properties as part of our business strategy. Newly acquired, developed or renovated properties may not perform as we expect. We may overestimate the revenue (or underestimate the expenses) that these new or repositioned properties may generate. The occupancy and rental rates at these properties may also fail to meet our expectations for these investments. ~~We may also underestimate the costs necessary to operate an acquired or developed property to the standards established for its intended market position.~~ Land parcels acquired for development may lose significant value prior to the start of construction. Development and renovations are subject to even greater uncertainties and risks due to the complexities and lead time to build or complete these projects. We may also underestimate the costs to complete a development property or to complete a renovation. Additionally, we have and may in the future acquire large portfolios of properties or companies that could increase our size and result in alterations to our capital structure. We may be unable to integrate the operations of newly acquired large portfolios or companies and realize the anticipated synergies and other benefits or do so within the anticipated time frame **. Furthermore, we have in the past and may in the future decide to invest in expansion markets outside of our existing established markets by acquiring and / or developing properties in accordance with the Company' s long- term investment strategy. Our historical experience in our established markets does not ensure that we will be able to operate successfully in new markets, should we choose to enter them. Entering into new markets may expose us to a variety of risks, including an inability to accurately evaluate local market conditions and local economies, to identify appropriate acquisition and / or development opportunities, to hire and retain key personnel and a lack of familiarity with local governmental regulations** . Construction risks on our development projects could affect our profitability. We intend to continue to develop multifamily properties through both wholly owned and joint venture arrangements as part of our business strategy. Development often includes long planning and entitlement timelines, subjecting the projects to changes in market conditions. It can involve complex and costly activities, including significant environmental remediation or construction work in our markets. We **have experienced and** may ~~also~~ **continue to** experience an increase in costs due to general disruptions that affect the cost of labor and / or materials, such as supply chain disruptions, trade disputes, tariffs, labor unrest, geopolitical conflicts or other factors that create inflationary pressures. We may abandon opportunities that we have already begun to explore for a number of reasons, and as a result, we may fail to recover ~~expenses~~ **costs** already incurred in exploring those opportunities. We may also be unable to obtain, or experience delays in obtaining, necessary zoning, occupancy, or other required governmental or third- party permits and authorizations. These and other risks inherent in development projects, including the joint venture risks noted below, could result in increased costs or the delay or abandonment of opportunities. We are subject to risks involved in real estate activity through joint ventures. We currently, and may continue to in the future, develop and acquire properties in joint ventures with unrelated third parties. Joint ventures create risks including the following: • The possibility that our partners might refuse or be financially unable to make capital contributions when due or may fail to meet contractual obligations to cover development cost overruns and therefore we may be forced to make contributions to protect our investments; • These projects generally use mortgage debt (including variable rate constructions loans) to finance their activities at a higher leverage level than how we finance the Company as a whole; • We may be responsible to our partners for indemnifiable losses; • Our partners might at any time have business, tax planning or economic goals that are inconsistent with ours; ~~and~~ • Our partners may be in a position to take action or withhold consent contrary to our recommendations, instructions or requests **; and • The possibility that our partner is either unable to or unwilling to complete their contractual development activities** . At times we have entered into agreements providing for joint and several liability with our partners. We ~~also~~ have in the past and ~~could~~ **may in the future** choose ~~in the future~~ to guarantee part of or all of certain joint venture debt **or to act as a lender to the joint venture itself** . We and our respective joint venture partners may each have the right to trigger a buy- sell arrangement that could cause us to sell our interest, or acquire our partner' s interest, at a time or price that is unfavorable to us. Each joint venture agreement is individually negotiated and our ability to operate, finance or dispose of properties and interests in such joint ventures in our sole discretion may be limited to varying degrees depending on the terms of the applicable joint venture agreement. To the extent we have commitments to, on behalf of or are dependent on any such off- balance sheet commitments, or if those commitments or their properties or leases are subject to material contingencies, our liquidity and financial condition could be adversely affected. In some instances, our joint venture partners may also have competing interests or objectives that could create conflicts of interest similar to those noted above. These objectives may be contrary to our compliance with the REIT requirements, and our REIT status could be jeopardized if any of our joint ventures do not operate in compliance with those requirements. To the extent our partners do not meet their obligations to us or our joint ventures, or they take actions inconsistent with the interests of the joint venture, it could have a negative effect on our results of operations and financial condition, including distributions to our security holders. **We are subject to risks involved in activity through real estate technology and other real estate fund investments. We have entered into, and may continue in the future to enter into, real estate technology and other real estate fund investments. Noncontrolling interests and passive investments are inherently risky because we have limited ability to influence business decisions. The managers of such investments have autonomy over the day- to- day operations of the business and may make business, financial or management decisions with which we do not agree or take risks or otherwise act in a manner that does not serve our interests. In addition, the market for the technologies or products these companies are developing are typically in the early stages and may not materialize to the expected scale, causing these companies to abandon, modify or alter their product, service or overall strategy. Further, there is no assurance that these companies can obtain additional capital or resources or generate sufficient cash flow to sustain operations and successfully execute their strategy. The performance of these investments may also rely on the services of a limited number of key individuals, the loss of whom could significantly adversely affect such investments' performance. As a result, we may recognize an impairment of our investment or be unable to sell or otherwise monetize any of the investments we have acquired or may acquire in the future. We are subject to risks related to our properties that are subject to ground leases. We have entered into, and may continue in the future to enter into, long- term ground leases with respect to assets that may restrict our ability to finance, sell or otherwise transfer our interests in these properties, limit our use and expose us to loss of the properties if such agreements are breached by us or terminated. These restrictions may limit our ability to timely sell or exchange the properties, impair the properties' value or negatively impact our ability to operate the properties. In addition, as we get closer to the lease termination dates, the values of the properties could decrease if we are unable to agree upon an extension of the lease with the lessor. Certain of these ground leases have payments subject to annual escalations and / or periodic fair market value adjustments which could adversely affect our financial condition or results of operations. We face certain risks related to our Non- Residential operating activities. The Non- Residential space (includes retail and public parking garage operations) at our properties primarily serves as an**

additional amenity for our residents and neighbors. The longer- term nature of our Non- Residential leases (generally five to ten years with market based renewal options) and the characteristics of many of our Non- Residential tenants (generally small, local businesses) may subject us to certain risks. We may not be able to lease new space for rents that are consistent with our projections or for market rates. Also, when leases for our existing Non- Residential space expire, the space may not be relet or the terms of reletting, including the cost of allowances and concessions to tenants, may be less favorable than the current lease terms. The presence of competitive alternatives and other market conditions (including online shopping) may affect our ability to lease our Non- Residential space and impact the level of rents we can obtain. If our Non- Residential tenants experience financial distress or bankruptcy, they may fail to comply with their contractual obligations, seek concessions, such as rent abatements and deferrals, in order to continue operations or cease their operations, any or all of which could lead us to record a non- cash write- off of a tenant' s straight- line rent receivable (like we did in 2023 due to the Rite Aid bankruptcy) and could adversely impact our results of operations and financial condition. The Company' s real estate assets may be subject to impairment charges. A decline in the fair value of our assets may require us to recognize an impairment against our assets under accounting principles generally accepted in the United States (" GAAP ") if we were to determine that, with respect to any assets in unrealized loss positions, we do not have the ability and intent to hold such assets for a period of time sufficient to allow for recovery of the depreciated cost of such assets. If such a determination were to be made, we would recognize unrealized losses through earnings and write- down the depreciated cost of such assets to a new cost basis, based on the fair value of such assets on the date they are considered to be impaired. Such impairment charges reflect non- cash losses at the time of recognition; subsequent disposition or sale of such assets could further affect our future losses or gains, as they are based on the difference between the sale price received and adjusted ~~amortized~~ **depreciated** cost of such assets at the time of sale. If we are required to recognize material asset impairment charges, these charges could adversely affect our financial condition and results of operations. Corporate ~~social~~ responsibility, specifically related to ~~ESG~~ **sustainability efforts** , may impose additional costs and expose us to new risks. **Corporate responsibility** ~~Environmental sustainability, social and governance~~ evaluations remain highly important to some investors and other stakeholders. Certain organizations that provide corporate governance and other corporate risk advisory services to investors have developed scores and ratings to evaluate companies and investment funds based upon ~~ESG~~ **corporate responsibility** metrics. Many investors focus on positive ~~ESG~~ **corporate responsibility** - related business practices and scores when choosing to allocate their capital and may consider a company' s score as a reputational or other factor in making an investment decision. Government regulators' and investors' increased focus and activism related to ~~ESG~~ **corporate responsibility** and similar matters may constrain our business operations or increase expenses or capital expenditures. In addition, investors may decide to refrain from investing in us as a result of their assessment of our approach to and consideration of ~~ESG~~ **corporate responsibility** factors. We may face reputational damage in the event our corporate responsibility procedures or standards do not meet the standards set by various constituencies. In addition, the criteria by which companies are rated for ~~ESG~~ **their** efforts may change, which could cause us to receive lower scores than in previous years. A low **rating** ~~ESG score~~ could result in a negative perception of the Company, exclusion of our securities from consideration by certain investors who may elect to invest with our competition instead and / or cause investors to reallocate their capital away from the Company, all of which could have an adverse impact on the price of our securities. Our various technology- related initiatives to improve our operating margins and customer experience may fail to perform as expected. We have developed and may continue to develop initiatives that are intended to serve our customers better and operate more efficiently, including " smart home " technology and self- service options that are accessible to residents through smart devices or otherwise. Such initiatives have involved and may involve our employees having new or different responsibilities and processes **with which they may be unfamiliar** . We may incur significant costs and divert resources in connection with such initiatives, and these initiatives may not perform as expected, which could adversely affect our business, results of operations, cash flows and financial condition. Risks Related to our Financing Strategy and Capital Structure Disruptions in the financial markets could hinder our ability to obtain debt and equity financing and impact our acquisitions and dispositions. Dislocations and disruptions in capital markets could result in increased costs or lack of availability of debt financing (including under our commercial paper program) and equity financing. Such events may affect our ability to refinance existing debt, require us to utilize higher cost alternatives and / or impair our ability to adjust to changing economic and business conditions. Capital market disruptions have and could continue to negatively impact our ability to make acquisitions or make it more difficult or not possible for us to sell properties or may unfavorably affect the price we receive for properties that we do sell. Such disruptions could cause the price of our securities to decline. Changes in market conditions and volatility of share prices could decrease the market price of our Common Shares. The stock markets, including the New York Stock Exchange on which we list our Common Shares, have experienced significant price and volume fluctuations over time, including in recent years. As a result, the market price of our Common Shares has been and could continue to be similarly volatile. Investors in our Common Shares consequently may experience a decrease in the value of their shares, including decreases due to this volatility and not necessarily related to our operating performance or prospects. Additionally, the market price of our Common Shares may decline or fluctuate significantly in response to the sale of substantial amounts of our Common Shares, or the anticipation of the sale of such shares, by large holders of our securities, as well as our inclusion or exclusion from stock indices. The issuance of additional Common Shares by the Company, or the perception that such issuances might occur, could also cause significant volatility and decreases in the value of our shares **. Continuing high interest rates can also negatively impact the value of our Common Shares, not just through higher interest expense on our debt, but also as investors and markets discount our earnings more and / or assume slower growth in earnings** . Our financial counterparties may not perform their obligations. Disruptions in financial and credit markets or other events could impair the ability of our counterparties to perform under their contractual obligations to us. There are multiple financial institutions that are individually committed to provide borrowings under our revolving credit facility and to pay us amounts due under various interest rate derivative agreements. Should any of these institutions fail to perform their obligations when contractually required, our financial condition could be adversely affected. Rising interest rates can increase costs and impact the value of the Company' s assets. The Company is exposed to market risk from financial instruments primarily from changes in market interest rates. Such risks derive from the refinancing of debt at or prior to maturity, from exposure to interest rate fluctuations on floating rate debt and from derivative instruments utilized to swap fixed rate debt to floating rates or to hedge rates in anticipation of future debt issuances. Rising interest rates increased and may continue to increase our interest expense and the costs of refinancing existing debt. Higher interest rates also increased and could continue to increase capitalization rates, which may lead to reduced valuations of the Company' s assets **. Failure to hedge effectively against interest rate changes may adversely affect our results of operations. From time to time when we anticipate issuing debt securities, we may seek to limit our exposure to fluctuations in interest rates during the period prior to the pricing of the securities by entering into interest rate hedging contracts. Also, from time to time we may rely on interest rate hedging contracts to limit our exposure under variable rate debt to unfavorable changes in market interest rates. The settlement of interest rate hedging contracts may involve material charges. In addition, our use of interest rate hedging arrangements may expose us to additional risks, including a risk that a counterparty to a hedging arrangement may default on the contract. There can be no assurance that our hedging activities will be effective and have the desired beneficial impact on our results of operations or financial condition** . Insufficient cash flow could affect our ability to service existing debt and create refinancing risk. We are subject to risks normally associated with debt financing, including the risk that our cash flow will be insufficient to meet required payments. We may not be able to refinance existing debt and if we can, the terms of such refinancing may be less favorable than the terms of existing indebtedness. Our inability to refinance, extend or repay debt with proceeds from other capital market transactions would negatively impact our financial condition. If the debt is secured, the mortgage holder may also foreclose on the property. A significant downgrade in our credit ratings could adversely affect our performance. A significant downgrade in our credit ratings, while not affecting our ability to draw proceeds under the Company' s revolving credit facility, would cause the corresponding borrowing costs to increase, impact our ability to borrow secured and unsecured debt, and potentially impair our ability to access the commercial paper market or otherwise limit our access to capital. In addition, a downgrade below investment grade would likely cause us to lose access to the commercial paper markets and would require us to post cash collateral and / or letters of credit in favor of some of our secured lenders to cover our self- insured property and liability insurance deductibles or to obtain lower deductible insurance compliant with the lenders' requirements at the lower ratings level. Financial covenants could limit operational flexibility and affect our overall financial position. The terms of our credit agreements, including our revolving credit facility and the indentures under which a substantial portion of our unsecured debt was issued, require us to comply with a number of financial covenants. These covenants may limit our flexibility to run our business and breaches of these covenants could result in defaults under the instruments governing the applicable indebtedness and trigger a cross default of other debt. Some of our properties are financed with tax- exempt bonds or otherwise contain restrictive covenants or deed restrictions, including affordability requirements, which limit income from certain properties. The Company monitors compliance with the restrictive covenants and deed restrictions that affect these properties. While we generally believe that the interest rate benefit from financing properties with tax- exempt bonds more than outweighs any loss of income due to restrictive covenants or deed restrictions, this may not always be the case. Some of these requirements are complex, and our failure to comply with them may subject us to material fines or liabilities. We may change the dividend policy for our securities in the future. The decision to declare and pay dividends on our securities, as well as the timing, amount and composition of any such future dividends, is at the discretion of the Board of Trustees and will depend on actual and projected financial conditions, the Company' s actual and projected liquidity and operating results, the Company' s projected cash needs for capital expenditures and other investment activities and such other factors as the Company' s Board of Trustees deems relevant. The Board of Trustees may modify our dividend policy from time to time and any change in our dividend policy could negatively impact the market price of our securities. Issuances or sales of our Common Shares or Units may be dilutive. Any additional issuance of Common Shares (including those issued under our At- The- Market (" ATM") program) or Units would reduce the percentage of our Common Shares and Units owned by existing investors. In most circumstances, shareholders and unitholders will not be entitled to vote on whether or not we issue additional Common Shares or Units. In addition, depending on the terms and pricing of additional offerings of our Common Shares or Units along with the value of our properties, our shareholders and unitholders could experience dilution in both the book value and fair value of their Common Shares or Units, as well as dilution in our actual and expected earnings per share, funds from operations (" FFO ") per share and Normalized FFO per share. Regulatory and Tax Risks The adoption of, or changes in, rent control or rent stabilization regulations and eviction restrictions could have an adverse effect on our operations and property values. In part due to increasing pressure from advocacy groups, a growing number of state and local governments have enacted and may continue to consider enacting and / or expanding rent control, rent stabilization, eviction moratoriums or other similar regulations. In addition, the federal government has recently considered imposing rent regulations on multifamily properties secured by government-sponsored debt. These regulations **specifically and / or effectively** limit or could continue to limit our ability to raise rents or charge certain fees (either of which could have a retroactive effect), enforce residents' or tenants' contractual rent obligations or pursue collections, all of which could have an adverse impact on our operations and property values. Compliance or failure to comply with regulatory requirements could result in substantial costs. Our properties are subject to various federal, state and local regulatory requirements, such as state and local fire and life safety requirements, building and zoning codes, environmental and other ~~ESG~~ **related** regulations, and federal, state and local accessibility requirements, including and in addition to those imposed by the Americans with Disabilities Act and the Fair Housing Act. Noncompliance could result in fines, subject us to lawsuits and require us to remediate or repair the noncompliance. Existing requirements could change and compliance with future requirements may require significant unanticipated expenditures that could adversely affect our financial condition or results of operations. Environmental problems are possible and can be costly. Federal, state and local laws and regulations relating to the protection of the environment may require current or previous owners or operators of real estate to investigate and clean up hazardous or toxic substances at such properties. The owner or operator may have to pay a governmental entity or third parties for property damage and for investigation and clean- up costs incurred by such parties in connection with the contamination. These laws typically impose clean- up responsibility and liability without regard to whether the owner or operator knew of or caused the presence of the contaminants. Even if more than one person may have been responsible for the contamination, each person covered by the environmental laws may be held responsible for all of the clean- up costs incurred. Third parties may also sue the owner or operator of a site for damages and costs resulting from environmental contamination emanating from that site. We cannot be assured that existing environmental assessments of our properties reveal all environmental liabilities, that any prior owner of any of our properties did not create a material environmental condition not known to us, or that a material environmental condition does not otherwise exist as to any of our properties. Changes in U. S. accounting standards may materially and adversely affect the reporting of our operations. The Company follows GAAP, which is established by the Financial Accounting Standards Board (" FASB "), an independent body whose standards are recognized by the Securities and Exchange Commission (" SEC ") as authoritative for publicly held companies. The FASB and the SEC create and interpret accounting standards and may issue new accounting pronouncements or change the interpretation and application of these standards that govern the preparation of our financial statements. These changes could have a material impact on our reported consolidated results of operations and financial position. Any weaknesses identified in our internal control over financial reporting could result in a decrease of our share price. Section 404 of the Sarbanes- Oxley Act of 2002 requires us to evaluate and report on our internal control over financial reporting. If we identify one or more material weaknesses in our internal control over financial reporting, we could lose investor confidence in the accuracy and completeness of our financial reports, which in turn could have a negative impact on our share price. Our failure to qualify as a REIT would have serious adverse consequences to our security holders. We plan to continue to meet the requirements for taxation as a REIT. Many of these requirements, for which there is limited judicial and administrative interpretation, however, are highly technical and complex. Therefore, we cannot guarantee that we have qualified or will qualify as a REIT in the future. The determination that we are a REIT requires an analysis of various factual matters that may not be totally within our control. To qualify as a REIT, our assets must be substantially comprised of real estate assets as defined in the Internal Revenue Code of 1986, as amended (the " Code "), and related guidance and our gross income must generally come from rental and other real estate or passive related sources that are itemized in the REIT tax laws. We are also required to distribute to security holders at least 90 % of our REIT taxable income excluding net capital gains. If we fail to qualify as a REIT, we would be subject to U. S. federal income tax at regular corporate rates and would have to pay significant income taxes unless the Internal Revenue Service (" IRS ") granted us relief under certain statutory provisions. In addition, we would remain disqualified from taxation as a REIT for four years following the year in which we failed to qualify as a REIT. We would therefore have less money available for investments or for distributions to security holders and would no longer be required to make distributions to security holders. This would likely have a significant negative impact on the value of our securities. In addition, certain of our subsidiary entities have elected to be taxed as REITs. As such, each must separately satisfy all of the requirements to qualify for REIT status. If a subsidiary REIT did not satisfy such requirements, and certain relief provisions did not apply, it would be taxed as a regular corporation and its income would be subject to U. S. federal income taxation. Failure to comply with these complex REIT rules at the subsidiary REIT level can have a material and detrimental impact to EQR' s REIT status. Gain on disposition of assets held for sale in the ordinary course of business is subject to 100 % tax. Any gain resulting from transfers of properties we hold as inventory or primarily for sale to customers in the ordinary course of business is treated as income from a prohibited transaction subject to a 100 % penalty tax unless certain safe harbor exceptions set forth in the Code apply. We do not believe that our transfers or disposals of property are prohibited transactions. However, whether property is held for investment purposes is a question that depends on all the facts and circumstances surrounding the particular transaction. The IRS may contend that certain transfers or dispositions of properties by us or contributions of properties are prohibited transactions. While we believe the IRS would not prevail in any such dispute, if the IRS were to argue successfully that a transfer or disposition of property constituted a prohibited transaction, we would be required to pay a 100 % penalty tax on any gain allocable to us from the prohibited transaction. In addition, income from a prohibited transaction might adversely affect our ability to satisfy the income tests for qualification as a REIT. We may be subject to legislative or regulatory tax changes that could negatively impact our financial condition. At any time, U. S. federal income tax laws governing REITs or impacting real estate or the administrative interpretations of those laws may be enacted or amended. We cannot predict if or when any new U. S. federal income tax law, regulation or administrative interpretation, or any amendment to any existing U. S. federal income tax law, IRS and U. S. Department of Treasury regulations or other administrative guidance, will be adopted or become effective and any such law, regulation or interpretation may take effect retroactively. The Company and our shareholders could be negatively impacted by any such change in, or any new, U. S. federal income tax law, regulations or administrative guidance. Distribution requirements may limit our flexibility to manage our portfolio. In order to maintain qualification as a REIT under the Code, a REIT must annually distribute to its shareholders at least 90 % of its REIT taxable income, excluding the dividends paid deduction and net capital gains. To the extent the REIT does not distribute all of its net capital gain, or distributes at least 90 %, but less than 100 % of its REIT taxable income, it will be required to pay regular U. S. federal income tax on the undistributed amount at corporate rates. In addition, we will be subject to a 4 % nondeductible excise tax on amounts, if any, by which distributions we pay in any calendar year are less than the sum of 85 % of our ordinary income, 95 % of our net capital gains and 100 % of our undistributed income from prior years. We may not have sufficient cash or other liquid assets to meet the 90 % distribution requirement. We may be required from time to time, under certain circumstances, to accrue as income for tax purposes interest and rent earned but not yet received. We may incur a reduction in tax depreciation without a reduction in capital expenditures. Difficulties in meeting the 90 % distribution requirement might arise due to competing demands for our funds or due to timing differences between tax reporting and cash distributions, because deductions may be disallowed, income may be reported before cash is received, expenses may have to be paid before a deduction is allowed or because the IRS may make a determination that adjusts reported income. In addition, gain from the sale of property may exceed the amount of cash received on a leverage- neutral basis. A substantial increase to our taxable income may reduce the flexibility of the Company to manage its portfolio through dispositions of properties other than through tax deferred transactions, such as Section 1031 exchanges, or cause the Company to borrow funds or liquidate investments on unfavorable terms in order to meet these distribution requirements. If we do not dispose of our properties through tax deferred transactions, we may be required to distribute the gain proceeds to shareholders or pay income tax. If we fail to satisfy the 90 % distribution requirement and are unable to cure the deficiency, we would cease to be taxed as a REIT, resulting in substantial tax- related liabilities. We have a share ownership limit for REIT tax purposes. To remain qualified as a REIT for U. S. federal income tax purposes, not more than 50 % in value of our outstanding Shares may be owned, directly or indirectly, by five or fewer individuals at any time during the last half of any year. To facilitate maintenance of our REIT qualification, our Declaration of Trust, subject to certain exceptions, prohibits ownership by any single shareholder of more than five percent of the lesser of the number or value of any outstanding class of common or preferred shares (the " Ownership Limit "). Absent an exemption or waiver granted by our Board of Trustees, securities acquired or held in violation of the Ownership Limit will be transferred to a trust for the exclusive benefit of a designated charitable beneficiary, and the security holder' s rights to distributions and to vote would terminate. A transfer of Shares may automatically be deemed void if it causes a person to violate the Ownership Limit. The Ownership Limit could delay or prevent a change in control and, therefore, could affect our security holders' ability to realize a premium over the then- prevailing market price for their Shares. To reduce the ability of the Board to use the Ownership Limit as an anti- takeover device, the Company' s Ownership Limit requires, rather than permits, the Board to grant a waiver of the Ownership Limit if the individual seeking a waiver demonstrates that such ownership would not jeopardize the Company' s status as a REIT. Tax elections regarding distributions may impact future liquidity of the Company or our shareholders. Under certain circumstances we have made and / or may consider making in the future, a tax election to treat certain distributions to shareholders made after the close of a taxable year as having been distributed during such closed taxable year. This election, which is provided for in the Code, may allow us to avoid increasing our dividends or paying additional income taxes in the current year. However, this could result in a constraint on our ability to decrease our dividends in future years without creating risk of either violating the REIT distribution requirements or generating additional income tax liability. In addition, the Company may be required to pay interest to the IRS based on such a distribution. In order to retain liquidity and continue to satisfy the REIT distribution requirements, the Company could issue shares rather than pay a dividend entirely in cash to shareholders. The IRS has published several rulings which have allowed REITs to offer shareholders the choice between shares or cash as a form of payment of a dividend (an " elective stock dividend "). However, REITs are generally required to structure the cash component to be no less than 20 % of the total dividend paid. Therefore, it is possible that the total tax burden to shareholders resulting from an elective stock dividend may exceed the amount of cash received by the shareholder. Inapplicability of Maryland law limiting certain changes in control. Certain provisions of Maryland law applicable to REITs prohibit " business combinations " (including certain issuances of equity securities) with any person who beneficially owns ten percent or more of the voting power of outstanding securities, or with an affiliate who, at any time within the two- year period prior to the date in question, was the beneficial owner of ten percent or more of the voting power of the Company' s outstanding voting securities (an " Interested Shareholder "), or with an affiliate of an Interested Shareholder. These prohibitions last for five years after the most recent date on which the Interested Shareholder became an Interested Shareholder. After the five- year period, a business combination with an Interested Shareholder must be approved by two super- majority shareholder votes unless, among other conditions, holders of common shares receive a minimum price for their shares and the consideration is received in cash or in the same form as previously paid by the Interested Shareholder for its common shares. As permitted by Maryland law, however, the Board of Trustees of the Company has opted out of these restrictions with respect to any business combination involving **certain of** Samuel Zell **' s** ~~and certain of his~~ affiliates and persons acting in concert with them. Consequently, the five- year prohibition and the super- majority vote requirements will not apply to a business combination involving us and / or any of them. Such business combinations may not be in the best interest of our security holders. General Risk Factors Risk of Pandemics or Other Health Crises. Pandemics, epidemics or other health crises ~~, including the novel coronavirus (" COVID- 19 "),~~ have and could in the future disrupt our business. Both global and locally targeted health events could materially affect areas where our properties, corporate / regional offices or major service providers are located. These events have and could in the future have an adverse effect on our business, results of operations, financial condition and liquidity in a number of ways, including, but not limited to: • The deterioration of global economic conditions as a result of such a crisis could ultimately decrease occupancy levels and pricing across our portfolio and / or increase concessions, reduce or defer our residents' spending, result in changes in resident preferences (including changes resulting from increased employer flexibility to work from home) or negatively impact our residents' and tenants' ability to pay their rent on time or at all; • Local and national authorities expanding or extending certain measures that impose restrictions on our ability to enforce residents' or tenants' contractual rental obligations (such as eviction moratoriums or rental forgiveness) and limit our ability to raise rents or charge certain fees; • The risk of a prolonged outbreak and / or multiple waves of an outbreak could cause long- term damage to economic conditions, which in turn could diminish our access to capital at attractive terms and / or cause material declines in the fair value of our assets, leading to asset impairment charges; and • The potential inability to maintain adequate staffing at our properties and corporate / regional offices due to an outbreak and / or changes in employee preferences causing them to leave their jobs. To the extent a pandemic, epidemic or other health crisis adversely affects our business, results of operations, cash flows and financial condition, it may also continue to heighten many of the other risks described elsewhere in this Item 1A, Risk Factors. Significant inflation could negatively impact our business. Substantial inflationary pressures can adversely affect us by **disproportionately** increasing the costs of land, materials, labor and other costs needed to operate our business. In a highly inflationary environment, we may not be able to raise rental rates at or above the rate of inflation, which could reduce our profit margins. If we are unable to increase our rental prices to offset the effects of inflation, our business, results of operations, cash flows and financial condition could be adversely affected. In addition, interest rate increases enacted to combat inflation have caused market disruption and could continue to prevent us from acquiring or disposing of assets on favorable terms **or at all** . The occurrence of cyber incidents, or a deficiency in our cybersecurity, could negatively impact our business by causing a disruption to our operations, a compromise or corruption of our confidential information, and / or damage to our reputation and business relationships, all of which could negatively impact our financial results. A ~~cyber~~ **cybersecurity** incident is an ~~intentional attack~~ **unauthorized occurrence,** or ~~an unintentional event~~ **a series of related unauthorized occurrences, on or conducted through the Company' s information systems** that **jeopardizes the confidentiality, integrity, or availability of our information systems or any information residing therein. These events** can include gaining unauthorized access to systems to disrupt ~~payment collections and~~ operations, corrupt data or steal confidential information, including information regarding our residents, prospective residents, employees and employees' dependents. Despite system redundancy, the implementation of security measures, 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 breaches, whether through cyber attacks or cyber intrusions over the Internet, malware, computer viruses, attachments to emails, phishing attempts, **social engineering,** ransomware or other scams, persons inside our organization or persons / vendors with access to our systems and other significant disruptions of our information technology networks and related systems, including property infrastructure. These risks have increased due to increased reliance on remote working and other electronic interactions with our current and prospective residents. Our information technology networks and related systems are essential to the operation of our business and our ability to perform day- to- day operations **. We use these systems to manage our resident and vendor relationships, internal communications, accounting and record- keeping systems and many other key aspects of our business. Our operations rely on the secure processing, storage and transmission of confidential and other information in our computer systems and networks, which also depend on the strength of our procedures and the effectiveness of our internal controls as well as those of vendors with whom we do business** . Even the most well- protected information, networks, systems and facilities 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. We may periodically collect and store personally identifiable information of our residents and prospective residents in connection with our leasing activities, and we may collect and store personally identifiable information of our employees and their dependents. In addition, we often engage third- party service providers that may have access to such personally identifiable information in connection with providing necessary information technology, security and other business services to us. ~~The~~ **Despite the fact that we monitor and perform a comprehensive review of businesses that we contract with that represent a cybersecurity risk to the organization, the** systems of these third- party service providers may contain defects in design or other problems that could unexpectedly compromise personally identifiable information. Although we make efforts to maintain the security and integrity of our information technology networks and those of our third- party providers and we have implemented various measures to manage the risk of a security breach or disruption, there can be no assurance that our security efforts and measures will be effective or that attempted security breaches or disruptions would not be successful or damaging. ~~We address potential breaches or disclosure of this confidential personally identifiable information by implementing a variety of security measures intended to protect the confidentiality and security of this information including (among others): (a) engaging reputable, recognized firms to help us design and maintain our information technology and data security systems; (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; (c) providing periodic employee awareness training around phishing and other scams, malware and other cyber risks; (d) implementing a corrective cybersecurity awareness policy that impacts an employee' s performance and compensation to articulate the potential implications of failed phishing tests; and (e) systematically deleting personally identifiable information that no longer is required. The Company also has a cyber liability insurance policy to provide some coverage for certain risks arising out of data and network breaches and data privacy regulations which provides a policy aggregate limit and a per occurrence deductible. Cyber liability insurance generally covers, among other things, costs associated with the wrongful release, through inadvertent breach or network attack, of personally identifiable information. However, there can be no assurance that these measures will prevent a cyber incident or that our cyber liability insurance coverage will be sufficient to cover our losses in the event of a cyber incident.~~ A breach or significant and extended disruption in the function of our systems, including our primary website, could damage our reputation and cause us to lose residents and revenues, result in a violation of applicable privacy and other laws, generate third- party claims, result in the unintended and / or unauthorized public disclosure or the misappropriation of proprietary, personally identifiable and confidential information and require us to incur significant expenses to address and remediate or otherwise resolve these kinds of issues. We may not be able to recover these expenses in whole or in any part from our service providers, our insurers or any other responsible parties. As a result, there can be no assurance that our financial results would not be negatively impacted. We are also subject to laws, rules, and regulations in the United States, such as the California ~~Consumer~~ Privacy **Rights** Act (" ~~CCPA~~ **CPRA** "), relating to the collection, use, and security of resident, customer, employee and other data. Evolving compliance and operational requirements under the ~~CCPA~~ **CPRA** and the privacy laws of other jurisdictions in which we operate may impose significant costs that are likely to increase over time. Our failure to comply with laws, rules ~~,~~ and regulations related to privacy and data protection could harm our business or reputation or subject us to fines and penalties. Our business and operations rely on specialized information technology systems, the failure of or inadequacy of which could impact our business. Our ability to identify, implement and maintain appropriate information technology systems differentiates and creates competitive advantages for us in the operations of our business. These systems often are developed and hosted by third- party vendors whom we rely upon for ongoing maintenance, upgrades and enhancements. While we maintain a rigorous process around selecting appropriate information technology systems and partnering with vendors, our failure to adequately do so could negatively impact our operations and competitive position. **Our approach to artificial intelligence may not be successful and could adversely affect our business. We have incorporated and may continue to incorporate the use of generative artificial intelligence (" AI") within our business, and these solutions and features may become more important to our operations or to our future growth over time. Our research and development of AI remains ongoing. There can be no assurance that we will realize the desired or anticipated benefits, or any benefits, and we may fail to properly implement such technology. AI presents risks, challenges and unintended consequences that could affect our adoption and use of this technology. Our competitors or other third parties may incorporate AI in their business operations more quickly or more successfully than we do, which could impair our ability to compete effectively and adversely affect our results of operations. Additionally, the complex and rapidly evolving landscape around AI may expose us to claims, demands and proceedings by private parties and regulatory authorities and subject us to legal liability as well as reputational harm.** We depend on our key personnel. We depend on the efforts of our trustees and executive officers. If one or more of them resign or otherwise cease to be employed by us, our business and results of operations and financial condition could be adversely affected. Litigation risk could affect our business. We are involved and may continue to be involved in legal proceedings, claims, class actions, inquiries and **governmental** investigations in the ordinary course of business. These legal proceedings may include, but are not limited to, proceedings related to consumer, shareholder, securities, antitrust, employment, environmental, development, condominium conversion, tort, eviction and commercial legal issues. Litigation can be lengthy and expensive, and it can divert management' s attention and resources. Results cannot be predicted with certainty, and an unfavorable outcome in litigation could result in liability material to our financial condition or results of operations. Insurance policies can be costly and may not cover all losses, which may adversely affect our financial condition or results of operations. The Company' s property, general liability and workers compensation insurance policies provide coverage with substantial per occurrence deductibles and / or self- insured retentions. These self- insurance retentions can be a material portion of insurance losses in excess of the base deductibles. While the Company has previously purchased incremental insurance coverage in the event of multiple non- catastrophic occurrences within the same policy year, these substantial deductible and self- insured retention amounts do expose the Company to greater potential for uninsured losses and this additional ~~multiple occurrences~~ coverage may not be available at all or on commercially reasonable terms in the future. We believe the policy specifications and insured limits of these policies are adequate and appropriate; however, **we may not always be able to place** ~~there~~ -- **the desired amount** ~~are certain types~~ of ~~extraordinary~~ **third- party coverage due to a significant increase in insurance premiums and deductibles or a decrease in the availability of coverage, a combination of which have exposed and could further expose the Company to uninsured** losses ~~which may not be adequately covered under our insurance program~~ . As a result, our financial results could be adversely affected and may vary significantly from period to period. The Company relies on third- party insurance providers for its property, general liability, workers compensation and other insurance, and should any of them experience liquidity issues or other financial distress, it could negatively impact their ability to pay claims under the Company' s policies. Earthquake risk: Our policies insuring against earthquake losses have substantial deductibles which are applied to the values of the buildings involved in the loss. With the geographic concentration of our properties, a single earthquake affecting a market may have a significant negative effect on our financial condition and results of operations. We cannot assure that an earthquake would not cause damage or losses greater than insured levels. In the event of a loss in excess of insured limits, we could lose our capital invested in the affected property or market, as well as anticipated future revenue. Terrorism risk: The Company has terrorism insurance coverage which excludes losses from nuclear, biological and chemical attacks. In the event of a terrorist attack impacting one or more of our properties, we could lose the revenues from the property, our capital investment in the property and possibly face liability claims from residents or others suffering injuries or losses. Catastrophic weather and natural disaster risk: Our properties may be located in areas that could experience catastrophic weather and other natural disasters from time to time, including wildfires, snow or ice storms, hail, windstorms or hurricanes, drought, flooding or other severe disasters. These severe weather and natural disasters could cause substantial damages or losses to our properties which may not be covered or could exceed our insurance coverage. Exposure to this risk could also result in a decrease in demand for properties located in these areas or affected by these conditions. Climate change risk: To the extent that significant changes in the climate occur in areas where our properties are located, we may experience severe weather, which may result in physical damage to or decrease the demand for properties located in these areas or affected by these conditions. Should the impact of climate change be material in nature, significant property damage or destruction of our properties could result. ~~In addition, climate change could cause a significant increase in insurance premiums and deductibles or a decrease in the availability of coverage, either of which could expose the Company to even greater uninsured losses.~~ Our financial condition or results of operations may be adversely affected. In addition, changes in federal, state and local legislation and regulation based on concerns about climate change could adversely impact the value of our properties or result in increased capital expenditures or operating expenses on our existing properties and our new development properties. Provisions of our Declaration of Trust and Bylaws could inhibit changes in control. Certain provisions of our Declaration of Trust and Bylaws may delay or prevent a change in control of the Company or other transactions that could provide the security holders with a premium over the then- prevailing market price of their securities or which might otherwise be in the best interest of our security holders. This includes the Ownership Limit described above. While our existing preferred shares / preference units do not have all of these provisions, any future series of preferred shares / preference units may have certain voting provisions that could delay or prevent a change in control or other transactions that might otherwise be in the interest of our security holders. Our Bylaws require certain information to be provided by any security holder, or persons acting in concert with such security holder, who proposes business or a nominee at an annual meeting of shareholders, including disclosure of information related to hedging activities and investment strategies with respect to our securities. These requirements could delay or prevent a change in control or other transactions that might otherwise be in the interest of our security holders. The Board of Trustees may use its powers to issue preferred shares and to set the terms of such securities to delay or prevent a change in control of the Company even if a change in control were in the interest of the security holders.