SUN COMMUNITIES INC
Form 10-Q
May 08, 2009

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

[X]QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended March 31, 2009.

or

o **TRANSITION PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934**

Commission file number 1-12616

SUN COMMUNITIES, INC.

(Exact Name of Registrant as Specified in its Charter)

Maryland	**38-2730780**
(State of Incorporation)	(I.R.S. Employer Identification No.)
27777 Franklin Rd.	
Suite 200	
Southfield, Michigan	**48034**
(Address of Principal Executive Offices)	(Zip Code)

(248) 208-2500
(Registrant’s telephone number, including area code)

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

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. (Check one):

Large accelerated filer [ ]   Accelerated filer [X]   Non-accelerated filer [ ]   Smaller reporting company [ ]

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes[ ] No [X]

Number of shares of Common Stock, $0.01 par value per share, outstanding

as of March 31, 2009: 18,619,612

SUN COMMUNITIES, INC.

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SUN COMMUNITIES, INC.

CONSOLIDATED BALANCE SHEETS

AS OF MARCH 31, 2009 AND DECEMBER 31, 2008

(In thousands, except per share amounts)

	March 31, 2009 (Unaudited)	December 31, 2008
ASSETS		
Investment property, net	$1,084,128	$1,089,304
Cash and cash equivalents	6,588	6,162
Inventory of manufactured homes	9,674	13,058
Investment in affiliates	3,799	3,772
Notes and other receivables	60,088	57,481
Other assets	33,250	37,152
Assets of discontinued operations	68	70
TOTAL ASSETS	$1,197,595	$1,206,999
LIABILITIES		
Debt	$1,141,911	$1,139,152
Lines of credit	88,447	90,419
Other liabilities	35,904	37,240
Liabilities of discontinued operations	78	70
TOTAL LIABILITIES	$1,266,340	$1,266,881
Commitments and contingencies		
STOCKHOLDERS' DEFICIT		
Preferred stock, $.01 par value, 10,000 shares authorized, none issued	$—	$—
Common stock, $.01 par value, 90,000 shares authorized (March 31, 2009 and December 31, 2008, 20,421 and 20,313 shares issued respectively)	204	203
Additional paid-in capital	460,164	459,847
Officer's notes	(5,427)	(8,334)
Accumulated other comprehensive loss	(2,855)	(2,851)
Distributions in excess of accumulated earnings	(455,957)	(445,147)
Treasury stock, at cost (March 31, 2009 and December 31, 2008, 1,802 shares)	(63,600)	(63,600)
Total Sun Communities, Inc. stockholders' deficit	(67,471)	(59,882)
Noncontrolling interest	(1,274)	—
TOTAL STOCKHOLDERS' DEFICIT	(68,745)	(59,882)
TOTAL LIABILITIES AND STOCKHOLDERS' DEFICIT	$1,197,595	$1,206,999

The accompanying notes are an integral part of the consolidated financial statements

SUN COMMUNITIES, INC.

CONSOLIDATED STATEMENTS OF OPERATIONS

FOR THE THREE MONTHS ENDED MARCH 31, 2009 AND 2008

(In thousands, except per share amounts)

(Unaudited)

	Three Months Ended March 31, 2009	2008
REVENUES		
Income from real property	$ 50,999	$ 50,349
Revenue from home sales	7,461	7,503
Rental home revenue	5,200	4,996
Ancillary revenues, net	195	226
Interest	1,272	805
Other income	157	871
Total revenues	65,284	64,750
COSTS AND EXPENSES		
Property operating and maintenance	12,605	12,074
Real estate taxes	4,184	4,169
Cost of home sales	5,423	5,839
Rental home operating and maintenance	4,537	3,466
General and administrative - real property	4,166	4,158
General and administrative - home sales and rentals	1,826	1,612
Depreciation and amortization	16,204	15,861
Interest	14,245	15,380
Interest on mandatorily redeemable debt	835	844
Total expenses	64,025	63,403
Income before income taxes and net equity income (loss) from affiliates	1,259	1,347
Benefit (provision) for state income taxes	(133)	235
Income (loss) from affiliates, net	27	(4,830)
Income (loss) from continuing operations	1,153	(3,248)
Loss from discontinued operations	(172)	(241)
Net income (loss)	981	(3,489)
Less: Net income (loss) attributable to noncontrolling interest	104	(394)
Net income (loss) attributable to Sun Communities, Inc.	$ 877	$ (3,095)
Weighted average common shares outstanding:		
Basic	18,511	18,077
Diluted	20,698	18,077
Basic and diluted income (loss) per share:		
Continuing operations	$ 0.06	$ (0.16)
Discontinued operations	(0.01)	(0.01)

Basic and diluted earnings (loss) per share	$ 0.05	$ (0.17)
Cash dividends per common share:	$ 0.63	$ 0.63

The accompanying notes are an integral part of the consolidated financial statements

SUN COMMUNITIES, INC.

CONSOLIDATED STATEMENTS OF OPERATIONS, CONTINUED

FOR THE THREE MONTHS ENDED MARCH 31, 2009 AND 2008

(In thousands)

(Unaudited)

	Three Months Ended March 31, 2009	2008
Amounts attributable to Sun Communities, Inc. common stockholders:		
Income (loss) from continuing operations, net of state income taxes	$ 1,031	$ (2,881)
Loss from discontinued operations, net of state income taxes	(154)	(214)
Net income (loss) attributable to Sun Communities, Inc.	$ 877	$ (3,095)

SUN COMMUNITIES, INC.

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)

FOR THE THREE MONTHS ENDED MARCH 31, 2009 AND 2008

(In thousands)

(Unaudited)

	Three Months Ended March 31, 2009	2008
Net income (loss)	$ 981	$ (3,489)
Unrealized loss on interest rate swaps	(4)	(1,416)
Total comprehensive income (loss)	977	(4,905)
Less: Comprehensive income (loss) attributable to the noncontrolling interest	104	(554)
Comprehensive income (loss) attributable to Sun Communities, Inc.	$ 873	$ (4,351)

SUN COMMUNITIES, INC.

CONSOLIDATED STATEMENT OF STOCKHOLDERS' DEFICIT

FOR THE THREE MONTHS ENDED MARCH 31, 2009

(In thousands, except per share amounts)

(Unaudited)

	Common stock	Additional paid-in capital	Officer's notes	Accumulated other comprehensive loss	Distributions in excess of accumulated earnings	Treasury stock	Total Sun Communities stockholders' deficit	Non controlling interest	Total stockholders' deficit
Balance as of December 31, 2008	$ 203	$ 459,847	$ (8,334)	$ (2,851)	$ (445,147)	$ (63,600)	$ (59,882)	$ —	$ (59,882)
Cancellation of common stock, net	1	(132)	—	—	—	—	(131)	—	(131)
Stock-based compensation - amortization and forfeitures	—	449	—	—	(25)	—	424	—	424
Repayment of officer's notes	—	—	2,907	—	—	—	2,907	—	2,907
Net income	—	—	—	—	877	—	877	—	877
Unrealized loss on interest rate swaps	—	—	—	(4)	—	—	(4)	—	(4)
Noncontrolling interest distribution	—	—	—	—	—	—	—	(1,378)	(1,378)
Net income attributable to noncontrolling interest	—	—	—	—	—	—	—	104	104
Cash distributions declared of $0.63 per share	—	—	—	—	(11,662)	—	(11,662)	—	(11,662)
Balance as of March 31, 2009	$ 204	$ 460,164	$ (5,427)	$ (2,855)	$ (455,957)	$ (63,600)	$ (67,471)	$ (1,274)	$ (68,745)

The accompanying notes are an integral part of the consolidated financial statements

SUN COMMUNITIES, INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS

FOR THE THREE MONTHS ENDED MARCH 31, 2009 AND 2008

(In thousands)

(Unaudited)

	Three Months Ended March 31, 2009	2008
OPERATING ACTIVITIES:		
Net income (loss)	$ 877	$ (3,095)
Less: Loss from discontinued operations, net of tax	(154)	(241)
Income (loss) from continuing operations	1,031	(2,854)
Adjustments to reconcile income (loss) from continuing operations to net cash provided by operating activities:		
Noncontrolling interest allocation of income (loss)	104	(394)
Gain from land disposition	—	(673)
Gain on disposal of other assets	(17)	(39)
Loss (gain) on valuation of derivative instruments	(3)	4
Stock compensation expense	418	439
Depreciation and amortization	16,789	16,861
Amortization of deferred financing costs	395	370
Net equity (income) loss from affiliates	(27)	4,830
Change in notes receivable from sales of financed homes, net of repurchases	(410)	504
Change in inventory, other assets and other receivables, net	(1,599)	(5,516)
Change in accounts payable and other liabilities	(862)	(1,506)
Net cash provided by operating activities of continuing operations	15,819	12,026
Net cash used for operating activities of discontinued operations	(144)	(84)
NET CASH PROVIDED BY OPERATING ACTIVITIES	15,675	11,942
INVESTING ACTIVITIES:		
Investment in properties	(5,916)	(6,202)
Proceeds related to disposition of land	2	2,708
Proceeds related to disposition of other assets	32	90
Payment of notes receivable and officer's notes, net	3,027	182
NET CASH USED FOR INVESTING ACTIVITIES	(2,855)	(3,222)
FINANCING ACTIVITIES:		
Cancellation of common stock and Common OP Units, net	(131)	(80)
Borrowings on lines of credit	39,406	25,614
Payments on lines of credit	(41,378)	(18,750)
Proceeds from issuance of notes payable and other debt	7,593	—

Payments on notes payable and other debt	(4,834)	(2,951)
Payments for deferred financing costs	(10)	(16)
Distributions to stockholders and OP unit holders	(13,040)	(12,999)
NET CASH USED FOR FINANCING ACTIVITIES	(12,394)	(9,182)
Net increase (decrease) in cash and cash equivalents	426	(462)
Cash and cash equivalents, beginning of period	6,162	5,415
Cash and cash equivalents, end of period	$6,588	$4,953
SUPPLEMENTAL INFORMATION:		
Cash paid for interest	$12,368	$14,065
Cash paid for interest on mandatorily redeemable debt	$834	$896
Noncash investing and financing activities:		
Unrealized loss on interest rate swaps	$(4)	$(1,416)
Rental homes transferred from inventory to investment property for use in Rental Program	$7,358	$5,033
Financed home sales transferred from inventory and investment property to notes receivable	$4,142	$3,209

The accompanying notes are an integral part of the consolidated financial statements

SUN COMMUNITIES, INC

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

(Unaudited)

1. Basis of Presentation

These unaudited consolidated financial statements of Sun Communities, Inc., a Maryland corporation, (the "Company") and all majority-owned or wholly-owned and controlled subsidiaries, including Sun Communities Operating Limited Partnership (the "Operating Partnership"), SunChamp LLC ("SunChamp"), and Sun Home Services, Inc. ("SHS"), have been prepared pursuant to the Securities and Exchange Commission ("SEC") rules and regulations and should be read in conjunction with the consolidated financial statements and accompanying notes of the Company included in our Annual Report on Form 10-K for the year ended December 31, 2008 as filed with the SEC on March 13, 2009, as amended on March 30, 2009 (the "2008 Annual Report").

The Company's cable television services are held for sale and presented as discontinued operations in the consolidated financial statements and related notes. See Note 2 for additional information.

The following Notes to Consolidated Financial Statements present interim disclosures as required by the SEC. These statements have been prepared on a basis that is substantially consistent with the accounting principles applied in our 2008 Annual Report, with the exception of the impact of our adoption in the first quarter of 2009 of Statement of Financial Accounting Standards (SFAS) No. 160, "Noncontrolling Interests in Consolidated Financial Statements" ("SFAS 160") and FASB Staff Position Emerging Issues Task Force ("EITF") No. 03-6-1, "Determining Whether Instruments Granted in Share-Based Payment Transactions are Participating Securities" ("FSP EITF 03-6-1"). See Recent Accounting Pronouncements in Note 17 for further information on our adoption of SFAS 160 and FSP EITF 03-6-1. The accompanying consolidated financial statements reflect, in the opinion of management, all adjustments necessary for a fair presentation of the interim financial statements. All such adjustments are of a normal and recurring nature. Certain reclassifications have been made to prior periods' financial statements in order to conform to current period presentation.

2. Discontinued Operations

The Company has investments in certain land improvements and equipment that provides cable television services to certain communities within the Real Property Operations segment. In December 2008, the Company determined that the cable television assets could not provide the necessary return on investment to justify the capital investment required to keep up with the technological advances in the offered product. In the fourth quarter of fiscal 2008, the Company announced its intention to exit the cable television service business and recorded a $4.1 million impairment charge on the cable television assets. This impairment charge was recognized in accordance with SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets" ("SFAS 144").

SFAS 144 also provides criteria to evaluate if a component of an entity is deemed to be held for sale and eligible for presentation as a discontinued operation. Based on the Company's plan to sell and exit the cable television services business within the next twelve months, the cable television services business is reported as a discontinued operation in the consolidated financial statements for all periods presented.

The following tables set forth certain summarized financial information of the discontinued operation (in thousands):

	Three Months Ended March 31,	
	2009	2008
Total revenues	$ 183	$ 204
Total expenses	(355)	(445)
Loss before state income taxes	(172)	(241)
Benefit (provision) for state income tax	—	—
Loss from discontinued operations	(172)	(241)
Less: Loss attributable to noncontrolling interest	(18)	(27)
Loss from discontinued operations attributable to Sun Communities, Inc. common stockholders	$ (154)	$ (214)

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SUN COMMUNITIES, INC

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

(Unaudited)

2. Discontinued Operations, continued

	March 31, 2009	December 31, 2008
ASSETS		
Accounts receivable, net	$ 14	$ 16
Other assets	54	54
Total assets	$ 68	$ 70
LIABILITIES		
Accounts payable	$ 19	$ 16
Deferred income	36	38
Other liabilities	23	16
Total liabilities	$ 78	$ 70

3. Investment Property

The following table sets forth certain information regarding investment property (in thousands):

	March 31, 2009	December 31, 2008
Land	$116,289	$116,292
Land improvements and buildings	1,179,703	1,177,362
Rental homes and improvements	191,232	184,933
Furniture, fixtures, and equipment	34,094	34,050
Land held for future development	26,986	26,986
Investment property	1,548,304	1,539,623
Less: Accumulated depreciation	(464,176)	(450,319)
Investment property, net	$1,084,128	$1,089,304

Land improvements and buildings consist primarily of infrastructure, roads, landscaping, clubhouses, maintenance buildings and amenities.

4. Secured Borrowing and Collateralized Receivables

The Company has completed various transactions involving its installment notes since the third quarter of fiscal 2008. The Company has received a total of $35.1 million of cash proceeds in exchange for relinquishing its right, title and interest in the installment notes. The Company is subject to certain recourse provisions requiring the Company to purchase the underlying homes collateralizing such notes, in the event of a note default and subsequent repossession of the home.

FASB Statement No. 140, “Accounting for Transfers and Servicing of Financial Assets and Extinguishment of Liabilities” (“SFAS 140”) sets forth the criteria that must be met for control over transferred assets to be considered to have been surrendered, which includes, amongst other things: (1) the transferred assets have been isolated from the transferor, including put presumptively beyond the reach of the transferor and its creditors, even in bankruptcy or other receivership, (2) the transferee must obtain the right (free of conditions that constrain it from taking advantage of that right) to pledge or exchange the transferred assets, and (3) the transferor cannot maintain effective control over the transferred assets through an agreement to repurchase them before their maturity. When a company transfers financial assets and fails any one of the SFAS 140 criteria, the company is prevented from derecognizing the transferred financial assets and the transaction is accounted for as a secured borrowing. The determination about whether the isolation criteria of SFAS 140 have been met to support a conclusion regarding surrender of control is largely a matter of law. As such, the evidence required for testing whether or not the first criteria of SFAS 140 has been satisfied requires a legal "true sale" opinion analyzing the treatment of the transfer under state laws as if the Company was a debtor under the bankruptcy code. A "true sale" legal opinion includes several legally relevant factors, including the nature of retained interests in the loans sold. Legal opinions as to a "true sale" are never absolute and unconditional, but contain qualifications based on the inherent equitable powers of a bankruptcy court, as well as the unsettled state of the common law.

SUN COMMUNITIES, INC

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

(Unaudited)

4. Secured Borrowing and Collateralized Receivables, continued

It was the intent of both parties for these transactions to qualify for sale accounting under SFAS 140 and the terms of the agreements clearly stipulate that the Company has no further obligations or rights with respect to the control, management, administration, servicing, or collection of the installment notes. In addition, the transferee has obtained the right to pledge or exchange the installment notes. For federal tax purposes, the Company treats the transfers of loans which do not qualify as “true sales” under SFAS 140, as sales.

Notwithstanding these facts, the Company was unable to satisfy the first criteria for sale accounting treatment under SFAS 140 and therefore, the Company has recorded these transactions as a transfer of financial assets. The transferred assets have been classified as collateralized receivables and the cash proceeds received from these transactions have been classified as a secured borrowing in the Consolidated Balance Sheet.

The collateralized receivables earn interest income and the secured borrowings accrue borrowing costs at the same interest rates. The amount of interest income and expense recognized was $0.7 million for the three months ended March 31, 2009. The collateralized receivables and secured borrowings are reduced as the related installment notes are collected from the customers. The balance of the collateralized receivables was $32.5 million, net of a loan loss provision of $0.1 million as of March 31, 2009. The balance of the collateralized receivables was $26.1 million, net of a loan loss provision of $0.1 million as of December 31, 2008. The outstanding balance on the secured borrowing was $32.6 million and $26.2 million as of March 31, 2009 and December 31, 2008, respectively.

In the event of note default, and subsequent repossession of a manufactured home, the terms of the agreement require the Company to repurchase the manufactured home. Default is defined as the failure to repay the installment note according to contractual terms. If default on the installment note results in repossession of the home, the home is repurchased. The repurchase price is calculated as a percentage of the outstanding principal balance of the installment note, plus any outstanding late fees, accrued interest, legal fees and escrow advances associated with the installment note. The percentage used to determine the repurchase price of the outstanding principal balance on the installment note is based on the number of payments made on the note. In general, based on the number of payments made since the loan origination date, the repurchase price is determined as follows:

Number of Payments	**Recourse %**	
Less than or equal to 15	100	%
Greater than 15 but less than 64	90	%
64 or more	65	%

5. Notes and Other Receivables

The following table sets forth certain information regarding notes and other receivables (in thousands):

	March 31, 2009	December 31, 2008
Installment notes receivable on manufactured homes, net	$ 19,260	$ 21,232
Collateralized receivables, net (see Note 4)	32,498	