

Cherry Hill Mortgage Investment Corp

Form S-3

November 12, 2014

Table of Contents

As filed with the Securities and Exchange Commission on November 12, 2014

Registration No. 333-

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

**FORM S-3**  
**REGISTRATION STATEMENT**  
***UNDER***  
***THE SECURITIES ACT OF 1933***

**Cherry Hill Mortgage Investment Corporation**  
**(Exact name of registrant as specified in its charter)**

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

**46-1315605**  
**(I.R.S. Employer**  
**Identification Number)**

**301 Harper Drive, Suite 110**

**Moorestown, New Jersey 08057**

**(877) 870-7005**

**(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)**

**Martin Levine**

**Treasurer and Chief Financial Officer**

**301 Harper Drive, Suite 110**

**Moorestown, New Jersey 08057**

**(877) 870-7005**

**(Name, address, including zip code, and telephone number, including area code, of agent for service)**

*Copies to:*

**Daniel M. LeBey, Esq.**

**David S. Freed, Esq.**

**Hunton & Williams LLP**

**200 Park Avenue, 52<sup>nd</sup> Floor**

**New York, New York 10166-0091**

**(212) 309-1000**

**Approximate date of commencement of proposed sale to public:** From time to time after the effective date of the registration statement as determined by market conditions.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

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.

Large accelerated filer <input type="checkbox"/>	Accelerated filer <input type="checkbox"/>
(Do not check if a smaller reporting company)	
Non-accelerated filer <input checked="" type="checkbox"/>	Smaller reporting company <input type="checkbox"/>

**CALCULATION OF REGISTRATION FEE**

Title of Each Class of Securities Being Registered	Proposed Maximum Aggregate Offering Price(1)	Amount of Registration Fee(1)(2)
Common stock, \$0.01 par value per share	(3)	(3)
Preferred stock, \$0.01 par value per share	(3)	(3)

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Warrants	(3)	(3)
Rights	(3)	(3)
Units	(3)	(3)
Total	\$500,000,000	\$64,400

- (1) An indeterminate number of the securities of each identified class of securities is being registered for possible issuance from time to time at indeterminate prices. Includes an indeterminate amount of the registrant's securities as may be issued upon conversion of or exchange for, as the case may be, any other securities registered under this registration statement.
- (2) The proposed maximum aggregate offering price has been estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended. The aggregate public offering price of the securities registered hereunder will not exceed \$500,000,000.
- (3) Omitted pursuant to General Instruction II.D of Form S-3 under the Securities Act of 1933, as amended.

**The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

**Table of Contents**

**The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and is not soliciting an offer to buy these securities in any jurisdiction where an offer or sale is not permitted.**

**Subject to Completion, Dated November 12, 2014**

**PROSPECTUS**

**\$500,000,000**

**Common Stock**

**Preferred Stock**

**Warrants**

**Rights**

**Units**

We may from time to time offer, in one or more class or series, separately or together, and in amounts, at prices and on terms to be set forth in one or more supplements to this prospectus, the following securities:

shares of our common stock;

shares of our preferred stock;

warrants to purchase shares of our common stock or preferred stock;

rights to purchase shares of our common stock or preferred stock; and

units consisting of two or more of the foregoing.

We refer to the common stock, preferred stock, warrants, rights and units collectively as the securities in this prospectus. The securities will have a maximum aggregate offering price of \$500,000,000.

The specific terms of each class or series of the securities will be set forth in the applicable prospectus supplement and may include restrictions on ownership and transfer of the securities, in each case as may be appropriate to preserve the status of our company as a real estate investment trust, or REIT, for U.S. federal income tax purposes, among other purposes. The applicable prospectus supplement will also contain information, where applicable, about certain additional material U.S. federal income tax consequences relating to the securities described in such prospectus supplement and any listing on a securities exchange.

The securities may be offered directly by us from time to time through agents designated by us or to or through underwriters or dealers. If any agents, dealers or underwriters are involved in the sale of any of the securities, their names, and any applicable purchase price, fee, commission or discount arrangement between or among them will be set forth, or will be calculable from the information set forth, in the applicable prospectus supplement. No securities may be sold without delivery of this prospectus and the applicable prospectus supplement describing the method and terms of the offering of such class or series of securities.

Our common stock is listed on the New York Stock Exchange, or NYSE, under the symbol CHMI . On November 11, 2014, the last reported sale price our common stock on the NYSE was \$18.80 per share.

**Investing in the securities involves risks. See Risk Factors beginning on page 2 of this prospectus.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

**The date of this prospectus is \_\_\_\_\_, 2014.**

Table of Contents

**TABLE OF CONTENTS**

	Page
<u>ABOUT THIS PROSPECTUS</u>	1
<u>CHERRY HILL MORTGAGE INVESTMENT CORPORATION</u>	1
<u>RISK FACTORS</u>	2
<u>CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS</u>	3
<u>RATIO OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED STOCK DIVIDENDS</u>	5
<u>USE OF PROCEEDS</u>	6
<u>DESCRIPTION OF COMMON STOCK</u>	7
<u>DESCRIPTION OF PREFERRED STOCK</u>	9
<u>DESCRIPTION OF WARRANTS</u>	11
<u>DESCRIPTION OF RIGHTS</u>	12
<u>DESCRIPTION OF UNITS</u>	13
<u>CERTAIN PROVISIONS OF MARYLAND LAW AND OF OUR CHARTER AND BYLAWS</u>	14
<u>RESTRICTIONS ON OWNERSHIP AND TRANSFER</u>	19
<u>BOOK-ENTRY SECURITIES</u>	22
<u>MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS</u>	23
<u>PLAN OF DISTRIBUTION</u>	55
<u>LEGAL MATTERS</u>	58
<u>EXPERTS</u>	58
<u>WHERE YOU CAN FIND ADDITIONAL INFORMATION</u>	58
<u>INCORPORATION OF INFORMATION WE FILE WITH THE SEC</u>	58

**Table of Contents**

**ABOUT THIS PROSPECTUS**

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, or the SEC, utilizing a shelf registration process. Under this process, we may from time to time offer, in one or more classes or series, separately or together, in amounts, at prices and on terms to be set forth in one or more supplements to this prospectus, shares of our common stock, shares of our preferred stock, warrants to purchase shares of our common stock or preferred stock, rights to purchase shares of our common stock or preferred stock and units consisting of two or more of the foregoing. These securities will have a maximum aggregate offering price of \$500,000,000. This prospectus provides you with a general description of the securities we may offer at any time, from time to time, in one or more offerings and the general manner in which the securities may be offered. Each time we offer securities, we will provide a prospectus supplement that contains specific information about the terms of the securities we are offering. The applicable prospectus supplement may add, update or change information contained in this prospectus. You should read carefully this entire prospectus and any applicable prospectus supplement, as well as the documents incorporated by reference herein and therein that we have referred you to below under the caption Incorporation of Information We File With the SEC, before making an investment decision.

You should rely only on the information contained or incorporated by reference in this prospectus and any applicable prospectus supplement. We have not authorized anyone to provide you with different or additional information. If anyone provides you with different or additional information, you must not rely on it. We are not making an offer to sell the securities in any jurisdiction where the offer or sale of the securities is not permitted. You should not assume that the information appearing in this prospectus, any applicable prospectus supplement and the documents incorporated by reference herein or therein is accurate as of any date other than their respective dates. Our business, financial condition, results of operations and prospects may have changed since those dates.

Unless otherwise specified or unless the context requires otherwise, all references in this prospectus to the terms we, us, our and our company refer to Cherry Hill Mortgage Investment Corporation and its consolidated subsidiaries, references to our operating partnership refer to Cherry Hill Operating Partnership, LP and references to our Manager refer to Cherry Hill Mortgage Management, LLC.

**CHERRY HILL MORTGAGE INVESTMENT CORPORATION**

We are a residential real estate finance company that acquires, invests in and manages residential mortgage assets in the United States. Our principal objective is to generate attractive current yields and risk-adjusted total returns for our stockholders over the long term, primarily through cash distributions and secondarily through capital appreciation. We pursue this objective by selectively constructing and actively managing a targeted portfolio of cashflowing residential mortgage assets.

We are externally managed by Cherry Hill Mortgage Management, LLC, or our Manager, a Delaware limited liability company and an affiliate of Freedom Mortgage Corporation. Pursuant to the terms of the management agreement between us and our Manager, our Manager is responsible for conducting our business activities and day-to-day operations and providing us with our management team and appropriate support personnel. We have elected and intend to qualify to be taxed as a REIT for U.S. federal income tax purposes, commencing with our taxable year ended December 31, 2013.

We were incorporated as a Maryland corporation in October 2012. Our principal executive offices are located at 301 Harper Drive, Suite 110, Moorestown, New Jersey 08057. Our telephone number is (877) 870-7005 and our website is <http://www.chmireit.com>. The offices of our Manager are located at 907 Pleasant Valley Avenue, Mount Laurel, New Jersey 08054. Information on or accessible from our website is not part of or incorporated by reference into this



prospectus.

**Table of Contents**

**RISK FACTORS**

Investing in the securities described in this prospectus involves risks. You should carefully consider any specific risks set forth under the caption "Risk Factors" in any accompanying prospectus supplement, as well as the risk factors discussed in our most recent Annual Report on Form 10-K and in our subsequent Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, which are incorporated by reference in this prospectus, before making an investment decision. Although we discuss key risks in our most recent Annual Report on Form 10-K, new risks may emerge in the future, which may prove to be significant. Our subsequent filings with the SEC may contain amended and updated discussions of significant risks. We cannot predict future risks or estimate the extent to which they may affect our financial performance. The occurrence of any of these risks might cause you to lose all or a part of your investment in the securities we are offering.

**Table of Contents**

**CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS**

This prospectus, any applicable prospectus supplement and the documents incorporated by reference herein and therein contain or will contain 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). Forward-looking statements are not historical in nature and can be identified by words such as anticipate, estimate, will, should, expect, believe, intend, seek, plan and similar expressions or their negative forms, or by references to strategy, plans or intentions. Forward-looking statements involve numerous risks and uncertainties. Our actual results may differ from our beliefs, expectations, estimates and projections and, consequently, you should not rely on these forward-looking statements as predictions of future events. Statements regarding the following subjects, among others, may be forward-looking:

our investment objectives and business strategy;

our ability to obtain future financing arrangements;

our expected leverage;

our expected investments;

our estimates and statements relating to, and our ability to make, future distributions to holders of the securities;

our ability to compete in the marketplace;

market, industry and economic trends;

recent market developments and actions taken and to be taken by the U.S. Government and the anticipated impact of those developments and actions on our investment objectives and business strategy;

mortgage loan modification programs and future legislative actions;

our ability to maintain our qualification as a REIT under the Internal Revenue Code of 1986, as amended, or the Code, and limitations on our business by our status as a REIT;

our ability to maintain our exclusion from regulation as an investment company under the Investment Company Act of 1940, as amended, or the Investment Company Act;

availability of investment opportunities in residential mortgage assets;

availability of qualified personnel;

prepayment rates; and

projected default rates.

These and other forward-looking statements are subject to risks and uncertainties, including, among other things, those described in any accompanying prospectus supplement under the caption "Risk Factors." Other risks, uncertainties and factors that could cause actual results to differ materially from those projected are summarized below and described from time to time in reports we file with the SEC, including under the heading "Risk Factors" in our most recent Annual Report on Form 10-K and subsequent Quarterly Reports on Form 10-Q and Current Reports on Form 8-K. We undertake no obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

Important factors, among others, that may cause our actual results, performance, liquidity or achievements to differ materially from those expressed or implied by these forward-looking statements include:

the factors discussed under the caption "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2013 and under the caption "Management's Discussion and Analysis of Financial

**Table of Contents**

Condition and Results of Operations in our Annual Report on Form 10-K for the year ended December 31, 2013 and our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2014, June 30, 2014 and September 30, 2014;

our limited operating history;

general volatility of the capital markets;

changes in our investment objectives and business strategy;

availability, terms and deployment of capital;

availability of suitable investment opportunities;

our dependence on our Manager and our ability to find a suitable replacement if we or our Manager were to terminate the management agreement we have entered into with our Manager;

changes in our assets, interest rates or the general economy;

increased rates of default and/or decreased recovery rates on our investments;

changes in interest rates, interest rate spreads, the yield curve, prepayment rates or recapture rates;

limitations on our business due to our status as a REIT under the Code and maintaining our exclusion from regulation as an investment company under the Investment Company Act;

the degree and nature of our competition, including competition for the residential mortgage assets in which we invest; and

other risks associated with acquiring, investing in and managing residential mortgage assets.

**Table of Contents****RATIO OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED STOCK DIVIDENDS**

The following table sets forth our ratio of earnings to combined fixed charges and preferred stock dividends for the periods indicated. The ratio of earnings to combined fixed charges and preferred stock dividends was computed by dividing earnings (our net income or loss after adding fixed charges (interest expense on our indebtedness) and preferred stock dividends) by our fixed charges and preferred stock dividends. We have not issued any preferred stock as of the date of this prospectus, and therefore there are no preferred stock dividends included in our calculation of the ratio of earnings to combined fixed charges and preferred stock dividends for each period presented.

	<b>For the Nine Months Ended September 30, 2014</b>	<b>For the Year Ended December 31, 2013</b>	<b>For the Period October 31, 2012 to (Inception) December 31, 2012</b>
Ratio of earnings to combined fixed charges and preferred stock dividends	1.93x <sup>(1)</sup>	25.45x <sup>(1)</sup>	(2)

- (1) Net income for the nine months ended September 30, 2014 includes an unrealized loss on derivatives, net, of approximately \$4.1 million and an unrealized loss on investments in excess mortgage servicing rights of \$3.0 million. Net income for the year ended December 31, 2013 includes an unrealized gain on derivatives, net, of approximately \$2.7 million and an unrealized gain on investments in Excess MSR of approximately \$15.6 million. Excluding these unrealized gains and losses, adjusted earnings would have been approximately \$13.2 million and approximately \$3.7 million for the nine months ended September 30, 2014 and the year ended December 31, 2013, respectively, and the ratio of adjusted earnings to combined fixed charges and preferred stock dividends would have been 4.22x and 4.24x for the nine months ended September 30, 2014 and the year ended December 31, 2013, respectively.
- (2) The dollar amount of the deficiency, or the amount of fixed charges and preferred stock dividends in excess of earnings, was \$25 for the period from October 31, 2012 (inception) to December 31, 2012.

**Table of Contents**

**USE OF PROCEEDS**

Unless otherwise specified in an accompanying prospectus supplement, we intend to use the net proceeds from the sale of the securities to fund our business and investment activity, which may include acquiring residential mortgage assets for our investment portfolio consistent with our investment strategy, as well as for other general corporate purposes, which may include repaying indebtedness.

**Table of Contents**

**DESCRIPTION OF COMMON STOCK**

*The following summary of the material terms of our common stock does not purport to be complete. For a complete description, we refer you to the Maryland General Corporation Law, or the MGCL, and to our charter and bylaws. For a more complete understanding of our common stock, we encourage you to read carefully this entire prospectus, as well as our charter and bylaws, copies of which are exhibits to the registration statement of which this prospectus is a part. See Where You Can Find Additional Information.*

**General**

Our charter provides that we have authority to issue up to 500,000,000 shares of common stock, \$0.01 par value per share. As of the date of this prospectus, there were 7,509,543 shares of our common stock issued and outstanding. Under Maryland law, stockholders generally are not liable for a corporation's debts or obligations solely as a result of their status as stockholders.

**Distribution, Liquidation and Other Rights**

Subject to the preferential rights, if any, of holders of any other class or series of our stock and to the provisions of our charter regarding the restrictions on ownership and transfer of our stock, holders of our common stock are entitled to receive distributions if, when and as authorized by our board of directors and declared by us out of assets legally available for distribution.

Holders of shares of our common stock generally have no preference, conversion, exchange, sinking fund, redemption or appraisal rights and have no preemptive rights to subscribe for any securities of our company. Subject to the provisions of our charter regarding the restrictions on ownership and transfer of our stock, all holders of our common stock will have equal liquidation and other rights.

**Voting Rights**

Subject to the provisions of our charter regarding the restrictions on ownership and transfer of our stock and except as may otherwise be specified in the terms of any class or series of our stock, each outstanding share of our common stock entitles the holder thereof to one vote on all matters submitted to a vote of stockholders, including the election of directors. Except as may be provided with respect to any other class or series of our stock, the holders of shares of our common stock will possess the exclusive voting power. There is no cumulative voting in the election of our directors, and directors are elected by a plurality of the votes cast in the election of directors.

**Power to Classify and Reclassify Unissued Stock**

Our board of directors may classify any unissued shares of preferred stock and reclassify any unissued shares of common stock into other classes or series of stock, including one or more classes or series of stock that have priority over our common stock with respect to voting rights or distributions or upon liquidation, and authorize us to issue the newly classified shares. Prior to the issuance of shares of any class or series of classified or reclassified shares, our board of directors is required by the MGCL and our charter to set, subject to the provisions of our charter regarding the restrictions on ownership and transfer of our stock, the preferences, conversion or other rights, voting powers, restrictions, limitations as to distributions, qualifications or terms or conditions of redemption for each such class or series. These actions can be taken without stockholder approval, unless stockholder approval is required by applicable law, the terms of any other class or series of our stock or the rules of any stock exchange or automated quotation system on which our stock may be then listed or quoted.



**Power to Increase or Decrease Authorized Stock and Issue Additional Stock**

Our charter authorizes our board of directors, with the approval of a majority of our entire board of directors and without stockholder approval, to amend our charter to increase or decrease the aggregate number of authorized shares of stock or the number of authorized shares of stock of any class or series. We believe that the

## **Table of Contents**

power of our board of directors to amend our charter to increase or decrease the number of authorized shares of stock and to classify any unissued shares of our preferred stock or to reclassify any unissued shares of our common stock and thereafter to cause us to issue such classified or reclassified shares of stock will provide us with flexibility in structuring possible future financings and acquisitions and in meeting other needs which might arise. The additional classes or series, as well as the additional shares of common stock or preferred stock, will be available for issuance without further action by our stockholders, unless such action is required by applicable law or the rules of any stock exchange or automated quotation system on which our securities may then be listed or traded. Although our board of directors does not presently intend to do so, it could authorize us to issue a class or series that could, depending upon the terms of the particular class or series, delay, defer or prevent a transaction or a change in control that might involve a premium price for our common stock or otherwise be in the best interests of holders of our common stock.

## **Restrictions on Ownership and Transfer**

To assist us in qualifying as a REIT for U.S. federal income tax purposes, among other purposes, our charter generally limits beneficial and constructive ownership of our shares by any person to no more than 9.0% in value or in number of shares, whichever is more restrictive, of the outstanding shares of any class or series of our stock. In addition, our charter contains various other restrictions on the ownership and transfer of shares of our common stock. See Restrictions on Ownership and Transfer.

## **Listing**

Our common stock is listed on the NYSE under the symbol CHMI .

## **Transfer Agent and Registrar**

The transfer agent and registrar for our common stock is Computershare Trust Company, N.A.

**Table of Contents**

**DESCRIPTION OF PREFERRED STOCK**

*The following description sets forth certain general terms of the preferred stock to which any prospectus supplement may relate. The applicable prospectus supplement will describe the specific terms of any class or series of preferred stock we may offer, and the terms and provisions described in this section will apply only to the extent not superseded by the terms of the applicable prospectus supplement. This description and the description contained in any prospectus supplement are not complete and are in all respects subject to and qualified in their entirety by reference to the MGCL and our charter and bylaws. Copies of our charter and bylaws are exhibits to the registration statement of which this prospectus is a part.*

**General**

Our charter provides that we have authority to issue up to 100,000,000 shares of preferred stock, \$0.01 par value per share. Our charter authorizes our board of directors, without stockholder approval, to amend our charter by a majority vote of the entire board of directors to increase or decrease the aggregate number of authorized shares of stock or the number of shares of stock of any class or series. As of the date of this prospectus, there were no shares of preferred stock issued and outstanding. Under Maryland law, stockholders generally are not liable for a corporation's debts or obligations solely as a result of their status as stockholders.

Subject to the limitations prescribed by the MGCL and our charter and bylaws, our board of directors is authorized to establish the number of shares constituting each class or series of our preferred stock and to set the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms and conditions of redemption for each class or series.

The prospectus supplement relating to the class or series of preferred stock offered thereby will describe the specific terms of such preferred stock, including, among other things:

the designation of the class or series of preferred stock;

the number of shares, the liquidation preference per share and the offering price of the preferred stock;

the distribution rate(s), period(s) and/or payment day(s) or method(s) of calculation thereof applicable to the preferred stock;

whether distributions will be cumulative or non-cumulative and, if cumulative, the date from which distributions on the preferred stock will accumulate;

the procedures for any auction and remarketing, if any, for the preferred stock;

the voting rights, if any, of the preferred stock;

the provision for a sinking fund, if any, for the preferred stock;

the provision for, and any restrictions on, redemption, if applicable, of the preferred stock;

the provision for, and any restrictions on, repurchase, if applicable, of the preferred stock;

the terms and conditions, if applicable, upon which the preferred stock may or will be convertible into our common stock, including the conversion price, manner of calculation thereof and conversion period;

the terms under which the rights of the preferred stock may be modified, if applicable;

the relative ranking and preferences of the preferred stock as to distribution rights and rights upon liquidation, dissolution or winding up of our affairs;

any limitations on the issuance of any class or series of preferred stock ranking senior or equal to the series of preferred stock being offered as to distribution rights and rights upon liquidation, dissolution or the winding up of our affairs;

**Table of Contents**

any listing of the preferred stock on any securities exchange;

if appropriate, a discussion of additional material U.S. federal income tax considerations applicable to the preferred stock;

in addition to the restrictions described below, any other restrictions on ownership and transfer of the preferred stock; and

any other specific terms, preferences, conversion and other rights, voting powers, restrictions, limitations as to distributions and other distributions, qualifications and terms and conditions of redemption of the preferred stock.

**Restrictions on Ownership and Transfer**

To assist us in qualifying as a REIT for U.S. federal income tax purposes, among other purposes, our charter generally limits beneficial and constructive ownership of our shares by any person to no more than 9.0% in value or in number of shares, whichever is more restrictive, of the outstanding shares of any class or series of our stock. In addition, our charter contains various other restrictions on the ownership and transfer of shares of our stock, including any shares of our preferred stock. See Restrictions on Ownership and Transfer.

**Transfer Agent and Registrar**

The transfer agent and registrar for each class or series of our preferred stock will be set forth in the applicable prospectus supplement.

**Table of Contents**

**DESCRIPTION OF WARRANTS**

*The following description sets forth certain general terms of the warrants to which any prospectus supplement may relate. The applicable prospectus supplement will describe the specific terms of the warrants we may offer, and the terms and provisions described in this section will apply only to the extent not superseded by the terms of the applicable prospectus supplement.*

**General**

We may offer warrants for the purchase of shares of common stock or preferred stock. We may issue warrants separately or together with any other securities offered pursuant to this prospectus, and the warrants may be attached to or separate from such other securities. Each series of warrants will be issued under a separate warrant agreement to be entered into between us and a warrant agent specified in the applicable prospectus supplement relating to such warrants. The warrant agent will act solely for us in connection with the warrants and will not act for or on behalf of any holders or beneficial owners of warrants. The warrant agreement and the form of warrant certificate relating to each series of warrants will be filed with the SEC and incorporated by reference as an exhibit to the registration statement of which this prospectus is a part.

The applicable prospectus supplement will describe the following terms, where applicable, of the warrants in respect of which this prospectus and the applicable prospectus supplement are being delivered:

the title of the warrants;

the aggregate number of warrants;

the price or prices at which the warrants will be issued;

the currencies in which the price or prices of the warrants may be payable;

the designation, amount and terms of the securities purchasable upon exercise of the warrants;

the designation and terms of the other securities with which the warrants are issued and the number of warrants issued with each such security;

if applicable, the date on and after which the warrants and the securities purchasable upon exercise of the warrants will be separately transferable;

the price or prices at which, and currency or currencies in which, the securities purchasable upon exercise of the warrants may be purchased;

the date on which the right to exercise the warrants will commence and the date on which such right will expire;

the minimum or maximum amount of the warrants which may be exercised at any one time;

information with respect to book-entry procedures, if any;

information with respect to the listing of the warrants on any securities exchange, if applicable;

if appropriate, a discussion of any additional material U.S. federal income tax considerations applicable to the warrants; and

any other material term of the warrants, including terms, procedures and limitations relating to the exchange and exercise of the warrants.

**Restrictions on Ownership and Transfer**

Holders of warrants will be subject to the restrictions on ownership and transfer in our charter. See [Restrictions on Ownership and Transfer](#).

**Table of Contents**

**DESCRIPTION OF RIGHTS**

*The following description sets forth certain general terms of the rights to which any prospectus supplement may relate. The applicable prospectus supplement will describe the specific terms of the rights we may offer, and the terms and provisions described in this section will apply only to the extent not superseded by the terms of the applicable prospectus supplement.*

**General**

We may issue rights to our stockholders for the purchase of shares of our common stock or preferred stock. Each series of rights will be issued under a separate rights agreement to be entered into between us and a bank or trust company, as rights agent, all as set forth in the prospectus supplement relating to the particular issue of rights. The rights agent will act solely as our agent in connection with the certificates relating to the rights of such series and will not assume any obligation or relationship of agency or trust for or with any holders or beneficial owners of the rights. The rights agreement and the form of rights certificates relating to each series of rights will be filed with the SEC and incorporated by reference as an exhibit to the registration statement of which this prospectus is a part.

The applicable prospectus supplement will describe the following terms, where applicable, of the rights in respect of which this prospectus and the applicable prospectus supplement are being delivered:

the date for determining the stockholders entitled to the rights distribution;

the aggregate number of shares of common stock or preferred stock purchasable upon exercise of the rights and the exercise price;

the designation and terms of the preferred stock purchasable upon exercise of the rights, if applicable,

the aggregate number of rights being issued;

the date, if any, on and after which the rights may be transferable separately;

the date on which the right to exercise such rights shall commence and the date on which such right shall expire;

any listing of the rights and the shares of common stock or preferred stock purchasable upon exercise of the rights on any securities exchange;

if appropriate, a discussion of any additional material U.S. federal income tax considerations applicable to the rights; and



any other terms of the rights, including terms, procedures and limitations relating to the distribution, exchange and exercise of such rights.

**Restrictions on Ownership and Transfer**

Holders of rights will be subject to the restrictions on ownership and transfer in our charter. See Restrictions on Ownership and Transfer.

**Table of Contents**

**DESCRIPTION OF UNITS**

*The following description sets forth certain general terms of the units to which any prospectus supplement may relate. The applicable prospectus supplement will describe the specific terms of the units we may offer, and the terms and provisions described in this section will apply only to the extent not superseded by the terms of the applicable prospectus supplement.*

**General**

We may issue units consisting of two or more of the securities described in this prospectus in any combination. These units may be issuable as, and for a specified period of time may be transferrable only as, a single security, rather than as the separate constituent securities comprising such units. The form of unit agreement and the form of unit certificate for each series of units will be filed with the SEC and incorporated by reference as an exhibit to the registration statement of which this prospectus is a part.

The applicable prospectus supplement will describe the following terms, where applicable, of the units in respect of which this prospectus and the applicable prospectus supplement are being delivered:

the terms of the units and the securities constituting the units, including whether and under what circumstances the securities constituting the units may be traded separately or listed on any securities exchange;

the terms of any unit agreement governing the units;

if appropriate, a discussion of any material U.S. federal income tax considerations applicable to the units;  
and

the provisions for the payment, settlement, transfer or exchange of the units.

**Restrictions on Ownership and Transfer**

Holders of units will be subject to the restrictions on ownership and transfer in our charter. See [Restrictions on Ownership and Transfer](#).

**Table of Contents**

**CERTAIN PROVISIONS OF MARYLAND LAW AND OF OUR CHARTER AND BYLAWS**

*The following summary of certain provisions of Maryland law and our charter and bylaws does not purport to be complete and is subject to and qualified in its entirety by reference to the MGCL and to our charter and bylaws. Copies of our charter and bylaws are exhibits to the registration statement of which this prospectus is a part. See Where You Can Find Additional Information.*

**Our Board of Directors**

Our charter provide that the number of our directors will not be less than the minimum number required under the MGCL, which is one, and may be increased or decreased pursuant to our bylaws. Our bylaws provide that a majority of our entire board may increase or decrease the number of directors, provided that the number of directors shall never be less than the minimum required by the MGCL nor more than 15. Subject to the terms of any class or series of preferred stock, any and all vacancies on the board of directors may be filled only by a majority of the remaining directors, even if the remaining directors do not constitute a quorum, and any director elected to fill a vacancy will serve for the remainder of the full term of the directorship in which such vacancy occurred and until a successor is elected and qualifies. Each member of our board of directors is elected by our stockholders to serve until the next annual meeting of stockholders and until his or her successor is duly elected and qualifies. Holders of shares of our common stock have no right to cumulative voting in the election of directors, and directors are elected by a plurality of the votes cast in the election of directors.

**Removal of Directors**

Our charter provides that, subject to the rights of holders of one or more classes or series of preferred stock to elect or remove one or more directors, a director may be removed at any time, but only for cause and only by the affirmative vote of holders of shares entitled to cast at least two-thirds of the votes entitled to be cast generally in the election of directors. Cause is defined in our charter, with respect to any particular director, as the conviction of a felony or a final judgment of a court of competent jurisdiction holding that such director caused demonstrable, material harm to us through bad faith or active and deliberate dishonesty. This provision, when coupled with the exclusive power of our board of directors to fill vacant directorships, may preclude stockholders from removing incumbent directors except for cause and by a substantial affirmative vote and filling the vacancies created by such removal with their own nominees.

**Business Combinations**

Under the MGCL, certain business combinations (including a merger, consolidation, statutory share exchange or, in circumstances specified in the statute, an asset transfer or issuance or reclassification of equity securities) between a Maryland corporation and an interested stockholder (i.e., any person (other than the corporation or any subsidiary) who beneficially owns 10% or more of the voting power of the corporation's outstanding voting stock after the date on which the corporation had 100 or more beneficial owners of its stock, or an affiliate or associate of the corporation who, at any time within the two-year period immediately prior to the date in question, was the beneficial owner of 10% or more of the voting power of the then outstanding stock of the corporation after the date on which the corporation had 100 or more beneficial owners of its stock) or an affiliate of an interested stockholder, are prohibited for five years after the most recent date on which the interested stockholder becomes an interested stockholder. Thereafter, any such business combination between the Maryland corporation and an interested stockholder generally must be recommended by the board of directors of such corporation and approved by the affirmative vote of at least (1) 80% of the votes entitled to be cast by holders of outstanding shares of voting stock of the corporation and (2) two-thirds of the votes entitled to be cast by holders of voting stock of the corporation other than shares held by

the interested stockholder with whom (or with whose affiliate) the business combination is to be effected or held by an affiliate or associate of the interested stockholder, unless, among other conditions, the corporation's common stockholders receive a minimum price (as defined in the MGCL) for their shares and the consideration is received in cash or in the same

## **Table of Contents**

form as previously paid by the interested stockholder for its shares. A person is not an interested stockholder under the statute if the board of directors approved in advance the transaction by which the person otherwise would have become an interested stockholder. The board of directors may provide that its approval is subject to compliance, at or after the time of approval, with any terms and conditions determined by it.

As permitted by the MGCL, our board of directors has adopted a resolution exempting any business combination between us and any other person, provided that the business combination is first approved by our board of directors (including a majority of directors who are not affiliates or associates of such persons). However, our board of directors may repeal or modify this resolution at any time in the future, in which case the applicable provisions of this statute will become applicable to business combinations between us and interested stockholders.

## **Control Share Acquisitions**

The MGCL provides that holders of control shares of a Maryland corporation acquired in a control share acquisition have no voting rights with respect to the control shares except to the extent approved by the affirmative vote of two-thirds of the votes entitled to be cast on the matter with respect to such shares, excluding votes cast by (1) the person who makes or proposes to make a control share acquisition, (2) an officer of the corporation or (3) an employee of the corporation who is also a director of the corporation. Control shares are voting shares of stock of the corporation which, if aggregated with all other such shares of stock of the corporation previously acquired by the acquirer or in respect of which the acquirer is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquirer to exercise, directly or indirectly, voting power in electing directors within one of the following ranges of voting power: (1) one-tenth or more but less than one-third, (2) one-third or more but less than a majority or (3) a majority or more of all voting power. Control shares do not include shares the acquiring person is then entitled to vote as a result of having previously obtained stockholder approval. A control share acquisition means the acquisition of issued and outstanding control shares, subject to certain exceptions.

A person who has made or proposes to make a control share acquisition, upon satisfaction of certain conditions (including an undertaking to pay expenses), may compel the board of directors to call a special meeting of stockholders to be held within 50 days of demand to consider the voting rights of the shares. If no request for a meeting is made, the corporation may itself present the question at any stockholders meeting.

If voting rights are not approved at the meeting or if the acquiring person does not deliver an acquiring person statement as required by the statute, then, subject to certain conditions and limitations, the corporation may redeem any or all of the control shares (except those for which voting rights have previously been approved) for fair value determined, without regard to the absence of voting rights for the control shares, as of the date of the last control share acquisition by the acquirer or of any meeting of stockholders at which the voting rights of such shares are considered and not approved. If voting rights for control shares are approved at a stockholders meeting and the acquirer becomes entitled to vote a majority of the shares entitled to vote, all other stockholders may exercise appraisal rights. The fair value of the shares as determined for purposes of such appraisal rights may not be less than the highest price per share paid by the acquirer in the control share acquisition.

The control share acquisition statute does not apply to, among other things: (1) shares acquired in a merger, consolidation or statutory share exchange if the corporation is a party to the transaction or (2) acquisitions approved or exempted by the charter or bylaws of the corporation.

Our bylaws contain a provision exempting from the control share acquisition statute any acquisition by any person of shares of our stock; however, our board of directors may repeal such bylaw provision, in whole or in part, at any time.

There can be no assurance that such provision will not be amended or eliminated at any time in the future.

## **Table of Contents**

### **Maryland Unsolicited Takeovers Act**

Subtitle 8 of Title 3 of the MGCL permits a Maryland corporation with a class of equity securities registered under the Exchange Act and at least three independent directors to elect to be subject, by provision in its charter or bylaws or a resolution of its board of directors and notwithstanding any contrary provision in the charter or bylaws, to any or all of five provisions of the MGCL which provide, respectively, that:

the corporation's board of directors will be divided into three classes;

the affirmative vote of two-thirds of all the votes entitled to be cast by stockholders generally in the election of directors is required to remove a director;

the number of directors may be fixed only by vote of the directors;

a vacancy on the board of directors may be filled only by the remaining directors and that directors elected to fill a vacancy will serve for the remainder of the full term of the class of directors in which the vacancy occurred; and

the request of stockholders entitled to cast at least a majority of all the votes entitled to be cast at the meeting is required for stockholders to require the calling of a special meeting of stockholders.

Without our having elected to be subject to Subtitle 8, our charter and bylaws already (1) require the affirmative vote of holders of shares entitled to cast at least two-thirds of all the votes entitled to be cast generally in the election of directors to remove a director from our board of directors, (2) vest in our board of directors the exclusive power to fix the number of directors, by vote of a majority of our entire board of directors, and (3) require, unless called by the Chairman of our board of directors, our Chief Executive Officer, our President or our board of directors, the request of stockholders entitled to cast not less than a majority of all the votes entitled to be cast at the meeting to call a special meeting of stockholders. We have elected by provision in our charter to be subject to the provisions of Subtitle 8 relating to the filling of vacancies. Our board of directors is not currently classified. In the future, our board of directors may elect, without stockholder approval, to classify our board of directors or elect to be subject to any of the other provisions of Subtitle 8.

### **Charter Amendments and Extraordinary Transactions**

Under the MGCL, a Maryland corporation generally cannot dissolve, amend its charter, merge, convert, sell all or substantially all of its assets, engage in a statutory share exchange or engage in similar transactions outside the ordinary course of business unless approved by the affirmative vote of stockholders entitled to cast at least two-thirds of the votes entitled to be cast on the matter unless a lesser percentage (but not less than a majority of all of the votes entitled to be cast on the matter) is set forth in the corporation's charter. Our charter generally provides that charter amendments requiring stockholder approval must be declared advisable by our board of directors and approved by the affirmative vote of stockholders entitled to cast a majority of all of the votes entitled to be cast on the matter. However, our charter's provisions regarding the removal of directors and restrictions on ownership