

BioMed Realty Trust Inc  
Form 10-K  
February 09, 2012  
[Table of Contents](#)

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**Form 10-K**  
**ANNUAL REPORT**  
**PURSUANT TO SECTION 13 OR 15(d)**  
**OF THE SECURITIES EXCHANGE ACT OF 1934**  
**For the fiscal year ended December 31, 2011**  
**Commission File Number: 1-32261 (BioMed Realty Trust, Inc.)**  
**000-54089 (BioMed Realty, L.P.)**

**BIOMED REALTY TRUST, INC.**  
**BIOMED REALTY, L.P.**  
(Exact name of registrant as specified in its charter)

# Edgar Filing: BioMed Realty Trust Inc - Form 10-K

**Maryland**  
(State or other jurisdiction of  
incorporation or organization)

**20-1142292 (BioMed Realty Trust, Inc.)**  
**20-1320636 (BioMed Realty, L.P.)**  
(I.R.S. Employer

**Identification No.)**

**17190 Bernardo Center Drive**  
**San Diego, California**  
(Address of Principal Executive Offices)

**(858) 485-9840**

**92128**  
(Zip Code)

(Registrant's telephone number, including area code)

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

	<b>Title of Each Class</b>	<b>Name of Each Exchange on Which Registered</b>
BioMed Realty Trust, Inc.	Common Stock, \$0.01 Par Value	New York Stock Exchange
BioMed Realty Trust, Inc.	7.375% Series A Cumulative Redeemable	New York Stock Exchange
	Preferred Stock, \$0.01 Par Value	
BioMed Realty, L.P.	None	None

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

BioMed Realty Trust, Inc.	None
BioMed Realty, L.P.	None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act of 1933.

BioMed Realty Trust, Inc.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
BioMed Realty, L.P.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.

BioMed Realty Trust, Inc.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
BioMed Realty, L.P.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act 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.

BioMed Realty Trust, Inc.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
BioMed Realty, L.P.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

## Edgar Filing: BioMed Realty Trust Inc - Form 10-K

BioMed Realty Trust, Inc.

Yes ☒ No ☐

BioMed Realty, L.P.

Yes ☒ No ☐

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

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

BioMed Realty Trust, Inc.:

Large accelerated filer ☒

Accelerated filer ☐

Non-accelerated filer ☐ (Do not check if a smaller reporting company)

Smaller reporting company ☐

BioMed Realty, L.P.:

Large accelerated filer ☐

Accelerated filer ☐

Non-accelerated filer ☒ (Do not check if a smaller reporting company)

Smaller reporting company ☐

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

BioMed Realty Trust, Inc.

Yes ☐ No ☒

BioMed Realty, L.P.

Yes ☐ No ☒

The aggregate market value of the 130,145,213 shares of common stock of BioMed Realty Trust, Inc. held by non-affiliates of the registrant was \$2,503,993,898 based upon the last reported sale price of \$19.24 per share on the New York Stock Exchange on June 30, 2011, the last business day of its most recently completed second quarter.

The number of outstanding shares of BioMed Realty Trust, Inc.'s common stock, par value \$0.01 per share, as of February 9, 2012 was 154,223,155.

### DOCUMENTS INCORPORATED BY REFERENCE

Portions of BioMed Realty Trust, Inc.'s Proxy Statement with respect to its 2012 Annual Meeting of Stockholders to be filed not later than 120 days after the end of the registrant's fiscal year are incorporated by reference into Part III hereof.

---

**Table of Contents**

**EXPLANATORY NOTE**

This report combines the annual reports on Form 10-K for the fiscal year ended December 31, 2011 of BioMed Realty Trust, Inc., a Maryland corporation, and BioMed Realty, L.P., a Maryland limited partnership of which BioMed Realty Trust, Inc. is the parent company and general partner. Unless otherwise indicated or unless the context requires otherwise, all references in this report to we, us, our or our company refer to BioMed Realty Trust, Inc. together with its consolidated subsidiaries, including BioMed Realty, L.P. Unless otherwise indicated or unless the context requires otherwise, all references in this report to our operating partnership or the operating partnership refer to BioMed Realty, L.P. together with its consolidated subsidiaries.

BioMed Realty Trust, Inc. operates as a real estate investment trust, or REIT, and the general partner of BioMed Realty, L.P. As of December 31, 2011, BioMed Realty Trust, Inc. owned an approximate 98.1% partnership interest and other limited partners, including some of our directors, executive officers and their affiliates, owned the remaining 1.9% partnership interest (including long term incentive plan units) in BioMed Realty, L.P. As the sole general partner of BioMed Realty, L.P., BioMed Realty Trust, Inc. has the full, exclusive and complete responsibility for the operating partnership's day-to-day management and control.

There are a few differences between our company and our operating partnership, which are reflected in the disclosure in this report. We believe it is important to understand the differences between our company and our operating partnership in the context of how BioMed Realty Trust, Inc. and BioMed Realty, L.P. operate as an interrelated consolidated company. BioMed Realty Trust, Inc. is a REIT, whose only material asset is its ownership of partnership interests of BioMed Realty, L.P. As a result, BioMed Realty Trust, Inc. does not conduct business itself, other than acting as the sole general partner of BioMed Realty, L.P., issuing public equity from time to time and guaranteeing certain debt of BioMed Realty, L.P. BioMed Realty Trust, Inc. itself does not hold any indebtedness but guarantees some of the secured and unsecured debt of BioMed Realty, L.P. BioMed Realty, L.P. holds substantially all the assets of the company and holds the ownership interests in the company's joint ventures. BioMed Realty, L.P. conducts the operations of the business and is structured as a partnership with no publicly traded equity. Except for net proceeds from public equity issuances by BioMed Realty Trust, Inc., which are generally contributed to BioMed Realty, L.P. in exchange for partnership units, BioMed Realty, L.P. generates the capital required by the company's business through BioMed Realty, L.P.'s operations, by BioMed Realty, L.P.'s direct or indirect incurrence of indebtedness or through the issuance of partnership units.

Noncontrolling interests and stockholders' equity and partners' capital are the main areas of difference between the consolidated financial statements of BioMed Realty Trust, Inc. and those of BioMed Realty, L.P. The operating partnership and long term incentive plan units in BioMed Realty, L.P. that are not owned by BioMed Realty Trust, Inc. are accounted for as partners' capital in BioMed Realty, L.P.'s financial statements and as noncontrolling interests in BioMed Realty Trust, Inc.'s financial statements. The noncontrolling interests in BioMed Realty, L.P.'s financial statements include the interests of joint venture partners. The noncontrolling interests in BioMed Realty Trust, Inc.'s financial statements include the same noncontrolling interests at the BioMed Realty, L.P. level as well as the limited partnership unitholders of BioMed Realty, L.P., not including BioMed Realty Trust, Inc. The differences between stockholders' equity and partners' capital result from the differences in the equity issued at the BioMed Realty Trust, Inc. and BioMed Realty, L.P. levels.

We believe combining the annual reports on Form 10-K of BioMed Realty Trust, Inc. and BioMed Realty, L.P. into this single report:

better reflects how management and the analyst community view the business as a single operating unit,

enhances investor understanding of our company by enabling them to view the business as a whole and in the same manner as management,

is more efficient for our company and results in savings in time, effort and expense, and

is more efficient for investors by reducing duplicative disclosure and providing a single document for their review.

To help investors understand the significant differences between our company and our operating partnership, this report presents the following separate sections for each of BioMed Realty Trust, Inc. and BioMed Realty, L.P.:

consolidated financial statements,

the following notes to the consolidated financial statements:

**Table of Contents**

Equity / Partners' Capital,

Debt, and

Earnings Per Share / Unit,

Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities, and

Liquidity and Capital Resources in Management's Discussion and Analysis of Financial Condition and Results of Operations.

This report also includes separate Item 9A. Controls and Procedures sections and separate Exhibit 31 and 32 certifications for each of BioMed Realty Trust, Inc. and BioMed Realty, L.P. in order to establish that the Chief Executive Officer and the Chief Financial Officer of BioMed Realty Trust, Inc. have made the requisite certifications and BioMed Realty Trust, Inc. and BioMed Realty, L.P. are compliant with Rule 13a-15 or Rule 15d-15 of the Securities Exchange Act of 1934 and 18 U.S.C. §1350.

**Table of Contents**

**BIOMED REALTY TRUST, INC. AND BIOMED REALTY, L.P.**

**FORM 10-K ANNUAL REPORT**

**FOR THE YEAR ENDED DECEMBER 31, 2011**

**TABLE OF CONTENTS**

	<b>Page</b>
<b><u>PART I</u></b>	
<u>Item 1 Business</u>	5
<u>Item 1A Risk Factors</u>	12
<u>Item 1B Unresolved Staff Comments</u>	29
<u>Item 2 Properties</u>	29
<u>Item 3 Legal Proceedings</u>	34
<u>Item 4 Mine Safety Disclosures</u>	34
<b><u>PART II</u></b>	
<u>Item 5 Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities</u>	34
<u>Item 6 Selected Financial Data</u>	37
<u>Item 7 Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	40
<u>Item 7A Quantitative and Qualitative Disclosures About Market Risk</u>	61
<u>Item 8 Financial Statements and Supplementary Data</u>	62
<u>Item 9 Changes in and Disagreements with Accountants on Accounting and Financial Disclosure</u>	113
<u>Item 9A Controls and Procedures</u>	113
<u>Item 9B Other Information</u>	115
<b><u>PART III</u></b>	
<u>Item 10 Directors, Executive Officers and Corporate Governance</u>	115
<u>Item 11 Executive Compensation</u>	115
<u>Item 12 Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters</u>	115
<u>Item 13 Certain Relationships and Related Transactions, and Director Independence</u>	116
<u>Item 14 Principal Accountant Fees and Services</u>	116
<b><u>PART IV</u></b>	
<u>Item 15 Exhibits and Financial Statement Schedules</u>	116

**Table of Contents**

**PART I**

**ITEM 1. *BUSINESS***

**Forward-Looking Statements**

We make statements in this report that are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 (set forth in Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act). In particular, statements pertaining to our capital resources, portfolio performance and results of operations contain forward-looking statements. Likewise, our statements regarding anticipated growth in our funds from operations and anticipated market conditions, demographics and results of operations are forward-looking statements. Forward-looking statements involve numerous risks and uncertainties, and you should not rely on them as predictions of future events. Forward-looking statements depend on assumptions, data or methods which may be incorrect or imprecise, and we may not be able to realize them. We do not guarantee that the transactions and events described will happen as described (or that they will happen at all). You can identify forward-looking statements by the use of forward-looking terminology such as believes, expects, may, will, should, seeks, approximately, intends, plans, estimates, or similar words and phrases. You can also identify forward-looking statements by discussions of strategy, plans or intentions. The following factors, among others, could cause actual results and future events to differ materially from those set forth or contemplated in the forward-looking statements:

adverse economic or real estate developments in the life science industry or in our target markets, including the inability of our tenants to obtain funding to run their businesses,

our dependence on significant tenants,

our failure to obtain necessary outside financing on favorable terms or at all, including the continued availability of our unsecured line of credit,

general economic conditions, including downturns in the national and local economies,

volatility in financial and securities markets,

defaults on or non-renewal of leases by tenants,

our inability to compete effectively,

increased interest rates and operating costs,

our inability to successfully complete real estate acquisitions, developments and dispositions,

risks and uncertainties affecting property development and construction,



## Edgar Filing: BioMed Realty Trust Inc - Form 10-K

our failure to successfully operate acquired properties and operations,

reductions in asset valuations and related impairment charges,

the loss of services of one or more of our executive officers,

BioMed Realty Trust, Inc.'s failure to qualify or continue to qualify as a REIT,

our failure to maintain our investment grade corporate credit ratings or a downgrade in our investment grade corporate credit ratings from one or more of the rating agencies,

government approvals, actions and initiatives, including the need for compliance with environmental requirements,

the effects of earthquakes and other natural disasters,

lack of or insufficient amounts of insurance, and

changes in real estate, zoning and other laws and increases in real property tax rates.

## Table of Contents

While forward-looking statements reflect our good faith beliefs, they are not guarantees of future performance. We disclaim any obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. For a further discussion of these and other factors that could impact our future results, performance or transactions, see the section below entitled Item 1A. Risk Factors.

### General

We own, acquire, develop, redevelop, lease and manage laboratory and office space for the life science industry. Our tenants primarily include biotechnology and pharmaceutical companies, scientific research institutions, government agencies and other entities involved in the life science industry. Our properties are generally located in markets with well-established reputations as centers for scientific research, including Boston, San Francisco, San Diego, Maryland, New York/New Jersey, Pennsylvania and Seattle. BioMed Realty Trust, Inc., a Maryland corporation, and BioMed Realty, L.P., a Maryland limited partnership, were formed on April 30, 2004 and commenced operations on August 11, 2004, after completing BioMed Realty Trust, Inc.'s initial public offering. BioMed Realty Trust, Inc. operates as a REIT for federal income tax purposes. BioMed Realty, L.P. is the entity through which BioMed Realty Trust, Inc. conducts its business and owns its assets. At December 31, 2011, we owned or had interests in properties comprising approximately 12.4 million rentable square feet.

Our senior management team has significant experience in the real estate industry, principally focusing on properties designed for life science tenants. We operate as a fully integrated, self-administered and self-managed REIT, providing property management, leasing, development and administrative services to our properties. As of February 8, 2012, we had 166 employees.

Our principal offices are located at 17190 Bernardo Center Drive, San Diego, California 92128. Our telephone number at that location is (858) 485-9840. Our website is located at [www.biomedrealty.com](http://www.biomedrealty.com). We make available through our website our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to such reports filed or furnished pursuant to Sections 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after we electronically file such material with, or furnish it to, the Securities and Exchange Commission. You can also access on our website our Code of Business Conduct and Ethics, Corporate Governance Guidelines, Audit Committee Charter, Compensation Committee Charter, and Nominating and Corporate Governance Committee Charter.

### 2011 Highlights

#### Leasing

During 2011, we executed 87 leasing transactions representing approximately 1.6 million square feet, including 52 new leases totaling approximately 1.1 million square feet and 35 leases amended to extend their terms, totaling approximately 540,500 square feet. Significant transactions included:

Property	September 30, Market	September 30, Tenant	September 30, Square Feet
<i>New Leases</i>			
301 Binney Street	Boston	Ironwood Pharmaceuticals, Inc.	52,000
301 Binney Street	Boston	Living Proof, Inc.	20,000
Center for Life Science   Boston	Boston	Harvard University	31,000
Center for Life Science   Boston	Boston	Pfizer, Inc	17,000
Coolidge Avenue	Boston	Blend Therapeutics, Inc.	20,000
Vassar Street	Boston	BIND Biosciences, Inc.	33,000
Vassar Street	Boston	Epizyme, Inc.	18,000
Vassar Street	Boston	Sun Catalytix, Inc.	10,000
Bridgeview Technology Park I	San Francisco	BioNovo, Inc.	61,000
Industrial Road	San Francisco	Intrexon Corporation	27,000
Pacific Research Center South	San Francisco	Logitech, Inc.	264,000
3545-3575 John Hopkins Court	San Diego	aTyr Pharma, Inc.	17,000
Sorrento Plaza	San Diego	Halozyne, Inc.	30,000
1701 / 1711 Research Boulevard	Maryland	Meso Scale Diagnostics	105,000

**Table of Contents**

Property	September 30, Market	September 30, Tenant	September 30, Square Feet
Ardsley Park	New York/New Jersey	Acorda Therapeutics, Inc.	138,000
Landmark at Eastview	New York/New Jersey	Psychogenics, Inc.	33,000
Landmark at Eastview	New York/New Jersey	Regeneron Pharmaceuticals, Inc.	40,000
530 Fairview Avenue	Seattle	NanoString Technologies, Inc.	19,000
<i>Renewals, Amendments or Extensions</i>			
21 Erie Street	Boston	Vertex Pharmaceuticals Incorporated	21,000
Forbes Boulevard	San Francisco	JFC International, Inc.	121,000
Gateway Business Park	San Francisco	Federal Express Corporation	50,000
Gateway Business Park	San Francisco	Genentech, Inc.	19,000
11388 Sorrento Valley Road	San Diego	Halozyme, Inc.	28,000
Waples Street	San Diego	Amira Pharmaceuticals, Inc.	28,000
55 / 65 West Watkins Mill Road	Maryland	MedImmune, LLC	40,000
Landmark at Eastview	New York/New Jersey	MPM Silicones, LLC	64,000
530 Fairview Avenue	Seattle	NanoString Technologies, Inc.	18,000
Patriot Drive	University Related	Other Nextreme Thermal Solutions, Inc.	14,000
<i>Acquisitions</i>			

During 2011, we acquired approximately 1.0 million rentable square feet of laboratory and office space, which was 85% leased at acquisition on a weighted-average basis, and approximately 700,000 square feet of development potential for approximately \$398.2 million:

Property	September 30, Market	September 30, Rentable Square Feet(1)	September 30, Investment	September 30, Percent Leased at Acquisition
1701 / 1711 Research Blvd	Maryland	104,743	\$ 17,500	100.0%
450 Kendall Street (Kendall G)	Boston		8,229	n/a
Ardsley Park	New York / New Jersey	160,500	18,000	100.0%
Wateridge Circle	San Diego	106,490	46,500	100.0%
Rogers Street Properties (2)	Boston	601,695	308,000	75.7%
Total / weighted average		973,428	\$ 398,229	85.0%

(1) Rentable square feet at time of acquisition.

(2) We acquired the remaining 80% interest in 320 Bent Street (comprising 184,405 square foot of laboratory and office space), 301 Binney Street (comprising 417,290 square feet of laboratory and office space), 301 Binney Street Garage (a 503 stall garage), and Kendall Crossing Apartments (a 37 unit apartment building) from Prudential Real Estate Investors, or PREI. We previously acquired a 20% interest in these properties in April 2007 concurrent with a joint venture we entered into with PREI. See Note 12 of the Notes to Consolidated Financial Statements included elsewhere herein for more information.

**Financings**

Significant capital raising activities during 2011 included the following:

March 2011: Issued \$400.0 million aggregate principal amount of 3.85% Unsecured Senior Notes due 2016.

## Edgar Filing: BioMed Realty Trust Inc - Form 10-K

July 2011: Entered into a new, expanded \$750.0 million unsecured line of credit, replacing the previous unsecured line of credit, with interest paid on drawings under the new line of credit set at LIBOR plus 155 basis points, subject to adjustments based on changes in our credit ratings.

August 2011: Extended the maturity date to August 2013 for the construction loan secured by the 650 East Kendall Street property, which is owned through the company's joint venture with a fund managed by PREI.

November 2011: Raised net proceeds of \$399.6 million through the follow-on public offering of 22,562,922 shares of common stock.

## **Table of Contents**

Other financing transactions during 2011 included the following:

Paid off approximately \$60.2 million in mortgage notes with a weighted average interest rate of 7.43%.

August 2011: Repurchased 1,280,000 shares of the company's Series A preferred stock for approximately \$31.1 million, or \$24.30 per share, net of accrued dividends of approximately \$250,000, or \$0.20 per share.

October 2011: Repurchased and redeemed in full the remaining principal balance of \$19.8 million of the company's Exchangeable Senior Notes due 2026, or the Notes due 2026.

### ***Dividends***

During 2011, we declared aggregate dividends on BioMed Realty Trust, Inc.'s common stock of \$0.80 per common share, representing a 27% increase over common stock dividends declared in 2010, and aggregate dividends on BioMed Realty Trust, Inc.'s Series A preferred stock of \$1.84376 per preferred share.

### ***Distributions***

During 2011, we declared aggregate distributions on BioMed Realty, L.P.'s operating partnership units and long-term incentive plan units (individually referred to as LTIP units and collectively with the operating partnership units referred to as OP units) of \$0.80 per OP unit, representing a 27% increase over aggregate distributions for OP units declared in 2010, and aggregate distributions on BioMed Realty, L.P.'s Series A preferred units of \$1.84376 per preferred unit.

### **Growth Strategy**

Our success and future growth potential are based upon the specialized real estate opportunities within the life science industry. Our growth strategy is designed to meet the sizable demand and specialized requirements of life science tenants by leveraging the knowledge and expertise of a management team focused on serving this large and growing industry.

Our internal growth strategy includes:

negotiating leases with contractual rental rate increases in order to provide predictable and consistent earnings growth,

creating strong relationships with our tenants to enable us to identify and capitalize on opportunities to renew or extend existing leases or to provide expansion space,

redeveloping currently owned non-laboratory space into higher yielding laboratory facilities, and

developing new laboratory and office space on land we have acquired for development.

Our external growth strategy includes:

acquiring well-located properties leased to high-quality life science tenants with attractive in-place yields and long-term growth potential,

## Edgar Filing: BioMed Realty Trust Inc - Form 10-K

investing in properties with leasing opportunities, capitalizing on our industry relationships to enter into new leases, and

investing in redevelopment and development projects, capitalizing on our development platform that we believe will serve as an additional catalyst for future growth.

### **Target Markets**

Our target markets Boston, San Francisco, San Diego, Maryland, New York/New Jersey, Pennsylvania, Seattle and research parks near or adjacent to universities have emerged as the primary hubs for research, development and production in the life science industry. Each of these markets benefits from the presence of mature life science companies, which provide

## **Table of Contents**

scale and stability to the market, as well as academic and university environments and government entities to contribute innovation, research, personnel and capital to the private sector. In addition, the clustered research environments within these target markets typically provide a high quality of life for the research professionals and a fertile ground for new life science ideas and ventures.

### **Positive Life Science Industry Trends**

We expect continued long-term growth in the life science industry due to several factors:

the aging of the U.S. population resulting from the transition of baby boomers to senior citizens, which has increased the demand for new drugs and health care treatment alternatives to extend, improve and enhance their quality of life,

the high level of research and development expenditures, as represented by a Pharmaceutical Research and Manufacturers of America (PhRMA) survey indicating that research and development spending by U.S. pharmaceutical research and biotechnology companies climbed to a record \$67.4 billion in 2010, and

escalating health care costs, which drive the demand for better drugs, less expensive treatments and more services in an attempt to manage such costs.

We are uniquely positioned to benefit from these favorable long-term dynamics through the demand for space for research, development and production by our life science industry tenants.

### **Experienced Management**

We have created and continue to develop a premier life science real estate-oriented management team, dedicated to maximizing current and long-term returns for our stockholders. Alan D. Gold, our company's Chief Executive Officer and Chairman, has acquired, developed, financed, owned, leased or managed in excess of \$5.7 billion in life science real estate. Through this experience, our management team has established extensive industry relationships among life science tenants, property owners and real estate brokers. In addition, our experienced independent board members provide management with a broad range of knowledge in real estate, the sciences, life science company operations, and large public company finance and management.

### **Regulation**

#### ***General***

Our properties are subject to various laws, ordinances and regulations, including regulations relating to common areas. We believe that we have the necessary permits and approvals to operate each of our properties.

#### ***Americans with Disabilities Act***

Our properties must comply with Title III of the Americans with Disabilities Act, or ADA, to the extent that such properties are public accommodations as defined by the ADA. The ADA may require removal of structural barriers to access by persons with disabilities in certain public areas of our properties where such removal is readily achievable. We believe that our properties are in substantial compliance with the ADA and that we will not be required to make substantial capital expenditures to address the requirements of the ADA. The tenants are generally responsible for any additional amounts required to conform their construction projects to the ADA. However, noncompliance with the ADA could result in imposition of fines or an award of damages to private litigants. The obligation to make readily achievable accommodations is an ongoing one, and we will continue to assess our properties and to make alterations as appropriate in this respect.

#### ***Environmental Matters***

Under various federal, state and local environmental laws and regulations, a current or previous owner, operator or tenant of real estate may be required to investigate and remediate releases or threats of releases of hazardous or toxic substances or petroleum products at such property, and

## Edgar Filing: BioMed Realty Trust Inc - Form 10-K

may be held liable for property damage, personal injury damages and investigation, clean-up and monitoring costs incurred in connection with the actual or threatened contamination. Such laws typically impose clean-up responsibility and liability without regard to fault, or whether the owner, operator or tenant knew of or caused the presence of the contamination. The liability under such laws may be joint and several for the full amount of the investigation, clean-up and monitoring costs incurred or to be incurred or actions to be undertaken, although a party held jointly and severally



## **Table of Contents**

liable may obtain contributions from the other identified, solvent, responsible parties of their fair share toward these costs. These costs may be substantial, and can exceed the value of the property. The presence of contamination, or the failure to properly remediate contamination, on a property may adversely affect the ability of the owner, operator or tenant to sell or rent that property or to borrow using such property as collateral, and may adversely impact our investment in that property.

Federal asbestos regulations and certain state laws and regulations require building owners and those exercising control over a building's management to identify and warn, via signs, labels or other notices, of potential hazards posed by the actual or potential presence of asbestos-containing materials, or ACMs, in their building. The regulations also set forth employee training, record-keeping and due diligence requirements pertaining to ACMs and potential ACMs. Significant fines can be assessed for violating these regulations. Building owners and those exercising control over a building's management may be subject to an increased risk of personal injury lawsuits by workers and others exposed to ACMs and potential ACMs as a result of these regulations. The regulations may affect the value of a building containing ACMs and potential ACMs in which we have invested. Federal, state and local laws and regulations also govern the removal, encapsulation, disturbance, handling and/or disposal of ACMs and potential ACMs when such materials are in poor condition or in the event of construction, remodeling, renovation or demolition of a building. Such laws may impose liability for improper handling or a release to the environment of ACMs and potential ACMs and may provide for fines to, and for third parties to seek recovery from, owners or operators of real properties for personal injury or improper work exposure associated with ACMs and potential ACMs. See Risk Factors Risks Related to the Real Estate Industry We could incur significant costs related to governmental regulation and private litigation over environmental matters involving asbestos-containing materials, which could adversely affect our operations, the value of our properties, and our ability to make distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders under Item 1A. below.

Federal, state and local environmental laws and regulations also require removing or upgrading certain underground storage tanks and regulate the discharge of storm water, wastewater and other pollutants; the emission of air pollutants; the generation, management and disposal of hazardous or toxic chemicals, substances or wastes; and workplace health and safety. Life science industry tenants, including certain of our tenants, engage in various research and development activities involving the controlled use of hazardous materials, chemicals, biological and radioactive compounds. Some of our tenants, particularly those in the biotechnology, life sciences and technology manufacturing industries, routinely handle hazardous substances and wastes as part of their operations at our properties, including acetonitrile, alcohol, ammonia, argon, batteries, carbon dioxide, chemical solvents, cryogenic gases, dichlorophenol, diesel fuel for emergency generators, fluorine, hydrocarbons, hydrogen, medical waste, methane, naturally acid, neon, nitrogen, nitrous oxide, oxygen, radioactive material and tetrahydrofuran. Many of these compounds and materials are used in the experiments, clinical trials, research and development and light manufacturing efforts conducted by our tenants. Although we believe that the tenants' activities involving such materials comply in all material respects with applicable laws and regulations, the risk of contamination or injury from these materials cannot be completely eliminated. In the event of such contamination or injury, we could be held liable for any damages that result, and any such liability could exceed our resources and our environmental remediation insurance coverage. Licensing requirements governing use of radioactive materials by tenants may also restrict the use of or ability to transfer space in buildings we own. See Risk Factors Risks Related to the Real Estate Industry We could incur significant costs related to government regulation and private litigation over environmental matters involving the presence, discharge or threat of discharge of hazardous or toxic substances, which could adversely affect our operations, the value of our properties, and our ability to make distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders under Item 1A. below.

In addition, our leases generally provide that (1) the tenant is responsible for all environmental liabilities relating to the tenant's operations, (2) we are indemnified for such liabilities and (3) the tenant must comply with all environmental laws and regulations. Such a contractual arrangement, however, does not eliminate our statutory liability or preclude claims against us by governmental authorities or persons who are not parties to such an arrangement. Noncompliance with environmental or health and safety requirements may also result in the need to cease or alter operations at a property, which could affect the financial health of a tenant and its ability to make lease payments. In addition, if there is a violation of such a requirement in connection with a tenant's operations, it is possible that we, as the owner of the property, could be held accountable by governmental authorities (or other injured parties) for such violation and could be required to correct the violation and pay related fines. In certain situations, we have agreed to indemnify tenants for conditions preceding their lease term, or that do not result from their operations.

Prior to closing any property acquisition, we obtain environmental assessments in a manner we believe prudent in order to attempt to identify potential environmental concerns at such properties. These assessments are carried out in accordance with an appropriate level of due diligence and generally include a physical site inspection, a review of relevant federal, state and local environmental and health agency database records, one or more interviews with appropriate site-related personnel, review of the property's chain of title and review of historic aerial photographs and other information on past uses of the property. We may also conduct limited subsurface investigations and test for substances of concern where the results of the first phase of the environmental assessments or other information indicate possible contamination or where our consultants recommend such procedures.



## **Table of Contents**

While we may purchase our properties on an as is basis, most of our purchase contracts contain an environmental contingency clause, which permits us to reject a property because of any environmental hazard at such property. We receive environmental reports on all prospective properties.

We believe that our properties comply in all material respects with all federal and state regulations regarding hazardous or toxic substances and other environmental matters.

### **Insurance**

We carry commercial general liability, all-risk property insurance (subject to policy terms, conditions, limitations and exclusions), including fire and extended coverage, terrorism and loss of rental income insurance covering all of our properties under a blanket portfolio policy, with the exception of property insurance on our McKellar Court property in San Diego and 9911 Belward Campus Drive and Shady Grove Road properties in Maryland, which is carried directly by the tenants in accordance with the terms of their respective leases, and builders risk policies for any projects under construction. In addition, we carry workers compensation coverage for injury to our employees. We believe the policy specifications and insured limits are adequate given the relative risk of loss, cost of the coverage and standard industry practice. We also carry environmental insurance for our properties. This insurance, subject to certain exclusions and deductibles, covers the cost to remediate environmental damage caused by unintentional future spills or the historic presence of previously undiscovered hazardous substances, as well as third-party bodily injury and property damage claims related to the release of hazardous substances. We intend to carry similar insurance with respect to future acquisitions as appropriate. A substantial portion of our properties are located in areas subject to earthquake loss, such as San Diego and San Francisco, California and Seattle, Washington. Although we presently carry earthquake insurance on our properties, the amount of earthquake insurance coverage we carry may not be sufficient to fully cover losses from earthquakes. In addition, we may discontinue earthquake, terrorism, windstorm or other insurance, or may elect not to procure such insurance, on some or all of our properties in the future if the cost of the premiums for any of these policies exceeds, in our judgment, the value of the coverage discounted for the risk of loss. See Risk Factors Risks Related to the Real Estate Industry Uninsured and underinsured losses could adversely affect our operating results and our ability to make distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders under Item 1A. below.

### **Competition**

We face competition from various entities for investment opportunities in properties for life science tenants, including other REITs, such as health care REITs and suburban office property REITs, pension funds, insurance companies, investment funds and companies, partnerships, and developers. Because properties designed for life science tenants typically contain improvements that are specific to tenants operating in the life science industry, we believe that we will be able to maximize returns on investments as a result of:

- our expertise in understanding the real estate needs of life science industry tenants,

- our ability to identify, acquire and develop properties with generic laboratory infrastructure that appeal to a wide range of life science industry tenants, and

- our expertise in identifying and evaluating life science industry tenants.

However, some of our competitors have greater financial resources than we do and may be able to accept more risks, including risks with respect to the creditworthiness of a tenant or the geographic proximity of its investments. In the future, competition from these entities may reduce the number of suitable investment opportunities offered to us or increase the bargaining power of property owners seeking to sell. Further, as a result of their greater resources, those entities may have more flexibility than we do in their ability to offer rental concessions to attract tenants. These concessions could put pressure on our ability to maintain or raise rents and could adversely affect our ability to attract or retain tenants. Additionally, our ability to compete depends upon, among other factors, trends of the national and local economies, investment alternatives, financial condition and operating results of current and prospective tenants, availability and cost of capital, construction and renovation costs, taxes, governmental regulations, legislation and population trends.

---

## **Table of Contents**

### **Foreign Operations**

We do not engage in any foreign operations or derive any revenue from foreign sources.

### **ITEM IA. RISK FACTORS**

For purposes of this section, the term “stockholders” means the holders of shares of BioMed Realty Trust, Inc.’s common stock and preferred stock and the term “unitholders” means the holders of BioMed Realty, L.P.’s OP units and preferred units.

#### ***Risks Related to Our Properties, Our Business and Our Growth Strategy***

**Because we lease our properties to a limited number of tenants, and to the extent we depend on a limited number of tenants in the future, the inability of any single tenant to make its lease payments could adversely affect our business and our ability to make distributions to BioMed Realty, L.P.’s unitholders or BioMed Realty Trust, Inc.’s stockholders.**

As of December 31, 2011, we had 170 tenants in our portfolio of 12.4 million square feet. Our largest tenant, Human Genome Sciences, Inc., represented 11.4% of our annualized base rent, and 9.2% of our total leased rentable square footage as of December 31, 2011. There can be no assurance that any tenant will be able to make timely rental payments or avoid defaulting under its lease. If a tenant defaults, we may experience delays in enforcing our rights as landlord and may incur substantial costs in protecting our investment.

Our revenue and cash flow, and consequently our ability to make distributions to BioMed Realty, L.P.’s unitholders and BioMed Realty Trust, Inc.’s stockholders, could be materially adversely affected if any of our significant tenants were to become bankrupt or insolvent, suffer a downturn in their business, curtail or suspend their operations, or fail to renew their leases at all or renew on terms less favorable to us than their current terms.

**Life science entities, which comprise the vast majority of our tenant base, face high levels of regulation, expense and uncertainty that may adversely affect their ability to pay us rent and consequently adversely affect our business.**

Life science entities comprise the vast majority of our tenant base and, as a result, adverse conditions affecting the life science industry will more adversely affect our business, and thus our ability to make distributions to BioMed Realty, L.P.’s unitholders and BioMed Realty Trust, Inc.’s stockholders, than if our business strategy included a more diverse tenant base. Life science industry tenants, particularly those involved in developing and marketing drugs and drug delivery technologies, fail from time to time as a result of various factors. Many of these factors are particular to the life science industry. For example:

Our tenants require significant outlays of funds for the research and development and clinical testing of their products and technologies and many of them have a history of recurring losses. The current economic environment has significantly impacted the ability of these companies to access the capital markets, including both equity financing through public offerings and debt financing. The pace of venture capital funding has also declined from previous levels, further restricting access to capital for these companies. In addition, state and federal government budgets have been negatively impacted by the current economic environment and, as a result certain programs, including grants related to biotechnology research and development, may be at risk of being eliminated or cut back significantly. If private investors, the government, public markets or other sources of funding are unavailable to support such development, a tenant’s business may fail.

The research and development, clinical testing, manufacture and marketing of some of our tenants’ products require federal, state and foreign regulatory approvals. The approval process is typically long, expensive and uncertain. Even if our tenants have sufficient funds to seek approvals, one or all of their products may fail to obtain the required regulatory approvals on a timely basis or at all. Furthermore, our tenants may only have a small number of products under development. If one product fails to receive the required approvals at any stage of development, it could significantly adversely affect our tenant’s entire business and its ability to pay rent.

Our tenants may be unable to adequately protect their intellectual property under patent, copyright or trade secret laws. Failure to do so could jeopardize their ability to profit from their efforts and to protect their products from competition.

Collaborative relationships with other life science entities may be crucial to the development, manufacturing, distribution or marketing of our tenants' products. If these other entities fail to fulfill their obligations under these collaborative arrangements, our tenants' businesses will suffer.

---

**Table of Contents**

Legislation to reform the U.S. healthcare system may include government intervention in product pricing and other changes that adversely affect reimbursement for our tenants' marketable products. In addition, sales of many of our tenants' marketable products are dependent, in large part, on the availability and extent of reimbursement from government health administration authorities, private health insurers and other organizations. Changes in government regulations, price controls or third-party payors' reimbursement policies may reduce reimbursement for our tenants' marketable products and adversely impact our tenants' businesses.

We cannot assure you that our tenants in the life science industry will be successful in their businesses. If our tenants' businesses are adversely affected, they may default on their obligations to third parties, including their obligations to pay rent or pay for tenant improvements relating to space they lease, which could adversely affect our financial condition, results of operations and cash flow.

**The bankruptcy of a tenant may adversely affect the income produced by and the value of our properties.**

The bankruptcy or insolvency of a tenant may adversely affect the income produced by our properties. If any tenant becomes a debtor in a case under the Bankruptcy Code, we cannot evict the tenant solely because of the bankruptcy. The bankruptcy court also might authorize the tenant to reject and terminate its lease with us, which would generally result in any unpaid, pre-bankruptcy rent being treated as an unsecured claim. An unsecured claim may be paid only to the extent that funds are available and only in the same percentage as is paid to all other holders of unsecured claims. In addition, our claim against the tenant for unpaid, future rent would be subject to a statutory cap equal to the greater of (1) one year of rent or (2) 15% of the remaining rent on the lease (not to exceed three years of rent). This cap might be substantially less than the remaining rent actually owed under the lease. Additionally, a bankruptcy court may require us to turn over to the estate all or a portion of any deposits, amounts in escrow, or prepaid rents. Our claim for unpaid, pre-bankruptcy rent, our lease termination damages and claims relating to damages for which we hold deposits or other amounts that we were forced to repay would likely not be paid in full. During the years ended December 31, 2011 and 2010, we incurred approximately \$191,000 and \$0, respectively, of rental operations expense related to early lease terminations and tenant receivables that were deemed to be uncollectible due to tenants that filed for bankruptcy at the time of lease termination or shortly thereafter.

**We may fail to obtain the financial results expected from the properties we acquire, develop or renovate, making them unprofitable or less profitable than we had expected, or operate new properties successfully, which could harm our financial condition and ability to make distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders.**

We continue to evaluate the market for available properties and may acquire office, laboratory and other properties when opportunities exist. We also may develop or substantially renovate office and other properties. Acquisition, development and renovation activities are subject to significant risks, including:

we may spend more time or money than we budget to improve or renovate acquired properties or to develop new properties,

we may be unable to quickly and efficiently integrate new properties, particularly if we acquire portfolios of properties, into our existing operations,

market and economic conditions may result in higher than expected vacancy rates and lower than expected rental rates,

we may face higher operating costs than we anticipated for properties that we acquire, develop or renovate, including insurance premiums, utilities, real estate taxes and costs of complying with changes in governmental regulations,

we may face higher requirements for capital improvements than we anticipated for properties that we acquire, develop or renovate, particularly in older structures,

we may fail to retain tenants that have pre-leased our properties under development if we do not complete the construction of these properties in a timely manner or to the tenants' specifications,

we have a limited history in conducting ground-up construction activities,

if we develop properties, we may encounter delays or refusals in obtaining all necessary zoning, land use, building, occupancy and other required governmental permits and authorizations,

acquired and developed properties may have defects we do not discover through our inspection processes, including latent defects that may not reveal themselves until many years after we put a property in service, and

## **Table of Contents**

we may acquire land, properties or entities owning properties, which are subject to liabilities and for which, in the case of unknown liabilities, we may have limited or no recourse.

The realization of any of the above risks could significantly and adversely affect our financial condition, results of operations, cash flow, per share trading price of our securities, ability to satisfy our debt service obligations and ability to pay distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders.

### **Because particular upgrades are required for life science tenants, improvements to our properties involve greater expenditures than traditional office space, which costs may not be covered by the rents our tenants pay.**

The improvements generally required for our properties' infrastructure are more costly than for other property types. Typical infrastructural improvements include the following:

reinforced concrete floors,

upgraded roof structures for greater load capacity,

increased floor-to-ceiling clear heights,

heavy-duty HVAC systems,

enhanced environmental control technology,

significantly upgraded electrical, gas and plumbing infrastructure, and

laboratory benchwork.

We cannot assure you that our tenants will pay higher rents on our properties than tenants in traditional office space or that the rents paid will cover the additional costs of upgrading the properties.

### **Because of the unique and specific improvements required for our life science tenants, we may be required to incur substantial renovation costs to make our properties suitable for other life science tenants or other office tenants, which could adversely affect our operating performance.**

We acquire or develop properties that include laboratory space and other features that we believe are generally desirable for life science industry tenants. However, different life science industry tenants may require different features in their properties, depending on each tenant's particular focus within the life science industry. If a current tenant is unable to pay rent and vacates a property, we may incur substantial expenditures to modify the property before we are able to re-lease the space to another life science industry tenant. This could hurt our operating performance and the value of your investment. Also, if the property needs to be renovated to accommodate multiple tenants, we may incur substantial expenditures before we are able to re-lease the space.

Additionally, our properties may not be suitable for lease to traditional office tenants without significant expenditures or renovations. Accordingly, any downturn in the life science industry may have a substantial negative impact on our properties' values.

### **Our success depends on key personnel with extensive experience dealing with the real estate needs of life science tenants, and the loss of these key personnel could threaten our ability to operate our business successfully.**



## Edgar Filing: BioMed Realty Trust Inc - Form 10-K

Our future success depends, to a significant extent, on the continued services of our management team. In particular, we depend on the efforts of Alan D. Gold, our Chairman and Chief Executive Officer, R. Kent Griffin, Jr., our President and Chief Operating Officer, Greg N. Lubushkin, our Chief Financial Officer, Gary A. Kreitzer, our Executive Vice President and General Counsel, and Matthew G. McDevitt, our Executive Vice President, Real Estate. Among the reasons that Messrs. Gold, Griffin, Lubushkin, Kreitzer and McDevitt are important to our success are that they have extensive real estate and finance experience, and strong reputations within the life science industry. Our management team has developed informal relationships through past business dealings with numerous members of the scientific community, life science investors, current and prospective life science industry tenants and real estate brokers. We expect that their reputations will continue to attract business and investment opportunities before the active marketing of properties and will assist us in negotiations with lenders, existing and potential tenants, and industry personnel. If we lost their services, our relationships with such lenders, existing and prospective tenants, and industry personnel could suffer. We do not have employment agreements with any of our executive officers.

## **Table of Contents**

### **We may not be successful in acquiring and integrating properties that meet our investment criteria, which may impede our growth.**

In addition to properties consisting of 2.3 million rentable square feet of laboratory and office space we acquired in connection with our initial public offering in August 2004, as of December 31, 2011, we had acquired or had acquired an interest in properties consisting of an additional 10.1 million rentable square feet of laboratory and office space (net of property dispositions). We continue to evaluate the market of available properties and may acquire properties when strategic opportunities exist. Changing market conditions, including competition from others, may diminish our opportunities for acquiring a desired property on favorable terms or at all. Even if we enter into agreements for the acquisition of properties, these agreements are subject to customary conditions to closing, including completion of due diligence investigations to our satisfaction. We also may be unable to obtain financing on favorable terms (or at all), including continued access to our unsecured line of credit, which may be necessary or desirable to fund property acquisitions. We may not be able to quickly and efficiently integrate any properties that we acquire into our organization and manage and lease the new properties in a way that allows us to realize the financial returns that we expect. In addition, we may incur unanticipated costs to make necessary improvements or renovations to acquired properties. Furthermore, our efforts to integrate new property acquisitions may divert management's attention away from or cause disruptions to the operations at our existing properties. If we fail to successfully acquire new properties or integrate them into our portfolio, or if newly acquired properties fail to perform as we expect, our results of operations, financial condition and ability to pay distributions could suffer.

### **The geographic concentration of our properties in Boston, California and Maryland makes our business particularly vulnerable to adverse conditions affecting these markets.**

As of December 31, 2011, our Boston properties represented 34.2% of our annualized base rent and 23.4% of our total leased square footage. As of December 31, 2011, our California properties located in San Francisco and San Diego represented 31.9% of our annualized base rent and 37.9% of our total leased square footage. As of December 31, 2011, our Maryland properties represented 14.8% of our annualized base rent and 15.0% of our total leased square footage. Because of this concentration in three geographic regions, we are particularly vulnerable to adverse conditions affecting Boston, California and Maryland, including general economic conditions, increased competition, a downturn in the local life science industry, real estate conditions, terrorist attacks, earthquakes and wildfires and other natural disasters occurring in these regions. In addition, we cannot assure you that these markets will continue to grow or remain favorable to the life science industry. The performance of the life science industry and the economy in general in these geographic markets may affect occupancy, market rental rates and expenses, and thus may affect our performance and the value of our properties. We are also subject to greater risk of loss from earthquakes or wildfires because of our properties' concentration in California. The close proximity of our 14 properties in San Francisco to a fault line makes them more vulnerable to earthquakes than properties in many other parts of the country. Likewise, the wildfires occurring in the San Diego area, most recently in 2003 and in 2007, may make the 24 properties we own in the San Diego area more vulnerable to fire damage or destruction than properties in many other parts of the country.

### **Our tax indemnification and debt maintenance obligations require us to make payments if we sell certain properties or repay certain debt, which could limit our operating flexibility.**

In our formation transactions, Messrs. Gold and Kreitzer and certain other individuals contributed properties to our operating partnership. If we were to dispose of these contributed assets in a taxable transaction, Messrs. Gold and Kreitzer and the other contributors of those assets would suffer adverse tax consequences. In connection with these contribution transactions, we agreed to indemnify Messrs. Gold and Kreitzer and one other contributor against such adverse tax consequences for a period of ten years. This indemnification will help those contributors to preserve their tax positions after their contributions. The tax indemnification provisions were not negotiated in an arm's length transaction but were determined by our management team. We have also agreed to use reasonable best efforts consistent with our fiduciary duties to maintain at least \$8.0 million of debt, some of which must be property specific, that these three contributors can guarantee in order to defer any taxable gain they may incur if our operating partnership repays existing debt. These tax indemnification and debt maintenance obligations may affect the way in which we conduct our business. During the indemnification period, these obligations may impact the timing and circumstances under which we sell the contributed properties or interests in entities holding the properties. For example, these tax indemnification payments could effectively reduce or eliminate any gain we might otherwise realize upon the sale or other disposition of the related properties. Accordingly, even if market conditions might otherwise dictate that it would be desirable to dispose of these properties, the existence of the tax indemnification obligations could result in a decision to retain the properties in our portfolio to avoid having to pay the tax indemnity payments. The existence of the debt maintenance obligations could require us to maintain debt at a higher level than we might otherwise choose. Higher debt levels could adversely affect our ability to make distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders.

## **Table of Contents**

While we may seek to enter into tax-efficient joint ventures with third-party investors, we currently have no intention of disposing of these properties or interests in entities holding the properties in transactions that would trigger our tax indemnification obligations. The involuntary condemnation of one or more of these properties during the indemnification period could, however, trigger the tax indemnification obligations described above. The tax indemnity would equal the amount of the federal and state income tax liability the contributor would incur with respect to the gain allocated to the contributor. The calculation of the indemnity payment would not be reduced due to the time value of money or the time remaining within the indemnification period. The terms of the contribution agreements also require us to gross up the tax indemnity payment for the amount of income taxes due as a result of the tax indemnity payment. Messrs. Gold, and Kreitzer are potential recipients of these indemnification payments. Because of these potential payments their personal interests may diverge from those of BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders.

### ***Risks Related to the Real Estate Industry***

**Our performance and value are subject to risks associated with the ownership and operation of real estate assets and with factors affecting the real estate industry.**

Our ability to make expected distributions to BioMed Realty, L.P.'s unitholders and BioMed Realty Trust, Inc.'s stockholders depends on our ability to generate revenues in excess of expenses, our scheduled principal payments on debt and our capital expenditure requirements. Events and conditions that are beyond our control may decrease our cash available for distribution and the value of our properties. These events include:

local oversupply, increased competition or reduced demand for life science office and laboratory space,

inability to collect rent from tenants,

vacancies or our inability to rent space on favorable terms,

potential changes in U.S. accounting standards regarding leases making leasing of our properties less attractive to tenants,

increased operating costs, including insurance premiums, utilities and real estate taxes,

the ongoing need for capital improvements, particularly in older structures,

unanticipated delays in the completion of our development or redevelopment projects,

costs of complying with changes in governmental regulations, including usage, zoning, environmental and tax laws,

the relative illiquidity of real estate investments,

changing submarket demographics, and

civil unrest, acts of war and natural disasters, including earthquakes, floods and fires, which may result in uninsured and underinsured losses.

## Edgar Filing: BioMed Realty Trust Inc - Form 10-K

In addition, we could experience a general decline in rents or an increased incidence of defaults under existing leases if any of the following occur:

civil unrest, acts of war and natural disasters, including earthquakes, floods and fires, which may result in uninsured and underinsured losses.

future periods of economic slowdown or recession,

rising interest rates,

declining demand for real estate, or

the public perception that any of these events may occur.

## **Table of Contents**

Any of these events could adversely affect our financial condition, results of operations, cash flow, per share trading price of BioMed Realty Trust, Inc.'s common stock or preferred stock, ability to satisfy our debt service obligations and ability to pay distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders.

### **Illiquidity of real estate investments may make it difficult for us to sell properties in response to market conditions and could harm our financial condition and ability to make distributions.**

Equity real estate investments are relatively illiquid and therefore will tend to limit our ability to vary our portfolio promptly in response to changing economic or other conditions. To the extent the properties are not subject to triple-net leases, some significant expenditures such as real estate taxes and maintenance costs are generally not reduced when circumstances cause a reduction in income from the investment. Should these events occur, our income and funds available for distribution could be adversely affected. If any of the parking leases or licenses associated with our Cambridge portfolio were to expire, or if we were unable to assign these leases to a buyer, it would be more difficult for us to sell these properties and would adversely affect our ability to retain current tenants or attract new tenants at these properties. In addition, as a REIT, BioMed Realty Trust, Inc. may be subject to a 100% tax on net income derived from the sale of property considered to be held primarily for sale to customers in the ordinary course of our business. We may seek to avoid this tax by complying with certain safe harbor rules that generally limit the number of properties we may sell in a given year, the aggregate expenditures made on such properties prior to their disposition, and how long we retain such properties before disposing of them. However, we can provide no assurance that we will always be able to comply with these safe harbors. If compliance is possible, the safe harbor rules may restrict our ability to sell assets in the future and achieve liquidity that may be necessary to fund distributions.

### **Declining real estate valuations and impairment charges could adversely affect our earnings and financial condition.**

We review the carrying value of our properties when circumstances, such as adverse market conditions (including conditions resulting from the ongoing challenges facing the U.S. economy), indicate potential impairment may exist. We base our review on an estimate of the future undiscounted cash flows (excluding interest charges) expected to result from the property's use and eventual disposition. We consider factors such as future operating income, trends and prospects, as well as the effects of leasing demand, competition and other factors. If our evaluation indicates that we may be unable to recover the carrying value of a property, an impairment loss is recorded to the extent that the carrying value exceeds the estimated fair-value of the property. These losses have a direct impact on our net income because recording an impairment loss results in an immediate negative adjustment to net income. The evaluation of anticipated cash flows is highly subjective and is based in part on assumptions regarding future occupancy, rental rates and capital requirements that could differ materially from actual results in future periods. A worsening real estate market may cause us to reevaluate the assumptions used in our impairment analysis. Although we generally plan to own and operate our existing portfolio of properties over the long term, our ability and/or our intent with regard to the operation of our properties may change to dictate an earlier sale date, and an impairment loss may be recognized in connection with such a proposed sale to reduce the property to the lower of the carrying amount or fair-value less costs to sell. Such impairment charges could be material, and could adversely affect our financial condition, results of operations and per share trading price of BioMed Realty Trust, Inc.'s common stock and preferred stock.

### **We may be unable to renew leases, lease vacant space or re-lease space as leases expire, which could adversely affect our business and our ability to make distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders.**

If we cannot renew leases, we may be unable to re-lease our properties at rates equal to or above the current rate. Even if we can renew leases, tenants may be able to negotiate lower rates as a result of market conditions. Market conditions may also hinder our ability to lease vacant space in newly developed or redeveloped properties. In addition, we may enter into or acquire leases for properties that are specially suited to the needs of a particular tenant. Such properties may require renovations, tenant improvements or other concessions in order to lease them to other tenants if the initial leases terminate. Any of these factors could adversely impact our financial condition, results of operations, cash flow, per share trading price of BioMed Realty Trust, Inc.'s common stock or preferred stock, our ability to satisfy our debt service obligations and our ability to pay distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders.

## **Table of Contents**

### **Significant competition may decrease or prevent increases in our properties' occupancy and rental rates and may reduce our investment opportunities.**

We face competition from various entities for investment opportunities in properties for life science tenants, including other REITs, such as health care REITs and suburban office property REITs, pension funds, insurance companies, investment funds and companies, partnerships, and developers. Many of these entities have substantially greater financial resources than we do and may be able to accept more risk than we can prudently manage, including risks with respect to the creditworthiness of a tenant or the geographic location of its investments. In the future, competition from these entities may reduce the number of suitable investment opportunities offered to us or increase the bargaining power of property owners seeking to sell. Further, as a result of their greater resources, those entities may have more flexibility than we do in their ability to offer rental concessions to attract tenants. This could put pressure on our ability to maintain or raise rents and could adversely affect our ability to attract or retain tenants. As a result, our financial condition, results of operations, cash flow, per share trading price of BioMed Realty Trust, Inc.'s common stock or preferred stock, ability to satisfy our debt service obligations and ability to pay distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders may be adversely affected.

### **Changes in accounting pronouncements could adversely affect our operating results, in addition to the reported financial performance of our tenants.**

Accounting policies and methods are fundamental to how we record and report our financial condition and results of operations. Uncertainties posed by various initiatives of accounting standard-setting by the Financial Accounting Standards Board and the Securities and Exchange Commission, which create and interpret applicable accounting standards for U.S. companies, may change the financial accounting and reporting standards or their interpretation and application of these standards that govern the preparation of our financial statements. Proposed changes include, but are not limited to, changes in lease accounting and the adoption of accounting standards likely to require the increased use of fair-value measures.

These changes could have a material impact on our reported financial condition and results of operations. In some cases, we could be required to apply a new or revised standard retroactively, resulting in potentially material restatements of prior period financial statements. Similarly, these changes could have a material impact on our tenants' reported financial condition or results of operations or could affect our tenants' preferences regarding leasing real estate.

### **Uninsured and underinsured losses could adversely affect our operating results and our ability to make distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders.**

We carry commercial general liability, all-risk property insurance (subject to policy terms, conditions, limitations and exclusions), including fire and extended coverage, terrorism and loss of rental income insurance, covering all of our properties under a blanket portfolio policy, with the exception of property insurance on our McKellar Court, 9911 Belward Campus Drive and Shady Grove Road locations, which is carried directly by the tenants in accordance with the terms of their respective leases, and builders' risk policies for any projects under construction. In addition, we carry workers' compensation coverage for injury to our employees. We also carry environmental insurance for our properties. This insurance, subject to certain exclusions and deductibles, covers the cost to remediate environmental damage caused by unintentional future spills or the historic presence of previously undiscovered hazardous substances, as well as third-party bodily injury and property damage claims related to the release of hazardous substances. We intend to carry similar insurance with respect to future acquisitions as appropriate. A substantial portion of our properties are located in areas subject to earthquake loss, such as San Diego and San Francisco, California and Seattle, Washington. Although we presently carry earthquake insurance on our properties, the amount of earthquake insurance coverage we carry may not be sufficient to fully cover losses from earthquakes. In addition, we may discontinue earthquake, terrorism, windstorm or other insurance, or may elect not to procure such insurance, on some or all of our properties in the future if the cost of the premiums for any of these policies exceeds, in our judgment, the value of the coverage discounted for the risk of loss.

If we experience a loss that is uninsured or that exceeds policy limits, we could lose the capital invested in the damaged properties as well as the anticipated future cash flows from those properties. In addition, if the damaged properties are subject to recourse indebtedness, we would continue to be liable for the indebtedness, even if these properties were irreparably damaged.

The financial condition of one or more of these insurance companies could significantly deteriorate to the point that they may be unable to pay future insurance claims. This risk has increased as a result of the current economic environment and ongoing disruptions in the financial markets. The inability of any of these insurance companies to pay future claims under our policies may adversely affect our financial condition and results of operations.

**We could incur significant costs related to government regulation and private litigation over environmental matters involving the presence, discharge or threat of discharge of hazardous or toxic substances, which could adversely affect our operations, the value of our properties, and our ability to make distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders.**

## **Table of Contents**

Our properties may be subject to environmental liabilities. Under various federal, state and local laws, a current or previous owner, operator or tenant of real estate can face liability for environmental contamination created by the presence, discharge or threat of discharge of hazardous or toxic substances. Liabilities can include the cost to investigate, clean up and monitor the actual or threatened contamination and damages caused by the contamination (or threatened contamination). Environmental laws typically impose such liability on the current owner regardless of:

the owner's knowledge of the contamination,

the timing of the contamination,

the cause of the contamination, or

the party responsible for the contamination.

The liability under such laws may be strict, joint and several, meaning that we may be liable regardless of whether we knew of, or were responsible for, the presence of the contaminants, and the government entity or private party may seek recovery of the entire amount from us even if there are other responsible parties. Liabilities associated with environmental conditions may be significant and can sometimes exceed the value of the affected property. The presence of hazardous substances on a property may adversely affect our ability to sell or rent that property or to borrow using that property as collateral.

Some of our properties have had contamination in the past that required cleanup. In most cases, we believe the contamination has been effectively remediated, and that any remaining contamination either does not require remediation or that the costs associated with such remediation will not be material to us. However, we cannot guarantee that additional contamination will not be discovered in the future or any identified contamination will not continue to pose a threat to the environment or that we will not have continued liability in connection with such prior contamination. Our Kendall Square properties, in Cambridge, Massachusetts, are located on the site of a former manufactured gas plant. Various remedial actions were performed on these properties, including soil stabilization to control the spread of oil and hazardous materials in the soil. Another of our properties, Elliott Avenue, has known soil contamination beneath a portion of the building located on the property. Based on environmental consultant reports, management does not believe any remediation of the Elliott Avenue property would be required unless major structural changes were made to the building that resulted in the soil becoming exposed. In addition, the remediation of certain environmental conditions at off-site parcels located in Cambridge, Massachusetts, which was an assumed obligation of our joint venture, PREI II LLC, has been substantially completed as of December 31, 2009. We do not expect these matters to materially adversely affect such properties value or the cash flows related to such properties, but we can provide no assurances to that effect.

Environmental laws also:

may require the removal or upgrade of underground storage tanks,

regulate the discharge of storm water, wastewater and other pollutants,

regulate air pollutant emissions,

regulate hazardous materials generation, management and disposal, and

regulate workplace health and safety.



## Edgar Filing: BioMed Realty Trust Inc - Form 10-K

Life science industry tenants, our primary tenant industry focus, frequently use hazardous materials, chemicals, heavy metals, and biological and radioactive compounds. Our tenants' controlled use of these materials subjects us and our tenants to laws that govern using, manufacturing, storing, handling and disposing of such materials and certain byproducts of those materials. We are unaware of any of our existing tenants violating applicable laws and regulations, but we and our tenants cannot completely eliminate the risk of contamination or injury from these materials. If our properties become contaminated, or if a party is injured, we could be held liable for any damages that result. Such liability could exceed our resources and any environmental remediation insurance coverage we have, which could adversely affect our operations, the value of our properties, and our ability to make distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders. Licensing requirements governing use of radioactive materials by tenants may also restrict the use of or ability to transfer space in buildings we own.

---

## **Table of Contents**

**We could incur significant costs related to governmental regulation and private litigation over environmental matters involving asbestos-containing materials, which could adversely affect our operations, the value of our properties, and our ability to make distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders.**

Environmental laws also govern the presence, maintenance and removal of ACMs and may impose fines and penalties, including orders prohibiting the use of the affected property by us or our tenants, if we fail to comply with these requirements. Failure to comply with these laws, or even the presence of ACMs, may expose us to third-party liability. Some of our properties contain ACMs, and we could be liable for such fines or penalties, as described above in Item 1. Business Regulation Environmental Matters.

**Our properties may contain or develop harmful mold, which could lead to liability for adverse health effects and costs of remediating the problem, which could adversely affect the value of the affected property and our ability to make distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders.**

When excessive moisture accumulates in buildings or on building materials, mold growth may occur, particularly if the moisture problem remains undiscovered or is not addressed over a period of time. Some molds may produce airborne toxins or irritants. Concern about indoor exposure to mold has been increasing because exposure to mold may cause a variety of adverse health effects and symptoms, including allergic or other reactions. As a result, the presence of significant mold at any of our properties could require us to undertake a costly remediation program to contain or remove the mold from the affected property. In addition, the presence of significant mold could expose us to liability to our tenants, their or our employees, and others if property damage or health concerns arise.

**Compliance with the Americans with Disabilities Act (ADA) and similar laws may require us to make significant unanticipated expenditures.**

All of our properties are required to comply with the ADA. The ADA requires that all public accommodations must meet federal requirements related to access and use by disabled persons. Although we believe that our properties substantially comply with present requirements of the ADA, we have not conducted an audit of all of such properties to determine compliance. If one or more properties are not in compliance with the ADA, then we would be required to bring the non-compliant properties into compliance. Compliance with the ADA could require removing access barriers. Non-compliance could result in imposition of fines by the U.S. government or an award of damages and/or attorneys' fees to private litigants, or both. Additional federal, state and local laws also may require us to modify properties or could restrict our ability to renovate properties. Complying with the ADA or other legislation could be very expensive. If we incur substantial costs to comply with such laws, our financial condition, results of operations, cash flow, per share trading price of BioMed Realty Trust, Inc.'s common stock or preferred stock, our ability to satisfy our debt service obligations and our ability to pay distributions to BioMed Realty, L.P.'s unitholders and BioMed Realty Trust, Inc.'s stockholders could be adversely affected.

**We may incur significant unexpected costs to comply with fire, safety and other regulations, which could adversely impact our financial condition, results of operations, and ability to make distributions.**

Our properties are subject to various federal, state and local regulatory requirements, such as state and local fire and safety requirements, building codes and land use regulations. Failure to comply with these requirements could subject us to governmental fines or private litigant damage awards. In addition, we do not know whether existing requirements will change or whether future requirements, including any requirements that may emerge from pending or future climate change legislation, will require us to make significant unanticipated expenditures that will adversely impact our financial condition, results of operations, cash flow, the per share trading price of BioMed Realty Trust, Inc.'s common stock or preferred stock, our ability to satisfy our debt service obligations and our ability to pay distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders.

### ***Risks Related to Our Capital Structure***

**A downgrade in our investment grade credit rating could materially adversely affect our business and financial condition.**

In April 2010, we received investment grade corporate credit ratings from two rating agencies. There can be no assurance that we will be able to maintain our current credit ratings. Any downgrades in terms of ratings or outlook by either or both of the rating agencies could have a material adverse impact on our cost and availability of capital, which could in turn have a material adverse impact on our financial condition, results of operations and liquidity and a material adverse effect on the market price of BioMed Realty Trust, Inc.'s common stock.



---

## **Table of Contents**

### **Debt obligations expose us to increased risk of property losses and may have adverse consequences on our business operations and our ability to make distributions.**

We have used and will continue to use debt to finance property acquisitions. Our use of debt may have adverse consequences, including the following:

We may not be able to refinance or extend our existing debt. If we cannot repay, refinance or extend our debt at maturity, in addition to our failure to repay our debt, we may be unable to make distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders at expected levels or at all.

Even if we are able to refinance or extend our existing debt, the terms of any refinancing or extension may not be as favorable as the terms of our existing debt. If the refinancing involves a higher interest rate, it could adversely affect our cash flow and ability to make distributions to unitholders and stockholders.

Required payments of principal and interest may be greater than our cash flow from operations.

We may be forced to dispose of one or more of our properties, possibly on disadvantageous terms, to make payments on our debt.

One or more lenders under our \$750.0 million unsecured line of credit could refuse to fund their financing commitment to us or could fail, and we may not be able to replace the financing commitment of any such lenders on favorable terms, or at all.

If we default on our debt obligations, the lenders or mortgagees may foreclose on our properties that secure those loans. Further, if we default under a mortgage loan, we will automatically be in default on any other loan that has cross-default provisions, and we may lose the properties securing all of these loans.

A foreclosure on one of our properties will be treated as a sale of the property for a purchase price equal to the outstanding balance of the secured debt. If the outstanding balance of the secured debt exceeds our tax basis in the property, we would recognize taxable income on foreclosure without realizing any accompanying cash proceeds to pay the tax (or to make distributions based on REIT taxable income).

As of December 31, 2011, we had outstanding mortgage indebtedness of \$584.6 million, excluding \$3.3 million of debt premium; \$180.0 million of outstanding aggregate principal amount of the Exchangeable Senior Notes due 2030, or the Notes due 2030; \$400.0 million of outstanding aggregate principal amount of the Unsecured Senior Notes due 2016, or the Notes due 2016, excluding \$2.2 million of debt discount; \$250.0 million of outstanding aggregate principal amount of the Unsecured Senior Notes due 2020, or the Notes due 2020, excluding \$2.2 million of debt discount; \$268.0 million in outstanding borrowings under our \$750.0 million unsecured line of credit; and \$27.8 million of borrowings under a secured loan representing our proportionate share of indebtedness in our unconsolidated partnerships. We expect to incur additional debt in connection with future acquisitions and development. Our organizational documents do not limit the amount or percentage of debt that we may incur. As of December 31, 2011, the principal payments due for our consolidated indebtedness were \$40.5 million in 2012, \$8.3 million in 2013 and \$339.0 million in 2014. Principal payments due for our consolidated indebtedness that mature in 2012 include mortgages secured by our 6828 Nancy Ridge Drive and Sidney Street properties and in 2014 include a mortgage secured by our Center for Life Science | Boston property. Given current economic conditions including, but not limited to, the ongoing challenges impacting the global financial system, we may be unable to refinance these obligations when due, which may negatively affect our ability to conduct operations.

### **Disruptions in the financial markets and the downturn of the broader U.S. economy could affect our ability to obtain debt financing on reasonable terms, or at all, and have other adverse effects on us.**

In recent years, the U.S. credit markets have experienced significant dislocations and liquidity disruptions. These circumstances have materially impacted liquidity in the debt markets, making financing terms for some borrowers less attractive, and in certain cases have resulted in the

## Edgar Filing: BioMed Realty Trust Inc - Form 10-K

unavailability of certain types of debt financing. Uncertainty in the credit markets may negatively impact our ability to access additional debt financing or to refinance existing debt maturities on reasonable terms (or at all), which may negatively affect our ability to conduct operations, make acquisitions and fund current and future development and redevelopment projects. In addition, if the financial position of the lenders under our unsecured line of credit worsened they could default on their obligations to make available to us the funds under that facility. A prolonged downturn in the credit markets may cause us to seek alternative sources of potentially less attractive financing, and may require us to adjust our business plan accordingly. In addition, these factors could make it more difficult for us to sell properties or

## **Table of Contents**

adversely affect the price we receive for properties that we do sell, as prospective buyers may experience increased costs of debt financing or difficulties in obtaining debt financing. Adverse events in the credit markets could also have an adverse effect on other financial markets in the United States and globally, including the stock markets, which could make it more difficult or costly for us to raise capital through the issuance of common stock, preferred stock or other equity securities.

Reduced access to liquidity could have a negative impact on the U.S. economy, affecting consumer confidence and spending and negatively impacting the volume and pricing of real estate transactions. If there were a downturn in the national economy, the value of our properties, as well as the income we receive from our properties, could be adversely affected.

Disruptions in the financial markets could also have other adverse effects on us or the economy generally, which could adversely affect our ability to service our debt obligations and our ability to pay distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders.

**Increases in interest rates could increase the amount of our debt payments, adversely affecting our ability to service our debt obligations and pay distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders.**

Interest we pay could reduce cash available for payments with respect to distributions. Additionally, if we incur variable rate debt, including borrowings under our \$750.0 million unsecured line of credit, to the extent not adequately hedged, increases in interest rates would increase our interest costs. These increased interest costs would reduce our cash flows and our ability to make payments with respect to distributions to BioMed Realty, L.P.'s unitholders and BioMed Realty Trust, Inc.'s stockholders. In addition, if we need to repay existing debt during a period of rising interest rates, we could be required to liquidate one or more of our investments in properties at times that may not permit realization of the maximum return on such investments.

**The terms governing our unsecured line of credit, Notes due 2016 and Notes due 2020 include restrictive covenants relating to our operations, which could limit our ability to respond to changing market conditions and our ability to make distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders.**

The terms of our unsecured line of credit impose restrictions on us that affect our distribution and operating policies and our ability to incur additional debt, including financial covenants relating to the minimum amounts of net worth, fixed charge coverage, unsecured debt service coverage, overall leverage and unsecured leverage ratios, the maximum amount of secured indebtedness and certain investment limitations. The indentures governing the Notes due 2016 and the Notes due 2020 also contain financial and operating covenants that, among other things, restrict our ability to take specific actions, even if we believe them to be in our best interest, including restrictions on our ability to (1) consummate a merger, consolidation or sale of all or substantially all of our assets and (2) incur additional secured and unsecured indebtedness.

The covenants relating to our unsecured line of credit, Notes due 2016 and Notes due 2020 may adversely affect our flexibility and our ability to achieve our operating plans. Our ability to comply with these covenants and other provisions relating to our credit agreement governing our unsecured line of credit and the indentures governing the Notes due 2016 and the Notes due 2020 may be affected by changes in our operating and financial performance, changes in general business and economic conditions, adverse regulatory developments or other events adversely impacting us. The breach of any of these covenants could result in a default under our indebtedness, which could cause those and other obligations to become due and payable. If any of our indebtedness is accelerated, we may not be able to repay it, pursue our business plan or make distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders.

**If we fail to obtain external sources of capital, which is outside of our control, we may be unable to make distributions to BioMed Realty, L.P.'s unitholders or BioMed Realty Trust, Inc.'s stockholders, maintain our REIT qualification, or fund growth.**

In order to maintain BioMed Realty Trust, Inc.'s qualification as a REIT and to avoid incurring a nondeductible excise tax, we are required, among other things, to distribute annually at least 90% of BioMed Realty Trust, Inc.'s REIT taxable income, excluding any net capital gain. In addition, we will be subject to income tax at regular corporate rates to the extent that we distribute less than 100% of BioMed Realty Trust, Inc.'s net taxable income, including any net capital gains. Because of these distribution requirements, we may not be able to fund future capital needs, including any necessary acquisition financing, from operating cash flow. Consequently, we rely on third-party sources to fund our capital needs. We may not be able to obtain financings on favorable terms or at all. Our access to third-party sources of capital depends, in part, on:

general market conditions,

the market's perception of our growth potential,

**Table of Contents**

with respect to acquisition financing, the market's perception of the value of the properties to be acquired,

our current debt levels,

our current and expected future earnings,

our cash flow and cash distributions, and

the market price per share of BioMed Realty Trust, Inc.'s common stock or preferred stock.

Our inability to obtain capital from third-party sources will adversely affect our business and limit our growth. Without sufficient capital, we may not be able to acquire or develop properties when strategic opportunities exist, satisfy our debt service obligations or make the cash distributions to BioMed Realty Trust, Inc.'s stockholders necessary to maintain our qualification as a REIT.

**We have and may continue to engage in hedging transactions, which can limit our gains and increase exposure to losses.**

We have and may continue to enter into hedging transactions to protect us from the effects of interest rate fluctuations on floating rate debt. Our hedging transactions may include entering into interest rate swap agreements or interest rate cap or floor agreements, or other interest rate exchange contracts. Hedging activities may not have the desired beneficial impact on our results of operations or financial condition. No hedging activity can completely insulate us from the risks associated with changes in interest rates. Moreover, interest rate hedging could fail to protect us or adversely affect us because, among other things:

Available interest rate hedging may not correspond directly with the interest rate risk for which we seek protection.