

ENTERTAINMENT PROPERTIES TRUST

Form 10-Q

October 29, 2008

**Table of Contents**

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549  
FORM 10-Q**

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the quarterly period ended September 30, 2008**

or

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES ACT OF 1934**

**For the transition period from \_\_\_\_\_ to \_\_\_\_\_**

**Commission File Number: 1-13561**

**ENTERTAINMENT PROPERTIES TRUST**

(Exact name of registrant as specified in its charter)

**Maryland**

(State or other jurisdiction  
of incorporation or organization)

**43-1790877**

(I.R.S. Employer Identification No.)

**30 West Pershing Road, Suite 201**

**Kansas City, Missouri**

(Address of principal executive offices)

**64108**

(Zip Code)

Registrant's telephone number, including area code: **(816) 472-1700**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

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

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company

(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

At October 28, 2008, there were 32,872,797 common shares of beneficial interest outstanding.

**Table of Contents**

**FORWARD LOOKING STATEMENTS**

Certain statements contained or incorporated by reference herein constitute forward-looking statements as such term is defined in Section 27A of the Securities Act of 1933, as amended (the Securities Act ), and Section 21E of the Securities Exchange Act of 1934, as amended (the Exchange Act ). The forward-looking statements may refer to financial condition, results of operations, plans, objectives, future financial performance and business of the Company. Forward-looking statements are not guarantees of performance. They involve risks, uncertainties and assumptions. Our future results, financial condition and business may differ materially from those expressed in these forward-looking statements. You can find many of these statements by looking for words such as approximates, believes, expects, anticipates, estimates, intends, plans would, may or other similar expressions in this Report on Form 10-Q. In addition, references to our budgeted amounts are forward looking statements. These forward-looking statements represent our intentions, plans, expectations and beliefs and are subject to numerous assumptions, risks and uncertainties. Many of the factors that will determine these items are beyond our ability to control or predict. For further discussion of these factors see Item 1A. Risk Factors in the Annual Report on Form 10-K for the year ended December 31, 2007 filed with the SEC on February 26, 2008 and, to the extent applicable, our Quarterly Reports on Form 10-Q.

For these statements, we claim the protection of the safe harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995. You are cautioned not to place undue reliance on our forward-looking statements, which speak only as of the date of this Quarterly Report on Form 10-Q or the date of any document incorporated by reference. All subsequent written and oral forward-looking statements attributable to us or any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. We do not undertake any obligation to release publicly any revisions to our forward-looking statements to reflect events or circumstances after the date of this Quarterly Report on Form 10-Q.

**Table of Contents**

TABLE OF CONTENTS

	Page
<b><u>PART I</u></b>	4
<u>Item 1. Financial Statements</u>	4
<u>Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	26
<u>Item 3. Quantitative and Qualitative Disclosures About Market Risk</u>	45
<u>Item 4. Controls and Procedures</u>	47
<b><u>PART II</u></b>	48
<u>Item 1. Legal Proceedings</u>	48
<u>Item 1A. Risk Factors</u>	48
<u>Item 2. Unregistered Sale of Equity Securities and Use of Proceeds</u>	49
<u>Item 3. Defaults Upon Senior Securities</u>	50
<u>Item 4. Submission of Matter to a Vote of Security Holders</u>	50
<u>Item 5. Other Information</u>	50
<u>Item 6. Exhibits</u>	51
<u>EX-31.1</u>	
<u>EX-31.2</u>	
<u>EX-32.1</u>	
<u>EX-32.2</u>	

**Table of Contents****PART I FINANCIAL INFORMATION****Item 1. Financial Statements**

**ENTERTAINMENT PROPERTIES TRUST**  
**Consolidated Balance Sheets**  
**(Dollars in thousands except share data)**

	<b>September 30, 2008</b>	<b>December 31, 2007</b>
	(Unaudited)	
<b>Assets</b>		
Rental properties, net of accumulated depreciation of \$206,136 and \$177,607 at September 30, 2008 and December 31, 2007, respectively	\$ 1,758,759	\$ 1,648,621
Property under development	34,985	23,001
Mortgage notes and related accrued interest receivable	506,935	325,442
Investment in a direct financing lease, net	162,909	
Investment in joint ventures	2,412	42,331
Cash and cash equivalents	11,125	15,170
Restricted cash	15,366	12,789
Intangible assets, net	14,308	16,528
Deferred financing costs, net	10,789	10,361
Accounts and notes receivable, net	73,072	61,193
Other assets	22,822	16,197
<b>Total assets</b>	<b>\$ 2,613,482</b>	<b>\$ 2,171,633</b>
<b>Liabilities and Shareholders Equity</b>		
<b>Liabilities:</b>		
Accounts payable and accrued liabilities	\$ 18,024	\$ 26,532
Common dividends payable	27,612	21,344
Preferred dividends payable	7,552	5,611
Unearned rents and interest	16,127	10,782
Long-term debt	1,217,569	1,081,264
<b>Total liabilities</b>	<b>1,286,884</b>	<b>1,145,533</b>
Minority interests	16,662	18,207
<b>Shareholders equity:</b>		
Common Shares, \$.01 par value; 50,000,000 shares authorized; and 33,731,913 and 28,878,285 shares issued at September 30, 2008 and December 31, 2007, respectively	337	289
Preferred Shares, \$.01 par value; 25,000,000 shares authorized; 3,200,000 Series B shares issued at September 30, 2008 and December 31, 2007; liquidation preference of \$80,000,000	32	32
5,400,000 Series C convertible shares issued at September 30, 2008 and December 31, 2007; liquidation preference of \$135,000,000	54	54
4,600,000 Series D shares issued at September 30, 2008 and December 31, 2007; liquidation preference of \$115,000,000	46	46
	35	

Edgar Filing: ENTERTAINMENT PROPERTIES TRUST - Form 10-Q

3,450,000 Series E convertible shares issued at September 30, 2008;  
liquidation preference of \$86,250,000

Additional paid-in-capital	1,338,818	1,023,598
Treasury shares at cost: 860,084 and 793,676 common shares at September 30, 2008 and December 31, 2007, respectively	(26,357)	(22,889)
Loans to shareholders	(1,925)	(3,525)
Accumulated other comprehensive income	27,772	35,994
Distributions in excess of net income	(28,876)	(25,706)
Shareholders' equity	1,309,936	1,007,893
Total liabilities and shareholders' equity	\$ 2,613,482	\$ 2,171,633

See accompanying notes to consolidated financial statements.

4

---

**Table of Contents**

**ENTERTAINMENT PROPERTIES TRUST**  
**Consolidated Statements of Income**  
**(Unaudited)**  
**(Dollars in thousands except per share data)**

	<b>Three Months Ended</b>		<b>Nine Months Ended</b>	
	<b>September 30,</b>		<b>September 30,</b>	
	<b>2008</b>	<b>2007</b>	<b>2008</b>	<b>2007</b>
Rental revenue	\$ 52,139	\$ 48,120	\$ 151,201	\$ 136,617
Tenant reimbursements	5,249	4,699	16,114	12,607
Other income	460	506	1,657	1,780
Mortgage and other financing income	17,125	8,239	40,609	18,884
<b>Total revenue</b>	<b>74,973</b>	<b>61,564</b>	<b>209,581</b>	<b>169,888</b>
Property operating expense	6,612	5,806	19,947	15,846
Other expense	430	1,048	1,982	2,590
General and administrative expense	3,718	3,023	12,070	9,083
Interest expense, net	17,689	16,672	52,117	43,252
Depreciation and amortization	11,170	9,881	32,184	27,269
Income before equity in income from joint ventures, minority interests and discontinued operations	35,354	25,134	91,281	71,848
Equity in income from joint ventures	216	200	1,743	597
Minority interests	488	988	1,474	988
Income from continuing operations	\$ 36,058	\$ 26,322	\$ 94,498	\$ 73,433
Discontinued operations:				
Income (loss) from discontinued operations		28	(27)	862
Gain on sale of real estate			119	3,240
Net income	36,058	26,350	94,590	77,535
Preferred dividend requirements	(7,552)	(5,611)	(20,714)	(15,701)
Series A preferred redemption costs				(2,101)
Net income available to common shareholders	\$ 28,506	\$ 20,739	\$ 73,876	\$ 59,733
Per share data:				
Basic earnings per share data:	\$ 0.90	\$ 0.78	\$ 2.46	\$ 2.11

Edgar Filing: ENTERTAINMENT PROPERTIES TRUST - Form 10-Q

Income from continuing operations available to common shareholders								
Income from discontinued operations			0.01		0.15			
Net income available to common shareholders	\$	0.90	\$	0.78	\$	2.47	\$	2.26
Diluted earnings per share data:								
Income from continuing operations available to common shareholders	\$	0.89	\$	0.77	\$	2.43	\$	2.07
Income from discontinued operations								0.15
Net income available to common shareholders	\$	0.89	\$	0.77	\$	2.43	\$	2.22
Shares used for computation (in thousands):								
Basic		31,750		26,432		29,969		26,378
Diluted		32,201		26,824		30,394		26,858
Dividends per common share	\$	0.84	\$	0.76	\$	2.52	\$	2.28

See accompanying notes to consolidated financial statements.



**Table of Contents**

**ENTERTAINMENT PROPERTIES TRUST**  
**Consolidated Statement of Changes in Shareholders' Equity**  
**Nine Months Ended September 30, 2008**  
**(Unaudited)**  
**(Dollars in thousands)**

	Common Stock		Preferred Stock		Additional paid-in capital	Treasury shares	Loans to shareholders	Accumulated other comprehensive income	Distributions in excess of net income	Total
	Shares	Par	Shares	Par						
Balance at December 31, 2007	28,878	\$ 289	13,200	\$ 132	\$ 1,023,598	\$ (22,889)	\$ (3,525)	\$ 35,994	\$ (25,706)	\$ 1,007,893
Shares issued to Trustees	6				332					332
Issuance of nonvested shares, including nonvested shares issued for the payment of bonuses	121	1			1,991					1,992
Amortization of nonvested shares					2,384					2,384
Share option expense					334					334
Foreign currency translation adjustment								(17,624)		(17,624)
Change in unrealized loss on derivatives								9,402		9,402
Payment on shareholder loan							1,600			1,600
Net income								94,590		94,590
Purchase of 16,771 common shares for treasury						(777)				(777)
Issuances of common	4,645	46			224,233					224,279

shares, net of costs of \$10.7 million											
Issuance of preferred shares, net of costs of \$2.8 million			3,450	35	83,403						83,438
Stock option exercises, net	82	1			2,543	(2,691)					(147)
Dividends to common and preferred shareholders									(97,760)		(97,760)
Balance at September 30, 2008	33,732	\$ 337	16,650	\$ 167	\$ 1,338,818	\$ (26,357)	\$ (1,925)	\$ 27,772	\$ (28,876)		\$ 1,309,936

See accompanying notes to consolidated financial statements.

Table of Contents

**ENTERTAINMENT PROPERTIES TRUST**  
**Consolidated Statements of Comprehensive Income**  
**(Unaudited)**  
**(Dollars in thousands)**

	<b>Three Months Ended</b>		<b>Nine Months Ended</b>	
	<b>September 30,</b>		<b>September 30,</b>	
	<b>2008</b>	<b>2007</b>	<b>2008</b>	<b>2007</b>
Net income	\$ 36,058	\$ 26,350	\$ 94,590	\$ 77,535
Other comprehensive income (loss):				
Foreign currency translation adjustment	(10,640)	13,988	(17,624)	29,730
Change in unrealized gain (loss) on derivatives	7,282	(7,802)	9,402	(9,587)
Comprehensive income	\$ 32,700	\$ 32,536	\$ 86,368	\$ 97,678

See accompanying notes to consolidated financial statements.

7

---

**Table of Contents**

**ENTERTAINMENT PROPERTIES TRUST**  
**Consolidated Statements of Cash Flows**  
**(Unaudited)**  
**(Dollars in thousands)**

	<b>Nine Months Ended September</b>	
	<b>30,</b>	
	<b>2008</b>	<b>2007</b>
Operating activities:		
Net income	\$ 94,590	\$ 77,535
Adjustments to reconcile net income to net cash provided by operating activities:		
Minority interests	(1,474)	(988)
Income from discontinued operations	(92)	(4,102)
Equity in income from joint ventures	(1,743)	(597)
Distributions from joint ventures	2,017	675
Depreciation and amortization	32,184	27,269
Amortization of deferred financing costs	2,402	2,125
Share-based compensation expense to management and trustees	2,975	2,423
Increase in mortgage notes accrued interest receivable	(15,570)	(10,392)
Increase in accounts and notes receivable	(2,438)	(2,377)
Increase in direct financing lease receivable	(1,363)	
Increase in other assets	(731)	(841)
Increase (decrease) in accounts payable and accrued liabilities	(551)	2,424
Increase (decrease) in unearned rents	198	(614)
Net operating cash provided by continuing operations	110,404	92,540
Net operating cash provided (used) by discontinued operations	(27)	920
Net cash provided by operating activities	110,377	93,460
Investing activities:		
Acquisition of rental properties and other assets	(139,957)	(72,750)
Investment in consolidated joint venture		(31,291)
Investment in unconsolidated joint venture	(116)	
Investment in mortgage notes receivable	(173,871)	(177,621)
Investment in promissory notes receivable	(10,149)	(16,036)
Investment in a direct financing lease, net	(121,785)	
Additions to properties under development	(28,748)	(28,755)
Net cash used in investing activities from continued operations	(474,626)	(326,453)
Net proceeds from sale of real estate from discontinued operations	986	7,008
Net cash used in investing activities	(473,640)	(319,445)
Financing activities:		
Proceeds from long-term debt facilities	476,491	543,344

Edgar Filing: ENTERTAINMENT PROPERTIES TRUST - Form 10-Q

Principal payments on long-term debt	(332,324)	(295,067)
Deferred financing fees paid	(2,917)	(1,417)
Net proceeds from issuance of common shares	224,226	465
Net proceeds from issuance of preferred shares	83,438	111,125
Redemption of preferred shares		(57,536)
Impact of stock option exercises, net	(147)	(731)
Proceeds from payment on shareholder loan	1,600	
Purchase of common shares for treasury	(777)	(1,448)
Distributions paid to minority interests	(71)	(144)
Dividends paid to shareholders	(89,850)	(71,924)
Net cash provided by financing activities	359,669	226,667
Effect of exchange rate changes on cash	(451)	662
Net increase (decrease) in cash and cash equivalents	(4,045)	1,344
Cash and cash equivalents at beginning of the period	15,170	9,414
Cash and cash equivalents at end of the period	\$ 11,125	\$ 10,758

Supplemental information continued on next page.

**Table of Contents**

**ENTERTAINMENT PROPERTIES TRUST**  
**Consolidated Statements of Cash Flows**  
**(Unaudited)**  
**(Dollars in thousands)**

Continued from previous page.

	<b>Nine Months Ended September</b>	
	<b>2008</b>	<b>30,</b>
		<b>2007</b>
Supplemental schedule of non-cash activity:		
Acquisition of interest in joint venture assets in exchange for assumption of debt and other liabilities at fair value	\$	\$ 136,029
Transfer of property under development to rental property	\$ 16,522	\$ 21,203
Issuance of nonvested shares at fair value, including nonvested shares issued for payment of bonuses	\$ 6,028	\$ 8,756
Supplemental disclosure of cash flow information:		
Cash paid during the period for interest	\$ 51,125	\$ 40,476
Cash paid (received) during the period for income taxes	\$ (701)	\$ 71
See accompanying notes to consolidated financial statements.		

9

**Table of Contents**

**ENTERTAINMENT PROPERTIES TRUST**  
**Notes to Consolidated Financial Statements (Unaudited)**

**1. Organization**

**Description of Business**

Entertainment Properties Trust (the Company) is a Maryland real estate investment trust (REIT) organized on August 29, 1997. The Company develops, owns, leases and finances megaplex theatres, entertainment retail centers (centers generally anchored by an entertainment component such as a megaplex theatre and containing other entertainment-related properties), and destination recreational and specialty properties. The Company's properties are located in the United States and Canada.

**2. Significant Accounting Policies**

**Basis of Presentation**

The accompanying unaudited consolidated financial statements of the Company have been prepared in accordance with U.S. generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by U.S. generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. In preparing the consolidated financial statements, management is required to make estimates and assumptions that affect the reported amounts of assets and liabilities as of the date of the balance sheet and revenues and expenses for the period. Actual results could differ significantly from those estimates. In addition, operating results for the nine-month period ended September 30, 2008 are not necessarily indicative of the results that may be expected for the year ending December 31, 2008.

The Company consolidates certain entities in cases where it is deemed to be the primary beneficiary in a variable interest entity (VIE), as defined in FIN No. 46(R), Consolidation of Variable Interest Entities (FIN 46R). The equity method of accounting is applied to entities in which the Company is not the primary beneficiary as defined in FIN 46R, or does not have effective control, but can exercise influence over the entity with respect to its operations and major decisions.

The consolidated balance sheet as of December 31, 2007 has been derived from the audited consolidated balance sheet at that date but does not include all of the information and footnotes required by U.S. generally accepted accounting principles for complete financial statements.

For further information, refer to the consolidated financial statements and footnotes thereto included in the Company's Annual Report on Form 10-K for the year ended December 31, 2007 filed with the Securities and Exchange Commission (SEC) on February 26, 2008.

**Revenue Recognition**

Rents that are fixed and determinable are recognized on a straight-line basis over the minimum terms of the leases. Base rent escalation on leases that are dependent upon increases in the Consumer Price Index (CPI) is recognized when known. Straight-line rent receivable is included in accounts receivable and was \$23.3 million and \$20.8 million at September 30, 2008 and December 31, 2007, respectively. In addition, most of the Company's tenants are subject to additional rents if gross revenues of the properties exceed certain thresholds defined in the lease agreements (percentage

**Table of Contents**

rents). Percentage rents are recognized at the time when specific triggering events occur as provided by the lease agreements. Percentage rents of \$1.5 and \$1.6 million were recognized during the nine months ended September 30, 2008 and 2007, respectively. Lease termination fees are recognized when the related leases are canceled and the Company has no obligation to provide services to such former tenants. No termination fees were recognized during the nine months ended September 30, 2008 and 2007.

Direct financing lease income is recognized on the effective interest method to produce a level yield on funds not yet recovered. Estimated unguaranteed residual values at the date of lease inception represent management's initial estimates of fair value of the leased assets at the expiration of the lease, not to exceed original cost. Significant assumptions used in estimating residual values include estimated net cash flows over the remaining lease term and expected future real estate values. The estimated unguaranteed residual value is reviewed on an annual basis. The Company evaluates the collectibility of its direct financing lease receivable to determine whether it is impaired. A receivable is considered to be impaired when, based on current information and events, it is probable that the Company will be unable to collect all amounts due according to the existing contractual terms. When a receivable is considered to be impaired, the amount of loss is calculated by comparing the recorded investment to the value determined by discounting the expected future cash flows at the receivable's effective interest rate or to the value of the underlying collateral if the receivable is collateralized.

**Concentrations of Risk**

American Multi-Cinema, Inc. (AMC) is the lessee of a substantial portion (51%) of the megaplex theatre rental properties held by the Company (including joint venture properties) at September 30, 2008 as a result of a series of sale leaseback transactions pertaining to a number of AMC megaplex theatres. A substantial portion of the Company's rental revenues (approximately \$73.1 million, or 48%, and \$71.3 million, or 52%, for the nine months ended September 30, 2008 and 2007, respectively) result from the rental payments by AMC under the leases, or its parent, AMC Entertainment, Inc. (AMCE), as the guarantor of AMC's obligations under the leases. AMCE had total assets of \$3.8 billion and \$4.1 billion, total liabilities of \$2.7 billion and \$2.7 billion and total stockholders' equity of \$1.1 billion and \$1.4 billion at April 3, 2008 and March 29, 2007, respectively. AMCE had net earnings of \$43.4 million for the fifty-three weeks ended April 3, 2008 and \$134.1 million for the fifty-two weeks ended March 29, 2007. In addition, AMCE had net earnings of \$10.8 million for the thirteen weeks ended July 3, 2008. AMCE has publicly held debt and accordingly, its consolidated financial information is publicly available. For the nine months ended September 30, 2008 and 2007, respectively, approximately \$29.1 million, or 14%, and \$25.7 million, or 15%, of total revenue was derived from the Company's four entertainment retail centers in Ontario, Canada. For the nine months ended September 30, 2008 and 2007, respectively, approximately \$42.2 million, or 20%, and \$34.2 million, or 20%, of our total revenue was derived from the Company's four entertainment retail centers in Ontario, Canada combined with the mortgage financing interest related to the Company's mortgage note receivable held in Canada and initially funded on June 1, 2005. The Company's wholly owned subsidiaries that hold the Canadian entertainment retail centers, third party debt and mortgage note receivable represent approximately \$244.5 million or 18% and \$233.3 million or 23% of the Company's net assets as of September 30, 2008 and December 31, 2007, respectively.

**Share-Based Compensation**

Share-based compensation is issued to employees of the Company pursuant to the Annual Incentive Program and the Long-Term Incentive Plan, and to Trustees for their service to the Company. Prior to May 9, 2007, all common shares and options to purchase common shares (share options) were



**Table of Contents**

issued under the 1997 Share Incentive Plan. The 2007 Equity Incentive Plan was approved by shareholders at the May 9, 2007 annual meeting and this plan replaced the 1997 Share Incentive Plan. Accordingly, all common shares and options to purchase common shares granted on or after May 9, 2007 are issued under the 2007 Equity Incentive Plan.

The Company accounts for share based compensation under the Statement of Financial Accounting Standard (SFAS) No. 123R Share-Based Payment. Share based compensation expense consists of share option expense, amortization of nonvested share grants and shares issued to Trustees for payment of their annual retainers. Share based compensation is included in general and administrative expense in the accompanying consolidated statements of income, and totaled \$3.0 million and \$2.4 million for the nine months ended September 30, 2008 and 2007, respectively.

***Share Options***

Share options are granted to employees pursuant to the Long-Term Incentive Plan and to Trustees for their service to the Company. The fair value of share options granted is estimated at the date of grant using the Black-Scholes option pricing model. Share options granted to employees vest over a period of five years and share option expense for these options is recognized on a straight-line basis over the vesting period. Share options granted to Trustees vest immediately but shares issued upon exercise cannot be sold or transferred for a period of one year from the grant date. Share option expense for Trustees is recognized on a straight-line basis over the year of service by the Trustees. The expense related to share options included in the determination of net income for the nine months ended September 30, 2008 and 2007 was \$334 thousand and \$319 thousand, respectively. The following assumptions were used in applying the Black-Scholes option pricing model at the grant dates: risk-free interest rate of 3.2% to 3.5% and 4.8% for the nine months ended September 30, 2008 and 2007, respectively, dividend yield of 6.7% and 5.2% to 5.4% for the nine months ended September 30, 2008 and 2007, respectively, volatility factors in the expected market price of the Company's common shares of 23.2% and 19.5% to 19.8% for the nine months ended September 30, 2008 and 2007, respectively, no expected forfeitures and an expected life of eight years. The Company uses historical data to estimate the expected life of the option and the risk-free interest rate is based on the U.S. Treasury yield curve in effect at the time of grant. Additionally, expected volatility is computed based on the average historical volatility of the Company's publicly traded shares.

***Nonvested Shares Issued to Employees***

The Company grants nonvested shares to employees pursuant to both the Annual Incentive Program and the Long-Term Incentive Plan. The Company amortizes the expense related to the nonvested shares awarded to employees under the Long-Term Incentive Plan and the premium awarded under the nonvested share alternative of the Annual Incentive Program on a straight-line basis over the future vesting period (three or five years). Total expense recognized related to all nonvested shares was \$2.4 million and \$1.9 million for the nine months ended September 30, 2008 and 2007, respectively.

***Shares Issued to Trustees***

The Company issues shares to Trustees for payment of their annual retainers. These shares vest immediately but may not be sold for a period of one year from the grant date. This expense is amortized by the Company on a straight-line basis over the year of service by the Trustees. Total expense recognized related to shares issued to Trustees was \$257 thousand and \$201 thousand for the nine months ended September 30, 2008 and 2007, respectively.

**Table of Contents****Reclassifications**

Certain reclassifications have been made to the prior period amounts to conform to the current period presentation.

**3. Rental Properties**

The following table summarizes the carrying amounts of rental properties as of September 30, 2008 and December 31, 2007 (in thousands):

	<b>September 30, 2008</b>	<b>December 31, 2007</b>
	(Unaudited)	
Buildings and improvements	\$ 1,463,185	\$ 1,412,812
Furniture, fixtures & equipment	60,598	25,005
Land	441,112	388,411
	1,964,895	1,826,228
Accumulated depreciation	(206,136)	(177,607)
Total	\$ 1,758,759	\$ 1,648,621

Depreciation expense on rental properties was \$29.8 million and \$25.4 million for the nine months ended September 30, 2008 and 2007, respectively.

**4. Investments in Mortgage Notes**

On May 30, 2008, a wholly-owned subsidiary of the Company invested an additional \$5.0 million Canadian (\$5.1 million U.S.) in the mortgage note receivable from Metropolis Limited Partnership (the Partnership) related to the construction of Toronto Life Square, a 13 level entertainment retail center in downtown Toronto. Consistent with the previous advances on this project, this advance has a five year stated term and bears interest at 15%. The carrying value of this mortgage note receivable at September 30, 2008 was \$119.3 million Canadian (\$113.6 million U.S.), including related accrued interest receivable of \$39.0 million Canadian (\$36.6 million U.S.). A bank has provided first mortgage construction financing to the Partnership totaling \$118.3 million Canadian (\$111.2 million U.S.) as of September 30, 2008.

As of September 30, 2008, the Company has posted \$7.6 million irrevocable stand-by letters of credit related to the Toronto Life Square project. The letters of credit are expected to be cancelled or drawn upon during the remainder of 2008. Interest accrues on these outstanding letters of credit at a rate of 12% (15% if drawn upon).

Additionally during May of 2008, the Partnership exercised its option to extend by six months the 25% principal payment and all accrued interest to date that was due on May 31, 2008 to November 30, 2008. The Partnership can also prepay the note (in full only, including all accrued interest) at any time with prepayment penalties as defined in the agreement.

On the maturity date or any other date that the Partnership elects to prepay the note in full, the Company has the option to purchase a 50% equity interest in the Partnership or alternative joint venture vehicle that is established. The purchase price stipulated in the option is based on estimated fair market value of the entertainment retail center at the time of exercise, defined as the then existing stabilized net operating income capitalized at a pre-determined rate. A subscription agreement

**Table of Contents**

governs the terms of the cash flow sharing with the other partners should the Company elect to become an owner. On August 20, 2008, a wholly-owned subsidiary of the Company provided a secured first mortgage loan of \$225.0 million to Concord Resorts, LLC related to a planned resort development in Sullivan County, New York. The total project is expected to consist of a casino complex and a 1,580 acre resort complex. The resort complex is expected to consist of a 125-room spa hotel, a 350-room waterpark style hotel, a convention center and support facilities, a waterpark, two golf courses, and a retail and residential development. The Company's investment is secured by a first mortgage on the resort complex real estate. The Company has certain rights to convert its mortgage interest into fee ownership as the project is further developed. The loan is guaranteed by Louis R. Cappelli and has a maturity date of September 10, 2010 with 105% of the outstanding principal balance due at payoff. This note requires a debt service reserve to be maintained that was initially funded during August of 2008 with \$4 million from the initial advance. An additional \$20 million is anticipated to be funded to the debt service reserve with the Company's next expected advance. Monthly interest only payments are transferred to the Company from the debt service reserve and the unpaid principal balance bears interest at 9.0% until the first anniversary of the loan, on which the interest rate increases to 11.0% for the remaining term. The Company charges a commitment fee equal to 3% of the amount advanced. During the three months ended September 30, 2008, the Company advanced \$132.5 million under this agreement. The commitment fees, interest payments and 5% additional principal payment, net of direct cost incurred, are recognized as interest income using the effective interest method over the term of the loan (weighted average effective interest rate was 13.9% at September 30, 2008). Accordingly, the net carrying value of this mortgage note receivable at September 30, 2008 was \$133.1 million, including related accrued interest receivable of \$619 thousand. In conjunction with the investment in Concord Resorts, LLC, the Company obtained a secured mortgage loan commitment in the amount of \$112.5 million as described in Note 6.

**5. Unconsolidated Real Estate Joint Ventures**

At September 30, 2008, the Company had a 21.0% and 21.9% investment interest in two unconsolidated real estate joint ventures, Atlantic-EPR I and Atlantic-EPR II, respectively. The Company accounts for its investment in these joint ventures under the equity method of accounting.

The Company recognized income of \$400 and \$369 (in thousands) from its investment in the Atlantic-EPR I joint venture during the first nine months of 2008 and 2007, respectively. The Company also received distributions from Atlantic-EPR I of \$449 and \$417 (in thousands) during the first nine months of 2008 and 2007, respectively.

Unaudited condensed financial information for Atlantic-EPR I is as follows as of and for the nine months ended September 30, 2008 and 2007 (in thousands):

	<b>2008</b>	<b>2007</b>
Rental properties, net	\$28,118	28,762
Cash	510	141
Long-term debt	15,515	15,886
Partners' equity	12,646	12,917
Rental revenue	3,302	3,237
Net income	1,793	1,717

**Table of Contents**

The Company recognized income of \$242 and \$228 (in thousands) from its investment in the Atlantic-EPR II joint venture during the first nine months of 2008 and 2007, respectively. The Company also received distributions from Atlantic-EPR II of \$272 and \$258 (in thousands) during the first nine months of 2008 and 2007, respectively.

Unaudited condensed financial information for Atlantic-EPR II is as follows as of and for the nine months ended September 30, 2008 and 2007 (in thousands):

	<b>2008</b>	<b>2007</b>
Rental properties, net	\$22,074	22,534
Cash	100	100
Long-term debt	13,360	13,662
Note payable to Entertainment Properties Trust	117	117
Partners equity	8,496	8,657
Rental revenue	2,083	2,083
Net income	997	985

The joint venture agreements for Atlantic-EPR I and Atlantic-EPR II allow the Company's partner, Atlantic of Hamburg, Germany (Atlantic), to exchange up to a maximum of 10% of its ownership interest per year in each of the joint ventures for common shares of the Company or, at the discretion of the Company, the cash value of those shares as defined in each of the joint venture agreements. Atlantic gave the Company notice that effective December 31, 2007, March 31, 2008 and June 30, 2008 they wanted to exchange a portion of their ownership in Atlantic-EPR I and Atlantic-EPR II. In January of 2008, the Company paid Atlantic cash of \$95 (in thousands) in exchange for additional ownership of 0.5% for Atlantic-EPR I. In April of 2008, the Company paid Atlantic cash of \$38 (in thousands) in exchange for additional ownership of 0.2% of Atlantic EPR I. In July of 2008, the Company paid Atlantic cash of \$79 (in thousands) in exchange for additional ownership of 0.7% for Atlantic EPR II. These exchanges did not impact total partners equity in either Atlantic-EPR I or Atlantic-EPR II.

As discussed in Note 12, on April 2, 2008, the Company acquired, through a wholly-owned subsidiary, the remaining 50% ownership interest in CS Fund I and CS Fund I became a wholly-owned subsidiary. Prior to the date of this acquisition, CS Fund I was accounted for as an unconsolidated real estate joint venture and from January 1, 2008 to April 1, 2008, the Company recognized income of \$1.1 million and received distributions of \$1.3 million related to this investment.

**6. Mortgage Notes Payable**

On January 11, 2008, a wholly-owned subsidiary of the Company obtained a non-recourse mortgage loan of \$17.5 million. This mortgage is secured by a theatre property located in Garland, Texas. The mortgage loan bears interest at 6.19%, matures on February 1, 2018, and requires monthly principal and interest payments of \$127 thousand with a final principal payment at maturity of \$11.6 million.

On March 13, 2008, VinREIT, LLC (VinREIT), a subsidiary of the Company that holds the Company's vineyard and winery assets, entered into a \$65.0 million term loan and revolving credit facility that is non-recourse to the Company. The original credit facility provided for interest at LIBOR plus 1.5% on loans secured by real property and LIBOR plus 1.75% on loans secured by fixtures and equipment. The original credit facility also provided for an aggregate advance rate of 65% based on the lesser of cost or appraised value. Term loans secured by real property under the original credit facility were amortized over a 25-year period and matured on the earlier of ten years after disbursement or the end of the related real property's lease term. The equipment and fixture loans had a maturity date that is the earlier of ten years or the end of the related lease term and

**Table of Contents**

required full principal amortization over the term of the loan. The original credit facility also contained an accordion feature whereby, subject to lender approval, the Company may obtain additional revolving credit and term loan commitments in an aggregate principal amount not to exceed \$35.0 million.

On September 26, 2008, the Company amended the original credit facility described above. The overall size of the credit facility was increased from \$65.0 million to \$129.5 million and is now 30% recourse to the Company. Loans drawn under the amended credit facility bear interest at LIBOR plus 1.75% on loans secured by real property and LIBOR plus 2.00% on loans secured by fixtures and equipment. Term loans secured by real property can be drawn through September 26, 2010 under the amended credit facility and the accordion feature was increased to \$170.5 million. The revolving feature of the facility was eliminated. The amended credit facility still provides for an aggregate advance rate of 65% based on the lesser of cost or appraised value and the other terms of the original credit facility remain the same.

The initial disbursement under the credit facility consisted of two term loans secured by real property with an aggregate principal amount of a \$9.5 million that mature on December 1, 2017 and March 5, 2018. The Company simultaneously entered into two interest rate swap agreements that fixed the interest rates at a weighted average of 5.77% on these loans through their maturity. On March 24, 2008 and August 20, 2008, the Company obtained \$3.2 million and \$5.1 million, respectively, of term loans secured by fixtures and equipment under the facility. These term loans mature on December 1, 2017 and will be fully amortized at maturity. On September 15, 2008, the Company entered into an interest rate swap agreement that fixed the interest rates on these loans at 5.63% on the outstanding principal through their maturity. Additionally, on September 26, 2008, the Company obtained four term loans secured by real property with an aggregate principal amount of \$74.9 million under the facility that mature on June 5, 2018. The Company simultaneously entered into four interest rate swap agreements on these loans that fix the interest rate at 5.11% through October 7, 2013. Subsequent to the closing of these loans, approximately \$36.8 million of the facility remains available.

The net proceeds from the above-referenced loans were used to pay down outstanding indebtedness under the Company's unsecured revolving credit facility.

On July 11, 2008, the Company paid in full its mortgage note payable which had an outstanding balance of principal and interest totaling \$90.6 million. This mortgage note payable was secured by eight theatre properties and required monthly principal and interest payments of \$689 thousand. The maturity date of the mortgage note payable was July 11, 2028. The mortgage agreement contained a hyper-amortization feature, in which the principal payment schedule was rapidly accelerated, and the Company's principal and interest payments were substantially increased, if the balance was not paid in full on the anticipated prepayment date of July 11, 2008.

On August 20, 2008, a wholly-owned subsidiary of the Company obtained a secured mortgage loan commitment of \$112.5 million, of which \$56.25 million was advanced during the three months ended September 30, 2008. The mortgage is secured by the mortgage note receivable entered into with Concord Resorts, LLC in conjunction with the planned resort development as discussed in Note 4. The mortgage loan bears interest at LIBOR plus 3.5%, and in the event LIBOR is less than 2.5%, LIBOR shall be deemed to be 2.5% for purposes of calculating the applicable interest rate for the period. The loan matures on September 10, 2010 and requires monthly interest only payments.

**Table of Contents****7. Derivative Instruments**

On March 13, 2008, the Company entered into two interest rate swap agreements to fix the interest rates on the two initial outstanding term loans described in Note 6 with an aggregate notional amount of \$9.5 million. At September 30, 2008, these agreements have outstanding notional amounts of \$4.6 million and \$4.8 million, termination dates of December 1, 2017 and March 5, 2018 and fixed rates of 5.76% and 5.78%, respectively. In September 2008, the Company entered into five interest rate swap agreements to fix the interest rates on the remaining outstanding term loans described in Note 6 with an aggregate notional amount of \$83.1 million. At September 30, 2008, four of these agreements have aggregate outstanding notional amounts of \$74.9 million, a termination date of October 7, 2013 and fixed rates of 5.11%. The remaining agreement has an outstanding notional amount of \$8.2 million at September 30, 2008, a termination date of December 1, 2017 and a fixed rate of 5.63%. Other expense for the nine months ended September 30, 2008 and 2007 includes \$504 thousand and \$874 thousand, respectively, of net realized losses resulting from regular monthly settlements of foreign currency forward contracts. Additionally, interest expense, net for the nine months ended September 30, 2008 includes \$1.0 million of net realized losses resulting from regular monthly settlements of interest rate swaps.

**8. Fair Value Disclosures**

On January 1, 2008, the Company adopted Statement of Financial Accounting Standards (SFAS) No. 157, Fair Value Measurements. SFAS No. 157 defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. SFAS No. 157 applies to reported balances that are required or permitted to be measured at fair value under existing accounting pronouncements; accordingly, the standard does not require any new fair value measurements of reported balances.

SFAS No. 157 emphasizes that fair value is a market-based measurement, not an entity-specific measurement.

Therefore, a fair value measurement should be determined based on the assumptions that market participants would use in pricing the asset or liability. As a basis for considering market participant assumptions in fair value measurements, SFAS No. 157 establishes a fair value hierarchy that distinguishes between market participant assumptions based on market data obtained from sources independent of the reporting entity (observable inputs that are classified within Levels 1 and 2 of the hierarchy) and the reporting entity's own assumptions about market participant assumptions (unobservable inputs classified within Level 3 of the hierarchy).

Level 1 inputs utilize quoted prices (unadjusted) in active markets for identical assets or liabilities that the Company has the ability to access. Level 2 inputs are inputs other than quoted prices included in Level 1 that are observable for the asset or liability, either directly or indirectly. Level 2 inputs may include quoted prices for similar assets and liabilities in active markets, as well as inputs that are observable for the asset or liability (other than quoted prices), such as interest rates, foreign exchange rates, and yield curves that are observable at commonly quoted intervals.

Level 3 inputs are unobservable inputs for the asset or liability, which are typically based on an entity's own assumptions, as there is little, if any, related market activity. In instances where the determination of the fair value measurement is based on inputs from different levels of the fair value hierarchy, the level in the fair value hierarchy within which the entire fair value measurement falls is based on the lowest level input that is significant to the fair value measurement in its entirety. The Company's assessment of the significance of a particular input to the fair value measurement in its entirety requires judgment, and considers factors specific to the asset or liability.

**Table of Contents*****Derivative financial instruments***

Currently, the Company uses interest rate swaps, foreign currency forwards and cross currency swaps to manage its interest rate and foreign currency risk. The valuation of these instruments is determined using widely accepted valuation techniques including discounted cash flow analysis on the expected cash flows of each derivative. This analysis reflects the contractual terms of the derivatives, including the period to maturity, and uses observable market-based inputs, including interest rate curves, foreign exchange rates, and implied volatilities. To comply with the provisions of SFAS No. 157, the Company incorporates credit valuation adjustments to appropriately reflect both its own nonperformance risk and the respective counterparty's nonperformance risk in the fair value measurements. In adjusting the fair value of its derivative contracts for the effect of nonperformance risk, the Company has considered the impact of netting and any applicable credit enhancements, such as collateral postings, thresholds, mutual puts, and guarantees.

Although the Company has determined that the majority of the inputs used to value its derivatives fall within Level 2 of the fair value hierarchy, the credit valuation adjustments associated with its derivatives utilize Level 3 inputs, such as estimates of current credit spreads to evaluate the likelihood of default by itself and its counterparties. However, as of September 30, 2008, the Company has assessed the significance of the impact of the credit valuation adjustments on the overall valuation of its derivative positions and has determined that the credit valuation adjustments are not significant to the overall valuation of its derivatives. As a result, the Company has determined that its derivative valuations in their entirety are classified in Level 2 of the fair value hierarchy.

The table below presents the Company's assets and liabilities measured at fair value on a recurring basis as of September 30, 2008, aggregated by the level in the fair value hierarchy within which those measurements fall.

**Liabilities Measured at Fair Value on a Recurring Basis at September 30, 2008**  
(Unaudited, dollars in thousands)

Description	Quoted	Significant		Balance at
	Prices in Active Markets	Other	Significant	
	for Identical Assets (Level I)	Observable Inputs (Level 2)	Unobservable Inputs (Level 3)	30, 2008
Derivative financial instruments*	\$	\$ 4,318	\$	\$ 4,318
Derivative financial instruments**	\$	\$ (1,373)	\$	\$ (1,373)

\* Included in Other Assets in the accompanying consolidated balance sheet.

\*\* Included in Accounts payable and accrued liabilities in the accompanying consolidated balance sheet.

The Company does not have any fair value measurements using significant unobservable inputs (Level 3) as of September 30, 2008.

In February 2008, the FASB proposed a one-year deferral of fair value measurement requirements for nonfinancial assets and liabilities that are not required or permitted to be measured at fair value on a recurring basis. Accordingly, the Company's adoption of this standard in 2008 was limited to financial assets and liabilities, which affects the valuation of the Company's derivative contracts.



**Table of Contents****9. Earnings Per Share**

The following table summarizes the Company's common shares used for computation of basic and diluted earnings per share for the nine months ended September 30, 2008 and 2007 (unaudited, amounts in thousands except per share information):

	Three Months Ended September 30, 2008			Nine Months Ended September 30, 2008		
	Income (numerator)	Shares (denominator)	Per Share Amount	Income (numerator)	Shares (denominator)	Per Share Amount
Basic earnings:						
Income from continuing operations	\$ 36,058	31,750	\$ 1.14	\$ 94,498	29,969	\$ 3.15
Preferred dividend requirements	(7,552)		(0.24)	(20,714)		(0.69)
Income from continuing operations available to common shareholders	28,506	31,750	0.90	73,784	29,969	2.46
Effect of dilutive securities:						
Share options		332	(0.01)		313	(0.02)
Non-vested common share grants		119			112	(0.01)
Diluted earnings:						
Income from continuing continuing operations	\$ 28,506	32,201	\$ 0.89	\$ 73,784	30,394	\$ 2.43
Income from continuing operations available to common shareholders	\$ 28,506	31,750	\$ 0.90	\$ 73,784	29,969	\$ 2.46
Income from discontinued operations				92		0.01
Income available to common shareholders	\$ 28,506	31,750	\$ 0.90	\$ 73,876	29,969	\$ 2.47
Effect of dilutive securities:						
Share options		332	(0.01)		313	(0.03)
Non-vested common share grants		119			112	(0.01)

Edgar Filing: ENTERTAINMENT PROPERTIES TRUST - Form 10-Q

Diluted earnings	\$ 28,506	32,201	\$ 0.89	\$ 73,876	30,394	\$ 2.43
	<b>Three Months Ended September 30, 2007</b>			<b>Nine Months Ended September 30, 2007</b>		
	<b>Income (numerator)</b>	<b>Shares (denominator)</b>	<b>Per Share Amount</b>	<b>Income (numerator)</b>	<b>Shares (denominator)</b>	<b>Per Share Amount</b>
Basic earnings:						
Income from continuing operations	\$ 26,322	26,432	\$ 1.00	\$ 73,433	26,378	\$ 2.78
Preferred dividend requirements	(5,611)		(0.22)	(15,701)		(0.59)
Series A preferred share redemption costs				(2,101)		(0.08)
Income from continuing operations available to common shareholders	20,711	26,432	0.78	55,631	26,378	2.11
Effect of dilutive securities:						
Share options		317	(0.01)		383	(0.03)
Non-vested common share grants		75			97	(0.01)
Diluted earnings:						
Income from continuing operations	\$ 20,711	26,824	\$ 0.77	\$ 55,631	26,858	\$ 2.07
Income from continuing operations available to common shareholders	\$ 20,711	26,432	\$ 0.78	\$ 55,631	26,378	\$ 2.11
Income from discontinued operations	28			4,102		0.15
Income available to common shareholders	\$ 20,739	26,432	\$ 0.78	\$ 59,733	26,378	\$ 2.26
Effect of dilutive securities:						
Share options		317	(0.01)		383	(0.03)
Non-vested common share grants		75			97	(0.01)
Diluted earnings	\$ 20,739	26,824	\$ 0.77	\$ 59,733	26,858	\$ 2.22

The additional 1.9 million common shares that would result from the conversion of the Company's 5.75% Series C cumulative convertible preferred shares and the additional 1.6 million common shares that would result from the conversion of the Company's 9.0% Series E cumulative convertible preferred shares and the corresponding add-back of the preferred dividends declared on those shares are not included in the calculation of diluted earnings per share for the three and nine months ended September 30, 2008 and 2007 because the effect is anti-dilutive.

**Table of Contents****10. Equity Incentive Plans**

All grants of common shares and options to purchase common shares were issued under the 1997 Share Incentive Plan prior to May 9, 2007, and under the 2007 Equity Incentive Plan on and after May 9, 2007. Under the 2007 Equity Incentive Plan, an aggregate of 950,000 common shares and options to purchase common shares, subject to adjustment in the event of certain capital events, may be granted. At September 30, 2008, there were 721,216 shares available for grant under the 2007 Equity Incentive Plan.

**Share Options**

Share options granted under both the 1997 Share Incentive Plan and the 2007 Equity Incentive Plan have exercise prices equal to the fair market value of a common share at the date of grant. The options may be granted for any reasonable term, not to exceed 10 years, and for employees typically become exercisable at a rate of 20% per year over a five year period. For Trustees, share options become exercisable upon issuance, however, the underlying shares cannot be sold within a one year period subsequent to the grant date. The Company generally issues new common shares upon option exercise. A summary of the Company's share option activity and related information is as follows:

	<b>Number of Shares</b>	<b>Option Price Per Share</b>	<b>Weighted Average Exercise Price</b>
Outstanding at December 31, 2007	906,998	\$ 14.00 - \$65.50	\$32.49
Exercised	(81,914)	19.30 - 42.46	31.06
Granted	86,033	47.20 - 52.72	47.84
Outstanding at September 30, 2008	911,117	14.00 - 65.50	34.07

The weighted average fair value of options granted was \$4.31 and \$7.91 during the nine months ended September 30, 2008 and 2007, respectively. During the nine months ended September 30, 2008, the intrinsic value of stock options exercised was \$1.8 million. At September 30, 2008 and December 31, 2007, stock-option expense to be recognized in future periods was \$1.1 million and \$1.1 million, respectively.

**Table of Contents**

The following table summarizes outstanding options at September 30, 2008:

<b>Exercise price range</b>	<b>Options outstanding</b>	<b>Weighted avg. life remaining</b>	<b>Weighted avg. exercise price</b>	<b>Aggregate intrinsic value (in thousands)</b>
\$14.00 - 19.99	189,141	1.9		
20.00 - 29.99	264,127	4.2		
30.00 - 39.99	82,222	5.5		
40.00 - 49.99	258,682	7.8		
50.00 - 59.99	10,000	9.6		
60.00 - 65.50	106,945	8.3		
	911,117	5.4	\$ 34.07	\$ 19,827

The following table summarizes exercisable options at September 30, 2008:

<b>Exercise price range</b>	<b>Options outstanding</b>	<b>Weighted avg. life remaining</b>	<b>Weighted avg. exercise price</b>	<b>Aggregate intrinsic value (in thousands)</b>
\$14.00 - 19.99	189,141	1.9		
20.00 - 29.99	264,127	4.2		
30.00 - 39.99	61,506	5.5		
40.00 - 49.99	68,471	7.2		
50.00 - 59.99	10,000	9.6		
60.00 - 69.99	29,393	8.4		
	622,638	4.3	\$ 27.09	\$ 17,462

**Nonvested Shares**

A summary of the Company's nonvested share activity and related information is as follows:

	<b>Number of Shares</b>	<b>Weighted Average Grant Date Fair Value</b>	<b>Weighted Average Life Remaining</b>
Outstanding at December 31, 2007	238,553	\$53.80	
Granted	120,691	47.20	
Vested	(76,916)	49.38	
Outstanding at September 30, 2008	282,328	52.18	1.46

The holders of nonvested shares have voting rights and receive dividends from the date of grant. These shares vest ratably over a period of three or five years. The fair value of the nonvested shares that vested during the nine months ended September 30, 2008 and September 30, 2007 was \$3.6 million and \$3.5 million, respectively. At September 30, 2008 and December 31, 2007, unamortized share-based compensation expense related to nonvested shares was \$8.7 million and \$7.4 million, respectively.

**11. Issuance of Series E Preferred Shares and Common Shares**

Edgar Filing: ENTERTAINMENT PROPERTIES TRUST - Form 10-Q

On April 2, 2008, the Company issued 3,450,000 shares (including the exercise of the over-allotment option of 450,000 shares) of 9.0% Series E cumulative convertible preferred shares (Series E preferred shares) in a registered public offering at a purchase price of \$25.00 per share resulting in

21

---

**Table of Contents**

net proceeds of approximately \$83.4 million, after underwriting discounts and expenses. The Company will pay cumulative dividends on the Series E preferred shares from the date of original issuance in the amount of \$2.25 per share each year, which is equivalent to 9.0% of the \$25 liquidation preference per share. The Company does not have the right to redeem the Series E preferred shares except in limited circumstances to preserve the Company's REIT status. The Series E preferred shares have no stated maturity and will not be subject to any sinking fund or mandatory redemption. The Series E preferred shares are convertible, at the holder's option, into the Company's common shares at an initial conversion rate of 0.4512 common shares per Series E preferred share, which is equivalent to an initial conversion price of \$55.41 per common share. This conversion ratio may increase over time upon certain specified triggering events including if the Company's common share dividend exceeds a certain quarterly threshold which will initially be set at \$0.84 per common share.

Also, on April 2, 2008, the Company issued pursuant to a registered public offering 2,415,000 of common shares (including the exercise of the over-allotment option of 315,000 shares) at a purchase price of \$48.18 per share. Total net proceeds to the Company after underwriting discounts and expenses were approximately \$111.2 million.

During July 2008, the Company issued pursuant to a registered public offering 324 thousand common shares under the direct share purchase component of the Company's Dividend Reinvestment and Direct Share Purchase Plan. These shares were sold at an average price of \$50.61 per share and total net proceeds after expenses were approximately \$16.3 million.

On August 5, 2008, the Company issued pursuant to a registered public offering 1,900,000 of common shares at a purchase price of \$50.96 per share. Total net proceeds to the Company after underwriting discounts and expenses were approximately \$96.5 million.

The proceeds from the above public offerings were used to pay down the Company's unsecured revolving credit facility, to fund the CS Fund I purchase described in Note 12 and remaining net proceeds were invested in interest-bearing accounts and short-term interest-bearing securities which are consistent with the qualification as a REIT under the Internal Revenue Code.

**12. Property Acquisitions and Dispositions**

On April 2, 2008, the Company acquired, through a wholly-owned subsidiary, the remaining 50.0% ownership interest in CS Fund I for a total purchase price of approximately \$39.5 million from its partner, JERIT Fund I Member. Upon completion of this transaction, CS Fund I became a wholly-owned subsidiary of the Company. The member purchase agreement provides that the Company shall pay JERIT Fund I Member a monthly asset management fee of 1.875% of the monthly rent for the six month period following the closing. The membership purchase agreement also contains an option pursuant to which JERIT Fund I Member may re-acquire its 50% interest in CS Fund I within six months after the acquisition of such interest by the Company. This option expired on October 2, 2008 and JERIT Fund I Member did not exercise it. At the time of the acquisition, CS Fund I owned 12 public charter school properties located in Nevada, Arizona, Ohio, Georgia, Missouri, Michigan, Florida and Washington D.C. These schools are leased under a long-term triple net master lease which has been classified as a direct financing lease as described in Note 13.

On June 9, 2008, the Company acquired, through VinREIT, four wineries and two vineyards and simultaneously leased these properties to Eight Estates Fine Wines, LLC (DBA Ascentia Wine Estates). The acquisition price for these properties was approximately \$116.5 million and the

**Table of Contents**

properties are leased under long-term triple-net leases. The properties total 936 acres including 565 acres of vineyards. Three wineries and two vineyards are located in California with an additional winery located in Washington. The Company owns 96% of the membership interests of VinREIT and accordingly, the financial statements of VinREIT have been consolidated into the Company's financial statements. The Company's partner in VinREIT is Global Wine Partners (U.S.), LLC (GWP). GWP provides certain consulting services to VinREIT in connection with the acquisition, development, administration and marketing of vineyard properties and wineries. GWP is entitled to receive a 1% origination fee on winery and vineyard investments and 4% of the annual cash flow of VinREIT after a charge for debt service. GWP may receive additional amounts upon certain events and after certain hurdle rates of return are achieved by us. Accordingly, the Company paid \$1.3 million in origination fees and \$125 thousand in due diligence fees for the nine months ended September 30, 2008 and minority interest expense related to VinREIT was \$199 thousand for the nine months ended September 30, 2008, representing GWP's portion of the annual cash flow. In 2008, Donald Brain, the brother of the Company's Chief Executive Officer, acquired a 33.33% interest in GWP. The Company's Board of Trustees was informed of Donald Brain's acquisition of such interest, and affirmed VinREIT's business relationship with GWP. There was no modification to the operating agreement of VinREIT, and future amendments or modifications to the operating agreement or relationship with GWP will require the Board of Trustees' approval.

On June 17, 2008, the Company acquired, through a wholly-owned subsidiary, ten public charter school properties from Imagine Schools, Inc. Additionally, the Company funded expansions at three of the public charter school properties previously acquired. The acquisition price for the properties was approximately \$82.3 million and the properties are leased under a long-term triple-net master lease. The transaction was executed as part of a \$200 million option agreement with Imagine Schools, and leaves approximately \$40 million available for acquisitions prior to December 2009. The ten new properties are located in Georgia, Missouri, Ohio and Indiana and the three expansions are located in Arizona, Nevada and Georgia. The master lease is classified as a direct financing lease as described in Note 13.

**13. Investment in a Direct Financing Lease**

As discussed in Note 12, investment in a direct financing lease relates to the Company's master lease of 22 public charter school properties. Investment in a direct financing lease, net represents estimated unguaranteed residual values of leased assets and net unpaid rentals, less related deferred income. The following table summarizes the carrying amounts of investment in a direct financing lease, net as of September 30, 2008 (in thousands):

	<b>September 30, 2008</b>
Total minimum lease payments receivable	\$ 552,211
Estimated unguaranteed residual value of leased assets	159,834
Less deferred income <sup>(1)</sup>	(549,136)
Investment in a direct financing lease, net	\$ 162,909

(1) Deferred income is net of \$1.7 million of initial direct costs.



**Table of Contents**

There was no investment in a direct financing lease for the year ended December 31, 2007. Additionally, the Company has determined that no allowance for losses was necessary at September 30, 2008.

The Company's direct financing lease has expiration dates ranging from approximately 23 to 25 years. Future minimum rentals receivable on this direct financing lease at September 30, 2008 are as follows (in thousands):

	<b>Amount</b>
Year:	
2008	\$ 3,996
2009	16,164
2010	16,530
2011	17,025
2012	17,536
Thereafter	480,960
<b>Total</b>	<b>\$ 552,211</b>

**14. Discontinued Operations**

Included in discontinued operations for the three and nine months ended September 30, 2008 and September 30, 2007 is a land parcel sold in June of 2008 for \$1.1 million. The land parcel was previously leased under a ground lease.

Additionally, included in discontinued operations for the three and nine months ended September 30, 2007 is a parcel including two leased properties sold in June of 2007 for \$7.7 million, aggregating 107 thousand square feet.

The operating results relating to assets sold are as follows (unaudited, in thousands):

	<b>Three Months Ended</b>		<b>Nine Months Ended</b>	
	<b>September 30,</b>		<b>September 30,</b>	
	<b>2008</b>	<b>2007</b>	<b>2008</b>	<b>2007</b>
Rental revenue		\$ 29		\$ 272
Tenant reimbursements		4		78
Other income				700
<b>Total revenue</b>		<b>33</b>		<b>1,050</b>
Property operating expense		5	27	130
Depreciation and amortization				58
<b>Income (loss) before gain on sale of real estate</b>		<b>28</b>	<b>(27)</b>	<b>862</b>
<b>Gain on sale of real estate</b>			<b>119</b>	<b>3,240</b>
<b>Net income</b>	<b>\$</b>	<b>\$ 28</b>	<b>\$ 92</b>	<b>\$ 4,102</b>

**Table of Contents**

**15. Other Commitments and Contingencies**

As of September 30, 2008, the Company had one theatre development project in Glendora, California under construction for which it has agreed to finance the development costs. The theatre is expected to have a total of 12 screens and the development costs are expected to be approximately \$13.2 million. Through September 30, 2008, the Company has invested \$8.9 million in this project, and has commitments to fund approximately \$4.3 million of additional improvements. Development costs are advanced by the Company in periodic draws. If the Company determines that construction is not being completed in accordance with the terms of the development agreement, the Company can discontinue funding construction draws. The Company has agreed to lease the theatre to the operator at pre-determined rates.

Additionally as of September 30, 2008, the Company had one winemaking and storage facility project under development for which it has agreed to finance the development costs. Through September 30, 2008, the Company has invested approximately \$2.7 million in this project for the purchase of land in Sonoma County, California, and has commitments to fund approximately \$5.8 million of additional improvements. Development costs are advanced by the Company in periodic draws. If the Company determines that construction is not being completed in accordance with the terms of the development agreement, the Company can discontinue funding construction draws. The Company has agreed to lease the facility to the operator at pre-determined rates.

The Company held a 50% ownership interest in Suffolk Retail LLC (Suffolk) which is developing additional retail space adjacent to one of the Company's megaplex theatres in Suffolk, Virginia. The Company's joint venture partner is the developer of the project and Suffolk has committed to pay the developer a development fee of \$1.2 million of which \$52 thousand is left to be paid at September 30, 2008. Additionally, as of September 30, 2008, Suffolk has commitments to fund approximately \$6.0 million in additional improvements for this development.

The Company has provided a guarantee of the payment of certain economic development revenue bonds totaling \$22.0 million for which the Company earns a fee at an annual rate of 1.75% over the 30 year term of the bond. The Company evaluated this guarantee in connection with the provisions of FASB Interpretation No. 45, Guarantor's Accounting and Disclosure Requirements, Including Indirect Guarantees of Indebtedness of Others (FIN 45). Based on certain criteria, FIN 45 requires a guarantor to record an asset and a liability at inception. Accordingly, the Company has recorded approximately \$4.0 million as a deferred asset included in accounts receivable and approximately \$4.0 million included in other liabilities in the accompanying consolidated balance sheets as of September 30, 2008 and December 31, 2007 which represents management's best estimate of the fair value of the guarantee at inception which will be realized over the term of the guarantee. No amounts have been accrued as a loss contingency related to this guarantee because payment by the Company is not probable.

The Company has certain unfunded commitments related to its mortgage note investments that it may be required to fund in the future. The Company is generally obligated to fund these commitments at the request of the borrower or upon the occurrence of events outside of its direct control. As of September 30, 2008, the Company had four mortgage notes receivable with unfunded commitments totaling approximately \$157.3 million. If such commitments are funded in the future, interest will be charged at rates consistent with the existing investments.

**Table of Contents**

**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations**

The following discussion should be read in conjunction with the Consolidated Financial Statements and Notes thereto included in this Quarterly Report on Form 10-Q. The forward-looking statements included in this discussion and elsewhere in this Quarterly Report on Form 10-Q involve risks and uncertainties, including anticipated financial performance, business prospects, industry trends, shareholder returns, performance of leases by tenants, performance on loans to customers and other matters, which reflect management's best judgment based on factors currently known. See Forward Looking Statements. Actual results and experience could differ materially from the anticipated results and other expectations expressed in our forward-looking statements as a result of a number of factors, including but not limited to those discussed in this Item and Item 1A, Risk Factors in our Annual Report on Form 10-K for the year ended December 31, 2007 filed with the SEC on February 26, 2008, and, to the extent applicable, our Quarterly Reports on Form 10-Q.

**Overview**

Our principal business objective is to be the nation's leading destination entertainment, entertainment-related, recreation and specialty real estate company by continuing to develop, acquire or finance high-quality properties. As of September 30, 2008, our total assets exceeded \$2.6 billion, and included investments in 79 megaplex theatre properties (including four joint venture properties) and various restaurant, retail, entertainment, destination recreational and specialty properties located in 29 states, the District of Columbia and Ontario, Canada. As of September 30, 2008, we had invested approximately \$35.0 million in development land and construction in progress for real-estate development and approximately \$506.9 million (including accrued interest) in mortgage financing for entertainment, recreational and specialty properties.

Substantially all of our single-tenant properties are leased pursuant to long-term, triple-net leases, under which the tenants typically pay all operating expenses of a property, including, but not limited to, all real estate taxes, assessments and other governmental charges, insurance, utilities, repairs and maintenance. A majority of our revenues are derived from rents received or accrued under long-term, triple-net leases. Tenants at our multi-tenant properties are typically required to pay common area maintenance charges to reimburse us for their pro rata portion of these costs. We incur general and administrative expenses including compensation expense for our executive officers and other employees, professional fees and various expenses incurred in the process of identifying, evaluating, acquiring and financing additional properties and mortgage notes. We are self-administered and managed by our Board of Trustees and executive officers. Our primary non-cash expense is the depreciation of our properties. We depreciate buildings and improvements on our properties over a three-year to 40-year period for tax purposes and financial reporting purposes.

Our property acquisitions and financing commitments are financed by cash from operations, borrowings under our revolving credit facilities, term loan facilities and long-term mortgage debt, and the sale of equity securities. It has been our strategy to structure leases and financings to ensure a positive spread between our cost of capital and the rentals paid by our tenants. We have primarily acquired or developed new properties that are pre-leased to a single tenant or multi-tenant properties that have a high occupancy rate. We do not typically develop or acquire properties on a speculative basis or that are not significantly pre-leased. As of September 30, 2008, we have also entered into four joint ventures formed to own and lease single properties and have provided mortgage note

**Table of Contents**

financing as described above. We intend to continue entering into some or all of these types of arrangements in the foreseeable future.

Our primary challenges have been locating suitable properties, negotiating favorable lease or financing terms, and managing our portfolio as we have continued to grow. Because of the knowledge and industry relationships of our management, we have enjoyed favorable opportunities to acquire, finance and lease properties. We believe those opportunities will continue during the remainder of 2008.

**Critical Accounting Policies**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions in certain circumstances that affect amounts reported in the accompanying consolidated financial statements and related notes. In preparing these financial statements, management has made its best estimates and assumptions that affect the reported assets and liabilities. The most significant assumptions and estimates relate to consolidation, revenue recognition, depreciable lives of the real estate, the valuation of real estate, accounting for real estate acquisitions and estimating reserves for uncollectible receivables and mortgage notes receivable. Application of these assumptions requires the exercise of judgment as to future uncertainties and, as a result, actual results could differ from these estimates.

***Consolidation***

We consolidate certain entities in cases where we are deemed to be the primary beneficiary in a variable interest entity (VIE), as defined in FIN No. 46(R), Consolidation of Variable Interest Entities (FIN 46R). The equity method of accounting is applied to entities in which we are not the primary beneficiary as defined in FIN 46R, or do not have effective control, but can exercise influence over the entity with respect to its operations and major decisions.

***Revenue Recognition***

Rents that are fixed and determinable are recognized on a straight-line basis over the minimum terms of the leases. Base rent escalation in other leases is dependent upon increases in the Consumer Price Index (CPI) and accordingly, management does not include any future base rent escalation amounts on these leases in current revenue. Most of our leases provide for percentage rents based upon the level of sales achieved by the tenant. These percentage rents are recognized once the required sales level is achieved. Lease termination fees are recognized when the related leases are canceled and we have no continuing obligation to provide services to such former tenants.

Direct financing lease income is recognized on the effective interest method to produce a level yield on funds not yet recovered. Estimated unguaranteed residual values at the date of lease inception represent management's initial estimates of fair value of the leased assets at the expiration of the lease, not to exceed original cost. Significant assumptions used in estimating residual values include estimated net cash flows over the remaining lease term and expected future real estate values. The estimated unguaranteed residual value is reviewed on an annual basis. The Company evaluates the collectibility of its direct financing lease receivable to determine whether it is impaired. A receivable is considered to be impaired when, based on current information and events, it is probable that the Company will be unable to collect all amounts due according to the existing contractual terms. When a receivable is considered to be impaired, the amount of loss is calculated by comparing the recorded investment to the value determined by discounting the expected future cash flows at the receivable's effective interest rate or to the value of the underlying collateral if the receivable is collateralized.

**Table of Contents*****Real Estate Useful Lives***

We are required to make subjective assessments as to the useful lives of our properties for the purpose of determining the amount of depreciation to reflect on an annual basis with respect to those properties. These assessments have a direct impact on our net income. Depreciation and amortization are provided on the straight-line method over the useful lives of the assets, as follows:

Buildings	40 years
Tenant improvements	Base term of lease or useful life, whichever is shorter
Furniture, fixtures and equipment	3 to 25 years

***Impairment of Real Estate Values***

We are required to make subjective assessments as to whether there are impairments in the value of our rental properties. These estimates of impairment may have a direct impact on our consolidated financial statements. We apply the provisions of Statement of Financial Accounting Standards (SFAS) No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*. We assess the carrying value of our rental properties whenever events or changes in circumstances indicate that the carrying amount of a property may not be recoverable. Certain factors that may occur and indicate that impairments may exist include, but are not limited to: underperformance relative to projected future operating results, tenant difficulties and significant adverse industry or market economic trends. No such indicators existed during the first nine months of 2008. If an indicator of possible impairment exists, a property is evaluated for impairment by comparing the carrying amount of the property to the estimated undiscounted future cash flows expected to be generated by the property. If the carrying amount of a property exceeds its estimated future cash flows on an undiscounted basis, an impairment charge is recognized in the amount by which the carrying amount of the property exceeds the fair value of the property. Management estimates fair value of our rental properties based on projected discounted cash flows using a discount rate determined by management to be commensurate with the risk inherent in the Company. Management did not record any impairment charges for the first nine months of 2008.

***Real Estate Acquisitions***

Upon acquisitions of real estate properties, we make subjective estimates of the fair value of acquired tangible assets (consisting of land, building, tenant improvements, and furniture, fixtures and equipment) and identified intangible assets and liabilities (consisting of above and below market leases, in-place leases, tenant relationships and assumed financing that is determined to be above or below market terms) in accordance with SFAS No.141, *Business Combinations*. We utilize methods similar to those used by independent appraisers in making these estimates. Based on these estimates, we allocate the purchase price to the applicable assets and liabilities. These estimates have a direct impact on our net income.

***Allowance for Doubtful Accounts***

Management makes quarterly estimates of the collectibility of its accounts receivable related to base rents, tenant escalations (straight-line rents), reimbursements and other revenue or income. Management specifically analyzes trends in accounts receivable, historical bad debts, customer credit worthiness, current economic trends and changes in customer payment terms when evaluating the

**Table of Contents**

adequacy of its allowance for doubtful accounts. In addition, when customers are in bankruptcy, management makes estimates of the expected recovery of pre-petition administrative and damage claims. These estimates have a direct impact on our net income.

***Mortgage Notes and Other Notes Receivable***

Mortgage notes and other notes receivable, including related accrued interest receivable, consist of loans that we originated and the related accrued and unpaid interest income as of the balance sheet date. Mortgage notes and other notes receivable are initially recorded at the amount advanced to the borrower and we defer certain loan origination and commitment fees, net of certain origination costs, and amortize them over the term of the related loan. We evaluate the collectibility of both interest and principal for each loan to determine whether it is impaired. A loan is considered to be impaired when, based on current information and events, it is probable that we will be unable to collect all amounts due according to the existing contractual terms. When a loan is considered to be impaired, the amount of loss is calculated by comparing the recorded investment to the value determined by discounting the expected future cash flows at the loan's effective interest rate or to the value of the underlying collateral if the loan is collateralized. Interest income on performing loans is accrued as earned. Interest income on impaired loans is recognized on a cash basis.

**Recent Developments**

***Debt Financing***

On January 11, 2008, we obtained a non-recourse mortgage loan of \$17.5 million. This mortgage is secured by a theatre property located in Garland, Texas. The mortgage loan bears interest at 6.19%, matures on February 1, 2018, and requires monthly principal and interest payments of \$127 thousand with a final principal payment at maturity of \$11.6 million.

On March 13, 2008, VinREIT, LLC (VinREIT), a subsidiary that holds our vineyard and winery assets, entered into a \$65.0 million term loan and revolving credit facility that is non-recourse to the Company. The original credit facility provided for interest at LIBOR plus 1.5% on loans secured by real property and LIBOR plus 1.75% on loans secured by fixtures and equipment. The original credit facility also provided for an aggregate advance rate of 65% based on the lesser of cost or appraised value. Term loans secured by real property under the original credit facility were amortized over a 25-year period and matured on the earlier of ten years after disbursement or the end of the related real property's lease term. The equipment and fixture loans had a maturity date that is the earlier of ten years or the end of the related lease term and required full principal amortization over the term of the loan. The original credit facility also contained an accordion feature whereby, subject to lender approval, we may obtain additional revolving credit and term loan commitments in an aggregate principal amount not to exceed \$35.0 million.

On September 26, 2008, we amended the original credit facility described above. The overall size of the credit facility was increased from \$65.0 million to \$129.5 million and is now 30% recourse to the Company. Loans drawn under the amended credit facility bear interest at LIBOR plus 1.75% on loans secured by real property and LIBOR plus 2.00% on loans secured by fixtures and equipment. Term loans secured by real property can be drawn through September 26, 2010 under the amended credit facility and the accordion feature was increased to \$170.5 million. The revolving feature of the facility was eliminated. The amended credit facility still provides for an aggregate advance rate of 65% based on the lesser of cost or appraised value and the other terms of the original credit facility remain the same.

The initial disbursement under the credit facility consisted of two term loans secured by real property with an aggregate principal amount of a \$9.5 million that mature on December 1, 2017 and March 5,

**Table of Contents**

2018. We simultaneously entered into two interest rate swap agreements that fixed the interest rates at a weighted average of 5.77% on these loans through their maturity. On March 24, 2008 and August 20, 2008, we obtained \$3.2 million and \$5.1 million, respectively, of term loans secured by fixtures and equipment under the facility. These term loans mature on December 1, 2017 and will be fully amortized at maturity. On September 15, 2008, we entered into two interest rate swap agreements that fixed the interest rates on these loans at 5.63% on the outstanding principal through their maturity. Additionally, on September 26, 2008, we obtained four term loans secured by real property with an aggregate principal amount of \$74.9 million under the facility that mature on June 5, 2018. We simultaneously entered into four interest rate swap agreements on these loans that fix the interest rate at 5.11% through October 7, 2013. Subsequent to the closing of these loans, approximately \$36.8 million of the facility remains available. The net proceeds from the above loans were used to pay down outstanding indebtedness under our unsecured revolving credit facility.

On July 11, 2008, we paid in full our mortgage note payable which had an outstanding balance of principal and interest totaling \$90.6 million. This mortgage note payable was secured by eight theatre properties and required monthly principal and interest payments of \$689 thousand. The maturity date of the mortgage note payable was July 11, 2028. The mortgage agreement contained a hyper-amortization feature, in which the principal payment schedule was rapidly accelerated, and our principal and interest payments were substantially increased, if the balance was not paid in full on the anticipated prepayment date of July 11, 2008.

On August 20, 2008, we obtained a secured mortgage loan commitment of \$112.5 million, of which \$56.25 million was advanced during the three months ended September 30, 2008. The mortgage is secured by the mortgage note receivable entered into with Concord Resorts, LLC in conjunction with the planned resort development as discussed below. The mortgage loan bears interest at LIBOR plus 3.5%, and in the event LIBOR is less than 2.5%, LIBOR shall be deemed to be 2.5% for purposes of calculating the applicable interest rate for the period. The loan matures on September 10, 2010 and requires monthly interest only payments.

***Issuance of Series E Preferred Shares and Common Shares***

On April 2, 2008, we issued 3,450,000 (including exercise of over-allotment option of 450,000 shares) 9.0% Series E cumulative convertible preferred shares ( Series E preferred shares ) at \$25.00 per share in a registered public offering for net proceeds of approximately \$83.4 million, after underwriting discounts and expenses. We will pay cumulative dividends on the Series E preferred shares from the date of original issuance in the amount of \$2.25 per share each year, which is equivalent to 9.0% of the \$25 liquidation preference per share. We do not have the right to redeem the Series E preferred shares except in limited circumstances to preserve our REIT status. The Series E preferred shares have no stated maturity and will not be subject to any sinking fund or mandatory redemption. The Series E preferred shares are convertible, at the holder's option, into our common shares at an initial conversion rate of 0.4512 common shares per Series E preferred share, which is equivalent to an initial conversion price of \$55.41 per common share. This conversion ratio may increase over time upon certain specified triggering events including if our common share dividend exceeds a certain quarterly threshold which will initially be set at \$0.84 per common share.

Additionally, on April 2, 2008, we issued 2,415,000 common shares (including exercise of over-allotment option of 315,000 shares) at \$48.18 per share in a registered public offering. Total net proceeds after underwriting discounts and expenses were approximately \$111.2 million.

**Table of Contents**

On August 5, 2008, we issued pursuant to a registered public offering 1,900,000 of common shares at a purchase price of \$50.96 per share. Total net proceeds to the Company after underwriting discounts and expenses were approximately \$96.5 million.

The proceeds from the above offerings were used to pay down our unsecured revolving credit facility, to fund the CS Fund I membership interest purchase (as described in Note 12 to the consolidated financial statements in this Quarterly Report on Form 10-Q), and the remaining net proceeds were invested in interest-bearing accounts and short-term interest-bearing securities which are consistent with our qualification as a REIT under the Internal Revenue Code.

***Dividend Reinvestment and Direct Share Purchase Plan***

On June 26, 2008, we filed an automatic shelf registration statement on Form S-3 (File No. 333-151978) covering our revised Dividend Reinvestment and Direct Share Purchase Plan (the Plan). The Plan supersedes and replaces our prior dividend reinvestment and direct share purchase plan. Pursuant to the Plan we may issue from time to time on the terms and conditions set forth in the Plan up to 6,000,000 common shares at prices to be determined as described in the Plan. We intend to use the proceeds from the common shares sold pursuant to the Plan for general corporate purposes.

During July 2008, we issued pursuant to a registered public offering 324 thousand common shares under the direct share purchase component of the Plan. These shares were sold at an average price of \$50.61 per share and total net proceeds after expenses were approximately \$16.3 million.

***Investments***

On February 29, 2008, we loaned \$10.0 million to Louis Cappelli. Through his related interests, Louis Cappelli is the developer and minority interest partner of our New Roc and White Plains entertainment retail centers located in the New York metropolitan area. The note bears interest at 10% and matures on February 28, 2009. As part of this transaction, we also received an option to purchase 50% of Louis Cappelli's interests (or Louis Cappelli's related interests) in three other projects in the New York metropolitan area. These projects are expected to cost approximately \$300.0 million.

In addition, during the nine months ended September 30, 2008, we funded approximately \$31.1 million for development of Schlitterbahn Vacation Village, a water-park anchored entertainment village in Kansas City, Kansas. We have committed to fund \$175.0 million on this project and have funded \$126.2 million through September 30, 2008.

On April 2, 2008, we acquired the remaining 50.0% ownership interest in CS Fund I for a total purchase price of approximately \$39.5 million from our partner, JERIT Fund I Member. Upon completion of this transaction, CS Fund I became a wholly-owned subsidiary of the Company. The member purchase agreement provides that we shall pay JERIT Fund I Member a monthly asset management fee of 1.875% of the monthly rent for the six month period following the closing. The membership purchase agreement also contains an option pursuant to which JERIT Fund I Member may re-acquire its 50% interest in CS Fund I within six months after the acquisition of such interest by us. This option expired on October 2, 2008 and JERIT Fund I Member did not exercise it. At the time of this acquisition, CS Fund I owned 12 public charter school properties located in Nevada, Arizona, Ohio, Georgia, Missouri, Michigan, Florida and Washington D.C. These schools are leased under a long-term triple net master lease which has been classified as a direct financing lease as described in Note 13 to the consolidated financial statements in this Quarterly Report on Form 10-Q.

On June 9, 2008, we acquired, through VinREIT, four wineries and two vineyards and simultaneously leased these properties to Eight Estates Fine Wines, LLC (DBA Ascentia Wine



**Table of Contents**

Estates). The acquisition price for these properties was approximately \$116.5 million and the properties are leased under long-term triple-net leases. The properties total 936 acres including 565 acres of vineyards. Three wineries and two vineyards are located in California with an additional winery located in Washington.

We own 96% of the membership interests of VinREIT and accordingly, the financial statements of VinREIT have been consolidated into our financial statements. Our partner in VinREIT is Global Wine Partners (U.S.), LLC (GWP). GWP provides certain consulting services to VinREIT in connection with the acquisition, development, administration and marketing of vineyard properties and wineries. GWP is entitled to receive a 1% origination fee on winery and vineyard investments and 4% of the annual cash flow of VinREIT after a charge for debt service. GWP may receive additional amounts upon certain events and after certain hurdle rates of return are achieved by us. Accordingly, we paid \$1.3 million in origination fees and \$125 thousand in due diligence fees for the nine months ended September 30, 2008 and minority interest expense related to VinREIT was \$199 thousand for the nine months ended September 30, 2008, representing GWP's portion of the annual cash flow.

On June 17, 2008, we acquired ten public charter school properties from Imagine Schools, Inc. Additionally, we funded expansions at three of the public charter school properties previously acquired. The acquisition price for the properties was approximately \$82.3 million and the properties are leased under a long-term triple-net master lease. The transaction was executed as part of a \$200 million option agreement with Imagine Schools, and leaves approximately \$40 million available for acquisitions prior to December 2009. The ten new properties are located in Georgia, Missouri, Ohio and Indiana and the three expansions are located in Arizona, Nevada and Georgia. The master lease is classified as a direct financing lease as described in Note 13 to the consolidated financial statements in this Quarterly Report on Form 10-Q.

On May 30, 2008, we invested an additional \$5.0 million Canadian (\$5.1 million U.S.) in the mortgage note receivable from Metropolis Limited Partnership (the Partnership) related to the construction of Toronto Life Square, a 13 level entertainment retail center in downtown Toronto. Consistent with the previous advances on this project, this advance has a five year stated term and bears interest at 15%. The carrying value of this mortgage note receivable at September 30, 2008 was \$119.3 million Canadian (\$113.6 million U.S.), including related accrued interest receivable of \$39.0 million Canadian (\$36.6 million U.S.). A bank has provided first mortgage construction financing to the Partnership totaling \$118.3 million Canadian (\$111.2 million U.S.) as of September 30, 2008.

As of September 30, 2008, we have posted \$7.6 million irrevocable stand-by letters of credit related to the Toronto Life Square project. The letters of credit are expected to be cancelled or drawn upon during the remainder of 2008. Interest accrues on these outstanding letters of credit at a rate of 12% (15% if drawn upon).

Additionally during May of 2008, the Partnership exercised its option to extend by six months the 25% principal payment and all accrued interest to date that was due on May 31, 2008 to November 30, 2008. The Partnership can also prepay the note (in full only, including all accrued interest) at any time with prepayment penalties as defined in the agreement.

On the maturity date or any other date that the Partnership elects to prepay the note in full, we have the option to purchase a 50% equity interest in the Partnership or alternative joint venture vehicle that is established. The purchase price stipulated in the option is based on estimated fair market value of the entertainment retail center at the time of exercise, defined as the then existing stabilized net

**Table of Contents**

operating income capitalized at a pre-determined rate. A subscription agreement governs the terms of the cash flow sharing with the other should we elect to become an owner.

On August 20, 2008, we provided a secured first mortgage loan of \$225.0 million to Concord Resorts, LLC related to a planned resort development in Sullivan County, New York. The total project is expected to consist of a casino complex and a 1,580 acre resort complex. The resort complex is expected to consist of a 125-room spa hotel, a 350-room waterpark style hotel, a convention center and support facilities, a waterpark, two golf courses, and a retail and residential development. Our investment is secured by a first mortgage on the resort complex real estate. We have certain rights to convert our mortgage interest into fee ownership as the project is further developed. The loan is guaranteed by Louis R. Cappelli and has a maturity date of September 10, 2010 with 105% of the outstanding principal balance due at payoff. This note requires a debt service reserve to be maintained that was initially funded during August of 2008 with \$4 million from the initial advances. An additional \$20 million is anticipated to be funded to the debt service reserve with the Company's next expected advance. Monthly interest only payments are transferred to us from the debt service reserve and the unpaid principal balance bears interest at 9.0% until the first anniversary of the loan, on which the interest rate increases to 11.0% for the remaining term. We charge a commitment fee equal to 3% of the amount advanced. During the three months ended September 30, 2008, we advanced \$132.5 million under this agreement. The commitment fees, interest payments and 5% additional principal payment, net of direct cost incurred, are recognized as interest income using the effective interest method over the term of the loan (weighted average effective interest rate was 13.9% at September 30, 2008). Accordingly, the net carrying value of this mortgage note receivable at September 30, 2008 was \$133.1 million, including related accrued interest receivable of \$619 thousand. In conjunction with the investment in Concord Resorts, LLC, we obtained a secured mortgage loan commitment in the amount of \$112.5 million as described above.

***Sale of Property***

On June 23, 2008, we sold a parcel of land in Powder Springs, Georgia for \$1.1 million. The land parcel was previously leased under a ground lease. Accordingly, we recognized a gain on sale of real estate of \$0.1 million for the nine months ended September 30, 2008. For further detail on this disposition, see Note 14 to the consolidated financial statements in this Quarterly Report on Form 10-Q.

***Derivative Instruments***

As further discussed in Note 7 to the consolidated financial statements in this Quarterly Report on Form 10-Q, on March 13, 2008, we entered into two interest rate swap agreements. These agreements fixed the interest rates of \$9.5 million in term loans at a weighted average of 5.77%. Additionally, in September 2008, we entered into five interest rate swap agreements. These agreements fixed the interest rates of \$83.1 million in term loans at a weighted average of 5.16%.

***Results of Operations******Three months ended September 30, 2008 compared to three months ended September 30, 2007***

Rental revenue was \$52.1 million for the three months ended September 30, 2008, compared to \$48.1 million for the three months ended September 30, 2007. The \$4.0 million increase resulted primarily from the acquisitions and developments completed in 2007 and 2008 and base rent increases on existing properties. Percentage rents of \$0.6 million were recognized during both the three months ended September 30, 2008 and 2007. Straight-line rents of \$1.0 million and \$1.2 million were recognized during the three months ended September 30, 2008 and 2007, respectively.

**Table of Contents**

Tenant reimbursements totaled \$5.2 million for the three months ended September 30, 2008 compared to \$4.7 million for the three months ended September 30, 2007. These tenant reimbursements arise from the operations of our retail centers. The \$0.5 million increase is due to increases in other tenant reimbursements, primarily driven by the expansion and leasing of the gross leasable area at our retail centers in Ontario, Canada.

Mortgage and other financing income for the three months ended September 30, 2008 was \$17.1 million compared to \$8.2 million for the three months ended September 30, 2007. The \$8.9 million increase relates to the increased real estate lending activities subsequent to the third quarter of 2007 and our investment in a direct financing lease as discussed in Note 13 to the consolidated financial statements in this Quarterly Report on Form 10-Q.

Our property operating expense totaled \$6.6 million for the three months ended September 30, 2008 compared to \$5.8 million for the three months ended September 30, 2007. These property operating expenses arise from the operations of our retail centers. The \$0.8 million increase resulted primarily from increases in expenses at our retail centers in Ontario, Canada and increases in our bad debt reserves.

Other expense totaled \$0.4 million for the three months ended September 30, 2008 compared to \$1.0 million for the three months ended September 30, 2007. Of the \$0.6 million decrease, \$0.5 million is due to less expense recognized upon settlement of foreign currency forward contracts during the three months ended September 30, 2008. The remaining decrease of \$0.1 million is due to a decrease in expense from a family bowling center in Westminster, Colorado operated through a wholly-owned taxable REIT subsidiary.

Our general and administrative expense totaled \$3.7 million for the three months ended September 30, 2008 compared to \$3.0 million for the three months ended September 30, 2007. The increase of \$0.7 million is due to increases in costs that primarily resulted from payroll and related expenses attributable to increases in base and incentive compensation, additional employees and amortization resulting from grants of nonvested shares to management as well as increases in professional fees. In addition, general and administrative expense for the three months ended September 30, 2008 includes \$0.3 million in costs associated with terminated transactions.

Our net interest expense increased by \$1.0 million to \$17.7 million for the three months ended September 30, 2008 from \$16.7 million for the three months ended September 30, 2007. The increase resulted from increases in long-term debt used to finance our real estate acquisitions, direct financing lease and mortgage notes receivable.

Depreciation and amortization expense totaled \$11.2 million for the three months ended September 30, 2008 compared to \$9.9 million for the three months ended September 30, 2007. The \$1.3 million increase resulted primarily from our real estate acquisitions completed in 2007 and 2008.

Minority interest totaled \$0.5 million for the three months ended September 30, 2008 compared to \$1.0 million for the three months ended September 30, 2007. This minority interest resulted primarily from the consolidation of a VIE in which our variable interest is debt and the VIE has sufficient equity to cover its cumulative net losses incurred subsequent to our loan transaction. Additionally, there was \$0.1 million in minority interest expense for the three months ended September 30, 2008 due to our VinREIT operations as discussed in Note 12 to the consolidated financial statements in this Quarterly Report on Form 10-Q. There was no minority interest expense

**Table of Contents**

related to our VinREIT operations for the three months ended September 30, 2007.

Preferred dividend requirements for the three months ended September 30, 2008 were \$7.6 million compared to \$5.6 million for the same period in 2007. The \$1.9 million increase is due to the issuance of 3.5 million Series E convertible preferred shares in April of 2008.

***Nine months ended September 30, 2008 compared to nine months ended September 30, 2007***

Rental revenue was \$151.2 million for the nine months ended September 30, 2008 compared to \$136.6 million for the nine months ended September 30, 2007. The \$14.6 million increase resulted primarily from the acquisitions and developments completed in 2007 and 2008 and base rent increases on existing properties. Percentage rents of \$1.5 million and \$1.6 million were recognized during the nine months ended September 30, 2008 and 2007, respectively. Straight-line rents of \$2.9 million and \$3.2 million were recognized during the nine months ended September 30, 2008 and 2007, respectively.

Tenant reimbursements totaled \$16.1 million for the nine months ended September 30, 2008 compared to \$12.6 million for the nine months ended September 30, 2007. These tenant reimbursements arise from the operations of our retail centers. Of the \$3.5 million increase, \$1.9 million is due to our May 8, 2007 acquisition of a 66.67% interest in the joint ventures that own an entertainment retail center in White Plains, New York. The remaining increase is due to increases in tenant reimbursements, primarily driven by the expansion and leasing of the gross leasable area at our retail centers in Ontario, Canada.

Mortgage and other financing income for the nine months ended September 30, 2008 was \$40.6 million compared to \$18.9 million for the nine months ended September 30, 2007. The \$21.7 million increase relates to the increased real estate lending activities subsequent to the third quarter of 2007 and our investment in a direct financing lease as discussed in Note 13 to the consolidated financial statements in this Quarterly Report on Form 10-Q.

Our property operating expense totaled \$19.9 million for the nine months ended September 30, 2008 compared to \$15.8 million for the nine months ended September 30, 2007. These property operating expenses arise from the operations of our retail centers. Of the \$4.1 million increase, \$2.1 million is due to our May 8, 2007 acquisition of a 66.67% interest in the joint ventures that own an entertainment retail center in White Plains, New York. The remaining increase is due to increases in other property operating expenses, primarily at our retail centers in Ontario, Canada.

Other expense totaled \$2.0 million for the nine months ended September 30, 2008 compared to \$2.6 million for the nine months ended September 30, 2007. Of the \$0.6 million decrease, \$0.4 million is due to less expense recognized upon settlement of foreign currency forward contracts during the nine months ended September 30, 2008. The remaining decrease of \$0.2 million is due to a decrease in expense from a family bowling center in Westminster, Colorado operated through a wholly-owned taxable REIT subsidiary.

Our general and administrative expense totaled \$12.1 million for the nine months ended September 30, 2008 compared to \$9.1 million for the nine months ended September 30, 2007. The increase of \$3.0 million is primarily due to increases in costs that primarily resulted from payroll and related expenses attributable to increases in base and incentive compensation, additional employees and amortization resulting from grants of restricted shares to management, as well as increases in professional fees. In addition, general and administrative expense for the nine months ended

**Table of Contents**

September 30, 2008 includes \$1.0 million in costs associated with terminated transactions.

Our net interest expense increased by \$8.8 million to \$52.1 million for the nine months ended September 30, 2008 from \$43.3 million for the nine months ended September 30, 2007. Approximately \$2.3 million of the increase resulted from the acquisition of a 66.67% interest in the joint ventures that own an entertainment retail center in White Plains, New York that had outstanding mortgage debt of \$119.7 million as of the May 8, 2007 acquisition date. The remainder of the increase resulted from increases in long-term debt used to finance our real estate acquisitions, direct financing lease and mortgage notes receivable.

Depreciation and amortization expense totaled \$32.2 million for the nine months ended September 30, 2008 compared to \$27.3 million for the nine months ended September 30, 2007. The \$4.9 million increase resulted primarily from real estate acquisitions completed in 2007 and 2008.

Equity in income from joint ventures totaled \$1.7 million for the nine months ended September 30, 2008 compared to \$0.6 million for the nine months ended September 30, 2007. The \$1.1 million increase resulted from our investment in a 50% ownership interest of CS Fund I on October 30, 2007. We acquired the remaining 50% ownership of CS Fund I on April 2, 2008 as discussed in Note 12 to the consolidated financial statements in this Quarterly Report on Form 10-Q.

Minority interests totaled \$1.5 million for the nine months ended September 30, 2008 compared to \$1.0 million for the nine months ended September 30, 2007. This minority interest resulted primarily from the consolidation of a VIE in which our variable interest is debt and the VIE has sufficient equity to cover its cumulative net losses incurred subsequent to our loan transaction. Additionally, there was \$0.2 million in minority interest expense for the nine months ended September 30, 2008 due to our VinREIT operations as discussed in Note 12 to the consolidated financial statements in this Quarterly Report on Form 10-Q. There was no minority interest expense related to our VinREIT operations for the nine months ended September 30, 2007.

Loss from discontinued operations totaled \$0.03 million for the nine months ended September 30, 2008 compared to income from discontinued operations of \$0.9 million for the nine months ended September 30, 2007. The \$0.87 million decrease is primarily due to the recognition of \$0.7 million in development fees for the nine months ended September 30, 2007 related to a parcel adjacent to our megaplex theatre in Pompano, Florida. The development rights, along with two income-producing tenancies, were sold to a developer group in June of 2007.

The gain on sale of real estate from discontinued operations of \$0.1 million for the nine months ended September 30, 2008 was due to the sale of a land parcel in Powder Springs, Georgia in June of 2008. The gain on sale of real estate from discontinued operations of \$3.2 million for the nine months ended September 30, 2007 was due to the sale of a parcel that included two leased properties adjacent to our megaplex theatre in Pompano, Florida.

Preferred dividend requirements for the nine months ended September 30, 2008 were \$20.7 million compared to \$15.7 million for the same period in 2007. The \$5.0 million increase is due to the issuance of 3.5 million Series E convertible preferred shares in April of 2008 and the issuance of 4.6 million Series D preferred shares in May of 2007. This was partially offset by the redemption of 2.3 million Series A preferred shares in May of 2007.

The Series A preferred share redemption costs of \$2.1 million for the nine months ended September 30, 2007 was due to the redemption of the Series A preferred shares on May 29, 2007 and primarily

**Table of Contents**

consists of a noncash charge for the excess of the redemption value over the carrying value of these shares. There was no such expense incurred during the nine months ended September 30, 2008.

**Liquidity and Capital Resources**

Cash and cash equivalents were \$11.1 million at September 30, 2008. In addition, we had restricted cash of \$15.4 million at September 30, 2008. Of the restricted cash at September 30, 2008, \$9.6 million relates to cash held for our borrowers' debt service reserves for mortgage notes receivable and the balance represents deposits required in connection with debt service, payment of real estate taxes and capital improvements.

***Mortgage Debt, Credit Facilities and Term Loan***

As of September 30, 2008, we had total debt outstanding of \$1.2 billion. As of September 30, 2008, \$1.1 billion of debt outstanding was fixed rate mortgage debt secured by a substantial portion of our rental properties and mortgage notes receivable, with a weighted average interest rate of approximately 5.9%. This \$1.1 billion of fixed rate mortgage debt includes \$206.6 million of LIBOR based debt that has been converted to fixed rate with interest rate swaps as further described below.

At September 30, 2008, we had \$85.0 million in debt outstanding under our \$235.0 million unsecured revolving credit facility, with interest at a floating rate. The unsecured revolving credit facility matures in January of 2009 but can be extended for one additional year. The amount that we are able to borrow on our unsecured revolving credit facility is a function of the values and advance rates, as defined by the credit agreement, assigned to the assets included in the borrowing base less outstanding letters of credit and less other liabilities, excluding our \$119.1 million term loan, that are recourse obligations of the Company. As of September 30, 2008, our total availability under the unsecured revolving credit facility was \$142.4 million.

On March 13, 2008, VinREIT, LLC (VinREIT), a subsidiary that holds our vineyard and winery assets, entered into a \$65.0 million term loan and revolving credit facility that is non-recourse to the Company. The original credit facility provided for interest at LIBOR plus 1.5% on loans secured by real property and LIBOR plus 1.75% on loans secured by fixtures and equipment. The original credit facility also provided for an aggregate advance rate of 65% based on the lesser of cost or appraised value. Term loans secured by real property under the original credit facility were amortized over a 25-year period and matured on the earlier of ten years after disbursement or the end of the related real property's lease term. The equipment and fixture loans had a maturity date that is the earlier of ten years or the end of the related lease term and required full principal amortization over the term of the loan. The original credit facility also contained an accordion feature whereby, subject to lender approval, we may obtain additional revolving credit and term loan commitments in an aggregate principal amount not to exceed \$35.0 million.

On September 26, 2008, we amended the original credit facility described above. The overall size of the credit facility was increased from \$65.0 million to \$129.5 million and is 30% recourse to the Company. Loans drawn under the amended credit facility bear interest at LIBOR plus 1.75% on loans secured by real property and LIBOR plus 2.00% on loans secured by fixtures and equipment. Term loans secured by real property can be drawn through September 26, 2010 under the amended credit facility and the accordion feature was increased to \$170.5 million. The revolving feature of the facility was eliminated. The amended credit facility still provides for an aggregate advance rate of 65% based on the lesser of cost or appraised value and the other terms of the original credit facility remain the same.

**Table of Contents**

The initial disbursement under the credit facility consisted of two term loans secured by real property with an aggregate principal amount of a \$9.5 million that mature on December 1, 2017 and March 5, 2018. We simultaneously entered into two interest rate swap agreements that fixed the interest rates at a weighted average of 5.77% on these loans through their maturity. On March 24, 2008 and August 20, 2008, we obtained \$3.2 million and \$5.1 million, respectively, of term loans secured by fixtures and equipment under the facility. These term loans mature on December 1, 2017 and will be fully amortized at maturity. On September 15, 2008, we entered into an interest rate swap agreement that fixed the interest rates on these loans at 5.63% on the outstanding principal through their maturity. Additionally, on September 26, 2008, we obtained four term loans secured by real property with an aggregate principal amount of \$74.9 million under the facility that mature on June 5, 2018. We simultaneously entered into four interest rate swap agreements on these loans that fix the interest rate at 5.11% through October 7, 2013. Subsequent to the closing of these loans, approximately \$36.8 million of the facility remains available.

Our principal investing activities are acquiring, developing and financing entertainment, entertainment-related, recreational and specialty properties. These investing activities have generally been financed with mortgage debt and the proceeds from equity offerings. Our unsecured revolving credit facility and our term loans are also used to finance the acquisition or development of properties, and to provide mortgage financing. Continued growth of our rental property and mortgage financing portfolios will depend in part on our continued ability to access funds through additional borrowings and securities offerings.

Certain of our long-term debt agreements contain customary restrictive covenants related to financial and operating performance. At September 30, 2008, we were in compliance with all restrictive covenants.

***Capital Structure and Coverage Ratios***

We believe that our shareholders are best served by a conservative capital structure. Therefore, we seek to maintain a conservative debt level on our balance sheet and solid interest, fixed charge and debt service coverage ratios. We expect to maintain our leverage ratio (i.e. total-long term debt of the Company as a percentage of shareholders' equity plus total liabilities) below 55%. However, the timing and size of our equity offerings may cause us to temporarily operate over this threshold. At September 30, 2008, our leverage ratio was 47%. Our long-term debt as a percentage of our total market capitalization at September 30, 2008 was 35%. We do not manage to a ratio based on total market capitalization due to the inherent variability that is driven by changes in the market price of our common shares. We calculate our total market capitalization of \$3.4 billion as follows at September 30, 2008:

Common shares outstanding of 32,871,829 multiplied by the last reported sales price of our common shares on the NYSE of \$54.72 per share, or \$1.8 billion;

Aggregate liquidation value of our Series B preferred shares of \$80 million;

Aggregate liquidation value of our Series C preferred shares of \$135 million;

Aggregate liquidation value of our Series D preferred shares of \$115 million;

Aggregate liquidation value of our Series E preferred shares of \$86 million and

Total long-term debt of \$1.2 billion

Our interest coverage ratio for both the nine months ended September 30, 2008 and 2007 was 3.3 times. Interest coverage is calculated as the interest coverage amount (as calculated in the following table) divided by interest expense, gross (as calculated in the following table). We consider the interest coverage ratio to be an appropriate supplemental measure of a company's ability to meet its

**Table of Contents**

interest expense obligations. Our calculation of the interest coverage ratio may be different from the calculation used by other companies, and therefore, comparability may be limited. This information should not be considered as an alternative to any U.S. generally accepted accounting principles (GAAP) liquidity measures. The following table shows the calculation of our interest coverage ratios (unaudited, dollars in thousands):

	<b>Nine Months Ended September</b>	
	<b>30,</b>	
	<b>2008</b>	<b>2007</b>
Net income	\$ 94,590	\$ 77,535
Interest expense, gross	53,495	43,842
Interest cost capitalized	(603)	(353)
Minority interest	(1,474)	(988)
Depreciation and amortization	32,184	27,269
Share-based compensation expense to management and trustees	2,975	2,423
Straight-line rental revenue	(2,909)	(3,229)
Gain on sale of real estate from discontinued operations	(119)	(3,240)
Depreciation and amortization of discontinued operations		58
Interest coverage amount	\$ 178,139	\$ 143,317
Interest expense, net	\$ 52,117	\$ 43,252
Interest income	775	237
Interest cost capitalized	603	353
Interest expense, gross	\$ 53,495	\$ 43,842
Interest coverage ratio	3.3	3.3

The interest coverage amount per the above table is a non-GAAP financial measure and should not be considered an alternative to any GAAP liquidity measures. It is most directly comparable to the GAAP liquidity measure, Net cash provided by operating activities, and is not directly comparable to the GAAP liquidity measures, Net cash used in investing activities and Net cash provided by financing activities. The interest coverage amount can be reconciled to

Net cash provided by operating activities per the consolidated statements of cash flows included in this Quarterly Report on Form 10-Q as follows (unaudited, dollars in thousands):



**Table of Contents**

	<b>Nine Months Ended September 30,</b>	
	<b>2008</b>	<b>2007</b>
Net cash provided by operating activities	\$ 110,377	\$ 93,460
Equity in income from joint ventures	1,743	597
Distributions from joint ventures	(2,017)	(675)
Amortization of deferred financing costs	(2,402)	(2,125)
Increase in mortgage notes accrued interest receivable	15,570	10,392
Increase in accounts and notes receivable	2,438	2,377
Increase in direct financing lease receivable	1,363	
Increase in other assets	731	841
Decrease (increase) in accounts payable and accrued liabilities	551	(2,424)
Decrease (increase) in unearned rents	(198)	614
Straight-line rental revenue	(2,909)	(3,229)
Interest expense, gross	53,495	43,842
Interest cost capitalized	(603)	(353)
Interest coverage amount	\$ 178,139	\$ 143,317

Our fixed charge coverage ratio for both the nine months ended September 30, 2008 and 2007 was 2.4 times. The fixed charge coverage ratio is calculated in exactly the same manner as the interest coverage ratio, except that preferred share dividends are also added to the denominator. We consider the fixed charge coverage ratio to be an appropriate supplemental measure of a company's ability to make its interest and preferred share dividend payments. Our calculation of the fixed charge coverage ratio may be different from the calculation used by other companies and, therefore, comparability may be limited. This information should not be considered as an alternative to any GAAP liquidity measures. The following table shows the calculation of our fixed charge coverage ratios (unaudited, dollars in thousands):

	<b>Nine Months Ended September 30,</b>	
	<b>2008</b>	<b>2007</b>
Interest coverage amount	\$ 178,139	\$ 143,317
Interest expense, gross	53,495	43,842
Preferred share dividends	20,714	15,701
Fixed charges	\$ 74,209	\$ 59,543
Fixed charge coverage ratio	2.4	2.4

Our debt service coverage ratio for both the nine months ended September 30, 2008 and 2007 was 2.5 times. The debt service coverage ratio is calculated in exactly the same manner as the interest coverage ratio, except that recurring principal payments are also added to the denominator. We consider the debt service coverage ratio to be an appropriate supplemental measure of a company's ability to make its debt service payments. Our calculation of the debt service coverage ratio may be different from the calculation used by other companies and, therefore,

comparability may be limited. This information should not be considered as an alternative to any GAAP liquidity measures. The following table shows the calculation of our debt service coverage ratios (unaudited, dollars in thousands):

40

---

**Table of Contents**

	<b>Nine Months Ended September 30,</b>	
	<b>2008</b>	<b>2007</b>
Interest coverage amount	\$ 178,139	\$ 143,317
Interest expense, gross	53,495	43,842
Recurring principal payments	17,170	13,065
Debt service	\$ 70,665	\$ 56,907
Debt service coverage ratio	2.5	2.5

**Liquidity Requirements**

Short-term liquidity requirements consist primarily of normal recurring corporate operating expenses, debt service requirements and distributions to shareholders. We meet these requirements primarily through cash provided by operating activities. Net cash provided by operating activities was \$110.4 million for the nine months ended September 30, 2008 and \$93.5 million for the nine months ended September 30, 2007. Net cash used in investing activities was \$473.6 million and \$319.4 million for the nine months ended September 30, 2008 and 2007, respectively. Net cash provided by financing activities was \$359.7 million and \$226.7 million for the nine months ended September 30, 2008 and 2007, respectively. We anticipate that our cash on hand, cash from operations, and funds available under our unsecured revolving credit facility will provide adequate liquidity to fund our operations, make interest and principal payments on our debt, and allow distributions to our shareholders and avoid corporate level federal income or excise tax in accordance with REIT Internal Revenue Code requirements.

We have also posted \$7.6 million of irrevocable stand-by letters of credit related to the Toronto Life Square.

We believe that we will be able to obtain financing in order to repay our debt obligations by refinancing the properties as the debt comes due. However, there can be no assurance that additional financing or capital will be available, or that terms will be acceptable or advantageous to us.

Our primary use of cash after paying operating expenses, debt service and distributions to shareholders is in the acquisition, development and financing of properties. We expect to finance these investments with borrowings under our unsecured revolving credit facility, as well as long-term debt and equity financing alternatives. The availability and terms of any such financing will depend upon market and other conditions. If we borrow the maximum amount available under our unsecured revolving credit facility, there can be no assurance that we will be able to obtain additional investment financing, which would not affect our liquidity, but would affect our ability to grow.

**Commitments**

We had one theatre project under construction at September 30, 2008. The property has been pre-leased to the prospective tenant under a long-term triple-net lease and is located in Glendora, California. The cost of development is paid by us in periodic draws. The related timing and amount of rental payments to be received by us from the tenant under the lease correspond to the timing and amount of funding by us of the cost of development. The theatre will have a total of 12 screens and total development costs will be approximately \$13.2 million. Through September 30, 2008, we have invested \$8.9 million in this project and have commitments to fund an additional \$4.3 million in

**Table of Contents**

improvements. We plan to fund development primarily with funds generated by debt financing and/or equity offerings. If we determine that construction is not being completed in accordance with the terms of the development agreement, we can discontinue funding construction draws.

Additionally as of September 30, 2008, we had one winemaking and storage facility project under development for which we have agreed to finance the development costs. Through September 30, 2008, we have invested approximately \$2.7 million in this project for the purchase of land in Sonoma County, California, and have commitments to fund approximately \$5.8 million of additional improvements. Development costs are advanced by using periodic draws. If we determine that construction is not being completed in accordance with the terms of the development agreement, we can discontinue funding construction draws. We have agreed to lease the facility to the operator at pre-determined rates.

We held a 50% ownership interest in Suffolk Retail LLC (Suffolk) which is developing additional retail square footage adjacent to one of our megaplex theatres in Suffolk, Virginia. Our joint venture partner is the developer of the project and Suffolk has committed to pay the developer a development fee of \$1.2 million of which \$52 thousand is left to be paid at September 30, 2008. Additionally, as of September 30, 2008, Suffolk has commitments to fund approximately \$6.0 million in additional improvements for this development.

On October 31, 2007, we entered into a guarantee agreement for \$22.0 million. This guarantee is for economic development revenue bonds with a total principal amount of \$22.0 million, maturing on October 31, 2037. The bonds were issued by Southern Theatres for the purpose of financing the development and construction of three megaplex theatres in Louisiana. We earn an annual fee of 1.75% on the outstanding principal amount of the bonds and the fee is paid by Southern Theatres monthly. We evaluated this guarantee in connection with the provisions of FASB Interpretation No. 45, *Guarantor's Accounting and Disclosure Requirements, Including Indirect Guarantees of Indebtedness of Others* (FIN 45). Based on certain criteria, FIN 45 requires a guarantor to record an asset and a liability for a guarantee at inception. Accordingly, we have recorded approximately \$4.0 million as a deferred asset included in accounts receivable and approximately \$4.0 million in other liabilities in the accompanying consolidated balance sheets as of September 30, 2008 and December 31, 2007.

We have certain unfunded commitments related to our mortgage note investments that we may be required to fund in the future. We are generally obligated to fund these commitments at the request of the borrower or upon the occurrence of events outside of our direct control. As of September 30, 2008, we had four mortgage notes receivable with unfunded commitments totaling approximately \$157.3 million. If such commitments are funded in the future, interest will be charged at rates consistent with the existing investments.

***Off Balance Sheet Arrangements***

At September 30, 2008, we had a 21.0% and 21.9% investment interest in two unconsolidated real estate joint ventures, Atlantic-EPR I and Atlantic-EPR II respectively, which are accounted for under the equity method of accounting. We do not anticipate any material impact on our liquidity as a result of any commitments that may arise involving those joint ventures. We recognized income of \$400 and \$369 (in thousands) from our investment in the Atlantic-EPR I joint venture during the nine months ended September 30, 2008 and 2007, respectively. We recognized income of \$242 and \$228 (in thousands) from our investment in the Atlantic-EPR II joint venture during the nine months ended September 30, 2008 and 2007, respectively. Condensed financial information for Atlantic-EPR I and

**Table of Contents**

Atlantic-EPR II joint ventures is included in Note 5 to the consolidated financial statements included in this Quarterly Report on Form 10-Q.

The joint venture agreements for Atlantic-EPR I and Atlantic-EPR II allow our partner, Atlantic of Hamburg, Germany (Atlantic), to exchange up to a maximum of 10% of its ownership interest per year in each of the joint ventures for common shares of the Company or, at our discretion, the cash value of those shares as defined in each of the joint venture agreements. Atlantic gave us notice that effective December 31, 2007, March 31, 2008 and June 30, 2008 they wanted to exchange a portion of their ownership in Atlantic-EPR I and Atlantic-EPR II. In January of 2008, we paid Atlantic cash of \$95 (in thousands) in exchange for additional ownership of .5% for Atlantic-EPR I. In April of 2008, we paid Atlantic cash of \$38 (in thousands) in exchange for additional ownership of .2% of Atlantic EPR I. In July of 2008, we paid Atlantic cash of \$79 (in thousands) in exchange for additional ownership of .7% of Atlantic EPR I. These exchanges did not impact total partners' equity in either Atlantic-EPR I or Atlantic-EPR II.

**Funds From Operations (FFO)**

The National Association of Real Estate Investment Trusts (NAREIT) developed FFO as a relative non-GAAP financial measure of performance of an equity REIT in order to recognize that income-producing real estate historically has not depreciated on the basis determined under GAAP. FFO is a widely used measure of the operating performance of real estate companies and is provided here as a supplemental measure to GAAP net income available to common shareholders and earnings per share. FFO, as defined under the revised NAREIT definition and presented by us, is net income available to common shareholders, computed in accordance with GAAP, excluding gains and losses from sales of depreciable operating properties, plus real estate related depreciation and amortization, and after adjustments for unconsolidated partnerships, joint ventures and other affiliates. Adjustments for unconsolidated partnerships, joint ventures and other affiliates are calculated to reflect FFO on the same basis. FFO is a non-GAAP financial measure. FFO does not represent cash flows from operations as defined by GAAP and is not indicative that cash flows are adequate to fund all cash needs and is not to be considered an alternative to net income or any other GAAP measure as a measurement of the results of our operations or our cash flows or liquidity as defined by GAAP. It should also be noted that not all REITs calculate FFO the same way so comparisons with other REITs may not be meaningful.

The additional 1.9 million common shares that would result from the conversion of our 5.75% Series C cumulative convertible preferred shares and the additional 1.6 million common shares that would result from the conversion of our 9.0% Series E cumulative convertible preferred shares and the corresponding add-back of the preferred dividends declared on those shares are not included in the calculation of diluted earnings per share for the three and nine months ended September 30, 2008 and 2007 because the effect is anti-dilutive. However, because a conversion of the 5.75% Series C cumulative convertible preferred shares would be dilutive to FFO per share for the three and nine months ended September 30, 2008, these adjustments have been made in the calculation of diluted FFO per share for these periods.

The following table summarizes our FFO, FFO per share and certain other financial information for the three and nine months ended September 30, 2008 and 2007 (unaudited, in thousands, except per share information):

**Table of Contents**

	<b>Three Months Ended September 30,</b>		<b>Nine Months Ended September 30,</b>	
	<b>2008</b>	<b>2007</b>	<b>2008</b>	<b>2007</b>
Net income available to common shareholders	\$ 28,506	\$ 20,739	\$ 73,876	\$ 59,733
Subtract: Minority interest	(604)	(988)	(1,673)	(988)
Subtract: Gain on sale of depreciable real estate from discontinued operations				(3,240)
Add: Real estate depreciation and amortization	10,958	9,751	31,597	26,770
Add: Allocated share of joint venture depreciation	64	61	445	184
FFO available to common shareholders	38,924	29,563	104,245	82,459
FFO available to common shareholders	\$ 38,924	\$ 29,563	\$ 104,245	\$ 82,459
Add: Preferred dividends for Series C	1,941	1,941	5,822	5,822
Diluted FFO available to common shareholders	40,865	31,504	110,067	88,281
FFO per common share:				
Basic	\$ 1.23	\$ 1.12	\$ 3.48	\$ 3.13
Diluted	1.20	1.10	3.41	3.07
Shares used for computation (in thousands):				
Basic	31,750	26,432	29,969	26,378
Diluted	34,120	28,724	32,308	28,755
Weighted average shares outstanding diluted EPS	32,201	26,824	30,394	26,858
Effect of dilutive Series C preferred shares	1,919	1,900	1,914	1,897
Adjusted weighted average shares outstanding diluted	34,120	28,724	32,308	28,755
Other financial information:				
Straight-lined rental revenue	\$ 1,016	\$ 1,178	\$ 2,909	\$ 3,229
Dividends per common share	\$ 0.84	\$ 0.76	\$ 2.52	\$ 2.28
FFO payout ratio*	70%	69%	74%	74%

\*

FFO payout  
ratio is  
calculated by  
dividing  
dividends per  
common share  
by FFO per  
diluted common  
share.

**Impact of Recently Issued Accounting Standards**

In November 2007, the FASB proposed a one-year deferral of Financial Accounting Standards No. 157, Fair Value Measurements (SFAS No. 157) as it relates to the fair value measurement requirements for nonfinancial assets and liabilities that are not required or permitted to be measured at fair value on a recurring basis. The Company does not expect the adoption of SFAS No. 157 will have a material impact on its financial position or results of operations.

In February 2007, the FASB issued Statement of Financial Accounting Standards No. 159, The Fair Value Option for Financial Assets and Financial Liabilities Including an Amendment of FASB Statement No. 115 (SFAS No. 159). SFAS No. 159 allows measurement at fair value of eligible financial assets and liabilities that are not otherwise measured at fair value. If the fair value option for an eligible item is elected, unrealized gains and losses for that item are to be reported in current earnings at each subsequent reporting date. SFAS No. 159 also establishes presentation and disclosure requirements designed to draw comparison between the different measurement attributes

**Table of Contents**

the Company elects for similar types of assets and liabilities. SFAS No. 159 is effective for financial statements issued for fiscal years beginning after November 15, 2007. We have elected not to use the fair value measurement provisions of Statement No. 159 for any additional financial assets and liabilities that were not otherwise measured at fair value. In December 2007, the FASB issued Statement of Financial Accounting Standards No. 160, Noncontrolling Interests in Consolidated Financial Statements, An Amendment of ARB 51 (SFAS No. 160). SFAS No. 160 establishes accounting and reporting standards for noncontrolling interests. It requires that noncontrolling interests, sometimes referred to as minority interests, be reported as a separate component of equity in the consolidated financial statements. Additionally, it requires net income and comprehensive income to be displayed for both controlling and noncontrolling interests. SFAS No. 160 is effective for financial statements issued for fiscal years beginning on or after December 15, 2008 and earlier adoption is prohibited. SFAS No. 160 will be applied prospectively to all noncontrolling interests, even those that occurred prior to the effective date. The Company is required to adopt SFAS No. 160 in the first quarter of 2009 and is currently evaluating the impact that SFAS No. 160 will have on its financial statements.

Additionally, in December 2007, FASB Statement of Financial Accounting Standards No. 141, Business Combinations was revised by the FASB Statement No. 141R (SFAS No. 141R). SFAS No. 141R requires most identifiable assets, liabilities, noncontrolling interests and goodwill acquired in a business combination to be recorded at full fair value as of the acquisition date. SFAS 141R also establishes disclosure requirements designed to enable the users of the financial statements to assess the effect of a business combination. SFAS No. 141R is effective for financial statements issued for fiscal years beginning on or after December 15, 2008 and earlier adoption is prohibited. SFAS No. 141R will be applied to business combinations occurring after the effective date. The Company is required to adopt SFAS No. 141R in the first quarter of 2009 and is currently evaluating the impact that SFAS 141R will have on its Financial Statements.

In March 2008, the FASB issued Statement of Financial Accounting Standards No. 161, Disclosures about Derivative Instruments and Hedging Activities (SFAS No. 161). SFAS No. 161 amends and expands SFAS No. 133, Accounting for Derivative Instruments and Hedging Activities. SFAS No. 161 requires companies with derivative instruments to disclose their fair value and their gains and losses in tabular format and information about credit-risk related features in derivative agreements, counterparty credit risk and objectives and strategies for using derivative instruments. The new statement will be applied prospectively for periods beginning after November 15, 2008. The Company is required to adopt SFAS No. 161 in the first quarter of 2009.

In June 2008, the FASB issued FASB Staff Position EITF 03-6-1, Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities, (FSP EITF 03-6-1). FSP EITF 03-6-1 addresses whether instruments granted in share-based payment transactions are participating securities prior to vesting, and therefore need to be included in the computation of earnings per share under the two-class method as described in FASB Statement of Financial Accounting Standards No. 128, Earnings per Share. FSP EITF 03-6-1 is effective for financial statements issued for fiscal years beginning on or after December 15, 2008 and earlier adoption is prohibited. The Company is required to adopt FSP EITF 03-6-1 in the first quarter of 2009 and is currently evaluating the impact that FSP EITF 03-6-1 will have on its financial statements.

**Item 3. Quantitative and Qualitative Disclosures About Market Risk**

We are exposed to market risks, primarily relating to potential losses due to changes in interest rates. We seek to mitigate the effects of fluctuations in interest rates by matching the term of new investments with new long-term fixed rate borrowings whenever possible. We also have a \$235



**Table of Contents**

million unsecured revolving credit facility with \$85 million outstanding as of September 30, 2008, a \$129.5 million term loan facility with \$92.6 million outstanding as of September 30, 2008, a \$10.7 million bond, a \$56.25 million term loan and a \$119.1 million term loan, all of which bear interest at a floating rate. As further described in Note 7 to the consolidated financial statements in this Quarterly Report on Form 10-Q, the \$92.6 million of term loans are LIBOR based debt that has been converted to a fixed rate with seven interest rate swaps and the \$119.1 million term loan includes \$114.0 million of LIBOR based debt that has been converted to a fixed rate with two interest rate swaps. We are subject to risks associated with debt financing, including the risk that existing indebtedness may not be refinanced or that the terms of such refinancing may not be as favorable as the terms of current indebtedness. The majority of our borrowings are subject to mortgages or contractual agreements which limit the amount of indebtedness we may incur. Accordingly, if we are unable to raise additional equity or borrow money due to these limitations, our ability to make additional real estate investments may be limited.

We financed the acquisition of our four Canadian properties with non-recourse fixed rate mortgage loans from a Canadian lender in the original aggregate principal amount of approximately U.S. \$97 million. The loans were made and are payable by us in Canadian dollars (CAD), and the rents received from tenants of the properties are payable in CAD. We have also provided a secured mortgage construction loan totaling CAD \$80.4 million. The loan and the related interest income is payable to us in CAD.

We have partially mitigated the impact of foreign currency exchange risk on our Canadian properties by matching Canadian dollar debt financing with Canadian dollar rents. To further mitigate our foreign currency risk in future periods on the four Canadian properties, during the second quarter of 2007, we entered into a cross currency swap with a notional value of \$76.0 million CAD and \$71.5 million U.S. The swap calls for monthly exchanges from January 2008 through February 2014 with us paying CAD based on an annual rate of 17.16% of the notional amount and receiving U.S. dollars based on an annual rate of 17.4% of the notional amount. There is no initial or final exchange of the notional amounts. The net effect of this swap is to lock in an exchange rate of \$1.05 CAD per U.S. dollar on approximately \$13 million of annual CAD denominated cash flows. These foreign currency derivatives should hedge a significant portion of our expected CAD denominated FFO of these four Canadian properties through February 2014 as their impact on our reported FFO when settled should move in the opposite direction of the exchange rates utilized to translate revenues and expenses of these properties.

In order to also hedge our net investment on the four Canadian properties, we entered into a forward contract with a notional amount of \$100 million CAD and a February 2014 settlement date which coincides with the maturity of our underlying mortgage on these four properties. The exchange rate of this forward contract is approximately \$1.04 CAD per U.S. dollar. This forward contract should hedge a significant portion of our CAD denominated net investment in these four centers through February 2014 as the impact on accumulated other comprehensive income from marking the derivative to market should move in the opposite direction of the translation adjustment on the net assets of our four Canadian properties.

We have not yet hedged any of our net investment in the CAD denominated mortgage receivable or its expected CAD denominated interest income due to the mortgage note's maturity in 2008 and our underlying option to buy a 50% interest in the borrower entity.

**Table of Contents**

**Item 4. Controls and Procedures**

As of the end of the period covered by this report, we carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures, as such term is defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that as of the end of the period covered by this report our disclosure controls and procedures were effective to provide reasonable assurance that information required to be disclosed by us in reports we file or submit under the Exchange Act is (1) recorded, processed, summarized and reported within the time periods specified in Securities and Exchange Commission rules and forms, and (2) accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, to allow timely decisions regarding required disclosure.

Our disclosure controls were designed to provide reasonable assurance that the controls and procedures would meet their objectives. Our management, including the Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls will prevent all error and all fraud. A control system, no matter how well designed and operated, can provide only reasonable assurance of achieving the designed control objectives and management is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusions of two or more people, or by management override of the control. Because of the inherent limitations in a cost-effective, maturing control system, misstatements due to error or fraud may occur and not be detected.

There have not been any changes in the Company's internal control over financial reporting (as defined in Rule 13a-15(f) and 15d-15(f) under the Exchange Act) during the third quarter of the fiscal year to which this report relates that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

**Table of Contents**

**PART II OTHER INFORMATION**

**Item 1. Legal Proceedings**

Other than routine litigation and administrative proceedings arising in the ordinary course of business, we are not presently involved in any litigation nor, to our knowledge, is any litigation threatened against us or our properties, which is reasonably likely to have a material adverse effect on our liquidity or results of operations.

**Item 1A. Risk Factors**

See Risk Factors in our Annual Report on Form 10-K for the year ended December 31, 2007 and, to the extent applicable, our Quarterly Report on Form 10-Q for the quarterly periods ended March 31, 2008 and June 30, 2008, respectively, for a detailed discussion of the risk factors affecting the Company. The information below provides updates to the previously disclosed risk factors and should be read in conjunction with the risk factors and information previously disclosed in our Annual Report on Form 10-K, and to the extent applicable, our Quarterly Reports on Form 10-Q.

***There can be no assurance as to the impact on the financial markets of the U.S. government's plan to purchase large amounts of illiquid, mortgage-backed and other securities from financial institutions.***

In response to the financial crises affecting the banking system and financial markets and going concern threats to investment banks and other financial institutions, President Bush signed the Emergency Economic Stabilization Act of 2008 ( EESA ) into law on October 3, 2008. Pursuant to the EESA, the U.S. Treasury would have the authority to, among other things, purchase up to \$700 billion of mortgage-backed and other securities from financial institutions for the purpose of stabilizing the financial markets. There can be no assurance what impact the EESA will have on the financial markets, including the extreme levels of volatility currently being experienced. Although we are not one of the institutions that will sell securities to the U.S. Treasury pursuant to the EESA, the ultimate effects of EESA on the financial markets and the economy in general could materially and adversely affect our business, financial condition and results of operations, or the trading price of our common stock.

***Current levels of market volatility are unprecedented.***

The capital and credit markets have been experiencing extreme volatility and disruption for more than 12 months. In recent weeks, the volatility and disruption have reached unprecedented levels. In some cases, the markets have exerted downward pressure on stock prices and credit capacity for certain issuers. Our plans for growth require regular access to the capital and credit markets. If current levels of market disruption and volatility continue or worsen, access to capital and credit markets could be disrupted making growth through acquisitions and development projects difficult or impractical to pursue until such time as markets stabilize.

***The recent downturn in the credit markets has increased the cost of borrowing and has made financing difficult to obtain, each of which may have a material adverse effect on our results of operations and business.***

Recent events in the financial markets have had an adverse impact on the credit markets and, as a result, credit has become more expensive and difficult to obtain. Some lenders are imposing more stringent restrictions on the terms of credit and there may be a general reduction in the amount of credit available in the markets in which we conduct business. The negative impact on the tightening of the credit markets may have a material adverse effect on us resulting from, but not limited to, an inability to finance the acquisition of properties on favorable terms, if at all, increased financing costs

**Table of Contents**

or financing with increasingly restrictive covenants.

The negative impact of the recent adverse changes in the credit markets on the real estate sector generally or our inability to obtain financing on favorable terms, if at all, may have a material adverse effect on our results of operations and business.

***The failure of any bank in which we deposit our funds could reduce the amount of cash we have available to pay distributions and make additional investments.***

We have diversified our cash and cash equivalents between several banking institutions in an attempt to minimize exposure to any one of these entities. However, the Federal Deposit Insurance Corporation, or FDIC, only insures amounts up to \$250,000 per depositor per insured bank. We currently have cash and cash equivalents and restricted cash deposited in certain financial institutions in excess of federally insured levels. If any of the banking institutions in which we have deposited funds ultimately fails, we may lose our deposits over \$250,000. The loss of our deposits could reduce the amount of cash we have available to distribute or invest and could result in a decline in the value of your investment.

***We are exposed to the credit risk of our customers and counterparties and their failure to meet their financial obligations could adversely affect our business.***

Our business is subject to credit risk. There is a risk that a customer or counterparty will fail to meet its obligations when due. Customers and counterparties that owe us money may default on their obligations to us due to bankruptcy, lack of liquidity, operational failure or other reasons. Although we have procedures for reviewing credit exposures to specific customers and counterparties to address present credit concerns, default risk may arise from events or circumstances that are difficult to detect or foresee. Some of our risk management methods depend upon the evaluation of information regarding markets, clients or other matters that are publicly available or otherwise accessible by us. That information may not, in all cases, be accurate, complete, up-to-date or properly evaluated. In addition, concerns about, or a default by, one customer or counterparty could lead to significant liquidity problems, losses or defaults by other customers or counterparties, which in turn could adversely affect us. We may be materially and adversely affected in the event of a significant default by our customers and counterparties.

***The failure of a bank to fund a request (or any portion of such request) by us to borrow money under one of our existing credit facilities could reduce our ability to make additional investments and pay distributions.***

We have existing credit facilities with several banking institutions. If any of these banking institutions which are a party to such credit facilities fails to fund a request (or any portion of such request) by us to borrow money under one of these existing credit facilities, our ability to make investments in our business, fund our operations and pay debt service and dividends could be reduced, each of which could result in a decline in the value of your investment.

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds**

Issuer Purchases of Equity Securities

**Table of Contents**

<b>Period</b>	<b>Total Number of Shares Purchased</b>	<b>Average Price Paid Per Share</b>	<b>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs</b>	<b>Maximum Number (or Approximate Dollar Value) of Shares that May Yet Be Purchased Under the Plans or Programs</b>
July 1 through July 31, 2008 common stock				
August 1 through August 31, 2008 common stock	22,779 <sup>(1)</sup>	55.37		
September 1 through September 30, 2008 common stock				
<b>Total</b>	<b>22,779</b>	<b>\$ 55.37</b>		<b>\$</b>

(1) The repurchase of equity securities during August of 2008 was completed in conjunction with employee stock option exercises. These repurchases were not made pursuant to a publicly announced plan or program.

During the quarter ended September 30, 2008, we did not sell any unregistered securities.

On June 26, 2008, we filed an automatic shelf registration statement on Form S-3 (File No. 333-151978) covering our revised Dividend Reinvestment and Direct Share Purchase Plan (the Plan). Pursuant to the Plan we may issue from time to time on the terms and conditions set forth in the Plan up to 6,000,000 common shares at prices to be determined as described in the Plan. We intend to use the proceeds from the common shares sold pursuant to the Plan for general corporate purposes. During July 2008, we issued 324,055 common shares under the Plan at an average purchase price of \$50.61 per share. Total net proceeds after expenses were approximately \$16.3 million and the net

proceeds were used for general corporate purposes.

**Item 3. Defaults Upon Senior Securities**

There were no reportable events during the quarter ended September 30, 2008.

**Item 4. Submission of Matters to a Vote of Security Holders**

There were no reportable events during the quarter ended September 30, 2008.

**Item 5. Other Information**

There were no reportable events during the quarter ended September 30, 2008.

**Table of Contents**

**Item 6. Exhibits**

- 31.1\* Certification of David M. Brain, Chief Executive Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
- 31.2\* Certification of Mark A. Peterson, Chief Financial Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
- 32.1\* Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
- 32.2\* Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

\* Filed herewith.

**Table of Contents**

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

ENTERTAINMENT PROPERTIES TRUST

Dated: October 29, 2008

By /s/ David M. Brain  
David M. Brain, President Chief Executive  
Officer (Principal Executive Officer)

Dated: October 29, 2008

By /s/ Mark A. Peterson  
Mark A. Peterson, Vice President Chief  
Financial Officer (Principal Financial Officer  
and Chief Accounting Officer)



**Table of Contents**

**EXHIBIT INDEX**

**Exhibit No. Document**

31.1*	Certification of David M. Brain, Chief Executive Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2*	Certification of Mark A. Peterson, Chief Financial Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1*	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2*	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

\* Filed herewith.