CapLease, Inc.
Form PREM14A
July 02, 2013

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the Securities

Exchange Act of 1934 (Amendment No.)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement
Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
Definitive Proxy Statement
Definitive Additional Materials
Soliciting Material Pursuant to § 240.14a-12

CapLease, Inc.

(Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.
Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

Common stock, $0.01 par value per share, of the Company, or Company common stock

8.125% Series A Cumulative Redeemable Preferred Stock of the Company, or Series A preferred stock

8.375% Series B Cumulative Redeemable Preferred Stock of the Company, or Series B preferred stock

7.25% Series C Cumulative Redeemable Preferred Stock of the Company, or Series C preferred stock and, together with the Series A preferred stock and the Series B preferred stock, the Company preferred stock

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(2) Aggregate number of securities to which transaction applies:

88,974,504 shares of Company common stock (including 1,137,284 restricted shares and 128,900 performance shares, each of which will vest or accelerate immediately prior to the effective time of the merger)

6,473,073 shares of Company preferred stock

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(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

In accordance with Section 14(g) of the Securities Exchange Act of 1934, as amended, the filing fee was determined by multiplying 0.0001364 by the sum (A) the product of 88,974,504 shares of Company common stock (including restricted shares and performance shares) multiplied by the common merger consideration of $8.50 per share of Company common stock, plus (B) the product of 6,473,073 shares of Company preferred stock multiplied by the preferred merger consideration of (1) $25.00 per share of Company preferred stock plus (2) estimated accrued but

unpaid dividends of $0.47 per share of Company preferred stock.

(4) Proposed maximum aggregate value of transaction:

$921,152,453.31

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(5) Total fee paid:

$125,645.19

Fee paid previously with preliminary materials.

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:
(2) Form, Schedule or Registration Statement No.:
(3) Filing Party:
(4) Date Filed:

PRELIMINARY PROXY MATERIAL

SUBJECT TO COMPLETION

CAPLEASE, INC.

[ ], 2013

Dear Stockholder,

You are cordially invited to attend a special meeting of stockholders of CapLease, Inc. to be held on [ ], [ ], 2013 at [ ] [a.m./p.m.]. The special meeting will take place at [ ]. At the special meeting, we will ask you to approve the merger of CapLease, Inc. with and into a wholly owned subsidiary of American Realty Capital Properties, Inc., which we refer to as the merger, and the other transactions contemplated by the Agreement and Plan of Merger, dated as of May 28, 2013, among CapLease, Inc., American Realty Capital Properties, Inc. and certain affiliates of each, which we refer to as the merger agreement. If the merger is completed, you, as a holder of our common stock, will be entitled to receive $8.50 in cash, without interest and less any applicable withholding taxes, in exchange for each share of common stock you own, as more fully described in the accompanying proxy statement.

Our board of directors has unanimously approved the merger, the merger agreement and the other transactions contemplated by the merger agreement, and has declared the merger, the merger agreement and the other transactions contemplated by the merger agreement advisable and in the best interests of the Company and our stockholders. **Our board of directors unanimously recommends that you vote "FOR" the approval of the merger and the other transactions contemplated by the merger agreement.**

The merger and the other transactions contemplated by the merger agreement must be approved by the affirmative vote of the holders of a majority of the outstanding shares of our common stock. The proxy statement accompanying this letter provides you with more specific information concerning the special meeting, the merger, the merger agreement and the other transactions contemplated by the merger agreement. We encourage you to read the proxy statement carefully and in its entirety. You may also obtain more information about CapLease, Inc. from us or from documents we have filed with the Securities and Exchange Commission.

Your vote is very important regardless of the number of shares of common stock that you own. Whether or not you plan to attend the special meeting, we request that you authorize your proxy by completing and returning the enclosed proxy card as promptly as possible. The failure to vote in person or by proxy (including as a result of broker non-votes and abstentions) will have the same effect as voting against the merger and the other transactions contemplated by the merger agreement.

Thank you for your cooperation and continued support.

On Behalf of the Board of Directors,

Paul H. McDowell
Chairman and Chief Executive Officer

Neither the Securities and Exchange Commission nor any state securities regulatory agency has approved or disapproved the merger, passed upon the merits or fairness of the merger or passed upon the adequacy or accuracy of the disclosure in this document. Any representation to the contrary is a criminal offense.

This document is dated [ ], 2013, and is first being mailed, along with the enclosed proxy card, to our common stockholders on or about [ ], 2013.

CAPLEASE, INC.

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS
TO BE HELD [ ], 2013

Dear Stockholder:

You are cordially invited to attend a special meeting of the stockholders of CapLease, Inc., a Maryland corporation, which we refer to as the Company, on [ ], 2013 at [ ] [a.m./p.m.], local time, at [ ]. The special meeting is being held for the purpose of acting on the following matters:

1. to consider and vote on a proposal to approve the merger of the Company with and into a wholly owned subsidiary of American Realty Capital Properties, Inc., which we refer to as the merger, and the other transactions contemplated by the Agreement and Plan of Merger, dated as of May 28, 2013, among the Company, American Realty Capital Properties, Inc. and certain affiliates of each, which we refer to as the merger agreement;

2. to consider and cast a non-binding, advisory vote regarding the compensation that may be paid or become payable to the Company's named executive officers that is based on or otherwise relates to the merger; and

3. to consider and vote on a proposal to approve any adjournments of the special meeting for the purpose of soliciting additional proxies if there are not sufficient votes at the special meeting to approve the merger and the other transactions contemplated by the merger agreement.

The Company's board of directors has unanimously determined that the merger agreement, the merger and the other transactions contemplated by the merger agreement are advisable and in the best interests of the Company and its stockholders, and has approved the merger, the merger agreement and the other transactions contemplated by the merger agreement. The Company's board of directors unanimously recommends that the holders of the Company's common stock vote FOR the proposal to approve the merger and the other transactions contemplated by the merger agreement, FOR the proposal to approve, on a non-binding, advisory

basis, the compensation that may be paid or become payable to the Company's named executive officers that is based on or otherwise relates to the merger, and FOR the proposal to approve any adjournments of the special meeting for the purpose of soliciting additional proxies if there are not sufficient votes at the special meeting to approve the merger and the other transactions contemplated by the merger agreement.

All holders of record of shares of our common and preferred stock, as of the record date, which was the close of business on [ ], 2013, are entitled to receive notice of the special meeting or any postponements or adjournments of the special meeting. However, only holders of our common stock on the record date are entitled to attend and to vote at the special meeting or any postponements or adjournments of the special meeting. **The Company's preferred stockholders are entitled to notice of the special meeting, but they are not entitled to attend or to vote at the special meeting, and no vote or proxy is being solicited from the Company's preferred stockholders.**

Approval of the merger and the other transactions contemplated by the merger agreement requires the affirmative vote of holders of a majority of the outstanding shares of our common stock. **Accordingly, regardless of the number of shares that you own, your vote is important**. Even if you plan to attend the special meeting in person, we request that you authorize your proxy to vote your shares by marking, signing, dating and promptly returning the enclosed proxy card in the postage-paid envelope. If your shares are held in "street name," which means shares held of record by a broker, bank or other nominee, you should provide the record holder of your shares with instructions on how to vote your shares in accordance with the voting instructions provided by your broker, bank or other nominee. **The failure to vote on this proposal in person or by proxy (including as a result of broker non-votes and abstentions) will have the same effect as voting against the merger and the other transactions contemplated by the merger agreement.**

Approval, on a non-binding, advisory basis, of the compensation that may be paid or become payable to the Company's named executive officers that is based on or otherwise relates to the merger requires the affirmative vote of a majority of the votes cast by holders of our common stock on the proposal. The failure to vote on this proposal in person or by proxy (including as a result of broker non-votes and abstentions) will have no effect on the outcome of this proposal.

Approval of any adjournments of the special meeting for the purpose of soliciting additional proxies if there are not sufficient votes at the special meeting to approve the merger and the other transactions contemplated by the merger agreement requires the affirmative vote of a majority of the votes cast by holders of our common stock on the proposal. The failure to vote on this proposal in person or by proxy (including as a result of broker non-votes and abstentions) will have no effect on the outcome of this proposal.

Any proxy may be revoked at any time before it is voted by delivery of a properly executed, later-dated proxy card, by filing a written revocation of your proxy with our Secretary at our address set forth above or by your voting in person at the special meeting.

We encourage you to read this document carefully and in its entirety. If you have any questions or need assistance voting your shares, please call our proxy solicitor, Innisfree M&A Incorporated, toll-free at (877) 456-3463. In addition, you may obtain information about us from our website at www.caplease.com and from certain documents that we have filed with the Securities and Exchange Commission.

By Order of the Board of Directors,

Paul C. Hughes
Vice President, General Counsel
and Corporate Secretary

New York, New York

[ ], 2013

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SUMMARY

This summary highlights only selected information from this document relating to (1) the merger of CapLease, Inc. with and into a wholly owned subsidiary of American Realty Capital Properties, Inc., which we refer to as the merger, (2) the merger of our operating partnership, Caplease, LP, with and into American Realty Capital Properties, Inc.'s operating partnership, ARC Properties Operating Partnership, L.P., which we refer to as the partnership merger, (3) certain other transactions contemplated by the merger agreement and (4) the special meeting. References to the mergers refer to both the merger and the partnership merger. This summary does not contain all of the information about the mergers, the merger agreement, the other transactions contemplated by the merger agreement or the special meeting that may be important to you. You should read carefully this document in its entirety, including the annexes and the other documents to which we have referred you, including the merger agreement attached to this document as Annex A. Each item in this summary includes a page reference directing you to a more complete description of that item. You may obtain the information incorporated by reference in this document without charge by following the instructions in the section titled "Where You Can Find More Information" on page 87.

The Parties to the Mergers (Page 25)

CapLease, Inc.
1065 Avenue of the Americas

New York, New York 10018
(212) 217-6300

CapLease, Inc., which we refer to as "we," "us," "our," "the Company," or "CapLease," is a publicly traded Maryland corporation listed on the New York Stock Exchange, or NYSE, that qualified as a real estate investment trust, or REIT, for U.S. federal income tax purposes commencing with its taxable year ended December 31, 2004. The Company, operating through its various subsidiaries and affiliates, owns and manages a diversified portfolio of single-tenant commercial real estate properties subject to long-term leases to high-credit-quality tenants. As of March 31, 2013, our single-tenant owned property portfolio consisted of 71 properties in 25 states and leases with 43 different tenants. In addition to our portfolio of owned properties, we have a modest portfolio of first mortgage loans and other debt investments on single-tenant properties.

Caplease, LP
1065 Avenue of the Americas

New York, New York 10018
(212) 217-6300

Caplease, LP, which we refer to as the Company operating partnership, is a Delaware limited partnership through which we own, either directly or indirectly through subsidiaries, most of our assets. The Company owns approximately 99.8% of the common equity ownership units of the Company operating partnership.

CLF OP General Partner LLC
1065 Avenue of the Americas

New York, New York 10018
(212) 217-6300

CLF OP General Partner LLC, which we refer to as the general partner of the Company operating partnership, is a Delaware limited liability company and wholly owned subsidiary of the Company that serves as the sole general partner of the Company operating partnership.

American Realty Capital Properties, Inc. and Safari Acquisition, LLC
405 Park Avenue

New York, New York 10022

(212) 415-6500

American Realty Capital Properties, Inc., which we refer to as ARCP, is a publicly traded Maryland corporation listed on The NASDAQ Global Select Market that qualified as a REIT for U.S. federal income tax purposes commencing with its taxable year ended December 31, 2011, focused on acquiring and owning single-tenant freestanding commercial properties subject to net leases with high-credit-quality tenants. Additional information about ARCP can be found on its website at www.arcpreit.com.

Safari Acquisition, LLC, which we refer to as Merger Sub, is a Delaware limited liability company and a direct wholly owned subsidiary of ARCP that was formed for the purpose of entering into the merger agreement.

ARC Properties Operating Partnership, L.P.

405 Park Avenue

New York, New York 10022

(212) 415-6500

ARC Properties Operating Partnership, L.P., which we refer to as the ARCP operating partnership, is a Delaware limited partnership through which ARCP conducts substantially all of its business. ARCP is the sole general partner of the ARCP operating partnership.

Consideration to the Company's Stockholders (Page 66)

At the effective time of the merger, each outstanding share of common stock, par value $0.01 per share, which we refer to as Company common stock (other than shares of Company common stock held by our subsidiaries, ARCP or any subsidiary of ARCP, which will be automatically canceled and retired and cease to exist with no payment being made with respect thereto), will be converted into the right to receive $8.50 in cash, without interest and less any applicable withholding taxes. We refer to this consideration to be received for each share of Company common stock in the merger as the common merger consideration. In addition, in connection with the merger, each outstanding share

of our 8.125% Series A Cumulative Redeemable Preferred Stock, 8.375% Series B Cumulative Redeemable Preferred Stock and 7.25% Series C Cumulative Redeemable Preferred Stock, which we refer to collectively as Company preferred stock, will be converted into the right to receive an amount in cash equal to the sum of $25.00 plus all accrued and unpaid dividends on such share of Company preferred stock to, but excluding, the closing date of the merger, without interest and less any applicable withholding taxes. We refer to this consideration to be received for each share of Company preferred stock in the merger as the preferred merger consideration.

At the effective time of the partnership merger, each outstanding equity ownership unit of the Company operating partnership (other than any unit held by Merger Sub or any of its subsidiaries) will be converted into the right to receive $8.50 per unit in cash, without interest and less any applicable withholding taxes. We refer to this consideration to be received for each equity ownership unit of the Company operating partnership as the partnership merger consideration. We refer to the common merger consideration, the preferred merger consideration and the partnership merger consideration, collectively, as the merger consideration.

The Mergers (Page 27)

Pursuant to the merger agreement, on the closing date, we will be merged with and into Merger Sub with Merger Sub surviving as a wholly owned subsidiary of ARCP. We sometimes use the term surviving entity in this document to refer to Merger Sub as the surviving entity. The merger of the Company with and into the Merger Sub will become effective at the later of the time that the articles of merger with respect to the merger are accepted for record by the State Department of Assessments and Taxation of Maryland, or the SDAT, and the certificate of merger has been duly filed with the Secretary of State of the State of Delaware, or Delaware Secretary, or such later time that the parties to the merger agreement may specify in such documents (which will not exceed 30 days after the articles of merger are accepted for record by the SDAT and the certificate of merger is duly filed with the Delaware Secretary). We use the term effective time of the merger in this document to describe the time the merger becomes effective.

Also on the closing date, after the effective time of the merger, the Company operating partnership will be merged with and into the ARCP operating partnership with the ARCP operating partnership continuing as the surviving partnership. The general partner of the Company operating partnership has approved the merger agreement and the partnership merger and such approval is the only approval of the holders of equity ownership units of the Company operating partnership required to complete the partnership merger. The partnership merger will be effective upon the filing of a certificate of merger with respect to the partnership merger with the Delaware Secretary or at such later time that the parties shall have agreed upon and designated in such filing (which will not exceed 30 days after the partnership certificate of merger is filed with the Delaware Secretary). The time that the partnership merger becomes effective is referred to in this document as the effective time of the partnership merger.

The Special Meeting (Page 19)

The Proposals

The special meeting of our stockholders will be held on [ ], 2013 at [ ] [a.m./p.m.], local time, at [ ]. At the special meeting, the holders of Company common stock will be asked to consider and vote on:

a proposal to approve the merger of the Company with and into Merger Sub and the other transactions contemplated by the merger agreement, which we refer to as the merger proposal;

a proposal to approve, on a non-binding, advisory basis, the compensation that may be paid or become payable to the Company's named executive officers that is based on or otherwise relates to the merger, discussed under "The Mergers—Change of Control and Termination Benefits—Quantification of Change of Control and Termination Benefits of Named Executive Officers" on page 57, which we refer to as the non-binding compensation proposal; and

a proposal to approve any adjournments of the special meeting for the purpose of soliciting additional proxies if there are not sufficient votes at the special meeting to approve the merger proposal, which we refer to as the adjournment proposal.

The persons named in the accompanying proxy will also have discretionary authority to vote upon other business, if any, that properly comes before the special meeting and any adjournments or postponements of the special meeting.

Record Date, Notice and Quorum

All holders of record of Company common stock and Company preferred stock as of the record date, which was the close of business on [ ], 2013, are entitled to receive notice of the special meeting or any postponements or adjournments of the special meeting. However, only holders of Company common stock on the record date are entitled to attend and vote at the special meeting or any postponements or adjournments of the special meeting.

Each holder of Company common stock will be entitled to cast one vote on each matter presented at the special meeting for each share of Company common stock that such holder owned as of the record date. On the record date, there were [ ] shares of Company common stock outstanding and entitled to vote at the special meeting.

The presence, in person or by proxy, of holders of a majority of the outstanding shares of Company common stock will constitute a quorum for purposes of the special meeting. Shares held in "street name" whose nominees are not provided with voting instructions by the beneficial owner (which we refer to as broker non-votes) will not be voted at the special meeting and will not be counted as part of the quorum.

Required Vote

Approval of the merger proposal requires the affirmative vote of holders of a majority of the outstanding shares of Company common stock. **The failure to vote in person or by proxy (including as a result of broker non-votes and abstentions) will have the same effect as voting against the merger proposal.**

Approval of the non-binding compensation proposal requires the affirmative vote of holders of a majority of votes cast by the holders of Company common stock present, in person or by proxy, at the special meeting. The failure to vote on this proposal in person or by proxy (including as a result of broker non-votes and abstentions) will have no effect on the outcome of this proposal.

Approval of the adjournment proposal requires the affirmative vote of a majority of the votes cast by the holders of Company common stock present, in person or by proxy, at the special meeting. The failure to vote on this proposal in person or by proxy (including as a result of broker non-votes and abstentions) will have no effect on the outcome of this proposal.

The Company's preferred stockholders are not entitled to attend or to vote at the special meeting, and no vote or proxy is being solicited from the Company's preferred stockholders.

As of the record date, our directors and named executive officers owned and are entitled to vote an aggregate of approximately [ ] shares of Company common stock, entitling them to exercise approximately [ ]% of the voting power of the Company common stock entitled to vote at the special meeting. Our named executive officers have entered into a voting agreement with ARCP, which we refer to as the voting agreement, in which they agreed to vote the shares of Company common stock they own in favor of the merger proposal. The full text of the voting agreement is attached to this document as Annex D and is incorporated in this document by reference.

Proxies; Revocation

Any holders of record of Company common stock entitled to vote may authorize a proxy by returning the enclosed proxy, or may attend and vote at the special meeting in person. If shares of Company common stock that you own are held in "street name" by your broker, bank or other nominee, you should instruct your broker, bank or other nominee on how to vote your shares using the instructions provided by your broker, bank or other nominee.

Any proxy may be revoked at any time before it is voted at the special meeting by delivery of a properly executed, later-dated proxy card, by filing a written revocation of your proxy with our Corporate Secretary or by voting in person at the special meeting.

Your attendance at the special meeting will not, in itself, constitute revocation of your previously submitted proxy; you must vote in person at the special meeting. If you have instructed your bank, broker or other nominee to vote your shares of Company common stock, the options described above for changing your vote do not apply. Instead, you must follow the instructions provided by your bank, broker or other nominee to change your vote.

Recommendation of the Company's Board of Directors (Page 37)

The Company's board of directors has unanimously:

determined that it is advisable and in the best interests of the Company and the holders of Company common stock for the Company to enter into the merger agreement and consummate the merger and the other transactions contemplated by the merger agreement;

approved the merger, the merger agreement and the other transactions contemplated by the merger agreement and directed that the merger and the other transactions contemplated by the merger agreement be submitted to our common stockholders for approval at a special meeting of stockholders; and

recommended that you vote "FOR" the merger proposal.

The Company's board of directors also recommends that you vote "FOR" the non-binding compensation proposal and "FOR" the adjournment proposal.

Opinions of the Company's Financial Advisors (Page 40)

Opinion of Wells Fargo Securities

In connection with the merger, Wells Fargo Securities, LLC, which we refer to as Wells Fargo Securities, rendered an opinion, dated May 28, 2013, to the Company's board of directors as to the fairness, from a financial point of view and as of such date, of the common merger consideration to be received pursuant to the merger agreement by holders of Company common stock (other than ARCP and its affiliates). The full text of Wells Fargo Securities' written opinion is attached as Annex B to this document and is incorporated in this document by reference. The written opinion sets forth, among other things, the assumptions made, procedures followed, factors considered and limitations on the review undertaken by Wells Fargo Securities in rendering its opinion.

The opinion was addressed to the Company's board of directors (in its capacity as such) for its information and use in connection with its evaluation of the common merger consideration from a financial point of view and did not address any other terms, aspects or implications of the merger or any related transactions. Wells Fargo Securities' opinion did not address the merits of the underlying decision by the Company to enter into the merger agreement or the relative merits of the merger or any related transactions compared with other business strategies or transactions available or that have been or might be considered by the Company's management or the Company's board of directors or in which the Company might engage. The opinion should not be construed as creating any fiduciary duty on the part of Wells Fargo Securities to any party and the opinion does not constitute a recommendation to the Company's board of directors or any other person or entity in respect of the merger or any related transactions, including as to how any holder of any of the Company's securities should vote or act in connection with the merger, any related transactions or any other matters. See "The Mergers—Opinions of the Company's Financial Advisors—Opinion of Wells Fargo Securities" beginning on page 40 for more information.

Opinion of Houlihan Lokey

On May 28, 2013, Houlihan Lokey Financial Advisors, Inc., which we refer to as Houlihan Lokey, rendered its opinion to the Company's board of directors as to, as of May 28, 2013, the fairness, from a financial point of view, to the holders of Company common stock (other than ARCP and its affiliates) of the common merger consideration to be received by the holders of Company common stock (other than ARCP and its affiliates) in the merger pursuant to the merger agreement.

Houlihan Lokey's opinion was directed to the Company's board of directors (in its capacity as such) and only addressed the fairness, from a financial point of view, to the holders of Company common stock (other than ARCP and its affiliates) of the common merger consideration to be received by the holders of Company common stock (other than ARCP and its affiliates) in the merger pursuant to the merger agreement and did not address any other aspect or implication of the merger, the merger agreement or the transactions contemplated by the merger agreement. The summary of Houlihan Lokey's opinion in this document is qualified in its entirety by reference to the full text of its written opinion, which is attached as Annex C to this document and sets forth the procedures followed, assumptions made, qualifications and limitations on the review undertaken and other matters considered by Houlihan Lokey in preparing its opinion. However, neither Houlihan Lokey's opinion nor the summary of its opinion and the related analyses set forth in this document are intended to be, and do not constitute advice or a recommendation to the Company's board of directors or any holder of Company common stock as to how to act or vote with respect to the merger, the merger agreement or the transactions contemplated by the merger agreement. See "The Mergers—Opinions of the Company's Financial Advisors—Opinion of Houlihan Lokey" beginning on page 46 for more information.

Material United States Federal Income Tax Consequences (Page 59)

The receipt of the merger consideration for each of our shares of Company common stock and Company preferred stock pursuant to the merger will be a taxable transaction for United States federal income tax purposes. Generally for United States federal income tax purposes, you will recognize gain or loss as a result of the merger measured by the difference, if any, between the merger consideration per share and your adjusted tax basis in that share. In addition, under certain circumstances, we may be required to withhold a portion of your merger consideration under applicable tax laws. Tax matters can be complicated, and the tax consequences of the merger to you will depend on your particular tax situation. We encourage you to consult your tax advisor regarding the tax consequences of the merger to you.

Interests of the Company's Directors and Executive Officers in the Merger (Page 52)

In considering the recommendations of the Company's board of directors to approve the merger and the other transactions contemplated by the merger agreement, the Company's stockholders should be aware that the executive officers and directors of the Company have certain interests in the merger that may be different from, or in addition to, the interests of the Company's stockholders generally. These interests may create potential conflicts of interest. The Company's board of directors was aware of those interests and considered them, among other matters, in reaching its decision to approve the merger, the merger agreement and the other transactions contemplated by the merger agreement.

Change of Control and Termination Benefits (Page 55)

The Company has entered into employment agreements with each of Paul H. McDowell, Chairman of the Board and Chief Executive Officer of the Company, Shawn P. Seale, Senior Vice President, Chief Financial Officer and Treasurer of the Company, William R. Pollert, President of the Company, Robert C. Blanz, the Senior Vice President and Chief Investment Officer of the Company, and Paul C. Hughes, Vice President, General Counsel and Corporate Secretary of the Company, which we refer to collectively as the employment agreements. The employment agreements with Messrs. McDowell, Seale, Pollert and Blanz were entered into in 2004. In 2007 the Company entered into the employment agreement with Mr. Hughes and amended the employment agreement with Mr. Blanz.

The completion of the merger will constitute a change of control under the employment agreements. It is currently contemplated that at the effective time of the merger, the employment of Messrs. McDowell, Seale, Pollert, Blanz and Hughes will terminate, although as described below, they may become employees of ARCP or one of its affiliates upon completion of the merger. Whether or not they become employees of ARCP or one of its affiliates, it is anticipated that the executives' termination will be without cause and that they will become entitled to certain

severance payments.

Concurrently with the execution of the merger agreement, Messrs. McDowell, Seale, Pollert, Blanz and Hughes entered into a letter agreement with ARCP, which we refer to as the letter agreement, pursuant to which each executive agreed to use good faith efforts to negotiate (i) an amendment to his existing employment agreement (to be effective immediately prior to the effective time of the merger) that includes reduced severance payable thereunder such that the new severance plus any other "parachute payments" as defined under Section 280G of the Internal Revenue Code of 1986, as amended, which we refer to as the Code, equal the maximum amount payable to such executive without triggering excise tax liability under Section 4999 of the Code, and (ii) a new employment agreement with ARCP or one of its affiliates (effective as of the date following the date on which the effective time of the merger occurs) that includes an increase in compensation payable thereunder, other than "parachute payments," in an amount at least equal to the reduction in severance. If the executive and ARCP cannot agree to such terms the executive will enter into an amendment to his current employment agreement to provide that if excise tax liability under Section 4999 of the Code is triggered the executive will be obligated to pay one-half of the excise tax liability. The full text of the letter agreement is attached to this document as Annex E and is incorporated in this document by reference.

Go Shop Period and No Solicitation of Transactions by the Company (Page 73)

The merger agreement provides for a 40-day "go shop" period ending at 11:59 p.m. (New York City time) on July 7, 2013, that allows the Company to actively solicit, encourage and engage in discussions and negotiations with third parties regarding potential Company acquisition proposals (as detailed below). Following the expiration of the go shop period, the merger agreement restricts our ability to solicit or engage in discussions or negotiations with a third party regarding specified transactions involving the Company or its subsidiaries. Notwithstanding these restrictions, under certain circumstances and subject to certain conditions, the Company's board of directors may respond to an unsolicited written acquisition proposal or terminate the merger agreement and enter into an acquisition agreement with respect to a superior proposal. See "The Merger Agreement—Covenants and Agreements—Go Shop Period and No Solicitation of Transactions by the Company" on page 73 for more information.

Conditions to Completion of the Merger (Page 79)

Mutual Closing Conditions

The obligation of each party to complete the mergers is subject to the satisfaction or waiver, at or prior to the effective time of the merger, of the following conditions:

approval of the merger and the other transactions contemplated by the merger agreement by holders of a majority of the outstanding shares of Company common stock; and

the absence of any law or order by any governmental authority restricting, preventing or prohibiting the consummation of the mergers.

Additional Closing Conditions for the Benefit of ARCP, the ARCP Operating Partnership and Merger Sub

The obligation of ARCP, the ARCP operating partnership and Merger Sub to complete the mergers is subject to the satisfaction or waiver, at or prior to the effective time of the merger, of certain customary conditions, including:

the accuracy as of the date of the merger agreement and as of the effective time of the merger of all representations and warranties made by the Company, the Company operating partnership and the general partner of the Company operating partnership in the merger agreement (subject to certain materiality standards);

each of the Company, the Company operating partnership and the general partner of the Company operating partnership must have performed and complied in all material respects with the agreements and covenants required to be performed or complied with by it at or prior to the closing date; and

the absence of any event, change or occurrence that has had or would reasonably be expected to have, individually or in the aggregate, a material adverse effect on the Company.

Additional Closing Conditions for the Benefit of the Company, the Company Operating Partnership and the General Partner of the Company Operating Partnership

The obligation of the Company, the Company operating partnership and the general partner of the Company operating partnership to complete the mergers is subject to the satisfaction or waiver, at or prior to the effective time of the merger, of certain customary conditions, including:

&nb

100.00%

58.16%

Hybrid ARMs

Generic Fannie or Freddie Hybrid ARMs

13 - 18 Months to First Reset

$

318,101,010

43.64%

8.92%

19 - 24 Months to First Reset

131,473,261

18.04%

3.69%

25 - 36 Months to First Reset

51,030,472

7.00%

1.43%

37 - 48 Months to First Reset

0

0.00%

		0.00%		
Total				
	$	500,604,743	68.68%	14.04%
Agency Alt-A Hybrid ARMs				
13 - 18 Months to First Reset				
	$	17,021,633	2.34%	0.48%
19 - 24 Months to First Reset				
		3,821,659	0.52%	0.10%
25 - 36 Months to First Reset				
		14,932,781	2.05%	0.42%
37 - 47 Months to First Reset				
		4,144,958	0.57%	0.12%
Total				
	$	39,921,031	5.48%	1.12%

GNMA Hybrid ARMs			
13 - 24 Months to First Reset	$ 167,074,229	22.92%	4.68%
25 - 36 Months to First Reset	21,243,993	2.92%	0.60%
Total	$ 188,318,222	25.84%	5.28%
Total Hybrid ARMs	**$ 728,843,996**	**100.00%**	**20.44%**
Balloons			
< = 4.0 Years to Balloon Date	$ 36,179,124	76.61%	1.01%
4.01 - 5.0 Years to Balloon Date	11,044,185		

		23.39%	
		0.31%	
5.01 - 5.5 Years to Balloon Date			
		0	
		0.00%	
		0.00%	
Total Balloons			**$**
		47,223,309	
		100.00%	
		1.32%	

		Internally Generated Market Value	% of Asset Class	% of Total Mortgage Assets
Fixed Rate Agency Debt				
4.5yr Stated Final Maturity	$	96,727,786	100.00%	2.71%
Total Fixed Rate Agency Debt	**$**	**96,727,786**	**100.00%**	**2.71%**
Fixed Rate CMOs				
Fixed Rate CMOs	$	70,067,967	100.00%	1.96%
Total Fixed Rate CMOs	**$**	**70,067,967**	**100.00%**	**1.96%**
Fixed Rate Assets				
10yr Other (Seasoned, Low Avg Bal, Low FICO, etc.)	$	2,031,512	0.37%	0.06%
15yr $85,000 Maximum Loan Size		70,884,818	12.90%	1.98%
15yr $110,000 Maximum Loan Size		4,689,136	0.85%	0.13%
15yr 100% Investor Property		610,435	0.11%	0.02%
15yr 100% FNMA Expanded Approval Level 3		946,891	0.17%	0.03%
15yr 100% Alt-A		38,751,040	7.05%	1.09%
15yr Geography Specific (NY, FL, VT, TX)		1,818,235	0.33%	0.05%
15yr Other (Seasoned, Low Avg Bal, Low FICO, etc.)		25,605,844	4.66%	0.72%
20yr Other (Seasoned, Low Avg Bal, Low FICO, etc.)		1,127,853	0.21%	0.03%
20yr 100% Alt-A		771,324	0.14%	0.02%
30yr $85,000 Maximum Loan Size		161,731,593	29.44%	4.54%
30yr $110,000 Maximum Loan Size		38,492,163	7.01%	1.08%
30yr 100% Investor Property		6,276,128	1.15%	0.18%
30yr 100% FNMA Expanded Approval Level 3		49,264,461	8.97%	1.38%
30yr 100% Alt-A		35,789,691	6.51%	1.00%
30yr Geography Specific (NY, FL, VT, TX)		4,528,275	0.82%	0.13%
30yr 100% GNMA Builder Buydown Program		5,431,751	0.99%	0.15%
30yr Other (Seasoned, Low Avg Bal, Low FICO, etc.)		100,677,348	18.32%	2.82%
Total Fixed Rate Collateral	**$**	**549,428,498**	**100.00%**	**15.41%**
Total (All Mortgage Assets)	**$**	**3,566,134,545**		**100.00%**
Cash or Cash Receivables		**107,071,755**		
Long-Term Receivables From OFS		**65,000,000**		
Total Assets and Cash	**$**	**3,738,206,300**		
Total Forward Settling Purchases	**$**	**139,882,457**		

UNAUDITED Funding Information as of 2/22/2006

Repurchase Counterparties	Dollar Amount of Borrowings	Weighted Average Maturity in Days	Longest Maturity
Deutsche Bank [1]	$ 950,737,006	101	11-Oct-06
Nomura	671,699,000	84	18-Sep-06
WAMU	383,501,000	22	13-Apr-06
Cantor Fitzgerald	346,402,000	43	25-Apr-06
Bear Stearns	236,335,000	97	7-Jul-06
UBS Securities	171,096,000	83	19-Oct-06
Goldman Sachs	141,917,000	48	1-May-06
Merrill Lynch	128,119,000	48	19-Apr-06
JP Morgan Secs	93,783,000	143	18-Jul-06
Morgan Stanley	72,606,455	67	27-Apr-06
Lehman Bros	62,643,000	39	28-Mar-06
Daiwa Secs	35,772,000	85	7-Jul-06
Countrywide Secs	22,930,000	38	27-Mar-06
RBS Greenwich Capital	1,503,000	45	3-Apr-06
Total	**$ 3,319,043,461**	**76**	**19-Oct-06**
Total Forward Settling Purchases Without Committed Repo Terms	**139,882,457**		
Estimated Haircut (at 3%)	4,196,474		
Estimated Forward Borrowings	135,685,983		
Estimated Total Borrowings	**$ 3,454,729,445**		

(**1**) Includes $507 Million floating rate repo obligations