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## **FORM 10-Q**

**REALTY INCOME CORP - O**

**Filed: August 03, 2005 (period: June 30, 2005)**

Quarterly report with a continuing view of a company's financial position



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549

**FORM 10-Q**

Quarterly report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the quarterly period ended **June 30, 2005**, or

Transition report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934

COMMISSION FILE NUMBER 1-13374

**REALTY INCOME CORPORATION**

(Exact name of registrant as specified in its charter)

Maryland

(State or other jurisdiction of incorporation or organization)

33-0580106

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

220 West Crest Street, Escondido, California 92025

(Address of principal executive offices)

(760) 741-2111

(Registrant's telephone number)

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

There were 79,612,854 shares of common stock outstanding as of July 27, 2005.

Indicate by check mark whether the registrant is an accelerated filer (as defined in Exchange Act Rule 12b-2). Yes  No

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REALTY INCOME CORPORATION

Form 10-Q  
June 30, 2005

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**PART I. FINANCIAL INFORMATION**

**Item 1. Financial Statements**

**REALTY INCOME CORPORATION AND SUBSIDIARIES  
CONSOLIDATED BALANCE SHEETS**

June 30, 2005 and December 31, 2004  
(dollars in thousands, except per share data)

	2005	2004
	(Unaudited)	
<b>ASSETS</b>		
Real estate, at cost:		
Land	\$ 676,548	\$ 624,558
Buildings and improvements	1,142,605	1,066,725
	1,819,153	1,691,283
Less accumulated depreciation and amortization	(320,031)	(301,728)
Net real estate held for investment	1,499,122	1,389,555
Real estate held for sale, net	23,776	17,155
Net real estate	1,522,898	1,406,710
Cash and cash equivalents	1,948	2,141
Accounts receivable	3,539	4,075
Goodwill	17,206	17,206
Other assets	25,992	12,183
Total assets	\$ 1,571,583	\$ 1,442,315
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Distributions payable	\$ 9,248	\$ 9,115
Accounts payable and accrued expenses	14,323	9,579
Other liabilities	7,631	6,286
Line of credit payable	54,800	23,600
Notes payable	580,000	480,000
Total liabilities	666,002	528,580
Commitments and contingencies		
Stockholders' equity:		
Preferred stock and paid in capital, par value \$1.00 per share, 20,000,000 shares authorized, 5,100,000 shares issued and Outstanding	123,804	123,787
Common stock and paid in capital, par value \$1.00 per share, in 2005 there were 200,000,000 shares authorized and 79,609,106 issued and outstanding and in 2004 there were 100,000,000 shares authorized and 79,301,630 issued and outstanding	1,040,144	1,038,973
Distributions in excess of net income	(258,367)	(249,025)
Total stockholders' equity	905,581	913,735
Total liabilities and stockholders' equity	\$ 1,571,583	\$ 1,442,315

*The accompanying notes to consolidated financial statements are an integral part of these statements.*

**REALTY INCOME CORPORATION AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF INCOME**

For the three and six months ended June 30, 2005 and 2004  
(dollars in thousands, except per share data)  
(unaudited)

	<b>Three Months Ended 6/30/05</b>	<b>Three Months Ended 6/30/04</b>	<b>Six Months Ended 6/30/05</b>	<b>Six Months Ended 6/30/04</b>
<b>REVENUE</b>				
Rental	\$ 47,338	\$ 43,535	\$ 94,010	\$ 84,594
Other	135	298	172	660
	47,473	43,833	94,182	85,254
<b>EXPENSES</b>				
Interest	9,793	8,505	18,851	16,981
Depreciation and amortization	11,243	10,008	22,049	19,558
General and administrative	3,706	3,260	7,762	6,421
Property	1,019	749	1,900	1,456
Income taxes	203	191	401	344
	25,964	22,713	50,963	44,760
Income from continuing operations	21,509	21,120	43,219	40,494
Income from discontinued operations:				
Real estate acquired for resale by Crest	296	2,879	1,129	6,154
Real estate held for investment	2,861	2,789	3,821	4,990
	3,157	5,668	4,950	11,144
Net income	24,666	26,788	48,169	51,638
Preferred stock cash dividends	(2,351)	(2,982)	(4,702)	(5,410)
Excess of redemption value over carrying value of preferred shares redeemed	—	(2,360)	—	(2,360)
Net income available to common stockholders	\$ 22,315	\$ 21,446	\$ 43,467	\$ 43,868
<b>Basic and diluted amounts per common share:</b>				
Income from continuing operations	\$ 0.24	\$ 0.20	\$ 0.48	\$ 0.42
Net income	\$ 0.28	\$ 0.27	\$ 0.55	\$ 0.56
<b>Weighted average common shares outstanding:</b>				
Basic	79,597,321	79,245,656	79,589,462	77,737,000
Diluted	79,676,168	79,323,180	79,667,812	77,822,186

*The accompanying notes to consolidated financial statements are an integral part of these statements.*

**REALTY INCOME CORPORATION AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**

For the six months ended June 30, 2005 and 2004  
(dollars in thousands)(unaudited)

	2005	2004
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net income	\$ 48,169	\$ 51,638
Adjustments to net income:		
Depreciation and amortization	22,049	19,558
Income from discontinued operations:		
Real estate acquired for resale	(1,129)	(6,154)
Real estate held for investment	(3,821)	(4,990)
Cash from discontinued operations:		
Real estate acquired for resale	(520)	(1,838)
Real estate held for investment	443	1,803
Investment in real estate acquired for resale	(20,340)	(13,181)
Intangibles acquired in connection with acquisitions of real estate acquired for resale	(1,369)	—
Proceeds from sales of real estate acquired for resale	11,197	57,611
Amortization of deferred stock compensation	1,084	702
Amortization of stock option costs	7	7
Change in assets and liabilities:		
Accounts receivable and other assets	(388)	2,537
Accounts payable, accrued expenses and other liabilities	1,954	(3,735)
Net cash provided by operating activities	57,336	103,958
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Proceeds from sales of investment properties	14,576	10,891
Acquisition of and additions to investment properties	(134,978)	(123,116)
Intangibles acquired in connection with acquisitions of investment properties	(8,052)	—
Net cash used in investing activities	(128,454)	(112,225)
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Borrowings from lines of credit	175,400	145,200
Payments under lines of credit	(144,200)	(171,600)
Proceeds from notes issued, net of costs of \$2,977 in 2005	97,023	(27)
Proceeds from stock offerings, net of offering costs of \$3,640 in 2004	—	67,960
Proceeds from preferred stock offering, net of offering costs of \$3,650	—	96,350
Redemption of preferred stock	—	(68,643)
Cash distributions to common stockholders	(52,676)	(46,725)
Cash dividends to preferred stockholders	(4,702)	(4,427)
Proceeds from other common stock issuances	80	382
Net cash provided by financing activities	70,925	18,470
Net increase (decrease) in cash and cash equivalents	(193)	10,203
Cash and cash equivalents, beginning of period	2,141	4,837
Cash and cash equivalents, end of period	\$ 1,948	\$ 15,040

For supplemental disclosures, see note 11.

The accompanying notes to consolidated financial statements are an integral part of these statements.

REALTY INCOME CORPORATION AND SUBSIDIARIES  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

June 30, 2005  
(Unaudited)

**1. Management Statement**

The consolidated financial statements of Realty Income Corporation (“Realty Income”, the “Company”, “we” or “our”) were prepared from our books and records without audit and include all adjustments (consisting of only normal recurring accruals) necessary to present a fair statement of results for the interim periods presented. Certain of the 2004 balances have been reclassified to conform to the 2005 presentation. Readers of this quarterly report should refer to our audited financial statements for the year ended December 31, 2004, which are included in our 2004 Annual Report on Form 10-K, as certain disclosures that would substantially duplicate those contained in the audited financial statements have not been included in this report.

At June 30, 2005, we owned 1,582 properties containing over 12.4 million leasable square feet in 48 states, plus an additional 13 properties owned by our wholly-owned taxable REIT subsidiary, Crest Net Lease, Inc. (“Crest Net”). Crest Net was created to buy, own and sell properties, primarily to individual investors, many of whom are involved in tax-deferred exchanges, under Section 1031 of the Internal Revenue Code of 1986, as amended (the “Code”).

**2. Summary of Significant Accounting Policies and Procedures**

A. The accompanying consolidated financial statements include the accounts of Realty Income, Crest Net and other entities for which we make operating and financial decisions (control), after elimination of all material intercompany balances and transactions. All of Realty Income and Crest Net’s subsidiaries are wholly-owned.

B. We have elected to be taxed as a Real Estate Investment Trust (“REIT”) under the Code. We believe we have qualified and continue to qualify as a REIT. Under the REIT operating structure we are permitted to deduct distributions paid to our stockholders and generally will not be required to pay federal corporate income taxes on such income. Accordingly, no provision has been made for federal income taxes in the accompanying consolidated financial statements, except for federal income taxes of Crest Net.

C. In accordance with Financial Accounting Standards Board Statement No. 141, Business Combinations, (“SFAS 141”) the fair value of the real estate acquired with in-place operating leases is allocated to the acquired tangible assets, consisting of land, building and improvements, and identified intangible assets and liabilities, consisting of the value of above-market and below-market leases, the value of in-place leases and tenant relationships, based in each case on their fair values.

The fair value of the tangible assets of an acquired property (which includes land and buildings/improvements) is determined by valuing the property as if it were vacant, and the “as-if-vacant” value is then allocated to land and buildings/improvements based on our determination of the relative fair value of these assets. Our determinations are based on a real estate appraisal for each property, generated by an independent appraisal firm, which considered estimates of carrying costs during the expected lease-up periods, current market conditions, as well as costs to execute similar leases. In allocating the fair value to identified intangibles for above-market or below-market leases, an amount is recorded based on the present value of the difference between (i) the contractual amount to be paid pursuant to the in-place lease and (ii) our estimate of fair market lease rate for the corresponding in-place lease, measured over a period equal to the remaining non-cancelable term of the lease.

Capitalized above-market lease values are amortized as a reduction of rental income over the remaining non-cancelable terms of the respective leases. Capitalized below-market lease values are amortized as an increase to rental income over the remaining non-cancelable terms of the respective leases.

The aggregate value of other acquired intangible assets consists of the value of in-place leases and tenant relationships. These are measured by the excess of the purchase price paid for a property, after adjusting for above or below market lease value, less the estimated fair value of the property as if vacant, determined as set forth above. If management determines that there is no tenant relationship value, the remaining value is allocated to building and improvements. The value of in-place leases, exclusive of the value of above-market and below-market in-place leases, is amortized to expense over the remaining non-cancelable periods of the respective leases. If a lease were to be terminated prior to its stated expiration, all unamortized amounts relating to that lease would be recorded to revenue or expense as appropriate.

### 3. Retail Properties Acquired

We acquire land, buildings and improvements that are used by retail operators.

A. During the first six months of 2005, Realty Income and Crest Net invested \$166.8 million in 72 new retail properties and properties under development. These 72 properties are located in 17 states, will contain approximately 768,000 leasable square feet, and are 100% leased with an average initial lease term of 17.0 years.

In comparison, during the first six months of 2004, Realty Income and Crest Net invested \$133.7 million in 141 new retail properties and properties under development.

Included in the new acquisitions, during the first six months of 2005, Realty Income and Crest Net invested \$85.4 million to acquire a portfolio of 33 existing properties net-leased to Rite Aid Corporation. In accordance with SFAS 141, Realty Income recorded \$8.8 million and Crest Net recorded \$1.9 million as the value of in-place leases. In addition, Realty Income recorded \$756,000 and Crest Net recorded \$66,000 as the value of below-market rent on these leases. These amounts are included in "other assets" and "other liabilities" on our consolidated balance sheet and are amortized over the lives of the respective leases. Crest Net does not amortize the value of in-place leases because its properties are held for sale.

B. During the first six months of 2005, Realty Income invested \$145.1 million in 60 new retail properties and properties under development with an initial weighted average contractual lease rate of 8.8%. These 60 properties are located in 16 states, will contain over 673,000 leasable square feet, and are 100% leased with an average initial lease term of 16.9 years. The initial weighted average contractual lease rate is computed by dividing the estimated aggregate base rent for the first year of each lease by the estimated total cost of the properties.

In comparison, during the first six months of 2004, Realty Income invested \$120.8 million in 127 new retail properties and properties under development with an initial weighted average contractual lease rate of 9.5%.

C. During the first six months of 2005, Crest Net invested \$21.7 million in 12 new retail properties and properties under development.

In comparison, during the first six months of 2004, Crest Net invested \$12.9 million in 14 new retail properties and properties under development.

D. Crest Net's property inventory at June 30, 2005 consisted of 13 properties with a total investment of \$22.2 million and at December 31, 2004 consisted of eight properties with a total investment of \$10.1 million. These amounts are included on our consolidated balance sheets in "real estate held for sale, net."



#### **4. Credit Facilities**

In June 2005, Realty Income entered into a new \$300 million acquisition credit facility to replace our existing \$250 million acquisition credit facility that is scheduled to expire in October 2005. Under the terms of the new credit facility, which commences in October 2005, the borrowing rate was reduced to LIBOR (London Interbank Offered Rate) plus 65 basis points with a facility fee of 15 basis points, for all-in drawn pricing of 80 basis points over LIBOR. The term of the new facility expires in October 2008, unless extended as provided in the agreement.

#### **5. Bond Offering**

In March 2005, we issued \$100 million in aggregate principal amount of 5-7/8% senior unsecured bonds due 2035 (the "2035 Bonds"). The price to the investor for the 2035 Bonds was 98.296% of the principal amount for an effective yield of 5.998%. The net proceeds from this offering were used to repay borrowings under our \$250 million unsecured acquisition credit facility and for other general corporate purposes. Interest on the 2035 Bonds is paid semiannually.

#### **6. Gain on Sales of Real Estate Acquired for Resale by Crest Net**

During the second quarter of 2005, Crest Net sold one property for \$3.5 million, which resulted in a gain of \$422,000. In comparison, during the second quarter of 2004, Crest Net sold 16 properties for \$26.6 million, which resulted in a gain of \$3.9 million. Crest Net's gains on sales are reported before income taxes and are included in discontinued operations.

During the first six months of 2005, Crest Net sold six properties for \$11.2 million, which resulted in a gain of \$1.6 million. In comparison, during the first six months 2004, Crest Net sold 35 properties for \$57.6 million, which resulted in a gain of \$8.0 million.

#### **7. Gain on Sales of Investment Properties by Realty Income**

During the second quarter of 2005, we sold seven investment properties and a portion of land from one property for \$8.0 million, which resulted in a gain of \$2.7 million. This gain is included in discontinued operations, except for \$14,000 that is included in other revenue. In comparison, during the second quarter of 2004, we sold or exchanged nine investment properties for \$5.7 million, which resulted in a gain of \$2.5 million. This gain is included in discontinued operations.

During the first six months of 2005, we sold 11 investment properties and a portion of land from one property for \$14.6 million, which resulted in a gain of \$3.5 million. This gain is included in discontinued operations, except for \$14,000 that is included in other revenue. In comparison, during the first six months of 2004, we sold or exchanged 18 investment properties for \$11.7 million, which resulted in a gain of \$3.9 million. This gain is included in discontinued operations.

#### **8. Discontinued Operations**

In accordance with Financial Accounting Standards Board Statement No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets* ("SFAS 144"), Realty Income's operations from five investment properties classified as held for sale, at June 30, 2005, plus properties sold in 2005 and 2004, were reported as discontinued operations. Their respective results of operations were reclassified to "income from discontinued operations, real estate held for investment." We classify properties as held for sale in accordance with SFAS 144. We do not depreciate properties that are classified as held for sale.

Crest Net acquires properties with the intention of reselling them rather than holding them for investment and operating the properties. Consequently, we classify properties acquired by Crest Net as held for sale at the date of acquisition and do not depreciate them. In accordance with SFAS 144, the operations of Crest Net's properties are classified as "income from discontinued operations, real estate acquired for resale by Crest."

No debt was assumed by buyers of our investment properties or repaid as a result of our investment property sales and we have elected not to allocate interest expense to discontinued operations related to real estate held for investment.

In accordance with Emerging Issues Task Force No. 87-24, we allocate interest expense related to borrowings specifically attributable to Crest Net properties. The interest expense amounts allocated to the Crest Net properties are included in "income from discontinued operations, real estate acquired for resale by Crest."

The following is a summary of Crest Net's "income from discontinued operations, real estate acquired for resale" for the three and six months ended June 30, 2005 and 2004 (dollars in thousands):

	<b>Three months ended 6/30/05</b>	<b>Three months ended 6/30/04</b>	<b>Six months ended 6/30/05</b>	<b>Six months ended 6/30/04</b>
<b>Crest Net's income from discontinued operations, real estate acquired for resale</b>				
Gain on sales of real estate acquired for resale	\$ 422	\$ 3,883	\$ 1,649	\$ 7,992
Rental revenue	287	614	569	1,614
Interest expense	(163)	(164)	(310)	(399)
General and administrative expense	(134)	(122)	(273)	(247)
Property expenses	(25)	(7)	(51)	(15)
Income taxes	(91)	(1,325)	(455)	(2,791)
<b>Income from discontinued operations, real estate acquired for resale by Crest</b>	<b>\$ 296</b>	<b>\$ 2,879</b>	<b>\$ 1,129</b>	<b>\$ 6,154</b>

The following is a summary of Realty Income's "income from discontinued operations, real estate held for investment" for the three and six months ended June 30, 2005 and 2004 (dollars in thousands):

	<b>Three months Ended 6/30/05</b>	<b>Three months ended 6/30/04</b>	<b>Six months ended 6/30/05</b>	<b>Six months ended 6/30/04</b>
<b>Realty Income's income from discontinued operations, real estate held for investment</b>				
Gain on sales of investment properties	\$ 2,641	\$ 2,499	\$ 3,463	\$ 3,949
Rental revenue	256	880	555	1,911
Other revenue	—	35	1	141
Depreciation and amortization	(6)	(226)	(64)	(491)
Property expenses	(26)	(128)	(113)	(249)
Provisions for impairments	(4)	(271)	(21)	(271)
<b>Income from discontinued operations, real estate held for investment</b>	<b>\$ 2,861</b>	<b>\$ 2,789</b>	<b>\$ 3,821</b>	<b>\$ 4,990</b>

The following is a summary of our total discontinued operations for the three and six months ended June 30, 2005 and 2004 (dollars in thousands):

	<b>Three months ended 6/30/05</b>	<b>Three months ended 6/30/04</b>	<b>Six months ended 6/30/05</b>	<b>Six months ended 6/30/04</b>
<b>Income from discontinued operations:</b>				
Real estate acquired for resale by Crest	\$ 296	\$ 2,879	\$ 1,129	\$ 6,154
Real estate held for investment	2,861	2,789	3,821	4,990
<b>Income from discontinued operations</b>	<b>\$ 3,157</b>	<b>\$ 5,668</b>	<b>\$ 4,950</b>	<b>\$ 11,144</b>
<b>Per common share, basic and diluted</b>	<b>\$ 0.04</b>	<b>\$ 0.07</b>	<b>\$ 0.06</b>	<b>\$ 0.14</b>

## 9. Distributions Paid and Payable

A. We pay monthly distributions to our common stockholders. The following is a summary of the monthly cash distributions per common share paid during the first six months of 2005 and 2004.

<b>Month</b>	<b>2005</b>	<b>2004</b>
January	\$ 0.110000	\$ 0.100000
February	0.110000	0.100000
March	0.110000	0.100000
April	0.110625	0.100625
May	0.110625	0.100625
June	0.110625	0.100625
<b>Total</b>	<b>\$ 0.661875</b>	<b>\$ 0.601875</b>

At June 30, 2005, a distribution of \$0.11125 per common share was payable and was paid on July 15, 2005.

B. In May 2004 and October 2004, in aggregate, we issued a total of 5.1 million shares of 7-3/8% Monthly Income Class D preferred stock. The first dividend for the Class D preferred stock was paid on July 15, 2004. Beginning May 27, 2009, the Class D preferred shares are redeemable at our option for \$25.00 per share. During the first six months of 2005, we paid six monthly dividends to holders of our Class D preferred stock of \$0.1536459 per share, totaling \$4.7 million. At June 30, 2004, we had recorded a dividend payable of \$1.0 million, which was paid in July 2004.

C. In May 1999, we issued 2,760,000 shares of 9-3/8% Class B cumulative redeemable preferred stock, of which 2,745,700 shares were outstanding in 2004 through June when all of the outstanding shares were redeemed. We paid dividends to holders of our Class B preferred stock totaling \$2.8 million during the first six months of 2004.

D. In July 1999, we issued 1,380,000 shares of 9-1/2% Class C cumulative redeemable preferred stock, all of which were outstanding in 2004 through July when all of the outstanding shares were redeemed. We paid monthly dividends to holders of our Class C preferred stock totaling \$1.6 million during the first six months of 2004.

## 10. Net Income per Common Share

Basic net income per common share is computed by dividing net income available to common stockholders by the weighted average number of common shares outstanding during each period. Diluted net income per common share is computed by dividing net income available to common stockholders for the period by the number of common shares that would have been outstanding assuming the issuance of common shares for all potentially dilutive common shares outstanding during the reporting period.

The following is a reconciliation of the denominator of the basic net income per common share computation to the denominator of the diluted net income per common share computation:

	<b>Three months ended 6/30/05</b>	<b>Three months ended 6/30/04</b>	<b>Six months ended 6/30/05</b>	<b>Six months ended 6/30/04</b>
Weighted average shares used for the basic net income per share computation	79,597,321	79,245,656	79,589,462	77,737,000
Incremental shares from the assumed exercise of stock options	78,847	77,524	78,350	85,186
Adjusted weighted average shares used for diluted net income per share computation	79,676,168	79,323,180	79,667,812	77,822,186

No stock options were anti-dilutive for the three or six months ended June 30, 2005 and 2004.

## 11. Supplemental Disclosures of Cash Flow Information

Interest paid during the first six months of 2005 was \$16.5 million and for the first six months of 2004 was \$16.0 million.

Interest capitalized to properties under development in the first six months of 2005 was \$625,000 and in the first six months of 2004 was \$274,000.

Income taxes paid by Realty Income and Crest Net in the first six months of 2005 totaled \$1.1 million and in the first six months of 2004 totaled \$5.1 million.

The following non-cash investing and financing activities are included in the accompanying consolidated financial statements:

- A. Restricted stock grants resulted in the following (dollars in thousands):

	<b>2005</b>	<b>2004</b>
Common stock and paid in capital	\$ 7,572	\$ 4,282
Common stock and paid in capital, deferred stock compensation	(7,572)	(4,282)

- B. In 2005, accrued costs on properties under development resulted in buildings and accounts payable being increased by \$3.4 million.

- C. Distributions payable on our balance sheets is comprised of accruals for the following (dollars in thousands):

	<b>6/30/05</b>	<b>12/31/04</b>
Common stock distributions	\$ 8,856	\$ 8,723
Preferred stock dividends	392	392

- D. In 2004, we exchanged one of our properties for a different property that was leased to the same tenant. As part of this transaction, land was reduced by \$160,000, building was increased by \$78,000, accumulated depreciation was decreased by \$82,000 and no gain was recognized.

## 12. Segment Information

We evaluate performance and make resource allocation decisions on an industry by industry basis. For financial reporting purposes, we have grouped our properties into 31 industry and activity segments (including properties owned by Crest Net that are grouped together as a segment). All of the properties are incorporated into one of the applicable segments. Because almost all of our leases require the tenant to pay operating expenses, revenue is the only component of segment profit and loss we measure.

The following tables set forth certain information regarding the properties owned by us, classified according to the industry and activities of the respective properties as of June 30, 2005 (dollars in thousands):

<b>Revenue</b>	<b>Three months ended 6/30/05</b>	<b>Three months ended 6/30/04</b>	<b>Six months ended 6/30/05</b>	<b>Six months ended 6/30/04</b>
<b>Segment rental revenue:</b>				
Automotive parts	\$ 1,612	\$ 1,606	\$ 3,290	\$ 3,278
Automotive service	3,731	3,215	7,441	6,388
Automotive tire services	3,472	3,383	7,174	6,751
Child care	6,260	6,236	12,381	12,576
Convenience stores	8,908	8,828	17,791	15,675
Drug stores	1,540	61	2,335	122
Health and fitness	1,798	1,719	3,583	3,369
Home furnishings	1,917	1,804	3,711	3,596
Motor vehicle dealerships	1,220	52	2,248	63
Restaurants	4,259	4,043	8,549	8,058
Sporting goods	1,687	1,483	3,374	2,966
Theaters	1,529	1,513	3,189	3,020
19 non-reportable segments (1)	9,405	9,592	18,944	18,732
Other revenue	135	298	172	660
<b>Total revenue</b>	<b>\$ 47,473</b>	<b>\$ 43,833</b>	<b>\$ 94,182</b>	<b>\$ 85,254</b>

(1) Crest Net's revenues appear in "income from discontinued operations, real estate acquired for resale by Crest."

<b>Assets as of:</b>	<b>6/30/05</b>	<b>12/31/04</b>
Net real estate		
Automotive parts	\$ 40,248	\$ 41,153
Automotive service	108,267	109,836
Automotive tire services	131,195	133,296
Child care	105,946	109,523
Convenience stores	335,195	321,746
Drug stores	66,379	2,320
Health and fitness	68,400	58,647
Home furnishings	56,103	57,021
Motor vehicle dealerships	56,290	40,786
Restaurants	127,697	116,534
Sporting goods	58,724	59,535
Theaters	60,051	51,837
19 non-reportable segments	308,403	304,476
Total net real estate	1,522,898	1,406,710
Non-real estate assets	48,685	35,605
<b>Total assets</b>	<b>\$ 1,571,583</b>	<b>\$ 1,442,315</b>

### 13. Stock Option Plan

Effective January 1, 2002, we adopted the fair value recognition provisions of FASB Statement No. 123, *Accounting for Stock-Based Compensation*, and beginning in 2002 started expensing the costs for all stock option awards granted, modified, or settled after January 1, 2002.

For the second quarter and first six months of 2005 and 2004, the provisions of Statement No. 123 had no impact on net income available to common stockholders or on basic and diluted earnings per share.

### 14. Commitments and Contingencies

In the ordinary course of our business, we are party to various legal actions that we believe are routine in nature and incidental to the operation of our business. We believe the outcome of the proceedings will not have a material adverse effect upon our consolidated statements taken as a whole.

At June 30, 2005, we have committed to pay estimated unfunded development costs of \$45.3 million on properties under development. We also have contingent payments for tenant improvements and leasing costs of \$702,000.

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

### FORWARD-LOOKING STATEMENTS

This quarterly report on Form 10-Q, including documents incorporated by reference, contains forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act. When used in this quarterly report, the words "estimated", "anticipated" and similar expressions are intended to identify forward-looking statements. Forward-looking statements are subject to risks, uncertainties, and assumptions about Realty Income Corporation, including, among other things:

- Our anticipated growth strategies;
- Our intention to acquire additional properties and the timing of these acquisitions;
- Our intention to sell properties and the timing of these property sales;
- Our intention to re-lease vacant properties;
- Anticipated trends in our business, including trends in the market for long-term net-leases of freestanding, single-tenant retail properties;
- Future expenditures for development projects; and
- Profitability of our subsidiary, Crest Net Lease, Inc.

Future events and actual results, financial and otherwise, may differ materially from the results discussed in the forward-looking statements. In particular, some of the factors that could cause actual results to differ materially are:

- Our continued qualification as a real estate investment trust;
- General business and economic conditions;
- Competition;
- Fluctuating interest rates;
- Access to debt and equity capital markets;
- Other risks inherent in the real estate business including tenant defaults, potential liability relating to environmental matters and illiquidity of real estate investments;
- Impairments in the value of our real estate assets;
- Changes in the tax laws of the United States of America;
- The outcome of any legal proceedings to which we are a party; and,
- Acts of terrorism and war.

Additional factors that may cause risks and uncertainties include those discussed in the sections entitled “Business” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in our Annual Report on Form 10-K for the fiscal year ended December 31, 2004.

Readers are cautioned not to place undue reliance on forward-looking statements, which speak only as of the date that this quarterly report was filed with the Securities and Exchange Commission, or SEC. We undertake no obligation to publicly release the results of any revisions to these forward-looking statements that may be made to reflect events or circumstances after the date of this quarterly report or to reflect the occurrence of unanticipated events. In light of these risks and uncertainties, the forward-looking events discussed in this quarterly report might not occur.

#### **THE COMPANY**

Realty Income Corporation, The Monthly Dividend Company<sup>®</sup>, is a Maryland corporation organized to operate as an equity real estate investment trust, or REIT. Our primary business objective is to generate dependable monthly cash distributions from a consistent and predictable level of funds from operations, or FFO, per share. The monthly distributions are supported by the cash flow from our portfolio of retail properties leased to regional and national retail chains. We have in-house acquisition, leasing, legal, retail and real estate research, portfolio management and capital markets expertise. Over the past 36 years, Realty Income and its predecessors have been acquiring and owning freestanding retail properties that generate rental revenue under long-term lease agreements (primarily 15- to 20-years).

In addition, we seek to increase distributions to stockholders and FFO per share through both active portfolio management and the acquisition of additional properties. Our portfolio management focus includes:

- Contractual rent increases on existing leases;
- Rent increases at the termination of existing leases when market conditions permit; and
- The active management of our property portfolio, including re-leasing of vacant properties and selective sales of properties.

Our acquisition of additional properties adheres to a focused strategy of primarily acquiring properties that are:

- Freestanding, single-tenant, retail locations;
- Leased to regional and national retail chains; and
- Leased under long-term, net-lease agreements.

At June 30, 2005, we owned a diversified portfolio:

- Of 1,582 retail properties;
- With an occupancy rate of 98.2%, or 1,553 properties occupied of the 1,582 properties in the portfolio;
- Leased to 98 different retail chains doing business in 30 separate retail industries;
- Located in 48 states;
- With over 12.4 million square feet of leasable space; and
- With an average leasable retail space per property of 7,900 square feet.

Of the 1,582 properties in the portfolio, 1,577, or 99.7%, are single-tenant, retail properties and the remaining five are multi-tenant properties. At June 30, 2005, 1,549, or 98.2%, of the 1,577 single-tenant properties were leased with a weighted average remaining lease term (excluding extension options) of approximately 12.0 years.

In addition, our wholly-owned taxable REIT subsidiary, Crest Net Lease, Inc., owned 13 properties with a total investment of \$22.2 million at June 30, 2005. These properties are classified as held for sale on our consolidated balance sheet. Crest Net was created to buy, own and sell properties, primarily to individual investors, many of whom are involved in tax-deferred exchanges under Section 1031 of the Internal Revenue Code of 1986, as amended.

We typically acquire retail store properties under long-term leases with retail chain store operators. These transactions generally provide capital to owners of retail real estate and retail chains for expansion or other corporate purposes. Our acquisition and investment activities are concentrated in well-defined target markets and generally focus on retailers providing goods and services that satisfy basic consumer needs.

Our net-lease agreements generally:

- Are for initial terms of 15 to 20 years;
- Require the tenant to pay minimum monthly rents and property operating expenses (taxes, insurance and maintenance); and
- Provide for future rent increases (typically subject to ceilings) based on increases in the consumer price index, fixed increases, or to a lesser degree, additional rent calculated as a percentage of the tenants' gross sales above a specified level.

We believe that owning an actively managed, diversified portfolio of retail properties under long-term, net leases produces consistent and predictable income. Under a net-lease agreement, the tenant agrees to pay monthly rent and property operating expenses (taxes, maintenance and insurance) plus, typically, future rent increases (generally subject to ceilings) based on increases in the consumer price index, fixed



increases, or to a lesser degree, additional rent calculated as a percentage of the tenants' gross sales above a specified level. We believe that owning a portfolio of properties under long-term leases, coupled with the tenant's responsibility for property expenses, generally produces a more predictable income stream than many other types of real estate portfolios, while continuing to offer the potential for growth in rental income.

We generally provide sale-leaseback financing to less than investment grade retail chains. From 1970 through December 31, 2004, we acquired and leased back to regional and national retail chains 1,678 properties (including 171 properties that have been sold) and have collected approximately 98% of the original contractual rent obligations on those properties. We believe that within this market we can achieve an attractive risk-adjusted return on the financing we provide to retailers.

## RECENT DEVELOPMENTS

### Credit Facilities

In June 2005, Realty Income entered into a new \$300 million acquisition credit facility to replace our existing \$250 million acquisition credit facility that is scheduled to expire in October 2005. Under the terms of the new credit facility, which commences in October 2005, the borrowing rate was reduced to LIBOR (London Interbank Offered Rate) plus 65 basis points with a facility fee of 15 basis points, for all-in drawn pricing of 80 basis points over LIBOR. The term of the new facility expires in October 2008, unless extended as provided in the agreement.

### Issuance of 30-Year Bonds

In March 2005, Realty Income issued \$100 million in aggregate principal amount of 30-year, 5-7/8% senior unsecured bonds due 2035. The price to the investor for the bonds was 98.296% of the principal amount for an effective yield of 5.998%. The securities are rated BBB by Fitch Ratings, Baa2 by Moody's Investors Service and BBB by Standard & Poor's Ratings Group. The net proceeds from the offering were used to repay borrowings under our \$250 million unsecured acquisition credit facility and for other general corporate purposes.

### One Billion Dollars of Dividends Paid

With the payment of the January 2005 dividend, Realty Income and its predecessors have paid in excess of \$1 billion in common stock dividends since inception. In addition, since October 1994 when we began trading on the New York Stock Exchange, shareholders have enjoyed regular increases in the amount of the dividend. The annualized dividend amount has grown from \$0.90 per share in 1994 to \$1.335 per share in July 2005, an increase of 48.3%. The July 2005 annualized dividend amount increased by 9.9% as compared to the July 2004 annualized dividend amount of \$1.215 per share.

### Acquisitions During The Second Quarter Of 2005

#### Realty Income and Crest Net Acquisitions

Realty Income and Crest Net invested \$74.4 million in 38 new properties and properties under development. These 38 properties are located in eight states and are 100% leased with an initial average lease term of 17.9 years.

#### Realty Income Acquisitions

Realty Income invested \$61.8 million in 29 new properties and properties under development with an initial weighted average contractual lease rate of 8.9%. These 29 properties are located in seven states, are 100% leased with an initial average lease term of 17.8 years and will contain over 308,000 leasable square feet. The 29 new properties acquired by Realty Income are net-leased to five different retail chains in the convenience store, drug store, health and fitness, restaurant and theater industries. At June 30, 2005, eight new properties acquired during the second quarter of 2005 were leased and under contract for

development by the tenant (with development costs funded by Realty Income or Crest Net) with rent scheduled to begin at various times during the next 12 months.

The initial weighted average contractual lease rate is computed as estimated contractual net operating income (in a net-leased property this is equal to the base rent or, in the case of properties under development, the estimated base rent under the lease) for the first year of each lease, divided by the estimated total costs. Since it is possible that a tenant could default on the payment of contractual rent, we cannot assure you that the actual return on the funds invested will remain at the percentages listed above.

#### **Crest Net Acquisitions**

Crest Net invested \$12.6 million in nine new retail properties and properties under development.

#### **Acquisitions During The First Six Months Of 2005**

##### **Realty Income and Crest Net Acquisitions**

Realty Income and Crest Net invested \$166.8 million in 72 new properties and properties under development. These 72 properties are located in 17 states and are 100% leased with an initial average lease term of 17.0 years.

##### **Acquisition of 33 Rite Aid Properties**

Included in the new acquisitions is \$85.4 million we invested to acquire a portfolio of 33 Rite Aid drug store properties. Of the 33 properties acquired, 28 were purchased by Realty Income for an aggregate of \$72.7 million and five were purchased by Crest Net Lease for an aggregate of \$12.7 million. The properties are all existing stores that are net-leased to the Rite Aid Corporation with an average lease term of 14.2 years.

##### **Realty Income Acquisitions**

Realty Income invested \$145.1 million in 60 new properties and properties under development with an initial weighted average contractual lease rate of 8.8%. These 60 properties are located in 16 states, are 100% leased with an initial average lease term of 16.9 years and will contain over 673,000 leasable square feet. The 60 new properties acquired by Realty Income are net-leased to six different retail chains in the convenience store, drug store, health and fitness, motor vehicle dealership, restaurant and theater industries. At June 30, 2005, 11 new properties acquired during 2005 were leased and under contract for development by the tenant (with development costs funded by Realty Income or Crest Net) with rent scheduled to begin at various times during the next 12 months.

##### **Crest Net Acquisitions**

Crest Net invested \$21.7 million in 12 new retail properties and properties under development

##### **Investments in Existing Properties**

In the second quarter of 2005, we capitalized costs of \$638,000 on existing properties in our portfolio, consisting of \$56,000 for re-leasing costs and \$582,000 for building improvements.

In the first six months of 2005, we capitalized costs of \$1.3 million on existing properties in our portfolio, consisting of \$400,000 for re-leasing costs and \$864,000 for building improvements.

##### **Net Income Available to Common Stockholders**

Net income available to common stockholders was \$22.3 million in the second quarter of 2005 versus \$21.4 million in the same quarter of 2004, an increase of \$900,000. On a diluted per common share basis, net income was \$0.28 per share in the second quarter of 2005 as compared to \$0.27 per share in the same quarter of 2004.

Net income available to common stockholders was \$43.5 million in the first six months of 2005 versus \$43.9 million in the same quarter of 2004, a decrease of \$400,000. On a diluted per common share basis, net income was \$0.55 per share in the first six months of 2005 as compared to \$0.56 per share in the same quarter of 2004.

The calculation to determine net income available to common stockholders includes gains from the sale of properties. The amount of gains varies from period to period based on the timing of property sales and can significantly impact net income available to common stockholders.

The gain recognized from the sales of investment properties during the second quarter of 2005 was \$2.7 million as compared to \$2.5 million for the second quarter of 2004. The gain recognized from the sales of properties acquired for resale during the second quarter of 2005 was \$422,000 as compared to \$3.9 million for the second quarter of 2004.

The gain recognized from the sales of investment properties during the first six months of 2005 was \$3.5 million as compared to \$3.9 million for the first six months of 2004. The gain recognized from the sales of properties acquired for resale during the first six months of 2005 was \$1.6 million as compared to \$8.0 million for the first six months of 2004.

#### **Funds from Operations (FFO)**

In the second quarter of 2005, our FFO increased by \$1.7 million, or 5.8%, to \$30.9 million versus \$29.2 million in the second quarter of 2004. On a diluted per common share basis, FFO was \$0.39 in the second quarter of 2005 compared to \$0.37 for the second quarter of 2004, an increase of \$0.02, or 5.4%.

In the first six months of 2005, our FFO increased by \$2.1 million, or 3.5%, to \$62.0 million versus \$59.9 million in the first six months of 2004. On a diluted per common share basis, FFO was \$0.78 in the first six months of 2005 compared to \$0.77 for the first six months of 2004, an increase of \$0.01, or 1.3%.

See our discussion of FFO later in this section for a reconciliation of net income available to common stockholders to FFO.

#### **Crest Net Property Sales**

During the second quarter of 2005, Crest Net sold one property from its inventory for an aggregate of \$3.5 million, which resulted in a gain of \$422,000. Crest Net's gains are included in "income from discontinued operations, real estate acquired for resale by Crest."

During the first six months of 2005, Crest Net sold six properties from its inventory for an aggregate of \$11.2 million, which resulted in a gain of \$1.6 million.

#### **Crest Net's Property Inventory**

Crest Net's property inventory at June 30, 2005 and December 31, 2004 totaled \$22.2 million and \$10.1 million, respectively. These amounts are included in "real estate held for sale, net", on our consolidated balance sheet.

The financial statements of Crest Net are consolidated into Realty Income's financial statements. All material intercompany transactions have been eliminated in consolidation.

#### **Sales of Investment Properties by Realty Income**

During the second quarter of 2005, we sold seven properties and a portion of land from one property for an aggregate of \$8.0 million, which resulted in a gain of \$2.7 million. The seven properties consisted of one automotive service location, three child care locations, one consumer electronics store, one convenience store and one private education facility. This gain is included in "income from discontinued operations, real estate held for investment", except for \$14,000 that is included in other revenue. The net

proceeds from the sale of these properties were used to repay outstanding indebtedness on our credit facility and to invest in new properties.

During the first six months of 2005, we sold 11 properties and a portion of land from one property for an aggregate of \$14.6 million, which resulted in a gain of \$3.5 million. The 11 properties consisted of one automotive service location, one automotive tire service location, four child care locations, one consumer electronics store, one convenience store, one motor vehicle dealership, one private education facility and one restaurant. This gain is included in "income from discontinued operations, real estate held for investment", except for \$14,000 that is included in other revenue. The net proceeds from the sale of these properties were used to repay outstanding indebtedness on our credit facility and to invest in new properties.

#### **Increases in Monthly Distributions to Common Stockholders**

We continue our 36-year policy of paying distributions monthly. Monthly distributions per share were increased by \$0.000625 in April 2005 to \$0.110625 and in July 2005 to \$0.11125. The increase in July 2005 was our 31st consecutive quarterly increase and the 34th increase in the amount of our dividend since our listing on the NYSE in 1994. In the first six months of 2005, we paid three monthly cash distributions in the amount of \$0.11 and three monthly cash distributions in the amount of \$0.110625 totaling \$0.661875. In June 2005 and July 2005, we declared distributions of \$0.11125 per share, which were paid on July 15, 2005 and will be paid on August 15, 2005, respectively.

The monthly distribution of \$0.11125 per share represents a current annualized distribution of \$1.335 per share, and an annualized distribution yield of approximately 5.3% based on the last reported sale price of our common stock on the NYSE of \$25.06 on July 27, 2005. Although we expect to continue our policy of paying monthly distributions, we cannot guarantee that we will maintain the current level of distributions, that we will continue our pattern of increasing distributions per share, or what the actual distribution yield will be in any future period.

### **LIQUIDITY AND CAPITAL RESOURCES**

#### **Cash Reserves**

Realty Income is organized to operate as an equity REIT that acquires and leases properties and distributes to stockholders, in the form of monthly cash distributions, a substantial portion of its net cash flow generated from leases on its retail properties. We intend to retain an appropriate amount of cash as working capital. At June 30, 2005, we had cash and cash equivalents totaling \$1.9 million.

We believe that our cash and cash equivalents on hand, cash provided from operating activities and borrowing capacity is sufficient to meet our liquidity needs for the foreseeable future. We intend, however, to use additional sources of capital to fund property acquisitions and to repay our credit facility.

#### **\$250 Million Bank Credit Facility**

We have a \$250 million revolving, unsecured credit facility that expires in October 2005. Realty Income's current investment grade credit ratings provide for financing under the \$250 million credit facility at the London Interbank Offered Rate, commonly referred to as LIBOR, plus 90 basis points with a facility fee of 20 basis points, for all-in drawn pricing of 110 basis points over LIBOR. At July 27, 2005, we had a borrowing capacity of \$188.8 million available on our credit facility and an outstanding balance of \$61.2 million at an effective interest rate of 4.3%.

The credit facility is expected to be used to acquire additional retail properties and for other corporate purposes. Any additional borrowings will increase our exposure to interest rate risk.

### **\$300 Million Bank Credit Facility**

In June 2005, Realty Income entered into a new \$300 million acquisition credit facility to replace our existing \$250 million acquisition credit facility that is scheduled to expire in October 2005. Under the terms of the new credit facility, which commences in October 2005, the borrowing rate was reduced to LIBOR (London Interbank Offered Rate) plus 65 basis points with a facility fee of 15 basis points, for all-in drawn pricing of 80 basis points over LIBOR. The term of the new facility expires in October 2008, unless extended as provided in the agreement.

### **Mortgage Debt**

We have no mortgage debt on any of our properties.

### **Universal Shelf Registration of \$800 Million**

In February 2004, we filed a universal shelf registration statement with the SEC registering the issuance, from time to time, of up to \$800 million in aggregate value of common stock, preferred stock and debt securities. At July 27, 2005, \$500.4 million remained available for issuance under our universal shelf registration statement.

### **Conservative Capital Structure**

We believe that our stockholders are best served by a conservative capital structure. Therefore, we seek to maintain a conservative debt level on our balance sheet and solid interest and fixed charge coverage ratios. At July 27, 2005, our total outstanding credit facility borrowings and outstanding notes were \$641.2 million or approximately 23.2% of our total market capitalization of \$2.76 billion. We define our total market capitalization at July 27, 2005 as the sum of:

- Shares of our common stock outstanding of 79,612,854 multiplied by the last reported sales price of our common stock on the NYSE of \$25.06 per share, or \$2.0 billion;
- Aggregate liquidation value of the Class D preferred stock of \$127.5 million;
- Outstanding borrowings of \$61.2 million on our credit facility; and
- Outstanding notes of \$580.0 million.

Historically, we have met our long-term capital needs through the issuance of common stock, preferred stock and long-term unsecured notes. Over the long term, we believe that the majority of our future securities issuances should be in the form of common stock, however, we may issue additional preferred stock or debt securities from time to time. We may issue common stock when we believe that our share price is at a level that allows for the proceeds of any offering to be accretively invested into additional properties. In addition, we may issue common stock to permanently finance properties that were financed by our credit facility or debt securities. However, we cannot assure you that we will have access to the capital markets at terms that are acceptable to us.

### **Credit Agency Ratings**

We are currently assigned investment grade corporate credit ratings, on our senior unsecured notes, from Fitch Ratings, Moody's Investors Service, Inc. and Standard & Poor's Rating Group. Currently, Fitch Ratings has assigned a rating of BBB, Moody's has assigned a rating of Baa2 and Standard & Poor's has assigned a rating of BBB to our senior notes. All of these ratings have been assigned a "stable" outlook.

We have also been assigned investment grade credit ratings from the same rating agencies on our preferred stock. Fitch Ratings has assigned a rating of BBB-, Moody's Investors Service, Inc. has assigned a rating of Baa3 and Standard & Poor's Rating Group has assigned a rating of BBB- to our preferred stock. All of these ratings have been assigned a "stable" outlook.

The credit ratings assigned to us could change based upon, among other things, our results of operations and financial condition.

### Notes Outstanding

In March 2005, we issued \$100 million of 5-7/8%, 30-year, senior unsecured bonds due 2035. Interest on these bonds is paid semiannually.

In November 2003, we issued \$150 million of 5-1/2%, 12-year, senior unsecured notes due 2015. Interest on these notes is paid semiannually.

In March 2003, we issued \$100 million of 5-3/8%, 10-year, senior unsecured notes due 2013. Interest on these notes is paid semiannually.

In January 1999, we issued \$20 million of 8% senior unsecured notes due 2009. Interest on these notes is paid semiannually.

In October 1998, we issued \$100 million of 8-1/4% senior unsecured notes due 2008. Interest on these notes is paid monthly.

In May 1997, we issued \$110 million of 7-3/4% senior unsecured notes due 2007. Interest on these notes is paid semiannually.

All of these notes contain various covenants, including: (i) a limitation on incurrence of any debt which would cause our debt to total assets ratio to exceed 60%; (ii) a limitation on incurrence of any secured debt which would cause our secured debt to total assets ratio to exceed 40%; (iii) a limitation on incurrence of any debt which would cause our debt service coverage ratio to be less than 1.5 times; and (iv) the maintenance at all times of total unencumbered assets not less than 150% of our outstanding unsecured debt. We have been in compliance with these covenants since each of the notes were issued.

All of our outstanding notes have fixed interest rates. Our credit facility interest rate is variable.

The following table of obligations summarizes the maturity of each of our obligations as of June 30, 2005 (dollars in millions):

#### **Table of Obligations**

Year of Maturity	Credit Facility (1)	Notes	Interest (2)	Other (3)	Totals
2005	\$ 54.8	\$ —	\$ 19.7	\$ 46.0	\$ 120.5
2006	—	—	37.9	—	37.9
2007	—	110.0	32.3	—	142.3
2008	—	100.0	28.3	—	128.3
2009	—	20.0	19.6	—	39.6
Thereafter	—	350.0	213.7	—	563.7
<b>Totals</b>	<b>\$ 54.8</b>	<b>\$ 580.0</b>	<b>\$ 351.5</b>	<b>\$ 46.0</b>	<b>\$ 1,032.3</b>

(1) The credit facility balance was \$61.2 million as of July 27, 2005.

(2) Interest on credit facility and notes has been calculated based on outstanding balances as of June 30, 2005 through their respective maturity dates.

(3) Other consists of \$45.3 million of estimated unfunded costs on properties under development and \$702,000 of contingent payments for tenant improvements and leasing costs.

Our credit facility and note obligations are unsecured. Accordingly, we have not pledged any assets as collateral for these obligations.

### **Preferred Stock Outstanding**

In May and October 2004, we issued an aggregate of 5.1 million shares of 7.375% Class D cumulative redeemable preferred stock. Beginning May 27, 2009, shares of Class D preferred stock are redeemable at our option for \$25.00 per share, plus any accrued and unpaid dividends. Dividends on shares of Class D preferred are paid monthly in arrears.

### **No Off-Balance Sheet Arrangements or Unconsolidated Investments**

Realty Income and its subsidiaries have no unconsolidated or off-balance sheet investments in "variable interest entities" or off-balance sheet financing, nor do we engage in trading activities involving energy or commodity contracts or other derivative instruments.

As we have no joint ventures, off-balance sheet entities, or mandatory redeemable preferred stock, our financial position or results of operations are currently not affected by Financial Accounting Standards Board Interpretation No. 46R, *Consolidation of Variable Interest Entities* and Statement of Financial Accounting Standards No. 150, *Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity*.

### **Distributions**

Distributions are paid to our common stockholders and Class D preferred stockholders on a monthly basis if and when declared by our Board of Directors. The Class D preferred stockholders receive cumulative distributions at a rate of 7.375% per annum on the \$25 per share liquidation preference (equivalent to \$1.84375 per annum per share).

In order to maintain our tax status as a REIT for federal income tax purposes, we generally are required to distribute dividends to our stockholders aggregating annually at least 90% of our REIT taxable income (determined without regard to the dividends paid deduction and by excluding net capital gains) and we are subject to income tax to the extent we distribute less than 100% of our REIT taxable income (including net capital gains). In 2004, our cash distributions totaled \$106.5 million, or approximately 107.8% of our estimated REIT taxable income of \$98.8 million. Our estimated REIT taxable income reflects non-cash deductions for depreciation and amortization. We intend to continue to make distributions to our stockholders that are sufficient to meet this distribution requirement and that will reduce our exposure to income taxes. During the first six months of 2005, our cash distributions to common stockholders totaled \$52.7 million, representing 85.0% of our funds from operations available to common stockholders of \$62.0 million.

Future distributions will be at the discretion of our Board of Directors and will be dependent on, among other things, our results of operations, FFO, cash flow from operations, financial condition and capital requirements, the annual distribution requirements under the REIT provisions of the Internal Revenue Code of 1986, as amended, our debt service requirements and any other factors the Board of Directors may deem relevant. In addition, our credit facility contains financial covenants that could limit the amount of distributions payable by us in the event of a deterioration in our results of operations or financial condition, and which prohibit the payment of distributions on the common or preferred stock in the event that we fail to pay when due (subject to any applicable grace period) any principal or interest on borrowings under our credit facility.

Distributions of our current and accumulated earnings and profits for federal income tax purposes, generally will be taxable to stockholders as ordinary income, except to the extent that we recognize capital gains and declare a capital gains dividend or that such amounts constitute "qualified dividend income" subject to a reduced rate of tax. The maximum tax rate of non-corporate taxpayers for "qualified dividend income" has generally been reduced to 15% (for taxable years beginning after December 31, 2002). In general, dividends payable by REITs are not eligible for the reduced tax rate on corporate dividends, except to the extent the REIT's dividends are attributable to dividends received from taxable corporations (such as our taxable REIT subsidiary, Crest Net), to income that was subject to tax at the corporate or

REIT level (for example, if we distribute taxable income that we retained and paid tax on in the prior taxable year) or, as discussed above, dividends properly designated by us as “capital gain dividends.” Distributions in excess of earnings and profits generally will be treated as a non-taxable reduction in the stockholders’ basis in the stock. Distributions above that basis, generally, will be taxable as a capital gain. Approximately 4.7% of the distributions, made or deemed to have been made in 2004, to our common stockholders were classified as a return of capital for federal income tax purposes. We are unable to predict the portion of future distributions that may be classified as a return of capital.

## RESULTS OF OPERATIONS

### Critical Accounting Policies

Our consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles (“GAAP”). Our consolidated financial statements are the basis for our discussion and analysis of financial condition and results of operations. Preparing our consolidated financial statements requires us to make a number of estimates and assumptions that affect the reported amounts and disclosures in the consolidated financial statements. We believe that we have made these estimates and assumptions in an appropriate manner and in a way that accurately reflects our financial condition. We continually test and evaluate these estimates and assumptions using our historical knowledge of the business, as well as other factors, to ensure that they are reasonable for reporting purposes. However, actual results may differ from these estimates and assumptions.

In order to prepare our consolidated financial statements according to the rules and guidelines set forth by GAAP, many subjective judgments must be made with regard to critical accounting policies. One of these judgments is our estimate for useful lives in determining depreciation expense for our properties. Depreciation of buildings and improvements is computed using the straight-line method over an estimated useful life of 25 years. If we use a shorter or longer estimated useful life it could have a material impact on our results of operations. We believe that 25 years is an appropriate estimate of useful life. No depreciation has been recorded on Crest Net’s properties because they are held for sale.

Another significant judgment that must be made is if and when impairment losses should be taken on our properties when events or change in circumstances indicate that the carrying amount of the asset may not be recoverable. Generally, a provision is made for impairment loss if estimated future operating cash flows (undiscounted and without interest charges) plus estimated disposition proceeds (undiscounted) are less than the current book value. Impairment losses are measured as the amount by which the current book value of the asset exceeds the fair value of the asset. If a property is held for sale, it is carried at the lower of carrying cost or estimated fair value, less costs to sell. The carrying value of our real estate is the largest component of our consolidated balance sheet. If events should occur that require us to reduce the carrying value of our real estate by recording provisions for impairment losses, it could have a material impact on our results of operations.

*The following is a comparison of our results of operations for the three and six months ended June 30, 2005 to the three and six months ended June 30, 2004.*

### Rental revenue

Rental revenue was \$47.3 million for the second quarter of 2005 versus \$43.5 million for the second quarter of 2004, an increase of \$3.8 million, or 8.7%. The increase in rental revenue in the second quarter of 2005 is attributable to:

- The 60 retail properties acquired by Realty Income in 2005, which generated \$1.8 million in the second quarter;
- The 172 retail properties acquired by Realty Income in 2004, which generated \$4.2 million in the second quarter of 2005 compared to \$2.5 million in the second quarter of 2004, an increase of \$1.7 million;



- Same store rents generated on 1,283 properties during the second quarters of 2005 and 2004 increased by \$395,000, or 1.0%, to \$39.6 million from \$39.2 million. These properties were leased during all of both quarters;
- An increase in straight-line rent of \$171,000 in the second quarter of 2005 as compared to the second quarter of 2004; and
- A decrease of \$361,000 relating to the aggregate of (i) development properties acquired before 2004 that started paying rent in 2004, (ii) properties that were vacant during part of 2005 or 2004 and (iii) lease termination settlements. These items totaled \$948,000 in aggregate in the second quarter of 2005 compared to \$1.3 million in the same quarter of 2004.

Rental revenue was \$94.0 million for the first six months of 2005 versus \$84.6 million for the first six months of 2004, an increase of \$9.4 million, or 11.1%. The increase in rental revenue in the first six months of 2005 is attributable to:

- The 60 retail properties acquired by Realty Income in 2005, which generated \$2.6 million in the first six months;
- The 172 retail properties acquired by Realty Income in 2004, which generated \$8.4 million in the first six months of 2005 compared to \$3.0 million in the first six months of 2004, an increase of \$5.4 million;
- Same store rents generated on 1,283 properties during the first six months of 2005 and 2004 increased by \$671,000, or 0.9%, to \$79.2 million from \$78.5 million. These properties were leased during all of both periods;
- An increase in straight-line rent of \$987,000 in the first six months of 2005 as compared to the first six months of 2004; and
- A decrease of \$337,000 relating to the aggregate of (i) development properties acquired before 2004 that started paying rent in 2004, (ii) properties that were vacant during part of 2005 or 2004 and (iii) lease termination settlements. These items totaled \$1.9 million in aggregate in the first six months of 2005 compared to \$2.2 million in the same period of 2004.

Of the 1,582 properties in the portfolio at June 30, 2005, 1,577, or 99.7%, are single-tenant properties and the remaining five are multi-tenant properties. Of the 1,577 single-tenant properties, 1,549, or 98.2%, were net leased with a weighted average remaining lease term (excluding rights to extend a lease at the option of the tenant) of approximately 12.0 years at June 30, 2005. Of our 1,549 leased single-tenant properties, 1,424, or 91.9%, were under leases that provide for increases in rents through:

- Base rent increases tied to a consumer price index with adjustment ceilings;
- Fixed increases;
- To a lesser degree, overage rent based on a percentage of the tenants' gross sales; or
- A combination of two or more of the above rent provisions.

Percentage rent, which is included in rental revenue, was \$88,000 in the second quarter of 2005 and \$99,000 in the second quarter of 2004. Percentage rent was \$199,000 in the first six months of 2005 and \$409,000 in the first six months of 2004. Percentage rent in the second quarter and first six months of 2005 was less than 1% of rental revenue and we anticipate percentage rent to be less than 1% of rental revenue in 2005.

Our portfolio of retail real estate, leased primarily to regional and national chains under net leases, continues to perform well and provides dependable lease revenue supporting the payment of monthly dividends to our stockholders. At June 30, 2005, our portfolio of 1,582 retail properties was 98.2% leased with 29 properties available for lease, one of which is a multi-tenant property. As of July 27, 2005, transactions to lease or sell 10 of the 29 properties that were available for lease at June 30, 2005 were underway or completed. We anticipate these transactions will be completed during the next six months, although we cannot guarantee that all of these properties can be leased or sold within this period. It has been our experience that approximately 1% to 3% of our property portfolio will be unleased at any given time, however, we cannot assure you that the number of properties available for lease will not exceed these levels.

### Interest Expense

Interest expense was \$1.3 million higher in the second quarter of 2005 than in the second quarter of 2004. Interest expense was \$1.9 million higher in the first six months of 2005 than in the first six months of 2004. Interest expense increased in 2005 primarily due to higher average outstanding balances, which was partially offset by slightly lower interest rates. The following is a summary of the components of our interest expense (dollars in thousands):

	Three months ended 6/30/05	Three months ended 6/30/04	Six months ended 6/30/05	Six months ended 6/30/04
Interest on our credit facility and notes	\$ 9,654	\$ 8,078	\$ 18,308	\$ 16,208
Interest included in discontinued operations from real estate acquired for resale by Crest	(163)	(164)	(310)	(399)
Amortization of settlements on treasury lock agreements	189	189	378	378
Credit facility commitment fees	127	127	253	253
Amortization of credit facility origination costs and deferred bond financing costs	433	408	847	815
Interest capitalized	(447)	(133)	(625)	(274)
Interest expense	\$ 9,793	\$ 8,505	\$ 18,851	\$ 16,981

	Three months ended 6/30/05	Three months ended 6/30/04	Six months ended 6/30/05	Six months ended 6/30/04
<b>Credit facilities and notes outstanding</b>				
Average outstanding balances (in thousands)	\$ 598,402	\$ 495,766	\$ 570,364	\$ 500,743
Average interest rates	6.47%	6.55%	6.47%	6.51%

At July 27, 2005, the weighted average interest rate on our:

- Credit facility borrowings of \$61.2 million was 4.3%;
- Notes payable of \$580 million was 6.5%; and
- Combined outstanding credit facility and notes of \$641.2 million was 6.3%.

### Interest Coverage Ratio

For the three months ended June 30, 2005 and 2004, our interest coverage ratio was 4.4 times and 5.2 times, respectively. For the six months ended June 30, 2005 and 2004, our interest coverage ratio was 4.5 times and 5.1 times, respectively. Interest coverage ratio is calculated as: the interest coverage amount (calculated in the following table) divided by interest expense, including interest attributable to discontinued operations. We consider interest coverage ratio to be an appropriate supplemental measure of a company's ability to meet its interest expense obligations. Our calculation of interest coverage ratio may be different from the calculation used by other companies and, therefore, comparability may be limited. This information should not be considered as an alternative to any GAAP liquidity measures.

The following is a reconciliation of net cash provided by operating activities to our interest coverage amount (dollars in thousands):

	Three months ended 6/30/05	Three months ended 6/30/04	Six months ended 6/30/05	Six months ended 6/30/04
Net cash provided by operating activities	\$ 21,868	\$ 51,651	\$ 57,336	\$ 103,958
Interest expense	9,793	8,505	18,851	16,981
Interest expense included in discontinued operations <sup>(1)</sup>	163	164	310	399
Income taxes	203	191	401	344
Income taxes included in discontinued operations <sup>(1)</sup>	91	1,325	455	2,791
Investment in real estate acquired for resale <sup>(1)(2)</sup>	12,569	2,815	21,709	13,181
Proceeds from sales of real estate acquired for resale <sup>(1)</sup>	(3,451)	(26,563)	(11,197)	(57,611)
Gain on sales of real estate acquired for resale <sup>(1)</sup>	422	3,883	1,649	7,992
Gain on sale of investment property, included in other revenue	(14)	—	(14)	—
Provision for impairment, included in property expense	47	—	47	—
Amortization of deferred stock compensation	(547)	(354)	(1,084)	(702)
Amortization of stock option costs	(3)	(3)	(7)	(7)
Changes in assets and liabilities:				
Accounts receivable and other assets	2,030	(1,139)	388	(2,537)
Accounts payable, accrued expenses and other liabilities	391	4,504	(1,954)	3,735
Interest coverage amount	\$ 43,562	\$ 44,979	\$ 86,890	\$ 88,524
Divided by interest expense <sup>(3)</sup>	\$ 9,956	\$ 8,669	\$ 19,161	\$ 17,380
Interest coverage ratio	4.4	5.2	4.5	5.1

(1) Crest Net activities.

(2) The 2005 amount includes intangibles recorded in connection with acquisitions of real estate acquired for resale.

(3) Includes interest expense recorded to "income from discontinued operations, real estate acquired for resale by Crest."

#### Fixed Charge Coverage Ratio

For the three months ended June 30, 2005 and 2004, our fixed charge coverage ratio was 3.5 times and 3.9 times, respectively. For the six months ended June 30, 2005 and 2004, our fixed charge coverage ratio was 3.6 times and 3.9 times, respectively. Fixed charge coverage ratio is calculated in the same manner as interest coverage ratio, except that preferred stock dividends are also added to the denominator. We consider fixed charge coverage ratio to be an appropriate supplemental measure of a company's ability to make its interest and preferred stock dividend payments. Our calculation of the fixed charge coverage ratio may be different from the calculation used by other companies and, therefore, comparability may be limited. This information should not be considered as an alternative to any GAAP liquidity measures.

Interest coverage amount divided by interest expense plus preferred stock dividends (dollars in thousands):

	<b>Three months ended 6/30/05</b>	<b>Three months ended 6/30/04</b>	<b>Six months ended 6/30/05</b>	<b>Six months ended 6/30/04</b>
Interest coverage amount	\$ 43,562	\$ 44,979	\$ 86,890	\$ 88,524
Divided by interest expense plus preferred stock dividends <sup>(1)</sup>	\$ 12,307	\$ 11,651	\$ 23,863	\$ 22,790
Fixed charge coverage ratio	3.5	3.9	3.6	3.9

(1) Includes interest expense recorded to "income from discontinued operations, real estate acquired for resale by Crest."

### Depreciation and Amortization

For the second quarter of 2005, depreciation and amortization was \$11.2 million as compared to \$10.0 million in the second quarter of 2004. For the first six months of 2005, depreciation was \$22.0 million as compared to \$19.6 million in the first six months of 2004. The increase in depreciation and amortization in 2005 was due to the acquisition of properties in 2005 and 2004, which was partially offset by property sales in these years.

### General and Administrative Expenses

General and administrative expenses increased by \$400,000 to \$3.7 million in the second quarter of 2005 versus \$3.3 million in the second quarter of 2004. In the second quarter of 2005, general and administrative expenses as a percentage of total revenue increased to 7.8% as compared to 7.4% in the second quarter of 2004.

General and administrative expenses increased by \$1.3 million to \$7.7 million in the first six months of 2005 versus \$6.4 million in the first six months of 2004. In the first six months of 2005, as a percentage of total revenue, general and administrative expenses increased to 8.2% as compared to 7.5% in the first six months of 2004.

General and administrative expenses increased in 2005 primarily due to increases in accounting fees, increases in payroll and employee benefit costs, and increases in costs related to corporate governance, including costs of compliance with the Sarbanes-Oxley Act of 2002.

As our property portfolio has grown and continues to grow, we have increased, and anticipate that we will continue to gradually increase the level of our staffing. We expect general and administrative expenses to continue to increase due to costs attributable to payroll, staffing costs and corporate governance.

At July 27, 2005, we had 68 permanent employees and seven temporary employees as compared to August 1, 2004 when we had 60 permanent employees and seven temporary employees. The temporary employees have been working on a record retention project that is expected to conclude in the next five to eight months.

### Property Expenses

Property expenses are broken down into costs associated with non-net leased multi-tenant properties, unleased single-tenant properties and general portfolio expenses. Expenses related to the multi-tenant and unleased single-tenant properties include, but are not limited to, property taxes, maintenance, insurance, utilities, property inspections, bad debt expense and legal fees. General portfolio costs include, but are not limited to, insurance, legal, bad debt expense, property inspections and title search fees. At June 30, 2005, 29 properties were available for lease, as compared to 32 at December 31, 2004 and 24 at June 30, 2004.

Property expenses were \$1.0 million in the second quarter of 2005 and \$749,000 in the second quarter of 2004. A provision for impairment of \$47,000 is included in the property expenses for the second quarter and first six months of 2005. Property expenses were \$1.9 million in the first six months of 2005 and \$1.5 million in the first six months of 2004. The increase in property expenses in the second quarter and first six months of 2005 is primarily attributable to an increase in bad debt expense and maintenance costs.

#### Income Taxes

Income taxes were \$203,000 in the second quarter of 2005 as compared to \$191,000 in the second quarter of 2004. Income taxes for the first six months of 2005 and 2004 were \$401,000 and \$344,000, respectively. These amounts are for city and state income taxes paid by Realty Income. The increase in 2005 is due to an increase in rental revenue causing higher city and state income tax expense.

In addition, Crest Net incurred state and federal income taxes of \$91,000 in the second quarter of 2005 as compared to \$1.3 million in the second quarter of 2004. Crest Net incurred state and federal income taxes of \$455,000 in the first six months of 2005 as compared to \$2.8 million in the first six months of 2004. The decrease in 2005 as compared to 2004 is due to lower taxable income, primarily attributable to lower gains on sales of real estate acquired for resale. These amounts are included in "income from discontinued operations, real estate acquired for resale by Crest."

#### Discontinued Operations

Crest Net acquires properties with the intention of reselling them rather than holding them as investments and operating the properties. Consequently, we classify properties acquired by Crest Net as held for sale at the date of acquisition and do not depreciate them. The operation of Crest Net's properties is classified as "income from discontinued operations, real estate acquired for resale by Crest."

The following is a summary of Crest Net's "income from discontinued operations, real estate acquired for resale" for the three and six months ended June 30, 2005 and 2004 (dollars in thousands):

	<b>Three months ended 6/30/05</b>	<b>Three months ended 6/30/04</b>	<b>Six months ended 6/30/05</b>	<b>Six months ended 6/30/04</b>
<b>Crest Net's income from discontinued operations, real estate acquired for resale</b>				
Gain on sales of real estate acquired for resale	\$ 422	\$ 3,883	\$ 1,649	\$ 7,992
Rental revenue	287	614	569	1,614
Interest expense	(163)	(164)	(310)	(399)
General and administrative expense	(134)	(122)	(273)	(247)
Property expenses	(25)	(7)	(51)	(15)
Income taxes	(91)	(1,325)	(455)	(2,791)
<b>Income from discontinued operations, real estate acquired for resale by Crest</b>	<b>\$ 296</b>	<b>\$ 2,879</b>	<b>\$ 1,129</b>	<b>\$ 6,154</b>
<b>Per common share, basic and diluted</b>	<b>\$ 0.00</b>	<b>\$ 0.04</b>	<b>\$ 0.01</b>	<b>\$ 0.08</b>

Realty Income's operations from five properties listed as held for sale at June 30, 2005, plus properties sold in 2004 and 2005 have been classified as discontinued operations. The following is a summary of our discontinued operations from real estate held for investment for the three and six months ended June 30, 2005 and 2004 (dollars in thousands):

	<b>Three months ended 6/30/05</b>	<b>Three months ended 6/30/04</b>	<b>Six months ended 6/30/05</b>	<b>Six months ended 6/30/04</b>
<b>Realty Income's income from discontinued operations, real estate held for investment</b>				
Gain on sales of investment properties	\$ 2,641	\$ 2,499	\$ 3,463	\$ 3,949
Rental revenue	256	880	555	1,911
Other revenue	—	35	1	141
Depreciation and amortization	(6)	(226)	(64)	(491)
Property expenses	(26)	(128)	(113)	(249)
Provisions for impairments	(4)	(271)	(21)	(271)
<b>Income from discontinued operations, real estate held for investment</b>	<b>\$ 2,861</b>	<b>\$ 2,789</b>	<b>\$ 3,821</b>	<b>\$ 4,990</b>
<b>Per common share, basic and diluted</b>	<b>\$ 0.04</b>	<b>\$ 0.04</b>	<b>\$ 0.05</b>	<b>\$ 0.06</b>

The following is a summary of our total discontinued operations for the three and six months ended June 30, 2005 and 2004 (dollars in thousands):

	<b>Three months ended 6/30/05</b>	<b>Three months ended 6/30/04</b>	<b>Six months ended 6/30/05</b>	<b>Six months ended 6/30/04</b>
<b>Income from discontinued operations:</b>				
Real estate acquired for resale by Crest	\$ 296	\$ 2,879	\$ 1,129	\$ 6,154
Real estate held for investment	2,861	2,789	3,821	4,990
<b>Income from discontinued operations</b>	<b>\$ 3,157</b>	<b>\$ 5,668</b>	<b>\$ 4,950</b>	<b>\$ 11,144</b>
<b>Per common share, basic and diluted</b>	<b>\$ 0.04</b>	<b>\$ 0.07</b>	<b>\$ 0.06</b>	<b>\$ 0.14</b>

#### **Gain on Sales of Real Estate Acquired for Resale by Crest Net**

During the second quarter of 2005, Crest Net sold one property for \$3.5 million, which resulted in a gain of \$422,000. In comparison, during the second quarter of 2004, Crest Net sold 16 properties for \$26.6 million, which resulted in a gain of \$3.9 million. Crest Net's gains on sales are reported before income taxes and are included in discontinued operations.

During the first six months of 2005, Crest Net sold six properties for \$11.2 million, which resulted in a gain of \$1.6 million. In comparison, during the first six months 2004, Crest Net sold 35 properties for \$57.6 million, which resulted in a gain of \$8.0 million.

At June 30, 2005, Crest Net had \$22.2 million invested in 13 properties, which are held for sale. Our goal is for Crest Net to carry an average inventory of \$20 to \$25 million in real estate. Crest Net generates an earnings spread on the difference between the lease payments it receives on the properties held in inventory and the cost of capital used to acquire properties. It is our belief that at this level of inventory, rental revenue will exceed the ongoing operating expenses of Crest Net without any property sales.

### **Gain on Sales of Investment Properties by Realty Income**

During the second quarter of 2005, we sold seven investment properties and a portion of land from one property for \$8.0 million, which resulted in a gain of \$2.7 million. This gain is included in discontinued operations, except for \$14,000 that is included in other revenue. In comparison, during the second quarter of 2004, we sold or exchanged nine investment properties for \$5.7 million, which resulted in a gain of \$2.5 million. This gain is included in discontinued operations.

During the first six months of 2005, we sold 11 investment properties and a portion of land from one property for \$14.6 million, which resulted in a gain of \$3.5 million. This gain is included in discontinued operations, except for \$14,000 that is included in other revenue. In comparison, during the first six months of 2004, we sold or exchanged 18 investment properties for \$11.7 million, which resulted in a gain of \$3.9 million. This gain is included in discontinued operations.

We have an active portfolio management program that incorporates the sale of assets when we believe the reinvestment of the sale proceeds will generate higher returns, enhance the credit quality of our real estate portfolio or extend our average remaining lease term. At June 30, 2005, we classified real estate with a carrying amount of \$23.8 million as held for sale on our balance sheet, which includes properties owned by Crest Net. Of the \$22.2 million invested in properties held by Crest Net, on our balance sheet \$20.8 million is included in real estate held for sale, net and \$1.4 million is included in other assets. The \$1.4 million reflects investments classified as intangible assets in accordance with Financial Accounting Standards Board Statement No. 141, Business Combinations. Additionally, we anticipate selling investment properties from our portfolio that have not yet been specifically identified, from which we anticipate receiving between \$15 million and \$35 million in proceeds during the next 12 months. We intend to invest these proceeds into new property acquisitions. However, we cannot guarantee that we will sell properties during the next 12 months.

### **Provisions for Impairments**

Provisions for impairments of \$51,000 were recorded on two properties in the second quarter 2005 and \$271,000 was taken on one property in the second quarter of 2004. These provisions are included in "income from discontinued operations, real estate held for investment", except for \$47,000 in the second quarter of 2005, which is included in property expenses.

Provisions for impairments of \$68,000 were recorded on two properties in the first six months of 2005 and \$271,000 was taken on one property in the first six months of 2004. These provisions are included in "income from discontinued operations, real estate held for investment", except for \$47,000 in the first six months of 2005, which is included in property expenses.

### **Preferred Stock Dividends and Redemption Charge**

We had preferred stock cash dividends of \$2.4 million in the second quarter of 2005 as compared to \$3.0 million in the second quarter of 2004. We had preferred stock cash dividends of \$4.7 million in the first six months of 2005 as compared to \$5.4 million in the first six months of 2004. The decrease in 2005 is due to a lower dividend rate on our Class D preferred stock than on our Class B and Class C preferred stock, which was partially offset by more preferred shares being outstanding in the second quarter of 2005 than in the second quarter of 2004.

When we redeemed our Class B preferred stock in June 2004 we incurred a non-cash charge of \$2.4 million for the excess of redemption value over the carrying value. This non-cash charge represents the Class B preferred stock original issuance costs that were paid in 1999 and recorded as a reduction to net income available to common stockholders when the shares were redeemed. This non-cash charge equates to \$0.03 per common share in 2004.

### Net Income Available to Common Stockholders

Net income available to common stockholders was \$22.3 million in the second quarter of 2005 versus \$21.4 million in the second quarter of 2004, an increase of \$900,000. Net income available to common stockholders was \$43.5 million in the first six months of 2005 versus \$43.9 million in the first six months of 2004, a decrease of \$400,000.

The calculation to determine net income available to common stockholders includes gains from the sale of properties. The amount of gains varies from period to period based on the timing of property sales and can significantly impact net income available to common stockholders.

During the second quarter of 2005, the gain recognized from the sales of investment properties was \$2.7 million as compared to \$2.5 million for the second quarter of 2004 and the gain recognized from the sales of properties acquired for resale was \$422,000 as compared to \$3.9 million for the second quarter of 2004.

For the first six months of 2005, the gain recognized from the sales of investment properties was \$3.5 million as compared to \$3.9 million for the first six months of 2004 and the gain recognized from the sales of properties acquired for resale was \$1.6 million as compared to \$8.0 million for the first six months of 2004.

### FUNDS FROM OPERATIONS (FFO) AVAILABLE TO COMMON STOCKHOLDERS

FFO for the second quarter of 2005 increased by \$1.7 million, or 5.8%, to \$30.9 million as compared to \$29.2 million in the second quarter of 2004. FFO for the first six months of 2005 increased by \$2.1 million, or 3.5%, to \$62.0 million as compared to \$59.9 million in the first six months of 2004. The following is a reconciliation of net income available to common stockholders (which we believe is the most comparable GAAP measure) to FFO. Also presented is information regarding distributions paid to common stockholders and the diluted weighted average number of shares outstanding for the second quarter and first six months of 2005 and 2004 (dollars in thousands, except per share amounts):

	Three months ended 6/30/05	Three months ended 6/30/04	Six months ended 6/30/05	Six months ended 6/30/04
Net income available to common stockholders	\$ 22,315	\$ 21,446	\$ 43,467	\$ 43,868
Depreciation and amortization:				
Continuing operations	11,243	10,008	22,049	19,558
Discontinued operations	6	226	64	491
Depreciation of furniture, fixtures and equipment	(35)	(29)	(67)	(58)
Gain on sales of investment properties:				
Continuing operations	(14)	—	(14)	—
Discontinued operations	(2,641)	(2,500)	(3,463)	(3,949)
Total funds from operations	\$ 30,874	\$ 29,151	\$ 62,036	\$ 59,910
FFO per common share, basic and diluted	\$ 0.39	\$ 0.37	\$ 0.78	\$ 0.77
Distributions paid to common stockholders	\$ 26,414	\$ 23,922	\$ 52,676	\$ 46,725
FFO in excess of distributions to common stockholders	\$ 4,460	\$ 5,229	\$ 9,360	\$ 13,185
Diluted weighted average number of shares outstanding	79,676,168	79,323,180	79,667,812	77,822,186



We define FFO, a non-GAAP measure, consistent with the National Association of Real Estate Investment Trust's definition, as net income available to common stockholders, plus depreciation and amortization of real estate assets, reduced by gains on sales of investment property and extraordinary items.

We consider FFO to be an appropriate supplemental measure of a REIT's operating performance as it is based on a net income analysis of property portfolio performance that excludes non-cash items such as depreciation. The historical accounting convention used for real estate assets requires straight-line depreciation of buildings and improvements, which implies that the value of real estate assets diminishes predictably over time. Since real estate values historically rise and fall with market conditions, presentations of operating results for a REIT, using historical accounting for depreciation, could be less informative. The use of FFO is recommended by the REIT industry as a supplemental performance measure. In addition, FFO is used as a measure of our compliance with the financial covenants of our credit facility.

Presentation of this information is intended to assist the reader in comparing the operating performance of different REITs, although it should be noted that not all REITs calculate FFO the same way, so comparisons with other REITs may not be meaningful. Furthermore, FFO is not necessarily indicative of cash flow available to fund cash needs and should not be considered as an alternative to net income as an indication of Realty Income's performance. In addition, FFO should not be considered as an alternative to reviewing our cash flows from operating, investing and financing activities as a measure of liquidity, of our ability to make cash distributions or of our ability to pay interest payments.

### Other Non-Cash Items and Capitalized Expenditures

The following information includes non-cash items and capitalized expenditures on existing properties in our portfolio. These items are not included in the adjustments to net income available to common stockholders to arrive at FFO. Analysts and investors often request this supplemental information.

<b>(dollars in thousands)</b>	<b>Three months ended 6/30/05</b>	<b>Three months ended 6/30/04</b>	<b>Six months ended 6/30/05</b>	<b>Six months ended 6/30/04</b>
Provisions for impairments	\$ 51	\$ 271	\$ 68	\$ 271
Amortization of settlements on treasury lock agreements <sup>(1)</sup>	189	189	378	378
Amortization of deferred note financing costs <sup>(2)</sup>	253	228	487	456
Amortization of deferred stock compensation and stock option costs	551	367	1,091	709
Capitalized leasing costs and commissions	(56)	(75)	(400)	(229)
Capitalized building improvements	(582)	(378)	(864)	(587)
Straight line rent <sup>(3)</sup>	(188)	(17)	(935)	52
Preferred stock origination costs write-off <sup>(4)</sup>	—	2,360	—	2,360

- (1) The settlements on the treasury lock agreements resulted from an interest rate risk prevention strategy that was used by the Company in 1997 and 1998, which correlated to pending issuances of senior note securities. We have not employed this strategy since 1998.
- (2) Amortization of deferred note financing costs includes the amortization of costs incurred and capitalized when our notes were issued in May 1997, October 1998, January 1999, March 2003, November 2003 and March 2005. These costs are being amortized over the lives of these notes. No costs associated with our credit facility agreements or annual fees paid to credit rating agencies have been included.
- (3) A negative amount indicates that our straight-line rent was greater than our actual cash rent collected. A positive amount indicates that our straight-line rent was less than our actual cash rent collected.
- (4) Represents the Class B preferred stock non-cash charge for the excess of redemption value over the carrying value.

## PROPERTY PORTFOLIO INFORMATION

At June 30, 2005, we owned a diversified portfolio:

- Of 1,582 retail properties;
- With an occupancy rate of 98.2%, or 1,553 properties occupied of the 1,582 properties in the portfolio;
- Leased to 98 different retail chains doing business in 30 separate retail industries;
- Located in 48 states;
- With over 12.4 million square feet of leasable space; and
- With an average leasable retail space of 7,900 square feet.

In addition to our real estate portfolio at June 30, 2005, our subsidiary, Crest Net had invested \$22.2 million in a portfolio of 13 retail properties located in seven states. These properties are classified as held for sale on our consolidated balance sheet.

At June 30, 2005, 1,549, or 97.9%, of our 1,582 retail properties were owned under net-lease agreements. Net leases typically require the tenant to be responsible for minimum monthly rent and property operating expenses including property taxes, insurance and maintenance. In addition, tenants are typically responsible for future rent increases (generally subject to ceilings) based on increases in the consumer price index, fixed increases or, to a lesser degree, additional rent calculated as a percentage of the tenants' gross sales above a specified level.

Our net-leased retail properties primarily are leased to regional and national retail chain store operators. Most buildings are single-story structures with adequate parking on site to accommodate peak retail traffic periods. The properties tend to be on major thoroughfares with relatively high traffic counts, adequate access and proximity to a sufficient population base to constitute a suitable market or trade area for the retailer's business.

### **Environmental Liabilities**

Effective in June 2005, we entered into a new seven-year environmental insurance policy on our property portfolio replacing the previous five-year environmental insurance policy. The limits on our new policy are \$10 million per occurrence, and \$50 million in the aggregate, subject to a \$40,000 self insurance retention, per occurrence, for properties with underground storage tanks and a \$100,000 self insurance retention, per occurrence, for all other properties. It is possible that our insurance could be insufficient to address any particular environmental situation and that, in the future, we could be unable to obtain insurance for environmental matters at a reasonable cost, or at all.

The following table sets forth certain information regarding our properties classified according to the business of the respective tenants, expressed as a percentage of our total rental revenue:

30 Industries	Percentage of Rental Revenue <sup>(1)</sup>						
	For the Quarter Ended June 30,	For the Years Ended December 31,					
		2005	2004	2003	2002	2001	2000
Apparel stores	1.6%	1.8%	2.1%	2.3%	2.4%	2.4%	3.8%
Automotive collision services	1.3	1.0	0.3	—	—	—	—
Automotive parts	3.4	3.8	4.5	4.9	5.7	6.0	6.3
Automotive service	7.8	7.7	8.3	7.0	5.7	5.8	6.6
Automotive tire services	7.3	7.8	3.1	2.7	2.6	2.3	2.3
Book stores	0.3	0.3	0.4	0.4	0.4	0.5	0.5
Business services	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Child care	13.2	14.4	17.8	20.8	23.9	24.7	25.3
Consumer electronics	1.4	2.1	3.0	3.3	4.0	4.9	4.4
Convenience stores	18.8	19.2	13.3	9.1	8.4	8.4	7.2
Crafts and novelties	0.4	0.5	0.6	0.4	0.4	0.4	0.4
Drug stores	3.3	0.1	0.2	0.2	0.2	0.2	0.2
Entertainment	2.2	2.3	2.6	2.3	1.8	2.0	1.2
Equipment rental services	0.3	0.3	0.2	—	—	—	—
Financial services	0.1	0.1	—	—	—	—	—
General merchandise	0.4	0.4	0.5	0.5	0.6	0.6	0.6
Grocery stores	0.7	0.8	0.4	0.5	0.6	0.6	0.5
Health and fitness	3.8	4.0	3.8	3.8	3.6	2.4	0.6
Home furnishings	4.0	4.1	4.9	5.4	6.0	5.8	6.5
Home improvement	1.1	1.0	1.1	1.2	1.3	2.0	3.6
Motor vehicle dealerships	2.6	0.6	—	—	—	—	—
Office supplies	1.5	1.6	1.9	2.1	2.2	2.3	2.6
Pet supplies and services	1.4	1.4	1.7	1.7	1.6	1.5	1.1
Private education	0.8	1.1	1.2	1.3	1.5	1.4	1.2
Restaurants	9.1	9.7	11.8	13.5	12.2	12.3	13.3
Shoe stores	0.1	0.3	0.9	0.8	0.7	0.8	1.1
Sporting goods	3.6	3.4	3.8	4.1	0.9	—	—
Theaters	3.2	3.5	4.1	3.9	4.3	2.7	0.6
Travel plazas	0.4	0.4	0.3	—	—	—	—
Video rental	2.6	2.8	3.3	3.3	3.7	3.9	4.3
Other	3.2	3.4	3.8	4.4	5.2	6.0	5.7
Totals	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

(1) Includes rental revenue for all properties owned by Realty Income at the end of each period presented (including revenue from properties reclassified to discontinued operations) and excludes properties owned by our subsidiary, Crest Net.

The following table sets forth certain information regarding the properties owned by Realty Income at June 30, 2005, classified according to the retail business types and the level of services they provide (dollars in thousands):

Industry	Number of Properties <sup>(1)</sup>	Rental Revenue for the Quarter Ended June 30, 2005 <sup>(2)</sup>	Percentage of Rental Revenue
<b>Tenants Providing Services</b>			
Automotive collision services	11	\$ 610	1.3%
Automotive service	219	3,718	7.8
Child care	273	6,260	13.2
Entertainment	9	1,020	2.2
Equipment rental services	2	150	0.3
Financial services	3	53	0.1
Health and fitness	13	1,798	3.8
Private education	5	376	0.8
Theaters	12	1,529	3.2
Other	10	1,508	3.2
	<b>557</b>	<b>17,022</b>	<b>35.9</b>
<b>Tenants Selling Goods and Services</b>			
Automotive parts (with installation)	30	583	1.2
Automotive tire services	102	3,472	7.3
Business services	1	32	0.1
Convenience stores	386	8,930	18.8
Home improvement	2	52	0.1
Motor vehicle dealerships	13	1,220	2.6
Pet supplies and services	9	607	1.3
Restaurants	211	4,296	9.1
Travel plazas	1	167	0.4
Video rental	34	1,235	2.6
	<b>789</b>	<b>20,594</b>	<b>43.5</b>
<b>Tenants Selling Goods</b>			
Apparel stores	5	775	1.6
Automotive parts	74	1,041	2.2
Book stores	2	154	0.3
Consumer electronics	24	644	1.4
Crafts and novelties	4	212	0.4
Drug stores	29	1,540	3.3
General merchandise	11	172	0.4
Grocery stores	6	347	0.7
Home furnishings	38	1,917	4.0
Home improvement	16	489	1.0
Office supplies	9	716	1.5
Pet supplies	2	37	0.1
Shoe stores	3	51	0.1
Sporting goods	13	1,687	3.6
	<b>236</b>	<b>9,782</b>	<b>20.6</b>
<b>Totals</b>	<b>1,582</b>	<b>\$ 47,398</b>	<b>100.0%</b>

(1) Excludes properties owned by our subsidiary, Crest Net.

(2) Includes rental revenue for all properties owned by Realty Income at June 30, 2005 (including revenue from properties reclassified to discontinued operations of \$60).

The following table sets forth certain information regarding the timing of the initial lease term expirations (excluding extension options) on our 1,549 net leased, single-tenant retail properties as of June 30, 2005 (dollars in thousands):

Year	Total Portfolio			Initial Expirations (3)			Subsequent Expirations (4)		
	Total Number of Leases Expiring (1)	Rental Revenue for the Quarter Ended 6/30/05 (2)	% of Rental Revenue	Number of Leases Expiring	Rental Revenue for the Quarter Ended 6/30/05	% of Total Rental Revenue	Number of Leases Expiring	Rental Revenue for the Quarter Ended 6/30/05	% of Total Rental Revenue
2005	65	\$ 1,277	2.8%	49	\$ 1,023	2.2%	16	\$ 254	0.6%
2006	84	1,828	4.0	31	714	1.6	53	1,114	2.4
2007	123	2,175	4.8	87	1,539	3.4	36	636	1.4
2008	99	2,093	4.6	60	1,418	3.1	39	675	1.5
2009	90	1,929	4.2	30	684	1.5	60	1,245	2.7
2010	53	1,198	2.6	37	909	2.0	16	289	0.6
2011	41	1,438	3.1	33	1,239	2.7	8	199	0.4
2012	44	1,375	3.0	42	1,324	2.9	2	51	0.1
2013	74	3,357	7.3	66	3,145	6.8	8	212	0.5
2014	48	2,018	4.4	36	1,781	3.9	12	237	0.5
2015	46	1,248	2.7	29	820	1.8	17	428	0.9
2016	17	505	1.1	15	423	0.9	2	82	0.2
2017	22	1,482	3.2	18	1,415	3.1	4	67	0.1
2018	23	1,028	2.2	23	1,028	2.2	—	—	—
2019	95	4,487	9.8	94	4,294	9.4	1	193	0.4
2020	67	2,128	4.6	66	2,117	4.6	1	11	*
2021	125	4,082	8.9	125	4,082	8.9	—	—	—
2022	96	2,596	5.7	95	2,582	5.7	1	14	*
2023	234	6,423	14.0	233	6,398	13.9	1	25	0.1
2024	58	1,704	3.7	58	1,704	3.7	—	—	—
2025	33	475	1.0	33	475	1.0	—	—	—
2026	2	93	0.2	2	93	0.2	—	—	—
2028	2	54	0.1	2	54	0.1	—	—	—
2033	3	357	0.8	3	357	0.8	—	—	—
2034	2	230	0.5	2	230	0.5	—	—	—
2037	2	325	0.7	2	325	0.7	—	—	—
2043	1	13	*	—	—	—	1	13	*
Totals	1,549	\$ 45,918	100.0%	1,271	\$ 40,173	87.6 %	278	\$ 5,745	12.4%

\*Less than 0.1%

- (1) Excludes four multi-tenant properties, 29 vacant and unleased properties, one of which is a multi-tenant property, and properties owned by our subsidiary, Crest Net. The lease expirations for properties under construction are based on the estimated date of completion of those properties.
- (2) Includes rental revenue of \$60 from properties reclassified to discontinued operations and excludes revenue of \$1,480 from four multi-tenant properties and from 29 vacant and unleased properties at June 30, 2005.
- (3) Represents leases that are expiring for the first time to the initial tenant of the property.
- (4) Represents lease expirations on properties in the portfolio, which have previously been renewed, extended or re-tenanted.

The following table sets forth certain state-by-state information regarding Realty Income's property portfolio as of June 30, 2005 (dollars in thousands):

State	Number of Properties <sup>(1)</sup>	Percent Leased	Approximate Leasable Square Feet <sup>(1)</sup>	Rental Revenue For the Quarter Ended June 30, 2005 <sup>(2)</sup>	Percentage of Rental Revenue
Alabama	18	94%	156,600	\$ 427	0.9%
Alaska	2	100	128,500	251	0.5
Arizona	71	99	338,100	1,890	4.0
Arkansas	8	88	48,800	139	0.3
California	61	100	1,057,100	3,967	8.4
Colorado	48	98	399,100	1,686	3.6
Connecticut	16	100	245,600	927	2.0
Delaware	16	100	29,100	338	0.7
Florida	126	98	1,253,400	4,847	10.2
Georgia	99	99	645,100	2,455	5.2
Idaho	14	100	91,900	369	0.8
Illinois	45	100	395,700	1,486	3.1
Indiana	26	92	147,700	498	1.1
Iowa	9	89	57,000	144	0.3
Kansas	20	90	188,300	510	1.1
Kentucky	12	100	41,200	262	0.6
Louisiana	14	100	65,200	294	0.6
Maryland	24	100	207,600	1,139	2.4
Massachusetts	37	100	203,100	997	2.1
Michigan	13	100	81,600	299	0.6
Minnesota	18	100	211,600	538	1.1
Mississippi	33	88	194,400	309	0.6
Missouri	32	97	222,900	707	1.5
Montana	2	100	30,000	74	0.2
Nebraska	13	100	104,500	473	1.0
Nevada	15	100	191,000	823	1.7
New Hampshire	10	100	89,600	369	0.8
New Jersey	26	100	200,100	1,062	2.2
New Mexico	7	100	53,300	109	0.2
New York	27	100	339,600	1,664	3.5
North Carolina	50	98	325,000	1,397	2.9
North Dakota	1	100	22,000	16	*
Ohio	105	100	661,500	2,476	5.2
Oklahoma	17	100	94,300	358	0.8
Oregon	17	100	253,300	534	1.1
Pennsylvania	81	100	481,300	2,271	4.8
Rhode Island	1	100	3,500	29	0.1
South Carolina	55	100	215,600	1,414	3.0
South Dakota	1	100	6,500	24	*
Tennessee	97	99	459,500	2,183	4.6
Texas	175	97	1,653,000	4,291	9.1
Utah	6	100	35,100	142	0.3
Vermont	1	100	2,500	22	*
Virginia	55	100	410,800	2,073	4.4
Washington	37	100	243,900	694	1.5
West Virginia	2	0	16,800	8	*
Wisconsin	16	88	153,700	360	0.8
Wyoming	3	100	14,900	53	0.1
Totals/Average	1,582	98%	12,470,900	\$ 47,398	100.0%

\* Less than 0.1%

(1) Excludes properties owned by our subsidiary, Crest Net.

(2) Includes rental revenue for all properties owned by Realty Income at June 30, 2005 (including revenue from properties reclassified to discontinued operations of \$60).

## IMPACT OF INFLATION

Tenant leases generally provide for limited increases in rent as a result of increases in the tenants' sales volumes, increases in the consumer price index, and/or fixed increases. We expect that inflation will cause these lease provisions to result in rent increases over time. During times when inflation is greater than increases in rent, as provided for in the leases, rent increases may not keep up with the rate of inflation.

Approximately 97.9%, or 1,549, of the 1,582 properties in the portfolio are leased to tenants under net leases where the tenant is responsible for property costs and expenses. Net leases tend to reduce our exposure to rising property expenses due to inflation. Inflation and increased costs may have an adverse impact on our tenants if increases in their operating expenses exceed increases in revenue.

## IMPACT OF RECENT ACCOUNTING PRONOUNCEMENTS

In December 2004, the FASB issued Statement No. 123R, *Share-Based Payments*. Statement No. 123R requires companies to recognize in the income statement the grant-date fair value of stock options and other equity-based compensation issued to employees. We are required to adopt Statement No. 123R effective January 1, 2006. The impact of adopting Statement No. 123R is not expected to have a material effect on our financial position or results of operations.

## OTHER INFORMATION

At July 27, 2005, we had 68 permanent employees and seven temporary employees.

Realty Income's common stock is listed on the NYSE under the ticker symbol "O", our central index key, or CIK, number is 726728 and cusip number is 756109-104.

Realty Income's 7.375% Class D cumulative redeemable preferred stock is listed on the NYSE under the ticker symbol "OprD" and its cusip number is 756109-609.

Realty Income's 8.25% Monthly Income Senior Notes, due 2008, are listed on the NYSE under the ticker symbol "OUI". The cusip number of these notes is 756109-203.

We maintain an Internet website at [www.realtyincome.com](http://www.realtyincome.com). On our website we make available, free of charge, copies of our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports, as soon as reasonably practicable after we electronically file these reports with the SEC. None of the information on our website is deemed to be a part of this report.

### **Item 3. Quantitative and Qualitative Disclosures about Market Risk**

We are exposed to interest rate changes primarily as a result of our credit facility and long-term notes used to maintain liquidity and expand our real estate investment portfolio and operations. Our interest rate risk management objective is to limit the impact of interest rate changes on earnings and cash flow and to lower our overall borrowing costs. To achieve these objectives we issue long-term notes, primarily at fixed rates, and may selectively enter into derivative financial instruments, such as interest rate lock agreements, interest rate swaps and caps in order to mitigate our interest rate risk on a related financial

instrument. We were not a party to any derivative financial instruments at June 30, 2005. We do not enter into any transactions for speculative or trading purposes.

Our interest rate risk is monitored using a variety of techniques. The following table presents the principal amounts, weighted average interest rates, fair values and other terms required by year of expected maturity to evaluate the expected cash flows and sensitivity to interest rate changes at June 30, 2005 (dollars in millions):

#### Expected Maturity Data

	2005	2007	2008	2009	Thereafter	Total	Fair Value <sup>(6)</sup>
Fixed rate debt	—	\$110.0 <sup>(2)</sup>	\$100.0 <sup>(3)</sup>	\$20.0 <sup>(4)</sup>	\$350.0 <sup>(5)</sup>	\$580.0	\$595.0
Average interest rate		7.8%	8.3%	8.0%	5.6%	6.5%	
Variable rate debt	\$54.8 <sup>(1)</sup>	—	—	—	—	\$54.8	\$54.8
Average interest rate	4.2%					4.2%	

(1) The credit facility expires in October 2005. The credit facility balance as of July 27, 2005 was \$61.2 million.

(2) \$110 million matures in May 2007.

(3) \$100 million matures in November 2008.

(4) \$20 million matures in January 2009.

(5) \$100 million matures in March 2013, \$150 million matures in November 2015 and \$100 million matures in March 2035.

(6) We base the fair value of the fixed rate debt on the closing market price or indicative price per each note as of the end of the quarter. The fair value of the variable rate debt approximates its carrying value because its terms are similar to those available in the market place.

The table incorporates only those exposures that exist as of June 30, 2005; it does not consider those exposures or positions that could arise after that date. As a result, our ultimate realized gain or loss, with respect to interest rate fluctuations, would depend on the exposures that arise during the period, our hedging strategies at the time, and interest rates.

#### Item 4. Controls and Procedures

##### **Evaluation of Disclosure Controls and Procedure**

We maintain disclosure controls and procedures (as defined in Securities Exchange Act 1934 Rules 13a-14(c) and 15d-14(c)) that are designed to ensure that information required to be disclosed in our Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

As required of and for the quarter ended June 30, 2005, we carried out an evaluation, under the supervision and with the participation of management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures. Based on the foregoing, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective and were operating at a reasonable assurance level.



## Changes in Internal Controls

There have not been any significant changes in our internal controls or in other factors that could significantly affect these controls subsequent to the date of their evaluation. There were no material weaknesses, and therefore no corrective actions were taken.

## Limitations on the Effectiveness of Controls

Internal control over financial reporting cannot provide absolute assurance of achieving financial reporting objectives because of its inherent limitations. Internal control over financial reporting is a process that involves human diligence and compliance and is subject to lapses in judgment and breakdowns resulting from human failures. Internal control over financial reporting also can be circumvented by collusion or improper management override. Because of such limitations, there is a risk that material misstatements may not be prevented or detected on a timely basis by internal control over financial reporting. However, these inherent limitations are known features of the financial reporting process. Therefore, it is possible to design into the process safeguards to reduce, though not eliminate, this risk.

## PART II. OTHER INFORMATION

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

Our annual meeting of stockholders was held on May 10, 2005. As of March 4, 2005, the record date for the annual meeting, there were 79,582,705 common shares issued and outstanding and entitled to vote at the annual meeting. Proxies for the meeting were solicited pursuant to Section 14(a) of the Securities Exchange Act of 1934.

Three proposals were considered at the annual meeting.

- Proposal 1. An amendment to our charter to increase the total number of shares of common stock that we have the authority to issue from 100 million to 200 million shares.
- Proposal 2. An amendment to our charter to declassify our Board of Directors.
- Proposal 3. If proposal 2 is approved, the election of seven directors, to serve until the 2006 annual meeting of stockholders and until their respective successors are duly elected and qualify.

	<u>Number of Shares voted for</u>	<u>Number of shares against</u>	<u>Number of shares abstained</u>
Proposal 1.	63,598,076	5,195,706	778,039
Proposal 2.	67,273,409	1,225,161	1,073,251

Proposal 3. Proposal 2 was approved and the following directors were elected.

	<u>Shares Voted For</u>
Kathleen R. Allen	69,034,817
Donald R. Cameron	69,033,200
William E. Clark	69,009,927
Roger P. Kuppinger	68,831,873
Thomas A. Lewis	69,043,052
Michael D. McKee	69,043,171
Willard H. Smith Jr.	69,012,382

**Item 6. Exhibits And Reports On Form 8-K**

**A. Exhibits:**

<u>Exhibit No.</u>	<u>Description</u>
<b><u>Articles of Incorporation and By-Laws</u></b>	
* 3.1	Articles of Incorporation of the Company, as amended by amendment No. 1 dated May 10, 2005 and No. 2. dated May 10, 2005.
* 3.2	Bylaws of the Company, as amended by amendment No. 1 dated March 20, 2000 and No. 2 dated June 15, 2005.
3.3	Articles Supplementary of the Class A Junior Participating Preferred Stock of Realty Income Corporation (filed as exhibit A of exhibit 1 to Realty Income's registration statement on Form 8-A, dated June 26, 1998, and incorporated herein by reference).
3.4	Articles Supplementary to the Articles of Incorporation of Realty Income Corporation classifying and designating the Class D Preferred Stock (filed as exhibit 3.8 to the Company's Form 8-A filed on May 25, 2004 and incorporated herein by reference).
3.5	Articles Supplementary to the Articles of Incorporation of Realty Income Corporation classifying and designating the Class D Preferred Stock (filed as exhibit 3.1 to the Company's Form 8-K filed on October 19, 2004 and incorporated herein by reference).

**Instruments defining the rights of security holders, including indentures**

4.1	Pricing Committee Resolutions and Form of 7.75% Notes due 2007 (filed as Exhibit 4.2 to the Company's Form 8-K dated May 5, 1997 and incorporated herein by reference).
4.2	Indenture dated as of May 6, 1997 between the Company and The Bank of New York (filed as Exhibit 4.1 to the Company's Form 8-K dated May 5, 1997 and incorporated herein by reference).
4.3	First Supplemental Indenture dated as of May 28, 1997, between the Company and The Bank of New York (filed as Exhibit 4.3 to the Company's Form 8-B and incorporated herein by reference).
4.4	Rights Agreement, dated as of June 25, 1998, between Realty Income Corporation and The Bank of New York (filed as an exhibit 1 to the Company's registration statement on Form 8-A, dated June 26, 1998, and incorporated herein by reference).
4.5	Pricing Committee Resolutions (filed as an exhibit 4.2 to the Company's Form 8-K, dated October 27, 1998 and incorporated herein by reference).
4.6	Form of 8.25% Notes due 2008 (filed as exhibit 4.3 to the Company's Form 8-K, dated October 27, 1998 and incorporated herein by reference).
4.7	Indenture dated as of October 28, 1998 between Realty Income and The Bank of New York (filed as exhibit 4.1 to Realty Income's Form 8-K, dated October 27, 1998 and incorporated herein by reference).

- 4.8 Pricing Committee Resolutions and Form of 8% Notes due 2009 (filed as exhibit 4.2 to Realty Income's Form 8-K, dated January 21, 1999 and incorporated herein by reference).
- 4.9 Form of 5-3/8% Senior Notes due 2013 (filed as exhibit 4.2 to Realty Income's Form 8-K, dated March 5, 2003 and incorporated herein by reference).
- 4.10 Officer's Certificate pursuant to sections 201, 301 and 303 of the Indenture dated October 28, 1998 between the Company and The Bank of New York, as Trustee, establishing a series of securities entitled 5-3/8% Senior Notes due 2013 (filed as exhibit 4.3 to Realty Income's Form 8-K, dated March 5, 2003 and incorporated herein by reference).
- 4.11 Form of 5-1/2% Senior Notes due 2015 (filed as exhibit 4.2 to the Company's Form 8-K, dated November 19, 2003 and incorporated herein by reference).
- 4.12 Officer's Certificate pursuant to sections 201, 301 and 303 of the Indenture dated October 28, 1998 between the Company and The Bank of New York, as Trustee, establishing a series of securities entitled 5-1/2% Senior Notes due 2015 (filed as exhibit 4.3 to the Company's Form 8-K, dated November 19, 2003 and incorporated herein by reference).
- 4.13 Amendment No. 1 to Rights Agreement between Realty Income Corporation and The Bank of New York, dated February 25, 2005 (filed as exhibit 4.1 to the Company's Form 8-K, dated February 25, 2005 and incorporated herein by reference).
- 4.14 Form of 5-7/8% Senior Notes due 2035 (filed as exhibit 4.2 to the Company's Form 8-K, dated March 8, 2005 and incorporated herein by reference).
- 4.15 Officer's Certificate pursuant to section 301 of the Indenture dated October 28, 1998 between the Company and The Bank of New York, as Trustee, establishing a series of securities entitled 5-7/8% Senior Debentures due 2035 (filed as exhibit 4.3 to the Company's Form 8-K, dated March 8, 2005 and incorporated herein by reference).

#### **Material Contracts**

- 10.1 \$300 million Credit Agreement dated June 17, 2005 (filed as exhibit 10.1 to the Company's Form 8-K filed on June 20, 2005 and incorporated herein by reference).

#### **Certifications**

- \* 31.1 Section 302 Certifications as filed by the Chief Executive Officer pursuant to SEC release No. 33-8212 and 34-47551.
- \* 31.2 Section 302 Certifications as filed by the Chief Financial Officer pursuant to SEC release No. 33-8212 and 34-47551.
- \* 32 Section 906 Certifications as furnished by the Chief Executive Officer and the Chief Financial Officer pursuant to SEC release No. 33-8212 and 34-47551.

\* Filed herewith

B. Four reports on Form 8-K were filed by the registrant during the quarter for which this report is filed.

A Form 8-K dated April 27, 2005, was filed on April 27, 2005, furnishing our earnings press release for the quarter ended March 31, 2005.

A Form 8-K dated May 10, 2005, was filed on May 11, 2005, reporting two Articles of Amendment, one to declassify the Board of Directors and a second to increase the number of authorized shares of common stock to \$200,000,000.

A Form 8-K dated June 15, 2005, was filed on June 16, 2005, reporting that Ronald L. Merriman has been appointed to our Board of Directors effective July 13, 2005. The Form 8-K also reported an amendment to our Bylaws establishing the term of office for the Directors on our board of Directors to be until the next annual meeting of the stockholders and until his or her successor is elected and qualifies or until his or her death, retirement, resignation or removal.

A Form 8-K dated June 17, 2005, was filed on June 20, 2005, reporting that on we entered into a \$300 million credit agreement. The terms of the credit agreement will begin on October 28, 2005, upon the termination of our existing \$250 million revolving credit facility.

#### SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

REALTY INCOME CORPORATION

/s/ GREGORY J. FAHEY

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Gregory J. Fahey  
Vice President, Controller  
(Principal Accounting Officer)

Date: August 2, 2005

REALTY INCOME OF MARYLAND, INC.

## ARTICLES OF INCORPORATION

ARTICLE I  
INCORPORATOR

The undersigned, James J. Hanks, Jr., whose address is c/o Ballard Spahr Andrews & Ingersoll, 300 East Lombard Street, Baltimore, Maryland 21202, being at least 18 years of age, does hereby form a corporation under the general laws of the State of Maryland.

ARTICLE II  
NAME

The name of the corporation (the "Corporation") is:

Realty Income of Maryland, Inc.

ARTICLE III  
PURPOSE

The purposes for which the Corporation is formed are to engage in any lawful act or activity (including, without limitation or obligation, engaging in business as a real estate investment trust under the Internal Revenue Code of 1986, as amended, or any successor statute (the "Code")) for which corporations may be organized under the general laws of the State of Maryland as now or hereafter in force. For purposes of these Articles, "REIT" means a real estate investment trust under Sections 856 through 860 of the Code.

ARTICLE IV  
PRINCIPAL OFFICE IN STATE AND RESIDENT AGENT

The address of the principal office of the Corporation in the State of Maryland is c/o Ballard Spahr Andrews & Ingersoll, 300 East Lombard Street, Baltimore, Maryland 21202, Attention: James J. Hanks, Jr. The name of the resident agent of the Corporation in the State of Maryland is James J. Hanks, Jr., whose post address is c/o Ballard Spahr Andrews & Ingersoll, 300 East Lombard Street, Baltimore, Maryland 21202. The resident agent is a citizen of and resides in the State of Maryland.

ARTICLE V  
PROVISIONS FOR DEFINING, LIMITING  
AND REGULATING CERTAIN POWERS OF THE  
CORPORATION AND OF THE STOCKHOLDERS AND DIRECTORS

Section 5.1 NUMBER AND CLASSIFICATION OF DIRECTORS. The business and affairs of the Corporation shall be managed under the direction of the Board of Directors. The number of directors of the Corporation initially shall be 7, which number may be increased or decreased pursuant to the Bylaws, but shall never be less than the minimum number required by the Maryland General Corporation Law. The names of the directors who shall serve until the annual meeting of stockholders held in the year adjacent to their names below, and until their successors are duly elected and qualify are:

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William E. Clark	2000
Thomas A. Lewis	2000
Richard J. VanDerhoff	2000
Donald R. Cameron	1999
Willard H. Smith Jr	1999
Roger P. Kuppinger	1998
Michael D. McKee	1998

These directors may increase the number of directors and may fill any vacancy, whether resulting from an increase in the number of directors or otherwise, on the Board of Directors prior to the first annual meeting of stockholders in the manner provided in the Bylaws.

The Corporation's Board of Directors (other than any director elected solely by holders of one or more series of Preferred Stock) is divided into three classes of directors, as nearly equal in number as possible, one class to hold office initially for a term expiring at the next succeeding annual meeting of stockholders, another class to hold office initially for a term expiring at the second succeeding annual meeting of stockholders and another class to hold office initially for a term expiring at the third succeeding annual meeting of stockholders, with the members of each class to hold office until their successors are duly elected and qualify. At each annual meeting of the stockholders, the successors to the class of directors whose term expires at such meeting shall be elected to hold office for a term expiring at the annual meeting of stockholders held in the third year following the year of their election.

**Section 5.2 EXTRAORDINARY ACTIONS.** Except as specifically provided in Article VIII, notwithstanding any provision of law permitting or requiring any action to be taken or authorized by the affirmative vote of the holders of a greater number of votes, any such action shall be effective and valid if taken or authorized by the affirmative vote of holders of shares entitled to cast a majority of all the votes entitled to be cast on the matter.

**Section 5.3 AUTHORIZATION BY BOARD OF STOCK ISSUANCE.** The Board of Directors may authorize the issuance from time to time of shares of stock of the Corporation of any class or series, whether now or hereafter authorized, or securities or rights convertible into shares of its stock of any class or series, whether now or hereafter authorized, for such consideration as the Board of Directors may deem advisable (or without consideration in the case of a stock split or stock dividend), subject to such restrictions or limitations, if any, as may be set forth in the Charter or the Bylaws.

**Section 5.4 PREEMPTIVE RIGHTS.** Except as may be provided by the Board of Directors in setting the terms of classified or reclassified shares of stock pursuant to Section 6.4, no holder of shares of stock of the Corporation shall, as such holder, have any preemptive right to purchase or subscribe for any additional shares of stock of the Corporation or any other security of the Corporation which it may issue or sell unless the Corporation agrees to grant such holder preemptive rights pursuant to a written contract.

**Section 5.5 INDEMNIFICATION.** The Corporation shall have the power, to the maximum extent permitted by Maryland law in effect from time to time, to obligate itself to indemnify, and to pay or reimburse reasonable expenses in advance of final disposition of a proceeding to, (a) any individual who is a present or former director or officer of the Corporation who is made a party to a proceeding by reason of his service in that capacity or (b) any individual who, while a director of the Corporation and at the request of the Corporation, serves or has served as a director, officer, partner or trustee of another corporation, partnership, joint venture, trust, employee benefit plan or any other enterprise from and against any claim or liability to which such person may become subject or which such person may incur by reason of his status as a present or former director or officer of

the Corporation. The Corporation shall have the power, with the approval of the Board of Directors, to provide such indemnification and advancement of expenses to a person who served a predecessor of the Corporation in any of the capacities described in (a) or (b) above and to any employee or agent of the Corporation or a predecessor of the Corporation. Neither the amendment nor repeal of this Section 5.5, nor the adoption or amendment of any other provision of the Bylaws or Charter of the Corporation inconsistent with this Section 5.5, shall apply to or affect in any respect the applicability of the foregoing with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

Section 5.6 DETERMINATIONS BY BOARD. The determination as to any of the following matters, made in good faith by or pursuant to the direction of the Board of Directors consistent with the Charter and in the absence of actual receipt of an improper benefit in money, property or services or active and deliberate dishonesty established by a court, shall be final and conclusive and shall be binding upon the Corporation and every holder of shares of its stock: the amount of the net income of the Corporation for any period and the amount of assets at any time legally available for the payment of dividends, redemption of its stock or the payment of other distributions on its stock; the amount of paid-in surplus, net assets, other surplus, annual or other net profit, net assets in excess of capital, undivided profits or excess of profits over losses on sales of assets; the amount, purpose, time of creation, increase or decrease, alteration or cancellation of any reserves or charges and the propriety thereof (whether or not any obligation or liability for which such reserves or charges shall have been created shall have been paid or discharged); the fair value, or any sale, bid or asked price to be applied in determining the fair value, of any asset owned or held by the Corporation; and any matters relating to the acquisition, holding and disposition of any assets by the Corporation.

Section 5.7 REIT QUALIFICATION. The Board of Directors shall use its reasonable best efforts to take such actions as are necessary or appropriate to preserve the status of the Corporation as a REIT; however, if the Board of Directors determines that it is no longer in the best interests of the Corporation to qualify or continue to be qualified as a REIT and such determination is approved by the affirmative vote of the holders of not less than two-thirds of all votes entitled to be cast on this matter, the Board of Directors may revoke or otherwise terminate the Corporation's REIT election pursuant to Section 856(g) of the Code. The Board of Directors also may determine that compliance with any restriction or limitation on stock ownership and transfers set forth in Article VII is no longer required for REIT qualification.

Section 5.8 REMOVAL OF DIRECTORS. Subject to the rights of one or more classes or series of Preferred Stock to elect or remove one or more directors, any director, or the entire Board of Directors, may be removed from office at any time, but only for cause, by the affirmative vote of the holders of a majority of the outstanding shares entitled to vote, voting as a class, in the election of directors. For the purpose of this paragraph, "cause" shall mean with respect to any particular director a final judgment of a court of competent jurisdiction holding that such director caused demonstrable, material harm to the Corporation through bad faith or active and deliberate dishonesty.

Section 5.9 ADVISOR AGREEMENTS. Subject to such approval of stockholders and other conditions, if any, as may be required by any applicable statute, rule or regulation, the Board of Directors may authorize the execution and performance by the Corporation of one or more agreements with any person, corporation, association, company, trust, partnership (limited or general) or other organization whereby, subject to the supervision and control of the Board of Directors, any such other person, corporation, association, company, trust, partnership (limited or general) or other organization shall render or make available to the Corporation managerial, investment, advisory and/or related services, office space and other services and facilities (including, if deemed advisable by the Board of

Directors, the management or supervision of the investments of the Corporation) upon such terms and conditions as may be provided in such agreement or agreements (including, if deemed fair and equitable by the Board of Directors, the compensation payable thereunder by the Corporation).

## ARTICLE VI STOCK

Section 6.1 AUTHORIZED SHARES. The Corporation has authority to issue 100,000,000 shares of Common Stock, \$1.00 par value per share ("Common Stock"), and 20,000,000 shares of Preferred Stock, \$1.00 par value per share ("Preferred Stock"). The aggregate par value of all authorized shares of stock having par value is \$120,000,000.

Section 6.2 COMMON STOCK. Subject to the provisions of Article VII, each share of Common Stock shall entitle the holder thereof to one vote. The Board of Directors may reclassify any unissued shares of Common Stock from time to time in one or more classes or series of stock.

Section 6.3 PREFERRED STOCK. The Board of Directors may classify any unissued shares of Preferred Stock and reclassify any previously classified but unissued shares of Preferred Stock of any series from time to time, in one or more series of stock.

Section 6.4 CLASSIFIED OR RECLASSIFIED SHARES. Prior to issuance of classified or reclassified shares of any class or series, the Board of Directors by resolution shall: (a) designate that class or series to distinguish it from all other classes and series of stock of the Corporation; (b) specify the number of shares to be included in the class or series; (c) set or change, subject to the provisions of Article VII and subject to the express terms of any class or series of stock of the Corporation outstanding at the time, the preferences, conversion or other rights, voting powers, restrictions, limitations as to transferability, dividends or other distributions, qualifications and terms and conditions of redemption for each class or series; and (d) cause the Corporation to file articles supplementary with the State Department of Assessments and Taxation of Maryland ("SDAT"). Any of the terms of any class or series of stock set or changed pursuant to clause (c) of this Section 6.4 may be made dependent upon facts or events ascertainable outside the Charter (including determinations by the Board of Directors or other facts or events within the control of the Corporation) and may vary among holders thereof, provided that the manner in which such facts, events or variations shall operate upon the terms of such class or series of stock is clearly and expressly set forth in the articles supplementary filed with the SDAT.

Section 6.5 CHARTER AND BYLAWS. All persons who shall acquire stock in the Corporation shall acquire the same subject to the provisions of the Charter and the Bylaws.

## ARTICLE VII RESTRICTIONS ON OWNERSHIP AND TRANSFER TO PRESERVE TAX BENEFIT

Section 7.1 DEFINITIONS. For the purposes of this Article VII, the following terms shall have the following meanings:

"BENEFICIAL OWNERSHIP" shall mean ownership of Common Shares by a Person who is or would be treated as an owner of such Common Shares either actually or constructively through the application of Section 544 of the Code, as modified by Section 856(h)(1)(B) of the Code. The terms "Beneficial Owner," "Beneficially Own," "Beneficially Owns" and "Beneficially Owned" shall have the correlative meanings.

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“CHARITABLE BENEFICIARY” shall mean one or more beneficiaries of the Trust as determined pursuant to Section 7.3(f) of this Article VII.

“CODE” shall mean the Internal Revenue Code of 1986, as amended from time to time, or any successor statute.

“COMMON SHARES” shall mean shares of the Corporation’s Common Stock.

“CONSTRUCTIVE OWNERSHIP” shall mean ownership of Common Shares by a Person who is or would be treated as an owner of such Common Shares either actually or constructively through the application of Section 318 of the Code, as modified by Section 856(d)(5) of the Code. The terms “Constructive Owner,” “Constructively Own,” “Constructively Owns” and “Constructively Owned” shall have the correlative meanings.

“IRS” means the United States Internal Revenue Service.

“MARKET PRICE” shall mean the last reported sales price reported on the New York Stock Exchange of the Common Shares on the trading day immediately preceding the relevant date, or if the Common Shares are not then traded on the New York Stock Exchange, the last reported sales price of the Common Shares on the trading day immediately preceding the relevant date as reported on any exchange or quotation system over which the Common Shares may be traded, or if the Common Shares are not then traded over any exchange or quotation system, then the market price of the Common Shares on the relevant date as determined in good faith by the Board of Directors of the Corporation.

“OWNERSHIP LIMIT” shall mean 9.8% (by value or by number of shares, whichever is more restrictive) of the outstanding Common Shares of the Corporation.

“PERSON” shall mean an individual, corporation, partnership, limited liability company, estate, trust (including a trust qualified under Section 401(a) or 501(c)(17) of the Code), a portion of a trust permanently set aside for or to be used exclusively for the purposes described in Section 642(c) of the Code, association, private foundation within the meaning of Section 509(a) of the Code, joint stock company or other entity; but does not include an underwriter acting in a capacity as such in a public offering of the Common Shares provided that the ownership of Common Shares by such underwriter would not result in the Corporation being “closely held” within the meaning of Section 856(h) of the Code, or otherwise result in the Corporation failing to qualify as a REIT.

“PURPORTED BENEFICIAL TRANSFEREE” shall mean, with respect to any purported Transfer which results in a transfer to a Trust, as provided in Section 7.2(b) of this Article VII, the purported beneficial transferee or owner for whom the Purported Record Transferee would have acquired or owned Common Shares, if such Transfer had been valid under Section 7.2(a) of this Article VII.

“PURPORTED RECORD TRANSFEREE” shall mean, with respect to any purported Transfer which results in a transfer to a Trust, as provided in Section 7.2(b) of this Article VII, the record holder of the Common Shares if such Transfer had been valid under Section 7.2(a) of this Article VII.

“REINCORPORATION” shall mean the merger of Realty Income Corporation, a Delaware corporation, into its wholly-owned subsidiary, Realty Income of Maryland, Inc., a Maryland corporation.

“REIT” shall mean a real estate investment trust under Section 856 through 860 of the Code.

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“RESTRICTION TERMINATION DATE” shall mean the first day after the date of the Reincorporation on which the Board of Directors of the Corporation determines that it is no longer in the best interests of the Corporation to attempt to, or continue to, qualify as a REIT.

“TRANSFER” shall mean any sale, transfer, gift, assignment, devise or other disposition of Common Shares, including (i) the granting of any option or entering into any agreement for the sale, transfer or other disposition of Common Shares or (ii) the sale, transfer, assignment or other disposition of any securities (or rights convertible into or exchangeable for Common Shares), whether voluntary or involuntary, whether of record or beneficially or Beneficially or Constructively (including but not limited to transfers of interests in other entities which result in changes in Beneficial or Constructive Ownership of Common Shares), and whether by operation of law or otherwise.

“TRUST” shall mean each of the trusts provided for in Section 7.3 of this Article VII.

“TRUSTEE” shall mean the Person unaffiliated with the Corporation, the Purported Beneficial Transferee, and the Purported Record Transferee, that is appointed by the Corporation to serve as trustee of the Trust.

#### Section 7.2 RESTRICTION ON OWNERSHIP AND TRANSFERS.

(a) From the date of Reincorporation and prior to the Restriction Termination Date:

(i) except as provided in Section 7.9 of this Article VII, no Person shall Beneficially Own Common Shares in excess of the Ownership Limit;

(ii) except as provided in Section 7.9 of this Article VII, no Person shall Constructively Own Common Shares in excess of the Ownership Limit; and

(iii) no Person shall Beneficially or Constructively Own Common Shares to the extent that such Beneficial or Constructive Ownership would result in the Corporation being “closely held” within the meaning of Section 856(h) of the Code, or otherwise failing to qualify as a REIT (including but not limited to ownership that would result in the Corporation owning (actually or Constructively) an interest in a tenant that is described in Section 856(d)(2)(B) of the Code if the income derived by the Corporation (either directly or indirectly through one or more partnerships) from such tenant would cause the Corporation to fail to satisfy any of the gross income requirements of Section 856(c) of the Code).

(b) If, during the period commencing on the date of the Reincorporation and prior to the Restriction Termination Date, any Transfer (whether or not such Transfer is the result of a transaction entered into through the facilities of the New York Stock Exchange (“NYSE”)) or other event occurs that, if effective, would result in any Person Beneficially or Constructively Owning Common Shares in violation of Section 7.2(a) of this Article VII, (1) then that number of Common Shares that otherwise would cause such Person to violate Section 7.2(a) of this Article VII (rounded up to the nearest whole share) shall be automatically transferred to a Trust for the benefit of a Charitable Beneficiary, as described in Section 7.3, effective as of the close of business on the business day prior to the date of such Transfer or other event, and such Purported Beneficial Transferee shall thereafter have no rights in such Common Shares or (2) if, for any reason, the transfer to the Trust described in clause (1) of this sentence is not automatically effective as provided therein to prevent any Person from Beneficially or Constructively Owning Common Shares in violation of Section 7.2(a) of this Article VII, then the Transfer of that number of Common Shares that

otherwise would cause any Person to violate Section 7.2(a) shall be void AB INITIO, and the Purported Beneficial Transferee shall have no rights in such Common Shares.

(c) Notwithstanding any other provisions contained herein, during the period commencing on the date of the Reincorporation and prior to the Restriction Termination Date, any Transfer of Common Shares (whether or not such Transfer is the result of a transaction entered into through the facilities of the NYSE) that, if effective, would result in the capital stock of the Corporation being beneficially owned by less than 100 Persons (determined without reference to any rules of attribution) shall be void ab initio, and the intended transferee shall acquire no rights in such Common Shares.

### Section 7.3 TRANSFERS OF COMMON SHARES IN TRUST.

(a) Upon any purported Transfer or other event described in Section 7.2(b) of this Article VII, such Common Shares shall be deemed to have been transferred to the Trustee in his capacity as trustee of a Trust for the exclusive benefit of one or more Charitable Beneficiaries. Such transfer to the Trustee shall be deemed to be effective as of the close of business on the business day prior to the purported Transfer or other event that results in a transfer to the Trust pursuant to Section 7.2(b). The Trustee shall be appointed by the Corporation and shall be a Person unaffiliated with the Corporation, any Purported Beneficial Transferee, and any Purported Record Transferee. Each Charitable Beneficiary shall be designated by the Corporation as provided in Section 7.3(f) of this Article VII.

(b) Common Shares held by the Trustee shall be issued and outstanding Common Shares of the Corporation. The Purported Beneficial Transferee or Purported Record Transferee shall not benefit economically from ownership of any Common Shares held in trust by the Trustee, shall have no rights to dividends and shall not possess any rights to vote or other rights attributable to the Common Shares held in the Trust.

(c) The Trustee shall have all voting rights and rights to dividends with respect to Common Shares held in the Trust, which rights shall be exercised for the exclusive benefit of the Charitable Beneficiary. Any dividend or distribution paid prior to the discovery by the Corporation that the Common Shares have been transferred to the Trustee shall be paid to the Trustee upon demand, and any dividend or distribution declared but unpaid shall be paid when due to the Trustee with respect to such Common Shares. Any dividends or distributions so paid over to the Trustee shall be held in trust for the Charitable Beneficiary. The Purported Record Transferee and Purported Beneficial Transferee shall have no voting rights with respect to the Common Shares held in the Trust and, subject to Maryland law, effective as of the date the Common Shares have been transferred to the Trustee, the Trustee shall have the authority (at the Trustee's sole discretion) (i) to rescind as void any vote cast by a Purported Record Transferee prior to the discovery by the Corporation that the Common Shares have been transferred to the Trustee and (ii) to recast such vote in accordance with the desires of the Trustee acting for the benefit of the Charitable Beneficiary; provided, however, that if the Corporation has already taken irreversible corporate action, then the Trustees shall not have the authority to rescind and recast such vote. Notwithstanding the provisions of this Article VII, until the Corporation has received notification that the Common Shares have been transferred into a Trust, the Corporation shall be entitled to rely on its share transfer and other stockholder records for purposes of preparing lists of stockholders entitled to vote at meetings, determining the validity and authority of proxies and otherwise conducting votes of stockholders.

(d) Within 20 days of receiving notice from the Corporation that Common Shares have been transferred to the Trust, the Trustee of the Trust shall sell the Common Shares held in the Trust to a person, designated by the Trustee, whose ownership of the Common Shares will not violate the ownership limitations set forth in Section 7.2(a). Upon such sale, the interest of the Charitable Beneficiary in the Common Shares sold shall terminate and

the Trustee shall distribute the net proceeds of the sale to the Purported Record Transferee and to the Charitable Beneficiary as provided in this Section 7.3(d). The Purported Record Transferee shall receive the lesser of (1) the price paid by the Purported Record Transferee for the Common Shares in the transaction that resulted in such transfer to the Trust (or, if the event which resulted in the transfer to the Trust did not involve a purchase of such Common Shares at Market Price, the Market Price of such Common Shares on the day of the event which resulted in the transfer of the Common Shares to the Trust) and (2) the price per share received by the Trustee (net of any commissions and other expenses of sale) from the sale or other disposition of the Common Shares held in the Trust. Any net sales proceeds in excess of the amount payable to the Purported Record Transferee shall be immediately paid to the Charitable Beneficiary together with any dividends or other distributions thereon. If, prior to the discovery by the Corporation that such Common Shares have been transferred to the Trustee, such Common Shares are sold by a Purported Record Transferee then (i) such Common Shares shall be deemed to have been sold on behalf of the Trust and (ii) to the extent that the Purported Record Transferee received an amount for such Common Shares that exceeds the amount that such Purported Record Transferee was entitled to receive pursuant to this subparagraph 7.3(d), such excess shall be paid to the Trustee upon demand.

(e) Common Shares transferred to the Trustee shall be deemed to have been offered for sale to the Corporation, or its designee, at a price per share equal to the lesser of (i) the price paid by the Purported Record Transferee for the Common Shares in the transaction that resulted in such transfer to the Trust (or, if the event which resulted in the transfer to the Trust did not involve a purchase of such Common Shares at Market Price, the Market Price of such Common Shares on the day of the event which resulted in the transfer of the Common Shares to the Trust) and (ii) the Market Price on the date the Corporation, or its designee, accepts such offer. The Corporation shall have the right to accept such offer until the Trustee has sold the Common Shares held in the Trust pursuant to Section 7.3(d). Upon such a sale to the Corporation, the interest of the Charitable Beneficiary in the Common Shares sold shall terminate and the Trustee shall distribute the net proceeds of the sale to the Purported Record Transferee and any dividends or other distributions held by the Trustee with respect to such Common Shares shall thereupon be paid to the Charitable Beneficiary.

(f) By written notice to the Trustee, the Corporation shall designate one or more nonprofit organizations to be the Charitable Beneficiary of the interest in the Trust such that (i) the Common Shares held in the Trust would not violate the restrictions set forth in Section 7.2(a) in the hands of such Charitable Beneficiary and (ii) each Charitable Beneficiary is an organization described in Sections 170(b)(1)(A), 170(c)(2) and 501(c)(3) of the Code.

Section 7.4 REMEDIES FOR BREACH. If the Board of Directors, or a committee thereof (or other designees if permitted by Maryland law) shall at any time determine in good faith that a Transfer or other event has taken place in violation of Section 7.2 of this Article VII or that a Person intends to acquire, has attempted to acquire or may acquire beneficial ownership (determined without reference to any rules of attribution), Beneficial Ownership or Constructive Ownership of any Common Shares of the Corporation in violation of Section 7.2 of this Article VII, the Board of Directors, or a committee thereof (or other designees if permitted by Maryland law) shall take such action as it deems advisable to refuse to give effect or to prevent such Transfer, including, but not limited to, causing the Corporation to redeem Common Shares, refusing to give effect to such Transfer on the books of the Corporation or instituting proceedings to enjoin such Transfer; provided, however, that any Transfers (or, in the case of events other than a Transfer, ownership or Constructive Ownership or Beneficial Ownership) in violation of Section 7.2(a) of this Article VII, shall automatically result in the transfer to a Trust or be void ab initio as described in

Section 7.2(b) and any Transfer in violation of Section 7.2(c) shall automatically be void ab initio irrespective of any action (or non-action) by the Board of Directors.

Section 7.5 NOTICE OF RESTRICTED TRANSFER. Any Person who acquires or attempts to acquire Common Shares in violation of Section 7.2 of this Article VII or any Person who is a Purported Transferee such that an automatic transfer to a Trust results under Section 7.2(b) of this Article VII, shall immediately give written notice to the Corporation of such event and shall provide to the Corporation such other information as the Corporation may request in order to determine the effect, if any, of such Transfer or attempted Transfer on the Corporation's status as a REIT.

Section 7.6 OWNERS REQUIRED TO PROVIDE INFORMATION. From the date of the Reincorporation and prior to the Restriction Termination Date, each Person who is a beneficial owner or Beneficial Owner or Constructive Owner of Common Shares and each Person (including the shareholder of record) who is holding Common Shares for a Beneficial Owner or Constructive Owner shall provide to the Corporation such information that the Corporation may request, in good faith, in order to determine the Corporation's status as a REIT.

Section 7.7 REMEDIES NOT LIMITED. Nothing contained in this Article VII (but subject to Section 7.12 of this Article VII and Section 5.7 of the Charter) shall limit the authority of the Board of Directors to take such other action as it deems necessary or advisable to protect the Corporation and the interests of its shareholders by preservation of the Corporation's status as a REIT.

Section 7.8 AMBIGUITY. In the case of an ambiguity in the application of any of the provisions of Sections 7.2 through 7.9 of this Article VII, including any definition contained in Section 7.1, the Board of Directors shall have the power to determine the application of the provisions of Sections 7.2 through 7.9 with respect to any situation based on the facts known to it (subject, however, to the provisions of Section 7.12 of this Article VII). In the event any of Sections 7.2 through 7.9 requires an action by the Board of Directors and these Amended and Restated Articles of Incorporation fail to provide specific guidance with respect to such action, the Board of Directors shall have the power to determine the action to be taken so long as such action is not contrary to the provisions of such Sections 7.2 through 7.9 of this Article VII. Absent a decision to the contrary by the Board of Directors (which the Board may make in its sole and absolute discretion), if a Person would have (but for the remedies set forth in Section 7.2(b)) acquired Beneficial or Constructive Ownership of Common Shares in violation of Section 7.2(a) such remedies (as applicable) shall apply first to the Common Shares which, but for such remedies, would have been actually owned by such Person, and second to Common Shares which, but for such remedies, would have been Beneficially Owned or Constructively Owned (but not actually owned) by such Person, pro rata among the Persons who actually own such Common Shares based upon the relative number of the Common Shares held by each such Person.

#### Section 7.9 EXCEPTIONS.

(a) Subject to Section 7.2(a)(iii), the Board of Directors, in its sole discretion, may exempt a Person from the limitation on a Person Beneficially Owning Common Shares in excess of the Ownership Limit if the Board of Directors obtains such representations and undertakings from such Person as are reasonably necessary to ascertain that no individual's Beneficial Ownership of such Common Shares will violate the Ownership Limit or that any such violation will not cause the Corporation to fail to qualify as a REIT under the Code, and agrees that any violation of such representations or undertakings (or other action which is contrary to the restrictions contained in Section 7.2 of this Article VII) or attempted

violation will result in such Common Shares being transferred to a Trust in accordance with Section 7.2(b) of this Article VII.

(b) Subject to Section 7.2(a)(iii), the Board of Directors, in its sole discretion, may exempt a Person from the limitation on a Person Constructively Owning Common Shares in excess of the Ownership Limit if such Person does not and represents that it will not own, actually or Constructively, an interest in a tenant of the Corporation (or a tenant of any entity owned in whole or in part by the Corporation) that would cause the Corporation to own, actually or Constructively more than a 9.8% interest (as set forth in Section 856(d)(2)(B) of the Code) in such tenant and the Corporation obtains such representations and undertakings from such Person as are reasonably necessary to ascertain this fact and agrees that any violation or attempted violation will result in such Common Shares being transferred to a Trust in accordance with Section 7.2(b) of this Article VII. Notwithstanding the foregoing, the inability of a Person to make the certification described in this Section 7.9(b) shall not prevent the Board of Directors, in its sole discretion, from exempting such Person from the limitation on a Person Constructively Owning Common Shares in excess of the Ownership Limit if the Board of Directors determines that the resulting application of Section 856(d)(2)(B) of the Code would affect the characterization of less than 0.5% of the gross income (as such term is used in Section 856(c)(2) of the Code) of the Corporation in any taxable year, after taking into account the effect of this sentence with respect to all other Common Shares to which this sentence applies.

(c) Prior to granting any exception pursuant to Section 7.9(a) or (b) of this Article VII, the Board of Directors may require a ruling from the Internal Revenue Service, or an opinion of counsel, in either case in form and substance satisfactory to the Board of Directors in its sole discretion, as it may deem necessary or advisable in order to determine or ensure the Corporation's status as a REIT.

Section 7.10 LEGEND. Each certificate for Common Shares shall bear substantially the following legend:

The Corporation will furnish to any stockholder, on request and without charge, a full statement of the information required by Section 2-211(b) of the Corporations and Associations Article of the Annotated Code of Maryland with respect to the designations and any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends and other distributions, qualifications, and terms and conditions of redemption of the stock of each class which the Corporation has authority to issue and, [if the Corporation is authorized to issue any preferred or special class in series,] (i) the differences in the relative rights and preferences between the shares of each series to the extent set, and (ii) the authority of the Board of Directors to set such rights and preferences of subsequent series. The foregoing summary does not purport to be complete and is subject to and qualified in its entirety by reference to the charter of the Corporation (the "Charter"), a copy of which will be sent without charge to each stockholder who so requests. Requests for such written statement may be directed to Michael R. Pfeiffer, the Secretary of the Company, at the Company's principal office.

The shares represented by this certificate are subject to restrictions on Beneficial and Constructive Ownership and Transfer for the purpose of the Corporation's maintenance of its status as a Real Estate Investment Trust under the Internal Revenue Code of 1986, as amended (the "Code"). Subject to certain further restrictions and except as expressly provided in the Corporation's Charter, (i) no Person may Beneficially Own in excess of 9.8% of the outstanding Common Shares of the Corporation (by value or by number of shares, whichever is more restrictive); (ii) no Person may Constructively Own in excess of 9.8% of the outstanding Common Shares of the Corporation (by value or by number of shares, whichever is more restrictive); (iii) no Person may Beneficially or Constructively Own Common Shares that would result in the Corporation being "closely held" under Section 856(h) of the Code or otherwise cause the Corporation to fail to qualify as a REIT; and (iv)

no Person may Transfer Common Shares if such Transfer would result in the capital stock of the Corporation being owned by fewer than 100 Persons. Any Person who Beneficially or Constructively Owns or attempts to Beneficially or Constructively Own Common Shares which causes or will cause a Person to Beneficially or Constructively Own Common Shares in excess of the above limitations must immediately notify the Corporation. If any of the restrictions on transfer or ownership are violated, the Common Shares represented hereby will be automatically transferred to a Trustee of a Trust for the benefit of one or more Charitable Beneficiaries. In addition, the Corporation may redeem shares upon the terms and conditions specified by the Board of Directors in its sole discretion if the Board of Directors determines that ownership or a Transfer or other event may violate the restrictions described above. Furthermore, upon the occurrence of certain events, attempted Transfers in violation of the restrictions described above may be void AB INITIO. All capitalized terms in this legend have the meanings defined in the Charter of the Corporation, as the same may be amended from time to time, a copy of which, including the restrictions on transfer and ownership, will be furnished to each holder of Common Shares on request and without charge. Requests for such a copy may be directed to Michael R. Pfeiffer, the Secretary of the Company, at the Company's principal office."

Instead of the foregoing legend, the share certificate may state that the Corporation will furnish a full statement about certain restrictions on transferability to a stockholder on request and without charge.

Section 7.11 SEVERABILITY. If any provision of this Article VII or any application of any such provision is determined to be invalid by any Federal or state court having jurisdiction over the issues, the validity of the remaining provisions shall not be affected and other applications of such provision shall be affected only to the extent necessary to comply with the determination of such court.

Section 7.12 NYSE. Nothing in this Article VII shall preclude the settlement of any transaction entered into through the facilities of the NYSE. The fact that the settlement of any transaction is so permitted shall not negate the effect of any other provision of this Article VII and any transferee in such a transaction shall be subject to all the provisions and limitations of this Article VII.

#### ARTICLE VIII AMENDMENTS AND TRANSACTIONS OUTSIDE THE ORDINARY COURSE OF BUSINESS

Section 8.1 BYLAWS. The Board of Directors shall have the exclusive power to adopt, amend or repeal the Bylaws for the Corporation except as such power is limited in the Bylaws.

Section 8.2 CHARTER. The Corporation reserves the right from time to time to make any amendment now or hereafter authorized by law, including any amendment altering the terms or contract rights, as expressly set forth in this charter, of any shares of outstanding stock. All rights and powers conferred by this charter on stockholders, directors and officers of the Corporation are granted subject to this reservation.

#### ARTICLE IX LIMITATION OF LIABILITY

To the maximum extent that Maryland law in effect from time to time permits limitation of the liability of directors and officers of a Corporation, no director or officer of the Corporation shall be liable to the Corporation or its stockholders for money damages. Neither the amendment nor repeal of this Article IX, nor the adoption or amendment of any other provision of the Charter or Bylaws inconsistent with this Article IX, shall apply to or

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affect in any respect the applicability of the preceding sentence with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

ARTICLE X  
ELECTION OF DIRECTORS

Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

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**ARTICLES OF AMENDMENT  
OF  
REALTY INCOME CORPORATION,  
A MARYLAND CORPORATION**

**Articles of Amendment**

Realty Income Corporation, a Maryland corporation (the "Corporation"), hereby certifies to the State Department of Assessments and Taxation of Maryland that:

FIRST: The charter of the Corporation is hereby amended by deleting Article VI, Section 6.1 in its entirety and inserting the following in lieu thereof:

"Section 6.1 Authorized Shares. The Corporation has authority to issue 200,000,000 shares of Common Stock, \$1.00 par value per share ("Common Stock"), and 20,000,000 shares of Preferred Stock, \$1.00 par value per share ("Preferred Stock"). The aggregate par value of all authorized shares of stock is \$220,000,000."

SECOND: The amendments to the charter of the Corporation as set forth above have been duly advised by the Board of Directors and approved by the stockholders of the Corporation as required by law.

THIRD: Immediately prior to the above amendments, the Corporation had authority to issue 120,000,000 shares of stock, consisting of 100,000,000 shares of Common Stock, \$1.00 par value per share, and 20,000,000 shares of Preferred Stock, \$1.00 par value per share. The aggregate par value of all authorized shares of all classes of stock having par value was \$120,000,000.

FOURTH: The total number of shares of stock which the Corporation has authority to issue pursuant to the foregoing amendment is 220,000,000 shares of stock, consisting of 200,000,000 shares of Common Stock, \$1.00 par value per share, and 20,000,000 shares of Preferred Stock, \$1.00 par value per share. The aggregate par value of all authorized shares of all classes of stock having par value is \$220,000,000.

FIFTH: The undersigned officer acknowledges these Articles of Amendment to be the corporate act of the Corporation and as to all matters or facts required to be verified under oath, the undersigned officer acknowledges that to the best of his knowledge, information and belief, these matters and facts are true in all material respects and that this statement is made under the penalties for perjury.

IN WITNESS WHEREOF, the Corporation has caused these Articles of Amendment to be executed under seal in its name and on its behalf by the undersigned officer, and attested to by its Secretary, on this 10th day of May, 2005.

ATTEST:

REALTY INCOME CORPORATION

/s/ Michael R. Pfeiffer  
Michael R. Pfeiffer  
Secretary

By: /s/Thomas A. Lewis (SEAL)  
Thomas A. Lewis  
Vice Chairman and  
Chief Executive Officer

**ARTICLES OF AMENDMENT  
OF  
REALTY INCOME CORPORATION,  
A MARYLAND CORPORATION**

**Articles of Amendment**

Realty Income Corporation, a Maryland corporation (the "Corporation"), hereby certifies to the State Department of Assessments and Taxation of Maryland that:

FIRST: The charter of the Corporation is hereby amended by deleting the last paragraph of Article V, Section 5.1 in its entirety.

SECOND: The amendment to the charter of the Corporation as set forth above has been duly advised by the Board of Directors and approved by the stockholders of the Corporation as required by law.

THIRD: The undersigned officer acknowledges these Articles of Amendment to be the corporate act of the Corporation and as to all matters or facts required to be verified under oath, the undersigned officer acknowledges that to the best of his knowledge, information and belief, these matters and facts are true in all material respects and that this statement is made under the penalties for perjury.

IN WITNESS WHEREOF, the Corporation has caused these Articles of Amendment to be executed under seal in its name and on its behalf by the undersigned officer, and attested to by its Secretary, on this 10th day of May, 2005.

ATTEST:

REALTY INCOME CORPORATION

/s/ Michael R. Pfeiffer  
Michael R. Pfeiffer  
Secretary

By: /s/Thomas A. Lewis (SEAL)  
Thomas A. Lewis  
Vice Chairman and  
Chief Executive Officer

BYLAWS  
OF  
REALTY INCOME OF MARYLAND, INC.

ARTICLE I  
DEFINITIONS

Whenever used in these Bylaws, unless the context otherwise requires, the terms defined in this Article I shall have the following respective meanings:

“ADVISOR” means any Person (other than a Director, officer or employee of the Corporation) to whom the Corporation may delegate the responsibility for directing or performing the day-to-day business affairs of the Corporation, including a Person or entity to which an Advisor subcontracts substantially all such functions.

“AFFILIATE” of a Person means (a) any other Person directly or indirectly controlling, controlled by and under common control with such Person, (b) any other Person owning or controlling 10% or more of the outstanding voting securities of such Person, (c) any officer, director or general partner of such Person, or (d) if such Person is an officer, director or general partner, any Person for which such Person acts as an officer, director or general partner. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

“ANCILLARY SERVICES” means any business activity rendered in connection with, or incidental to, the Corporation’s primary activity of leasing its properties, which generates revenue for the Corporation that would be treated by the IRS as Nonqualifying Income, including, but not limited to, the sale of goods and services to its tenants and others.

“APPRAISED VALUE” means the value of a property as determined by an appraisal made by one or more independent qualified appraisers selected in accordance with procedures established by the Board (and a majority of the Independent Directors as to any proposed acquisition from any Advisor, a Director or an officer or any Affiliate thereof).

“BOARD” means the Board of the Corporation, as constituted from time to time.

“BYLAWS” means the Bylaws of the Corporation, as in effect from time to time.

“CHAIRMAN OF THE BOARD” shall have the meaning assigned to such term in Section 4 of Article V hereof.

“CHARTER” shall mean the charter of Realty Income of Maryland, Inc., as in effect from time to time.

“CHIEF EXECUTIVE OFFICER” shall have the meaning assigned to such term in Section 5 of Article V hereof.

“CHIEF OPERATING OFFICER” shall have the meaning assigned to such term in Section 6 of Article V hereof.

“CODE” means the Internal Revenue Code of 1986, as it may be amended from time to time.

“COMMON STOCK” means the Common Stock of the Corporation, par value \$1.00 per share.

“CORPORATION” means Realty Income of Maryland, Inc. a Maryland corporation.

“DIRECTORS” means the directors of the Corporation’s Board.

“INDEBTEDNESS” of any Person means the principal of, premium, if any, and interest on, (i) all indebtedness of such Person (including Indebtedness of others guaranteed by such Person), incurred or assumed which is (A) for money borrowed or (B) evidenced by a note or similar instrument given in connection with the acquisition of any businesses, properties or assets of any kind and (ii) amendments, renewals, extensions, modifications and refunding of any such indebtedness or obligation.

“INDEPENDENT DIRECTORS” means the Directors who are not employees of the Corporation or any Subsidiaries of the Corporation.

“INTERESTED PARTY” of the Corporation shall have the meaning ascribed to such term in Section 7 of Article VII.

“IRS” means the United States Internal Revenue Service.

“NONQUALIFYING INCOME” means income not described in Section 856(c) (2) of the Code, or any successor provision.

“PERSON” means an individual, a corporation, limited partnership, general partnership, joint stock company or an association, a joint venture, trust, bank, trust company, land trust, business trust or an estate, or any other entity and governmental agency and any political subdivision thereof, and also includes a group as that term is defined for purposes of Section 13(d) (3) of the Securities Act of 1933, as amended.

“PREFERRED STOCK” means the Preferred Stock of the Corporation, par value \$1.00 per share, authorized to be issued in one or more series under the Charter.

“PRESIDENT” shall have the meaning assigned to such term in Section 7 of Article V.

“REIT” means a real estate investment trust under Sections 856 to 860 the Code or any successor provisions.

“REIT PROVISIONS OF THE CODE” means Part II, Subchapter M of Chapter 1 of the Code, as now enacted or hereafter amended, or successor statutes, relating to REITs.

“SECRETARY” shall have the meaning assigned to such term in Section 9 of Article V.

“SUBSIDIARY” means, with respect to any Person, any other Person of which more than 50% of (i) the equity or other ownership interest or (ii) the total voting power of shares of capital stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, trustees or

general or managing partners thereof is at the time owned by such Person or one or more of the other Subsidiaries of such Person or a combination thereof.

“TREASURER” shall have the meaning assigned to such term in Section 11 of Article V.

“VICE PRESIDENT” shall have the meaning assigned to such term in Section 8 of Article V.

“WHOLLY-OWNED SUBSIDIARY” means, with respect to any Person, any other Person all the outstanding (i) equity or other ownership interest or (ii) voting power of shares of capital stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, trustees or general or managing partners thereof (in each case other than directors’ qualifying shares) is owned at such time by such Person or by one or more Wholly-Owned Subsidiaries of such Person or by such Person and one or more Wholly-Owned Subsidiaries of such Person.

## ARTICLE II

### OFFICES

Section 1. PRINCIPAL OFFICE. The principal office of the Corporation shall be located at such place or places as the Board may designate.

Section 2. ADDITIONAL OFFICES. The Corporation may have additional offices at such places as the Board may from time to time determine or the business of the Corporation may require.

## ARTICLE III

### MEETINGS OF STOCKHOLDERS

Section 1. PLACE. All meetings of stockholders shall be held at the principal office of the Corporation or at such other place within the United States as shall be stated in the notice of the meeting.

Section 2. ANNUAL MEETING. An annual meeting of the stockholders for the election of directors and the transaction of any business within the powers of the Corporation shall be held on a date and at the time set by the Board during the month of May in each year, unless the Board elects to hold the meeting in any other month.

Section 3. SPECIAL MEETINGS. The President, Chief Executive Officer or Board of Directors may call special meetings of the stockholders. Special meetings of stockholders shall also be called by the Secretary of the Corporation upon the written request of the holders of shares entitled to cast not less than a majority of all the votes entitled to be cast at such meeting. Such request shall state the purpose of such meeting and the matters proposed to be acted on at such meeting. The Secretary shall inform such stockholders of the reasonably estimated cost of preparing and mailing notice of the meeting and, upon payment to the Corporation by such stockholders of such costs, the Secretary shall give notice to each stockholder entitled to notice of the meeting.

Section 4. NOTICE. Not less than 10 nor more than 90 days before each meeting of stockholders, the Secretary shall give to each stockholder entitled to vote at such meeting and to each stockholder not entitled to vote who is entitled to notice of the meeting written or printed notice stating the time and place of the meeting and, in the case of a special meeting or as otherwise may be required by any statute, the purpose for which the

meeting is called, either by mail or by presenting it to such stockholder personally or by leaving it at his residence or usual place of business. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the stockholder at his post office address as it appears on the records of the Corporation, with postage thereon prepaid.

Section 5. SCOPE OF NOTICE. Any business of the Corporation may be transacted at an annual meeting of stockholders without being specifically designated in the notice, except such business as is required by any statute to be stated in such notice. No business shall be transacted at a special meeting of stockholders except as specifically designated in the notice.

Section 6. ORGANIZATION. At every meeting of stockholders, the Chairman of the Board, if there be one, shall conduct the meeting or, in the case of vacancy in office or absence of the Chairman of the Board, one of the following officers present shall conduct the meeting in the order stated: the Vice Chairman of the Board, if there be one, the President, the Vice Presidents in their order of rank and seniority, or a chairman chosen by the stockholders entitled to cast a majority of the votes which all stockholders present in person or by proxy are entitled to cast, shall act as chairman, and the Secretary, or, in his absence, an Assistant Secretary, or in the absence of both the Secretary and Assistant Secretaries, a person appointed by the chairman shall act as Secretary.

Section 7. QUORUM. At any meeting of stockholders, the presence in person or by proxy of stockholders entitled to cast a majority of all the votes entitled to be cast at such meeting shall constitute a quorum; but this section shall not affect any requirement under any statute or the charter of the Corporation for the vote necessary for the adoption of any measure. A quorum, once established, shall not be broken by the withdrawal of enough votes to leave less than a quorum, and the votes present may continue to transact business until adjournment. If, however, such quorum shall not be present at any meeting of the stockholders, the stockholders entitled to vote at such meeting, present in person or by proxy, shall have the power to adjourn the meeting from time to time to a date not more than 120 days after the original record date without notice other than announcement at the meeting. At such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified.

Section 8. VOTING. A plurality of all the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to elect a director. Each share may be voted for as many individuals as there are directors to be elected and for whose election the share is entitled to be voted. A majority of the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to approve any other matter which may properly come before the meeting, unless more than a majority of the votes cast is required by statute or by the charter of the Corporation. Unless otherwise provided in the charter, each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of stockholders.

Section 9. PROXIES. A stockholder may vote the stock owned of record by him, either in person or by proxy executed in writing by the stockholder or by his duly authorized attorney in fact. Such proxy shall be filed with the Secretary of the Corporation before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

Section 10. VOTING OF STOCK BY CERTAIN HOLDERS. Stock of the Corporation registered in the name of a corporation, partnership, trust or other entity, if entitled to be voted, may be voted by the President or a Vice President, a general partner or trustee thereof, as the case may be, or a proxy appointed by any of the foregoing individuals, unless some other person who has been appointed to vote such stock pursuant

to a bylaw or a resolution of the governing body of such corporation or other entity or agreement of the partners of a partnership presents a certified copy of such bylaw, resolution or agreement, in which case such person may vote such stock. Any director or other fiduciary may vote stock registered in his name as such fiduciary, either in person or by proxy.

Shares of stock of the Corporation directly or indirectly owned by it shall not be voted at any meeting and shall not be counted in determining the total number of outstanding shares entitled to be voted at any given time, unless they are held by it in a fiduciary capacity, in which case they may be voted and shall be counted in determining the total number of outstanding shares at any given time.

The Board may adopt by resolution a procedure by which a stockholder may certify in writing to the Corporation that any shares of stock registered in the name of the stockholder are held for the account of a specified person other than the stockholder. The resolution shall set forth the class of stockholders who may make the certification, the purpose for which the certification may be made, the form of certification and the information to be contained in it; if the certification is with respect to a record date or closing of the stock transfer books, the time after the record date or closing of the stock transfer books within which the certification must be received by the Corporation; and any other provisions with respect to the procedure which the Board considers necessary or desirable. On receipt of such certification, the person specified in the certification shall be regarded as, for the purposes set forth in the certification, the stockholder of record of the specified stock in place of the stockholder who makes the certification.

Notwithstanding any other provision of the charter of the Corporation or these Bylaws, Title 3, Subtitle 7 of the Corporations and Associations Article of the Annotated Code of Maryland (or any successor statute) shall not apply to any acquisition by any person of shares of stock of the Corporation. This section may be repealed, in whole or in part, at any time, whether before or after an acquisition of control shares and, upon such repeal, may, to the extent provided by any successor bylaw, apply to any prior or subsequent control share acquisition.

Section 11. INSPECTORS. At any meeting of stockholders, the chairman of the meeting may appoint one or more persons as inspectors for such meeting. Such inspectors shall ascertain and report the number of shares represented at the meeting based upon their determination of the validity and effect of proxies, count all votes, report the results and perform such other acts as are proper to conduct the election and voting with impartiality and fairness to all the stockholders.

Each report of an inspector shall be in writing and signed by him or by a majority of them if there is more than one inspector acting at such meeting. If there is more than one inspector, the report of a majority shall be the report of the inspectors. The report of the inspector or inspectors on the number of shares represented at the meeting and the results of the voting shall be PRIMA FACIE evidence thereof.

#### Section 12. NOMINATIONS AND STOCKHOLDER BUSINESS

(a) ANNUAL MEETINGS OF STOCKHOLDERS. (1) Nominations of persons for election to the Board and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders (i) pursuant to the Corporation's notice of meeting, (ii) by or at the direction of the Board or (iii) by any stockholder of the Corporation who was a stockholder of record both at the time of giving of notice provided for in this Section 12(a) and at the time of the annual meeting, who is entitled to vote at the meeting and who complied with the notice procedures set forth in this Section 12(a).

(1) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of paragraph (a)(1) of this Section 12, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not less than 60 days nor more than 90 days prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced by more than 30 days or delayed by more than 60 days from such anniversary date, notice by the stockholder to be timely must be so delivered not earlier than the 90th day prior to such annual meeting and not later than the close of business on the later of the 60th day prior to such annual meeting or the tenth day following the day on which public announcement of the date of such meeting is first made. Such stockholder's notice shall set forth (i) as to each person whom the stockholder proposes to nominate for election or reelection as a director all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act") (including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected); (ii) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and of the beneficial owner, if any, on whose behalf the proposal is made; and (iii) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made, (x) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner and (y) the number of shares of each class of stock of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner.

(2) Notwithstanding anything in the second sentence of paragraph (a)(2) of this Section 12 to the contrary, in the event that the number of directors to be elected to the Board is increased and there is no public announcement naming all of the nominees for director or specifying the size of the increased Board made by the Corporation at least 70 days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section 12(a) shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth day following the day on which such public announcement is first made by the Corporation.

(b) SPECIAL MEETINGS OF STOCKHOLDERS. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board may be made at a special meeting of stockholders at which directors are to be elected (i) pursuant to the Corporation's notice of meeting, (ii) by or at the direction of the Board or (iii) provided that the Board has determined that directors shall be elected at such special meeting, by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice provided for in this Section 12(b), who is entitled to vote at the meeting and who complied with the notice procedures set forth in this Section 12(b). In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board, any such stockholder may nominate a person or persons (as the case may be) for election to such position as specified in the Corporation's notice of meeting, if the stockholder's notice containing the information required by paragraph (a)(2) of this Section 12 shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the 90th day prior to such special meeting and not later than the close of business on the later of the 60th day prior to such special meeting or the tenth day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board to be elected at such meeting.



(c) GENERAL.

(1) Only such persons who are nominated in accordance with the procedures set forth in this Section 12 shall be eligible to serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 12. The presiding officer of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made in accordance with the procedures set forth in this Section 12 and, if any proposed nomination or business is not in compliance with this Section 12, to declare that such defective nomination or proposal be disregarded.

(2) For purposes of this Section 12, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(3) Notwithstanding the foregoing provisions of this Section 12, a stockholder shall also comply with all applicable requirements of state law and of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 12. Nothing in this Section 12 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

Section 13. VOTING BY BALLOT. Voting on any question or in any election may be VIVA VOCE unless the presiding officer shall order or any stockholder shall demand that voting be by ballot.

## ARTICLE IV

### DIRECTORS

Section 1. GENERAL POWERS. The business and affairs of the Corporation shall be managed under the direction of its Board.

Section 2. NUMBER, TENURE AND QUALIFICATIONS. The Corporation shall have a board of seven (7) directors. At any regular meeting or at any special meeting called for that purpose, a majority of the entire Board may establish, increase or decrease the number of directors, provided that the number thereof shall not be less than the minimum number required by the Maryland General Corporation Law ("MGCL"), and further provided that the tenure of office of a director shall not be affected by any decrease in the number of directors. The directors shall be divided into three classes in accordance with the Charter of the Corporation and, except as provided in Section 10 of this Article IV with respect to vacancies, shall be elected as provided in the Charter at the annual meeting of the stockholders, and each director elected shall hold office until his successor is elected and qualified or until his death, retirement, resignation or removal.

Section 3. ANNUAL AND REGULAR MEETINGS. An annual meeting of the Board shall be held immediately after the annual meeting of stockholders, no notice other than this Bylaw being necessary. The Board may provide, by resolution, the time and place, either within or without the State of Maryland, for the holding of regular meetings of the Board without other notice than such resolution.

Section 4. SPECIAL MEETINGS. Special meetings of the Board may be called by or at the request of the Chairman of the Board, President or by a majority of the directors

then in office. The person or persons authorized to call special meetings of the Board may fix any place, either within or without the State of Maryland, as the place for holding any special meeting of the Board called by them.

Section 5. NOTICE. Notice of any special meeting of the Board shall be delivered personally or by telephone, facsimile transmission, United States mail or courier to each director at his business or residence address. Notice by personal delivery, by telephone or a facsimile transmission shall be given at least one day prior to the meeting. Notice by mail shall be given at least three days prior to the meeting and shall be deemed to be given when deposited in the United States mail properly addressed, with postage thereon prepaid. Telephone notice shall be deemed to be given when the director is personally given such notice in a telephone call to which he is a party. Facsimile transmission notice shall be deemed to be given upon completion of the transmission of the message to the number given to the Corporation by the director and receipt of a completed answer- back indicating receipt. Neither the business to be transacted at, nor the purpose of, any annual, regular or special meeting of the Board need be stated in the notice, unless specifically required by statute or these Bylaws.

Section 6. QUORUM. A majority of the directors shall constitute a quorum for transaction of business at any meeting of the Board, provided that, if less than a majority of such directors are present at said meeting, a majority of the directors present may adjourn the meeting from time to time without further notice, and provided further that if, pursuant to the charter of the Corporation or these Bylaws, the vote of a majority of a particular group of directors is required for action, a quorum must also include a majority of such group.

The Board present at a meeting which has been duly called and convened may continue to transact business until adjournment, notwithstanding the withdrawal of enough directors to leave less than a quorum.

Section 7. VOTING. The action of the majority of the directors present at a meeting at which a quorum is present shall be the action of the Board, unless the concurrence of a greater proportion is required for such action by applicable statute.

Section 8. TELEPHONE MEETINGS. Directors may participate in a meeting by means of a conference telephone or similar communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 9. INFORMAL ACTION BY DIRECTORS. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting, if consent in writing to such action is signed by each director and such written consent is filed with the minutes of proceedings of the Board.

Section 10. VACANCIES. If for any reason any or all the directors cease to be directors, such event shall not terminate the Corporation or affect these Bylaws or the powers of the remaining directors hereunder. Any vacancy on the Board for any cause other than an increase in the number of directors shall be filled at any regular meeting or at any special meeting called for that purpose by a majority vote of the remaining directors, although such majority may be less than a quorum. Any individual so elected as director shall hold office for the remainder of the term of the class to which he was elected. Any vacancy in the number of directors created by an increase in the number of directors may be filled by a majority vote of the entire Board. Any individual so elected as director shall hold office until the next annual meeting of stockholders and until his successor is elected and qualified.

Section 11. COMPENSATION OF DIRECTORS. Unless otherwise restricted by the Charter or these Bylaws, the Board of Directors shall have the authority to fix the compensation of directors. The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors and/or a stated salary as director. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefore. Members of special or standing committees may be allowed like compensation for attending committee meetings.

Section 12. LOSS OF DEPOSITS. No director shall be liable for any loss which may occur by reason of the failure of the bank, trust company, savings and loan association, or other institution with whom moneys or stock have been deposited.

Section 13. SURETY BONDS. Unless required by law, no director shall be obligated to give any bond or surety or other security for the performance of any of his duties.

Section 14. RELIANCE. Each director, officer, employee and agent of the Corporation shall, in the performance of his duties with respect to the Corporation, be fully justified and protected with regard to any act or failure to act in reliance in good faith upon the books of account or other records of the Corporation, upon an opinion of counsel or upon reports made to the Corporation by any of its officers or employees or by the adviser, accountants, appraisers or other experts or consultants selected by the Board or officers of the Corporation, regardless of whether such counsel or expert may also be a director.

Section 15. COMMITTEES OF DIRECTORS. The Board may, by resolution passed by a majority of the whole Board, designate one or more committees, each such committee to consist of one or more of the directors of the Corporation. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to amending the Charter, adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease or exchange of all or substantially all of the Corporation's property and assets, recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution, or amending the Bylaws of the Corporation; and, unless the resolution or the Charter expressly so provide, no such committee shall have the power or authority to declare a dividend or to authorize the issuance of stock.

Section 16. COMMITTEE MEETINGS. Notice of committee meetings shall be given in the same manner as notice for special meetings of the Board. A majority of the members of the committee shall constitute a quorum for the transaction of business at any meeting of the committee. The act of a majority of the committee members present at a meeting shall be the act of such committee. The Board may designate a chairman of any committee, and such chairman or any two members of any committee may fix the time and place of its meeting unless the Board shall otherwise provide. Each committee shall keep minutes of its proceedings. Members of a committee of the Board may participate in a meeting by means of a conference telephone or similar communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 17. INFORMAL ACTION BY COMMITTEES. Any action required or permitted to be taken at any meeting of a committee of the Board may be taken without a meeting; if consent in writing to such action is signed by each member of the committee and such written consent is filed with the minutes of proceedings of such committee.

Section 18. COMMITTEE VACANCIES. Subject to the provisions hereof, the Board shall have the power at any time to change the membership of any committee, to fill all vacancies, to designate alternate members to replace any absent or disqualified member or to dissolve any such committee.

## ARTICLE V

### OFFICERS

Section 1. GENERAL PROVISIONS. The officers of the Corporation shall be chosen by the Board and shall include a President, a Secretary and a Treasurer and may include a Chairman of the Board, a Chief Executive Officer, one or more Vice Presidents, a Chief Operating Officer, a Chief Financial Officer, one or more Assistant Secretaries and one or more Assistant Treasurers. In addition, the Board may from time to time appoint such other officers with such powers and duties as they shall deem necessary or desirable. The officers of the Corporation shall be elected annually by the Board at the first meeting of the Board held after each annual meeting of stockholders. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. Each officer shall hold office until his successor is elected and qualifies or until his death, resignation or removal in the manner hereinafter provided. Any two or more offices except President and Vice President may be held by the same person. In its discretion, the Board may leave unfilled any office except that of President, Treasurer and Secretary. Election of an officer or agent shall not of itself create contract rights between the Corporation and such officer or agent.

Section 2. REMOVAL AND RESIGNATION. Any officer or agent of the Corporation may be removed by the Board if in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Any officer of the Corporation may resign at any time by giving written notice of his resignation to the Board, the Chairman of the Board, the President or the Secretary. Any resignation shall take effect at any time subsequent to the time specified therein or, if the time when it shall become effective is not specified therein, immediately upon its receipt. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation. Such resignation shall be without prejudice to the contract rights, if any, of the Corporation.

Section 3. VACANCIES. A vacancy in any office may be filled by the Board for the balance of the term.

Section 4. CHAIRMAN OF THE BOARD. The Chairman of the Board, if such an officer be elected, shall, if present, preside at all meetings of the Board and exercise and perform such other powers and duties as may be from time to time assigned to him or her by the Board or prescribed by these Bylaws. If there is no President, the Chairman of the Board shall in addition be the Chief Executive Officer of the Corporation and shall have the powers and duties prescribed in Section 4 of this Article V.

Section 5. CHIEF EXECUTIVE OFFICER. The Board may designate a Chief Executive Officer. In the absence of such designation, the Chairman of the Board shall be the Chief Executive Officer of the Corporation. The Chief Executive Officer shall have general responsibility for implementation of the policies of the Corporation, as determined by the Board, and for the management of the business and affairs of the Corporation.

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Section 6. CHIEF OPERATING OFFICER. The Board may designate a Chief Operating Officer. The Chief Operating Officer shall have the responsibilities and duties as set forth by the Board or the Chief Executive Officer.

Section 7. PRESIDENT. The Board may designate a President. The President shall have the responsibilities and duties as set forth by the Board or the Chief Executive Officer.

Section 8. VICE PRESIDENT. In the absence or disability of the President, the Vice Presidents in order of their rank as fixed by the Board, or if not ranked, the Vice President designated by the Board, shall perform all the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. The Vice Presidents shall have such other duties as from time to time may be prescribed for them, respectively, by the Board.

Section 9. SECRETARY. The Secretary shall attend all sessions of the Board and all meetings of the stockholders and record all votes and the minutes of all proceedings in a book to be kept for that purpose, and shall perform like duties for the standing committees when required by the Board. He or she shall give, or cause to be given, notice of all meetings of the stockholders and of the Board, and shall perform such other duties as may be prescribed by the Board or these Bylaws. He or she shall keep in safe custody the seal of the Corporation, and when authorized by the Board, affix the same to any instrument requiring it, and when so affixed it shall be attested by his or her signature or by the signature of an Assistant Secretary. The Board may give general authority to any other officer to affix the seal of the Corporation and to attest the affixing by his or her signature.

Section 10. ASSISTANT SECRETARIES. If there shall be one, the Assistant Secretary, or if there be more than one, the Assistant Secretaries in the order determined by the Board, or if there be no such determination, the Assistant Secretary designated by the Board, shall, in the absence or disability of the Secretary, perform the duties and exercise the powers of the Secretary and shall perform such other duties and have such other powers as the Board may from time to time prescribe.

Section 11. TREASURER. The Treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys, and other valuable effects in the name and to the credit of the Corporation, in such depositories as may be designated by the Board. He or she shall disburse the funds of the Corporation as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the Board, at its regular meetings, or when the Board so requires, an account of all of his or her transactions as Treasurer and of the financial condition of the Corporation. If required by the Board, he or she shall give the Corporation a bond, in such sum and with such surety or sureties as shall be satisfactory to the Board, for the faithful performance of the duties of his or her office and for the restoration to the Corporation, in case of his or her death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his or her possession or under his or her control belonging to the Corporation.

Section 12. ASSISTANT TREASURER. If there shall be one, the Assistant Treasurer, or if there shall be more than one, the Assistant Treasurers in the order determined by the Board, or if there be no such determination, the Assistant Treasurer designated by the Board, shall, in the absence or disability of the Treasurer, perform the duties and exercise the powers of the Treasurer and shall perform such other duties and have such other powers as the Board may from time to time prescribe.

Section 13. SALARIES. The salaries and other compensation of the officers shall be fixed from time to time by the Board and no officer shall be prevented from receiving such salary or other compensation by reason of the fact that he is also a director.

## ARTICLE VI

### STOCK

Section 1. CERTIFICATES. Each stockholder shall be entitled to a certificate or certificates which shall represent and certify the number of shares of each class of stock held by him in the Corporation. Each certificate shall be signed by the Chairman of the Board, the President or a Vice President and countersigned by the Secretary or an assistant Secretary or the Treasurer or an Assistant Treasurer and may be sealed with the seal, if any, of the Corporation. The signatures may be either manual or facsimile. Certificates shall be consecutively numbered; and if the Corporation shall, from time to time, issue several classes of stock, each class may have its own number series. A certificate is valid and may be issued whether or not an officer who signed it is still an officer when it is issued. Each certificate representing shares which are restricted as to their transferability or voting powers, which are preferred or limited as to their dividends or as to their allocable portion of the assets upon liquidation or which are redeemable at the option of the Corporation, shall have a statement of such restriction, limitation, preference or redemption provision, or a summary thereof, plainly stated on the certificate. If the Corporation has authority to issue stock of more than one class, the certificate shall contain on the face or back a full statement or summary of the designations and any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends and other distributions, qualifications and terms and conditions of redemption of each class of stock and, if the Corporation is authorized to issue any preferred or special class in series, the differences in the relative rights and preferences between the shares of each series to the extent they have been set and the authority of the Board to set the relative rights and preferences of subsequent series. In lieu of such statement or summary, the certificate may state that the Corporation will furnish a full statement of such information to any stockholder upon request and without charge. If any class of stock is restricted by the Corporation as to transferability, the certificate shall contain a full statement of the restriction or state that the Corporation will furnish information about the restrictions to the stockholder on request and without charge.

Section 2. TRANSFERS. Upon surrender to the Corporation or the transfer agent of the Corporation of a stock certificate duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, the Corporation shall issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

The Corporation shall be entitled to treat the holder of record of any share of stock as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State of Maryland.

Notwithstanding the foregoing, transfers of shares of any class of stock will be subject in all respects to the charter of the Corporation and all of the terms and conditions contained therein.

Section 3. REPLACEMENT CERTIFICATE. Any officer designated by the Board may direct a new certificate to be issued in place of any certificate previously issued by the Corporation alleged to have been lost, stolen or destroyed upon the making of an affidavit of that fact by the person claiming the certificate to be lost, stolen or destroyed. When

authorizing the issuance of a new certificate, an officer designated by the Board may, in his discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or the owner's legal representative to advertise the same in such manner as he shall require and/or to give bond, with sufficient surety, to the Corporation to indemnify it against any loss or claim which may arise as a result of the issuance of a new certificate.

Section 4. CLOSING OF TRANSFER BOOKS OR FIXING OF RECORD DATE. The Board may set, in advance, a record date for the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders or determining stockholders entitled to receive payment of any dividend or the allotment of any other rights, or in order to make a determination of stockholders for any other proper purpose. Such date, in any case, shall not be prior to the close of business on the day the record date is fixed and shall be not more than 90 days and, in the case of a meeting of stockholders, not less than ten days, before the date on which the meeting or particular action requiring such determination of stockholders of record is to be held or taken.

In lieu of fixing a record date, the Board may provide that the stock transfer books shall be closed for a stated period but not longer than 20 days. If the stock transfer books are closed for the purpose of determining stockholders entitled to notice of or to vote at a meeting of stockholders, such books shall be closed for at least ten days before the date of such meeting.

If no record date is fixed and the stock transfer books are not closed for the determination of stockholders, (a) the record date for the determination of stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day on which the notice of meeting is mailed or the 30th day before the meeting, whichever is the closer date to the meeting; and (b) the record date for the determination of stockholders entitled to receive payment of a dividend or an allotment of any other rights shall be the close of business on the day on which the resolution of the directors, declaring the dividend or allotment of rights, is adopted.

When a determination of stockholders entitled to vote at any meeting of stockholders has been made as provided in this section, such determination shall apply to any adjournment thereof, except when (i) the determination has been made through the closing of the transfer books and the stated period of closing has expired or (ii) the meeting is adjourned to a date more than 120 days after the record date fixed for the original meeting, in either of which case a new record date shall be determined as set forth herein.

Section 5. STOCK LEDGER. The Corporation shall maintain at its principal office or at the office of its counsel, accountants or transfer agent, an original or duplicate share ledger containing the name and address of each stockholder and the number of shares of each class held by such stockholder.

Section 6. FRACTIONAL STOCK; ISSUANCE OF UNITS. The Board may issue fractional stock or provide for the issuance of scrip, all on such terms and under such conditions as they may determine. Notwithstanding any other provision of the charter or these Bylaws, the Board may issue units consisting of different securities of the Corporation. Any security issued in a unit shall have the same characteristics as any identical securities issued by the Corporation, except that the Board may provide that for a specified period securities of the Corporation issued in such unit may be transferred on the books of the Corporation only in such unit.

## ARTICLE VII

### INVESTMENT POLICY AND RESTRICTIONS

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Section 1. INVESTMENT. The Corporation intends to invest, directly or indirectly, in such real estate investments as may be approved by the Board from time to time. Subject to the restrictions of this Article VII, the Corporation's investments may be acquired in such manner, through such means and upon such terms and conditions as may be determined by the Board, and such investments may include, but are not limited to, direct acquisitions by the Corporation of real estate interests as well as investments in corporations, business trusts, general partnerships, limited partnerships, joint ventures or other legal entities and other investments. All investments made by the Corporation, except those pursuant to Article VII, Section 4, must be approved by a majority of the directors or made in accordance with guidelines approved by the Board and which are in effect at the time the investments are made by the Corporation's management.

Section 2. TAX TREATMENT AS A REIT. As soon as the Corporation commences doing business, the Corporation shall use its best efforts to be eligible for tax treatment as an REIT under the Code, shall make such elections and filings, and take such other actions as may be necessary, to be treated as a REIT under the Code, and shall thereafter conduct its business to continue to qualify as a REIT under the REIT Provisions of the Code.

Section 3. NO LIABILITY TO QUALIFY AS REIT. Although a general purpose of the Corporation is to qualify as a REIT under the REIT Provisions of the Code, no director, officer, employee, agent or independent contractor of the Corporation shall be liable for any act or omission resulting in the loss of tax benefits under the Code.

Section 4. SPECIFIC INVESTMENTS. Pending investment or reinvestment of the Corporation's assets in the type of investments described in Article VII, Section 1, the Corporation may invest its assets in investments such as: (a) United States government securities, (b) bankers' acceptances, (c) certificates of deposit, (d) bank repurchase agreements covering securities of the United States government or governmental agencies, (e) commercial paper rated A-1 (or the equivalent) or better by Moody's Investors Services, Inc. or any other nationally-recognized rating agency, (f) interest-bearing time deposits in banks and thrift institutions, (g) money market funds, (h) mortgage-backed or related securities issued or guaranteed by the United States government or its agencies, (i) debt securities or equity securities collateralized by debt securities rated A-1 (or the equivalent) or better by Moody's Investors Services, Inc. or any other nationally-recognized rating agency, (j) other short- or medium-term liquid investments or hybrid debt/equity securities approved by the Board, or (k) any combination of the foregoing investments.

Section 5. RESERVES. The Corporation may retain, as a permanent reserve, such funds as the Board deems reasonable, in cash and in the types of investments described in Section 4 of this Article VII.

Section 6. INVESTMENT RESTRICTIONS. The Corporation shall not: (a) invest in foreign currency, bullion, commodities or commodity future contracts; (b) invest in contracts for the sale of real estate; (c) engage in underwriting or the agency distribution of securities issued by others; (d) issue "redeemable securities" (as defined in Section 2(a)(32) of the Investment Company Act of 1940, as amended), "face amount certificates of the installment type" (as defined in Section 2(a)(15) thereof) or "periodic payment plan certificates" (as defined in Section 2(a)(27) thereof); or (e) engage in short sales or trading activities in securities, except for purposes of hedging the Company's short-term investments and obligations.

Section 7. RESTRICTIONS UPON DEALINGS BETWEEN THE CORPORATION AND INTERESTED PARTIES.

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(a) GENERAL RESTRICTIONS. Except as provided in this Section 7, the Corporation shall not engage in a transaction described in this Section 7 with any director, officer, any advisor, any person owning or controlling 10% or more of any class of the Corporation's outstanding voting securities, or any Affiliate of any of the aforementioned (individually, the "Interested Party" and collectively, the "Interested Parties"), except in compliance with the restrictions contained in this Section 7. Any transaction between the Corporation and any of the Interested Parties made in compliance with the requirements of this Section 7 shall be valid notwithstanding such relationship, and such Interested Party shall not be under any disability from or have any liability as a result of entering into any such transaction with the Corporation.

(b) SALES TO THE CORPORATION. Except as provided in this Paragraph (b), the Corporation shall not purchase property from any of the Interested Parties unless, after disclosure to the Board of the interest of the Interested Party in the proposed transaction, a majority of directors not otherwise interested in such transaction (including a majority of the Independent Directors) has in good faith determined that (x) the property is being offered to the Corporation upon terms fair and commercially reasonable to the Corporation and at a price not greater than the cost of such asset to the selling party or its Appraised Value, and (y) the cost of such property and any improvements thereof is clearly established at the time of the proposed transaction and, regardless of such property's Appraised Value, if such cost is less than the price to be paid by the Corporation, some material change has occurred to the property which would increase its value after the selling party acquired an interest therein. The passage of time, increases in gross revenues, substantial repairs, rehabilitation or improvements, and the receipt of permits, consents, approvals, licenses and other authorizations from governmental agencies or bodies, may be regarded as events increasing the value of the property and supporting a price in excess of the selling entity's costs.

(c) SALES BY THE CORPORATION. The Corporation shall not sell property to any Interested Parties, unless the interest of any such Interested Party in such proposed transaction has been disclosed to the Board and a majority of directors not otherwise interested in such transaction (including a majority of the Independent Directors) have determined in good faith that the transaction is fair, competitive and commercially reasonable to the Corporation and on terms and conditions not less favorable than the terms and conditions that would have been made available from unaffiliated third parties.

(d) LOANS TO THE CORPORATION. The Corporation shall not borrow funds from, any of the Interested Parties unless, after disclosure to the Board of the interest of the Interested Party in the proposed transaction, a majority of Directors not otherwise interested in such transaction (including a majority of the Independent Directors) have determined in good faith that the transaction is fair, competitive and commercially reasonable to the Corporation and on terms and conditions no less favorable to the Corporation than loans between unaffiliated lenders and borrowers under the same circumstances.

Section 8. CORPORATION'S RIGHT TO BORROW FUNDS. Subject to the restrictions contained in this Section 8, the Corporation may, at any time, at the discretion of the Board, create, incur, assume, guarantee, extend the maturity of or otherwise become liable with respect to any Indebtedness, on a secured or unsecured basis, and in connection therewith execute, issue and deliver promissory notes, commercial paper, notes, debentures, bonds and other debt obligations (which may be convertible into shares of capital stock or other equity interests or be issued together with warrants to acquire shares of capital stock or other equity interests).

Section 9. PURSUIT OF ANCILLARY SERVICES.

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(a) The Corporation may provide any Ancillary Services to its tenants or others as long as the Board believes in good faith that the Corporation's pursuit of such Ancillary Services would not jeopardize the Corporation's qualification as a REIT under the Code.

(b) In the event that the Corporation's pursuit of one or more of the Ancillary Services might jeopardize the qualification of the Corporation as a REIT under the Code, the Corporation may, in lieu of offering such Ancillary Services directly:

(i) Restructure the manner in which such Ancillary Services are offered to the Corporation's tenants or others, alter the pricing of other Ancillary Services or take such other action as the Corporation deems necessary; (ii) Invest in one or more other entities which directly provide the Ancillary Services to the Corporation's tenants or others; or (iii) Permit others, including Interested Parties, to offer the Ancillary Services to the Corporation's customers or others or to use the Corporation's properties as a site for offering such services, if such permission is granted in compliance with the terms of Paragraph (c) of this Section 9; PROVIDED, HOWEVER, that, in each such instance, the Board has received an opinion from tax counsel or a ruling from the IRS that such action, subject to the qualifications and restrictions imposed by the Board, and such other assumptions as the Board may reasonably establish, would not disqualify the Corporation from taxation as a REIT under the Code.

(c) The Corporation may permit one or more third parties in addition to an Advisor (including entities in which a Director, officer or an Affiliate thereof has an interest), to offer Ancillary Services to its customers or others, or to use the Corporation's properties as a site for offering such Ancillary Services, if the Board has in good faith made the following determinations:

(i) The Corporation does not wish, or consider it advisable, to offer the Ancillary Services directly to its tenants or others or has determined that rendering such Ancillary Services would jeopardize the qualification of the Corporation as a REIT under the Code;

(ii) Permitting others to render such Ancillary Services would likely increase the rental revenues or other income derived from the ownership of the Corporation's properties, enhance the competitiveness of the Corporation or otherwise provide economic benefits, directly or indirectly, to the Corporation; and (iii) The party or parties rendering the Ancillary Services are competent to do so, have experience in rendering such Ancillary Services and have entered into a written contract with the Corporation with respect to the provision of the Ancillary Services, having terms and conditions deemed fair and equitable by the Board.

Section 10. INVESTMENT IN CORPORATION'S SHARES. The Corporation may, at any time, at the discretion of the Board, invest in any class or series of the Common Stock or Preferred Stock, or in any of its promissory notes, commercial paper, Notes, debentures, bonds or other debt obligations, for the purpose of supporting the value of any such securities or for any other purpose.

## ARTICLE VIII

### INDEPENDENT ACTIVITIES

Section 1. SHARES HELD BY DIRECTORS AND OFFICERS. Any director or officer may acquire, own, hold and dispose of shares of capital stock in the Corporation, for his or her individual account, and may exercise all rights of a stockholder to the same extent and in the same manner as if he or she were not a director or officer.

Section 2. BUSINESS INTERESTS AND INVESTMENTS OF DIRECTORS. Subject to the limitations contained in this Section 2, any director who is not an officer of the

Corporation may have personal business interests and may engage in personal business activities, which interests and activities may include the acquisition, syndication, holding, management, operation or disposition, for his or her own account or for the account of others, of interests in real property or persons engaged in the real estate business, even if the same directly compete with the actual business being conducted by the Corporation, and is not required to present to the Corporation any business opportunity which comes to him or her even though such opportunity is within the Corporation's investment policies.

Section 3. OTHER BUSINESS RELATIONSHIPS OF DIRECTOR. Subject to the provisions of Article VII, any director or officer may be interested as trustee, officer, director, stockholder, partner, member, advisor or employee, or otherwise have a direct or indirect interest in any person who may be engaged to render advice or services to the Corporation, and may receive compensation from such person as well as compensation as director, officer or otherwise hereunder, and no such activity shall be deemed to conflict with his or her duties and powers as director or officer.

## ARTICLE IX

### GENERAL PROVISIONS

Section 1. DIVIDENDS. Dividends upon the capital stock of the Corporation, subject to the provisions of the Charter, if any, may be declared by the Board at any regular or special meeting, pursuant to law. Dividends may be paid in cash, in property, or in shares of the capital stock, subject to the provisions of the Charter.

Section 2. PAYMENT OF DIVIDENDS; DIRECTORS' DISCRETION TO ESTABLISH RESERVES. Before payment of any dividend there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Board from time to time, in their absolute discretion, think proper as a reserve fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or for such other purpose as the Board shall think conducive to the interests of the Corporation, and the Board may abolish any such reserve.

Section 3. DUTIES. For the purpose of determining stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than thirty (30) (or the maximum number permitted by applicable law) days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto. Any distribution of income or capital assets of the Corporation to stockholders will be accompanied by a written statement disclosing the source of the funds distributed. If, at the time of distribution, this information is not available, a written explanation of the relevant circumstances will accompany the distribution and a written statement disclosing the source of funds distributed will be sent to the stockholders not later than sixty (60) days after the close of the fiscal year in which the distribution was made.

Section 4. CORPORATE SEAL. The corporate seal shall have inscribed thereon the name of the Corporation, the year of its organization and the words "Corporate Seal, Maryland." Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise. Whenever the Corporation is permitted or required to affix its seal to a document, it shall be sufficient to meet the requirements of any law, rule or regulation relating to a seal to place the word "(SEAL)" adjacent to the signature of the person authorized to execute the document on behalf of the Corporation.

Section 5. MANNER OF GIVING NOTICE. Whenever, under the provisions of the statutes or of the Charter or of these Bylaws, notice is required to be given to any director or stockholder, it shall not be construed to mean personal notice, but such notice may be given in writing, by mail, addressed to such director or stockholder, at his or her address as it appears on the records of the Corporation, with postage thereon prepaid, and such notice shall be deemed to be given at the time when the same shall be deposited in the United States mail. Notice to directors may also be given by telegram.

Section 6. WAIVER OF NOTICE. Whenever any notice is required to be given under the provisions of the statutes or of the Charter or of these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed to be equivalent.

Section 7. ANNUAL STATEMENT. The Board shall cause an annual report to be sent to the stockholders not later than one hundred twenty (120) days after the close of the fiscal year adopted by the Corporation. This report shall be sent at least thirty (30) days before the annual meeting of stockholders to be held during the next fiscal year and in the manner specified in Section 5 of this Article IX for giving notice to stockholders of the Corporation. The annual report shall contain financial statements prepared in accordance with generally accepted accounting principles which are audited and reported on by independent certified public accountants. If the Corporation engages an Advisor to administer its affairs, the annual report shall include the aggregate amount of advisory fees and the aggregate amount of other fees paid to the Advisor and its Affiliates, including fees or charges paid to the Advisor and its Affiliates by third parties doing business with the Corporation.

Section 8. FISCAL YEAR. The Board shall have the power, from time to time, to fix the fiscal year of the Corporation by a duly adopted resolution.

Section 9. CONTRACTS. The Board may authorize any officer or agent to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances. Any agreement, deed, mortgage, lease or other document executed by one or more of the directors or by an authorized person shall be valid and binding upon the Board and upon the Corporation when authorized or ratified by action of the Board.

Section 10. CHECKS AND DRAFTS. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or agent of the Corporation in such manner as shall from time to time be determined by the Board.

Section 11. DEPOSITS. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board may designate.

## ARTICLE X

### INDEMNIFICATION AND ADVANCES FOR EXPENSES

To the maximum extent permitted by Maryland law in effect from time to time, the Corporation, without requiring a preliminary determination of the ultimate entitlement to indemnification, shall indemnify and shall pay or reimburse reasonable expenses in advance of final disposition of a proceeding to (a) any individual who is a present or former director or officer of the Corporation and who is made a party to the proceeding by reason of his service in that capacity or (b) any individual who, while a director of the Corporation and

at the request of the Corporation, serves or has served another corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or any other enterprise as a director, officer, partner or trustee of such corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or other enterprise and who is made a party to the proceeding by reason of his service in that capacity. The Corporation may, with the approval of its Board, provide such indemnification and advance for expenses to a person who served a predecessor of the Corporation in any of the capacities described in (a) or (b) above and to any employee or agent of the Corporation or a predecessor of the Corporation.

Neither the amendment nor repeal of this Article, nor the adoption or amendment of any other provision of the Bylaws or charter of the Corporation inconsistent with this Article, shall apply to or affect in any respect the applicability of the preceding paragraph with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

## ARTICLE XI

### WAIVER OF NOTICE

Whenever any notice is required to be given pursuant to the charter of the Corporation or these Bylaws or pursuant to applicable law, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at nor the purpose of any meeting need be set forth in the waiver of notice, unless specifically required by statute. The attendance of any person at any meeting shall constitute a waiver of notice of such meeting, except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

## ARTICLE XII

### AMENDMENT OF BYLAWS

The Board of Directors shall have the exclusive power to adopt, alter or repeal any provision of these Bylaws and to make new Bylaws; PROVIDED, HOWEVER, that Section 3 of Article IX (relating to the written statement the Corporation is required to furnish to stockholders), Article VII except for Section 8 thereof (relating to investment policy and restrictions), Section 7 of Article IX (relating to an annual report), and the definitions in Article I, to the extent that such definitions are to be used in any of the Sections cited in this Article XII (relating to amendments to the Bylaws) may not be amended, repealed or modified, or inconsistent provisions adopted with respect thereto, without the affirmative vote of the stockholders holding a majority of the outstanding shares of each class entitled to vote.

## ARTICLE XIII

### MISCELLANEOUS

Section 1. PROVISIONS IN CONFLICT WITH LAW OR REGULATIONS. The provisions of these Bylaws are separable, and if the Board shall determine, with the advice of counsel, that any one or more of such provisions (the "Conflicting Provisions") are in conflict with the REIT Provisions of the Code, the Maryland General Corporation Law or other applicable federal or Delaware laws and regulations, the Conflicting Provisions shall be deemed never to have constituted a part of these Bylaws; provided, however, that such determination of the Directors shall not affect or impair any of the remaining provisions of

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these Bylaws or render invalid or improper any action taken or omitted (including, but not limited to, the election of Directors) prior to such determination. Such determination shall become effective when a certificate, signed by a majority of the Directors setting forth any such determination and reciting that it was duly adopted by the Directors, shall be filed with the books and records of the Corporation. The Directors shall not be liable for failure to make any determination under this Section 1 of Article XIII. Nothing in this Section 1 shall in any way limit or affect the rights of the Directors or the stockholders to amend these Bylaws.

Section 2. RELIANCE UPON LEGAL ADVICE. The Directors, including the Independent Directors, may retain one or more legal counsel to assist them in making any determination required by them, or which they are permitted to make, pursuant to the terms of these Bylaws. Such directors shall not be liable for any loss caused by or resulting from any action taken or omitted in reliance upon any legal opinion rendered by such counsel, so long as the selection of the legal counsel and reliance on the advice was in good faith.

In making any such determinations, the Directors shall not, however, be obligated to follow the advice of any legal counsel engaged to advise them.

Section 3. MARYLAND LAW TO GOVERN. Unless the context requires otherwise, the general provisions, rules of construction and definitions in the Maryland General Corporation Law shall govern the construction of these Bylaws.

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## AMENDMENT TO BYLAWS

March 20, 2000

Section 1 of Article III of the Bylaws of the Corporation is hereby amended to read in its entirety as follows:

**Section 1. Place.** All meetings of stockholders shall be held at the principal executive office of the Corporation or at such other place as shall be stated in the notice of the meeting.

Section 3 of Article III of the Bylaws of the Corporation is hereby amended to read in its entirety as follows:

**Section 3. Special Meetings.**

(a) General. The President, Chief Executive Officer or Board of Directors may call special meetings of the stockholders. Subject to Subsection (b) of this Section 3, special meetings of stockholders shall also be called by the Secretary of the Corporation upon the written request of the holders of shares entitled to cast not less than a majority of all the votes entitled to be cast at such meeting.

(b) Stockholder Requested Special Meetings.

(1) Any stockholder of record seeking to have stockholders request a special meeting shall, by sending written notice to the Secretary (the "Record Date Request Notice") by registered mail, return receipt requested, request the Board of Directors to fix a record date to determine the stockholders entitled to request a special meeting (the "Request Record Date"). The Record Date Request Notice shall set forth the purpose of the meeting and the matters proposed to be acted on at it, shall be signed by one or more stockholders of record as of the date of signature (or their duly authorized proxies or other agents), shall bear the date of signature of each such stockholder (or proxy or other agent) and shall set forth all information relating to each such stockholder that must be disclosed in solicitations of proxies for election of Directors in an election contest (even if an election contest is not involved), or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Rule 14A-11 thereunder. Upon receiving the Record Date Request Notice, the Board of Directors may fix a Request Record Date. The Request Record Date shall not precede and shall not be more than ten (10) days after the close of business on the date on which the resolution fixing the Request Record Date is adopted by the Board of Directors. If the Board of Directors, within ten (10) days after the date on which a valid Record Date Request Notice is received, fails to adopt a resolution fixing the Request Record Date and make a public announcement of such Request Record Date, the Request Record Date shall be the close of business on the tenth (10<sup>th</sup>) day after the first (1<sup>st</sup>) date on which the Record Date Request Notice is received by the Secretary.

(2) In order for any stockholder to request a special meeting, one or more written requests for a special meeting signed by stockholders of record (or their duly authorized proxies or other agents) as of the Request Record Date entitled to cast not less than a majority (the "Special Meeting Percentage") of all of the votes

entitled to be cast at such meeting (the "Special Meeting Request") shall be delivered to the Secretary. In addition, the Special Meeting Request shall set forth the purpose of the meeting and the matters proposed to be acted on at it (which shall be limited to the matters set forth in the Record Date Request Notice received by the Secretary), shall bear the date of signature of each such stockholder (or proxy or other agent) signing the Special Meeting Request, shall set forth the name and address, as they appear in the Corporation's books, of each stockholder signing such request (or on whose behalf the Special Meeting Request is signed) and the class and number of shares of stock of the Corporation which are owned of record and beneficially by each such stockholder, shall be sent to the Secretary by registered mail, return receipt requested, and shall be received by the Secretary within sixty (60) days after the Request Record Date. Any requesting stockholder may revoke his, her or its request for a special meeting at any time by written revocation delivered to the Secretary.

(3) The Secretary shall inform the requesting stockholders of the reasonably estimated cost of preparing and mailing the notice of meeting (including the Corporation's proxy materials). The Secretary shall not be required to call a special meeting upon stockholder request and such meeting shall not be held unless, in addition to the documents required by Paragraph (2) of this Section 3(b), the Secretary receives payment of such reasonably estimated cost prior to the mailing of any notice of the meeting.

(4) Except as provided in the next sentence, any special meeting shall be held at such place, date and time as may be designated by the President, Chief Executive Officer or Board of Directors, whoever has called the meeting. In the case of any special meeting called by the Secretary upon the request of stockholders (a "Stockholder Requested Meeting"), such meeting shall be held at such place, date and time as may be designated by the Board of Directors; provided, however, that the date of any Stockholder Requested Meeting shall be not more than ninety (90) days after the record date for such meeting (the "Meeting Record Date"); and provided further that if the Board of Directors fails to designate, within ten (10) days after the date that a valid Special Meeting Request is actually received by the Secretary (the "Delivery Date"), a date and time for a Stockholder Requested Meeting, then such meeting shall be held at 2:00 p.m. local time on the ninetieth (90<sup>th</sup>) day after the Meeting Record Date or, if such ninetieth (90<sup>th</sup>) day is not a Business Day (as defined below), on the first preceding Business Day; and provided further that in the event that the Board of Directors fails to designate a place for a Stockholder Requested Meeting within ten (10) days after the Delivery Date, then such meeting shall be held at the principal executive offices of the Corporation. In fixing a date for any special meeting, the President, Chief Executive Officer or Board of Directors may consider such factors as he, she or it deems relevant within the good faith exercise of business judgment, including, without limitation, the nature of the matters to be considered, the facts and circumstances surrounding any request for meeting and any plan of the Board of Directors to call an annual meeting or a special meeting. In the case of any Stockholder Requested Meeting, if the Board of Directors fails to fix a Meeting Record Date that is a date within thirty (30) days after the Delivery Date, then the close of business on the thirtieth (30<sup>th</sup>) day after the Delivery Date shall be the Meeting Record Date.

(5) If at any time as a result of written revocations of requests for the special meeting, stockholders of record (or their duly authorized proxies or other agents) as of the Request Record Date entitled to cast less than the Special Meeting Percentage shall have delivered and not revoked requests for a special meeting, the Secretary may refrain from mailing the notice of the meeting or, if the notice of the meeting has been mailed, the Secretary may revoke the notice of the meeting at any time before ten (10) days before the meeting if the Secretary has



first sent to all other requesting stockholders written notice of such revocation and of intention to revoke the notice of the meeting. Any request for a special meeting received after a revocation by the Secretary of a notice of a meeting shall be considered a request for a new special meeting.

(6) The Chief Executive Officer, the President or the Board of Directors may appoint regionally or nationally recognized independent inspectors of elections to act as the agent of the Corporation for the purpose of promptly performing a ministerial review of the validity of any purported Special Meeting Request received by the Secretary. For the purpose of permitting the inspectors to perform such review, no such purported request shall be deemed to have been delivered to the Secretary until the earlier of (i) five (5) Business Days after receipt by the Secretary of such purported request and (ii) such date as the independent inspectors certify to the Corporation that the valid requests received by the Secretary represent at least a majority of the issued and outstanding shares of stock that would be entitled to vote at such meeting. Nothing contained in this Paragraph (6) shall in any way be construed to suggest or imply that the Corporation or any stockholder shall not be entitled to contest the validity of any request, whether during or after such five (5) Business Day period, or to take any other action (including, without limitation, the commencement, prosecution or defense of any litigation with respect thereto, and the seeking of injunctive relief in such litigation).

(7) For purposes of these Bylaws, "Business Day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions in the State of California are authorized or obligated by law or executive order to close.

Section 4 of Article III of the Bylaws of the Corporation is hereby amended to read in its entirety as follows:

**Section 4. Notice.** Not less than ten (10) nor more than ninety (90) days before each meeting of stockholders, the Secretary shall give to each stockholder entitled to vote at such meeting and to each stockholder not entitled to vote who is entitled to notice of the meeting written or printed notice stating the time and place of the meeting and, in the case of a special meeting or as otherwise may be required by any statute, the purpose for which the meeting is called, either by mail or by presenting it to such stockholder personally or by leaving it at his residence or usual place of business or by any other means permitted by Maryland law. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the stockholder at his post office address as it appears on the records of the Corporation, with postage thereon prepaid.

Section 9 of Article III of the Bylaws of the Corporation is hereby amended to read in its entirety as follows:

**Section 9. Proxies.** A stockholder may vote the stock owned of record by him, either in person or by proxy executed in any manner authorized by Maryland law by the stockholder or by his duly authorized agent. Such proxy shall be filed with the Secretary of the Corporation before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

Sections 12(a) and 12(b) of Article III of the Bylaws of the Corporation are hereby amended to read in their entirety as follows:

**Section 12. Nominations and Stockholder Business.**

(a) Annual Meetings of Stockholders.

(1) Nominations of persons for election to the Board and the proposal of business to be considered by the stockholders may be made at an annual meeting

of stockholders (i) pursuant to the Corporation's notice of meeting, (ii) by or at the direction of the Board or (iii) by any stockholder of the Corporation who was a stockholder of record both at the time of giving notice provided for in this Section 12(a) and at the time of the annual meeting, who is entitled to vote at the meeting and who complied with the notice procedures set forth in this Section 12(a).

(2) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of Paragraph (a)(1) of this Section 12, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation and such other business must otherwise be a proper matter for action by stockholders. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the first (1<sup>st</sup>) anniversary of the mailing of the notice of the preceding year's annual meeting; provided, however, that in the event that the date of the mailing of the notice of the annual meeting is advanced or delayed by more than thirty (30) days from the anniversary of the date of mailing of the notice of the preceding year's annual meeting, notice by the stockholder to be timely must be so delivered not earlier than the one hundred twentieth (120<sup>th</sup>) day prior to the date of the mailing of the notice of such annual meeting and not later than the close of business on the later of the ninetieth (90<sup>th</sup>) day prior to the date of the mailing of the notice of such annual meeting or the tenth (10<sup>th</sup>) day following the day on which public announcement of the date of such meeting is first made. In no event shall the public announcement of a postponement of the mailing of the notice for such annual meeting or of an adjournment or postponement of an annual meeting to a later date or time commence a new time period for the giving of a stockholder's notice as described above. Such stockholder's notice shall set forth (i) as to each person whom the stockholder proposes to nominate for election or reelection as a Director all information relating to such person that is required to be disclosed in solicitations of proxies for election of Directors, or is otherwise required, in each case pursuant to Regulation 14A under the Exchange Act (including such person's written consent to being named in the proxy statement as a nominee and to serving as a Director if elected); (ii) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and of the beneficial owner, if any, on whose behalf the proposal is made; and (iii) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made, (x) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner and (y) the number of shares of each class of stock of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner.

(3) Notwithstanding anything in the second sentence of Paragraph (a)(2) of this Section 12 to the contrary, in the event that the number of Directors to be elected to the Board of Directors is increased and there is no public announcement naming all of the nominees for Director or specifying the size of the increased Board of Directors made by the Corporation at least one hundred (100) days prior to the first (1<sup>st</sup>) anniversary of the mailing of the notice of the preceding year's annual meeting, a stockholder's notice required by this Section 12(a) shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth (10<sup>th</sup>) day following the day on which such public announcement is first made by the Corporation.

(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which Directors are to be elected (i) pursuant to the Corporation's notice of meeting, (ii) by or at the direction of the Board of Directors or (iii) provided that the Board of Directors has determined that Directors shall be elected at such special meeting, by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice provided for in this Section 12(b), and at the time of the special meeting, who is entitled to vote at the meeting and who complied with the notice procedures set forth in this Section 12(b). In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more Directors to the Board of Directors, any such stockholder may nominate a person or persons (as the case may be) for election to such position as specified in the Corporation's notice of meeting, if the stockholder's notice containing the information required by Paragraph (a)(2) of this Section 12 shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the one hundred twentieth (120<sup>th</sup>) day prior to such special meeting and not later than the close of business on the later of the ninetieth (90<sup>th</sup>) day prior to such special meeting or the tenth (10<sup>th</sup>) day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall the public announcement of a postponement or adjournment of a special meeting to a later date or time commence a new time period for the giving of a stockholder's notice as described above.

Section 5 of Article IV of the Bylaws of the Corporation are hereby amended to read in their entirety as follows:

**Section 5. Notice.** Notice of any special meeting of the Board of Directors shall be delivered personally or by telephone, facsimile transmission, electronic mail, United States mail or courier to each Director at his business or residence address. Notice by personal delivery, telephone, electronic mail or a facsimile transmission shall be given at least two (2) days prior to the meeting. Notice by courier shall be given at least five (5) days prior to the meeting. Notice by mail shall be given at least five (5) days prior to the meeting and shall be deemed to be given when deposited in the United States mail properly addressed, with postage thereon prepaid. Telephone notice shall be deemed to be given when the Director is personally given such notice in a telephone call to which he is a party. Electronic mail notice shall be deemed to be given when such notice is sent to the Director at his electronic mail address as it appears on the records of the Corporation. Facsimile transmission notice shall be deemed to be given upon completion of the transmission of the message to the number given to the Corporation by the Director and receipt of a completed answer back indicating receipt. Notice by courier shall be deemed to be given when deposited with or delivered to a courier properly addressed. Neither the business to be transacted at, nor the purpose of, any annual, regular or special meeting of the Board of Directors need be stated in the notice, unless specifically required by statute or these Bylaws.

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## AMENDMENT TO BYLAWS

June 15, 2005

The last sentence of Article IV, Section 2 of the Bylaws is hereby deleted, and the following sentence is hereby substituted in lieu thereof:

“Except as provided in Section 10 of this Article IV with respect to vacancies, the directors shall be elected as provided in the Charter at the annual meeting of the stockholders, and each director so elected shall hold office until the next annual meeting of the stockholders and until his or her successor is elected and qualifies or until his or her death, retirement, resignation or removal.”

The third sentence of Article IV, Section 10 of the Bylaws is hereby deleted, and the following sentence is hereby substituted in lieu thereof:

“Any individual so elected as director shall hold office until the next annual meeting of stockholders and until his or her successor is elected and qualifies.”

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**Certification of Chief Executive Officer  
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Thomas A. Lewis, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Realty Income Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 1, 2005

/s/ THOMAS A. LEWIS

Thomas A. Lewis  
Chief Executive Officer and  
Vice Chairman of the Board

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**Certification of Chief Financial Officer  
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Paul M. Meurer, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Realty Income Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: July 28, 2005

/s/ PAUL M. MEURER

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Paul M. Meurer  
Executive Vice President,  
Chief Financial Officer and Treasurer

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**Certification of Chief Executive Officer and Chief Financial Officer**

Pursuant to 18 U.S.C. Section 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, each of the undersigned officers of Realty Income Corporation, a Maryland corporation (the "Company"), hereby certify, to his best knowledge, that:

- (i) the accompanying quarterly report on Form 10-Q of the Company for the quarter ended June 30, 2005, (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and
- (ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Thomas A. Lewis

Thomas A. Lewis

Vice Chairman and Chief Executive Officer

/s/ Paul M. Meurer

Paul M. Meurer

Executive Vice President, Chief Financial Officer and Treasurer

The foregoing certification is being furnished solely to accompany the Report pursuant to 18 U.S.C. Section 1350, and is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and is not to be incorporated by reference into any filing of the Company, whether made before or after the date hereof, regardless of any general incorporation language in such filing.

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