

RETAIL PROPERTIES OF AMERICA, INC.

Form 424B5

March 07, 2013

Table of Contents

Filed Pursuant to Rule 424(b)(5)

Registration No. 333-184790

**CALCULATION OF REGISTRATION FEE**

Title of Each Class of Securities to be Registered	Proposed	Amount of Registration Fee <sup>(1)</sup>
	Maximum Aggregate Offering Price	
Class A common stock, par value \$0.001 per share	\$200,000,000	\$27,280

- (1) Calculated in accordance with Rule 457(o) under the Securities Act of 1933, as amended, or the Securities Act, based on the proposed maximum aggregate offering price, and Rule 457(r) under the Securities Act. In accordance with Rules 456(b) and 457(r) under the Securities Act, the registrant initially deferred payment of all of the registration fees for the Registration Statement (File No. 333-184790) filed by the registrant on November 6, 2012.

**Table of Contents**

**PROSPECTUS SUPPLEMENT**

**to Prospectus dated November 6, 2012**

**\$200,000,000**

**Retail Properties of America, Inc.**

**Class A Common Stock**

This prospectus supplement and the accompanying prospectus relate to the offer and sale from time to time of shares of our Class A common stock, par value \$0.001 per share, having an aggregate offering price of up to \$200,000,000. Shares of our Class A common stock to which this prospectus supplement relates will be offered over a period of time and from time to time through Deutsche Bank Securities Inc., Citigroup Global Markets Inc. and Jefferies LLC, as our sales agents, or, collectively, the Sales Agents, in accordance with the terms of the distribution agreements we have entered into with each of them. Sales of shares of our Class A common stock, if any, may be made in negotiated transactions or transactions that are deemed to be at-the-market offerings as defined in Rule 415 under the Securities Act of 1933, as amended, or the Securities Act, including sales made directly on the New York Stock Exchange, or the NYSE, or sales made to or through a market maker other than on an exchange or through an electronic communications network.

Our Class A common stock is listed on the NYSE under the symbol **RPAA**. The last reported sale price of our Class A common stock as reported on the NYSE on March 6, 2013 was \$15.08 per share.

The Class A common stock will be offered at negotiated prices or prevailing market prices at the time of sale. We will pay each of the Sales Agents a commission which in each case shall not be more than 2.0% of the gross sales price of all shares sold through it as our agent under the applicable distribution agreement. The remaining sales proceeds, after deducting any expenses payable by us and any transaction fees imposed by any governmental or self-regulatory organization in connection with the sales, will equal our net proceeds for the sale of shares of our Class A common stock. We have agreed to reimburse the Sales Agents for certain expenses in certain circumstances.

Under the applicable distribution agreement, we may also sell our Class A common stock to the Sales Agents as principals for their own accounts at prices agreed upon at the time of sale. If we sell our Class A common stock to any of the Sales Agents as principals, we will enter into a separate terms agreement with such Sales Agent.

We are organized and conduct our operations to qualify as a real estate investment trust, or REIT, for federal income tax purposes. To assist us in complying with certain federal income tax requirements applicable to REITs, our charter contains certain restrictions relating to the ownership and transfer of our capital stock, including an ownership limit of 9.8% of the outstanding shares of our common stock.

**Investing in our Class A common stock involves risks. See Risk Factors beginning on page S-4 of this prospectus supplement and page 3 of our Annual Report on Form 10-K for the year ended December 31, 2012.**

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus supplement or the accompanying prospectus. Any representation to the contrary is a criminal offense.

**Deutsche Bank Securities**

**Citigroup**

**Jefferies**

The date of this prospectus supplement is March 7, 2013

**Table of Contents**

Neither we nor the Sales Agents have authorized anyone to provide any information or to make any representations other than those contained or incorporated by reference in this prospectus supplement or the accompanying prospectus. We and the Sales Agents take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. This prospectus supplement and the accompanying prospectus are an offer to sell only the shares offered hereby, but only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this prospectus supplement, the accompanying prospectus and the incorporated documents is current only as of their respective dates.

**TABLE OF CONTENTS**

**Prospectus Supplement**

<u>Prospectus Supplement Summary</u>	S-1
<u>Risk Factors</u>	S-4
<u>Cautionary Note Regarding Forward-Looking Statements</u>	S-5
<u>Use of Proceeds</u>	S-7
<u>Supplemental Description of Our Capital Stock</u>	S-8
<u>Supplemental Material U.S. Federal Income Tax Considerations</u>	S-9
<u>Plan of Distribution</u>	S-10
<u>Incorporation of Certain Documents By Reference</u>	S-12
<u>Legal Matters</u>	S-13

**Prospectus**

	<b>Page</b>
<u>Prospectus Summary</u>	1
<u>Risk Factors</u>	4
<u>Forward-Looking Statements</u>	4
<u>How We Intend to Use the Proceeds</u>	6
<u>Description of Warrants</u>	7
<u>Description of Stock Purchase Contracts</u>	9
<u>Description of Units</u>	10
<u>Description of Common Stock</u>	13
<u>Description of Preferred Stock</u>	17
<u>Description of Depositary Shares</u>	18
<u>Description of Debt Securities</u>	21

**Table of Contents**

<u>Certain Provisions of Maryland Law and of Our Charter and Bylaws</u>	37
<u>Material U.S. Federal Income Tax Considerations</u>	43
<u>Selling Security holders</u>	64
<u>Plan of Distribution</u>	65
<u>Incorporation of Documents by Reference</u>	69
<u>Where You Can Find More Information</u>	70
<u>Experts</u>	71
<u>Legal Matters</u>	71

**Table of Contents****PROSPECTUS SUPPLEMENT SUMMARY**

*This summary only highlights the more detailed information appearing elsewhere, or incorporated by reference in this prospectus supplement and the accompanying prospectus. It may not contain all of the information that is important to you. You should carefully read this entire prospectus supplement, the accompanying prospectus and the documents incorporated by reference in this prospectus supplement and the accompanying prospectus before deciding whether to invest in our Class A common stock.*

**About This Prospectus Supplement**

This document is in two parts. The first part is this prospectus supplement, which describes the specific terms of this offering and also adds to and updates information in the accompanying prospectus and the documents incorporated by reference. The second part, the accompanying prospectus, gives more general information, some of which may not apply to this offering. You should read this entire document, including the prospectus supplement, the accompanying prospectus and the documents incorporated herein by reference. In the event that the description of this offering varies between this prospectus supplement and the accompanying prospectus, you should rely on the information contained in this prospectus supplement. To the extent the information included or incorporated by reference in this prospectus supplement differs or varies from the information included or incorporated by reference in the accompanying prospectus, the information included or incorporated by reference in this prospectus supplement updates and supersedes such information.

This prospectus supplement and the accompanying prospectus contain, or incorporate by reference, forward-looking statements. Such forward-looking statements should be considered together with the cautionary statements and important factors included or referred to in this prospectus supplement, the accompanying prospectus and the documents incorporated herein by reference. Please see **Cautionary Note Regarding Forward-Looking Statements** in this prospectus supplement and **Forward-Looking Statements** in the accompanying prospectus.

*Unless otherwise indicated or the context requires otherwise, in this prospectus supplement and the accompanying prospectus, references to our company, we, us and our mean Retail Properties of America, Inc. and its consolidated subsidiaries.*

**Our Company**

We are a fully integrated, self-administered and self-managed real estate investment trust formed to own and operate high quality, strategically located shopping centers. We are one of the largest owners and operators of shopping centers in the United States. As of December 31, 2012, our retail operating portfolio consisted of 230 properties with approximately 32,671,000 square feet of gross leasable area, or GLA, as geographically diversified across 35 states and included power centers, community centers, neighborhood centers and lifestyle centers, as well as single-user retail properties. Our retail properties are primarily located in retail districts within densely populated areas in highly visible locations with convenient access to interstates and major thoroughfares. Our retail properties have a weighted average age, based on annualized base rent, or ABR, of approximately 10.5 years since the initial construction. As of December 31, 2012, our retail operating portfolio was 89.9% occupied and 92.4% leased, including leases signed but not commenced. In addition to our retail operating portfolio, as of December 31, 2012, we also held interests in 10 office properties, two industrial properties, 22 retail operating properties held by three unconsolidated joint ventures, three retail properties under development and three retail operating properties classified as held for sale. The following summarizes our consolidated operating portfolio as of December 31, 2012:

	Number of Properties	GLA (in thousands)	Occupancy	Percent Leased Including Leases Signed (a)
<b>Retail</b>				
Wholly-owned	230	32,671	89.9%	92.4%
<b>Office/Industrial</b>				
Wholly-owned	12	2,185	100.0%	100.0%
<b>Total consolidated operating portfolio</b>	<b>242</b>	<b>34,856</b>	<b>90.5%</b>	<b>92.9%</b>

- (a) Includes leases signed but not commenced.

S-1

**Table of Contents**

As of December 31, 2012, over 90% of our shopping centers, based on GLA, were anchored or shadow anchored by a grocer, discount department store, wholesale club or retailer that sells basic household goods or clothing, including Target, TJX Companies, PetSmart, Best Buy, Bed Bath & Beyond, Home Depot, Kohl's, Wal-Mart, Publix and Lowe's. Overall, we have a broad and highly diversified retail tenant base that includes approximately 1,500 tenants with no one tenant representing more than 3.3% of the total ABR generated from our retail operating properties, or our retail ABR.

Our principal executive office is located at 2021 Spring Road, Suite 200, Oak Brook, Illinois 60523, and our telephone number is (630) 634-4200. We maintain an internet website at [www.rpai.com](http://www.rpai.com) that contains information concerning us. The information included or referenced to on, or otherwise accessible through, our website is not intended to form a part of or be incorporated by reference into this prospectus supplement or the accompanying prospectus.

S-2

**Table of Contents**

**The Offering**

Issuer	Retail Properties of America, Inc., a Maryland corporation
Class A Common Stock Offered	Shares with an aggregate offering price of up to \$200,000,000
NYSE Symbol	RPAI
Use of Proceeds	<p>We intend to use the net proceeds from this offering for general corporate purposes, which may include repaying debt, including our revolving credit facility, and funding acquisitions. See <a href="#">Use of Proceeds</a> in this prospectus supplement.</p> <p>Affiliates of Deutsche Bank Securities Inc. and Citigroup Global Markets Inc. are lenders under our revolving credit facility and therefore may receive their pro rata share of the net proceeds used to repay borrowings under the revolving credit facility. See <a href="#">Use of Proceeds</a> in this prospectus supplement.</p>
Risk Factors	<p>An investment in our Class A common stock involves various risks, and prospective investors should carefully consider the matters discussed under the caption entitled <a href="#">Risk Factors</a> beginning on page S-4 of this prospectus supplement and page 3 of our Annual Report on Form 10-K for the year ended December 31, 2012 and in other documents incorporated by reference in this prospectus supplement and the accompanying prospectus before making a decision to invest in our Class A common stock.</p>
Restrictions on Ownership and Transfer	<p>To assist us in maintaining our qualification as a REIT, our charter, subject to certain exceptions, generally prohibits any person from beneficially or constructively owning more than 9.8% in value of the aggregate of our outstanding shares of stock or more than 9.8% in value or number of shares, whichever is more restrictive, of the outstanding shares of our common stock. For more information, see <a href="#">Description of Common Stock</a> <a href="#">Restrictions on Ownership and Transfer</a> on page 14 of the accompanying prospectus.</p>

**Table of Contents**

**RISK FACTORS**

*Investing in our Class A common stock involves risks. Before purchasing shares of our Class A common stock offered by this prospectus supplement, you should carefully consider the risk factors incorporated by reference in this prospectus supplement and the accompanying prospectus from our Annual Report on Form 10-K for the year ended December 31, 2012, as updated by our subsequent filings under the Exchange Act, as well as (i) the risks, uncertainties and additional information set forth in our Annual Report on Form 10-K generally and in the other documents incorporated by reference in this prospectus supplement and the accompanying prospectus that we file with the Securities and Exchange Commission, or the SEC, and which are deemed incorporated by reference in this prospectus supplement and the accompanying prospectus, and (ii) the information contained in this prospectus supplement and the accompanying prospectus. For a description of these reports and documents, and information about where you can find them, see *Incorporation of Certain Documents By Reference* in this prospectus supplement. The risks and uncertainties we discuss in this prospectus supplement, the accompanying prospectus and in the documents incorporated by reference in this prospectus supplement are those that we currently believe may materially affect our company. Additional risks not presently known or that are currently deemed immaterial could also materially and adversely affect our cash flow, financial condition, results of operations, business and prospects.*

**This offering may be dilutive, and there may be future dilution of our Class A common stock.**

Giving effect to the potential issuance of common stock in this offering, the receipt of the expected net proceeds and the use of those proceeds, this offering may have a dilutive effect on our expected earnings per share and funds from operations per share. The actual amount of such dilution cannot be determined at this time and will be based on numerous factors. Additionally, we are not restricted from issuing additional shares of our common stock or preferred stock, including any securities that are convertible into or exchangeable for, or that represent the right to receive, common stock or preferred stock or any substantially similar securities in the future. The market price of our Class A common stock could decline as a result of sales of a large number of shares of our Class A common stock in the market after this offering or the perception that such sales could occur.

**Our management will have broad discretion with respect to the use of the proceeds of this offering.**

Our management has significant flexibility in applying the net proceeds we expect to receive in this offering. We intend to use the net proceeds from this offering for general corporate purposes, which may include repaying debt, including our revolving credit facility, and funding acquisitions. See *Use of Proceeds*. However, because the net proceeds are not required to be allocated to any specific investment or transaction, you cannot determine at this time the value or propriety of our application of the net proceeds, and you may not agree with our decisions. In addition, our use of the net proceeds from this offering may not yield a significant return or any return at all. The failure by our management to apply these funds effectively could have an adverse effect on our financial condition or results of operations.

**Table of Contents**

**CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS**

We make statements in this prospectus supplement, the accompanying prospectus and the documents incorporated by reference that are considered forward-looking statements within the meaning of Section 27A of the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act. Such statements are usually identified by the use of words such as anticipates, believes, estimates, expects, intends, may, plans, projects, seeks, should, will, and variations of such words or similar expressions. We intend these forward-looking statements to be covered by the safe harbor provisions for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995 and are including this statement for purposes of complying with those safe harbor provisions. These forward-looking statements reflect our current views about our plans, intentions, expectations, strategies and prospects, which are based on the information currently available to us and on assumptions we have made. Although we believe that our plans, intentions, expectations, strategies and prospects as reflected in or suggested by those forward-looking statements are reasonable, we can give no assurance that the plans, intentions, expectations or strategies will be attained or achieved. Furthermore, actual results may differ materially from those described in the forward-looking statements and will be affected by a variety of risks and factors that are beyond our control including, without limitation:

the factors included in our Annual Report on Form 10-K for the year ended December 31, 2012, including those set forth under the headings Risk Factors and Management's Discussion and Analysis of Financial Condition and Results of Operations, and the factors included in this prospectus supplement under the heading Risk Factors beginning on page S-4;

general economic, business and financial conditions, and changes in our industry and changes in the real estate markets in particular;

adverse economic and other developments in the Dallas-Fort Worth-Arlington area, where we have a high concentration of properties;

general volatility of the capital and credit markets and the market price of our Class A common stock;

changes in our business strategy;

defaults on, early terminations of or non-renewal of leases by tenants;

bankruptcy or insolvency of a major tenant or a significant number of smaller tenants;

increased interest rates or operating costs;

declining real estate valuations and impairment charges;

availability, terms and deployment of capital;

our failure to obtain necessary outside financing;

our expected leverage;

decreased rental rates or increased vacancy rates;

our failure to generate sufficient cash flows to service our outstanding indebtedness;

difficulties in identifying properties to acquire and completing acquisitions;

risks of real estate acquisitions, dispositions and redevelopment, including the cost of construction delays and cost overruns;

our projected operating results;

S-5

**Table of Contents**

our ability to manage our growth effectively;

our failure to successfully operate acquired properties;

our ability to successfully transition certain corporate office functions from previously-related parties to third parties or to us;

estimates relating to our ability to make distributions to our shareholders in the future;

impact of changes in governmental regulations, tax law and rates and similar matters;

our failure to qualify as a real estate investment trust, or REIT;

future terrorist attacks in the U.S.;

environmental uncertainties and risks related to natural disasters;

lack or insufficient amounts of insurance;

availability of and our ability to attract and retain qualified personnel;

retention of our senior management team;

changes in real estate and zoning laws and increases in real property tax rates; and

our ability to comply with the laws, rules and regulations applicable to companies.

You should not place undue reliance on any forward-looking statements, which are based only on information currently available to us (or to third parties making the forward-looking statements). We undertake no obligation to publicly release any revisions to such forward-looking statements to reflect events or circumstances after the date of this prospectus supplement, except as required by applicable law. Investors should also refer to our Annual Report on Form 10-K for the year ended December 31, 2012, as updated by our subsequent filings under the Exchange Act.

**Table of Contents**

**USE OF PROCEEDS**

We intend to use the net proceeds from this offering for general corporate purposes, which may include repaying debt, including our revolving credit facility, and funding acquisitions.

We may use a portion of the net proceeds to repay outstanding borrowings under our \$350.0 million senior unsecured revolving line of credit, or the revolving credit facility. Our revolving credit facility matures on February 24, 2015 (with a one-year extension option subject to compliance with its terms). As of December 31, 2012, we had \$80.0 million outstanding under our revolving credit facility. As of December 31, 2012, borrowings under our revolving credit facility bore an interest rate equal to LIBOR plus 2.25%.

Affiliates of Deutsche Bank Securities Inc. and Citigroup Global Markets Inc. are lenders under our revolving credit facility and therefore may receive their pro rata share of the net proceeds used to repay borrowings under the revolving credit facility. See "Plan of Distribution" in this prospectus supplement.

S-7

**Table of Contents**

**SUPPLEMENTAL DESCRIPTION OF OUR CAPITAL STOCK**

*This summary supplements and should be read together with the general discussion of important provisions of our charter and bylaws and the applicable provisions of Maryland law as described under Description of Common Stock, Description of Preferred Stock and Certain Provisions of Maryland Law and of Our Charter and Bylaws. To the extent any information in the accompanying prospectus is inconsistent with this supplemental information, this supplemental information will apply and supersede the information in the accompanying prospectus. This supplemental information is provided on the same basis and subject to the same qualifications as set forth in the first paragraph under Description of Common Stock, Description of Preferred Stock and Certain Provisions of Maryland Law and of Our Charter and Bylaws. The following description is qualified entirely by reference to our charter, including our Articles Supplementary designating our 7.00% Series A Cumulative Redeemable Preferred Stock.*

On December 11, 2012, we adopted Articles Supplementary designating 5,750,000 of our preferred stock as 7.00% Series A Cumulative Redeemable Preferred Stock, which became effective as of December 14, 2012. As of December 31, 2012, there were 5,400,000 shares of 7.00% Series A Cumulative Redeemable Preferred Stock, or Series A preferred stock, outstanding.

Subject to the preferential rights of the holders of any class or series of our capital stock ranking senior to the Series A preferred stock with respect to dividend rights, holders of shares of the Series A preferred stock are entitled to receive, when, as and if authorized by our board of directors and declared by us out of funds legally available for the payment of dividends, cumulative cash dividends at the rate of 7.0% per annum of the \$25.00 liquidation preference per share of the Series A preferred stock.

The Series A preferred stock ranks senior to all classes or series of our common stock, including Class A common stock offered hereby, with respect to dividend rights and rights upon voluntary or involuntary liquidation, dissolution or winding up of our affairs.

The Series A preferred stock has no stated maturity date and is not subject to mandatory redemption or any sinking fund. On or after December 20, 2017, at any time or from time to time or in connection with a change of control, we may, at our option, redeem the Series A preferred stock, in whole or in part, for cash at a redemption price of \$25.00 per share, plus all accrued and unpaid dividends. Generally, we are not permitted to redeem the Series A preferred stock prior to December 20, 2017, except in limited circumstances relating to our ability to qualify as a REIT.

Upon the occurrence of a change of control as a result of which neither our common stock nor the common securities of the acquiring or surviving entity (or ADRs representing such securities) is listed on the NYSE, the NYSE Amex or NASDAQ or listed or quoted on a successor exchange or quotation system, each holder of Series A preferred stock will have the right, unless we have provided or provide notice of our election to redeem the Series A preferred stock, to convert some or all of the Series A preferred stock held by it into common stock.

Holders of shares of the Series A preferred stock will generally have no voting rights, except in limited circumstances. If we fail to pay dividends for six or more quarterly periods (whether or not consecutive), the holders of our Series A preferred stock (voting together as a single class with the holders of all other classes or series of parity equity securities upon which like voting rights have been conferred and are exercisable) will have the right to elect two additional directors to serve on our board of directors until we pay (or declare and set aside for payment) all dividends that are then in arrears on our Series A preferred stock and any such parity equity securities. In addition, the affirmative vote of the holders of at least two-thirds of the outstanding Series A preferred stock is required for us to authorize, create or increase the number of any class or series of equity securities ranking senior to the Series A preferred stock with respect to the payment of dividends or the distribution of assets on liquidation, to amend our charter in a manner that materially and adversely affects the rights of the holders of Series A preferred stock or to take certain other actions.

Our board of directors may authorize the sale and issuance of additional shares of Series A preferred stock or a new series or class of preferred stock from time to time. Our charter authorizes our board of directors to increase, without shareholder approval, the aggregate number of shares of common stock or preferred stock or the number of shares of any class or series of common stock or preferred stock we are authorized issue.

**Table of Contents**

**Supplemental Material U.S. Federal Income Tax Considerations**

*This summary supplements and should be read together with the general discussion of the tax considerations relating to the ownership and disposition of common stock described in the accompanying prospectus under Material U.S. Federal Income Tax Considerations. To the extent any information set forth under Material U.S. Federal Income Tax Considerations in the accompanying prospectus is inconsistent with this supplemental information, this supplemental information will apply and supersede the information in the accompanying prospectus. This supplemental information is provided on the same basis and subject to the same qualifications as are set forth in the first two paragraphs under Material U.S. Federal Income Tax Considerations in the accompanying prospectus as if those paragraphs were set forth in this prospectus supplement.*

Pursuant to recently enacted legislation, as of January 1, 2013, (1) the maximum tax rate on qualified dividend income for individuals is 20%, (2) the maximum tax rate on long-term capital gain for individuals is 20%, (3) the highest marginal individual income tax rate is 39.6%, and (4) the backup withholding rate remains at 28%. Such legislation also temporarily (through 2013) reduces to five years the ten-year recognition period applicable to gain recognized on the disposition of an asset acquired from a C corporation in a carryover basis transaction, as well as makes permanent certain federal income tax provisions that were scheduled to expire on December 31, 2012. We urge you to consult your tax advisors regarding the impact of this legislation.

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**Table of Contents**

**PLAN OF DISTRIBUTION**

We have entered into separate distribution agreements, dated as of March 7, 2013, with each of Deutsche Bank Securities Inc., Citigroup Global Markets Inc. and Jefferies LLC, under which we may issue and sell shares of our Class A common stock having an aggregate offering price of up to \$200,000,000 from time to time through Deutsche Bank Securities Inc., Citigroup Global Markets Inc. and Jefferies LLC, as our agents for the offer and sale of the shares, or to them for resale. Sales of the shares of our Class A common stock, if any, may be made in negotiated transactions or transactions that are deemed to be at-the-market offerings as defined in Rule 415 of the Securities Act, including sales made directly on the NYSE, the existing trading market for our Class A common stock, or sales made to or through a market maker other than on an exchange or through an electronic communications network.

From time to time during the term of the distribution agreements, we and one of the Sales Agents may agree upon the terms of an agency transaction pursuant to which our Class A common stock may be sold through such Sales Agent as our agent for the offer and sale of the shares, or to them for resale. Upon reaching such agreement, such Sales Agent will deliver to us, and we will promptly indicate our acceptance of, a transaction notice specifying the length of the selling period, the amount of shares to be sold, the commission to be paid by us to such Sales Agent and the minimum price below which sales may not be made. We will submit a notice to only one Sales Agent relating to the sale of shares of our Class A common stock on any given day. Upon receipt of our acceptance of a transaction notice, and subject to the terms and conditions of the respective distribution agreement, if acting as agent, each Sales Agent agrees to use its commercially reasonable efforts consistent with its normal trading and sales practices to sell such shares on such terms. We or any of the Sales Agents may suspend the offering of our shares at any time upon proper notice to the other, upon which the selling period will immediately terminate.

Our Sales Agents, in their capacity as agents, will not engage in any transactions that stabilize our Class A common stock.

We will pay each of the Sales Agents a commission which in each case shall not be more than 2.0% of the gross sales price of all shares sold through it as our agent under the applicable distribution agreement. The remaining sales proceeds, after deducting any expenses payable by us and any transaction fees imposed by any governmental or self-regulatory organization in connection with the sales, will equal our net proceeds for the sale of shares of our Class A common stock. To the extent that we have not sold at least \$10.0 million of shares of Class A common stock by the eighteen-month anniversary of the distribution agreements, we have agreed to reimburse the Sales Agents for reasonable out-of-pocket expenses, including the reasonable fees and disbursements of counsel incurred by such Sales Agents, up to a maximum aggregate amount of \$125,000.

Under the applicable distribution agreement, we may also sell our Class A common stock to each of our Sales Agents as principals for their own accounts at prices agreed upon at the time of sale.

Settlement for sales of our Class A common stock are generally anticipated to occur on the third trading day following the date on which any sales were made in return for payment of the net proceeds to us, unless we agree otherwise with the relevant Sales Agent. There is no arrangement for funds to be received in an escrow, trust or similar arrangement.

Sales of shares of our Class A common stock as contemplated by this prospectus supplement will be settled through the facilities of the Depository Trust Company or by such other means as we and the Sales Agents may agree upon.

Each Sales Agent will provide written confirmation to us following the close of trading on the NYSE each day in which shares of our Class A common stock are sold by it as agent for us under the relevant distribution agreement. Each confirmation will include the number of shares sold on that day, the gross sales price per share and the net proceeds to us.

In connection with the sale of our Class A common stock hereunder, each of the Sales Agents may be deemed to be an underwriter within the meaning of the Securities Act, and the compensation paid to each of them may be deemed to be underwriting commissions or discounts. We have agreed to provide indemnification and contribution to each of the Sales Agents against certain civil liabilities, including liabilities under the Securities Act.

**Table of Contents**

Certain of the Sales Agents and their affiliates have, from time to time, performed, and may in the future perform, various financial advisory and investment banking services for us, for which they received or will receive customary fees and expenses. In the ordinary course of the Sales Agents and their affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers, and such investment and securities activities may involve securities and/or instruments of our company. The Sales Agents and their affiliates may also make investment recommendations and/or publish or express independent research views in respect of such securities or instruments and may at any time hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

Affiliates of Deutsche Bank Securities Inc. and Citigroup Global Markets Inc. are lenders under our revolving credit facility. As described under

Use of Proceeds in this prospectus supplement, we may use a portion of the net proceeds from this offering to repay borrowings under our revolving credit facility, and, as a result, such affiliates may receive more than 5% of the net proceeds of this offering. Nonetheless, in accordance with Rule 5121 of the Financial Industry Regulatory Authority Inc., or FINRA, the appointment of a qualified independent underwriter is not necessary in connection with this offering because REITs are excluded from that requirement.

We and the Sales Agents have determined that our Class A common stock is an actively-traded security excepted from the requirements of Rule 101 of Regulation M under the Exchange Act by Rule 101(c)(1) under the Exchange Act. If the Sales Agents or we have reason to believe that the exemptive provisions set forth in Rule 101(c)(1) of Regulation M under the Exchange Act are not satisfied, that party will promptly notify the other and sales of the shares of our Class A common stock under the distribution agreements will be suspended until that or other exemptive provisions have been satisfied in the judgment of the Sales Agents and us.

We estimate that the total expenses of the offering payable by us, excluding commissions or discounts payable or provided to the Sales Agents under the distribution agreements, will be approximately \$0.7 million.

The offering of shares of our Class A common stock pursuant to the distribution agreements will terminate upon the earlier of (1) the sale of all of our shares subject to the distribution agreements, (2) the termination of such distribution agreement by either us or the respective Sales Agent at any time in the respective party's sole discretion, and (3) November 6, 2015.

**Table of Contents**

**INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE**

We incorporate by reference into this prospectus supplement information we file with the SEC, which means that we can disclose important information to you by referring you to those documents. We incorporate by reference the following documents we filed with the SEC:

our Annual Report on Form 10-K for the year ended December 31, 2012 filed on February 20, 2013;

the description of our Class A common stock contained in our Registration Statement on Form 8-A (File No. 001-35481) filed on March 28, 2012, including any amendment or reports filed for the purpose of updating such description.

All documents filed by us under Section 13(a), 13(c), 14 or 15(d) of the Exchange Act on or after the date of this prospectus supplement and prior to the date of the termination of this offering shall also be deemed to be incorporated by reference in this prospectus supplement and to be a part of this prospectus supplement from the date of filing of those documents; provided, however, that we are not incorporating any information furnished under either Item 2.02 or Item 7.01 of any Current Report on Form 8-K. Any statement contained in this prospectus supplement or in a previously filed document incorporated or deemed to be incorporated by reference in this prospectus supplement shall be deemed to be modified or superseded for purposes of this prospectus supplement to the extent that a statement contained in this prospectus supplement or in any other subsequently filed document that also is or was deemed to be incorporated by reference in this prospectus supplement modifies or supersedes that statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus supplement.

The information relating to us contained in this prospectus supplement and the accompanying prospectus should be read together with the information in the documents incorporated by reference.

You can obtain any of the documents incorporated by reference in this document from us, or from the SEC through the SEC's Internet World Wide Web site at [www.sec.gov](http://www.sec.gov). Documents incorporated by reference are available from us without charge, excluding any exhibits to those documents, unless the exhibit is specifically incorporated by reference as an exhibit in this document. You can obtain documents incorporated by reference in this document, at no cost, by requesting them in writing or by telephone from us at the following address or telephone number:

Retail Properties of America, Inc.

Investor Relations

2021 Spring Road, Suite 200

Oak Brook, Illinois 60523

Telephone (630) 634-4200

We have filed with the SEC a registration statement on Form S-3 (File No. 333-184790) under the Securities Act with respect to the shares of Class A common stock offered by this prospectus supplement. This prospectus supplement, which forms a part of the registration statement, does not contain all of the information set forth in the registration statement and its exhibits and schedules, certain parts of which are omitted in accordance with the SEC's rules and regulations. For further information about us and the shares of Class A common stock offered hereby, we refer you to the registration statement and to such exhibits and schedules. You may review a copy of the registration statement at the SEC's public reference room in Washington, D.C. as well as through the SEC's website. Please be aware that statements in this prospectus supplement or the accompanying prospectus referring to a contract or other document are summaries and you should refer to the exhibits that are part of the registration statement for a copy of the contract or document.

**Table of Contents**

**LEGAL MATTERS**

Certain legal matters will be passed upon for us by Goodwin Procter LLP, Boston, Massachusetts, and for the Sales Agents by Hogan Lovells US LLP.

S-13

Table of Contents

# RETAIL PROPERTIES OF AMERICA, INC.

## Debt Securities

## Warrants

## Stock Purchase Contracts

## Units

## Class A Common Stock

## Preferred Stock

## Depositary Shares

This prospectus provides you with a general description of debt and equity securities that Retail Properties of America, Inc. and selling security holders may offer and sell from time to time. Each time we or selling security holders sell securities, we will provide a prospectus supplement that will contain specific information about the terms of that sale and may add to or update the information in this prospectus. You should read this prospectus and any applicable prospectus supplement carefully before you invest in our securities.

Retail Properties of America, Inc. may offer and sell these securities to or through one or more underwriters, dealers and/or agents on a continuous or delayed basis.

Our Class A common stock is listed on the New York Stock Exchange under the symbol RPAI. On November 5, 2012 the last reported sale price of our Class A common stock on the New York Stock Exchange was \$12.54.

**Investing in our securities involves various risks. See Risk Factors beginning on page 4 as well as the risk factors contained in documents Retail Properties of America, Inc. files with the Securities and Exchange Commission and which are incorporated by reference in this prospectus.**

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities, or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

**The date of this prospectus is November 6, 2012**

**Table of Contents**

**TABLE OF CONTENTS**

	<b>Page</b>
<u>Prospectus Summary</u>	1
<u>Risk Factors</u>	4
<u>Forward-Looking Statements</u>	4
<u>How We Intend to Use the Proceeds</u>	6
<u>Description of Warrants</u>	7
<u>Description of Stock Purchase Contracts</u>	9
<u>Description of Units</u>	10
<u>Description of Common Stock</u>	13
<u>Description of Preferred Stock</u>	17
<u>Description of Depositary Shares</u>	18
<u>Description of Debt Securities</u>	21
<u>Certain Provisions of Maryland Law and of Our Charter and Bylaws</u>	37
<u>Material U.S. Federal Income Tax Considerations</u>	43
<u>Selling Security holders</u>	64
<u>Plan of Distribution</u>	65
<u>Incorporation of Documents by Reference</u>	69
<u>Where You Can Find More Information</u>	70
<u>Experts</u>	71
<u>Legal Matters</u>	71

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**Table of Contents**

**PROSPECTUS SUMMARY**

*This summary only highlights the more detailed information appearing elsewhere in this prospectus or incorporated by reference in this prospectus. It may not contain all of the information that is important to you. You should carefully read the entire prospectus and the documents incorporated by reference in this prospectus before deciding whether to invest in our securities.*

*Unless the context otherwise requires, or unless otherwise specified, all references in this prospectus to the terms we, us, our and our company refer to Retail Properties of America, Inc., a Maryland corporation, together with its consolidated subsidiaries.*

**About This Prospectus**

This document is called a prospectus, and it provides you with a general description of the securities we may offer. Each time we sell securities, we will provide a prospectus supplement containing specific information about the terms of the securities being offered. That prospectus supplement may include a discussion of any risk factors or other special considerations that apply to those securities. The prospectus supplement may also add, update or change the information in this prospectus. If there is any inconsistency between the information in this prospectus and in a prospectus supplement, you should rely on the information in that prospectus supplement. You should read both this prospectus and any prospectus supplement together with additional information described under the heading Where You Can Find More Information.

Retail Properties of America, Inc. has filed a registration statement with the Securities and Exchange Commission, or the SEC, using a shelf registration process. Under this shelf process, we may offer and sell any combination of the securities described in this prospectus, in one or more offerings.

Our SEC registration statement containing this prospectus, including exhibits, provides additional information about us and the securities offered under this prospectus. The registration statement can be read at the SEC's web site or at the SEC's offices. The SEC's web site and street addresses are provided under the heading Where You Can Find More Information.

When acquiring securities, you should rely only on the information provided in this prospectus and in the related prospectus supplement, including any information incorporated by reference. No one is authorized to provide you with information different from that which is contained, or deemed to be contained, in the prospectus and related prospectus supplement. We and the selling security holders are not offering securities in any state where the offer of such securities is prohibited. You should not assume that the information in this prospectus, any prospectus supplement or any document incorporated by reference is truthful or complete as of any date other than the date indicated on the cover page of these documents.

This prospectus contains forward-looking statements. You should read the explanation of the qualifications and limitations on such forward-looking statements on page 4 of this prospectus. You should also carefully consider the various risk factors incorporated by reference into this prospectus from our SEC filings, which risk factors may cause our actual results to differ materially from those indicated by such forward-looking statements. You should not place undue reliance on our forward-looking statements.

Unless otherwise stated, currency amounts in this prospectus and any prospectus supplement are stated in United States dollars.

**About Retail Properties of America, Inc.**

We are a fully-integrated, self-administered and self-managed real estate company formed to own and operate high quality, strategically located shopping centers. We were formed as a Maryland corporation in 2003, and we have elected to qualify as a real estate investment trust, or REIT, for U.S. federal income tax purposes. We are one of the largest owners and operators of shopping centers in the United States. As of September 30, 2012, our retail operating portfolio consisted of 241 properties with approximately 33,537,000 square feet of gross leasable area, or GLA, was geographically diversified across 35 states and included power centers, community centers, neighborhood centers and lifestyle centers, as well as single-user retail properties. Our retail properties are primarily located in retail districts within densely populated areas in highly visible locations with convenient access to interstates and major thoroughfares. As of September 30, 2012, our retail properties had a weighted average age, based on annualized base rent, or ABR, of approximately 10.2 years since the initial construction or most recent major renovation. As of September 30, 2012, our retail operating portfolio was 91.1% leased, including leases signed but not commenced. In addition to our retail operating portfolio, as of September 30, 2012, we also held interests in 10 office properties, two industrial properties, 22 retail operating properties held by three unconsolidated joint ventures, three retail properties under development and two operating properties classified as held for sale. The following summarizes our consolidated operating portfolio as of September 30, 2012:



**Table of Contents**

Description	Number of Properties	GLA (in thousands)	Occupancy	Percent Leased Including Leases Signed (a)
<b>Retail</b>				
Wholly-owned	241	33,537	88.4%	91.1%
<b>Office/Industrial</b>				
Wholly-owned	12	3,003	100.0%	100.0%
Total consolidated operating portfolio	253	36,540	89.4%	91.8%

(a) Includes leases signed but not commenced.

As of September 30, 2012, over 90% of our shopping centers, based on GLA, were anchored or shadow anchored by a grocer, discount department store, wholesale club or retailer that sells basic household goods or clothing, including Target, TJX Companies, PetSmart, Best Buy, Bed Bath & Beyond, Home Depot, Kohl's, Wal-Mart, Publix and Lowe's. Overall, we have a broad and highly diversified retail tenant base that includes approximately 1,500 tenants with no one tenant representing more than 3.3% of the total ABR generated from our retail operating properties, or our retail ABR.

Our principal executive office is located at 2901 Butterfield Road, Oak Brook, Illinois 60523, and our telephone number is (630) 218-8000. We maintain an internet website at [www.rpai.com](http://www.rpai.com) that contains information concerning us. The information included or referenced to on, or otherwise accessible through, our website is not intended to form a part of or be incorporated by reference into this prospectus.

**Recapitalization**

On March 20, 2012, we effectuated a ten-to-one reverse stock split of our then outstanding common stock. Immediately following the reverse stock split, we redesignated all of our common stock as Class A common stock.

On March 21, 2012, we paid a stock dividend pursuant to which each then outstanding share of our Class A common stock received:

one share of Class B-1 common stock; plus

one share of Class B-2 common stock; plus

one share of Class B-3 common stock.

These transactions are referred to as the Recapitalization. Class B-1 common stock, Class B-2 common stock and Class B-3 common stock are collectively referred to as the Company's Class B common stock, while Class A and Class B common stock are collectively referred to as the common stock. We listed our Class A common stock on the New York Stock Exchange on April 5, 2012 under the symbol RPAI, which we refer to as the Listing. Our Class B common stock is identical to our Class A common stock except that (i) we do not intend to list the Class B common stock on a national securities exchange and (ii) shares of Class B common stock convert automatically into shares of Class A common stock at specified times. On October 5, 2012, our Class B-1 common stock converted automatically into Class A common stock. Subject to the provisions of our charter, shares of Class B-2 and Class B-3 common stock convert automatically into shares of Class A common stock 12 months following the Listing and 18 months following the Listing, respectively. On the 18 month anniversary of the Listing, all shares of Class B common stock will have converted into Class A common stock. Each share of Class A common stock and Class B common stock participates in distributions equally.



**Table of Contents****Ratio of Earnings to Fixed Charges**

The following table sets forth Retail Properties of America, Inc.'s consolidated ratios of earnings to fixed charges for each of the periods shown:

	Nine Months					
	Ended September 30,  2012	Year Ended December 31, 2011	Year Ended December 31, 2010	Year Ended December 31, 2009	Year Ended December 31, 2008	Year Ended December 31, 2007
Ratio of Earnings to Fixed Charges	(1)	(1)	(1)	(1)	(1)	(1)

(1) The ratio was less than 1:1 for the nine months ended September 30, 2012 and the years ended December 31, 2011, December 31, 2010, December 31, 2009, December 31, 2008 and December 31, 2007 as earnings were inadequate to cover fixed charges by deficiencies of approximately \$11.6 million, \$61.6 million, \$96.6 million, \$84.9 million, \$653.8 million and \$6.1 million, respectively.

The ratio of earnings to fixed charges was computed by dividing earnings by fixed charges. Earnings consist of (a) pretax income from continuing operations and gain on sales of investment properties before adjustment for income or loss from equity investees, plus (b) fixed charges, plus (c) amortization of capitalized interest, plus (d) distributed income of equity investees, plus (e) our share of pre-tax losses of equity investees for which charges arising from guarantees are included in the fixed charges, less (f) interest capitalized, less (g) preferred stock dividend requirements of consolidated subsidiaries, less (h) the noncontrolling interest in pre-tax income of subsidiaries that have not incurred fixed charges. Fixed charges consist of the sum of (a) interest expensed and capitalized (b) amortized premiums, discounts and capitalized expenses related to indebtedness, (c) an estimate of the interest within rental expense and (d) preferred stock dividend requirements of consolidated subsidiaries.

**Ratio of Earnings to Combined Fixed Charges and Preferred Stock Dividends**

The following table sets forth Retail Properties of America, Inc.'s consolidated ratios of earnings to combined fixed charges and preferred stock dividends for each of the periods shown:

	Nine Months					
	Ended September 30,  2012	Year Ended December 31, 2011	Year Ended December 31, 2010	Year Ended December 31, 2009	Year Ended December 31, 2008	Year Ended December 31, 2007
Ratio of Earnings to Combined Fixed Charges and Preferred Stock Dividends	(1)	(1)	(1)	(1)	(1)	(1)

(1) The ratio was less than 1:1 for the nine months ended September 30, 2012 and the years ended December 31, 2011, December 31, 2010, December 31, 2009, December 31, 2008 and December 31, 2007 as earnings were inadequate to cover fixed charges by deficiencies of approximately \$11.6 million, \$61.6 million, \$96.6 million, \$84.9 million, \$653.8 million and \$6.1 million, respectively.

The ratio of earnings to combined fixed charges and preferred stock dividends was computed by dividing earnings by combined fixed charges and preferred stock dividends. Earnings consist of (a) pretax income from continuing operations and gain on sales of investment properties before adjustment for income or loss from equity investees, plus (b) fixed charges, plus (c) amortization of capitalized interest, plus (d) distributed income of equity investees, plus (e) our share of pre-tax losses of equity investees for which charges arising from guarantees are included in the fixed charges, less (f) interest capitalized, less (g) preferred stock dividend requirements of consolidated subsidiaries, less (h) the

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noncontrolling interest in pre-tax income of subsidiaries that have not incurred fixed charges. Fixed charges consist of the sum of (a) interest expensed and capitalized (b) amortized premiums, discounts and capitalized expenses related to indebtedness, (c) an estimate of the interest within rental expense and (d) preferred stock dividend requirements of consolidated subsidiaries. Preferred stock dividends are the amount of pre-tax earnings that are required to pay the dividends on outstanding preferred stock.

**Table of Contents**

**RISK FACTORS**

*You should carefully consider the risks described in the documents incorporated by reference in this prospectus before making an investment decision. These risks are not the only ones facing our company. Additional risks not presently known to us or that we currently deem immaterial may also impair our business operations. Our business, financial condition or results of operations could be materially adversely affected by the materialization of any of these risks. The trading price of our securities could decline due to the materialization of any of these risks, and you may lose all or part of your investment. This prospectus and the documents incorporated herein by reference also contain forward-looking statements that involve risks and uncertainties. Actual results could differ materially from those anticipated in these forward-looking statements as a result of certain factors, including the risks described in the documents incorporated herein by reference, including (i) Retail Properties of America, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2011, (ii) Retail Properties of America, Inc.'s Quarterly Reports on Form 10-Q for the quarters ended March 31, 2012, June 30, 2012 and September 30, 2012 and (iii) documents Retail Properties of America, Inc. files with the SEC after the date of this prospectus that are deemed incorporated by reference in this prospectus.*

**FORWARD-LOOKING STATEMENTS**

We make statements in this prospectus that are considered forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, which are usually identified by the use of words such as anticipates, believes, estimates, expects, intends, may, plans, projects, seeks, variations of such words or similar expressions. We intend these forward-looking statements to be covered by the safe harbor provisions for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995 and are including this statement for purposes of complying with those safe harbor provisions. These forward-looking statements reflect our current views about our plans, intentions, expectations, strategies and prospects, which are based on the information currently available to us and on assumptions we have made. Although we believe that our plans, intentions, expectations, strategies and prospects as reflected in or suggested by those forward-looking statements are reasonable, we can give no assurance that the plans, intentions, expectations or strategies will be attained or achieved. Furthermore, actual results may differ materially from those described in the forward-looking statements and will be affected by a variety of risks and factors that are beyond our control including, without limitation:

general economic, business and financial conditions, and changes in our industry and changes in the real estate markets in particular;

adverse economic and other developments in the Dallas-Fort Worth-Arlington area, where we have a high concentration of properties;

general volatility of the capital and credit markets and the market price of our Class A common stock;

changes in our business strategy;

defaults on, early terminations of or non-renewal of leases by tenants;

bankruptcy or insolvency of a major tenant or a significant number of smaller tenants;

increased interest rates and operating costs;

declining real estate valuations and impairment charges;

availability, terms and deployment of capital;

our failure to obtain necessary outside financing;

**Table of Contents**

our expected leverage;

decreased rental rates or increased vacancy rates;

our failure to generate sufficient cash flows to service our outstanding indebtedness;

difficulties in identifying properties to acquire and completing acquisitions;

risks of real estate acquisitions, dispositions and redevelopment, including the cost of construction delays and cost overruns;

our failure to successfully operate acquired properties and operations;

our projected operating results;

our ability to manage our growth effectively;

our failure to successfully redevelop properties;

our ability to successfully transition certain corporate office functions from related parties to third parties or to us;

estimates relating to our ability to make distributions to our shareholders in the future;

impact of changes in governmental regulations, tax law and rates and similar matters;

our failure to qualify as a REIT;

future terrorist attacks in the U.S.;

environmental uncertainties and risks related to natural disasters;

lack or insufficient amounts of insurance;

availability of and our ability to attract and retain qualified personnel;

retention of our senior management team;

our understanding of our competition;

changes in real estate and zoning laws and increases in real property tax rates; and

our ability to comply with the laws, rules and regulations applicable to companies.

You should not place undue reliance on any forward-looking statements, which are based only on information currently available to us (or to third parties making the forward-looking statements). We undertake no obligation to publicly release any revisions to such forward-looking statements to reflect events or circumstances after the date of this prospectus, except as required by applicable law. Investors should also refer to Retail Properties of America, Inc.'s annual reports on Form 10-K, quarterly reports on Form 10-Q for future periods and current reports on Form 8-K as it files them with the SEC, and to other materials Retail Properties of America, Inc. may furnish to the public from time to time through Forms 8-K or otherwise.

**Table of Contents**

**HOW WE INTEND TO USE THE PROCEEDS**

Unless we provide otherwise in a supplement to this prospectus, we expect to use the net proceeds from any sale of securities by us under this prospectus for one or more following:

the acquisition, development, and improvement of properties;

the repayment of debt;

the possible repurchase of our common stock;

capital expenditures;

working capital; and

other general business purposes.

Pending such uses, we may temporarily invest the net proceeds. The precise amounts and timing of the application of proceeds will depend upon our funding requirements and the availability of other funds. Except as mentioned in any prospectus supplement, specific allocations of the proceeds to such purposes will not have been made at the date of that prospectus supplement.

Based upon our historical and anticipated future growth and our financial needs, we may engage in additional financings of a character and amount that we determine as the need arises.

We will not receive any of the proceeds of the sale by selling security holders of the securities covered by this prospectus.

## **Table of Contents**

### **DESCRIPTION OF WARRANTS**

*Please note that in the sections entitled Description of Warrants, Description of Stock Purchase Contracts, Description of Units, Description of Common Stock, Description of Preferred Stock, Description of Depositary Shares and Description of Debt Securities, references to we, our and us refer only to Retail Properties of America, Inc. and not to its consolidated subsidiaries. This section outlines some of the provisions of each warrant agreement pursuant to which warrants may be issued, the warrants or rights, and any warrant certificates. This information may not be complete in all respects and is qualified entirely by reference to any warrant agreement with respect to the warrants of any particular series. The specific terms of any series of warrants will be described in the applicable prospectus supplement. If so described in the prospectus supplement, the terms of that series of warrants may differ from the general description of terms presented below.*

We may issue warrants. We may issue these securities in such amounts or in as many distinct series as we wish. This section summarizes the terms of these securities that apply generally. Most of the financial and other specific terms of any such series of securities will be described in the applicable prospectus supplement. Those terms may vary from the terms described here.

When we refer to a series of securities in this section, we mean all securities issued as part of the same series under any applicable indenture, agreement or other instrument. When we refer to the applicable prospectus supplement, we mean the prospectus supplement describing the specific terms of the security you purchase. The terms used in the applicable prospectus supplement generally will have the meanings described in this prospectus, unless otherwise specified in the applicable prospectus supplement.

#### **Warrants**

We may issue warrants, options or similar instruments for the purchase of our preferred stock, Class A common stock, depositary shares or units. We refer to these collectively as warrants. Warrants may be issued independently or together with preferred stock, Class A common stock, depositary shares or units, and may be attached to or separate from those securities.

#### **Agreements**

Each series of warrants may be evidenced by certificates and may be issued under a separate indenture, agreement or other instrument to be entered into between us and a bank that we select as agent with respect to such series. The warrant agent will act solely as our agent in connection with the warrant agreement or any warrant certificates and will not assume any obligation or relationship of agency or trust for or with any warrant holders. Copies of the forms of agreements and the forms of certificates representing the warrants will be filed with the SEC near the date of filing of the applicable prospectus supplement with the SEC. Because the following is a summary of certain provisions of the forms of agreements and certificates, it does not contain all information that may be important to you. You should read all the provisions of the agreements and the certificates once they are available.

#### **General Terms of Warrants**

The prospectus supplement relating to a series of warrants will identify the name and address of the warrant agent, if any. The prospectus supplement will describe the terms of the series of warrants in respect of which this prospectus is being delivered, including:

the offering price;

the designation and terms of any securities with which the warrants are issued and in that event the number of warrants issued with each security or each principal amount of security;

the dates on which the right to exercise the warrants will commence and expire, and the price at which the warrants are exercisable;

the amount of warrants then outstanding;



**Table of Contents**

material U.S. federal income tax consequences of holding or exercising these securities; and

any other terms of the warrants.

Warrant certificates may be exchanged for new certificates of different denominations and may be presented for transfer of registration and, if exercisable for other securities or other property, may be exercised at the warrant agent's corporate trust office or any other office indicated in the prospectus supplement. If the warrants are not separately transferable from any securities with which they were issued, an exchange may take place only if the certificates representing the related securities are also exchanged. Prior to exercise of any warrant exercisable for other securities or other property, warrant holders will not have any rights as holders of the underlying securities, including the right to receive any principal, premium, interest, dividends, or payments upon our liquidation, dissolution or winding up or to exercise any voting rights.

***Modification Without Consent***

We and the applicable warrant agent may amend any warrant or warrant agreement without the consent of any holder:

to cure any ambiguity;

to correct or supplement any defective or inconsistent provision; or

to make any other change that we believe is necessary or desirable and will not adversely affect the interests of the affected holders in any material respect.

We do not need any approval to make changes that affect only warrants to be issued after the changes take effect. We may also make changes that do not adversely affect a particular warrant in any material respect, even if they adversely affect other warrants in a material respect. In those cases, we do not need to obtain the approval of the holder of the unaffected warrant; we need only obtain any required approvals from the holders of the affected warrants.

***Modification With Consent***

We and any agent for any series of warrants may also amend any agreement and the related warrants by a supplemental agreement with the consent of the holders of a majority of the warrants of any series affected by such amendment. However, no such amendment that:

increases the exercise price of such warrant;

shortens the time period during which any such warrant may be exercised;

reduces the number of securities the consent of holders of which is required for amending the agreement or the related warrants; or

otherwise adversely affects the exercise rights of warrant holders in any material respect; may be made without the consent of each holder affected by that amendment.

**Table of Contents**

**DESCRIPTION OF STOCK PURCHASE CONTRACTS**

*This section outlines some of the provisions of the stock purchase contracts, the stock purchase contract agreement and the pledge agreement. This information is not complete in all respects and is qualified entirely by reference to the stock purchase contract agreement and pledge agreement with respect to the stock purchase contracts of any particular series. The specific terms of any series of stock purchase contracts will be described in the applicable prospectus supplement. If so described in a prospectus supplement, the specific terms of any series of stock purchase contracts may differ from the general description of terms presented below.*

Unless otherwise specified in the applicable prospectus supplement, we may issue stock purchase contracts, including contracts obligating holders to purchase from us and us to sell to the holders, a specified number of shares of Class A common stock, preferred stock, depository shares or other security or property at a future date or dates. Alternatively, the stock purchase contracts may obligate us to purchase from holders, and obligate holders to sell to us, a specified or varying number of shares of Class A common stock, preferred stock, depository shares or other security or property. The consideration per share of Class A common stock or preferred stock or per depository share or other security or property may be fixed at the time the stock purchase contracts are issued or may be determined by a specific reference to a formula set forth in the stock purchase contracts. The stock purchase contracts may provide for settlement by delivery by us or on our behalf of shares of the underlying security or property or, they may provide for settlement by reference or linkage to the value, performance or trading price of the underlying security or property. The stock purchase contracts may be issued separately or as part of stock purchase units consisting of a stock purchase contract and debt securities, preferred stock or debt obligations of third parties, including U.S. treasury securities, other stock purchase contracts or Class A common stock, or other securities or property, securing the holders' obligations to purchase or sell, as the case may be, the Class A common stock, preferred stock, depository shares or other security or property under the stock purchase contracts. The stock purchase contracts may require us to make periodic payments to the holders of the stock purchase units or vice versa, and such payments may be unsecured or prefunded on some basis and may be paid on a current or on a deferred basis. The stock purchase contracts may require holders to secure their obligations thereunder in a specified manner and may provide for the prepayment of all or part of the consideration payable by holders in connection with the purchase of the underlying security or other property pursuant to the stock purchase contracts.

The securities related to the stock purchase contracts may be pledged to a collateral agent for our benefit pursuant to a pledge agreement to secure the obligations of holders of stock purchase contracts to purchase the underlying security or property under the related stock purchase contracts. The rights of holders of stock purchase contracts to the related pledged securities will be subject to our security interest therein created by the pledge agreement. No holder of stock purchase contracts will be permitted to withdraw the pledged securities related to such stock purchase contracts from the pledge arrangement except upon the termination or early settlement of the related stock purchase contracts or in the event other securities, cash or property is made subject to the pledge agreement in lieu of the pledged securities, if permitted by the pledge agreement, or as otherwise provided in the pledge agreement. Subject to such security interest and the terms of the stock purchase contract agreement and the pledge agreement, each holder of a stock purchase contract will retain full beneficial ownership of the related pledged securities.

Except as described in the applicable prospectus supplement, the collateral agent will, upon receipt of distributions on the pledged securities, distribute such payments to us or the stock purchase contract agent, as provided in the pledge agreement. The purchase agent will in turn distribute payments it receives as provided in the stock purchase contract agreement.

## **Table of Contents**

### **DESCRIPTION OF UNITS**

*This section outlines some of the provisions of the units and the unit agreements. This information may not be complete in all respects and is qualified entirely by reference to the unit agreement with respect to the units of any particular series. The specific terms of any series of units will be described in the applicable prospectus supplement. If so described in a particular supplement, the specific terms of any series of units may differ from the general description of terms presented below.*

We may issue units comprised of shares of Class A common stock, shares of preferred stock, stock purchase contracts, warrants and debt securities in any combination. Each unit will be issued so that the holder of the unit is also the holder of each security included in the unit. Thus, the holder of a unit will have the rights and obligations of a holder of each included security. The unit agreement under which a unit is issued may provide that the securities included in the unit may not be held or transferred separately, at any time or at any time before a specified date.

The applicable prospectus supplement may describe:

the designation and terms of the units and of the securities comprising the units, including whether and under what circumstances those securities may be held or transferred separately;

any provisions of the governing unit agreement;

the price or prices at which such units will be issued;

the applicable U.S. federal income tax considerations relating to the units;

any provisions for the issuance, payment, settlement, transfer or exchange of the units or of the securities comprising the units; and

any other terms of the units and of the securities comprising the units.

The provisions described in this section, as well as those described under Description of Warrants, Description of Stock Purchase Contracts, Description of Common Stock, Description of Preferred Stock and Description of Debt Securities will apply to the securities included in each unit, to the extent relevant.

### **Issuance in Series**

We may issue units in such amounts and in as many distinct series as we wish. This section summarizes terms of the units that apply generally to all series. Most of the financial and other specific terms of your series will be described in the applicable prospectus supplement.

### **Unit Agreements**

We will issue the units under one or more unit agreements to be entered into between us and a bank or other financial institution, as unit agent. We may add, replace or terminate unit agents from time to time. We will identify the unit agreement under which each series of units will be issued and the unit agent under that agreement in the applicable prospectus supplement.

The following provisions will generally apply to all unit agreements unless otherwise stated in the applicable prospectus supplement.

### ***Modification Without Consent***

We and the applicable unit agent may amend any unit or unit agreement without the consent of any holder:

to cure any ambiguity; any provisions of the governing unit agreement that differ from those described below;

## **Table of Contents**

to correct or supplement any defective or inconsistent provision; or

to make any other change that we believe is necessary or desirable and will not adversely affect the interests of the affected holders in any material respect.

We do not need any approval to make changes that affect only units to be issued after the changes take effect. We may also make changes that do not adversely affect a particular unit in any material respect, even if they adversely affect other units in a material respect. In those cases, we do not need to obtain the approval of the holder of the unaffected unit; we need only obtain any required approvals from the holders of the affected units.

### ***Modification With Consent***

We may not amend any particular unit or a unit agreement with respect to any particular unit unless we obtain the consent of the holder of that unit, if the amendment would:

impair any right of the holder to exercise or enforce any right under a security included in the unit if the terms of that security require the consent of the holder to any changes that would impair the exercise or enforcement of that right; or

reduce the percentage of outstanding units or any series or class the consent of whose holders is required to amend that series or class, or the applicable unit agreement with respect to that series or class, as described below.

Any other change to a particular unit agreement and the units issued under that agreement would require the following approval:

If the change affects only the units of a particular series issued under that agreement, the change must be approved by the holders of a majority of the outstanding units of that series; or

If the change affects the units of more than one series issued under that agreement, it must be approved by the holders of a majority of all outstanding units of all series affected by the change, with the units of all the affected series voting together as one class for this purpose.

These provisions regarding changes with majority approval also apply to changes affecting any securities issued under a unit agreement, as the governing document.

In each case, the required approval must be given by written consent.

### ***Unit Agreements Will Not Be Qualified Under Trust Indenture Act***

No unit agreement will be qualified as an indenture, and no unit agent will be required to qualify as a trustee, under the Trust Indenture Act of 1939, or the Trust Indenture Act. Therefore, holders of units issued under unit agreements will not have the protections of the Trust Indenture Act with respect to their units.

### **Mergers and Similar Transactions Permitted; No Restrictive Covenants or Events of Default**

The unit agreements will not restrict our ability to merge or consolidate with, or sell our assets to, another corporation or other entity or to engage in any other transactions. If at any time we merge or consolidate with, or sell our assets substantially as an entirety to, another corporation or other entity, the successor entity will succeed to and assume our obligations under the unit agreements. We will then be relieved of any further obligation under these agreements.

The unit agreements will not include any restrictions on our ability to put liens on our assets, including our interests in our subsidiaries, nor will they restrict our ability to sell our assets. The unit agreements also will not provide for any events of default or remedies upon the occurrence of

any events of default.

## **Table of Contents**

### **Governing Law**

The unit agreements and the units will be governed by Maryland law.

### **Form, Exchange and Transfer**

We will issue each unit in global i.e., book-entry form only. Units in book-entry form will be represented by a global security registered in the name of a depository, which will be the holder of all the units represented by the global security. Those who own beneficial interests in a unit will do so through participants in the depository's system, and the rights of these indirect owners will be governed solely by the applicable procedures of the depository and its participants. We will describe book-entry securities, and other terms regarding the issuance and registration of the units in the applicable prospectus supplement.

Each unit and all securities comprising the unit will be issued in the same form.

If we issue any units in registered, non-global form, the following will apply to them.

The units will be issued in the denominations stated in the applicable prospectus supplement. Holders may exchange their units for units of smaller denominations or combined into fewer units of larger denominations, as long as the total amount is not changed.

Holders may exchange or transfer their units at the office of the unit agent. Holders may also replace lost, stolen, destroyed or mutilated units at that office. We may appoint another entity to perform these functions or perform them ourselves.

Holders will not be required to pay a service charge to transfer or exchange their units, but they may be required to pay for any tax or other governmental charge associated with the transfer or exchange. The transfer or exchange, and any replacement, will be made only if our transfer agent is satisfied with the holder's proof of legal ownership. The transfer agent may also require an indemnity before replacing any units.

If we have the right to redeem, accelerate or settle any units before their maturity, and we exercise our right as to less than all those units or other securities, we may block the exchange or transfer of those units during the period beginning 15 days before the day we mail the notice of exercise and ending on the day of that mailing, in order to freeze the list of holders to prepare the mailing. We may also refuse to register transfers of or exchange any unit selected for early settlement, except that we will continue to permit transfers and exchanges of the unsettled portion of any unit being partially settled. We may also block the transfer or exchange of any unit in this manner if the unit includes securities that are or may be selected for early settlement.

Only the depository will be entitled to transfer or exchange a unit in global form, since it will be the sole holder of the unit.

### **Payments and Notices**

In making payments and giving notices with respect to our units, we will follow the procedures as described in the applicable prospectus supplement.

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**Table of Contents**

**DESCRIPTION OF COMMON STOCK**

*The following description of our common stock is not complete but is a summary of the rights and preferences of our common stock. While we believe that the following description covers the material terms of our common stock, the description may not contain all of the information that is important to you. We encourage you to read carefully our charter and bylaws and the applicable provisions of Maryland law for a more complete understanding of our common stock. Copies of our charter and bylaws are filed as exhibits to the registration statement of which this prospectus is a part and the following summary, to the extent it relates to those documents, is qualified in its entirety by reference thereto.*

**General**

Our charter provides that we may issue up to 475,000,000 shares of Class A common stock, 55,000,000 shares of Class B-1 common stock, 55,000,000 shares of Class B-2 common stock, 55,000,000 shares of Class B-3 common stock and 10,000,000 shares of preferred stock, each having par value \$0.001 per share. As of November 5, 2012, there were 133,606,778 shares of Class A common stock, 48,518,389 shares of Class B-2 common stock and 48,518,389 shares of Class B-3 common stock issued and outstanding and no shares of preferred stock issued and outstanding. Our board of directors, without any action on the part of our shareholders, may authorize the issuance of common or preferred stock, may establish the terms of any stock to be issued, and, with the approval of a majority of the entire board, may amend our charter from time to time to increase or decrease the aggregate number of authorized shares of stock or the number of shares of stock of any class or series. Under Maryland law, our shareholders generally are not personally liable for our debts and obligations solely as a result of their status as shareholders.

**Common Stock**

All shares of our common stock have equal rights as to earnings, assets, dividends and voting. Subject to our charter restrictions on the transfer and ownership of our stock and the preferential rights of holders of any other class or series of our stock, distributions may be made to the holders of our common stock if, as and when authorized by our board of directors out of funds legally available therefor. Shares of our common stock generally have no preemptive, appraisal, preferential exchange, conversion (except for Class B common stock), sinking fund or redemption rights and are freely transferable, except where their transfer is restricted by federal and state securities laws, by contract or by the restrictions in our charter. In the event of our liquidation, dissolution or winding up, each share of our common stock would be entitled to share ratably in all of our assets that are legally available for distribution after payment of or adequate provision for all of our known debts and other liabilities and subject to any preferential rights of holders of our preferred stock, if any preferred stock is outstanding at such time, and our charter restrictions on the transfer and ownership of our stock. Subject to our charter restrictions on the transfer and ownership of our stock and except as may otherwise be specified in the terms of any class or series of common stock, each share of our common stock entitles the holder to one vote on all matters submitted to a vote of shareholders, including the election of directors. Except as may be provided with respect to any other class or series of stock, the holders of our common stock will possess exclusive voting power. Except as required under Maryland law, holders of all classes of our common stock will vote together as a single class.

Under Maryland law, a Maryland corporation generally cannot amend its charter, consolidate, merge, sell all or substantially all of its assets, engage in a share exchange or dissolve unless the action is advised by our board of directors and approved by the affirmative vote of at least two-thirds of the votes entitled to be cast with respect to such matter. However, a Maryland corporation may provide in its charter for approval of these matters by a lesser percentage, but not less than a majority of all of the votes entitled to be cast with respect to such matter. As permitted by Maryland law, our charter provides that any of these actions may be approved by the affirmative vote of a majority of all the votes entitled to be cast with respect to such matter. In addition, all other matters to be voted on by shareholders, other than the election of directors, must be approved by a majority of the votes cast at a meeting at which a quorum is present, voting together as a single class, subject to any voting rights granted to holders of any then outstanding preferred stock. In elections of directors, a director will be elected by a plurality of the votes cast in the election of directors. There is no cumulative voting in the election of directors, which means that holders of a majority of the outstanding shares of common stock can elect all of our directors. For more information regarding the voting standard for director elections, see *Certain Provisions of Maryland Law and of Our Charter and Bylaws Annual Elections*.

## **Table of Contents**

### **Power to Reclassify Our Unissued Shares of Stock**

Our charter authorizes our board of directors to classify and reclassify any unissued shares of common or preferred stock into other classes or series of shares of stock. Prior to the issuance of shares of each class or series, our board of directors is required by Maryland law and by our charter to set, subject to our charter restrictions on transfer and ownership of shares of stock, the terms, the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms or conditions of redemption for each class or series. Therefore, our board of directors could authorize the issuance of shares of common or preferred stock with terms and conditions that could have the effect of delaying, deferring or preventing a change in control or other transaction that might involve a premium price for our shares of common stock or otherwise be in the best interest of our shareholders. No shares of preferred stock are presently outstanding.

### **Power to Increase or Decrease Authorized Shares of Common Stock and Issue Additional Shares of Common and Preferred Stock**

We believe that the power of our board of directors to amend our charter to increase or decrease the number of authorized shares of stock, to issue additional authorized but unissued shares of common or preferred stock and to classify or reclassify unissued shares of common or preferred stock and thereafter to issue such classified or reclassified shares of stock will provide us with increased flexibility in structuring possible future financings and acquisitions and in meeting other needs that might arise. The additional classes or series, as well as the shares of common stock, will be available for issuance without further action by our shareholders, unless such action is required by applicable law or the rules of any stock exchange or market system on which our securities may be listed or traded. Therefore, our board of directors could authorize us to issue a class or series that could, depending upon the terms of the particular class or series, delay, defer or prevent a change in control or other transaction that might involve a premium price for our shares of common stock or otherwise be in the best interest of our shareholders.

### **Restrictions on Ownership and Transfer**

In order for us to qualify as a REIT under the Internal Revenue Code of 1986, or the Code, our stock must be beneficially owned by 100 or more persons during at least 335 days of a taxable year of 12 months or during a proportionate part of a shorter taxable year (other than the first year for which an election to be a REIT has been made). Also, not more than 50% of the value of the outstanding shares of our stock may be owned, directly or indirectly, by five or fewer individuals (as defined in the Code to include certain entities such as private foundations) during the last half of a taxable year (other than the first taxable year for which an election to be a REIT has been made).

Our charter contains restrictions on the ownership and transfer of our stock. The relevant sections of our charter provide that, after the amendment and restatement of our charter and subject to the exceptions and the constructive ownership rules described below, no person may beneficially or constructively own more than 9.8% in value of the aggregate of our outstanding shares of stock or more than 9.8% in value or number (whichever is more restrictive) of the outstanding shares of our common stock. We refer to these restrictions as the ownership limits.

The applicable constructive ownership rules under the Code are complex and may cause stock owned actually or constructively by a group of related individuals and/or entities to be treated as owned by one individual or entity. As a result, the acquisition of less than 9.8% in value of our outstanding stock or less than 9.8% in value or number of our outstanding shares of common stock (or the acquisition of an interest in an entity that owns, actually or constructively, our stock) by an individual or entity could, nevertheless cause that individual or entity, or another individual or entity, to own, constructively or beneficially in excess of 9.8% in value of our outstanding stock or 9.8% in value or number of our outstanding shares of common stock.

In addition to the ownership limits, our charter prohibits any person from actually or constructively owning shares of our stock to the extent that such ownership would cause any of our income that would otherwise qualify as rents from real property for purposes of Section 856(d) of the Code to fail to qualify as such. Our charter also prohibits any person from beneficially owning shares of our stock to the extent that such ownership would result in our being closely held within the meaning of Section 856(h) of the Code, without regard to whether the ownership interest is held during the last half of a taxable year.

Our board of directors may, in its sole discretion, exempt a person from the ownership limits and certain other limits on ownership and transfer of our stock described above, and may establish a different limit on ownership for any such person. However, the board of directors may not exempt any person whose ownership of our outstanding stock in violation of these limits would result in our failing to qualify as a REIT. In order to be considered by the board of directors for exemption, a person must make such representations and undertakings as are reasonably necessary to ascertain that such person's beneficial or constructive ownership of our stock will not now or in the future jeopardize our ability to qualify as a REIT.



## Table of Contents

under the Code and must agree that any violation or attempted violation of such representations or undertakings will result in the shares of stock being automatically transferred to a trust as described below. As a condition of its waiver, our board of directors may require an opinion of counsel or IRS ruling satisfactory to our board of directors with respect to our qualification as a REIT and may impose such other conditions as it deems appropriate in connection with the granting of the waiver.

In connection with the waiver of the ownership limits or at any other time, our board of directors may from time to time increase the ownership limits for one or more persons and decrease the ownership limits for all other persons; provided that the new ownership limits may not, after giving effect to such increase, result in us being closely held within the meaning of Section 856(h) of the Code (without regard to whether the ownership interests are held during the last half of a taxable year). Reduced ownership limits will not apply to any person whose percentage ownership of our shares of common stock or total shares of stock, as applicable, is in excess of such decreased ownership limits until such time as such person's percentage of our shares of common stock or total shares of stock, as applicable, equals or falls below the decreased ownership limits, but any further acquisition of our shares of common stock or total shares of stock, as applicable, in excess of such percentage ownership of our shares of common stock or total shares of stock will be in violation of the ownership limits.

Our charter further prohibits:

any person from transferring shares of our stock if such transfer would result in shares of our stock being beneficially owned by fewer than 100 persons (determined without reference to any rules of attribution); and

any person from beneficially or constructively owning shares of our stock if such ownership would result in our failing to qualify as a REIT.

Any person who acquires or attempts or intends to acquire beneficial or constructive ownership of shares of our stock that will or may violate the ownership limits or any of the other foregoing restrictions on transferability and ownership will be required to give notice to us immediately (or, in the case of a proposed or attempted transaction, at least 15 days prior to such transaction) and provide us with such other information as we may request in order to determine the effect, if any, of such transfer on our qualification as a REIT. The foregoing provisions on transferability and ownership will not apply if our board of directors determines that it is no longer in our best interests to attempt to qualify, or to continue to qualify, as a REIT.

Pursuant to our charter, if there is any purported transfer of our stock or other event that, if effective, would violate any of the restrictions described above, then the number of shares causing the violation (rounded up to the nearest whole share) will be automatically transferred to a trust for the exclusive benefit of a designated charitable beneficiary, except that any transfer that results in the violation of the restriction relating to our stock being beneficially owned by fewer than 100 persons will be automatically void and of no force or effect. The automatic transfer will be effective as of the close of business on the business day prior to the date of the purported transfer or other event that results in a transfer to the trust. Any dividend or other distribution paid to the purported transferee, prior to our discovery that the shares had been automatically transferred to a trust as described above, must be repaid to the trustee upon demand. If the transfer to the trust as described above is not automatically effective, for any reason, to prevent violation of the applicable restriction contained in our charter, then the transfer of the excess shares will be automatically void and of no force or effect.

Shares of our stock transferred to the trustee are deemed to be offered for sale to us or our designee at a price per share equal to the lesser of (i) the price per share in the transaction that resulted in such transfer to the trust (or, in the case of a devise or gift, the market price at the time of such devise or gift) and (ii) the market price on the date we accept, or our designee accepts, such offer. We have the right to accept such offer until