

# FIRST UNION REAL ESTATE EQUITY & MORTGAGE INVESTMENTS

FORM 10-K405  
(Annual Report (Regulation S-K, item 405))

Filed 3/15/1996 For Period Ending 12/31/1995

Address	7 BULFINCH PLACE SUITE 500 PO BOX 9507 BOSTON, Massachusetts 02114
Telephone	617-570-4614
CIK	0000037008
Industry	Real Estate Operations
Sector	Services
Fiscal Year	12/31

Generated by EDGAR Online Pro  
<http://pro.edgar-online.com>



Contact EDGAR Online  
Customer Service: 203-852-5666  
Corporate Sales: 212-457-8200

# SECURITIES AND EXCHANGE COMMISSION

## WASHINGTON, D.C. 20549

### FORM 10-K

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

For the fiscal year ended 12-31-95  
-----

Commission file number 1-6249  
-----

-----  
First Union Real Estate and Mortgage Investments  
-----

(Exact name of registrant as specified in its charter)

-----  
Ohio  
-----

(State or other jurisdiction of  
incorporation or organization)

-----  
34-6513657  
-----

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

-----  
Suite 1900, 55 Public Square  
Cleveland, Ohio  
-----

(Address of principal executive offices)

-----  
44113-1937  
-----

(Zip Code)

Registrant's telephone number, including area code:

-----  
(216) 781-4030  
-----

Securities registered pursuant to Section 12(b) of the Act:

-----  
Title of each class  
-----

-----  
Name of each exchange on  
which registered  
-----

-----  
Shares of Beneficial Interest  
(Par Value \$1 Per Share)  
-----

-----  
New York Stock Exchange  
-----

#### Securities registered pursuant to Section 12(g) of the Act: None

(Title of class)

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 /X/ No //

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Yes /X/ No //

State the aggregate market value of the voting stock held by non-affiliates of the registrant. The aggregate market value shall be computed by reference to the price at which the stock was sold, or the average bid and asked prices of such stock, as of a specified date within 60 days prior to the date of filing.

As of January 31, 1996, 17,028,378 Shares of Beneficial Interest were held by non-affiliates, and the aggregate market value of such shares was approximately \$127,713,000.

(APPLICABLE ONLY TO CORPORATE REGISTRANTS)

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date.

17,485,057 Shares of Beneficial Interest were outstanding as of January 31, 1996

## **DOCUMENTS INCORPORATED BY REFERENCE**

List hereunder the following documents if incorporated by reference and the Part of the Form 10-K into which the document is incorporated: (1) Any annual report to security holders; (2) Any proxy or information statement; and (3) Any prospectus filed pursuant to Rule 424(b) or (c) under the Securities Act of 1933. The listed documents should be clearly described for identification purposes.

Annual Report to Shareholders for the year ended December 31, 1995 (Parts II and IV).

Proxy Statement dated March 8, 1996 for the Annual Meeting of Shareholders to be held on April 9, 1996 (Part III).

**FIRST UNION REAL ESTATE EQUITY AND MORTGAGE INVESTMENTS  
CROSS REFERENCE SHEET PURSUANT TO ITEM G,  
GENERAL INSTRUCTIONS TO FORM 10-K**

ITEM OF FORM 10-K -----	LOCATION ----- (page or pages)
PART I -----	
1. Business . . . . .	3 through 5
2. Properties . . . . .	6 through 12
3. Legal Proceedings. . . . .	13
4. Submission of Matters to a Vote of Security Holders . . . . .	13
PART II -----	
5. Market for Registrant's Common Equity and Related Stockholder Matters. . . . .	13; Annual Report, 1
6. Selected Financial Data. . . . .	13; Annual Report, 20
7. Management's Discussion and Analysis of Financial Condition and Results of Operations. . . . .	13; Annual Report, 33 through 35
8. Financial Statements . . . . .	14; Annual Report, 21 through 32
9. Changes in and disagreements with Accountants on Accounting and Financial Disclosure . . . . .	14
PART III -----	
10. Directors and Executive Officers of the Registrant . . . . .	15 and 16; Proxy Statement, 1 through 5
11. Executive Compensation . . . . .	16; Proxy Statement, 6 and 10 through 16
12. Security Ownership of Certain Beneficial Owners and Management. . . . .	16; Proxy Statement, 7 and 8
13. Certain Relationships and Related Transactions .	16; Proxy Statement, 8 and 9
PART IV -----	
14. Exhibits, Financial Statement Schedules, and Reports on Form 8-K	
(a) Financial Statements and Financial Statement Schedules. . . . .	17 and 22 through 26; Annual Report, 21 through 32
(b) Exhibits . . . . .	17 and 18; Exhibit Index, 27 through 28
(c) Reports on Form 8-K. . . . .	18

## PART I

### Item 1. Business.

The registrant is an unincorporated association in the form of a business trust organized in Ohio under a Declaration of Trust dated August 1, 1961, as amended from time to time through July 25, 1986 (the "Declaration of Trust"), which has as its principal investment policy the purchase of interests in real estate equities. The registrant qualifies as a real estate investment trust under Sections 856 through 860 of the Internal Revenue Code.

In order to encourage efficient operation and management of its property, and after receiving a ruling from the Internal Revenue Service with respect to the proposed form of organization and operation, the registrant, in 1971, caused a management company to be organized pursuant to the laws of the State of Delaware under the name First Union Management, Inc. (the "Management Company"), to lease property from the registrant and to operate such property for its own account as a separate taxable entity. At December 31, 1995, the registrant net leased 37 of its properties to the Management Company. The shares of the Management Company are held in trust, with the shareholders of the registrant, as exist from time to time, as contingent beneficiaries. For financial reporting purposes, the financial statements of the Management Company are combined with those of the registrant.

The registrant owns regional enclosed shopping malls, apartment complexes and large downtown office buildings. Its portfolio is diversified by type of property, geographical location, tenant mix and rental market. As of December 31, 1995, the registrant owned (in fee or pursuant to long-term groundleases under which the registrant is lessee) 15 shopping malls, eight apartment complexes, seven office properties and a 1,100-car parking garage and a 300-car parking facility, as well as other miscellaneous properties (see Item 2 - Properties).

Currently, the registrant intends to concentrate its portfolio in retail and apartment properties while investments in office buildings will be de-emphasized. Although not presently seeking new mortgage investments, except when needed in the disposition of the registrant's office portfolio, the registrant intends to hold its three mortgage investments to maturity.

All of the registrant's shopping malls compete for tenants on the basis of the rent charged and location, and encounter competition from other retail properties in their respective market areas, and some of the registrant's shopping malls compete with other shopping malls in the environs. However, the principal competition for the registrant's shopping malls may come from future shopping malls locating in their market areas and from mail order and electronic retailers. In three markets in which the registrant competes, overbuilding of retail projects has caused occupancy levels to be negatively impacted. Additionally, the overall economic health of retail tenants impacts the registrant's shopping malls. Due to the overbuilding of retail space and a demand for large, open area, administrative service space in Denver, CO, the registrant has repositioned a former retail mall into an office property during 1995. The registrant's apartment complexes compete with other apartments and residential housing in the immediate areas in which they are located and may compete with apartments and residential housing constructed in the same areas in the future. The registrant's office properties compete for tenants principally with office buildings throughout the respective areas in which they are located. In most areas where the registrant's office construction and competition for tenants has been and continues to be intense

on the basis of rent, location and age of the building. High vacancy rates in the cities in which the registrant has properties and the age of the registrant's office properties continue to negatively impact the registrant's occupancy rates and its ability to raise rental rates. Additionally, these factors also impact the ability of the registrant to dispose of its office properties. Moreover, the registrant's parking facilities compete with other parking facilities in the immediate areas in which they are located and may compete with new parking facilities constructed in the same areas in the future. Additionally, the registrant's mortgage investments are collateralized by an office building, shopping mall, partnership units of another public real estate investment trust and an apartment complex. Risks inherent with the registrant's portfolio are applicable to the collateral securing the mortgage investments. These risks may impair the realizability of the mortgage investments.

The registrant also experiences considerable competition when attempting to acquire equity interests in desirable real estate at operating yields below the registrant's cost of funds. As prices for real estate acquisitions continue to firm, purchasing properties at substantial yields above the registrant's cost of funds requires the registrant to assume an increased level of risk. The competition is provided by other real estate investment trusts, insurance companies, private pension plans and private developers. Additionally, the registrant's credit rating and leverage affect its competitive position in the public debt and equity markets.

The federal government and a number of states have adopted handicapped facilities and energy laws and regulations relative to the development and use of real estate. Such laws and regulations may operate to reduce the number and attractiveness of investment opportunities available to the registrant. The registrant has reviewed the properties which it owns or in which it has a leasehold interest to determine the extent and amount of capital expenditures to comply with the requirements for handicapped facilities. While the registrant is making and will continue to make modifications to the properties which it owns, the expenditures are not expected to be material. The registrant is not aware of any other requirements to make capital expenditures to comply with such laws and regulations. Other effects upon the registrant's investments which result from the application of such laws and regulations cannot be predicted.

Additionally, under various federal, state and local laws, ordinances and regulations, an owner of real estate generally is liable for the costs of removal or remediation of certain hazardous or toxic substances located on or in, or emanating from, its property, as well as related costs of investigation and property damage. These laws often impose such liability without regard to whether the owner knew of, or was responsible for, the presence of such hazardous or toxic substances. The presence of such substances, or the failure to properly remediate such substances, may adversely affect the registrant's ability to sell or lease a property or to borrow using such real estate as collateral. Other federal and state laws require the removal or encapsulation of asbestos-containing material in poor condition in the event of remodeling or renovation. Other statutes may require the removal of underground storage tanks that are out of service or out of compliance.

Certain environmental laws impose liability on a previous owner of property to the extent that hazardous or toxic substances were present during the prior ownership period. A transfer of the property does not relieve an owner of such liability. Thus, the registrant may have liability with respect to properties previously sold but is not aware of any such liability.

Environmental site assessments have been implemented with respect to 10 properties. However, no assessments have been implemented with respect to any other properties. The registrant has no reason to believe that any environmental contamination or violation of any applicable law, statute, regulation or ordinance governing hazardous or toxic substances has occurred or is occurring. However, no assurance can be given that hazardous or toxic substances are not located on any of the properties. The registrant will also endeavor to protect itself from acquiring contaminated properties or properties with significant compliance problems by obtaining site assessments and property reports at the time of acquisition when it deems such investigations to be appropriate. There is no guarantee, however, that these measures will successfully insulate the registrant from all such liabilities.

The number of persons employed by the registrant is 43.

## ITEM 2. PROPERTIES

The following table sets forth certain information relating to the registrant's investments at December 31, 1995:

Direct equity investments	Location	Date of acquisition	Ownership percentage	Square feet(1) (000)	Occupancy rate(2)	Year construction completed	Total cost (000)
<b>Shopping Malls:</b>							
<b>Eastern</b>							
Mountaineer	Morgantown, WV	1/29/78	100%	674(4)	81%	1975	\$33,798
Fingerlakes	Auburn, NY	9/28/81	100	404	90	1980	26,726
Fairgrounds Square	Reading, PA	9/30/81	100	529(6)	97	1980	36,752
Wilkes	Wilkesboro, NC	5/04/83	100	359	69	1982	18,710
							115,986
<b>Midwestern</b>							
Crossroads	St. Cloud, MN	1/01/72	100	733(9)	97	1966	29,647
Two Rivers	Clarksville, TN	9/26/75	100	233	46	1968	8,341
Crossroads	Fort Dodge, IA	4/22/77	100	425(11)	93	1967	11,715
Westgate Towne Centre	Abilene, TX	4/22/77	100	386(12)	36(13)	1962	9,719
Kandi	Willmar, MN	3/12/79	100	451	89	1973	20,111
Woodland Commons	Buffalo Grove, IL	4/03/95	100	171	97	1991	21,862
							101,395
<b>Western</b>							
Valley North	Wenatchee, WA	8/30/73	100	171	93	1966	4,153
Mall 205	Portland, OR	3/01/75	100	434(14)	97	1970	13,663
Plaza 205	Portland, OR	4/26/78	100	168	87	1970	4,288
Peach Tree	Marysville, CA	12/19/79	100	436	50(15)	1972	13,536
Valley	Yakima, WA	5/01/80	100	426(16)	97	1972	12,187
							47,827
							265,208
<b>Apartments:</b>							
<b>Midwestern</b>							
Somerset Lakes	Indianapolis, IN	11/10/88	100	360 units	97	1975	20,276
Meadows of Catalpa	Dayton, OH	7/11/89	100	323 units	94	1972	10,405
Steeplechase	Cincinnati, OH	6/30/95	100	272 units	95	1987	12,007
							42,688
<b>Southern</b>							
Briarwood	Fayetteville, NC	6/30/91	100	273 units	96	1968-70	8,190
Woodfield Gardens	Charlotte, NC	6/30/91	100	132 units	97	1974	3,656
Windgate Place	Charlotte, NC	6/30/91	100	196 units	94	1974-78	5,921
Walden Village	Atlanta, GA	6/01/92	100	380 units	91	1973	13,422
Beech Lake	Durham, NC	8/19/94	100	345 units	95	1986	19,670
							50,859
							93,547

### Mortgage Loans

Direct equity investments	Original balance(s) (000)	Balance at 12/31/95 (000)	Principal repayment for 1996 (000)	Interest rate	Year of maturity
<b>Shopping Malls:</b>					
<b>Eastern</b>					
Mountaineer	\$14,447(3)	\$8,985(5)	\$896(5)	---%(5)	---(5)
Fingerlakes	---	---	---	---	---
Fairgrounds Square	---	---(7)	---	---	---
Wilkes	---	---	---	---	---
		14,447	8,985	896	
<b>Midwestern</b>					
Crossroads	50,300(3)	50,205(10)	655(10)	---(10)	---(10)
Two Rivers	---	---	---	---	---
Crossroads	---	---(8)	---	---	---
Westgate Towne Centre	---	---	---	---	---
Kandi	---	---(7)	---	---	---
Woodland Commons	---	---	---	---	---



	----- 50,300 -----	----- 50,205 -----	----- 655 -----		
Western					
-----					
Valley North	---	---	---	---	---
Mall 205	---	---	---	---	---
Plaza 205	1,716	586	136	8.500	1999
Peach Tree	---	---	---	---	---
Valley	---	---	---	---	---
	-----	-----	-----		
	1,716	586	136		
	-----	-----	-----		
	66,463	59,776	1,687		
	-----	-----	-----		
Apartments:					
Midwestern					
-----					
Somerset Lakes	---	---	---	---	---
Meadows of Catalpa	8,000(3)	7,793	76	8.750	2002
Steeplechase	---	---	---	---	---
	-----	-----	-----		
	8,000	7,793	76		
	-----	-----	-----		
Southern					
-----					
Briarwood	2,542	---(8)	---	---	---
Woodfield Gardens	1,074	849	63	8.875	2005
Windgate Place	1,794	1,463(17)	94(17)	---(17)	---(17)
Walden Village	---	---(8)	---	---	---
Beech Lake	---	---	---	---	---
	5,410	2,312	157		
	-----	-----	-----		
	13,410	10,105	233		
	-----	-----	-----		

-----  
-Continued

Direct equity investments	Location	Date of acquisition	Ownership percentage	Square feet(1) (000)	Occupancy rate(2)	Year construction completed
Office Buildings:						
Midwestern						
55 Public Square	Cleveland, OH	1/15/63	100%	398	92%	1959
Circle Tower	Indianapolis, IN	10/16/74	100	104	69	1930
Rockwell Avenue(18)	Cleveland, OH	4/30/79	100	237	45	1916
Ninth Street Plaza(18)	Cleveland, OH	10/11/85	100	147	61	1981
Landmark Towers	Oklahoma City, OK	10/01/77	100	259	85	1967-71
Southern						
Henry C. Beck	Shreveport, LA	8/30/74	100	185	81	1958
Western						
North Valley Center (19)	Denver, CO	12/03/69	100	452	72	1967
Other:						
Land-Huntington Bldg.	Cleveland, OH	10/25/61	100(20)	---	--	---
Parking Garage	Cleveland, OH	12/31/75	100	1,100 spcs.	--	1969
Parking Facility	Cleveland, OH	9/19/77	100	300 spcs.	--	---

## Mortgage Loans

Direct equity investments	Total cost (000)	Original balance(s) (000)	Balance at 12/31/95 (000)	Principal repayment for 1996 (000)	Interest rate	Year of maturity
Office Buildings:						
Midwestern						
55 Public Square	\$30,684	\$ ---	\$ ---(7)	\$ ---	---	---
Circle Tower	3,931	---	---	---	---	---
Rockwell Avenue(18)	13,106	---	---	---	---	---
Ninth Street Plaza(18)	7,289	---	---	---	---	---
Landmark Towers	15,032	2,909	838	283	8.375	1998
	70,042	2,909	838	283		
Southern						
Henry C. Beck	7,660	---	---	---	---	---
Western						
North Valley Center (19)	11,875	2,037	479	144	7.750	1999
	89,577	4,946	1,317	427		
Other:						
Land-Huntington Bldg.	4,501	---	---	---	---	---
Parking Garage	7,021	9,300(3)	8,916	218	8.550	2014
Parking Facility	2,286	---	---	---	---	---
	13,808	9,300	8,916	218		
	462,140	94,119	80,114	2,565		
Reserve on carrying value of real estate(21)	(12,580)	---	---	---		
Senior debt underlying wraparound mortgage loan investments	---	---	3,740	297		
Total equity investments	\$449,560	\$94,119	\$83,854	\$ 2,862		

## **Item 2. Properties**

- Continued

### **NOTES**

- (1) The square footage shown represents gross leasable area for shopping malls and net rentable area for office buildings. The apartments are shown as number of units. The parking garage and parking facility are shown as number of parking spaces.
- (2) Occupancy rates shown are as of December 31, 1995, and are based on the total square feet at each property, except apartments which are based on the number of units and average occupancy during the year.
- (3) The registrant obtained mortgages on the following properties subsequent to acquisition: Meadows of Catalpa Apartments in the amount of \$8,000,000 in 1992; Huntington Parking Garage in the amount of \$9,300,000 in 1993; Mountaineer Mall in the amount of \$4,600,000 in 1994 and Crossroads Shopping Center (St. Cloud, MN) in the amount of \$50,300,000 in 1995.
- (4) The total mall contains 674,000 square feet; the registrant owns 616,000 square feet, the balance being ground leased to Giant Eagle Markets, Inc.
- (5) This property has two mortgages. Interest rates are 9.10% and 8.25%. The mortgages mature in 2001 and 2009. The 9.10% mortgage, in the principal amount of \$4,648,000, has a principal payment for 1996 of \$711,000. The 8.25% mortgage, in the principal amount of \$4,337,000, has principal payment for 1996 of \$185,000.
- (6) The total mall contains 529,000 square feet; the registrant owns 431,000 square feet, the balance being separately ground leased to Boscov Department Store, Inc.
- (7) These properties are the collateral for the registrant's \$60 million revolving line of credit.
- (8) These properties are the collateral for the registrant's \$20 million revolving line of credit.
- (9) The total mall contains 733,000 square feet; the registrant owns 625,000 square feet, the balance being separately owned by Target Stores.
- (10) This property has two mortgages. Interest rates are 7% and 7.485%. The mortgages mature in 2000 and 2002, respectively. The 7% mortgage, in the principal amount of \$753,000 has a principal repayment for 1996 of \$61,000. The 7.485% mortgage, in the principal amount of \$49,452,000, has a principal repayment for 1996 of \$594,000.
- (11) The total mall contains 425,000 square feet; the registrant owns 328,000 square feet, the balance being separately owned by an unrelated third party with Sears, Roebuck and Co. as tenant.
- (12) The total mall contains 386,000 square feet; the registrant owns 291,000 square feet, the balance being separately owned by Montgomery Ward & Co., Incorporated.
- (13) Highly competitive market conditions have made leasing space difficult. The registrant continues to seek tenants and alternative retail strategies for this property.

## **Item 2. Properties**

- Continued

(14) The total mall contains 434,000 square feet; the registrant owns 257,000 square feet, the balance being separately owned by Montgomery Ward Development Corporation.

(15) The property was inundated by a flood which occurred in February 1986. The mall was subsequently rebuilt and re-opened in November 1986. A temporary tenant occupied approximately 70,000 square feet as of December 31, 1995. The Trust is pursuing a mixed use strategy for this former retail facility.

(16) The total mall contains 426,000 square feet; the registrant owns 309,000 square feet, the balance being separately ground leased to Sears, Roebuck and Co.

(17) This property has two mortgages. Interest rates are 8.875% and 9.375%. The mortgages mature in 2005 and 2007, respectively. The 8.875% mortgage in the principal amount of \$823,000 has a principal repayment for 1996 of \$62,000. The 9.375% mortgage, in the principal amount of \$640,000, has a principal repayment for 1996 of \$32,000.

(18) The registrant sold these properties in February 1996.

(19) North Valley Center was repositioned from a shopping mall to an office property during 1995.

(20) The registrant has ground leased the land until October 30, 2011, with seven, 10-year renewal options.

(21) In December 1995, the registrant recorded a \$14 million reduction of the carrying value of assets identified for disposition. Subsequent to the disposition of one office building, this reserve is \$12,580,000 as of December 31, 1995.

**Item 2. Properties**

- Continued

As of December 31, 1995, the registrant owned in fee its interests in Crossroads Center (St. Cloud, Minnesota), Woodland Commons, Mall 205, Crossroads Mall (Ft. Dodge, Iowa), Westgate Towne Centre, Mountaineer Mall, Plaza 205, Peach Tree Mall, Valley Mall, Fingerlakes Mall, Fairgrounds Square Mall, Wilkes Mall, 55 Public Square Building, Henry C. Beck Building, Landmark Towers, Ninth Street Plaza, Somerset Lakes Apartments, Meadows of Catalpa Apartments, Briarwood Apartments, Woodfield Gardens Apartments, Windgate Place Apartments, Walden Village Apartments, Beech Lake Apartments, Steeplechase Apartments, Land - Huntington Building and the Parking Facility. The registrant holds a leasehold estate or estates, or a fee interest and one or more leasehold estates in North Valley Center, Valley North Mall, Two Rivers Mall, Kandi Mall, Circle Tower Building, Rockwell Avenue Building and the Parking Garage.

**Item 2. Properties**

- Continued

**RENTALS FROM NET LEASES**

The following table sets forth the rentals payable to the registrant for the year ended December 31, 1995, under net leases of the properties indicated:

Property -----	Annual Base Rent -----	Percentage Rents -----
SHOPPING MALLS:		
Eastern		
-----		
Mountaineer (1)	\$ 705,000	45% of gross receipts in excess of \$1,506,000
Fingerlakes (1)	968,000	40% of gross receipts in excess of \$2,505,000
Fairgrounds Square (1)	2,850,000	55% of gross receipts in excess of \$3,944,000
Wilkes (1)	507,000	55% of gross receipts in excess of \$931,000
Midwestern		
-----		
Crossroads (St. Cloud, MN.) (1)	3,300,000	60% of gross receipts in excess of \$4,868,000(2)
Two Rivers (1)	---	5% of gross receipts
Crossroads (Ft. Dodge, IA) (1)	736,000	55% of gross receipts in excess of \$1,302,000
Westgate Towne Centre (1)	---	10% of gross receipts
Kandi (1)	712,000	45% of gross receipts in excess of \$1,631,000
Woodland Commons (1)	1,500,000	25% of gross receipts in excess of \$1,280,000
Western		
-----		
Valley North (1)	543,000	55% of gross receipts in excess of \$976,000
Mall 205 (1)	1,232,000	55% of gross receipts in excess of \$2,146,000
Plaza 205 (1)	276,000	60% of gross receipts in excess of \$463,000
Peach Tree (1)	292,000	45% of gross receipts in excess of \$672,000
Valley (1)	463,000	50% of gross receipts in excess of \$898,000

**Item 2. Properties**

- Continued

Property	Annual Base Rent	Percentage Rents
APARTMENTS:		
Midwestern -----		
Somerset Lakes (1)	\$971,000	55% of gross receipts in excess of \$1,744,000
Meadows of Catalpa (1)	900,000	35% of gross receipts in excess of \$2,300,000
Steeplechase (1)	600,000	50% of gross receipts in excess of \$1,200,000
Southern -----		
Briarwood (1)	335,000	35% of gross receipts in excess of \$1,000,000
Woodfield Gardens (1)	100,000	20% of gross receipts in excess of \$500,000
Windgate Place (1)	135,000	20% of gross receipts in excess of \$700,000
Walden Village (1)	850,000	55% of gross receipts in excess of \$1,545,000
Beech Lake (1)	952,000	55% of gross receipts in excess of \$1,904,000
OFFICE BUILDINGS:		
Midwestern -----		
55 Public Square (1)	1,500,000	40% of gross receipts in excess of \$3,400,000 (3)
Circle Tower (1)	189,000	25% of gross receipts in excess of \$709,000
Rockwell Avenue (1)	75,000	35% of gross receipts in excess of \$1,261,000 (4)
Ninth Street Plaza (1)	322,000	25% of gross receipts in excess of \$1,288,000
Landmark Towers East (1)	---	15% of gross receipts
Landmark Towers Center (1)	56,000	15% of gross receipts in excess of \$408,000
Landmark Towers West (1)	56,000	15% of gross receipts in excess of \$347,000
Southern -----		
Henry C. Beck (1)	179,000	25% of gross receipts in excess of \$784,000
Western -----		
North Valley Center(1)	---	5% of gross receipts
OTHER:		
Land-Huntington Building	170,000	First \$130,000 plus 50% of all additional rental, as defined, received by registrant as landlord under a net lease of the building and improvements situated on the land
Parking Garage (1)	800,000	70% of gross receipts in excess of \$1,168,000
Parking Facility (1)	217,000	70% of gross receipts in excess of \$416,000

(1) Leased to the Management Company.

(2) An additional net lease for the Stearns County Building, which is part of the Crossroads, St. Cloud, MN mall, provides for a base rent of \$14,000.

(3) An additional net lease for the 55 Public Square Building garage provides for a base rent of \$281,000 and a percentage rent of 70% of gross receipts in excess of \$537,000.

(4) An additional net lease for the Rockwell Avenue Building garage provides for a base rent of \$316,000 and percentage rent of 70% of gross receipts in excess of \$397,000.

### **ITEM 3. LEGAL PROCEEDINGS.**

#### **Registrant vs. The State of California**

The registrant has pursued legal action against the State of California associated with the 1986 flood of Peach Tree Mall. In September 1991, the court ruled in favor of the registrant on the liability portion of this inverse condemnation suit, which the State of California appealed. The registrant is proceeding with its damage claim in Superior Court of the State of California. No recognition of potential income has been made in the December 31, 1995 Combined Financial Statements.

#### **Registrant vs. Richard M. Osborne**

During 1995, the registrant was involved in a lawsuit with a minority shareholder. The initial lawsuit filed by the registrant alleged several violations of the Securities and Exchange Commission rules and regulations by the minority shareholder and other associated parties. Extensive discovery was undertaken and numerous motions and pleadings were filed by the various parties throughout most of 1995. All litigation was resolved on December 13, 1995 by a settlement and standstill agreement. This agreement provides for the registrant to purchase 950,000 shares of beneficial interest at the average 1995 trading price through December 8, 1995 of \$7.50 per share. Additionally, as part of this agreement, the minority shareholder will not acquire additional shares of theregistrant and will vote the remaining shares as recommended by the registrant's management. This transaction was recorded by the registrant in the December 31, 1995 Combined Financial Statements.

### **ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS.**

None.

## **PART II**

### **ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY AND RELATED STOCKHOLDER MATTERS.**

#### **MARKET PRICE AND DIVIDEND RECORD.**

"Market Price and Dividend Record" presented on page 1 of registrant's 1995 Annual Report to Shareholders is incorporated herein by reference.

### **ITEM 6. SELECTED FINANCIAL DATA.**

"Selected Financial Data" presented on page 20 of registrant's 1995 Annual Report to Shareholders is incorporated herein by reference.

### **ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.**

"Management's Discussion and Analysis of Financial Condition and Results of Operations" presented on pages 33 through 35 of registrant's 1995 Annual Report to Shareholders is incorporated herein by reference.



**ITEM 8. FINANCIAL STATEMENTS.**

The "Combined Balance Sheets" as of December 31, 1995 and 1994, and the "Combined Statements of Income, Combined Statements of Changes in Cash, Combined Statements of Shareholders' Equity" for the years ended December 31, 1995, 1994 and 1993, of the registrant, "Notes to Combined Financial Statements" and "Report of Independent Public Accountants" are presented on pages 21 through 32 of registrant's 1995 Annual Report to Shareholders and are incorporated herein by reference.

**ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE.**

None.

**PART III**

**ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT.**

(a) Directors.

"Election of Trustees" presented on pages 1 through 5 of registrant's 1996 Proxy Statement is incorporated herein by reference.

(b) Executive Officers.

<u>Name</u> ----	<u>Age</u> ---	<u>Positions, Offices and Business Experience</u> -----	<u>Period of Service</u> -----
James C. Mastandrea	52	Chairman, President, Chief Executive Officer and Chief Financial Officer since February 1996. Chairman, President and Chief Executive Officer from January 1994 to February 1996 and President and Chief Operating Officer from July 1993 to December 1993. President and Chief Executive Officer of Triam Corporation, Chicago, Illinois, an investment adviser to various real estate investment funds, from 1991 to 1993. Chairman, President and Chief Executive Officer of Midwest Development Corporation, Buffalo Grove, Illinois from 1978 to 1991. Served in various capacities in the field of commercial and real estate lending from 1971 to 1978, including Vice President of Continental Bank, Chicago, Illinois, and with Mellon Bank, Pittsburgh, Pennsylvania.	1993 to date
Paul F. Levin	49	Senior Vice President, General Counsel and Secretary since December 1994. Vice President, General Counsel and Secretary since May 1989. Principal of Schwarzwald, Robiner, Rock & Levin, a Legal Professional Association, from 1981 to 1989. Associate of Gaines, Stern,	1989 to date

Schwarzwald & Robiner Co., L.P.A.  
from 1979 to 1980. Assistant Director of  
Law, City of Cleveland, Ohio, from 1975 to  
1978.

John J. Dee	44	Senior Vice President and Chief Accounting Officer since February 1996. Senior Vice President and Controller from July 1992 to February 1996. Vice President and Controller from December 1986 to July 1992, Controller from April 1981 to December 1986, Assistant Controller from December 1979 to April 1981, Accounting Manager from August 1978 to December 1979.	1978 to date
Steven M. Edelman	41	Executive Vice President, Chief Investment Officer since January 1996. Senior Vice President, Chief Investment Officer from March 1995 to December 1995. Senior Vice President, Asset Management from July 1992 to February 1995. Vice President, Acquisitions from December 1985 to June 1992. Assistant Vice President, Acquisitions from January 1985 to November 1985. Acquisition Analyst from February 1984 to December 1985. Assistant Controller from July 1982 to January 1984. Internal Auditor from June 1980 to June 1982. Auditor with Touche Ross & Co. from 1978 to 1980.	1980 to date
Thomas T. Kmiecik	37	Senior Vice President, Treasurer since January 1996, Vice President, Treasurer from January 1994 to December 1995. Treasurer from May 1989 to December 1993. Assistant Controller from March 1984 to April 1989, Senior Auditor with Arthur Young from 1980 to 1984.	1984 to date

The above-named executive officers of the registrant hold office at the pleasure of the Trustees of the registrant, and until their successors are chosen and qualified.

**ITEM 11. EXECUTIVE COMPENSATION.**

"Compensation of Trustees" and "Executive Compensation", presented on page 6 and pages 10 through 16, respectively, of registrant's 1996 Proxy Statement are incorporated herein by reference.

**ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT.**

"Security Ownership of Trustees, Officers and Others" presented on pages 7 and 8 of registrant's 1996 Proxy Statement is incorporated herein by reference.

**ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS.**

"Certain Relationships and Related Transactions" presented on pages 8 and 9 of registrant's 1996 Proxy Statement is incorporated herein by reference.

**PART IV**

**ITEM 14. EXHIBITS, FINANCIAL STATEMENT SCHEDULES, AND REPORTS ON FORM 8-K.**

(a) Financial Statements and Financial Statement Schedules.

(1) Financial Statements:

Combined Balance Sheets - December 31, 1995 and 1994 (incorporated by reference to page 21 of registrant's 1995 Annual Report to Shareholders).

Combined Statements of Income - For the Years Ended December 31, 1995, 1994 and 1993 (incorporated by reference to page 22 of registrant's 1995 Annual Report to Shareholders).

Combined Statements of Changes in Cash - For the Years Ended December 31, 1995, 1994 and 1993 (incorporated by reference to page 23 of registrant's 1995 Annual Report to Shareholders).

Combined Statements of Shareholders' Equity - For the Years Ended December 31, 1995, 1994 and 1993 (incorporated by reference to page 24 of registrant's 1995 Annual Report to Shareholders).

Notes to Combined Financial Statements (incorporated by reference to pages 25 through 31 of registrant's 1995 Annual Report to Shareholders).

Report of Independent Public Accountants (incorporated by reference to page 32 of registrant's 1995 Annual Report to Shareholders).

(2) Financial Statement Schedules:

Report of Independent Public Accountants on Financial Statement Schedules.

**Schedule III - Real Estate and Accumulated Depreciation.**

**Schedule IV - Mortgage Loans on Real Estate.**

All Schedules, other than III and IV, are omitted, as the information is not required or is otherwise furnished.

(b) Exhibits.

EXHIBIT NUMBER	DESCRIPTION	INCORPORATED HEREIN BY REFERENCE TO
(3)(a)	Declaration of Trust of Registrant dated August 1, 1961, as amended through July 25, 1986	Registration Statement on Form S-3 No. 33- 4493
(3)(b)	By-laws of Registrant, as amended	Registration Statement on Form S-3 No. 33-4493
(4)(a)	Form of certificate for Shares of Beneficial Interest	Registration Statement on Form S-3 No. 33-2818

EXHIBIT NUMBER	DESCRIPTION	INCORPORATED HEREIN BY REFERENCE TO
(4)(b)	Form of Indenture governing Debt Securities, dated February 1, 1983 between Registrant and Ameritrust Company	Registration Statement on Form S-3 No. 2-81605
(4)(c)	Form of Debt Security	Registration Statement on Form S-3 (No. 33-4493)
(4)(d)	Form of Indenture governing Debt Securities, dated October 1, 1993 between Registrant and Society National Bank	Registration Statement on Form S-3 (No. 33-68002)
(4)(e)	Form of Note	Registration Statement on Form S-3 (No. 33-68002)
(4)(f)	Form of Indenture governing Debt Securities	Registration Statement on Form S-3 (No. 333-00953)
(4)(g)	Rights Agreement between Registrant and National City Bank dated March 7, 1990	Form 8-A dated March 30, 1990 (No. 0-18411)
(10)(a)	Share Purchase Agreement dated as of December 31, 1989 between registrant and First Union Management, Inc.	Registration Statement No. 2-88719
(10)(b)	First Amendment to Share Purchased Agreement dated as of December 10, 1985 between registrant and First Union Management, Inc.	Registration Statement No. 33-2818
(10)(c)	Second Amendment to Share Purchase Agreement dated as of December 9, 1986 between registrant and First Union Management, Inc.	Registration Statement No. 33-11524
(10)(d)	Third Amendment to Share Purchase Agreement dated as of December 2, 1987 between registrant and First Union Management, Inc.	Registration Statement No. 33-19812
(10)(e)	Fourth Amendment to Share Purchase Agreement dated as of December 7, 1988 between registrant and First Union Management, Inc.	Registration Statement No. 33-26758
(10)(f)	Fifth Amendment to Share Purchase Agreement dated as of November 29, 1989 between registrant and First Union Management, Inc.	Registration Statement No. 33-33279
(10)(g)	Sixth Amendment to Share Purchase Agreement dated as of November 28, 1990 between registrant and First Union Management, Inc.	Registration Statement No. 33-38754

EXHIBIT NUMBER	DESCRIPTION	INCORPORATED HEREIN BY REFERENCE TO
(10)(h)	Seventh Amendment to Share Purchase Agreement dated as of November 27, 1991 between registrant and First Union Management, Inc.	Registration Statement No. 33-45355
(10)(i)	Eighth Amendment to Share Purchase Agreement dated as of November 30, 1992 between registrant and First Union Management, Inc.	Registration Statement No. 33-57756
(10)(j)	Employment and Consulting Agreement with Donald S. Schofield dated September 1, 1991	1991 Form 10-K
(10)(k)	Employment Agreement with James C. Mastandrea dated July 13, 1994	June 30, 1994 Form 10-Q
(10)(l)	Employment Agreement with Gregory D. Bruhn dated July 13, 1994	June 30, 1994 Form 10-Q
(10)(m)	Credit Agreement with National City Bank dated December 5, 1994	1994 Form 10-K
(10)(n)	Credit Agreement with Society National Bank dated March 4, 1996	
(10)(o)	1981 Employee Share Option Plan	1992 Proxy Statement
(10)(p)	1994 Long Term Incentive Performance Plan	1994 Proxy Statement
(11)	Statements Re: Computation of Per Share Earnings	
(12)	Statements of Ratios of Combined Income from Operations and Combined Net Income to Fixed Charges	
(13)	1995 Annual Report to Shareholders	
(18)	Preferability letter for Change in Accounting Method	
(23)	Consent of Independent Public Accountants	
(24)	Powers of Attorney	
(27)	Financial Data Schedule	

(c) Reports on Form 8-K.

-----  
Date  
-----  
December 22, 1995

Subject  
-----  
Settlement and standstill agreement with a minority shareholder.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of 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.

**FIRST UNION REAL ESTATE EQUITY AND  
MORTGAGE INVESTMENTS**

By: /s/ James C. Mastandrea

-----  
James C. Mastandrea, Chairman,  
President, Chief Executive  
Officer, and Chief  
Financial Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature -----	Title -----	Date -----
Principal Executive Officer and Principal Financial Officer	Chairman, President, Chief Executive Officer and Chief Financial Officer	March 15, 1996

/s/ James C. Mastandrea

-----  
James C. Mastandrea

Principal Accounting Officer	Senior Vice President- Chief Accounting Officer	March 15, 1996
---------------------------------	---	----------------

/s/ John J. Dee

-----  
John J. Dee

Trustees:	)	Date
*Otes Bennett, Jr.	)	----
*Kenneth K. Chalmers	)	
*William E. Conway	)	March 15, 1996
*Daniel G. DeVos	)	
*Allen H. Ford	)	
*Stephen R. Hardis	)	
*E. Bradley Jones	)	
*James C. Mastandrea	)	
*By: /s/ Paul F. Levin	)	
-----	)	
Paul F. Levin, Attorney-in-fact	)	

**REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS ON**

**FINANCIAL STATEMENT SCHEDULES**

To First Union Real Estate Equity  
and Mortgage Investments:

We have audited in accordance with generally accepted auditing standards, the combined financial statements included in the registrant's 1995 Annual Report to Shareholders incorporated by reference in this Form 10-K, and have issued our report thereon dated February 5, 1996. Our audit was made for the purpose of forming an opinion on those combined statements taken as a whole. The schedules listed under Item 14(a)(2) on page 17 are the responsibility of management and are presented for purposes of complying with the Securities and Exchange Commission's rules and are not part of the basic combined financial statements. These schedules have been subjected to the auditing procedures applied in the audit of the basic combined financial statements and, in our opinion, fairly state in all material respects the financial data required to be set forth therein in relation to the basic combined financial statements taken as a whole.

**ARTHUR ANDERSEN LLP**

Cleveland, Ohio,  
February 5, 1996.



**Schedule III**

**REAL ESTATE AND ACCUMULATED DEPRECIATION  
AS OF DECEMBER 31, 1995  
(IN THOUSANDS)**

Description	Encumbrances	Initial cost to Registrant		Cost capitalized subsequent to acquisition	Gross amount at which carried at close of period		
		Land	Buildings and Improvements	Land and Improvements	Land	Buildings and Improvements	Total
Shopping Malls:							
Eastern							
Mountaineer, Morgantown, WV	\$ 8,985	\$1,450	\$ 12,693	\$ 19,655	\$ 1,615	\$ 32,183	\$33,798
Fingerlakes, Auburn, NY	--	1,300	23,698	1,728	1,370	25,356	26,726
Fairgrounds Square, Reading, PA	--	2,400	22,635	11,717	2,369	34,383	36,752
Wilkes, Wilkesboro, NC	--	1,168	13,891	3,651	1,168	17,542	18,710
	8,985	6,318	72,917	36,751	6,522	109,464	115,986
Midwestern							
Crossroads, St. Cloud, MN	50,205	1,680	8,303	19,664	5,052	24,595	29,647
Two Rivers, Clarksville, TN	--	--	3,206	5,135	--	8,341	8,341
Crossroads, Ft. Dodge, IA	--	1,151	2,792	7,772	1,328	10,387	11,715
Westgate Towne Centre, Abilene, TX	--	1,425	3,050	5,244	1,485	8,234	9,719
Kandi, Willmar, MN	--	--	5,035	15,076	--	20,111	20,111
Woodland Commons, Buffalo Grove, IL	--	6,744	15,093	25	6,744	15,118	21,862
	50,205	11,000	37,479	52,916	14,609	86,786	101,395
Western							
Valley North, Wenatchee, WA	--	405	2,916	832	477	3,676	4,153
Mall 205, Portland, OR	--	1,228	6,140	6,295	1,228	12,435	13,663
Plaza 205, Portland, OR	586	--	1,677	2,611	695	3,593	4,288
Peach Tree, Marysville, CA	--	985	3,622	8,929	985	12,551	13,536
Valley, Yakima, WA	--	--	8,731	3,456	623	11,564	12,187
	586	2,618	23,086	22,123	4,008	43,819	47,827
	\$59,776	\$19,936	\$133,482	\$111,790	\$25,139	\$240,069	\$265,208

Description	Accumulated depreciation	Year construction completed	Date Acquired	Life
Shopping Malls:				
Eastern				
Mountaineer, Morgantown, WV	\$7,445	1975	01-29-78	60
Fingerlakes, Auburn, NY	7,227	1980	09-28-81	50
Fairgrounds Square, Reading, PA	6,785	1980	09-30-81	57
Wilkes, Wilkesboro, NC	4,463	1982	05-04-83	50
	25,920			
Midwestern				
Crossroads, St. Cloud, MN	5,985	1966	01-01-72	64
Two Rivers, Clarksville, TN	2,669	1968	09-26-75	50
Crossroads, Ft. Dodge, IA	3,277	1967	04-22-77	57
Westgate Towne Centre, Abilene, TX	2,351	1962	04-22-77	60

Kandi, Willmar, MN	5,435	1973	03-12-79	55
Woodland Commons, Buffalo Grove, IL	276	1991	04-03-95	40
	-----			
	19,993			
	-----			

Western  
-----

Valley North, Wenatchee, WA	2,041	1966	08-30-73	40
Mall 205, Portland, OR	4,557	1970	03-01-75	59
Plaza 205, Portland, OR	1,265	1970	04-26-78	47
Peach Tree, Marysville, CA	3,620	1972	12-19-79	50
Valley, Yakima, WA	3,176	1972	05-01-80	54
	-----			
	14,659			
	-----			
	\$60,572			
	=====			

**Schedule III  
Continued**

Description	Encumbrances	Initial cost to Registrant		Cost capitalized subsequent to acquisition	Gross amount at which carried at close of period		
		Land	Buildings and Improvements	Land and Improvements	Land	Buildings and Improvements	Total
<b>Apartments:</b>							
Midwestern							
Somerset Lakes, Indianapolis, IN	\$ --	\$ 2,172	\$16,400	\$1,704	\$2,172	\$18,104	\$20,276
Meadows of Catalpa, Dayton, OH	7,793	1,270	7,955	1,180	1,270	9,135	10,405
Steeplechase, Cincinnati, OH	--	1,782	10,114	111	1,782	10,225	12,007
	-----	-----	-----	-----	-----	-----	-----
	7,793	5,224	34,469	2,995	5,224	37,464	42,688
	-----	-----	-----	-----	-----	-----	-----
Southern							
Briarwood, Fayetteville, NC	--	495	6,614	1,081	495	7,695	8,190
Woodfield Gardens, Charlotte, NC	849	171	3,087	398	171	3,485	3,656
Windgate Place, Charlotte, NC	1,463	353	4,818	750	353	5,568	5,921
Walden Village, Atlanta, GA	--	2,768	9,288	1,366	2,768	10,654	13,422
Beech Lake, Durham, NC	--	3,760	15,707	203	3,760	15,910	19,670
	-----	-----	-----	-----	-----	-----	-----
	2,312	7,547	39,514	3,798	7,547	43,312	50,859
	-----	-----	-----	-----	-----	-----	-----
	10,105	12,771	73,983	6,793	12,771	80,776	93,547
	=====	=====	=====	=====	=====	=====	=====
<b>Office Buildings:</b>							
Midwestern							
55 Public Square, Cleveland OH	--	2,500	19,055	9,129	2,500	28,184	30,684
Circle Tower, Indianapolis, IN	--	270	1,609	2,052	270	3,661	3,931
Rockwell Avenue, Cleveland, OH	--	1,964	6,160	4,982	1,969	11,137	13,106
Ninth Street Plaza, Cleveland, OH	--	710	5,718	861	710	6,579	7,289
Landmark Towers, Oklahoma City, OK	838	1,940	7,234	5,858	1,940	13,092	15,032
	-----	-----	-----	-----	-----	-----	-----
	838	7,384	39,776	22,882	7,389	62,653	70,042
	-----	-----	-----	-----	-----	-----	-----
Southern							
Henry C. Beck, Shreveport, LA	--	717	3,906	3,037	717	6,943	7,660
	-----	-----	-----	-----	-----	-----	-----
Western							
North Valley Center, Denver, CO	479	--	7,666	4,209	--	11,875	11,875
	-----	-----	-----	-----	-----	-----	-----
	1,317	8,101	51,348	30,128	8,106	81,471	89,577
	=====	=====	=====	=====	=====	=====	=====
<b>Other:</b>							
Land-Huntington Bldg., Cleveland, OH	--	4,501	--	--	4,501	--	4,501
Parking Garage, Cleveland, OH	8,916	1,600	4,407	1,014	1,600	5,421	7,021
Parking Facility, Cleveland, OH	--	2,030	--	256	2,286	--	2,286
	-----	-----	-----	-----	-----	-----	-----
	8,916	8,131	4,407	1,270	8,387	5,421	13,808
	=====	=====	=====	=====	=====	=====	=====
Reserve on carrying value of real estate assets	--	--	--	--	--	(12,580)	(12,580)
	-----	-----	-----	-----	-----	-----	-----
Real Estate net carrying value at December 31, 1995	\$80,114	\$48,939	\$263,220	\$149,981	\$ 54,403	\$395,157	\$449,560
	=====	=====	=====	=====	=====	=====	=====

Description	Accumulated depreciation	Year construction completed	Date Acquired	Life
<b>Apartments:</b>				
Midwestern				
Somerset Lakes, Indianapolis, IN	\$3,685	1975	11-10-88	40
Meadows of Catalpa, Dayton, OH	1,820	1972	07-11-89	40
Steeplechase, Cincinnati, OH	129	1987	06-30-95	40

-----  
5,634  
-----

Southern  
-----

Briarwood, Fayetteville, NC	1,022	1968-70	06-30-91	40
Woodfield Gardens, Charlotte, NC	532	1974	06-30-91	40
Windgate Place, Charlotte, NC	908	1974-78	06-30-91	40
Walden Village, Atlanta, GA	1,115	1973	06-01-92	40
Beech Lake, Durham, NC	562	1986	08-19-94	40
	-----			
	4,139			
	-----			
	9,773			
	=====			

Office Buildings:

Midwestern  
-----

55 Public Square, Cleveland OH	15,454	1959	01-15-63	63
Circle Tower, Indianapolis, IN	1,838	1930	10-16-74	40
Rockwell Avenue, Cleveland, OH	4,754	1916	04-30-79	40
Ninth Street Plaza, Cleveland, OH	1,394	1981	10-11-85	50
Landmark Towers, Oklahoma City, OK	4,189	1967-71	10-01-77	60
	-----			
	27,629			
	-----			

Southern  
-----

Henry C. Beck, Shreveport, LA	3,031	1958	08-30-74	51
	-----			

Western  
-----

North Valley Center, Denver, CO	4,269	1967	12-03-69	60
	-----			
	34,929			
	=====			

Other:

Land-Huntington Bldg., Cleveland, OH	--	---	10-25-61	--
Parking Garage, Cleveland, OH	2,181	1969	12-31-75	53
Parking Facility, Cleveland, OH	246	---	09-19-77	10
	-----			
	2,427			
	=====			

Reserve on carrying value of real estate assets

--  
-----

Real Estate net carrying value at December 31, 1995

\$107,701  
=====

Aggregate cost for federal tax purposes is \$427,459,000.

**Schedule III**

- Continued

The following is a reconciliation of real estate assets and accumulated depreciation for the years ended December 31, 1995, 1994 and 1993:

(In thousands)

Years Ended December 31,

	----- 1995 -----	----- 1994 -----	----- 1993 -----
Asset reconciliation:			
Balance, beginning of period	\$436,394	\$409,060	\$397,493
Additions during the period:			
Property acquisitions	35,424	20,017	67
Improvements	24,713	7,570	11,974
Equipment and appliances	797	787	822
Deductions during the period:			
Sales of real estate	(27,089)	---	( 13)
Write-off of internal leasing costs(A)	( 8,006)	---	---
Reserve on carrying value of real estate assets	(12,580)	---	---
Other - write-off of assets and certain fully depreciated tenant alterations	(93)	(1,040)	(1,283)
	-----	-----	-----
Balance, end of period	\$449,560 =====	\$436,394 =====	\$409,060 =====
Accumulated depreciation reconciliation:			
Balance, beginning of period	\$111,972	\$101,824	\$ 92,426
Additions during the period:			
Depreciation	11,038	11,188	10,681
Deductions during the period:			
Sales of real estate	(11,535)	---	--
Write-off of internal leasing costs(A)	(3,681)	---	---
Write-off of assets and certain fully depreciated tenant alterations	(93)	(1,040)	(1,283)
	-----	-----	-----
Balance, end of period	\$107,701 =====	\$111,972 =====	\$101,824 =====

(A) The registrant wrote off the unamortized balance of deferred internal leasing costs effective January 1, 1995. The registrant currently recognizes internal leasing costs in the period incurred.

## MORTGAGE LOANS ON REAL ESTATE

AS OF DECEMBER 31, 1995

(IN THOUSANDS, EXCEPT FOR PAYMENT TERMS AND FOOTNOTES)

Description	Current effective rate on net investment	Final maturity date	Periodic payment terms	Face amount of mortgage	Carrying amount of mortgage	Prior liens	Net investment
First Mortgage Loan:							
Secured by office building in Cleveland, OH	10%	10-31-11	Interest calculated at stated rate of 9.65%, with installments of principal and interest payable monthly through maturity; \$13,013,000 due at maturity; prepayment without penalty subject to certain conditions.	\$11,387	\$19,279	\$ ---	\$19,279
Mortgage Loan:							
Secured by mall in Fairmount, WV and partnership units of Crown American Properties, L.P.	9%	1-31-98	Interest calculated at stated rate of 9%, with installments of 8% interest payable monthly through maturity; no prepayment without consent of registrant.	6,000	6,057	---	6,057
Wraparound Mortgage Loan:							
Secured by garden apartments in Atlanta, GA	13.5%	11-30-99	Monthly installments of interest payable through November 1999; difference between interest paid and interest calculated at the stated rate of 10% will increase registrant's equity investment until January 1998; equity investment and deferred interest totaling \$22,434,000 due at maturity; prepayment without penalty.	18,060	16,706	3,740	12,966
Totals, December 31, 1995				\$35,447	\$42,042(A)	\$ 3,740	\$38,302
				=====	=====	=====	=====

(A) Aggregate cost for federal tax purposes is \$46,465,000.

**Schedule IV**

- Continued

The following is a reconciliation of the carrying amounts of the mortgage loans outstanding for the years ended December 31, 1995, 1994 and 1993:

	(In thousands)		
	Years Ended December 31,		
	1995	1994	1993
	-----	-----	-----
Balance, beginning of period	\$35,761	\$35,550	\$39,573
Additions during the period:			
-----			
Mortgage loan on mall in Fairmount, WV secured by the mall and partnership units of Crown American Properties, L.P.	6,000		
Deferred interest on:			
Wraparound mortgage on garden apartments in Atlanta, GA	384	357	401
Mortgage on mall in Fairmount, WV	57		
Deductions during the period:			
-----			
Collection of principal	(160)	(146)	(4,424)
	-----	-----	-----
Balance, end of period	\$42,042	\$35,761	\$35,550
	=====	=====	=====

Exhibit Index

-----

Exhibit Number -----	Description -----	Incorporated Herein by Reference to -----	Page -----
(3)(a)	Declaration of Trust of Registrant dated August 1, 1961, as amended through July 25, 1986	Registration Statement on Form S-3 No. 33-4493	-----
(3)(b)	By-laws of Registrant, as amended	Registration Statement on Form S-3 No. 33-4493	-----
(4)(a)	Form of certificate for Shares of Beneficial Interest	Registration Statement on Form S-3 No. 33-2818	-----
(4)(b)	Form of Indenture governing Debt Securities, dated February 1, 1983 between Registrant and Ameritrust Company	Registration Statement on Form S-3 No. 2-81605	-----
(4)(c)	Form of Debt Security	Registration Statement on Form S-3 (No. 33-4493)	-----
(4)(d)	Form of Indenture governing Debt Securities, dated October 1, 1993 between Registrant and Society National Bank	Registration Statement on Form S-3 (No. 33-68002)	-----
(4)(e)	Form of Note	Registration Statement on Form S-3 (No. 33-68002)	-----
(4)(f)	Form of Indenture governing Debt Securities	Registration Statement on Form S-3 (No. 333-00953)	-----
(4)(g)	Rights Agreement between Registrant and National City Bank dated March 7, 1990	Form 8-A dated March 30, 1990 (No. 0-18411)	-----
(10)(a)	Share Purchase Agreement dated as of December 31, 1989 between registrant and First Union Management, Inc.	Registration Statement No. 2-88719	-----
(10)(b)	First Amendment to Share Purchased Agreement dated as of December 10, 1985 between registrant and First Union Management, Inc.	Registration Statement No. 33-2818	-----
(10)(c)	Second Amendment to Share Purchase Agreement dated as of December 9, 1986 between registrant and First Union Management, Inc.	Registration Statement No. 33-11524	-----
(10)(d)	Third Amendment to Share Purchase Agreement dated as of December 2, 1987 between registrant and First Union Management, Inc.	Registration Statement No. 33-19812	-----
(10)(e)	Fourth Amendment to Share Purchase Agreement dated as of December 7, 1988 between registrant and First Union Management, Inc.	Registration Statement No. 33-26758	-----
(10)(f)	Fifth Amendment to Share Purchase Agreement dated as of November 29, 1989 between registrant and First Union Management, Inc.	Registration Statement No. 33-33279	-----





Exhibit Number -----	Description -----	Incorporated Herein by Reference to -----	Page -----
(10)(g)	Sixth Amendment to Share Purchase Agreement dated as of November 28, 1990 between registrant and First Union Management, Inc.	Registration Statement No. 33-38754	-----
(10)(h)	Seventh Amendment to Share Purchase Agreement dated as of November 27, 1991 between registrant and First Union Management, Inc.	Registration Statement No. 33-45355	-----
(10)(i)	Eight Amendment to Share Purchase Agreement dated as of November 30, 1992 between registrant and First Union Management, Inc.	Registration Statement No. 33-57756	-----
(10)(j)	Employment and Consulting Agreement with Donald S. Schofield dated September 1, 1991	1991 Form 10-K	-----
(10)(k)	Employment Agreement with James C. Mastandrea dated July 13, 1994	June 30, 1994 Form 10-Q	-----
(10)(l)	Employment Agreement with Gregory D. Bruhn dated July 13, 1994	June 30, 1994 Form 10-Q	-----
(10)(m)	Credit Agreement with National City Bank dated December 5, 1994	1994 Form 10-K	-----
(10)(n)	Credit Agreement with Society National Bank dated March 4, 1996		X -----
(10)(o)	1981 Employee Share Option Plan	1992 Proxy Statement	-----
(10)(p)	1994 Long Term Incentive Performance Plan	1994 Proxy Statement	-----
(11)	Statements Re: Computation of Per Share Earnings		X -----
(12)	Statements of Ratios of Combined Income from Operations and Combined Net Income to Fixed Charges		X -----
(13)	1995 Annual Report to Shareholders		X -----
(18)	Preferability letter for Change in Accounting Method		X -----
(23)	Consent of Independent Public Accountants		X -----
(24)	Powers of Attorney		X -----
(27)	Financial Data Schedule		X -----

## CREDIT AGREEMENT EXHIBIT 10(n)

THIS CREDIT AGREEMENT made as of March 4, 1996, by and among FIRST UNION REAL ESTATE EQUITY AND MORTGAGE INVESTMENTS, a business trust organized and existing under the laws of the State of Ohio ("Borrower") FIRST UNION MANAGEMENT, INC., a Delaware corporation ("Management") and SOCIETY NATIONAL BANK ("Bank").

SECTION 1. CROSS REFERENCE. Certain terms used herein are defined in Section 12 hereof.

SECTION 2. SUMMARY. This Credit Agreement sets forth: (a) the Bank's commitment to extend Revolving Credit until the expiration of the term established by subsection 3.2 below, in the form of Loans to and for Borrower and/or Letters of Credit issued upon Borrower's account, the aggregate of all such Revolving Credit not to exceed the principal sum of Twenty Million Dollars (\$20,000,000), all upon the terms and conditions hereinafter set forth; (b) covenants and warranties made by Borrower and Bank to induce each other to enter into this Credit Agreement; and (c) other material provisions binding upon Borrower and Bank.

SECTION 3. REVOLVING CREDIT. Bank hereby establishes the Revolving Credit as follows:

3.1. AMOUNT. The aggregate principal amount of the Revolving Credit shall be the lesser of (a) Twenty Million Dollars (\$20,000,000.00) or (b) the Maximum Amount. The Maximum Amount shall be calculated as follows: The quotient of the Borrower's Net Operating Income shown on Borrower's most recent Borrower's NOI Certificate divided by the product of 1.20 times the applicable mortgage constant, which mortgage constant shall be the annual amount, expressed as a percentage, necessary to fully amortize a mortgage loan by level monthly payments of principal and interest over an assumed term of 22 years at an interest rate per annum equal to 225 basis points in excess of the published rate for U.S. Treasury securities having a maturity of ten years, as of the end of the most recent calendar quarter to which the Borrower's NOI Certificate applies. Said published rate shall be determined by reference to Federal Reserve Statistical Release H:15(519) Selected Interest Rates as published by Board of Governors of the Federal Reserve System (or any successor publication).

3.2. TERM. The Revolving Credit shall become effective immediately as of the date hereof, and shall remain in effect until: (a) the Revolving Credit Termination Date; or (b) such time as the Revolving Credit is reduced to zero pursuant to subsection 3.4 hereof; or (c) the termination thereof pursuant to Section 9 thereof, whichever date or event shall first elapse or occur.

3.3. TERM EXTENSION. Provided that no Event of Default shall exist, and subject to Bank's right, in its sole and exclusive discretion, to consent (or to refrain from consenting) to such proposed extension (which decision, if Bank shall elect to so extend, shall be conveyed to Borrower by written notice from Bank on or before December 31, 1997; provided, however, that

in all instances for purposes of this Section 3.3 failure by Bank to deliver such notice shall conclusively be deemed to be decision by the Bank to refuse consent to the proposed extension), Borrower may request to extend the Revolving Credit Termination Date for a period of one additional year by providing Bank with written notice of its request to do so not earlier than one hundred twenty (120) days, nor later than sixty (60) days, prior to December 31, 1997. Thereafter, and provided that the Revolving Credit Termination Date has theretofore been extended pursuant to this Section 3.3, Borrower may request further extensions of the Revolving Credit Termination Date (as previously extended aforesaid), for successive and consecutive periods of one (1) year each, provided, as to each instance that (i) Borrower shall make such request by providing Bank with a written notice of its request to do so not earlier than one hundred twenty (120) days, nor later than sixty (60) days, prior to December 31, 1998 (or, if the Revolving Credit Termination Date has theretofore been extended to permit the same, December 31, of each successive year thereafter during the pendency of this Agreement); (ii) no Event of Default shall exist; and (iii) Bank shall elect, in its sole and exclusive discretion, to consent (or to refrain from consenting) to such extension of the Revolving Credit Termination Date (which decision, if Bank shall elect to so extend, shall be conveyed to Borrower by written notice from Bank not later than December 31, 1998, or December 31 of each successive calendar year thereafter in the case of subsequent extensions of the Revolving Credit Termination Date).

**3.4. BORROWER'S REDUCTION OF REVOLVING CREDIT.** Borrower shall have the right, at all times prior to the Revolving Credit Termination Date, to permanently reduce all or portions of the Revolving Credit by giving Bank not less than seven (7) days written notice prior to the effective date thereof, of the aggregate amount by which the Revolving Credit is to be reduced. A repayment of amounts borrowed as due and without notice as provided in the preceding sentence shall not constitute a reduction of the Revolving Credit for the purpose of this subsection. Each such reduction shall aggregate One Hundred Thousand Dollars (\$100,000.00) or any multiple thereof, except that no reduction shall reduce the aggregate amount of the Revolving Credit to a lesser amount than One Million Dollars (\$1,000,000.00), other than in the case of a reduction of the Revolving Credit to zero, provided that in no event shall any such reduction reduce the aggregate amount of the Revolving Credit to a lesser amount than the aggregate unpaid principal balance of the Loans then outstanding. Concurrently with each reduction, Borrower shall prepay such part of the outstanding principal balance of the Note, as selected by it, if any, as may be in excess of the aggregate amount of the Revolving Credit, as so reduced, in accordance with the provisions of subsection 4.12 hereof. Concurrently with any prepayment, Borrower shall pay all interest accrued on the Note so prepaid.

**3.5. COMMITMENT FEE AND LETTER OF CREDIT FEE.** So long as the Revolving Credit is or shall remain in effect, Bank shall be entitled to receive from Borrower a commitment fee, which fee shall be computed (on the basis of the actual number of days elapsed and a year of 365 or 366 days, as the case may be), at the rate of: (a) one eighth percent (1/8%) per annum on the average daily difference between the Revolving Credit from time to time in effect and the aggregate unpaid principal balance of the Loans then outstanding and; (b) whenever the aggregate unpaid principal balance of the Loans from time to time outstanding shall be less than an amount equal to one-half (1/2) the amount of the Revolving Credit then in effect, Bank shall be entitled to a further fee computed at the rate of three eighths percent (3/8%) per annum on the average daily difference between one-half (1/2) the amount of the Revolving Credit then in effect and such

aggregate unpaid principal balance of the Loan then outstanding. Borrower shall pay such commitment fee to the Bank on the last day of each quarter, or upon such earlier date as the Revolving Credit Termination Date shall occur. Borrower shall pay to Bank on the date of issuance of each Letter of Credit and on each annual anniversary of the date of issuance of any Letter of Credit outstanding a fee in the amount equal to one and one-half percent (1-1/2%) per annum, based on the face amount of such Letter of Credit.

**SECTION 4. LOANS AND LETTERS OF CREDIT.** Subject to the terms and conditions of this Credit Agreement, Bank will grant to Borrower and/or issue Letters of Credit upon Borrower's account as follows:

**4.1. AVAILABILITY.** Bank will grant Borrower such Loans or issue Letters of Credit as Borrower may from time to time request, so long as all or any portion of the Revolving Credit remains in effect (as provided in subsection 3.2), and the aggregate unpaid principal balance of Loans and Letters of Credit outstanding at any one time shall not exceed the amount of the Revolving Credit.

**4.2. LOAN MIX AND AMOUNT.** The Loans at any one time outstanding may consist of Prime Loans, LIBOR Loans, CD Loans, or Floating Rate Loans, or any combination thereof, all as Borrower may from time to time duly elect: provided, however, that no CD Loan shall extend beyond or be made after July 17, 1996. Each Loan shall be in such principal amount as the Borrower may request, except that each Loan shall be in the principal sum of One Million Dollars (\$1,000,000.00); or (a) with respect to CD Loans or LIBOR Loans, any greater amount that is a multiple of One Hundred Thousand Dollars (\$100,000.00); (b) with respect to Prime Rate Loans or Floating Rate Loans, any greater amount that is a multiple of Fifty Thousand Dollars (\$50,000.00).

**4.3. ISSUANCE OF LETTERS.** Bank will from time to time issue one or more stand-by letters of credit (each, a "Letter of Credit") on Borrower's account to third-party beneficiaries named by Borrower subject to the following terms and conditions: (a) no Letter of Credit shall be issued having an expiration date occurring on or after the Revolving Credit Termination Date, and (b) the aggregate face amount of Letters of Credit at any one time available to be drawn shall not exceed \$1,000,000.00. Any draw made upon a Letter of Credit shall create a Loan under this Credit Agreement, such Loan shall be made initially as a Prime Rate Loan upon conversion of the draw into a Loan, shall no longer be considered "available to be drawn".

**4.4 NOTE.** Loans and any obligations to repay Letters of Credit outstanding at any one time shall be evidenced by a Note executed and delivered by Borrower to Bank in the form and substance of Exhibit A, with the blanks appropriately filled. Each such Loans or Letter of Credit shall be recorded, upon the records of the Bank, and each such record shall be prima facie evidence of the making of the Loan or issuance of the Letter of Credit in question and the amount and the terms thereof; provided, however, that failure to make any such record shall in no way detract from Borrower's obligation under such Note.

4.5 MATURITY. The maturity of the Note shall be the Revolving Credit Termination Date, as provided in Section 12. No Interest Period or Letter of Credit expiration date shall extend beyond the Revolving Credit Termination Date.

4.6. INTEREST PERIODS. Each Fixed Rate Loan shall have applicable thereto an Interest Period to be used for the purpose of computing interest thereon and to be elected by Borrower in the Loan Request therefor as follows:

(a) The Interest Period for each LIBOR Loan shall commence on the date of borrowing and have a duration, to be duly elected by Borrower, which ends one

(1) month, two (2) months, three (3) months, six (6) months, nine (9) months, or twelve (12) months thereafter; and

(b) The Interest Period for each CD Loan shall commence on the date of borrowing and have a duration, to be duly elected by Borrower, which ends thirty (30) days, sixty (60) days, ninety (90) days, or one hundred eighty (180) days thereafter.

(c) If the Interest Period of any Fixed Rate Loan otherwise would end on a day not a Banking Day, it shall end on the next following Banking Day, and such extension of time shall in each case be included in the computation of the interest payable.

4.7. INTEREST AND PRINCIPAL PAYMENTS. Each Loan shall bear interest and be payable as follows:

(a) Subject to the provisions of Subsection (e) and (f) below, prior to the Revolving Credit Termination Date, interest on Prime Loans shall accrue at the Prime Rate plus one-half percent (1/2%) until July 17, 1996 and thereafter at the Prime Rate plus three-quarters percent (3/4%), and shall be payable in arrears on the last day of each calendar quarter.

(b) Subject to the provisions of Subsection (e) and (f) below, prior to the Revolving Credit Termination Date, interest on LIBOR Loans shall accrue at the Adjusted LIBOR Rate plus one and three-quarters percent (1 3/4%) until July 17, 1996 and thereafter at the Adjusted LIBOR Rate plus two percent (2%), and shall be payable on the last day of the Interest Period applicable thereto, or in the case of any Interest Period longer than three months, shall be payable quarterly.

(c) Subject to the provisions of Subsection (e) and (f) below, prior to the Revolving Credit Termination Date, interest on all CD Loans shall accrue at the CD Rate plus one and three-quarters (1 3/4%) until July 17, 1996 and shall be payable on the last day of the Interest Period applicable thereto, and in the case of any one hundred eighty (180) day Interest Period, three months and six months, after the first day of the applicable Interest Period.

(d) Interest on any Floating Rate Loan shall accrue at the Floating Rate plus two percent (2%) until July 17, 1996 and thereafter at the Floating Rate plus two and one quarter percent (2 1/4%), and shall be payable on the last day of each calendar quarter.

(e) Notwithstanding the provisions of subparts (b) and (c) above, in the event that on or after July 17, 1996 (i) if Borrower shall notify Bank in writing that the Credit Rating of Borrower has been adjusted to "Investment Grade" then effective as of the first day of the month following receipt of such notice and continuing for so long as such Credit Rating of Investment Grade shall remain in effect the interest rate(s) on the Loans outstanding shall be, as to LIBOR Loans, the Adjusted LIBOR Rate plus one and three-quarters percent (1 3/4%); as to Prime Rate Loans, the Prime Rate plus one-half percent (1/2%); and; as to the Floating Rate Loans, the Floating Rate plus two percent (2%).

(f) Notwithstanding the provisions of subparts (b), (c) and (d) above, if at any time on or after July 17, 1996 the Credit Rating of Borrower shall be less than BB+ as established by S&P and less than B1 as established by Moody's, then from the date of such reduction in the Credit Rating until the first day of the first calendar month following receipt by Bank from Borrower of written notice that such Credit Ratings have been upgraded/restored (to BB+ and B1 or better, respectively) then interest on all LIBOR Loans shall accrue at the Adjusted LIBOR Rate plus two and one-quarter percent (2 1/4%); interest on all Prime Rate Loans shall accrue at the Prime Rate plus one percent (1.00%), and interest on all Floating Rate Loans shall accrue at the Floating Rate plus two and one-half percent (2 1/2%).

(g) After an Event of Default under this Credit Agreement shall have occurred, interest on all Loans shall accrue in arrears at a rate per annum of two percent (2%) in excess of the rate which would otherwise be chargeable on the Loan under sub-parts (a), (b), (c), (d), (e) or (f) above.

(h) Interest shall be computed on Prime Rate Loans and Floating Rate Loans on the basis of the actual number of days elapsed and a 365 or 366 day year, as the case may be, and on LIBOR Loans and CD Loans on the basis of the actual number of days elapsed and a 360-day year.

(i) Subject to Section 4.8, the principal of each Fixed Rate Loan shall be paid in full on the last day of each Interest Period applicable thereto, whether the payment is made in whole or in part from the proceeds of a new Loan or otherwise. If Borrower shall fail to pay in full the principal of a Fixed Rate Loan on the last day of the applicable Interest Period, Borrower shall in each case be deemed to have delivered to the Bank a timely Loan Request that on the last day of the Interest Period, a Prime Loan be made (and it shall be made) in an aggregate principal amount equal to the then unpaid principal of the Fixed Rate Loan in question, and the proceeds of the Prime Rate Loan shall be applied in its entirety to the payment of the Fixed Rate Loan in question.

(j) The principal of each Cost of Fund Loan shall be paid in full on the following Business Day, whether the payment is made in whole or in part from the proceeds of a new Loan or otherwise. If Borrower shall fail to pay in full the principal of a Floating Rate Loan, Borrower shall in each case be deemed to have delivered to the Bank a timely Loan Request that another Floating Rate Loan be made (and it shall be made) in an aggregate principal amount equal to the then unpaid principal of the Floating Rate Loan in question, and the

proceeds of the new Floating Rate Loan shall be applied in its entirety to the payment of the previous Floating Rate Loan in question.

#### 4.8. REQUEST AS A CONDITION.

(a) Subject to Section 4.7(i) and to Section 4.7(j) whenever Borrower desires to obtain a Loan pursuant to this Credit Agreement (including, without limitation, any Loan the proceeds of which are used to make a payment on the Fixed Rate Loan at the end of the Interest period applicable thereto, or to prepay the Prime Rate Loans in whole or in part), Borrower shall give Bank a Loan Request: (i) The Loan Request shall: (A) specify the Loan desired, the date of borrowing, the amount thereof and the elected Interest Period for any Fixed Rate Loan; (B) represent and warrant to Bank, both at the delivery of the Loan Request and immediately after the disbursement of the proceeds of the Loan in question, that no Event of Default under this Credit Agreement then exists; (C) imply that the representations and warranties contained in Section 7 hereof continue to be true and correct in all material respects with the same force and effect as if made on and as of the date of such borrowing except to the extent that any thereof expressly relate to an earlier date; and (D) contain such other information as Bank may reasonably request; (ii) The notice shall: (A) be irrevocable; (B) be given to Bank not later than 2:00 p.m. on the date of any requested Prime Rate Loan, CD Loan or Floating Rate Loan, and not later than 11:00 a.m. two (2) London Banking Days prior to the date of any requested LIBOR Loan; and (C) if not originally given in writing, be confirmed in writing by Borrower, if requested by Bank.

(b) Whenever Borrower desires to obtain the issuance of a Letter of Credit pursuant to this Credit Agreement, Borrower must give a Letter of Credit Request to Bank, which Letter of Credit Request shall: (a) specify the name and address of the beneficiary thereof, the date of issuance, the amount, and the expiration date thereof; (b) represent and warrant to Bank, both at the delivery of the Letter of Credit Request and immediately after the issuance of the Letter of Credit in question, that no Event of Default under this Credit Agreement then exists; (c) imply that the representations and warranties contained in Section 7 hereof continue to be true and correct in all natural respects with the same force and effect as if made on and as of the date of the issuance of such Letter of Credit, except to the extent that any thereof expressly relate to an earlier date; and (d) contain such other information as Bank may reasonably request. The Letter of Credit Request shall, if not originally given in writing, be confirmed in writing by Borrower, if requested by Bank.

4.9. NO DEFAULT AS A CONDITION. Borrower shall not be entitled to obtain any Loan or Letter of Credit if any Event of Default under this Credit Agreement shall then exist or would exist immediately thereafter.

4.10. LOAN DISBURSEMENT. Each Loan may be disbursed from any office of Bank, shall be delivered to Borrower in immediately available funds not later than 2:00 p.m. Cleveland time on the specified Banking Day, and in accordance with Borrower's instructions in the applicable Loan Request.



4.11. PAYMENTS. All payments (including prepayments) of commitment fees, Letter of Credit fees, the principal of, and interest on, the Loans, or the repayment of any amounts drawn under any Letter of Credit, shall be delivered in immediately available funds. Any payment received by Bank after 2:00 p.m. Cleveland time shall be deemed to have been made and received on the next following Banking Day. Whenever any payment to be made hereunder shall be stated to be due on the day which is not a Banking Day, such payment shall be made on the next succeeding Banking Day and such extension of time shall in each case be included in the computation of the interest payable on such Note.

4.12. PREPAYMENTS. Borrower may from time to time prepay the principal of the Loans in whole or in part, subject to the following conditions:

(a) Except in the case of any payment of the entire principal balance of any Fixed Rate Loan on the last day of the Interest Period applicable thereto (in which case no prior notice need be given), Borrower shall give Bank a timely notice of each prepayment, which notice, if not originally given in writing shall be confirmed in writing. The original notice shall be given: (i) not later than the Banking Day next preceding any prepayment of any CD Loans; and  
(ii) not later than two (2) Banking Days prior to the date of any prepayment of any LIBOR Loan.

(b) Each prepayment shall be in the principal amount of One Hundred Thousand Dollars (\$100,000.00), or any multiple thereof, or an amount equal to the then aggregate unpaid principal balance outstanding plus accrued interest.

(c) No prepayment shall be subject to any penalty or premium except in the case of a prepayment made in respect of any Fixed Rate Loans on any day other than the last day of the Interest period applicable thereto, in which case Borrower agrees (i) with respect to LIBOR Loans, if the LIBOR Adjusted Rate as determined as of 11:00 a.m. London time two London Banking Days prior to the date of prepayment of any LIBOR Loans (hereinafter "Prepayment LAR") shall be lower than the LIBOR Adjusted Rate applicable to the LIBOR Loan being prepaid (hereafter "Actual LAR"), Borrower shall, upon written notice from Bank, promptly pay to Bank in immediately available funds, a prepayment premium based on the amount of principal being prepaid and computed at a rate equal to the difference between the Actual LAR and the Prepayment LAR, for the period from the date of prepayment to the end of the Interest Period in question. In determining the Prepayment LAR, Bank shall apply a rate equal to the Adjusted LIBOR Rate for a deposit approximately equal to the principal being prepaid and of a duration as nearly equal as practicable to the time remaining in the Interest Period in question; or (ii) with respect to CD Loans, if the CD Pre-Margin Rate as determined as of 11:00 a.m. Cleveland time, two Banking Days prior to the date of prepayment of any CD Loans, (hereinafter "Prepayment CDP-M Rate") shall be lower than the CD Pre-Margin Rate applicable to the CD Loans being (hereinafter "Actual CDP-M Rate"), Borrower shall, upon written notice from Bank, promptly pay to Bank, in immediately available funds, a prepayment premium based on the amount of principal being prepaid and computed at a rate equal to the difference between the Actual CDP-M Rate and the Prepayment CDP-M Rate, for the period from the date of prepayment to the end of the Interest Period in question. In determining the Prepayment CDP-M Rate, Bank shall apply a rate equal to the CD Pre-Margin Rate for a deposit

approximately equal to the principal being prepaid and of a duration as nearly equal as practicable to the time remaining in the Interest Period in question. Notwithstanding the provisions for determining the prepayment premiums set forth in clauses (i) and (ii) above, in the event that Borrower is obligated to pay to Bank a prepayment premium, Bank shall use its best efforts to determine the lowest possible prepayment premium.

(d) No prepayment shall, of itself, reduce the Revolving Credit.

#### 4.13. FIXED RATE LOANS: UNAVAILABILITY. If at any time:

(a) Bank shall determine in its sole judgment, reasonably exercised, that dollar deposits of the relevant amount for the relevant Interest Period are not available in any eurodollar market (in the case of LIBOR Loans) or in the U.S. domestic money market (in the case of CD Loans) for the purpose of funding any Fixed Rate Loan; or

(b) Bank shall determine in its sole judgment, reasonably exercised, that circumstances affecting the relevant market makes it impracticable for Bank to ascertain the rate applicable to any Fixed Rate Loan; or

(c) Any governmental authority shall assert that it is unlawful for Bank to fund to make any Fixed Rate Loan;

then and in each such case Bank shall, by written notice to Borrower: (x) Convert the Fixed Rate Loans in question into Prime Loans as of the end of the respective Interest Periods applicable thereto; and (y) Suspend Borrower's right thereafter to obtain Fixed Rate Loans of the kind in question, which suspension shall remain in effect until such time, if any, as Bank may give written notice to Borrower that the conditions giving rise to the suspension no longer prevail.

#### 4.14. FIXED RATE LOANS: ADDITIONAL COST: IF -

(a) There shall be effectively changed any treaty, statute, regulation or other law, or there shall be any change in the interpretation or administration thereof by any governmental authority charged with the administration or interpretation thereof, or there shall be made any requirement of any central bank or other lawful governmental authority having jurisdiction over Bank or any Fixed Rate Loan, which change or requirement shall: (i) impose, modify, increase, decrease, or deem applicable any reserve or special deposit requirements against assets held by or deposits in or loans by Bank; or (ii) subject Bank to any tax, duty, fee, deduction or withholding; or (iii) change the basis of taxation of payments due from Borrower (otherwise than by a change in taxation of the overall net income of Bank); or (iv) impose on Bank any penalty or increased cost in respect of any Fixed Rate Loan; and (v) impose on Bank any penalty or increased cost as a result of, or arising out of Bank's commitment to extend Revolving Credit; and

(b) Any such event increases the cost to Bank of making, funding or maintaining any Fixed Rate Loan, or increases the cost to Bank of being committed to extend

Revolving Credit or reduces the amount of principal or interest received by Bank in respect of any Fixed Rate Loan;

Then, upon Bank's written demand, Borrower shall pay to Bank from time to time such additional amounts as will compensate Bank for such increased cost or reduced amount. Each demand shall be accompanied by Bank's certificate setting forth the amount to be paid by Borrower and the computations used in determining the amount, which certificate shall be presumed to be correct as to the matters set forth therein in the absence of manifest error. In determining any such amount, Bank may use any reasonable averaging and attribution methods. Bank shall use its best efforts to avoid or minimize, as the case may be, Borrower's payment of any additional amount under this subsection or the subjecting of any payment by Borrower to any withholding tax. Bank shall give Borrower, as promptly as practicable, notice of the existence of any event which requires any such payment or withholding. If Bank shall make any such demand for compensation (or if Borrower shall become subject to any withholding tax as aforesaid) then, notwithstanding subsection 4.11, Borrower may, upon at least one (1) Banking Day's prior written notice to Bank, prepay the affected Fixed Rate Loan in full before the last day of the Interest Period applicable thereto; provided, that upon any such prepayment Borrower shall compensate Bank for any loss, cost or expense suffered or incurred by Bank as a result of such prepayment, including (without limitation) any loss of profit, and any loss, cost or expense incurred by reason of the liquidation or re-employment of deposits or other funds acquired by Bank to fund or maintain the affected Fixed Rate Loan, or the relending or reinvesting of such deposits or amounts paid or prepaid to Bank.

4.15. FUNDING INDEMNITY. In the event the Bank shall incur any loss, cost or expense (including, without limitation, any loss of profit and any loss, cost or expense incurred by reason of the liquidation or redeployment of deposits, or other funds acquired by the Bank to fund or maintain any Fixed Rate Loan or the relending or reinvesting of such deposits or amounts paid or prepaid to the Bank) as a result of: (a) any failure by Borrower to borrow pursuant to a Loan Request given under subsection 4.8; or (b) any payment of any Fixed Rate Loan that shall have become due by acceleration of maturity; or (c) any default in payment when due of any amount due hereunder in respect of any Fixed Rate Loan; then, upon the demand of the Bank, Borrower shall pay to the Bank such loss, cost or expense. When making such a claim for compensation, the Bank shall provide to Borrower a statement or other information establishing the amount of the loss, cost or expense.

#### 4.16. CHANGE OF CONTROL.

(a) In the event that there shall occur any Change of Control, Bank shall have the right, at its option exercisable at any time within six months following the Change Date, to require Borrower to repay the Bank's Loans (and to terminate in whole the Revolving Credit) on the Repayment Date in an amount (the "Repayment Amount") which shall be equal to the sum of (i) the respective principal amounts of such Loans then outstanding, plus (ii) any and all accrued and unpaid interest on such Loans on the Repayment Date, plus (iii) all other amounts, if any, owed by Borrower to Bank under this Credit Agreement.

(b) Borrower shall give the Bank written notice of the occurrence of a Change of Control within five (5) Banking Days following the Change Date. No failure of Borrower to give notice of a Change of Control will limit the right of Bank to require repayment and to terminate in whole the Revolving Credit.

(c) Bank may exercise its option hereunder to require repayment and to terminate in whole Bank's Revolving Credit by delivering to Borrower at any time within six months after the Change Date written notice of such exercise specifying the Repayment Date.

(d) In the event of the exercise by Bank of its option under this Section Borrower shall pay on the Repayment Date, the Repayment Amount in immediately available funds.

**SECTION 5. OPENING COVENANTS.** Prior to or concurrently with the execution and delivery of this Credit Agreement, Borrower shall furnish to Bank the following:

**5.1. RESOLUTIONS.** A copy of the resolutions of the Board of Trustees of Borrower evidencing approval of the execution of this Credit Agreement and the execution and delivery of the Note and the Security Instruments as provided for herein, certified by the Borrower's Secretary.

**5.2. LEGAL OPINION.** A favorable opinion of counsel for Borrower as to the matters referred to in Section 7.1, 7.2 and 7.3 of this Credit Agreement and such other matters as the Bank may reasonably request.

**5.3. CERTIFICATE OF INCUMBENCY.** A certificate of the Secretary or Assistant Secretary of Borrower certifying the names of the officers of Borrower authorized to sign the Credit Agreement, the Note, and the Security Instruments, together with the true signatures of such officers.

**5.4. MORTGAGED PROPERTY.** A Mortgage, a loan policy of title insurance, survey, and other documentation in respect of each Base Property, as more fully described below:

(a) In respect of each real property location which is a Base Property as of the date of execution and delivery of this Credit Agreement, Borrower and the Management Company shall duly execute and cause to be filed for record in the real property records of the county in which the affected real property encumbered thereby is located, a Mortgage (or deed of trust), an assignment of rents and such Uniform Commercial Code financing statements as shall be necessary or appropriate to create and/or perfect a first lien in favor of Bank in the real and personal property described therein.

(b) Borrower shall accompany the Mortgage and other documents described in subsection (a) above with (i) an original loan policy of title insurance issued by a title insurance company reasonably satisfactory to Bank insuring, in amounts and on other terms as Bank reasonably may require, that each such Mortgage is a valid first lien upon the real property encumbered thereby, eliminating any standard exception for survey and mechanics' liens and

otherwise subject only to such exceptions or matters affecting title as Bank may approve in writing; and (ii) a current as-built survey, certified to Bank and the title insurance company prepared by a registered surveyor acceptable to the title insurance company, depicting all improvements (including proposed improvements for which site approval has been issued), building lines, easements, streets, access ways to public streets and rights of way and encroachments, and otherwise in such detail as shall be necessary to eliminate any and all "survey exceptions" from the title insurance policy described in (i) above.

(c) Borrower shall deliver to Bank Phase I environmental site assessment report with wetlands certification prepared by an environmental consultant acceptable to Bank and certified to Bank as a co-client, respecting the Base Property.

(d) Borrower shall deliver to Bank a real estate appraisal establishing the fair market value of the Base Property, prepared by an appraiser who is a Member of the Institute of Real Estate Appraisers (or has a corresponding professional designation acceptable to Bank).

(e) Borrower shall pay all costs and expenses in connection with the actions taken in this Section 5.4, including, but not limited to, all mortgage, intangible, or similar taxes or fees, all expenses and premiums of the title insurance company in connection with the issuance of such policies of title insurance, all expenses required for the recording of the Mortgages (or deeds of trust) or any other loan documents in the appropriate public records, and the fees and expenses of the environmental consultant and real estate appraiser.

(f) Subject to the terms and conditions set forth in this Section 5.4(f), Borrower may, from time to time, supplement the Base Properties by causing certain real property owned by Borrower to become additional or substitute Base Properties, as the case may be, and in accordance with the following provisions;

(i) If Borrower shall desire to cause real property owned by Borrower to become a Base Property hereunder in addition to one or more existing Base Properties, Borrower shall so notify Bank. Such notice shall include (a) a description of the real property which Borrower would propose to become a Base Property (the "Additional Property"), including historical operating results and occupancy levels of such Additional Property; (b) an appraisal, Survey, and Phase I environmental site assessment with respect to such property as required by subsections (b), (c) and (d) of this Section; (c) a commitment for the issuance of a loan policy of title insurance as required by subsection (b)(i) of this Section; and (d) a statement, showing in detail and with substantiating information reasonably acceptable to Bank, the Property NOI for the Additional Property for not less than one

(1) full calendar year prior to the date for which such information is furnished. If Bank shall approve the inclusion of the Additional Property as a Base Property, Bank shall so notify Borrower and it shall be deemed a Base Property for purposes of determining the Maximum Amount of the Revolving Credit, as set forth in Section 3.1. Promptly after its receipt of such notice, Borrower shall execute a Mortgage and such other Security Documents with respect to such Additional Property as required by subsection 5.4(a) hereof, and will cause the title company which issued the title

commitment described above to issue a loan policy of title insurance to Bank, containing such coverages and endorsements as Bank may require.

(ii) If Borrower shall desire to cause certain real property owned by Borrower to become Base Property in substitution for a property which is then a Base Property hereunder, Borrower shall so notify Bank. Such notice shall include: (1) the identity of the Base Property for which Borrower intends to make such substitution, and a description of the property which Borrower would propose to become a Base Property (the "Substitute Property"), including historical operating results and occupancy levels of such Substitute Property; (2) an appraisal, Survey, and Phase I environmental site assessment with respect to such property as required by subsections (b), (c), and (d) of this Section; (3) a commitment for the issuance of a loan policy of title insurance as required by subsection (b)(i) of this Section; and (4) a statement, showing in detail and with substantiating information reasonably acceptable to Bank, the Property NOI for the Substitute Property for not less than one (1) full calendar year prior to the date of the notice with which such information is furnished. If Bank shall approve the proposed substitution of the Substitute Property as a Base Property, Bank shall so notify Borrower and such property shall be deemed a Base Property for purposes of calculating the Maximum Amount as set forth in section 3.1. Promptly after its receipt of such notice, Borrower shall execute a Mortgage and such other Security Documents with respect to such Additional Property as required by subsection 5.4(a) hereof, and will cause the title company which issued the title commitment described above to issue a loan policy of title insurance to Bank, containing such coverages and endorsements as Bank may require. Concurrently therewith, Bank shall execute and deliver to Borrower a release of the Mortgage encumbering the Base Property for which such substitution was made, together with a release of all other Security Documents in favor of Bank which pertain to such property (without thereby releasing or affecting any Mortgage or Security Documents affecting any other Base Property).

(iii) All costs and expenses incurred or payable by Bank with respect to or in connection with Borrower's exercise of its options under this Section 5.4(f) (including, without limitation, reasonable attorney's fees and further including any and all taxes, costs, fees, and recording expenses in connection with the implementation of the rights set forth in this provision) shall be paid by Borrower on demand.

**SECTION 6. COVENANTS.** Borrower agrees that so long as the Revolving Credit remains in effect, and thereafter until the principal of, and interest on all Loans, and all commitment fees shall have been paid in full, Borrower will perform and observe all of the following provisions, namely:

**6.1. FINANCIAL STATEMENTS.** Borrower will furnish to Bank:

(a) Within forty-five (45) days after the end of each of the first three quarters of each calendar year (and, in any event, in each case, as soon as prepared), a copy of Borrower's Form 10-Q quarterly report as filed with the Securities and Exchange Commission or other

similar report containing, among other things, the combined financial statements of Borrower and the Management Company for such quarter;

(b) Within ninety (90) days after the end of each calendar year (and, in any event, in each case, as soon as available), a copy of Borrower's Form 10-K Annual Report as filed with the Securities and Exchange Commission or other similar report containing, among other things, the combined financial statements of Borrower and the Management Company for such year;

(c) As soon as available, copies of any amendment to Borrower's Declaration of Trust, certified as true and correct by the Secretary of Borrower, and copies of all reports, proxy statements and other similar documents furnished by Borrower to its shareholders, debenture holders, or to any indenture trustee, the New York Stock Exchange or to the Securities and Exchange Commission, or any similar Federal agency having regulatory jurisdiction over the issuance of Borrower's securities;

(d) Not later than forty-five (45) days after the end of each calendar quarter of each year, a certificate, (a "Borrower's NOI Certificate") certified as to its accuracy by the Chief Financial Officer of Borrower, showing the Net Operating Income of the Base Properties for the period of the immediately preceding twelve months; and

(e) Forthwith, upon the Bank's written request, such other information, certified by an appropriate officer of Borrower, concerning the financial condition, properties and operations of Borrower as the Bank may from time to time reasonably request.

**6.2. INSURANCE.** Borrower will (a) keep itself and all of its insurable properties insured at all times to such extent, by such insurers, and against such hazards and liabilities as is generally and prudently done by like businesses, it being understood that Borrowers insurance coverage at the date of this Credit Agreement meets the standards contemplated by this Section, (b) give Bank prompt written notice of each material change in Borrowers insurance coverage and the details of the change and (c) forthwith upon Bank's written request, furnish to Bank such information about Borrower's insurance as Bank may from time to time reasonably request, which information shall be prepared in form and detail satisfactory to Bank and certified by an officer of Borrower.

**6.3. MONEY OBLIGATIONS.** Borrower will pay in full as to all Base Properties, prior in each case to the date when penalties would attach, all taxes, assessments and governmental charges and levies (except only those so long as and to the extent that the same shall be contested in good faith by appropriate and timely proceedings) for which it may be or become liable or to which such properties may be or become subject. As to all other properties other than Base Properties, Borrower will pay all obligations calling for the payment of money (except only those so long as and to the extent that the same shall be contested in good faith) in accordance with the requirements of Section 8.4.

6.4. FINANCIAL RECORDS. Borrower will (a) at all times maintain true and complete records and books of account, and (b) at all reasonable times permit Bank to examine Borrower's books and records.

6.5. REIT STATUS OF OPERATION. Borrower will preserve and maintain its qualified status as a "real estate investment trust" under sections 856 and 860 (both inclusive) of the Internal Revenue Code and any amendments thereto. Borrower is presently doing, and shall continue to do, business in accordance with the terms of the Declaration of Trust.

6.6. NOTICE. Borrower will promptly notify Bank whenever any Default shall exist hereunder or any other representation or warranty made in Section 7 hereof or elsewhere in this Credit Agreement or in any Related Writing may for any reason cease in any material respect to be true and complete.

6.7. LEVERAGE. Borrower will not suffer or permit the combined liabilities of it and the Management Company (including any obligations of any nature of any party, the performance of which in whole or in part is guaranteed by Borrower, but excluding Subordinated indebtedness and any Mortgage Indebtedness other than Recourse Mortgage Indebtedness) to exceed at any time an amount equal to two and one-half (2 1/2) times the then amount of the combined Net Worth of it and the Management Company.

6.8. NET WORTH. Borrower will not permit the combined Net Worth of it and the Management Company at any time to fall below Eighty Million Dollars (\$80,000,000.00).

6.9. TRANSFERS. Borrower will not, without the written approval of the Bank:

(a) purchase or otherwise acquire all or substantially all of the assets and business of another business trust, corporation or other business entity if the gross assets so acquired would exceed One Hundred Fifty Million Dollars (\$150,000,000.00) or if the consideration to be paid is cash, in whole or in part, any such cash portion, is in excess of the fair market value of the underlying net assets being so acquired; or

(b) lease (other than to an independent management company or other contractor for the purpose of complying with the Internal Revenue Code provisions referred to in subsection 6.5 above), sell or otherwise transfer all or substantially all of its assets.

6.10. BORROWINGS. Borrower will not create, assume or have outstanding at any time any indebtedness for money borrowed or Funded Indebtedness, except:

(a) Short-term unsecured borrowings obtained by Borrower from a banking institution, or in the commercial paper market, provided, that the aggregate of any such borrowings plus any amounts available under this Credit Agreement or the National City Agreement shall not exceed the maximum principal amount of Eighty Million Dollars (\$80,000,000.00) at any one time outstanding until such time as this Credit Agreement and the National City Agreement (upon approval of the Banks) are combined into one Agreement ("Combined Agreement") at which time the aggregate of any such borrowing under the



Combined Agreement shall not exceed the maximum principal sum of One Hundred Million Dollars (\$100,000,000.00) at any one time outstanding;

(b) Mortgage Indebtedness now existing or hereafter created, incurred or assumed by Borrower, provided, that Borrower's aggregate Recourse Mortgage Indebtedness shall at no time exceed One Hundred Sixty Million Dollars (\$160,000,000.00);

(c) Funded Indebtedness, other than Mortgage Indebtedness, now existing or hereafter created, incurred or assumed by Borrower to finance the purchase or holding of any real estate investments, which Funded Indebtedness in each case shall not exceed the cost of the real estate in question to Borrower as reflected from time to time in Borrower's financial records;

(d) Any Subordinated indebtedness.

6.11. FUNDS FROM OPERATIONS. Borrower will not during any calendar year permit the combined Funds from Operations of it and the Management Company to be less than Fifteen Million Dollars (\$15,000,000.00).

6.12. ENVIRONMENTAL COMPLIANCE. Borrower will comply in all material respects with any and all Environmental Laws including, without limitation, all Environmental Laws in jurisdictions in which Borrower owns or operates a facility or site, arranges for disposal or treatment of hazardous substances, solid waste or other wastes, accepts for transport any hazardous substances, solid waste or other wastes or holds any interest in real property or otherwise. Borrower will furnish to the Bank promptly after receipt thereof a copy of any notice Borrower may receive from any governmental authority, or entity that any litigation or proceeding pertaining to any environmental, health or safety matter has been filed or is threatened against Borrower, any real property in which Borrower holds any interest or any past or present operation of Borrower. Borrower will not allow the release or disposal of hazardous waste, solid waste or other wastes on, under or to any real property in which Borrower holds any interest or performs any of its operations, in violation of any Environmental Law. Borrower will notify Bank of any actual knowledge of any act or event having occurred in violation of any Environmental Law. As used in this subsection "litigation or proceeding" means any demand, claim, notice, suit, suit in equity, action, administrative action, investigation or inquiry brought by any governmental authority or entity. Borrower shall defend, indemnify and hold the Bank harmless against all costs, expenses, claims, damages, penalties and liabilities of every kind or nature whatsoever (including attorneys fees) arising out of or resulting from the noncompliance of Borrower with any Environmental Law.

6.13. LOAN-TO-VALUE RATIO. The Loan-To-Value Ratio shall at no time be greater than seventy percent (70%).

6.14. DEBT SERVICE COVERAGE RATIO. Borrower shall, as of the final day of any fiscal quarter of Borrower, maintain a ratio of EBITDA to all required payments of principal (other than balloon payments) and interest on indebtedness for borrowed money, in each case with respect to such fiscal quarter, of not less than (i) one and three-tenths (1.30) to one (1.00) for the period of from the date of this Credit Agreement until and including December 31, 1997 and (ii)

if Borrower shall extend the Revolving Credit Termination Date in accordance with Section 3.3 of this Credit Agreement, one and four-tenths (1.40) to one

(1.00) after January 1, 1998. For the purposes of this Section 6.14, Borrower's EBITDA shall be adjusted to reflect any acquisitions of real property made by Borrower during the applicable fiscal period on a PRO FORMA basis acceptable to the Bank, assuming an occupancy rate with respect to the acquired real property equal to the lesser of 90% or the actual rate of occupancy.

6.15. INTEREST COVERAGE RATIO. Borrower shall, as of the final day of any fiscal quarter of Borrower, maintain a ratio of EBITDA to all required payments of interest on indebtedness for borrowed money, in each case with respect to such fiscal quarter, of not less than (i) one and five-tenths (1.50) to one

(1.00) for the period of from the date of this Credit Agreement until and including December 31, 1997 and (ii) if Borrower shall extend the Revolving Credit Termination Date in accordance with Section 3.3 of this Credit Agreement, one and six-tenths (1.60) to one (1.00) after January 1, 1998. For the purposes of this Section 6.15, Borrower's EBITDA shall be adjusted to reflect any acquisitions of real property made by Borrower during the applicable fiscal period on a PRO FORMA basis acceptable to the Bank, assuming an occupancy rate with respect to the acquired real property equal to the lesser of 90% or the actual rate of occupancy.

6.16. LEVERAGE RATIO. Borrower shall, as of the final day of any fiscal quarter of Borrower, maintain a ratio of Borrower's total liabilities to EBITDA, in each case with respect to the preceding four fiscal quarters of Borrower, of not more than eight (8.00) to one (1.00) for the period from the date of this Credit Agreement until and including December 31, 1998. For the purposes of this Section 6.16, (i) Borrower's EBITDA shall be adjusted to reflect any acquisitions of real property made by Borrower during the applicable fiscal period on a PRO FORMA basis acceptable to the Bank, assuming an occupancy rate with respect to the acquired real property equal to the lesser of 90% or the actual rate of occupancy and (ii) Borrower's total liabilities shall be adjusted to exclude any deferred obligations, deferred capital gains and other deferred income. Further, in the event that Borrower shall make any equity offerings during the pendency of this Credit Agreement, the ratio of total liabilities to EBITDA shall be reduced (from 8.00) by three-tenths (0.3) for each thirty million dollars (\$30,000,000) raised by Borrower until the ratio is reduced to six (6.00) to one (1.00) at which time the ratio required shall remain constant for the remaining pendency of this Credit Agreement.

SECTION 7. WARRANTIES. Borrower represents and warrants as follows:

7.1. EXISTENCE. Borrower is a real estate investment trust duly organized and validly existing under and is in good standing by virtue of the laws of the State of Ohio and is duly qualified to do business and is in good standing in all other jurisdictions in which the conduct of its operations or the ownership of its properties requires such qualification.

7.2. RIGHT TO ACT. No registration with or approval of any governmental agency of any kind is required for the due execution and delivery or for the enforceability of this Credit Agreement and the Note issued pursuant to this Credit Agreement. Borrower has legal power and right to execute and deliver this Credit Agreement, the Note, and the Security Instruments, and to perform and observe the provisions of this Credit Agreement, the Security Instruments, and the Note. The officers executing and delivering this Credit Agreement on behalf of

Borrower have been duly authorized to do so, and this Credit Agreement, the Security Instruments and the Note, when executed, are legally binding upon Borrower in every respect.

7.3. LITIGATION. Except as set forth upon Schedule 7.3 attached hereto, no litigation or proceeding is pending or threatened which in the opinion of Borrower's counsel might, if successful, adversely affect the Borrower to a material extent. The Internal Revenue Service has not alleged any default by any company in the payment of any tax or threatened to make any assessment in respect thereof.

7.4. ENVIRONMENTAL COMPLIANCE. Borrower is in substantial compliance with any and all Environmental Laws including, without limitation, all Environmental Laws in all jurisdictions in which Borrower owns or operates, or has owned or operated, a facility or site, arranges or has arranged for disposal or treatment of hazardous substances, solid waste or other wastes, accepts or has accepted for transport any hazardous substances, solid waste or other wastes or holds or has held any interest in real property or otherwise. No litigation or proceeding arising under, relating to or in connection with any Environmental Law is pending or threatened against Borrower, any real property in which Borrower holds or has held an interest or any past or present operation of Borrower. No release, threatened release or disposal of hazardous waste, solid waste or other wastes is occurring, or has occurred, on, under or to any real property in which Borrower holds any interest or performs any of its operations, in violation of any Environmental Law. As used in this subsection, "litigation or proceeding" means any demand, claim, notice, suit, suit in equity, action, administrative action, investigation or inquiry whether brought by any governmental authority, private person or entity or otherwise.

7.5. FINANCIAL STATEMENTS. Since December 31, 1995, there has been no material adverse change in Borrower's financial condition, properties or business, except as previously disclosed to the Bank regarding the \$14 million asset reserve recorded at December 31, 1995, and the Stand-still Share Purchase Agreement dated December 14, 1995 between Borrower and Richard M. Osborne.

7.6. DEFAULTS. No Event of Default will exist immediately after the execution and delivery of this Credit Agreement.

SECTION 8. EVENTS OF DEFAULT. Each of the following shall constitute an Event of Default hereunder:

8.1. PAYMENTS. If the principal of, or interest on, any of Borrower's Loans shall not be paid in full promptly when due and payable and shall remain unpaid for ten (10) calendar days after the receipt of written notice by Borrower from Bank of such nonpayment.

8.2. WARRANTIES. If any representation, warranty or statement made in or pursuant to this Credit Agreement, or any Related Writing, or any other material information furnished by Borrower to the Bank shall when made be false or erroneous in any material respect and shall remain so for five (5) calendar days after the receipt of written notice by Borrower from Bank of such falsity or error.

8.3. COVENANTS. If Borrower shall fail or omit to perform and observe any agreement or other provision (other than those referred to in subsections 8.1 or 8.5 hereof) contained or referred to in this Credit Agreement, or any Related Writing to be performed or observed by Borrower and such failure shall not have been fully corrected within thirty (30) days after the giving of written notice thereof to Borrower by Bank that the specified failure on the part of Borrower is to be remedied.

8.4. CROSS DEFAULT. If Borrower defaults in any payment of principal or interest due and owing upon any obligation in excess of Seven Million Dollars (\$7,000,000.00) for money borrowed (except those that shall be contested in good faith), including any Funded Indebtedness, and such default continues beyond any period of grace provided with respect thereto, or in the performance of any other agreement, covenant, term or condition contained in any agreement under which such obligation is created, if the effect of such default is to accelerate the maturity of such indebtedness and Borrower fails to cure such default within five (5) calendar days after the receipt of written notice by Borrower from Bank of Bank's knowledge of such default.

8.5. BORROWER'S SOLVENCY. If Borrower shall (a) discontinue business, or (b) make a general assignment for the benefit of creditors, or (c) apply for or consent to the appointment of a receiver, a trustee or liquidator of itself or of all or a substantial part of its assets, or (d) be adjudicated a bankrupt or insolvent or (e) file a voluntary petition in bankruptcy or file a petition or an answer seeking reorganization or an arrangement with creditors or seeking to take advantage of any other law (whether federal or state) relating to relief of debtors, or admit (by answer, by default or otherwise) the material allegations of a petition filed against it in any bankruptcy, reorganization, insolvency or other proceeding (whether federal or state) relating to relief of debtors, or (f) suffer or permit to continue unstayed and in effect for thirty (30) consecutive days any judgment, decree or order entered by a court or governmental commission of competent jurisdiction, which assumed custody or control of Borrower, approves a petition seeking reorganization of Borrower or any other judicial modification of the rights of its creditors, or appoints a receiver, trustee, or liquidator for Borrower or of all or a substantial part of its assets, or (g) take, or omit to take, any action in order thereby to effect any of the foregoing.

SECTION 9. REMEDIES UPON DEFAULT. Notwithstanding any contrary provision of inference herein or elsewhere,

9.1. OPTIONAL DEFAULTS. If any Event of Default referred to in Section 8.1, 8.2, 8.3, or 8.4 shall occur, the Bank may, by written notice to Borrower, accelerate the maturity of all of Borrower's Debt to the Bank (if it be not already due and payable), whereupon all of the Borrower's Debt to the Bank shall become due and thereafter be immediately due and payable in full without any presentment or demand and without any further or other notice of any kind all of which are hereby waived by Borrower.

9.2. AUTOMATIC DEFAULTS. If any Event of Default referred to in Section 8.5 hereof shall occur, the principal of and interest on the Note, then outstanding, and all of Borrower's other Debt to the Bank shall thereupon become and thereafter be immediately due and payable in

full (if it be not already due and payable), all without any presentment, demand or notice of any kind, which are hereby waived by Borrower.

**SECTION 10. INTERPRETATION.** Each right, power or privilege specified or referred to in Section 9 or elsewhere in this Credit Agreement or in any Related Writing is in addition to any other rights, powers or privileges that the Bank may otherwise have or acquire by operation of law, by other contract or otherwise. No course of dealing in respect of, nor any omission or delay in the exercise of, any right, power or privilege by Bank shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any further or other exercise thereof or of any other, as each right, power or privilege may be exercised independently or concurrently with others and as often and in such order as Bank may deem expedient. It is of the essence to Bank's granting the financial accommodations contemplated by this Credit Agreement that Borrower duly perform and observe every covenant, condition, restriction or agreement on its part to be complied with under this Credit Agreement or any Related Writing and that every representation, warranty or certification made in or pursuant to this Credit Agreement be true and complete in every material respect. The Bank in its discretion may from time to time grant Borrower waivers and consents in respect of this Credit Agreement and the Related Writings in accordance herewith, but no such waiver or consent shall bind Bank unless specifically granted in writing, which writing shall be strictly construed. The relationship between Borrower and the Bank with respect to this Credit Agreement, the Note and any Related Writing is and shall be solely that of debtor and creditor, respectively, and the Bank has no fiduciary obligation toward Borrower with respect to any such documents or the transactions contemplated thereby. Any provision of this Credit Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. The several captions to different sections and subsections of this Credit Agreement are inserted for convenience only and shall be ignored in interpreting the provisions hereof. This Credit Agreement, the Note, and each Related Writing shall be interpreted in accordance with Ohio law, without regard to principles of conflict of laws, and the respective rights and obligations of Bank and Borrower shall be governed by Ohio law.

**SECTION 11. MISCELLANEOUS.**

**11.1. AMENDMENTS; CONSENTS.** No amendment, modification, termination, or waiver of any provision of this Credit Agreement or of the Note nor consent to any variance therefrom, shall be effective unless the same shall be in writing and signed by the Bank and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

**11.2 NOTICES.** All notices, requests, demands and other communications provided for hereunder shall be in writing and, if to Borrower, mailed or delivered to it, or sent by telephonic facsimile and the original thereafter mailed or delivered, addressed to it at the address specified on the signature pages of this Credit Agreement, if to the Bank, mailed or delivered to it, or sent by telephonic facsimile and the original thereafter mailed or delivered, address to the address of the Bank specified on the signature pages of this Credit Agreement. All notices, statements,

requests, demands and other communications provided for hereunder shall be deemed to be given or made when delivered or forty-eight (48) hours after being deposited in the mails with postage prepaid by registered or certified mail or delivered to a telegraph company, addressed as aforesaid.

11.3. **COSTS, EXPENSES AND TAXES.** Borrower agrees to pay on demand (i) all costs and expenses of the Bank, incurred in connection with the original preparation of this Credit Agreement and any Related Writings provided, however, that the cost of all appraisals performed for the initial Base Properties shall not exceed \$25,000.00 and (ii) all costs and expenses, including reasonable attorney's fees, in connection with the restructuring or enforcement of this Credit Agreement or any Related Writing. In addition, Borrower shall pay any and all stamp and other taxes and fees payable or determined to be payable in connection with the execution and delivery of this Credit Agreement or the Note, and the other instruments and documents to be delivered hereunder, and agrees to save the Bank harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such taxes or fees.

11.4. **CAPITAL ADEQUACY.** If the Bank shall have determined, after the date hereof, that the adoption of any applicable law, rule, regulation or guideline regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by the Bank (or its lending office) with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on the Bank's capital (or the capital of its holding company) as a consequence of its obligations hereunder to a level below that which the Bank (or its holding company) could have achieved but for such adoption, change or compliance (taking into consideration the Bank's policies or the policies of its holding company with respect to capital adequacy) by an amount deemed by the Bank to be material, then from time to time, within 15 days after demand by the Bank, the Borrower shall pay to the Bank such additional amount or amounts as will compensate the Bank (or its holding company) for such reduction. The Bank will designate a different lending office if such designation will avoid the need for, or reduce the amount of, such compensation and will not, in the judgment of the Bank, be otherwise disadvantageous to the Bank. A certificate of the Bank claiming compensation under this Section and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive in the absence of manifest error. In determining such amount, the Bank may use any reasonable averaging and attribution methods. Failure on the part of the Bank to demand compensation for any reduction in return on capital with respect to any period shall not constitute a waiver of the Bank's rights to demand compensation for any reduction in return on capital in such period or in any other period. The protection of this Section shall be available to each Bank regardless of any possible contention of the invalidity or inapplicability of the law, regulation or other condition which shall have been imposed.

11.5. **EXECUTION IN COUNTERPARTS.** This Credit Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same agreement.

11.6. BINDING EFFECT; ASSIGNMENT. This Credit Agreement shall become effective when it shall have been executed by Borrower and the Bank and thereafter shall be binding upon and inure to the benefit of Borrower and the Bank and their respective successors and assigns, except that Borrower shall not have the right to assign its right hereunder or any interest herein without the prior written consent of all of the Bank. No person, other than the Bank, shall have or acquire any obligation to grant Borrower any loans hereunder. Bank shall have the sole and exclusive right to sell one or more (but not more than three) participations (consisting of no more than 75% of the Maximum Amount) and/or assign any portion of its commitment to make any Loans under this Credit Agreement; provided, however, that Bank shall at all times keep not less than twenty five percent (25%) of the direct obligation to make Loans hereunder.

SECTION 12. DEFINITIONS. As used herein,

"ACTUAL CDP-M RATE" shall be as defined in Section 4.12(c) hereof;

"ACTUAL LAR" shall be as defined in Section 4.12(c) hereof;

"ADJUSTED LIBOR" means a rate per annum equal to the quotient obtained (rounded upwards, if necessary, to the nearest 1/100th of 1%) by dividing (i) the applicable LIBOR rate by (ii) 1.00 minus the Reserve Percentage (provided such reserves are actually maintained);

"BANK" means Society National Bank, its successors and assigns;

"BANKING DAY" means: (a) in the case of a LIBOR Loan, a London Banking Day; and (b) in the case of a Prime Loan, CD Loan, or Floating Rate Loan, any day other than a Saturday, Sunday, or a public holiday (or other day on which banking institutions in Cleveland, Ohio are authorized or obligated to close, except that, in the case of a CD Loan, it shall also be a day in which New York certificate of deposit dealers of recognized standing shall be open for business;

"BASE PROPERTIES" shall mean the real property described in the Security Instruments;

"BORROWER" means First Union Real Estate Equity and Mortgage Investments, and its successors and assigns;

"BORROWER'S NOI CERTIFICATE" shall be as defined in Section 6.1(d) hereof;

"CD ASSESSMENT RATE" means the gross annual assessment rate (rounded upwards, if necessary, to the next higher 1/100 of 1%) actually incurred to the Federal Deposit Insurance Corporation (or any successor) by Bank for insurance on deposits in United States dollars at Bank's main office. The CD Pre-Margin Rate shall be automatically adjusted on and as of the effective date of any change in the CD Assessment Rate;

"CD PRE-MARGIN RATE" means a rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to the sum of:

(a) the CD Assessment Rate; plus

(b) a fraction, the numerator of which is the applicable CD Rate, and the denominator of which is the difference between one hundred percent (100%) and the CD Reserve Percentage.

"CD RATE" means the offered rate per annum (rounded upwards, if necessary, to the next higher (1/100 of 1%), as determined by Bank, which two New York certificate of deposit dealers of recognized standing, selected by Bank, quote to Bank at 10:00 a.m. Cleveland time on the first day of the Interest Period in question (or as soon thereafter as practicable) for the purchase at face value of Bank's certificates of deposit for a period and in an amount comparable to the term and principal amount of the CD Loan in question;

"CD RESERVE PERCENTAGE" means the percentage which for any given day (as determined by Bank) Regulation D of the Board of Governors of the Federal Reserve System (or any successor) prescribes for determining the maximum reserve requirement (including, without limitation, any marginal, emergency or supplemental reserve equipment) for member Banks of the Federal Reserve System in Cleveland, Ohio, with deposits exceeding One Billion Dollars (\$1,000,000,000.00) in respect of liabilities consisting of or including nonpersonal time deposits in the United States where the amount of the liability is One Hundred Thousand Dollars (\$100,000) or more and the maturity is comparable to the applicable Interest Period. The CD Pre-Margin Rate shall be adjusted automatically and as of the effective date of any change in the CD Reserve Percentage;

"CHANGE DATE" means the date on which any Change of Control shall be deemed to have occurred; provided, that, if Borrower shall fail to give timely notice of the occurrence of a Change of Control to the Bank as provided in Subsection (b) of Section 4.16 hereof, for the purpose of determining the duration of the option of the Bank granted under Section 4.16. "Change Date" shall mean the earlier of (i) the date on which notice of a change of control is duly given by Borrower to the Bank or (ii) the date on which the Bank obtains actual knowledge of the Change of Control.

"CHANGE OF CONTROL" means when, and shall be deemed to have occurred at such time as, a "person" or "group" (within the meaning of Sections 13(d) and 14(d) of the Exchange Act) becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act) of more than thirty five percent (35%) of the then outstanding Voting Stock of Borrower;

"COST OF FUNDS LOAN" shall mean any loan described in Section 4 hereof on which the Borrowing shall pay interest at a rate based on the Cost of Funds;

"CREDIT RATING" means the publicly announced rating on public senior unsecured long-term debt of the Borrower give by Moody's or S&P.

"DEBT" means, collectively, every liability now or hereafter owing by Borrower to Bank, under this Credit Agreement;



"DECLARATION OF TRUST" means Borrower's Amended Declaration of Trust dated August 1, 1961, as amended from time to time through December 31, 1995, and as it may hereafter be amended from time to time;

"EBITDA" shall mean, for any fiscal quarter of Borrower, Borrower's Net Operating Income for such fiscal quarter, increased by the sum of such period of interest expense, income and franchise tax expense, and amortization and depreciation (in each case as determined in accordance with generally accepted accounting principles) deducted in determining Net Operating Income for such period.

"ENVIRONMENTAL LAWS" means all provisions of law, statutes, ordinances, rules, regulations, permits, licenses, judgments, writs, injunctions, decrees, orders, awards and standards promulgated by the government of the United States of America or by any state or municipality thereof or by any court, agency, instrumentality, regulatory authority or commission of any of the foregoing concerning health, safety and protection of, or regulation of the discharge of substances into, the environment;

"EUROCURRENCY LIABILITIES" has the meaning assigned to that term in Regulation D of the Board of Governors of the Federal Reserve System, as in effect from time to time;

"EVENT OF DEFAULT" under this Credit Agreement means an event, condition, or thing which has occurred or exists that constitutes, or which upon the lapse of any applicable grace period, or the giving of notice, or both, would constitute an Event of Default referred to in Section 8 and which has not been appropriately waived in writing in accordance with this Credit Agreement or corrected to Bank's full satisfaction;

"EXCHANGE ACT" means the Securities Exchange Act of 1934, as amended, and any successor federal statute.

"FIXED RATE LOAN" means a CD Loan or a LIBOR Loan;

"FLOATING RATE" means a floating rate per annum for each day from time to time equal to the fluctuating rate per annum for each day equal to the effective overnight Federal funds rate for the day immediately preceding such day, as published in the Federal Reserve Statistical Release H.15(519) Selected Interest Rates as published by the Board of Governors of the Federal Reserve System (or any successor publication);

"FUNDED INDEBTEDNESS" means indebtedness which matures or which (including any renewal or extension, if any, in whole or in part) remains unpaid more than twelve months after the date on which originally incurred, it being understood that in the case of any indebtedness payable in installments, the last of which on the date of occurrence was due more than twelve months after such date, including sinking fund payment, those payments maturing within twelve months after the date of determination shall nevertheless be considered Funded Indebtedness;

"FUNDS FROM OPERATIONS" means, for any fiscal period of Borrower, Borrower's Net Income plus depreciation and amortization expenses and other extraordinary charges;

"INTEREST PERIOD" shall be as defined in subsection 4.6 hereof;

"INVESTMENT GRADE" means (i) with respect to Moody's, a Credit Rating of Baa3 or higher and (ii) with respect to S&P, a Credit Rating of BBB- or higher.

"LETTER OF CREDIT" shall be as defined in Section 4.3 hereof;

"LETTER OF CREDIT REQUEST" means a written notice delivered by Borrower to Bank pursuant to subsection 4.8(b);

"LIBOR" means the average (rounded upward to the nearest 1/16th of 1%) of the per annum rates at which deposits in immediately available funds in United States dollars for the relevant Interest Period and in the amount of the LIBOR Loan to be disbursed or to remain outstanding during such Interest Period, as the case may be, are offered to the Bank by prime banks in any Eurodollar market reasonably selected by the Bank, determined as of 11:00 a.m. London time (or as soon thereafter as practicable), two (2) London banking days prior to the beginning of the relevant Interest Period pertaining to a LIBOR Loan hereunder;

"LIBOR LOANS" means those loans described in Section 4.2 hereof on which the Borrower shall pay interest at a rate based on LIBOR;

"LOAN" means any loan obtained by Borrower under this Credit Agreement and includes, without limitation, any Prime Loan, LIBOR Loan, CD Loan, or Floating Rate Loan;

"LOAN REQUEST" means a written notice or a telephonic notice confirmed in writing, in either case delivered by Borrower to Bank pursuant to subsection 4.8(a);

"LOAN-TO-VALUE-RATIO" means the quotient (expressed as a decimal percentage) obtained by dividing the Maximum Amount by the aggregate fair market value(s) of all of the Base Properties;

"LONDON BANKING DAY" means a day on which banks are open for business in London, England, and quoting deposit rates for dollar deposits;

"MANAGEMENT COMPANY" means First Union Management, Inc.;

"MAXIMUM AMOUNT" shall be as defined in Section 3.1 hereof;

"MOODY'S" means Moody's Investor Services;

"MORTGAGE" means the mortgage(s) and/or deed(s) of trust granted by Borrower to Bank, as more specifically described in Exhibit B attached hereto;

"MORTGAGE INDEBTEDNESS" means any obligation incurred by Borrower with respect to the mortgaging or assigning of any real property and any income or increments relating thereto owned by Borrower;

"NATIONAL CITY AGREEMENT" shall mean that certain loan agreement dated by and between Borrower and National City Bank (Cleveland, Ohio) dated December 5, 1994 (as amended).

"NET OPERATING INCOME" shall mean the total of all rents, profits, and other income derived or received from the operation of any of the Base Properties minus all reasonable and customary expenses incurred in connection therewith (but excluding depreciation, amortization, interest and taxes other than real estate taxes);

"NET WORTH" means, the excess of the net book value (after deducting all applicable reserves and without consideration of any re-appraisal or write-up of assets) of the Borrower's assets (other than good will and similar intangibles) over its total liabilities (other than any capital items and liabilities Subordinated) as determined in accordance with generally accepted accounting principles applied on a basis consistent with Borrower's present accounting procedures;

"NOTE" means the Note executed and delivered pursuant to Section 4.4 hereof;

"PREPAYMENT CDP-M RATE" shall be as defined in Section 4.12(c) hereof;

"PREPAYMENT LAR" shall be as defined in Section 4.12(c) hereof;

"PRIME RATE" shall mean that interest rate established from time to time by the Bank as the Bank's Prime Rate, whether or not such rate is publicly announced; the Prime Rate may not be the lowest interest rate charged by the Bank for commercial or other extensions of credit;

"PRIME RATE LOANS" shall mean those loans described in Section 4 hereof on which the Borrower shall pay interest at a rate based on the Prime Rate;

"RECOURSE MORTGAGE INDEBTEDNESS" means any obligation of Borrower secured by a mortgage, deed of trust, or assignment of real property owned by Borrower wherein the party to whom Borrower is obligated may look not only to the property so mortgaged, transferred, or assigned by Borrower, but to all of Borrower's assets and which represents a general obligation of Borrower; but excluding, however, any indebtedness arising under this Credit Agreement or under the National City Agreement;

"RELATED WRITING" means the Note or any assignment, mortgage, security agreement, guaranty agreement, subordination agreement, financial statement, audit report or other writing furnished by Borrower or any of its officers to the Banks pursuant to or otherwise in connection with this Credit Agreement, including, without limitation, the Security Instruments;

"REPAYMENT DATE" means the date on which Borrower, shall repay pursuant to the exercise by such Bank of its option under this Section pursuant to a notice given to Borrower in accordance with Subsection (c) of Section 4.16 which date shall be a Banking Day not less than 90 nor more than 120 days after the date such Bank gives Borrower, as the case may be, written notice of such exercise.

"RESERVE PERCENTAGE" shall mean for any day that percentage (expressed as a decimal) which is in effect on such day, as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the maximum reserve requirement (including, without limitation, all basic, supplemental, marginal and other reserves and taking into account any transitional adjustment or other scheduled changes in reserve requirements) for a member bank of the Federal Reserve System in Cleveland, Ohio, in respect of "Eurocurrency Liabilities". The Adjusted LIBOR shall be adjusted automatically on and as of the effective date of any change in the Reserve Percentage as and when such change is posted on Bank's books;

"REVOLVING CREDIT" means the revolving credit established by Section 3 hereof;

"REVOLVING CREDIT TERMINATION DATE" means December 31, 1998, unless extended pursuant to Section 3.3;

"SECURITY INSTRUMENTS" means a Mortgage or any other instrument executed and delivered by Borrower to Bank for the purpose of granting a security interest to Bank in any real or personal property of Borrower;

"S&P" means Standard & Poor's Investor Services, Inc.;

"SUBORDINATED" as applied to indebtedness, means that the indebtedness has been subordinated (by written terms or agreement being in form and substance satisfactory to Bank) in favor of the prior payment in full of all Debt of Borrower to Bank;

"VOTING STOCK" means shares of beneficial interest the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of the Board of Trustees.

Any accounting term not covered by a specific definition in this Section 12 shall have the meaning ascribed thereto in accordance with generally accepted accounting principles not inconsistent with Borrower's present accounting procedures. The foregoing definitions shall be applicable to the singulars and plurals of the foregoing defined terms.

SECTION 13. ENTIRE AGREEMENT. This Credit Agreement, the Note, and any Related Writing integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral representations and negotiations and prior writings with respect to the subject matter hereof.

SECTION 14. LIABILITY OF BORROWER'S TRUSTEES, ETC. Notwithstanding any provision of this Agreement to the contrary, this Agreement has been executed and delivered by a duly authorized officer of Borrower for and on behalf of Borrower's

trustees. Bank acknowledges that neither the trustees of Borrower, nor any additional or successor trustees of Borrower, nor any beneficiary, officer, employee or agent of Borrower, shall have any personal, individual liability hereunder or under any of the Loan Documents. Bank agrees to look solely to the property and assets of Borrower (and where so provided herein, or in any of the Loan Documents, to the property and assets of the Management Company) for the satisfaction of all claims of any nature arising under or in connection with this Agreement.

Address: 55 Public Square  
Suite 1900  
Cleveland, Ohio 44113

FIRST UNION REAL ESTATE EQUITY  
AND MORTGAGE INVESTMENTS

By: /S/ THOMAS T. KMIECIK  
-----

Title: /S/ SENIOR VP TREASURER  
-----

Address: 55 Public Square  
Suite 1916  
Cleveland, Ohio 44113

FIRST UNION MANAGEMENT, INC.

By: /S/ JOSEPH W. KEARNEY  
-----

Title: /S/ ASST. VP - RETAIL OPERATIONS  
-----

Address: 127 Public Square  
Cleveland, Ohio 44114-1306

SOCIETY NATIONAL BANK

By: /S/ JOSEPH GONZALES  
-----

Title: /S/ ASST. VP  
-----

**PROMISSORY NOTE**

**\$20,000,000.00 Cleveland, Ohio**

**As of March 4, 1996**

FOR VALUE RECEIVED, the undersigned, FIRST UNION REAL ESTATE EQUITY AND MORTGAGE INVESTMENTS (the "Borrower") promises to pay to the order of SOCIETY NATIONAL BANK (the "Bank") at the Main Office of the Bank, 127 Public Square, Cleveland, Ohio 44114 the principal sum of TWENTY MILLION DOLLARS (\$20,000,000.00) or the aggregate unpaid principal amount of all Loans evidenced by this note made by the Bank to the Borrower pursuant to Section 3 of the Credit Agreement hereinafter referred to, whichever is less, in lawful money of the United States of America. Capitalized terms used herein shall have the meaning ascribed to them in said Credit Agreement.

The Borrower promises also to pay interest on the unpaid principal amount of each Loan from time to time outstanding from the date of such loan until the payment in full thereof at the rates per annum which shall be determined in accordance with the provisions of Section 4.7 of the Credit Agreement. Said interest shall be payable on each date provided for in said Section 4.7; provided, however, that interest on any principal portion which is not paid when due shall be payable on demand.

The portions of the principal sum hereof from time to time representing Prime Rate Loans, CD Loans, LIBOR Loans and Floating Rate Loans, and payments of principal of any thereof, will be shown on the records of the Bank by such method as the Bank may generally employ; PROVIDED, however, that failure to make any such entry shall in no way detract from the Borrower's obligations under this note.

If this note shall not be paid at maturity, whether such maturity occurs by reason of lapse of time or by operation of any provision for acceleration of maturity contained in the Credit Agreement hereinafter referred to, the principal hereof and the unpaid interest thereon shall bear interest, until paid, for Prime Rate Loans, LIBOR Loans, CD Loans and Floating Rate Loans at a rate per annum which shall be two per cent (2%) in excess of the Prime Rate from time to time in effect, provided, however, that in no event shall interest accrue at a lesser rate than that which is in effect until the end of any interest Period then existing. All payments of principal of and interest on this note shall be made in immediately available funds.

This note is the Note referred to in the Credit Agreement dated as of even date herewith, 1996, between the Borrower and the Bank. Reference is made to such Credit Agreement for a description of the right of the Borrower to anticipate payments hereof, the right of the holder hereof to declare this note due prior to its stated maturity, and other terms and conditions upon which this note is issued.

Notwithstanding anything herein to the contrary contained, this Note is made and executed on behalf of borrower by its officers on behalf of the trustees thereof, and none of the trustees, nor any additional or successor trustee hereafter appointed, nor any beneficiary, officer, employee, or agent of Borrower shall have any liability in his person or individual capacity, but instead, the holder hereof shall look solely to the property and assets of Borrower for satisfaction of claims of any nature arising under or in connection with this note.

*Address:*        *55 Public Square*  
                  *Suite 1900*  
                  *Cleveland, Ohio 44113*

*FIRST UNION REAL ESTATE EQUITY*  
*AND MORTGAGE INVESTMENT*

*By: /S/ THOMAS T. KMIECIK*

*Title: /S/ SENIOR VP TREASURER*

**EXHIBIT 11****FIRST UNION REAL ESTATE EQUITY AND MORTGAGE INVESTMENTS AND  
FIRST UNION MANAGEMENT, INC.****STATEMENTS RE: COMPUTATION OF PER SHARE EARNINGS  
(IN THOUSANDS, EXCEPT PER SHARE DATA)**

Years Ended December 31,

	1995	1994	1993	1992	1991
Shares Outstanding:					
For computation of primary net income per share -					
Weighted average	18,059	18,105	18,086	18,086	18,098
Share equivalents - Options	--	--	10	--	--
- Restricted shares	57	15	--	--	--
Adjusted shares outstanding	18,116	18,120	18,096	18,086	18,098
For computation of fully diluted net income per share -					
Weighted average, without regard to, exercise under share option plans, or purchase of outstanding shares	18,100	18,109	18,086	18,086	18,133
Assumption of exercise under share option plans	--	--	10	--	--
Weighted average of shares issued under long-term incentive plan	8	--	--	--	--
Weighted average of restricted shares granted	57	15	--	--	--
Weighted average of outstanding shares purchased and retired	(49)	(4)	--	--	(35)
Adjusted shares outstanding	18,116	18,120	18,096	18,086	18,098
Net Income:					
Net income applicable to shares of beneficial interest (used for computing primary and fully diluted net income per share)	\$ 13,891	\$ 6,485	\$ 13,984	\$ 18,432	\$ 18,236
Net income per share of beneficial interest:					
Primary and fully diluted					
Income from operations	\$ .18	\$ .36	\$ .57	\$ .70	\$ .74
Capital gains, net of \$14 million reduction of carrying value of assets in 1995	.88	---	.27	.32	.27
Income before extraordinary loss from early extinguishment of debt and cumulative effect of accounting change	1.06	.36	.84	1.02	1.01
Extraordinary loss from early extinguishment of debt	.05	---	.07	--	--
Cumulative effect of change in accounting for internal leasing costs	.24	--	--	--	--
Net income	\$ .77	\$ .36	\$ .77	\$ 1.02	\$ 1.01



**EXHIBIT 12**

**FIRST UNION REAL ESTATE EQUITY AND MORTGAGE INVESTMENTS AND  
FIRST UNION MANAGEMENT, INC.  
STATEMENTS OF RATIOS OF COMBINED INCOME FROM  
OPERATIONS AND COMBINED NET  
INCOME TO FIXED CHARGES  
(IN THOUSANDS, EXCEPT RATIOS)**

	Years Ended December 31,				
	1995	1994	1993	1992	1991
Income from operations	\$ 3,256	\$ 6,485	\$10,276	\$12,657	\$13,330
Add fixed charges, exclusive of construction interest capitalized	22,987	21,865	19,103	19,469	21,513
Income from operations, as defined	26,243	28,350	29,379	32,126	34,843
Capital gains, net of \$14 million reduction of carrying value of assets in 1995	15,870	---	4,948	5,775	4,906
Net income, as defined	\$42,113	\$28,350	\$34,327	\$37,901	\$39,749
Fixed charges:					
Interest					
- Mortgage loans	\$ 7,670	\$ 7,335	\$ 5,777	\$ 6,182	\$ 6,493
- Senior notes	9,305	9,305	5,779	4,199	4,199
- 10.25% debentures	---	---	3,214	3,858	3,858
- Bank loans and other	5,422	4,640	3,747	4,694	6,221
- Capitalized interest	169	---	---	---	---
Amortization of debt issue costs	184	168	162	122	95
Rents (1)	406	417	424	414	647
Fixed charges, as defined	\$23,156	\$21,865	\$19,103	\$19,469	\$21,513
Ratio of income from operations, as defined, to fixed charges	1.13	1.30	1.54	1.65	1.62
Ratio of net income, as defined, to fixed charges	1.82	1.30	1.80	1.95	1.85

(1) The interest portion of rentals is assumed to be one-third of all ground rental and net lease payments.

## EXHIBIT 13

### FINANCIAL HIGHLIGHTS

Years ended December 31, (In thousands, except per share data)

	1995	1994
Revenues	\$79,205	\$76,339
Income from operations	4,832	6,485
Income from operations after litigation and proxy expenses(1)	3,256	6,485
Net income(2)	13,891	6,485
Funds from operations(3)	16,733	17,040
Dividends declared	7,542	7,273
Per share		
Income from operations after litigation and proxy expenses(1)	\$.18	\$.36
Net income(2)	.77	.36
Dividends declared	.41	.40

### MARKET PRICE AND DIVIDEND RECORD

1995 Quarters Ended	High	Low	Dividends Declared
December 31	\$7 5/8	\$6 7/8	\$.11
September 30	7 7/8	7 1/8	.10
June 30	8	7	.10
March 31	8 5/8	6 1/2	.10
			-----
			\$.41
			=====
1994 Quarters Ended			
December 31	\$8 1/8	\$6 3/8	\$.10
September 30	7 1/4	6 1/8	.10
June 30	8	6 3/8	.10
March 31	10 1/4	7 3/8	.10
			-----
			\$.40
			=====

The Trust's shares are traded on the New York Stock Exchange (Ticker Symbol: FUR). As of December 31, 1995, there were 5,031 recordholders of the Trust's shares of beneficial interest. The Trust estimates the number of beneficial owners at approximately 18,000.

(1) In 1995, the Trust recognized \$1.6 million of litigation and proxy expenses related to a minority shareholder lawsuit and proxy contest.

(2) In 1995, the Trust recognized a capital gain of \$29.9 million, a \$14 million noncash reduction of the carrying value of certain assets identified for disposition, \$910,000 of unamortized costs and prepayment premiums related to the early repayment of mortgage debt and a \$4.3 million noncash charge for the cumulative effect of a change in accounting method.

(3) The amount of funds from operations is calculated as income from operations before litigation and proxy expenses plus noncash charges for depreciation and amortization. The funds from operations for 1994 have been restated for the change in accounting method on a basis comparable to 1995.

### FIRST UNION REAL ESTATE INVESTMENTS

## SELECTED FINANCIAL DATA

For the years ended December 31, (In thousands, except per share data)

	1991	1992	1993	1994	1995
<b>OPERATING RESULTS</b>					
Revenues	\$74,941	\$74,567	\$74,339	\$76,339	\$79,205
Income from operations	13,330	12,657	10,276	6,485	4,832
Income from operations after litigation and proxy expenses(1)	13,330	12,657	10,276	6,485	3,256
Capital gains, net of reduction of carrying value of assets(2)	4,906	5,775	4,948		15,870
Income before extraordinary loss and cumulative effect of accounting change	18,236	18,432	15,224	6,485	19,126
Extraordinary loss from early repayment of debt(3)			(1,240)		(910)
Cumulative effect of change in accounting method(4)					(4,325)
Net income	18,236	18,432	13,984	6,485	13,891
Funds from operations(5)	21,398	21,836	20,039	17,040	16,733
Dividends declared	16,827	13,022	13,031	7,273	7,542

---

<b>Per share of beneficial interest</b>					
Income from operations after litigation and proxy expenses(1)	\$ .74	\$ .70	\$ .57	\$ .36	\$ .18
Income before extraordinary loss and cumulative effect of accounting change	1.01	1.02	.84	.36	1.06
Extraordinary loss from early extinguishment of debt(3)			(.07)		(.05)
Cumulative effect of change in accounting method(4)					(.24)
Net income	1.01	1.02	.77	.36	.77
Dividends declared	.93	.72	.72	.40	.41

---

<b>FINANCIAL POSITION AT YEAR END</b>					
Gross assets before deducting accumulated depreciation	\$461,077	\$445,881	\$495,445	\$488,161	\$508,700
Long-term obligations(6)	119,049	109,733	257,355	238,296	258,454
Total equity(7)	134,047	139,547	103,766	102,940	102,355
Total equity before deducting accumulated depreciation(7)	217,848	231,973	205,590	214,912	210,056

---

<b>Per share of beneficial interest(7)(8)</b>					
Net assets	\$6.89	\$7.18	\$5.93	\$5.78	\$5.99
Net assets before deducting accumulated depreciation	11.06	11.77	11.45	11.82	12.03

This selected financial data should be read in conjunction with the Combined Financial Statements and notes thereto.

- (1) In 1995, the Trust incurred \$1.6 million of litigation and proxy expenses related to a minority shareholder lawsuit and proxy contest.
- (2) In December 1995, the Trust recorded a \$14 million noncash reduction of the carrying value of certain assets which have been identified for disposition.
- (3) In November 1993, the Trust repaid prior to their maturity dates \$45 million of senior notes and \$37.6 million of convertible debentures resulting in a \$1.2 million charge for the write-off of unamortized issue costs and payment of a redemption premium. In November 1995, the Trust repaid approximately \$36 million of mortgage debt resulting in a \$910,000 charge for the write-off of unamortized costs and prepayment premiums.
- (4) In December 1995, First Union changed its method to directly expense internal leasing costs and recorded a \$4.3 million noncash charge for the cumulative effect of the accounting change as of the beginning of 1995. Funds from operations for previous years have been restated for the change in accounting method on a basis comparable to 1995.
- (5) The amount of funds from operations is calculated as income from operations before litigation and proxy expenses plus noncash charges for depreciation and amortization.
- (6) Includes senior notes and mortgage loans, including the current portion for all years. Beginning in 1993, also includes bank loans.
- (7) Includes shareholders' equity and convertible securities net of unamortized issue costs through 1992 as the convertible debentures were repaid on November 1, 1993.
- (8) Includes the effect of vested options.

## FIRST UNION REAL ESTATE INVESTMENTS

## COMBINED BALANCE SHEETS

As of December 31, (In thousands)

	1995	1994
ASSETS		
INVESTMENTS IN REAL ESTATE		
Land	\$54,403	\$44,594
Buildings and improvements	395,157	391,800
	-----	-----
	449,560	436,394
Less - Accumulated depreciation	(107,701)	(111,972)
	-----	-----
Total investments in real estate	341,859	324,422
MORTGAGE LOANS RECEIVABLE, including current portion of \$176,000	42,042	35,761
OTHER ASSETS		
Cash and cash equivalents	3,402	2,975
Accounts receivable and prepayments	4,536	4,594
Deferred charges and other, net	4,873	3,488
Unamortized debt issue costs	4,287	4,949
	-----	-----
	\$400,999	\$376,189
	-----	-----
LIABILITIES AND SHAREHOLDERS' EQUITY		
LIABILITIES		
Mortgage loans, including current portion of \$2,862,000	83,854	\$90,796
Senior notes, including current portion of \$5,000,000	105,000	105,000
Bank loans	69,600	42,500
Accounts payable and accrued liabilities	21,779	16,686
Deferred obligations	10,670	10,522
Deferred capital gains and other deferred income	7,741	7,745
	-----	-----
	298,644	273,249
	-----	-----
SHAREHOLDERS' EQUITY		
Shares of beneficial interest, \$1 par, unlimited authorization, outstanding	17,485	18,263
Additional paid-in capital	53,098	59,254
Undistributed income from operations	16,823	19,944
Undistributed capital gains	14,949	5,479
	-----	-----
Total shareholders' equity	102,355	102,940
	-----	-----
	\$400,999	\$376,189
	-----	-----

The accompanying notes are an integral part of these statements.

### FIRST UNION REAL ESTATE INVESTMENTS

## COMBINED STATEMENTS OF INCOME

For the years ended December 31, (In thousands, except per share data)

	1995	1994	1993
REVENUES			
Rents	\$74,349	\$71,200	\$70,131
Interest- Mortgage loans	4,447	3,928	4,033
- Short-term investments	409	1,211	175
	79,205	76,339	74,339
EXPENSES			
Property operating	25,982	25,318	24,887
Real estate taxes	8,555	7,930	7,726
Depreciation and amortization	11,901	10,555	9,763
Interest- Mortgage loans	7,670	7,335	5,777
- Senior notes	9,305	9,305	5,779
- Convertible debentures			3,214
- Bank loans and other	5,422	4,640	3,747
General and administrative	5,538	4,771	3,170
	74,373	69,854	64,063
INCOME FROM OPERATIONS	4,832	6,485	10,276
Litigation and proxy expenses	1,576		
INCOME FROM OPERATIONS AFTER LITIGATION AND PROXY EXPENSES	3,256	6,485	10,276
Capital gains, net of \$14 million reduction of carrying value of assets in 1995	15,870		4,948
INCOME BEFORE EXTRAORDINARY LOSS AND CUMULATIVE EFFECT OF ACCOUNTING CHANGE	19,126	6,485	15,224
Extraordinary loss from early extinguishment of debt	(910)		(1,240)
Cumulative effect of change in accounting for internal lease costs	(4,325)		
NET INCOME	\$13,891	\$6,485	\$13,984
PER SHARE DATA			
Income from operations after litigation and proxy expenses	\$.18	\$.36	\$.57
Capital gains, net of reduction of carrying value of assets	.88		.27
Income before extraordinary loss and cumulative effect of accounting change	1.06	.36	.84
Extraordinary loss from early extinguishment of debt	(.05)		(.07)
Cumulative effect of change in accounting for internal lease costs	(.24)		
Net income	\$.77	\$.36	\$.77
Dividends declared	\$.41	\$.40	\$.72
ADJUSTED SHARES OF BENEFICIAL INTEREST	18,116	18,120	18,096

The accompanying notes are an integral part of these statements.

### FIRST UNION REAL ESTATE INVESTMENTS

## COMBINED STATEMENTS OF CHANGES IN CASH

For the years ended December 31, (In thousands)

	1995	1994	1993
CASH PROVIDED BY (USED FOR) OPERATIONS			
Net income	\$13,891	\$6,485	\$13,984
Adjustments to reconcile net income to net cash provided by operations -			
Depreciation and amortization	11,901	10,555	9,763
Extraordinary loss from early extinguishment of debt	910		1,240
Cumulative effect of change in accounting for internal lease costs	4,325		
Capital gains, net of reduction of carrying value of assets	(15,870)		(4,948)
Increase in deferred charges and other, net	(1,711)	(1,608)	(96)
Increase in deferred interest on mortgage investments, net	(441)	(357)	(401)
Increase in deferred obligations	148	128	110
Recognition of deferred income, net	(4)	(5)	(82)
Net changes in other assets and liabilities	(160)	3,855	79
	-----	-----	-----
Net cash provided by operations	12,989	19,053	19,649
	-----	-----	-----
CASH PROVIDED BY (USED FOR) INVESTING			
Principal received from mortgage investments	160	146	4,424
Investments in properties	(60,305)	(26,653)	(11,601)
Proceeds from sales of properties	31,800		266
	-----	-----	-----
Net cash used for investing	(28,345)	(26,507)	(6,911)
	-----	-----	-----
CASH PROVIDED BY (USED FOR) FINANCING			
Increase (decrease) in bank loans	27,100	(17,500)	(7,000)
Issuance of senior notes			100,000
Repayment of senior notes			(45,000)
Repayment of convertible debentures			(37,591)
Increase in mortgage loans	49,500	4,600	44,300
Repayment of mortgage loans - Normal payments	(3,651)	(3,934)	(3,245)
- Balloon payments	(48,967)	(2,225)	(8,433)
Sale (purchase) of First Union securities	75	(57)	
Debt issue costs paid	(656)	(226)	(4,913)
Dividends paid	(7,341)	(8,707)	(13,026)
Other	(277)	(45)	(299)
	-----	-----	-----
Net cash provided by (used for) financing	15,783	(28,094)	24,793
	-----	-----	-----
Increase (decrease) in cash and cash equivalents	427	(35,548)	37,531
Cash and cash equivalents at beginning of year	2,975	38,523	992
	-----	-----	-----
Cash and cash equivalents at end of year	\$3,402	\$2,975	\$38,523
	-----	-----	-----

The accompanying notes are an integral part of these statements.

### FIRST UNION REAL ESTATE INVESTMENTS

## COMBINED STATEMENTS OF SHAREHOLDERS' EQUITY

(In thousands, except footnotes)

	SHARES OF BENEFICIAL INTEREST	ADDITIONAL PAID-IN CAPITAL (1)	UNDISTRIBUTED INCOME FROM OPERATIONS (2)	UNDISTRIBUTED CAPITAL GAINS
BALANCE DECEMBER 31, 1992	\$18,086	\$59,328	\$19,358	\$5,900
Net income			9,036	4,948
Dividends paid or accrued			(7,662)	(5,369)
Shares issued -				
Under share option agreements	21	174		
Upon conversion of debentures, net	2	47		
Other		(103)		
	-----	-----	-----	-----
BALANCE DECEMBER 31, 1993	18,109	59,446	20,732	5,479
Net income			6,485	
Dividends paid or accrued			(7,273)	
Restricted shares issued	162	873		
Deferred compensation related to restricted shares net of amortization		(971)		
Shares purchased	(8)	(49)		
Other		(45)		
	-----	-----	-----	-----
BALANCE DECEMBER 31, 1994	18,263	59,254	19,944	5,479
Net income			(1,979)	15,870
Dividends paid or accrued			(1,142)	(6,400)
Shares purchased	(950)	(6,175)		
Shares sold under long-term incentive ownership plan	10	65		
Restricted shares issued	162	1,097		
Deferred compensation related to restricted shares, net of amortization		(1,012)		
Other		(131)		
	-----	-----	-----	-----
BALANCE DECEMBER 31, 1995	\$17,485	\$53,098 (3)	\$16,823	\$14,949

(1) Includes cumulative balance of unamortized compensation related to restricted shares of \$971,000 and \$1,983,000 at December 31, 1994 and 1995, respectively.

(2) Includes the balance of cumulative undistributed net loss of First Union Management, Inc. of \$73,000, \$71,000, \$1,071,000 and \$5,825,000 as of December 31, 1992, 1993, 1994 and 1995, respectively.

(3) Cumulative distributions in excess of the Trust's net income from inception are \$11,330,000.

The accompanying notes are an integral part of these statements.

### FIRST UNION REAL ESTATE INVESTMENTS

## NOTES TO COMBINED FINANCIAL STATEMENTS

1. Summary of Significant Accounting Policies First Union Real Estate Investments ("Trust") and First Union Management, Inc., ("Company") are in the real estate industry and do not have operations outside this industry. The accounting policies of the Trust and Company conform to generally accepted accounting principles and give recognition, as appropriate, to common practices within the real estate industry. The preparation of the financial statements requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses during the reporting periods. Under a trust agreement, the shares of the Company are held for the benefit of the shareholders of the Trust. Accordingly, the financial statements of the Company and the Trust have been combined. The Trust's properties are currently leased to the Company except for one. That remaining property is leased to another party under a net lease with original terms expiring in 2011 and with renewal options available thereafter. At December 31, 1995 and 1994, buildings and improvements included equipment and appliances of \$5.3 million and \$4.5 million, respectively. Tenant leases generally provide for billings of certain operating costs, and retail tenant leases generally provide for percentage rentals, in addition to fixed minimum rentals. The Company accrues the recovery of operating costs based on actual costs incurred and accrues percentage rentals based on current estimates of each retail tenant's sales. For the years ended December 31, 1995, 1994 and 1993, such additional income approximated \$16.1 million, \$16.9 million and \$17.5 million, respectively. Depreciation for financial reporting purposes is computed using the straight-line method. Buildings and improvements are depreciated over their estimated useful lives of 40 to 64 years and equipment and appliances over five to 10 years. Routine maintenance and repairs, including replacements, are charged to expense; however, replacements which improve or extend the lives of existing properties are capitalized. Net income per share of beneficial interest has been computed based on weighted average shares and share equivalents outstanding for the applicable period.

The Trust, in 1996, will adopt SFAS No. 121 (Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed) and SFAS No. 123 (Accounting for Stock-Based Compensation) as required by the Financial Accounting Standards Board.

2. Combined Statements of Changes in Cash The Trust considers all highly liquid short-term investments with original maturities of three months or less to be cash equivalents. The Trust paid interest expense of \$22.3 million, \$21.1 million and \$17.9 million in 1995, 1994 and 1993, respectively. During 1995, \$169,000 of interest related to construction projects was capitalized.

3. Capital Gains, Net of Reduction of Carrying Value of Assets In January 1995, the Trust sold its 50% interests in two malls located in Wilkes-Barre, PA and Fairmount, WV for \$35.5 million resulting in a capital gain of \$29.9 million. The contracts governing this disposition provided for a \$2 million payment which was received in 1994 when the contracts were signed, an exchange of the properties by a tax qualified intermediary for \$27.5 million, a \$6 million note with an interest rate of 9% due in January 1998 and the assumption of \$4.7 million of existing mortgages secured by the properties. Management reviews the net realizable value of the Trust's portfolio periodically to determine whether an allowance for possible losses is necessary. The carrying value of the Trust's investments in real estate are evaluated on an individual property basis. In December 1995, the Trust recorded a \$14 million noncash reduction of the carrying value of certain assets which have been identified for disposition. The noncash adjustment represents the difference between the estimated fair value and net book value of the assets. This adjustment was recorded as a reduction of capital gains recognized during 1995. In December 1995, the Trust sold an office building in Pittsburgh, PA for \$4.3 million in cash resulting in a capital loss of \$1.4 million which was provided in the \$14 million noncash adjustment of the carrying value of certain assets.

## FIRST UNION REAL ESTATE INVESTMENTS



In 1993, the Trust recognized capital gains of \$4.7 million from an installment sale which occurred in a prior year. The final portion of the capital gain from the prior year installment sale was recognized during 1993. Also, in 1993, the Trust recognized approximately \$250,000 from sales of small land parcels.

#### 4. CUMULATIVE EFFECT OF CHANGE IN ACCOUNTING METHOD

Prior to 1995, the Company accounted for internal leasing costs by deferring and amortizing such costs as part of depreciation and amortization expense over the life of consummated leases. In the fourth quarter of 1995, the Company changed this method of accounting to recognize internal leasing costs in the period in which they are incurred. Accordingly, the Company wrote off the balance of its deferred internal leasing costs of \$4.3 million effective January 1, 1995 and expensed those leasing costs that were deferred throughout 1995. The effect of this change in accounting method decreased income from operations by \$0.6 million in 1995 as a result of reducing depreciation and amortization expense \$1.4 million and increasing general and administrative expense \$2 million. A reclassification has been made between depreciation and amortization and general and administrative expense for 1994 and 1993 so that the prior year amounts are on a comparable basis to 1995.

The proforma retroactive application of this accounting change on income from operations, net income and the related per share amount is not material for 1994 and 1993.

Management has adopted the accounting method to focus on controlling costs associated with tenant leases and to eliminate detailed recordkeeping.

#### 5. EXTRAORDINARY LOSS FROM EARLY EXTINGUISHMENT OF DEBT

In November 1995, the Trust repaid prior to their maturity dates three mortgage loans totaling approximately \$36 million resulting in prepayment premiums and the write-off of unamortized mortgage costs of \$910,000.

In November 1993, the Trust repaid prior to their maturity dates \$45 million of 8.375% senior notes at par and \$37.6 million of 10.25% convertible subordinated debentures at a premium of 1.025%. The maturity date of the senior notes was December 1994 and the convertible debentures was July 2009. The early extinguishment of debt resulted in an extraordinary charge in 1993 of \$1.2 million for the write-off of unamortized issue costs and payment of a redemption premium.

#### 6. INVESTMENTS IN MORTGAGE LOANS

As of December 31, 1995, the Trust had the following investments in mortgage loans (dollar amounts in thousands):

	CURRENT EFFECTIVE RATE ON NET INVESTMENT	LOAN AMOUNT	PRIOR LIENS	NET INVESTMENT
Mortgage loan secured by a mall in Fairmount, WV, maturing in 1998 and partnership units of Crown American Properties, L.P.	9%	\$ 6,057		\$ 6,057
First mortgage loan secured by an office building in Cleveland, OH, maturing in 2011.	10%	19,279		19,279
Wraparound mortgage loan secured by an apartment complex in Atlanta, GA, maturing in 1999.	13.5%	16,706	\$3,740	12,966
		-----	-----	-----
		\$42,042	\$3,740	\$38,302
		=====	=====	=====

The fair value of the mortgage investments at December 31, 1995 is approximately \$42 million based on current interest rates and market conditions.

### FIRST UNION REAL ESTATE INVESTMENTS

7. Bank Loans As of December 31, 1995, there was \$51 million outstanding under a fully secured \$60 million credit agreement at an interest rate of 7.81%. This credit agreement matures on December 31, 1997. Interest under this agreement is calculated, at the option of the Trust, based on LIBOR or the lender's prime lending rate. The Trust also has entered into an agreement to extend the termination date to December 1998 from July 1996 and to fully secure the \$20 million revolving credit agreement with another bank, pending the completion of loan documentation. As of December 31, 1995, there was \$18.6 million outstanding under this credit agreement at an interest rate of 7.74%. Interest under this agreement may be calculated based on various alternatives, at the option of the Trust, including the lender's base rate, LIBOR, certificate of deposit rate or current bank cost of funds. The weighted average interest rate under the credit agreements was 7.79% for 1995. As the bank loans are at market interest rates, the fair value is the carrying amount of the loans. Commitment fees not greater than 3/8% per annum are payable on the unused portion of the revolving credits. These agreements contain certain requirements including maintaining minimum funds from operations (income from operations plus depreciation and amortization), net worth, leverage, fixed charges and earnings before interest and depreciation and amortization ratios, as defined. The Trust was in compliance with all the above requirements as of December 31, 1995. The Trust currently has a rate guarantee contract in the notional amount of approximately \$34 million which is tied to LIBOR and has a maximum rate of 7.43%. This rate contract is used by the Trust to reduce the impact of changes in interest rates on its floating rate bank loans. The contract expires in October 2003 and the cost is being amortized over the life of the contract. As of December 31, 1995 and 1994, the unamortized rate guarantee contract amounted to \$883,000 and \$997,000, respectively.

8. Mortgage Loans Payable As of December 31, 1995, the Trust had outstanding \$83.9 million of mortgage loans due in installments extending to the year 2014. Interest rates on fixed rate mortgages range from 7% to 9.375%. Principal payments due during the five years following December 31, 1995, are \$2.9 million, \$3.1 million, \$5.2 million, \$3 million and \$3.5 million, respectively. The fair value of the mortgage loans payable at December 31, 1995 is approximately \$85.6 million based on current market interest rates and market conditions. Management intends to repay these mortgage loans as they become due.

9. Senior Notes As of December 31, 1995, the Trust had \$105 million in senior notes outstanding. The interest rate is 8.875% on \$100 million maturing in October 2003 and 8.6% on \$5 million maturing in July 1996. The \$100 million senior notes are noncallable, limit future borrowings by the Trust and require maintenance of a minimum net worth. The Trust was in compliance with all requirements as of December 31, 1995. The fair value of the senior notes at December 31, 1995 is the carrying value based on market quotations for the \$100 million, 8.875% senior notes and the near term maturity of the \$5 million, 8.6% senior notes.

#### **FIRST UNION REAL ESTATE INVESTMENTS**

## 10. SHARE OPTIONS

The Trust has the following share option plans for key personnel.

### 1981 STOCK OPTION PLAN

This plan provides that option prices be at the fair market value of the shares at the date of grant and that option rights granted expire ten years after the date granted. Adopted in 1981, the plan originally reserved 624,000 shares for the granting of incentive and nonstatutory share options. Subsequently, the shareholders approved amendments to the plan reserving an additional 200,000 shares, for a total of 824,000 shares, for the granting of options and extending the expiration date to December 31, 1996. The amendments do not affect previously issued options.

The activity of the plan is summarized for the years ended December 31 in the following table:

	1995	1994	1993
Granted	-	75,000	25,000
Exercised	-	-	20,925
Canceled	28,910	121,317	9,500
Available	314,837	285,927	239,610

As of December 31, 1995, options on 362,670 shares were outstanding at prices ranging from \$7.375 to \$24.76 per share.

Separately, the Trust and Company have an agreement whereby, as of December 31, 1995, the Company may purchase up to 70,300 shares from the Trust at prices ranging from \$8.25 to \$24.76 per share to satisfy the Company's obligations to deliver shares to certain of its key employees pursuant to options previously granted. The option agreements with the Company's employees provide that option prices be at the fair market value of the Trust shares at the date of grant and that option rights granted expire ten years after the date granted.

### 1994 LONG-TERM INCENTIVE OWNERSHIP PLAN

This plan, adopted in 1994, reserved 1,629,785 shares for the granting of incentive and nonstatutory share options and restricted shares. The share options expire eight years after being granted. The price of the options is the fair market value of the shares at the date of grant. The restricted shares receive dividends and have voting rights but may not be sold or transferred until the restriction period lapses after eight years from the date of grant, or earlier if the Trust's share price equals or exceeds \$21 for 20 consecutive days or upon a change in control as defined in the plan. Additional restricted shares will be granted when defined levels of funds from operations and net capital gains are achieved during any four consecutive calendar quarters. Deferred compensation of \$1.3 million in 1995 and \$1 million in 1994 was recorded in connection with the issuance of the restricted shares and is being amortized over an eight-year period on a straight-line basis. Amortization of \$248,000 and \$65,000, respectively, was recognized in 1995 and 1994.

The activity of this plan is summarized for the years ended December 31 in the following table:

	1995	1994
Share options granted	242,450	229,850
Share options canceled	11,300	16,000
Restricted shares granted	162,500	162,500
Shares purchased by employees	9,812	-
Exercised	20	-
Available share options and restricted shares	849,973	1,253,435

As of December 31, 1995, options on 444,980 shares at prices ranging from \$6.375 to \$7.875 and 325,000 restricted shares were outstanding.

### FIRST UNION REAL ESTATE INVESTMENTS

11. Shareholder Rights Plan In March 1990, the Board of Trustees declared a dividend consisting of one right to purchase one share of beneficial interest of the Trust with respect to each share of beneficial interest. The rights may be exercised only if a person or group acquires 15% or more of the outstanding shares of beneficial interest, makes a tender offer for at least 15% of the outstanding shares of beneficial interest, or is declared to be an "adverse person." The exercise price of each right is \$50. If a person or group acquires 15% or more of the outstanding shares of beneficial interest (except in a tender offer approved by the Board of Trustees), is declared to be an "adverse person," or engages in certain self-dealing transactions with the Trust ("flip-in events"), each right (other than rights owned by a 15% owner of an "adverse person") entitles the holder to purchase one share of beneficial interest of the Trust for par value (now \$1 per share). If the Trust is acquired in a merger or other business combination ("flip-over events"), each right entitles the holder to purchase, for \$1, shares of the acquiring company having a market value equal to the market value of one share of beneficial interest of the Trust. The rights may be redeemed by the Trust at a price of \$0.01 per right at any time prior to the earlier of a "flip-in" or "flip-over" event or the expiration of the rights on March 30, 2000.

12. Federal Income Taxes No provision for current or deferred income taxes has been made by the Trust on the basis that it qualified under Sections 856-860 of the Internal Revenue Code as a real estate investment trust and has distributed all of its taxable income to shareholders. In accordance with Section 1031 of the Internal Revenue Code, the Trust is treating the sale of its 50% interest in two malls in Wilkes-Barre, PA and Fairmount, WV as a like-kind exchange for Woodland Commons Shopping Center and Steeplechase Apartments. As a result, the Trust is deferring for tax purposes the capital gain realized in the transaction except for \$6 million related to the mortgage note received as part of the sale and the \$2 million payment received in 1994. The Trust and Company treat certain items of income and expense differently in determining net income reported for financial reporting and tax purposes. Such items resulted in a net decrease in income for tax reporting purposes of approximately \$5 million for 1995 and a net increase of approximately \$.5 million for 1994 and a net decrease in income for tax reporting purposes of approximately \$2.9 million for 1993. As of December 31, 1995, net investments in real estate for financial reporting purposes were approximately \$67 million greater than for tax purposes. The 1995 quarterly allocation of cash dividends per share for individual shareholders' income tax purposes was as follows:

DATE PAID	LONG-TERM CAPITAL GAINS	ORDINARY INCOME	TOTAL PAID
February 2, 1995	\$0.082	\$0.018	\$.10
April 28, 1995	0.082	0.018	.10
July 31, 1995	0.081	0.019	.10
October 30, 1995	0.081	0.019	.10
	-----	-----	----
	\$0.326	\$0.074	\$.40

For the year ended December 31, 1994, the cash dividends paid of \$0.48 were ordinary income, and for the year ended December 31, 1993, \$0.232 were long-term capital gains and \$0.488 were ordinary income.

#### **FIRST UNION REAL ESTATE INVESTMENTS**

### 13. LEGAL CONTINGENCY

The Trust has pursued legal action against the State of California associated with the 1986 flood of Peach Tree Mall. In September 1991, the court ruled in favor of the Trust on the liability portion of this inverse condemnation suit, which the State of California appealed. The Trust is proceeding with its damage claim. No recognition of potential income has been made in the accompanying financial statements.

### 14. LITIGATION AND PROXY EXPENSE

During 1995, the Trust was involved in a lawsuit and proxy contest with a minority shareholder. The initial lawsuit filed by the Trust alleged several violations of Securities and Exchange Commission rules and regulations by the minority shareholder and other associated parties. Extensive discovery was undertaken and numerous motions and pleadings were filed by the various parties throughout most of 1995. Certain professional fees related to the litigation and proxy contest of \$1.6 million were incurred and are presented as a separate line item in the accompanying Combined Financial Statements. All litigation was resolved on December 13, 1995 by a settlement and standstill agreement. This agreement provides for the Trust to purchase 950,000 shares of beneficial interest at the average 1995 trading price through December 8, 1995 of \$7.50 per share. Additionally, as part of this agreement, the minority shareholder will not acquire additional shares of the Trust and will vote the remaining shares as recommended by the Trust's management.

## **FIRST UNION REAL ESTATE INVESTMENTS**

15. Quarterly Results of Operations (Unaudited) The following is an unaudited condensed summary of the combined results of operations by quarter for the years ended December 31, 1995 and 1994. In the opinion of the Trust and Company, all adjustments (consisting of normal recurring accruals) necessary to present fairly such interim combined results in conformity with generally accepted accounting principles have been included. The first three quarters have been restated to reflect the change in accounting method for internal leasing costs.

(In thousands, except per share data)	QUARTERS ENDED			
	MARCH 31	JUNE 30	SEPTEMBER 30	DECEMBER 31
1995				
Revenues	\$ 19,347	\$ 19,576	\$ 19,871	\$ 20,411
Income from operations	-----	-----	-----	-----
after litigation and proxy expenses	567	1,312	325	1,052
Capital gains, net of reduction in carrying value of assets	29,870			(14,000)
Income before extraordinary loss and cumulative effect of accounting change	-----	-----	-----	-----
Extraordinary loss from early extinguishment of debt	30,437	1,312	325	(12,948)
Cumulative effect of change in accounting method	(4,325)			(910)
Net income (loss)	-----	-----	-----	-----
	\$ 26,112	\$ 1,312	\$ 325	\$ (13,858)
Per share				
Income from operations after litigation and proxy expenses	\$ .03	\$ .07	\$ .02	\$ .06
Capital gains, net of reduction in carrying value of assets	1.64			(.78)
Income before extraordinary loss and cumulative effect of accounting change	-----	-----	-----	-----
Extraordinary loss from early extinguishment of debt	1.67	.07	.02	(.72)
Cumulative effect of change in accounting method	(.24)			(.05)
Net income (loss)	-----	-----	-----	-----
	\$ 1.43	\$ .07	\$ .02	\$ (.77)
As previously reported:				
Net income	\$ 30,560	\$ 1,470	\$ 520	
Net income per share	\$ 1.68	\$ .08	\$ .03	
1994				
Revenues	\$ 18,917	\$ 18,732	\$ 19,326	\$ 19,364
Income from operations	-----	-----	-----	-----
	1,612	1,654	1,605	1,614
Net income	-----	-----	-----	-----
	\$ 1,612	\$ 1,654	\$ 1,605	\$ 1,614
Per share				
Income from operations	\$ .09	\$ .09	\$ .09	\$ .09
Net income	-----	-----	-----	-----
	\$ .09	\$ .09	\$ .09	\$ .09

**FIRST UNION REAL ESTATE INVESTMENTS**

## **Report of Independent Public Accountants**

TO THE SECURITYHOLDERS AND TRUSTEES OF FIRST UNION REAL ESTATE EQUITY AND MORTGAGE INVESTMENTS: We have audited the accompanying combined balance sheets of First Union Real Estate Equity and Mortgage Investments (an unincorporated Ohio business trust, also known as First Union Real Estate Investments) and First Union Management, Inc. (a Delaware corporation) as of December 31, 1995 and 1994, and the related combined statements of income, shareholders' equity and changes in cash for each of the three years in the period ended December 31, 1995. These financial statements are the responsibility of management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the combined financial position of First Union Real Estate Equity and Mortgage Investments and First Union Management, Inc. as of December 31, 1995 and 1994, and the results of their operations and their changes in cash for each of the three years in the period ended December 31, 1995, in conformity with generally accepted accounting principles.

As explained in Note 4 to the combined financial statements, effective January 1, 1995, First Union changed its method of accounting for internal leasing costs.

Cleveland, Ohio,

**February 5, 1996. ARTHUR ANDERSEN LLP**

### **FIRST UNION REAL ESTATE INVESTMENTS**

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

### Financial Condition

In January 1995, the Trust sold its 50% interests in two malls in Wilkes-Barre, PA and Fairmount, WV for \$29.5 million in cash (\$2 million was received in 1994), a \$6 million mortgage note receivable and the assumption by the purchaser of \$4.7 million in mortgage debt, resulting in a capital gain of approximately \$29.9 million. The proceeds were invested in short-term securities until properties were acquired in a tax-free exchange in April 1995 and June 1995. The \$6 million note earns interest at 9% and is secured by one of the malls and 750,000 partnership units in Crown American Properties, L.P.

In April 1995, the Trust acquired Woodland Commons Shopping Center in Buffalo Grove, IL, an upscale suburb of Chicago, with \$21 million in cash. Additionally, the Trust acquired Steeplechase Apartments in Cincinnati, OH for \$11.9 million in cash on June 30, 1995. The purchases were funded with the cash from the sale of the two malls and with bank loans under the Trust's revolving credit agreement. In accordance with provisions of the Internal Revenue Code, the Trust treated the sales and purchases as "like-kind exchanges." The net result of the sale and tax-free exchange was an annualized increase of \$200,000 in funds from operations (income from operations before litigation and proxy expenses plus non-cash charges for depreciation and amortization).

During 1995, the Trust renovated Crossroads Center Mall in St. Cloud, MN and Fairgrounds Square Mall in Reading, PA. In addition to the renovation at Fairgrounds Square, a 107,000 square foot Montgomery Ward store was constructed. These major projects and other tenant alterations and building improvements of \$24 million were funded through borrowings from the Trust's bank credit facilities.

In December 1995, the Trust recorded a \$14 million noncash reduction of the carrying value of certain assets which have been identified for disposition. The noncash adjustment represents the difference between the estimated fair value and net book value of the assets. In December 1995, the Trust sold an office building in Pittsburgh, PA for \$4.3 million in cash resulting in a capital loss of \$1.4 million which was provided for in the \$14 million noncash adjustment.

### Liquidity and Capital Resources

In November 1995, the Trust obtained a \$49.5 million mortgage loan secured by the Crossroads Center in St. Cloud, MN. The proceeds were used to repay mortgage loans of approximately \$48 million at a weighted average interest rate of 9.25%. The Trust increased its financing capacity by using a single property to secure the debt that was previously secured by three properties and lowered the interest rate to 7.49% on the new debt outstanding.

During the fourth quarter of 1995, the Trust renegotiated and extended its \$20 million unsecured credit agreement from July 1996 to December 1998 pending completion of loan documentation. The credit line is now fully secured.

On December 13, 1995, the Trust signed an agreement to purchase 950,000 of its shares of beneficial interest at the average 1995 trading price through December 8, 1995 of \$7.50 per share from a minority shareholder. This was part of a settlement which was reached to dismiss pending litigation. The transaction occurred on January 10, 1996, but the effect of purchasing the 950,000 shares was reflected in the financial statements at December 31, 1995. The \$7.1 million required for the purchase was funded through the Trust's bank credit facilities.

Additionally, in January 1996, the Trust obtained a \$12.5 million mortgage loan at an interest rate of 6.87% secured by an apartment complex in Durham, NC. The proceeds were used to reduce bank loans, which were outstanding at higher variable rates in 1995.

During 1996, the Trust has approximately \$2.9 million of mortgage principal payments, a \$5 million senior note repayment and an estimated \$22 million in building improvement and tenant construction costs to be funded. These items will be financed through cash flow from operations, mortgaging unencumbered properties, unused credit facilities of \$18 million (including the effect of the January 1996 mortgage loan proceeds and share purchase), and the public and private capital markets, as market conditions allow.

## FIRST UNION REAL ESTATE INVESTMENTS



## Results From Operations

Income from operations, after litigation and proxy expenses of \$1.6 million, was \$3.3 million in 1995 as compared to \$6.5 million in 1994. Net income of \$13.9 million in 1995 included a \$29.9 million capital gain which was reported net of a \$14 million noncash reduction of the carrying value of assets identified for disposition. Also reducing net income for 1995 was an extraordinary loss from the early extinguishment of debt of \$910,000 and a \$4.3 million noncash charge for the cumulative effect of a change in accounting method. Net income of \$6.5 million in 1994 did not include any comparable special items.

Litigation and proxy expenses of \$1.6 million were incurred during 1995. These professional fees resulted from litigation and a proxy contest with a minority shareholder. The litigation was resolved in December 1995 by a settlement and standstill agreement.

The extraordinary loss of \$910,000 primarily represented the write-off of unamortized mortgage costs and prepayment premiums from the repayment of mortgage loans prior to their maturity dates in conjunction with the \$49.5 million refinancing of Crossroads Center in St. Cloud, MN.

The cumulative effect of \$4.3 million resulted from a change in the method of accounting to directly expense internal leasing costs rather than continue to capitalize and amortize these costs over the term of office and retail tenant leases. The effect of this change will be to lower depreciation and amortization and increase general and administrative expenses. A reclassification between these two expense items has been made so that prior year amounts are on a comparable basis to 1995.

Income from property operations, which is rents less property operating expenses and real estate taxes, increased by \$1.9 million when comparing 1995 to 1994. The retail properties in the portfolio for all 12 months of 1995 and 1994 increased income from property operations by \$4 million when comparing 1995 to 1994 primarily due to increased occupancy. The comparable apartment portfolio income from operations increased \$6 million primarily due to increased rental rates. The office property portfolio increased income from operations by approximately \$4 million from real estate tax refunds in 1995. The parking portfolio produced an additional \$4 million in income from operations due to an increase in the guaranteed rent paid by the operator of the parking facilities and reduced real estate tax expense when comparing 1995 to 1994. The apartment complexes acquired in June 1995 and August 1994 and the shopping center acquired in April 1995 increased income from operations when comparing 1995 to 1994. However, this increase was offset by the sale of the two malls in January 1995.

Income from property operations when comparing 1994 to 1993 increased by \$4 million. This increase was primarily the result of the apartment complex purchased in August 1994. However, this increase was partially offset by favorable real estate tax settlements recorded during 1993 in the office property portfolio causing income from property operations to decline when comparing 1994 to 1993. The comparable apartment and retail portfolios income from operations was approximately the same when comparing 1994 to 1993.

Short-term investment income declined when comparing 1995 to 1994 because short-term investments averaged \$6.4 million in 1995 as compared to \$30 million in 1994. During the first quarter of 1995, the Trust had \$29.5 million in proceeds from the sale of two malls invested in short-term securities until it purchased the Woodland Commons Shopping Center in April 1995 and the Steeplechase Apartments in June 1995. When comparing 1994 to 1993, short-term investment income increased because short-term investments averaged \$30 million in 1994 as compared to an average of \$6 million in 1993. The large increase in short-term investments from 1993 to 1994 was due to the Trust borrowing \$38 million under one of its lines of credit which had converted to a term loan on December 31, 1993, and subsequently investing the funds in short-term securities. In August 1994, the Trust used \$19 million of short-term investments to purchase Beech Lake Apartments in Durham, NC. In December 1994, the Trust repaid \$17 million under its bank lines of credit with short-term investments.

## FIRST UNION REAL ESTATE INVESTMENTS

Mortgage investment income increased when comparing 1995 to 1994 due to the \$6 million mortgage note receivable which was part of the consideration received in January 1995 from the sale of the two malls.

The increase in depreciation and amortization expense when comparing 1995 to 1994 and 1994 to 1993 was primarily the result of the newly acquired shopping center and apartment complexes in 1995 and 1994 and additional tenant improvements.

Mortgage interest expense increased when comparing 1994 to 1993. This increase was primarily caused by the \$35 million mortgage obtained in September 1993, which was secured by a shopping mall in St. Cloud, MN.

Senior notes interest expense increased in 1994 as compared to 1993 because of the issuance of \$100 million of 8.875% senior notes on October 1, 1993. The proceeds were used primarily to repay \$45 million of 8.375% senior notes and \$37.6 million of 10.25% convertible debentures on November 1, 1993. Because of the one month difference between the receipt of proceeds from the issuance of \$100 million of 8.875% senior notes and the repayment of the \$45 million senior notes and the \$37.6 million convertible debentures (due to 30-day call provisions in the indentures of the retired debt), nonrecurring interest expense of \$435,000, net of short-term investment income and reduced interest expense on bank loans, was incurred in 1993.

Interest on bank loans increased when comparing 1995 to 1994 due to an increase of approximately 260 basis points in short-term interest rates. The Trust's interest rates on its bank lines of credit fluctuate based on short-term market rates. The increase in interest rates was partially offset by a decrease in borrowings during 1995. During 1995, the Trust's weighted average interest rate was 7.8% on an average outstanding balance of \$50.8 million. Interest expense on bank loans increased when comparing 1994 to 1993 due to the increase of approximately 130 basis points in interest rates from 1993 to 1994. The Trust's weighted average borrowing rate during 1994 was 5.2% on an average outstanding balance of \$59 million. Short-term interest rates increased during 1994 so that the \$42.5 million of outstanding bank loans at the end of 1994 was at a weighted average borrowing rate of 7.4%.

General and administrative costs increased when comparing 1995 to 1994 and 1994 to 1993. Expenses increased in 1995 as a result of changing the method of accounting to directly expense internal leasing costs rather than continue to capitalize and amortize these costs over the term of tenant leases and an increase in leasing personnel. The increase in expense between 1994 and 1993 resulted from professional fees related to the Trust's reorganization of the portfolio and management, expenses from the new long-term incentive program and increased staffing to execute the Trust's new strategic plan.

Funds from Operations and Dividends Declared Funds from operations is calculated as income from operations before litigation and proxy expenses plus noncash charges for depreciation and amortization. The amount of funds from operations for 1995 is before the litigation and proxy expenses of \$1.6 million incurred in a minority shareholder lawsuit since this is an expense which will not continue in 1996. For 1995, 1994 and 1993, funds from operations were \$16.7 million, \$17 million and \$20 million, respectively, and dividends declared to holders of shares of beneficial interest were \$7.5 million, \$7.3 million and \$13 million, respectively. The payout ratio of dividends declared to funds from operations was 45%, 43% and 65%, respectively, for this three year period. In the fourth quarter of 1995, the Trust raised its quarterly dividend by 10%, which is a payout ratio of 48% on an annualized basis.

## **FIRST UNION REAL ESTATE INVESTMENTS**

**Exhibit 18**

February 5, 1996

First Union Real Estate Investments  
55 Public Square, Suite 1900  
Cleveland, Ohio 44113

RE: Form 10-K Report for the Year Ended December 31, 1995

Gentlemen:

This letter is written to meet the requirements of Regulation S-K calling for a letter from a registrant's independent accountants whenever there has been a change in accounting principle or practice.

As of January 1, 1995, First Union changed from capitalizing and amortizing internal leasing costs to expensing them in the year incurred. According to the management of First Union, this change was made to increase the focus on controlling costs associated with tenant leases and to eliminate detailed recordkeeping requirements.

A complete coordinated set of financial and reporting standards for determining the preferability of accounting principles among acceptable alternative principles has not been established by the accounting profession. Thus, we cannot make an objective determination of whether the change in accounting described in the preceding paragraph is to a preferable method. However, we have reviewed the pertinent factors, including those related to financial reporting, in this particular case on a subjective basis, and our opinion stated below is based on our determination made in this manner.

We are of the opinion that First Union's change in method of accounting is to an acceptable alternative method of accounting, which, based upon the reasons stated for the change and our discussions with you, is also preferable under the circumstances in this particular case. In arriving at this opinion, we have relied on the business judgment and business planning of your management.

Very truly yours,

Arthur Andersen LLP

**Exhibit 23**

**CONSENT OF INDEPENDENT PUBLIC ACCOUNTANTS**

As independent public accountants, we hereby consent to the incorporation of our reports included and incorporated by reference in this Form 10-K, into the registrant's previously filed Registration Statements on Form S-3 (Registration Nos. 2-88719, 33-2818, 33-11524, 33-19812, 33-26758, 33-33279, 33-38754, 33-45355, and 33-57756).

**ARTHUR ANDERSEN LLP**

Cleveland, Ohio,

March 15, 1996.

**Exhibit 24**

**FIRST UNION REAL ESTATE EQUITY AND MORTGAGE INVESTMENTS**

**ANNUAL REPORT ON FORM 10-K  
FOR THE YEAR ENDED DECEMBER 31, 1995**

**Power of Attorney of Officers and Trustees**

The undersigned, an Officer or Trustee or both an Officer and Trustee of First Union Real Estate Equity and Mortgage Investments, an Ohio business trust (the "Trust") which anticipates filing with the Securities and Exchange Commission, Washington, D.C., under the provisions of the Securities Exchange Act of 1934, as amended, an Annual Report on Form 10-K for the year ended December 31, 1995 (hereinafter called the "Form 10-K"), does hereby constitute and appoint James C. Mastandrea and Paul F. Levin, and either of them, with full power of substitution and resubstitution, as attorneys or attorney to sign for him and in his name the Form 10-K and any and all amendments and exhibits thereto, and any and all other documents to be filed with the Securities and Exchange Commission pertaining to the Form 10-K, with full power and authority to do and perform any and all acts and things whatsoever required or necessary to be done in the premises, as fully to all intents and purposes as he could do

if personally present, hereby ratifying and approving the acts of said attorneys and any of them and any such substitute.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand this 6th day  
of March, 1996. -----

/S/ Otes Bennett, Jr.  
-----  
/S/ Kenneth K. Chalmers  
-----  
/S/ William E. Conway  
-----  
/S/ Daniel G. DeVos  
-----  
/S/ Allen H. Ford  
-----  
/S/ Stephen R. Hardis  
-----  
/S/ E. Bradley Jones  
-----  
/S/ James C. Mastandrea  
-----

**ARTICLE 5**

CIK: 0000037008

NAME: FIRST UNION REAL ESTATE EQUITY AND MORTGAGE INVESTMENTS

PERIOD TYPE	YEAR
FISCAL YEAR END	DEC 31 1995
PERIOD START	JAN 01 1995
PERIOD END	DEC 31 1995
CASH	3,402,000
SECURITIES	0
RECEIVABLES	4,536,000
ALLOWANCES	0
INVENTORY	0
CURRENT ASSETS	7,938,000
PP&E	449,560,000
DEPRECIATION	(107,701,000)
TOTAL ASSETS	400,999,000
CURRENT LIABILITIES	21,799,000
BONDS	258,454,000
COMMON	102,355,000
PREFERRED MANDATORY	0
PREFERRED	0
OTHER SE	0
TOTAL LIABILITY AND EQUITY	400,999,000
SALES	74,349,000
TOTAL REVENUES	79,205,000
CGS	0
TOTAL COSTS	74,373,000
OTHER EXPENSES	51,976,000
LOSS PROVISION	0
INTEREST EXPENSE	22,397,000
INCOME PRETAX	4,832,000
INCOME TAX	0
INCOME CONTINUING	4,832,000
DISCONTINUED	0
EXTRAORDINARY	(910,000)
CHANGES	(4,325,000)
NET INCOME	13,891,000
EPS PRIMARY	.77
EPS DILUTED	.77

---

**End of Filing**Powered By **EDGAR**  
Online

© 2005 | EDGAR Online, Inc.