

BERKSHIRE INCOME REALTY INC  
Form 4  
December 20, 2007

**FORM 4** UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

OMB APPROVAL  
OMB Number: 3235-0287  
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Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. See Instruction 1(b).

**STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES**

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person \*  
SHULER THOMAS R

2. Issuer Name and Ticker or Trading Symbol  
BERKSHIRE INCOME REALTY INC [BIR.PR.A]

5. Relationship of Reporting Person(s) to Issuer  
(Check all applicable)

(Last) (First) (Middle)

3. Date of Earliest Transaction  
(Month/Day/Year)  
12/14/2007

\_\_\_\_ Director  
 Officer (give title below)  
\_\_\_\_ 10% Owner  
\_\_\_\_ Other (specify below)  
Deemed Executive Officer

C/O BERKSHIRE INCOME REALTY, INC., ONE BEACON STREET, SUITE 1500

(Street)

4. If Amendment, Date Original Filed(Month/Day/Year)

6. Individual or Joint/Group Filing(Check Applicable Line)  
 Form filed by One Reporting Person  
\_\_\_\_ Form filed by More than One Reporting Person

BOSTON, MA 02108

(City) (State) (Zip)

**Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned**

| 1. Title of Security (Instr. 3)                   | 2. Transaction Date (Month/Day/Year) | 2A. Deemed Execution Date, if any (Month/Day/Year) | 3. Transaction Code (Instr. 8) | 4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5) | 5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4) | 6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4) | 7. Nature of Indirect Beneficial Ownership (Instr. 4) |
|---|--------------------------------------|--|--------------------------------|---|---|--|---|
|   |                                      |  | Code                           | V   | Amount (A) or (D) Price   |  |   |
| 9% Series A Cumulative Redeemable Preferred Stock | 12/14/2007                           |  | P                              |   | 260 <sup>(1)</sup> A \$ 19.5999   | 260  | D   |
| 9% Series A Cumulative Redeemable Preferred Stock | 12/17/2007                           |  | P                              |   | 200 <sup>(2)</sup> A \$ 19.24   | 460  | D   |

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|  |            |   |                               |   |          |       |   |
|--|------------|---|-------------------------------|---|----------|-------|---|
| 9 % Series A<br>Cumulative<br>Redeemable<br>Preferred<br>Stock | 12/17/2007 | P | 200 <sup>(3)</sup>            | A | \$ 19.3  | 660   | D |
| 9% Series A<br>Cumulative<br>Redeemable<br>Preferred<br>Stock  | 12/17/2007 | P | 227 <sup>(4)</sup>            | A | \$ 19.34 | 887   | D |
| 9% Series A<br>Cumulative<br>Redeemable<br>Preferred<br>Stock  | 12/17/2007 | P | 273 <sup>(5)</sup>            | A | \$ 19.35 | 1,160 | D |
| 9% Seris A<br>Cumulative<br>Redeemable<br>Preferred<br>Stock   | 12/17/2007 | P | 700 <sup>(6)</sup>            | A | \$ 19.4  | 1,860 | D |
| 9% Series A<br>Cumulative<br>Redeemable<br>Preferred<br>Stock  | 12/17/2007 | P | 300 <sup>(7)</sup>            | A | \$ 19.45 | 2,160 | D |
| 9% Series A<br>Cumulative<br>Redeemable<br>Preferred<br>Stock  | 12/17/2007 | P | 700 <sup>(8)</sup>            | A | \$ 19.5  | 2,860 | D |
| 9% Series A<br>Cumulative<br>Redeemable<br>Preferred<br>Stock  | 12/17/2007 | P | 800 <sup>(9)</sup>            | A | \$ 19.6  | 3,660 | D |
| 9% Series A<br>Cumulative<br>Redeemable<br>Preferred<br>Stock  | 12/17/2007 | P | <u>400</u><br><sup>(10)</sup> | A | \$ 19.7  | 4,060 | D |
| 9% Series A<br>Cumulative<br>Redeemable<br>Preferred<br>Stock  | 12/17/2007 | P | <u>400</u><br><sup>(11)</sup> | A | \$ 19.75 | 4,460 | D |
|  | 12/17/2007 | P |                               | A |          | 4,960 | D |

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|   |                    |               |        |   |
|---|--------------------|---------------|--------|---|
| 9% Series A<br>Cumulative<br>Redeemable<br>Preferred<br>Stock | 500<br><u>(12)</u> | \$<br>19.2999 |        |   |
| Class B<br>Common<br>Stock                                    |                    |               | 63,560 | D |

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

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**Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned**  
(e.g., puts, calls, warrants, options, convertible securities)

| 1. Title of Derivative Security (Instr. 3) | 2. Conversion or Exercise Price of Derivative Security | 3. Transaction Date (Month/Day/Year) | 3A. Deemed Execution Date, if any (Month/Day/Year) | 4. Transaction Code (Instr. 8) | 5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5) | 6. Date Exercisable and Expiration Date (Month/Day/Year) | 7. Title and Amount of Underlying Securities (Instr. 3 and 4) | 8. Price of Derivative Security (Instr. 5) | 9. Number of Derivative Securities Beneficially Owned Following Transaction (Instr. 6) |
|--|--|--------------------------------------|--|--------------------------------|---|--|---|--|--|
|--|--|--------------------------------------|--|--------------------------------|---|--|---|--|--|

## Reporting Owners

| Reporting Owner Name / Address  | Relationships |           |                          |       |
|---|---------------|-----------|--------------------------|-------|
|   | Director      | 10% Owner | Officer                  | Other |
| SHULER THOMAS R<br>C/O BERKSHIRE INCOME REALTY, INC.<br>ONE BEACON STREET, SUITE 1500<br>BOSTON, MA 02108 |               |           | Deemed Executive Officer |       |

## Signatures

/s/ Thomas R. Shuler 12/20/2007

\_\_Signature of Reporting Person Date

## Explanation of Responses:

- \* If the form is filed by more than one reporting person, *see* Instruction 4(b)(v).
- \*\* Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).
- (1) On December 14, 2007, Thomas Shuler purchased 260 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable Preferred Stock on the open market at a price of \$19.5999 per share for a total purchase price of \$5,096.
  - (2) On December 17, 2007, Thomas Shuler purchased 200 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable Preferred Stock on the open market at a price of \$19.24 per share for a total purchase prices of \$3,848.
  - (3) On December 17, 2007, Thomas Shuler purchased 200 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable Preferred Stock on the open market at a price of \$19.30 per share for a total purchase price of \$3,860.
  - (4) On December 17, 2007, Thomas Shuler purchased 227 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable Preferred Stock on the open market at a price of \$19.34 per share for a total purchase price of \$4,390.
  - (5) On December 17, 2007, Thomas Shuler purchased 273 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable Preferred Stock on the open market at a price of \$19.35 per share for a total purchase price of \$5,283.
  - (6) On December 17, 2007, Thomas Shuler purchased 700 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable preferred Stock on the open market at a price of \$19.40 per share for a total purchase price of \$13,580.
  - (7) On December 17, 2007, Thomas Shuler purchased 300 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable Preferred Stock on the open market at a price of \$19.45 per share for a total purchase price of \$5,835.
  - (8) On December 17, 2007, Thomas Shuler purchased 700 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable Preferred Stock on the open market at a price of \$19.50 per share for a total purchase price of \$13,650.
  - (9) On December 17, 2007, Thomas Shuler purchased 800 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable Preferred Stock on the open market at a price of \$19.60 per share for a total purchase price of \$15,680.
  - (10) On December 17, 2007, Thomas Shuler purchased 400 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable Preferred Stock on the open market at a price of \$19.70 per share for a total purchase price of \$7,880.
  - (11) On December 17, 2007, Thomas Shuler purchased 400 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable Preferred Stock on the open market at a price of \$19.75 per share for a total purchase price of \$7,900.
  - (12) On December 17, 2007, Thomas Shuler purchased 500 shares of Berkshire Income Realty's 9% Series A Cumulative Redeemable preferred Stock on the open market at a price of \$19.2999 per share for a total purchase price of \$9,650.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.

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