BEAZER HOMES USA INC
Form DEF 14A
December 22, 2010
Table of Contents

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the

Securities Exchange Act of 1934

Filed by the Registrant x Filed by a Party other than the Registrant ¨

Check the appropriate box:

¨ Preliminary Proxy Statement

¨ **Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**

x Definitive Proxy Statement

¨ Definitive Additional Materials

¨ Soliciting Material under 14a-12

BEAZER HOMES USA, INC.

(Name of registrant as specified in its charter)

(Name of person(s) filing proxy statement, if other than the registrant)

Payment of Filing Fee (Check the appropriate box):

x No fee required.

¨ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

¨ Fee paid previously with preliminary materials.

¨ Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

Table of Contents

Beazer Homes USA, Inc.

1000 Abernathy Road, Suite 1200, Atlanta, Georgia 30328

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

TO THE STOCKHOLDERS OF BEAZER HOMES USA, INC.:

Notice is hereby given that the annual meeting of stockholders of Beazer Homes USA, Inc. will be held at 11:00 a.m. on Wednesday, February 2, 2011 at our principal executive office at 1000 Abernathy Road, Suite 260, Atlanta, Georgia 30328. At this meeting, stockholders will vote on:

1) The election of the seven nominees to our Board of Directors named in the accompanying Proxy Statement;

2) The ratification of the selection of Deloitte & Touche LLP by the Audit Committee of our Board of Directors as our independent registered public accounting firm for the fiscal year ending September 30, 2011;

3) A non-binding advisory vote regarding the compensation paid by the Company to its named executive officers, commonly referred to as a Say on Pay proposal;

4) A non-binding advisory vote to establish the frequency of submission to stockholders of such advisory Say on Pay proposals;

5) A proposal to adopt a protective amendment to the Company s Certificate of Incorporation to help preserve certain tax benefits primarily associated with our net operating losses;

6) A proposal to approve a Section 382 Rights Agreement, as amended, to help protect the tax benefits primarily associated with our net operating losses; and

7) Any other such business as may properly come before the meeting or any adjournments or postponements thereof.

Our Board of Directors has fixed the close of business on December 6, 2010 as the record date for the determination of stockholders entitled to notice of and to vote at the meeting. A copy of our annual report to stockholders is being mailed to you together with this notice.

We encourage you to take part in our affairs by voting either in person by written ballot at the meeting or by telephone, Internet or written proxy.

By Order of the Board of Directors,
BRIAN C. BEAZER
Non-Executive Chairman of the Board of Directors

Dated: December 22, 2010

YOUR VOTE IS IMPORTANT.

WHETHER OR NOT YOU PLAN TO ATTEND THIS MEETING, PLEASE PROMPTLY MARK, DATE, SIGN AND MAIL THE ENCLOSED PROXY. A RETURN ENVELOPE, WHICH REQUIRES NO ADDITIONAL POSTAGE IF MAILED IN THE UNITED STATES, IS ENCLOSED FOR THAT PURPOSE. YOU MAY ALSO VOTE BY INTERNET OR TELEPHONE BY FOLLOWING INSTRUCTIONS ON THE ENCLOSED PROXY.

Table of Contents

TABLE OF CONTENTS **PAGE**

Table of Contents

Table of Contents

IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS FOR OUR

ANNUAL MEETING OF STOCKHOLDERS TO BE HELD ON FEBRUARY 2, 2011.

Our Proxy Statement for the 2011 annual meeting of stockholders and our annual report to stockholders for the fiscal year ended September 30, 2010 is available at www.proxyvote.com.

You will need the 12-digit Control Number included on your proxy card or voting instruction form to access these materials.

HOW TO VOTE

You can vote your shares in person by attending the meeting, by completing and returning a proxy by mail or by using the telephone or the Internet. Please refer to the proxy card or voting instruction form included with these proxy materials for information on the voting methods available to you. If you vote by telephone or on the Internet, you do not need to return your proxy card. Please see page 1 of the accompanying Proxy Statement for more information.

ANNUAL MEETING ADMISSION

Please note that attendance at the meeting is limited to our stockholders or their named representatives. Proof of ownership of our common stock as of the record date and photo identification will be required for admittance to the annual meeting. If you are a registered stockholder, the top portion of your proxy card may serve as proof of ownership. If you are attending on behalf of an entity that is a stockholder, evidence of your employment or association with that entity also will be required.

To obtain directions to attend the annual meeting and vote in person, please contact our Investor Relations Department at (770) 829-3700.

ELECTRONIC DELIVERY OF PROXY MATERIALS

Instead of receiving copies of our Proxy Statement in the mail, stockholders may elect to receive only an email with a link to future proxy statements, proxy cards and annual reports on the Internet. Receiving your proxy materials online saves us the cost of producing and mailing documents to you and significantly reduces the environmental impact. Stockholders may enroll to receive proxy materials online as follows:

Stockholders of Record. If you are a registered stockholder, you may request electronic delivery when voting for this meeting on the Internet at www.proxyvote.com.

Beneficial Holders. If your shares are not registered in your name, check the information provided to you by your bank or broker, or contact your bank or broker for information on electronic delivery service.

401(k) Plan Participants. If you are a participant in our 401(k) plan, you may request electronic delivery when voting for this meeting on the Internet at www.proxyvote.com.

Table of Contents

BEAZER HOMES USA, INC.

1000 Abernathy Road

Suite 1200

Atlanta, Georgia 30328

PROXY STATEMENT

Purpose

This Proxy Statement is being furnished to you in connection with the solicitation of proxies by the Board of Directors (the Board) of Beazer Homes USA, Inc., a Delaware corporation (the Company), for use at our annual meeting of stockholders to be held on February 2, 2011 and at any adjournments or postponements thereof. Stockholders of record at the close of business on December 6, 2010 are entitled to notice of and to vote at the annual meeting. On December 13, 2010, we had outstanding 76,393,208 shares of common stock. Each share of common stock entitles the holder to one vote with respect to each matter to be considered. The common stock is our only outstanding class of voting securities. This Proxy Statement and the enclosed form of proxy are being mailed to stockholders, together with our Annual Report to stockholders (which includes our Annual Report on Form 10-K for our fiscal year ended September 30, 2010), commencing on or about December 22, 2010.

Voting Instructions

General

Shares represented by a proxy will be voted in the manner directed by the stockholder. If no direction is made, except as discussed below regarding broker non-votes, the completed proxy will be voted:

1. ***FOR*** the election of the seven nominees to our Board of Directors named in this Proxy Statement;

2. ***FOR*** the ratification of the selection of Deloitte & Touche LLP as our independent registered public accounting firm for fiscal year 2011;

3. ***FOR*** the approval of the compensation paid by the Company to its named executive officers (the Say on Pay proposal);

4. ***FOR*** the recommendation of the Board of Directors that a stockholder advisory vote on Say on Pay proposals be held every year;

5. ***FOR*** the adoption of an amendment to our Certificate of Incorporation to help preserve certain tax benefits primarily associated with our net operating losses;

6. ***FOR*** the approval of a Section 382 Rights Agreement, as amended, to help protect the tax benefits primarily associated with our net operating losses; and

7. In accordance with the judgment of the persons named in the proxy as to such other matters as may properly come before the annual meeting.

If you are a stockholder of record as of the close of business on December 6, 2010, you can give a proxy to be voted at the meeting either:

1. By mailing in the enclosed proxy card;

2. By written ballot at the meeting;

Table of Contents

3. Over the telephone by calling a toll-free number; or

4. Electronically, using the Internet.

The telephone and Internet voting procedures have been set up for your convenience and have been designed to authenticate your identity, to allow you to give voting instructions and to confirm that those instructions have been recorded properly. If you are a stockholder of record and you would like to vote by telephone or by using the Internet, please refer to the instructions on the enclosed proxy card.

If you hold your shares in street name, you must vote your shares in the manner prescribed by your broker or nominee. Your broker or nominee has enclosed or provided a voting instruction form for you to use in directing the broker or nominee on how to vote your shares.

Signature Requirements

If shares are registered in the name of more than one person, each named person should sign the proxy. If the stockholder is a corporation, the proxy should be signed in the corporation s name by a duly authorized officer. If a proxy is signed as a trustee, guardian, executor, administrator, under a power of attorney or in any other representative capacity, the signer s full title should be given.

Revocation

A stockholder giving the enclosed proxy may revoke it at any time before the vote is cast at the annual meeting by executing and returning to our Secretary (Kenneth F. Khoury) at our principal executive office or to the official tabulator (Broadridge Financial Solutions, Inc., 51 Mercedes Way, Edgewood, NY 11717) either a written revocation or a proxy bearing a later date, prior to the annual meeting. Any stockholder who attends the annual meeting in person will not be considered to have revoked his or her proxy unless such stockholder affirmatively indicates at the annual meeting his or her intention to vote in person the shares represented by such proxy. In addition, a stockholder may revoke a proxy by submitting a subsequent proxy by Internet or telephone by following the instructions on the enclosed proxy.

Quorum; Vote Requirements

The presence, in person or by proxy, of the holders of a majority of the outstanding shares of common stock entitled to vote at the meeting is required to constitute a quorum. Shares represented by proxies which indicate that the stockholders abstain as to the election of directors or to other proposals will be treated as being present for the purpose of determining the presence of a quorum. Holders of common stock will be entitled to one vote for each share they hold.

Broker Non-Votes. If a broker does not receive instructions from the beneficial owner of shares held in street name for certain types of proposals it must indicate on the proxy that it does not have authority to vote such shares (a broker non-vote) as to such proposals. Please note that the rules of the New York Stock Exchange (the NYSE) that guide how brokers vote your stock have changed. As a result, if your broker does not receive instructions from you, your broker will **not** be able to vote your shares in the election of directors. In addition and as further described below, without instructions from you, we expect your broker will **not** be able to vote your shares with respect to Proposal 3 (the advisory Say on Pay proposal), Proposal 4 (the advisory proposal regarding the frequency of submission to stockholders of such Say on Pay proposals) and Proposal 6 (the proposal to approve a Section 382 Rights Agreement, as amended, to help protect the tax benefits associated with our net operating losses).

Accordingly, if your shares are held in street name, we strongly encourage you to provide your broker with voting instructions and exercise your right to vote for these important proposals.

Table of Contents

Election of Directors (Proposal 1). In uncontested elections of directors, such as this election, each director will be elected if the votes cast for such director exceed the votes cast against such director. See the Corporate Governance section beginning on page 5 of this Proxy Statement for a more detailed description of the majority voting procedures in our by-laws and Corporate Governance Guidelines. Abstentions and broker non-votes will not affect the election outcome.

Ratification of Auditor Appointment (Proposal 2). The affirmative vote, in person or by proxy, of a majority of the shares present or represented at the annual meeting and entitled to vote on the matter is required to ratify the selection of Deloitte & Touche LLP as our independent registered public accounting firm for fiscal year 2011 by the Audit Committee of our Board of Directors. Abstentions will have the same effect as an against vote for this proposal.

Non-Binding Advisory Vote on Executive Compensation (Proposal 3). The affirmative vote, in person or by proxy, of a majority of the shares present or represented at the annual meeting and entitled to vote on the matter will constitute stockholders non-binding approval with respect to the compensation paid to our named executive officers. Abstentions will have the same effect as an against vote, but broker non-votes will have no effect.

Non-Binding Advisory Vote on Frequency of Say on Pay (Proposal 4). The affirmative vote, in person or by proxy, of a plurality of the shares present or represented at the annual meeting and entitled to vote on the matter will constitute stockholders non-binding approval with respect to the frequency of submission to stockholders of Say on Pay proposals. Abstentions and broker non-votes will not affect the outcome of this proposal.

Approval of Amendment to Certificate of Incorporation (Proposal 5). The affirmative vote, in person or by proxy, of a majority of the outstanding shares of our common stock is required to approve the proposed amendments to our Certificate of Incorporation to help protect certain tax benefits primarily associated with our net operating losses. Abstentions and broker non-votes will have the same effect as our against vote on this proposal.

Approval of Section 382 Rights Agreement, as amended (Proposal 6). The affirmative vote, in person or by proxy, of a majority of the shares present or represented at the annual meeting and entitled to vote on the matter is required to approve the proposed Section 382 Rights Agreement, as amended by the First Amendment thereto, to help protect the tax benefits primarily associated with our net operating losses. Abstentions will have the same effect as our against vote, but broker non-votes will have no effect.

Expenses of Solicitation

Expenses incurred in connection with the solicitation of proxies will be paid by the Company. Proxies are being solicited primarily by mail, but, in addition, our officers and other employees may solicit proxies by telephone, in person or by other means of communication but will receive no extra compensation for such services. In addition, we have engaged Morrow & Co., LLC to assist in the solicitation of proxies. We anticipate that the costs associated with this engagement will be approximately $25,000 plus costs and expenses incurred by Morrow & Co. We will reimburse banks, brokerage firms and other custodians, nominees and fiduciaries for costs incurred in connection with this solicitation.

Table of Contents

Principal Stockholders

The following table sets forth information as of December 13, 2010 with respect to the beneficial ownership of our common stock by all persons known by us to beneficially own more than 5% of our common stock.

Name and Address of Beneficial Owner	Amount and Nature of Beneficial Ownership	Percent of Class (1)
FMR LLC 82 Devonshire Street Boston, Massachusetts 02109	11,377,004(2)	14.9%

(1) Based upon 76,393,208 shares of outstanding common stock as of December 13, 2010. Beneficial ownership is determined in accordance with the rules of the Securities and Exchange Commission under which shares are beneficially owned by the person or entity that holds investment and/or voting power.

(2) Based on Schedule13G filed by FMR LLC dated October 11, 2010. FMR LLC disclaims sole voting power with respect to 7,226,384 of these shares which are beneficially owned by Fidelity Management & Research Company (FMRC) as a result of FMRC acting as an investment adviser to various mutual funds registered as investment companies under the Investment Company Act of 1940.

CORPORATE GOVERNANCE AND BOARD MATTERS

Board of Directors Committees and Meetings

During fiscal year 2010, our Board of Directors had four standing committees: the Audit Committee, the Nominating/Corporate Governance Committee, the Compensation Committee and the Finance Committee. Our Audit Committee meets the definition of an audit committee as set forth in Section 3(a)(58)(A) of the Securities Exchange Act of 1934 (the Exchange Act). In fiscal year 2010, our Board of Directors had seven Board of Directors meetings and each meeting was attended in full with the exception of Peter G. Leemputte who was absent from one meeting. In addition, directors are encouraged to attend the annual meeting of stockholders, but are not required to do so. At the last annual meeting of stockholders, held on April 13, 2010, all members of our Board of Directors were in attendance with the exception of Mr. Leemputte.

COMMITTEE MEMBERSHIP

Audit Committee	Compensation Committee	Nominating/Corporate Governance Committee	Finance Committee
Peter G. Leemputte (1)(2)	Larry T. Solari (1)	Laurent Alpert (1)	Stephen P. Zelnak, Jr. (1)
Laurent Alpert	Stephen P. Zelnak, Jr.	Larry T. Solari	Peter G. Leemputte
Norma A. Provencio (2)(3)	Norma Provencio (4)	Stephen P. Zelnak, Jr.	Brian C. Beazer
Larry T. Solari			

(1) Committee Chair.

(2) Audit Committee Financial Expert as defined by Securities and Exchange Commission regulations.

(3)

Ms. Provencio became a member of the Audit Committee after becoming a member of our Board of Directors in November 2009. Prior to November 2009, the Audit Committee was comprised of Messrs. Leemputte, Alpert and Solari.

(4) Ms. Provencio became a member of the Compensation Committee on April 29, 2010. Prior to her appointment, the Compensation Committee was comprised of Messrs. Solari and Zelnak.

Committee composition is subject to review by our Board of Directors from time to time.

Table of Contents

Committee Responsibilities

Our Audit Committee provides assistance to our Board of Directors in fulfilling its responsibilities related to corporate accounting, auditing and reporting practices of the Company, the quality and integrity of our financial reports and our internal controls regarding finance, accounting, legal compliance, risk management and ethics established by management and our Board of Directors. In fulfilling these functions, our Audit Committee reviews and makes recommendations to our Board of Directors with respect to certain financial and accounting matters. Our Audit Committee also engages and sets compensation for our independent auditors. This Committee met five times during fiscal year 2010, and each meeting was attended by all Committee members.

Our Nominating/Corporate Governance Committee makes recommendations concerning the appropriate size and needs of our Board of Directors, including the annual nomination and review of directors and nominees for new directors. Our Nominating/Corporate Governance Committee also reviews and makes recommendations concerning corporate governance and other policies related to our Board of Directors as well as evaluating the performance of our Board of Directors and its committees. This Committee met five times during fiscal year 2010, and each meeting was attended by all Committee members.

Our Compensation Committee discharges our Board of Directors responsibilities relating to the compensation of our executives and directors. More specifically, this Committee administers cash-based and equity-based incentive compensation programs for executive management, which includes all of the executive officers named in the Summary Compensation Table. This Committee also reviews and recommends to our Board of Directors the inclusion of the Compensation Discussion and Analysis that begins on page 30 of this Proxy Statement. This Committee met eight times during fiscal year 2010, and each meeting was attended by all Committee members.

Our Finance Committee provides assistance to our Board of Directors by reviewing and recommending to the Board of Directors matters concerning corporate finance, including, without limitation, equity and debt financings, acquisitions and divestitures, share repurchases and dividend policy. During fiscal year 2010, there were five Finance Committee meetings. Each meeting was attended by all Committee members.

Board Leadership Structure

Our Board of Directors believes that separate individuals should hold the positions of Chairman of the Board and Chief Executive Officer. Since the initial public offering of our common stock (the IPO), our Board of Directors has been led by our Non-Executive Chairman, Brian C. Beazer, and our President and Chief Executive Officer, Ian J. McCarthy, has led the management of the Company. We believe this structure provides for more direct independent oversight of management and more clearly delineates the respective roles of the Board of Directors at the strategic level, and of management at the operational level.

In addition, as described under Director Independence below, while the Board of Directors believes Mr. Beazer would be deemed to be independent under applicable regulatory standards, the Board of Directors in 2006 determined that it would be an additional governance best practice to establish a lead independent director position, currently held by Larry T. Solari. Among other functions, our lead independent director chairs the executive sessions of the independent directors. As further described below, our Nominating/Corporate Governance Committee nominates our lead independent director for election by the independent directors.

Corporate Governance

Our Board of Directors has adopted a number of measures designed to comply with the requirements of the Sarbanes-Oxley Act of 2002 (the Sarbanes-Oxley Act), rules and regulations of the Securities and Exchange

Table of Contents

Commission (the SEC) interpreting and implementing the Sarbanes-Oxley Act and the listing standards of the NYSE relating to corporate governance matters (the NYSE Standards), as well as other measures that our Board of Directors believes are corporate governance best practices. Among the significant measures implemented by our Board of Directors are the following:

Majority Vote Standard and Director Resignation Policy

Our by-laws and Corporate Governance Guidelines, which are posted and available for viewing in the Investors section of our web site at www.beazer.com, provide a majority voting standard for the election of directors in uncontested elections. Director nominees will be elected if the votes cast for such nominee exceed the number of votes cast against such nominee. In the event that (i) a stockholder proposes a nominee to compete with nominees selected by our Board of Directors, and the stockholder does not withdraw the nomination prior to our mailing the notice of the stockholders meeting, or (ii) one or more directors are nominated by a stockholder pursuant to a solicitation of written consents, then directors will be elected by a plurality vote.

Our Corporate Governance Guidelines provide that our Board of Directors will only nominate candidates who, prior to an annual meeting, tender their irrevocable resignations, which are effective only upon (i) the candidate not receiving the required vote at the next annual meeting at which they face re-election and (ii) our Board of Directors accepting the candidate s resignation. In the event that a director who has tendered his or her resignation does not receive a majority vote, then our Corporate Governance Guidelines provide that our Nominating/Corporate Governance Committee will act on an expedited basis to determine whether to accept the director s resignation and will submit its recommendation to our Board of Directors. In deciding whether to accept a director s resignation, our Board of Directors and our Nominating/Corporate Governance Committee may consider any factors that they deem relevant. Our Corporate Governance Guidelines also provide that our Board of Directors expects that the director whose resignation is under consideration will abstain from the deliberation process. All candidates standing for re-election at this annual meeting have tendered such irrevocable resignations.

Matters Relating to Risk Management

Board and Committee Oversight of Risk

Both the full Board of Directors and its committees oversee the various risks faced by the Company. Management is responsible for the day-to-day management of the Company s risks and provides periodic reports to the Board of Directors and its committees relating to those risks and risk-mitigation efforts. On a regular basis, all committees report on the risk categories they oversee to the full Board of Directors.

The Audit Committee oversees the Company s risk identification and mitigation processes and specifically oversees management of the Company s financial, legal and regulatory risks. Members of the Company s management, including our Chief Financial Officer, General Counsel, Compliance Officer and Head of Internal Audit, report to the Audit Committee on a quarterly basis regarding the on-going risk management process and on the specific risks overseen the by Audit Committee, including the Company s internal controls over financial reporting.

The Compensation Committee oversees the Company s risks relating to its compensation programs and philosophy. The Compensation Committee ensures that our compensation programs, including those applicable to our executives, do not encourage excessive risk taking. The Compensation Committee works periodically with compensation consultants to ensure that our executive compensation plans are appropriately balanced and incentivize management to act in the best interest of the Company s stakeholders.

The Finance Committee oversees the Company s risks relating to liquidity, investments and land acquisition and development. The Finance Committee, as well as the Board of Directors as a whole, reviews the annual

Table of Contents

budget pursuant to which the Company s land acquisition strategy is developed. As with other risks, management is responsible for the day-to-day management of the risks relating to land acquisition and development, while the Board of Directors takes an oversight role with respect those risks.

The Nominating/Corporate Governance Committee oversees the Company s risks relating to governance matters and board and committee composition. The Nominating/Corporate Governance Committee oversees the Company s compliance and ethics program, including implementation of revisions to our Code of Business Conduct and Ethics, and compliance by directors and management with the corporate governance and ethics standards of the Company.

Impact of Compensation Philosophy and Objectives on Risk

In consultation with one of our compensation consultants, MarksonHRC, we have reviewed the compensation policies and practices for our employees, including our executive officers, and have concluded that they do not create risks that are reasonably likely to have a material adverse effect on the Company. We analyzed the compensation plans of employees in positions that could be considered to have the potential to create such risks, including our executive and senior corporate officers, senior management in our divisions and Regional Accounting Centers, and our divisional sales management and sales force. We then reviewed the compensation plans of these groups against risk factors established by widely recognized sources. Our analysis shows that our plans reflect sound risk management practices and do not encourage excessive or inappropriate risk taking.

Director Independence

Listing standards relating to corporate governance promulgated by the NYSE require that our Board of Directors be comprised of a majority of independent directors. The Sarbanes-Oxley Act and rules of the SEC require that the Audit Committee be comprised solely of independent directors. The NYSE Standards further require that the Compensation and Nominating/Corporate Governance Committees also be comprised solely of independent directors. On the basis of information solicited from each director, and upon the advice and recommendation of our Nominating/Corporate Governance Committee, our Board of Directors determined that Laurent Alpert, Peter G. Leemputte, Norma A. Provencio, Larry T. Solari and Stephen P. Zelnak had no material relationship with the Company other than their relationship as members of our Board of Directors and were independent within the meaning of the Sarbanes-Oxley Act and the NYSE Standards (the Independence Standards). While the Board of Directors believes that Mr. Beazer would be deemed to be independent under the Independence Standards, in light of his role as Chairman of the Board since the IPO and his relationship with the Company prior to the IPO, the Board of Directors has elected to treat him as not independent for these purposes.

In making these determinations, our Nominating/Corporate Governance Committee, with assistance from our General Counsel, evaluated responses to an independence and qualification questionnaire completed annually by each director and follow-up inquiries made to certain directors. In the case of Mr. Solari, the responses to the questionnaire indicated that the Company has purchased an immaterial amount of goods from companies of which Mr. Solari is a director. Our Board of Directors affirmatively determined that the relationship was not material either to us or to the other companies. Based on the foregoing, our Board of Directors had a majority of independent directors and each of the Audit, Nominating/Corporate Governance and Compensation committees of our Board of Directors during fiscal year 2010 were comprised entirely of independent directors. It is expected that the majority of directors and all committee members in fiscal year 2011, other than one member of our Finance Committee, as to which independence is not required for membership, will be independent as well. Accordingly, we were in fiscal year 2010, and continue to be, in compliance with the requirements of the NYSE and the SEC for director independence.

Table of Contents

Regularly Scheduled Executive Sessions of Non-Management Directors

In accordance with the NYSE Standards, our Board of Directors typically holds an executive session of non-management directors as a part of every regularly scheduled meeting of our Board of Directors. These executive sessions are chaired by Mr. Beazer as Non-Executive Chairman of our Board of Directors. In addition, our Board of Directors holds at least one meeting annually at which the independent directors meet in executive session, chaired by our lead independent director, Mr. Solari. The lead independent director is nominated by our Nominating/Corporate Governance Committee for election by the independent directors. These provisions are included in our Corporate Governance Guidelines adopted by our Board of Directors. It is the expectation of both our Nominating/Corporate Governance Committee and our independent directors that the position of lead director will rotate among the independent directors, as appropriate.

Communications with Board Members

Security holders and interested parties wishing to communicate directly with our Non-Executive Chairman or our non-management directors as a group may do so by directing their communications to the ethics hotline and specifically asking the operator to direct their concerns to our Non-Executive Chairman or non-management directors, as desired.

Ethics Hotline

We maintain an ethics hotline which interested parties may contact by calling 1-866-457-9346 and report any concerns to a representative of Global Compliance, a third party service provider that administers our ethics hotline. Alternatively, interested parties can report any such concern via an on-line form by visiting the following web site: www.integrity-helpline.com/Beazer.jsp. The link provides an on-line form that, upon completion, will be submitted directly to Global Compliance. Interested parties may report their concerns anonymously, should they wish to do so. All concerns, whether reported through the toll-free number or the on-line form, will be directed to certain of our officers, including our Chief Compliance Officer, and will be reviewed and investigated as appropriate. Where warranted after investigation, messages will be summarized and referred to the Audit Committee of our Board of Directors for appropriate action.

Committee Charters

Our Board of Directors has adopted charters for our Audit, Compensation and Nominating/Corporate Governance Committees designed to comply with the requirements of the NYSE Standards and applicable provisions of the Sarbanes-Oxley Act and SEC rules. The current version of each of these charters, as well as the charter for our Finance Committee, has been posted and is available for public viewing in the Investors section of the our web site at www.beazer.com. In addition, committee charters are available in print to any stockholder upon request to our Investor Relations Department, Beazer Homes USA, Inc., 1000 Abernathy Road, Suite 1200, Atlanta, Georgia 30328.

Corporate Governance Guidelines

Upon the advice and recommendation of our Nominating/Corporate Governance Committee, our Board of Directors has adopted a set of Corporate Governance Guidelines. The Corporate Governance Guidelines address an array of governance issues and principles including director qualifications and responsibilities, access to management personnel and independent advisors, director compensation, director orientation and continuing education, management succession, annual performance evaluations of our Board of Directors and meetings of independent directors.

We maintain a Code of Business Conduct and Ethics applicable to all directors, officers and employees that complies with the NYSE Standards. Our employees are also subject to additional specific policies, guidelines and

Table of Contents

Company rules adopted from time to time governing particular types of conduct or situations. Such additional policies, guidelines or rules are supplemental to our posted Code of Business Conduct and Ethics, and in the case of any inconsistency between the two, employees are expected to comply with the Code of Business Conduct and Ethics.

The most recent version of our Corporate Governance Guidelines and of our Code of Business Conduct and Ethics is posted and available for public viewing in the Investors section of our web site at www.beazer.com. In addition, they are available in print to any stockholder upon request to our Investor Relations Department, Beazer Homes USA, Inc., 1000 Abernathy Road, Suite 1200, Atlanta, Georgia 30328.

Procedures Regarding Director Candidates Recommended by Stockholders

Our Nominating/Corporate Governance Committee will consider candidates recommended to our Board of Directors by our stockholders only if the recommending stockholder or stockholders follow the procedures set forth in our by-laws. In order to recommend a nominee for a director position, a stockholder must be a stockholder of record at the time it gives its notice of recommendation and must be entitled to vote for the election of directors at the meeting at which such nominee will be considered. Stockholder recommendations must be made pursuant to notice delivered to or mailed and received at our principal executive office (i) in the case of a nomination for election at an annual meeting, not less than 120 days nor more than 150 days prior to the first anniversary of the date of our notice of annual meeting for the preceding year s annual meeting; and (ii) in the case of a special meeting at which directors are to be elected, not later than the close of business on the tenth day following the earlier of the day on which notice of the date of the meeting was mailed or public disclosure of the date of the meeting was made. In the event that the date of the annual meeting is changed by more than 30 days from the anniversary date of the preceding year s annual meeting, the stockholder notice described above will be deemed timely if it is received not later than the close of business on the tenth day following the earlier of the date on which notice of the date of the meeting was mailed or public disclosure was made of the date of the meeting.

The stockholder notice must set forth the following:

As to each person the stockholder proposes to nominate for election as a director, (i) all information relating to such person that is required to be disclosed or is otherwise required pursuant to Regulation 14A under the Exchange Act which must include the written consent of the nominee to serve as a director if elected, and (ii) a statement whether such person, if elected, intends to tender, promptly following such person s election or re-election, an irrevocable resignation which is effective only upon such person not receiving the required vote at the next annual meeting at which the person faces re-election and our Board of Directors accepting such person s resignation;

As to the nominating stockholder, such stockholder s name and address as they appear on our stockholder list and the number of shares of our common stock which are beneficially owned by such stockholder and which are owned of record by such stockholder; and

As to any other beneficial owner of the stock on whose behalf the nomination is made, the name and address of such person and the number of shares of our common stock they beneficially own.

In addition to complying with the foregoing procedures, any stockholder nominating a director must also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder.

Pursuant to our Corporate Governance Guidelines, our Nominating/Corporate Governance Committee is directed to work with our Board of Directors on an annual basis to determine the appropriate characteristics, skills and experience for each Committee member and for our Board of Directors. In evaluating these issues, our Nominating/Corporate Governance Committee takes into account many factors, including the individual

Table of Contents

director s general understanding of marketing, finance and other elements relevant to the success of a large publicly traded company in today s business environment, understanding of our business on an operational level, education or professional background and willingness to devote time to Board of Director duties. While the Board of Directors does not have a specific diversity policy, it considers diversity of race, ethnicity, gender, age and professional accomplishments in evaluating director candidates. Each individual is evaluated in the context of our Board of Directors as a whole, with the objective of recommending a group of nominees that can best promote the success of the business and represent stockholder interests through the exercise of sound judgment based on diversity of experience and background.

If a director candidate were to be recommended by a stockholder, our Nominating/Corporate Governance Committee expects that it would evaluate such candidate in the same manner it evaluates director candidates identified by the Nominating/Corporate Governance Committee.

Executive Officers

Set forth below is information as of December 22, 2010 regarding our executive officers who are not serving or nominated as directors:

ALLAN P. MERRILL. Mr. Merrill, 44, joined us in May 2007 as Executive Vice President and Chief Financial Officer. Mr. Merrill was previously with Move, Inc. where he served as Executive Vice President of Corporate Development and Strategy beginning in October 2001. From April 2000 to October 2001, Mr. Merrill was president of Homebuilder.com, a division of Move, Inc. Mr. Merrill joined Move, Inc. following a 13-year tenure with the investment banking firm UBS (and its predecessor Dillon, Read & Co.), where he was a managing director and served most recently as co-head of the Global Resources Group, overseeing the construction and building materials, chemicals, forest products, mining and energy industry groups. Mr. Merrill is a member of the Policy Advisory Board of the Joint Center for Housing Studies at Harvard University and the Homebuilding Community Foundation. He is a graduate of the University of Pennsylvania, Wharton School with a Bachelor of Science degree in Economics.

KENNETH F. KHOURY. Mr. Khoury, 59, joined us in January 2009 as Executive Vice President and General Counsel. Mr. Khoury was previously Executive Vice President and General Counsel of Delta Air Lines from September 2006 to November 2008. Practicing law for over 30 years, Mr. Khoury s career has included both private practice and extensive in-house counsel experience. Prior to Delta Air Lines, Mr. Khoury was Senior Vice President and General Counsel of Weyerhaeuser Corporation and spent 15 years with Georgia-Pacific Corporation, where he served most recently as Vice President and Deputy General Counsel. He also spent five years at the law firm White & Case in New York. He received a Bachelor of Arts degree from Rutgers College and a Juris Doctor from Fordham University School of Law.

ROBERT L. SALOMON. Mr. Salomon, 50, joined us in February 2008 as Senior Vice President and Chief Accounting Officer and Controller. Mr. Salomon was previously with the homebuilding company Ashton Woods Homes where he served as Chief Financial Officer and Treasurer since 1998. Previously, he served with homebuilder MDC Holdings, Inc. in financial management roles of increasing responsibility over a six year period. A Certified Public Accountant, Mr. Salomon has 26 years of financial management experience, 18 of which have been in the homebuilding industry. Mr. Salomon is a member of the American Institute of Certified Public Accountants and a graduate of the University of Iowa with a Bachelor of Business Administration.

Table of Contents

PROPOSAL 1 ELECTION OF DIRECTORS

General

Each of the nominees listed below has been nominated as a director for the fiscal year ending September 30, 2011 and until his or her respective successor has been qualified and elected. Each of the following nominees is presently serving as a director. Our Board of Directors periodically evaluates the appropriate size for our Board of Directors and will set the number of directors in accordance with our by-laws and based on recommendations of the Nominating/Corporate Governance Committee of our Board of Directors.

In the event any nominee is not available as a candidate for director, votes will be cast pursuant to authority granted by the enclosed proxy for such other candidate or candidates as may be nominated by the Nominating/Corporate Governance Committee of our Board of Directors. Our Board of Directors has no reason to believe that any nominee will be unable or unwilling to serve as a director, if elected.

Vote Required

Each director will be elected if the votes cast for such director exceed the votes cast against such director.

Recommendation

We recommend a vote *FOR* the election of each of the following nominees.

Nominees

The biographical information appearing below with respect to each nominee has been furnished to us by the nominee:

LAURENT ALPERT. Mr. Alpert, 64, has served as a director of the Company since February 2002. Mr. Alpert is a partner in the international law firm of Cleary, Gottlieb, Steen & Hamilton. He joined Cleary, Gottlieb in 1972 and became a partner in 1980. He received his undergraduate degree from Harvard College and a law degree from Harvard Law School. Mr. Alpert is also a member of the Board of Directors of the International Rescue Committee, a non-profit organization providing relief and resettlement services to refugees, and Co-Chair of its Nominating and Governance Committee.

Mr. Alpert brings to the Board of Directors nearly 40 years of experience practicing law with one of the world s pre-eminent law firms and almost ten years experience on the Board of Directors. He has substantial experience representing companies in a broad range of industries. In light of the regulatory environment in which the Company operates and the continued emphasis on corporate governance, ethics and compliance for public companies, Mr. Alpert s experience, training and judgment are deemed to be of significant benefit to the Company.

BRIAN C. BEAZER. Mr. Beazer, 75, is our Non-Executive Chairman and has served in that role and as a director of the Company since its IPO in 1994. From 1968 to 1983, Mr. Beazer was Chief Executive Officer of Beazer PLC, a United Kingdom company, and then was Chairman and Chief Executive Officer of that company from 1983 to the date of its acquisition by Hanson PLC in 1991. During that time, Beazer PLC expanded its activities internationally to include homebuilding, quarrying, contracting and real estate and became an international group with annual revenue of approximately $3.4 billion. Mr. Beazer was educated at the Cathedral School, Wells, Somerset, England. He is a director of Beazer Japan, Ltd., Aeromet Inc., Seal Mint, Ltd., and Numerex Corp. and is a private investor.

Mr. Beazer has been in the homebuilding and construction industry worldwide for over 50 years. His experience and vision have been driving forces at the Company since prior to its IPO. His extraordinary

Table of Contents

experience and stature as a highly respected international businessman provide the Company with unique insight into national and international economic policy that impact the homebuilding industry, as well as an in depth understanding of the domestic homebuilding industry.

PETER G. LEEMPUTTE. Mr. Leemputte, 53, has been a director of the Company since August 2005. Mr. Leemputte joined Mead Johnson Nutrition Company, a global leader in infant and children s nutrition as Senior Vice President and Chief Financial Officer in September 2008. Previously, Mr. Leemputte was Senior Vice President and Chief Financial Officer for Brunswick Corporation, a global manufacturer and marketer of recreation products. He joined Brunswick in 2001 as Vice President and Controller. Prior to joining Brunswick Corporation, Mr. Leemputte held various management positions at Chicago Title Corporation, Mercer Management Consulting, Armco Inc., FMC Corporation and BP. Mr. Leemputte holds a Bachelor of Science degree in Chemical Engineering from Washington University, St. Louis and a Master of Business Administration in Finance and Marketing from the University of Chicago Graduate School of Business. Mr. Leemputte currently serves as the Co-Chairman of Washington University s School of Engineering Scholarship Initiative.

Mr. Leemputte s experience, particularly his increasingly important financial responsibilities for several of the nation s leading corporations, provides significant financial and accounting expertise that has been invaluable to the Company in many respects, including compliance with our obligations under various regulatory requirements for financial expertise on the Board of Directors and Audit Committee.

IAN J. MCCARTHY. Mr. McCarthy, 57, is our President and Chief Executive Officer and has served as a director of the Company since the IPO. Mr. McCarthy has served as President of predecessors of the Company since January 1991 and was responsible for all United States residential homebuilding operations in that capacity. During the period May 1981 to January 1991, Mr. McCarthy was employed in Hong Kong and Thailand, becoming a director of Beazer Far East, and from January 1980 to May 1981 was employed by Kier, Ltd., a company engaged in the United Kingdom construction industry which became a subsidiary of Beazer PLC. Mr. McCarthy is a Chartered Civil Engineer with a Bachelor of Science degree from The City University, London. Mr. McCarthy currently serves as a member of the Board of Directors of HomeAid America and of Builder Homesite, Inc. He was inducted into the California Building Industry Hall of Fame in 2004, the first non-California resident to receive this honor.

Mr. McCarthy has been in the homebuilding and construction industry for over 30 years. He is one of the nation s most respected homebuilding executives and has frequently served on industry-wide organizations. Mr. McCarthy has served on the Executive Committee of the Policy Advisory Board of the Joint Center for Housing Studies at Harvard University. His breadth of experience in the industry in which the Company operates and his 20 years as President of the Company and its predecessors provide irreplaceable experience and knowledge of the Company s business and the homebuilding industry.

NORMA A. PROVENCIO. Ms. Provencio, 52, has been a director of the Company since November 2009. Ms. Provencio is President and owner of Provencio Advisory Services Inc., a healthcare financial and operational consulting firm. Prior to forming Provencio Advisory Services in October 2003, she was the Partner-in-Charge of KPMG s Pacific Southwest Healthcare Practice since May 2002. From 1979 to 2002, she was with Arthur Andersen, serving as that firm s Partner-in-Charge of the Pharmaceutical, Biomedical and Healthcare Practice for the Pacific Southwest from November 1995 to May 2002. Ms. Provencio is currently a member of the Board of Directors of Valeant Pharmaceutical International. She received her Bachelor of Science in Accounting from Loyola Marymount University. She is a Certified Public Accountant and also a member of the Board of Regents of Loyola Marymount University.

Ms. Provencio has over 30 years experience in the public accounting field. We believe her in depth understanding of accounting rules and financial reporting regulations to be extremely valuable to the Company s commitment and efforts to comply with regulatory requirements, including those related to Audit Committee functions.

Table of Contents

LARRY T. SOLARI. Mr. Solari, 68, has served as a director of the Company since the IPO and has been our lead independent director since February 5, 2009. He is a partner in Kenner & Company, Inc., a private equity investment firm in New York, a position he has held since 2002. Mr. Solari is the past Chairman and Chief Executive Officer of BSI Holdings, Inc., a position he held from 1998 to 2001. Prior to starting BSI, Mr. Solari was the Chairman and Chief Executive Officer of Sequentia, Inc. and President of the Building Materials Group of Domtar, Inc. Mr. Solari was President of the Construction Products Group of Owens-Corning from 1986 to 1994 and held various other positions with Owens-Corning since 1966. Mr. Solari earned a Bachelor of Science degree in Industrial Management and a Master of Business Administration degree from San Jose State University and is a graduate of Stanford University s Management Program. Mr. Solari is a director of Pacific Coast Building Products, Inc., Atrium Companies, Inc., TruStile Doors, LLC, Performance Contracting Group, Pace Industries and Cascade Windows. Mr. Solari is a past director of the Policy Advisory Board of the Harvard Joint Center for Housing Studies and the National Home Builders Advisory Board.

Mr. Solari provides over 40 years experience in a wide range of industries directly related to the homebuilding industry and over 15 years as member of the Board of Directors. In addition, he has served on several industry-wide organizations. His experience and knowledge of our industry provides valuable insight into several vendor markets that are important to the Company and integral to our operations.

STEPHEN P. ZELNAK, JR. Mr. Zelnak, 65, has served as a director of the Company since February 2003. He is currently non-executive Chairman of Martin Marietta Materials, Inc., a producer of aggregates for the construction industry where he has also served as Chief Executive Officer from 1993 until December 31, 2009 and Chairman of the Board of Directors since 1997. Mr. Zelnak joined Martin Marietta Corporation in 1981 where he first served as the President of Martin Marietta s Materials Group and of Martin Marietta s Aggregates Division. Mr. Zelnak received a Bachelor s degree from Georgia Institute of Technology and Masters degrees in Administrative Science and Business Administration from the University of Alabama System. Mr. Zelnak is a director of Pace Industries. He has served as Chairman of the North Carolina Chamber and is the past Chairman of the North Carolina Community College Foundation. He serves on the Advisory Boards of North Carolina State University and Georgia Institute of Technology.

Mr. Zelnak brings over 30 years experience as a senior executive in the building materials industry, as well an educational background that includes business administration, organizational behavior and finance. He has provided outstanding leadership as Chairman of the Finance Committee as the Company has navigated successfully through the extremely challenging conditions of the last several years.

Table of Contents

PROPOSAL 2 RATIFICATION OF APPOINTMENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Audit Committee of our Board of Directors has selected the firm of Deloitte & Touche LLP, the member firms of Deloitte & Touche Tohmatsu, and their respective affiliates (collectively, Deloitte & Touche), to serve as our independent registered public accounting firm for the fiscal year ending September 30, 2011. Deloitte & Touche has served as our accounting firm since our fiscal year ended September 30, 1996. The services provided to the Company by Deloitte & Touche for the last fiscal year are described under the caption Principal Accountant Fees and Services below. Stockholder approval of the appointment is not required. Our Board of Directors believes that obtaining stockholder ratification of the appointment is a sound governance practice.

Representatives of Deloitte & Touche will be present at the annual meeting, will have an opportunity to make a statement if they desire to do so and will be available to respond to appropriate questions from stockholders.

Recommendation

We recommend a vote *FOR* ratification of the appointment of Deloitte & Touche as our independent registered public accounting firm for the fiscal year ending September 30, 2011.

REPORT OF OUR AUDIT COMMITTEE

Our Audit Committee meets the definition of an audit committee as set forth in Section 3(a)(58)(A) of the Exchange Act and operates under a written charter adopted by our Board of Directors. Each member of our Audit Committee is independent and financially literate in the judgment of our Board of Directors and as required by the Sarbanes-Oxley Act and applicable SEC and NYSE rules. Our Board of Directors has also determined that Mr. Leemputte and Ms. Provencio qualify as audit committee financial experts, as defined under SEC regulations.

Management is responsible for our internal controls and the financial reporting process. Deloitte & Touche our independent registered public accounting firm is responsible for performing an independent audit of our consolidated financial statements in accordance with standards of the Public Company Accounting Oversight Board (United States) (the PCAOB) and for issuing a report thereon. Our Audit Committee s responsibility is generally to monitor and oversee these processes, as described in our Audit Committee Charter.

Our Audit Committee reviewed and discussed with management our audited financial statements as of and for the fiscal year ended September 30, 2010. Our Audit Committee has discussed with Deloitte & Touche the matters required to be discussed by Statement of Auditing Standards No. 61, as amended (AICPA, *Professional Standards*, Vol. 1. AU section 380), as adopted by the PCAOB in Rule 3200T.

Our Audit Committee has also received the written communications from Deloitte & Touche required by the PCAOB regarding Deloitte & Touche s communications with our Audit Committee concerning independence and has discussed with Deloitte & Touche their independence. Our Audit Committee has considered whether the provision of the non-audit services described below by Deloitte & Touche is compatible with maintaining their independence and has concluded that the provision of these services does not compromise such independence.

Based on the review and discussions described above, our Audit Committee recommended to our Board of Directors that the audited financial statements referred to above be included in our Annual Report on Form 10-K for the fiscal year ended September 30, 2010 filed with the SEC.

Peter G. Leemputte
Laurent Alpert
Norma Provencio

Larry T. Solari

The Members of the Audit Committee November 4, 2010

Table of Contents

PRINCIPAL ACCOUNTANT FEES AND SERVICES

For the fiscal years ended September 30, 2010 and 2009, the following professional services were performed by Deloitte & Touche.

Audit Fees: The aggregate fees billed for the audit of our annual financial statements for the fiscal years ended September 30, 2010 and 2009 and for reviews of the financial statements included in our Quarterly Reports on Form 10-Q were $1,106,500 and $1,220,000, respectively, and included fees for Sarbanes-Oxley Section 404 attestation procedures.

Audit-Related Fees: The aggregate fees billed for audit-related services for the fiscal years ended September 30, 2010 and 2009 were $40,000 and $35,000, respectively. These fees related to assurance and related services performed by Deloitte & Touche that are reasonably related to the performance of the audit or review of our financial statements. These services included: employee benefit and compensation plan audits, audits of certain subsidiaries and consulting on financial accounting/reporting standards.

Tax Fees: The aggregate fees billed for tax services for the fiscal years ended September 30, 2010 and 2009 were $488,923 and $990,543, respectively. These fees related to professional services performed by Deloitte & Touche with respect to tax compliance, tax advice and tax planning. These services included preparation of original and amended tax returns for various fiscal years for the Company and its consolidated subsidiaries, refund claims, payment planning, tax audit assistance and tax work stemming from Audit-Related items.

All Other Fees: No other fees were paid to Deloitte & Touche in either fiscal year 2010 or fiscal year 2009.

Our Audit Committee annually approves each year s engagement for audit services in advance. Our Audit Committee has also established complementary procedures to require pre-approval of all permitted non-audit services provided by our independent auditors. All non-audit services described above were pre-approved by our Audit Committee.

Table of Contents

PROPOSAL 3 ADVISORY VOTE ON THE COMPANY S EXECUTIVE COMPENSATION

Background

As required under the newly enacted Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the Dodd-Frank Act), our Board of Directors is submitting a Say on Pay proposal for stockholder consideration. While the vote on executive compensation is non-binding and solely advisory in nature, our Board of Directors and the Compensation Committee will review the voting results and seek to determine the causes of any significant negative voting result to better understand issues and concerns not previously presented. Stockholders who want to communicate with the Board of Directors or management should refer to Communications with Board Members on page 8 of this Proxy Statement for additional information.

The Company s core compensation philosophy is to utilize a mixture of base salary and annual and longer-term incentives to align executive compensation with our annual and long-term performance. This includes establishing performance targets based on our strategic and operating plans and providing a significant portion of total compensation based on appreciation of our stock price.

The effectiveness of our compensation policies is demonstrated by the accomplishments of management over the last fiscal year in response to the strategic targets established by the Board of Directors and the Compensation Committee under the annual incentive plan described below. The Board of Directors and the Compensation Committee recognized the importance of stabilizing our financial situation, increasing enterprise value and restructuring our indebtedness in the wake of the worst home building environment in generations. As described in the discussion of the 2010 Bonus Plan under Executive Compensation beginning on page 30 of this Proxy Statement, management took actions that increased both the Company s tangible net worth and stockholders equity by over $200 million, restructured approximately $585 million of its debt, raised approximately $300 million in new equity and exceeded the target of approximately $58 million under our Economic Profit Account Plan.

In addition, over the last several years the Compensation Committee has faced several unique challenges as it balanced the need to recruit and retain several key management positions, including three of our named executive officers (the Chief Financial Officer, the Chief Accounting Officer and the General Counsel), against the reality of the severe downturn in the housing industry and the resulting extraordinary reduction in the value of the Company s stock. The Company also dealt with issues specific to its situation involving several governmental investigations which impacted its reputation and its stock price.

Accordingly, the Compensation Committee adopted a responsible approach to executive compensation that allowed it to maintain a degree of flexibility to deal with our unique situation while remaining committed to our core philosophy of paying for performance and aligning executive compensation with stockholder interests. The Compensation Committee has taken several actions to align executive compensation with stockholder interests in this challenging environment. For example:

- our Chief Executive Officer has not had a base salary increase since January 1, 2005, while the base salaries of our Chief Financial Officer, General Counsel and Chief Accounting Officer have been frozen since they joined the Company in 2007, 2009 and 2008, respectively;
- no equity awards were made to the named executive officers for approximately 24 months prior to August 2009;
- prior to fiscal year 2010, our Chief Executive Officer had not had an equity grant since 2006;
- in fiscal year 2008, in recognition of the challenges facing the residential housing markets, the Committee reduced management s bonuses from the 1.875 times base salary actually earned to half of base salary; and
- over the last few years several key executives received no equity awards upon joining the Company.

Table of Contents

Despite these severe but necessary actions, the Compensation Committee has been able to recruit and retain key executives who believe in the long-term prospects of the Company and are willing to tie their compensation to achieving the aggressive performance goals established by the Compensation Committee.

The Board of Directors believes the Company s compensation programs are well tailored to recruit and retain key executives while recognizing and sharing the sacrifices our stockholders have made. The Board of Directors urges you to review carefully the Compensation Discussion and Analysis section of this Proxy Statement which describes our compensation philosophy and programs in greater detail and to approve the following resolution:

RESOLVED, that stockholders hereby approve, on an advisory basis, the compensation of the Company s named executive officers, as disclosed in this Proxy Statement pursuant to the compensation disclosure rules of the Securities and Exchange Commission.

Recommendation

The Board of Directors recommends that you vote in favor of the Company s executive compensation as described in this Proxy Statement by voting *FOR* this proposal.

PROPOSAL 4 ADVISORY VOTE ON FREQUENCY OF STOCKHOLDER SAY ON PAY VOTES

Under the Dodd-Frank Act, the Company also is required to seek a non-binding advisory stockholder vote regarding the frequency of submission to stockholders of a Say on Pay advisory vote such as Proposal 3. The Dodd-Frank Act specifies that stockholders be given the opportunity to vote on our executive compensation either annually, every two years or every three years. Although this vote is advisory and non-binding, our Board of Directors will review voting results and give serious consideration to the outcome of such voting.

Our Board of Directors recognizes the importance of receiving regular input from our stockholders on important issues such as our executive compensation. Our Board of Directors also believes that a well-structured compensation program should include plans that drive creation of stockholder value over the long-term and do not simply focus on short-term gains. While we believe that many of our stockholders think that the effectiveness of such plans cannot be adequately evaluated on an annual basis, especially in a cyclical industry such as ours, the Board of Directors believes that at present it should receive advisory input from our stockholders each year. Accordingly, as indicated below, the Board of Directors recommends that you vote in favor of an annual advisory vote on our executive compensation.

The Board of Directors asks you to consider the following resolution:

RESOLVED, that a non-binding advisory vote of the Company s stockholders to approve the compensation of the Company s named executive officers, as disclosed pursuant to the compensation disclosure rules of the Securities and Exchange Commission, shall be held at an annual meeting of stockholders, beginning with the 2011 Annual Meeting of Stockholders, (A) every year, (B) every 2 years, or (C) every 3 years.

The enclosed proxy card gives you four choices for voting on this item. You can choose whether the say-on-pay vote should be conducted every year, every 2 years or every 3 years. You may also abstain from voting on this item. You are not voting to approve or disapprove the Board of Directors recommendation on this item.

Recommendation

The Board of Directors recommends that you cast your vote *FOR* alternative (A); voting on Say on Pay resolutions every year.

Table of Contents

PROPOSALS 5 AND 6 BACKGROUND

Like virtually every national homebuilder, we have generated significant net operating losses and unrealized tax losses (collectively, NOLs) and may generate additional NOLs in future years. Under federal tax laws, we generally can use NOLs and certain related tax credits to offset ordinary income tax paid in our prior two tax years or on our future taxable income for up to 20 years when they will expire for such purposes. Until they expire, we can carry forward NOLs and certain related tax credits that we do not use in any particular year to offset income tax in future years.

As of September 30, 2010, we estimate that the Company had deferred tax assets generated by NOLs of approximately $411.6 million (net of $57.2 million of deferred tax liability) with a $403.8 million valuation allowance. However, because the amount and timing of the Company s future taxable income, if any, cannot be accurately predicted, we currently anticipate that between $228 million and $350 million of these assets would be available to reduce the Company s income tax liability. Clearly, our NOLs are a very valuable asset.

The benefits of our NOLs would be reduced, and our use of the NOLs would be substantially delayed, if we experience an ownership change, as determined under Section 382 of the Internal Revenue Code, as amended, and applicable Treasury Regulations (Section 382). Under Section 382, an ownership change occurs if a stockholder or a group of stockholders who is deemed to own at least 5% of our common stock increases its ownership by more than 50 percentage points over their lowest ownership percentage within a rolling three year period. If an ownership change occurs, Section 382 would impose an annual limit on the amount of our NOLs that we can use to offset income taxes equal to the product of the total value of our outstanding equity immediately prior to the ownership change (reduced by certain items specified in Section 382) and the federal long-term tax-exempt interest rate in effect for the month of the ownership change. A number of complex rules apply to calculating this annual limit. In January 2010, an ownership change occurred that, to a certain extent, already limits the availability of our NOLs to offset taxable income.

If an ownership change were to occur, the limitations imposed by Section 382 could result in a material amount of our NOLs expiring unused and, therefore, significantly impair the value of our NOLs. While the complexity of Section 382 s provisions and the limited knowledge any public company has about the ownership of its publicly traded stock make it difficult to determine whether an ownership change has occurred, we currently believe that an ownership change has not occurred since January 2010. However, if no action is taken, we believe it is possible that we could experience another ownership change. The purpose of Proposals 5 and 6 is to provide some protection against a future ownership change that would further limit our use of NOLs.

After careful consideration, our Board of Directors believes the most effective way to preserve the benefits of our NOLs for long-term stockholder value is to adopt **both** the Protective Amendment to the Beazer Homes USA, Inc. Certificate of Incorporation (the Protective Amendment) and the Beazer Homes USA, Inc. Section 382 Rights Agreement, as amended by the First Amendment thereto (the Rights Agreement). The Protective Amendment, which is designed to block transfers of our common stock that could result in an ownership change, is described below under Proposal 5, and its full terms can be found in the accompanying Appendix I. The Rights Agreement, pursuant to which we have issued certain stock purchase rights with terms designed to deter transfers of our common stock that could result in an ownership change, is described below under Proposal 6, and its full terms can be found in the accompanying Appendix II.

The Board of Directors urges stockholders to read carefully each proposal, the items discussed below under the heading Certain Considerations Related to the Protective Amendment and the Rights Agreement and the full terms of both the Protective Amendment and the Rights Agreement. While the Board of Directors unanimously supports both measures, the Protective Amendment requires stockholder adoption to be put into effect, and the Rights Agreement requires stockholder approval to remain effective. Failure to obtain stockholder approval will result in expiration of the Rights Agreement.

Table of Contents

It is important to note that neither measure offers a complete solution, and an ownership change may occur even if the Protective Amendment is adopted and the Rights Agreement is approved. There are limitations on the enforceability of the Protective Amendment against stockholders who do not vote to adopt it that may allow an ownership change to occur, and the Rights Agreement may deter, but ultimately cannot block, all transfers of our common stock that might result in an ownership change. The limitations of these measures are described in more detail below. Because of their individual limitations, the Board of Directors believes that both measures are needed and that they will serve as important tools to help prevent an ownership change that could substantially reduce or eliminate the significant long-term potential benefits of our NOLs. Further, the Board of Directors notes that due to the severe downturn in the homebuilding industry over the past several years and the NOLs incurred by homebuilders as a result, a number of the Company s competitors have recently adopted similar NOL measures to help protect these valuable assets. **Accordingly, the Board of Directors strongly recommends that stockholders adopt the Protective Amendment and approve the Rights Agreement.**

Table of Contents

PROPOSAL 5 ADOPTION OF THE PROTECTIVE AMENDMENT

For the reasons discussed above under Proposals 5 and 6 Background, the Board of Directors recommends that stockholders adopt the Protective Amendment to the Beazer Homes USA, Inc. Certificate of Incorporation. The Protective Amendment is designed to prevent certain transfers of our common stock that could result in an ownership change under Section 382 and, therefore, materially inhibit our ability to use our NOLs to reduce our future income tax liability. The Board of Directors believes it is in our stockholders best interests to adopt the Protective Amendment to help avoid this result.

The purpose of the Protective Amendment is to assist us in protecting long-term value to the Company of its accumulated NOLs by limiting direct or indirect transfers of our common stock that could affect the percentage of stock that is treated as being owned by a holder of 4.95% of our stock. In addition, the Protective Amendment includes a mechanism to block the impact of such transfers while allowing purchasers to receive their money back from prohibited purchases. In order to implement these transfer restrictions, the Protective Amendment must be adopted. The Board of Directors has adopted resolutions approving and declaring the advisability of amending our Certificate of Incorporation as described below and as provided in the accompanying Appendix I, subject to stockholder adoption. In addition, the Board of Directors will have the discretion to approve a transfer of our common stock that would otherwise violate the transfer restrictions if it determines that the transfer is in our stockholders best interests.

Description of the Protective Amendment

The following description of the Protective Amendment is qualified in its entirety by reference to the full text of the Protective Amendment, which is contained in a proposed new Article Eight of our Certificate of Incorporation and can be found in the accompanying Appendix I. **Please read the Protective Amendment in its entirety as the discussion below is only a summary.**

Prohibited Transfers. The Protective Amendment generally will restrict any direct or indirect transfer (such as transfers of our stock that result from the transfer of interests in other entities that own our stock) if the effect would be to:

- increase the direct or indirect ownership of our stock by any Person (as defined below) from less than 4.95% to 4.95% or more; or
- increase the percentage of our common stock owned directly or indirectly by a Person owning or deemed to own 4.95% or more of our common stock.

Person means any individual, firm, corporation or other legal entity, including persons treated as an entity pursuant to Treasury Regulation § 1.382-3(a)(1)(i), and includes any successor (by merger or otherwise) of such entity.

Restricted transfers include sales to Persons whose resulting percentage ownership (direct or indirect) of our common stock would exceed the 4.95% thresholds discussed above or to Persons whose direct or indirect ownership of our common stock would by attribution cause another Person to exceed such threshold. Complicated common stock ownership rules prescribed by the Code (and regulations issued thereunder) will apply in determining whether a Person is a 4.95% stockholder under the Protective Amendment. A transfer from one member of a public group (as that term is defined under Section 382) to another member of the same public group does not increase the percentage of our common stock owned directly or indirectly by the public group, and, therefore, such transfers are not restricted. For purposes of determining the existence and identity of, and the amount of our common stock owned by, any stockholder, we will be entitled to rely on the existence or absence of certain public securities filings as of any date, subject to our actual knowledge of the ownership of our common stock. The Protective Amendment includes the right to require a proposed transferee, as a condition to registration of a transfer of our common stock, to provide all information reasonably requested regarding such person s direct and indirect ownership of our common stock.

Table of Contents

These transfer restrictions may result in the delay or refusal of certain requested transfers of our common stock or may prohibit ownership (thus requiring dispositions) of our common stock due to a change in the relationship between two or more persons or entities or to a transfer of an interest in an entity other than us that, directly or indirectly, owns our common stock. The transfer restrictions will also apply to proscribe the creation or transfer of certain options (which are broadly defined by Section 382) with respect to our common stock to the extent that, in certain circumstances, the creation, transfer or exercise of the option would result in a proscribed level of ownership.

Consequences of Prohibited Transfers. Upon adoption of the Protective Amendment, any direct or indirect transfer attempted in violation of the Protective Amendment would be void as of the date of the prohibited transfer as to the purported transferee (or, in the case of an indirect transfer, the ownership of the direct owner of our common stock would terminate simultaneously with the transfer), and the purported transferee (or in the case of any indirect transfer, the direct owner) would not be recognized as the owner of the shares owned in violation of the Protective Amendment for any purpose, including for purposes of voting and receiving dividends or other distributions in respect of such common stock, or in the case of options, receiving our common stock in respect of their exercise. In this Proxy Statement, our common stock purportedly acquired in violation of the Protective Amendment is referred to as excess stock.

In addition to a prohibited transfer being void as of the date it is attempted, upon demand, the purported transferee must transfer the excess stock to our agent along with any dividends or other distributions paid with respect to such excess stock. Our agent is required to sell such excess stock in an arm s-length transaction (or series of transactions) that would not constitute a violation under the Protective Amendment. The net proceeds of the sale, together with any other distributions with respect to such excess stock received by our agent, after deduction of all costs incurred by the agent, will be distributed first to the purported transferee in an amount, if any, up to the cost (or in the case of gift, inheritance or similar transfer, the fair market value of the excess stock on the date of the prohibited transfer) incurred by the purported transferee to acquire such excess stock, and the balance of the proceeds, if any, will be distributed to a charitable beneficiary. If the excess stock is sold by the purported transferee, such person will be treated as having sold the excess stock on behalf of the agent and will be required to remit all proceeds to our agent (except to the extent we grant written permission to the purported transferee to retain an amount not to exceed the amount such person otherwise would have been entitled to retain had our agent sold such shares).

To the extent permitted by law, any stockholder who knowingly violates the Protective Amendment will be liable for any and all damages we suffer as a result of such violation, including damages resulting from any limitation in our ability to use our NOLs and any professional fees incurred in connection with addressing such violation.

With respect to any transfer of common stock that does not involve a transfer of our securities within the meaning of the Delaware General Corporation Law but that would cause any stockholder of 4.95% or more of our stock to violate the Protective Amendment, the following procedure will apply in lieu of those described above: in such case, such stockholder and/or any person whose ownership of our securities is attributed to such stockholder will be deemed to have disposed of (and will be required to dispose of) sufficient securities, simultaneously with the transfer, to cause such holder not to be in violation of the Protective Amendment, and such securities will be treated as excess stock to be disposed of through the agent under the provisions summarized above, with the maximum amount payable to such stockholder or such other person that was the direct holder of such excess stock from the proceeds of sale by the agent being the fair market value of such excess stock at the time of the prohibited transfer.

Public Groups; Modification and Waiver of Transfer Restrictions. In order to facilitate sales by stockholders into the market, the Protective Amendment permits otherwise prohibited transfers of our common stock where the transferee is a public group. These permitted transfers include transfers to new public groups that would be created by the transfer and would be treated as a 4.95% stockholder.

Table of Contents

In addition, the Board of Directors will have the discretion to approve a transfer of our common stock that would otherwise violate the transfer restrictions if it determines that the transfer is in our stockholders best interests. If the Board of Directors decides to permit such a transfer, that transfer or later transfers may result in an ownership change that could limit our use of our NOLs. In deciding whether to grant a waiver, the Board of Directors may seek the advice of counsel and tax experts with respect to the preservation of our federal tax attributes pursuant to Section 382. In addition, the Board of Directors may request relevant information from the acquirer and/or selling party in order to determine compliance with the Protective Amendment or the status of our federal income tax benefits, including an opinion of counsel selected by the Board of Directors (the cost of which will be borne by the transferor and/or the transferee) that the transfer will not result in a limitation on the use of the NOLs under Section 382. If the Board of Directors decides to grant a waiver, it may impose conditions on the acquirer or selling party.

In the event of a change in law, the Board of Directors will be authorized to modify the applicable allowable percentage ownership interest (currently 4.95%), to modify any of the definitions, terms and conditions of the transfer restrictions or to eliminate the transfer restrictions, provided that the Board of Directors determines, by adopting a written resolution, that such action is reasonably necessary or advisable to preserve the NOLs or that the continuation of these restrictions is no longer reasonably necessary for such purpose, as applicable. Our stockholders will be notified of any such determination through a filing with the SEC or such other method of notice as the Secretary of the Company shall deem appropriate.

The Board of Directors may establish, modify, amend or rescind by-laws, policies and any procedures for purposes of determining whether any transfer of common stock would jeopardize our ability to use our NOLs.

Implementation and Expiration of the Protective Amendment

If our stockholders adopt the Protective Amendment, we intend to file promptly the Protective Amendment with the Secretary of State of the State of Delaware, whereupon the Protective Amendment will become effective. We intend to enforce immediately thereafter the restrictions in the Protective Amendment to preserve the future use of our NOLs. We also intend to include a legend reflecting the transfer restrictions included in the Protective Amendment on certificates representing newly issued or transferred shares, to disclose such restrictions to persons holding our common stock in uncertificated form and to disclose such restrictions to the public generally.

The Protective Amendment would expire on the earliest of (i) the Board of Directors determination that the Protective Amendment is no longer necessary for the preservation of our NOLs because of the amendment or repeal of Section 382 or any successor statute, (ii) the beginning of a taxable year to which the Board of Directors determines that none of our NOLs may be carried forward (iii) such date as the Board of Directors otherwise determines that the Protective Amendment is no longer necessary for the preservation of our NOLs and (iv) November 12, 2013.

Effectiveness and Enforceability

Although the Protective Amendment is intended to reduce the likelihood of an ownership change, we cannot eliminate the possibility that an ownership change will occur even if the Protective Amendment is adopted given that:

- The Board of Directors can permit a transfer to an acquirer that results or contributes to an ownership change if it determines that such transfer is in our stockholders best interests.

- A court could find that part or all of the Protective Amendment is not enforceable, either in general or as to a particular fact situation. Under the laws of the State of Delaware, our jurisdiction of incorporation, a corporation is conclusively presumed to have acted for a reasonable purpose when

Table of Contents

restricting the transfer of its securities in its certificate of incorporation for the purpose of maintaining or preserving any tax attribute (including NOLs). Delaware law provides that transfer restrictions with respect to shares of our common stock issued prior to the effectiveness of the restrictions will be effective against (i) stockholders with respect to shares that were voted in favor of this proposal and (ii) purported transferees of shares that were voted for this proposal if (A) the transfer restriction is conspicuously noted on the certificate(s) representing such shares or (B) the transferee had actual knowledge of the transfer restrictions (even absent such conspicuous notation). We intend to cause shares of our common stock issued after the effectiveness of the Protective Amendment to be issued with the relevant transfer restriction conspicuously noted on the certificate(s) representing such shares, and, therefore, under Delaware law, such newly issued shares will be subject to the transfer restriction. We also intend to disclose such restrictions to persons holding our common stock in uncertificated form. For the purpose of determining whether a stockholder is subject to the Protective Amendment, we intend to take the position that all shares issued prior to the effectiveness of the Protective Amendment that are proposed to be transferred were voted in favor of the Protective Amendment, unless the contrary is established. We may also assert that stockholders have waived the right to challenge or otherwise cannot challenge the enforceability of the Protective Amendment, unless a stockholder establishes that it did not vote in favor of the Protective Amendment. Nonetheless, a court could find that the Protective Amendment is unenforceable, either in general or as applied to a particular stockholder or fact situation.

Despite the adoption of the Protective Amendment, there is still a risk that certain changes in relationships among stockholders or other events could cause an ownership change under Section 382. Accordingly, we cannot assure you that an ownership change will not occur even if the Protective Amendment is made effective. However, the Board of Directors has adopted the Rights Agreement, which is intended to act as a deterrent to any person acquiring more than 4.95% of our stock and endangering our ability to use our NOLs.

As a result of these and other factors, the Protective Amendment serves to reduce, but does not eliminate, the risk that we will undergo an ownership change.

Required Vote

Adoption of the Protective Amendment requires the affirmative vote of a majority of our outstanding shares of common stock. The Protective Amendment, if adopted, would become effective upon the filing of a Certificate of Amendment to our Certificate of Incorporation with the Secretary of State of the State of Delaware, which we would expect to do as soon as practicable after the Protective Amendment is adopted.

Recommendation

The Board of Directors recommends that stockholders vote *FOR* the adoption of the Protective Amendment.

Table of Contents

PROPOSAL 6 APPROVAL OF THE RIGHTS AGREEMENT

The Board of Directors is asking stockholders to approve the Rights Agreement, which was originally adopted by the Board of Directors on November 12, 2010 and amended December 6, 2010. As explained above, the Rights Agreement was adopted by the Board of Directors in an effort to protect stockholder value by preserving the Company s ability to use its NOLs, not to protect against the possibility of a hostile takeover. Failure to obtain stockholder approval will result in the expiration of the Rights Agreement.

Description of the Rights Agreement

The following description of the Rights Agreement is qualified in its entirety by reference to the text of the Rights Agreement, which is attached to this Proxy Statement as Appendix II. **We urge you to read carefully the Rights Agreement in its entirety as the discussion below is only a summary.**

The Rights Agreement is intended to act as a deterrent to any person acquiring (together with all affiliates and associates of such person) beneficial ownership of 4.95% or more of our outstanding common shares within the meaning of Section 382 (an Acquiring Person), other than pursuant to a Qualified Offer or with the approval of the Board of Directors. Stockholders who beneficially owned 4.95% or more of the Company s outstanding common shares as of the close of business on its effective date are not an Acquiring Person so long as they do not acquire any additional common shares at a time when they still beneficially own 4.95% or more of the outstanding common shares.

A Qualified Offer generally means (i) a tender offer or exchange offer for all of our outstanding common shares at the same per-share consideration, (ii) an offer that has commenced under applicable law, (iii) an offer that includes a non-waivable condition requiring at least a majority of our outstanding common shares to be tendered and not withdrawn, (iv) an offer pursuant to which the offeror has announced that it intends to promptly consummate a second step transaction whereby all common shares not tendered into the offer will be acquired using the same form and amount of consideration per share actually paid pursuant to the offer, (v) an offer that remains open for not less than 60 days and (vi) an offer at a per-share consideration, and on such other terms and conditions, that in each case are adequate and fair as determined by the Board of Directors.

The Rights. On November 12, 2010, the Board of Directors authorized the issuance of one right per outstanding common share payable to the Company s stockholders of record as of November 22, 2010. Subject to the terms, provisions and conditions of the Rights Agreement, if the rights become exercisable, each right would initially represent the right to purchase from us one one-thousandth of a share of the Company s Series A Junior Participating Preferred Shares, par value $0.01 per share (the Series A Preferred Shares), for a purchase price of $50.00 per right (the Purchase Price). If issued, each fractional Series A Preferred Share would give the stockholder approximately the same dividend, voting and liquidation rights as does one common share. However, prior to exercise, a right does not give its holder any rights as a stockholder of the Company, including any dividend, voting or liquidation rights.

Initial Exercisability. The rights are not exercisable until the earlier of (i) ten days after a public announcement that a person has become an Acquiring Person and (ii) ten business days (or such later date as may be determined by the Board of Directors) after the commencement of a tender or exchange offer by or on behalf of a person that, if completed, would result in such person becoming an Acquiring Person. We refer to the date that the rights become exercisable as the Distribution Date.

Until the Distribution Date, the Company s common share certificates or the ownership statements issued with respect to uncertificated common shares will evidence the rights and will contain a notation to that effect. Any transfer of common shares prior to the Distribution Date will constitute a transfer of the associated rights. After the Distribution Date, separate rights certificates will be issued, and the rights may be transferred apart from the transfer of the underlying common shares, unless and until the Board of Directors has determined to effect an exchange pursuant to the Rights Agreement (as described below).

Table of Contents

Flip-In Event. In the event that a person becomes an Acquiring Person, each holder of a right, other than rights that are or, under certain circumstances, were beneficially owned by the Acquiring Person (which will thereupon become void), will from and after the Distribution Date, have the right to receive, upon exercise of a right and payment of the Purchase Price, a number of common shares having a market value of two times the Purchase Price. However, rights are not exercisable following the occurrence of a person becoming an Acquiring Person until such time as the rights are no longer redeemable by the Company (as described below).

Exempted Persons and Exempted Transactions. The Board of Directors recognizes that there may be instances when an acquisition of the Company s common shares that would cause a stockholder to become an Acquiring Person may not jeopardize or endanger in any material respect the availability of the NOLs to the Company. Accordingly, the Rights Agreement grants discretion to the Board of Directors to designate a person as an Exempted Person or to designate a transaction involving the Company s common shares as an Exempted Transaction. An Exempted Person cannot become an Acquiring Person and an Exempted Transaction cannot result in a person becoming an Acquiring Person. The Board of Directors can revoke an Exempted Person designation if it subsequently makes a contrary determination regarding whether a person jeopardizes or endangers in any material respect the availability of the NOLs to the Company.

Redemption. At any time until ten calendar days following the first date of public announcement that a person has become an Acquiring Person, the Company may redeem the rights in whole, but not in part, at a price of $0.001 per right (the Redemption Price). The redemption of the rights may be made effective at such time, on such basis and with such conditions as the Board of Directors in its sole discretion may establish. Immediately upon any redemption of the rights, the right to exercise the rights will terminate, and the only right of the holders of rights will be to receive the Redemption Price.

Exchange. At any time after a person becomes an Acquiring Person and prior to the acquisition by the Acquiring Person of 50% or more of the outstanding common shares, the Board of Directors may exchange the rights (other than rights that have become void), in whole or in part, at an exchange ratio of one common share, or a fractional Series A Preferred Share (or of a share of a similar class or series of our preferred shares having similar rights, preferences and privileges) of equivalent value, per right (subject to adjustment). Immediately upon an exchange of any rights, the right to exercise such rights will terminate and the only right of the holders of rights will be to receive the number of common shares (or fractional Series A Preferred Share or of a share of a similar class or series of our preferred shares having similar rights, preferences and privileges) equal to the number of such rights held by such holder multiplied by the exchange ratio.

Expiration. The rights and the Rights Agreement will expire on the earliest of the following:

- if stockholders vote on and do not approve of the Rights Agreement, on the date of such vote;
- if stockholder approval of the Rights Agreement is not received on or prior to November 12, 2011;
- the close of business on November 12, 2013;
- the redemption of the rights;
- the exchange of the rights;
- the close of business on the effective date of the repeal of Section 382 or any successor statute if the Board of Directors determines that the Rights Agreement is no longer necessary or desirable for the preservation of certain tax benefits; and
- the close of business on the first day of a taxable year to which the Board of Directors determines that no tax benefits may be carried forward.

25

Table of Contents

Anti-Dilution Provisions. The Board of Directors may adjust the Purchase Price of the Series A Preferred Shares, the number of Series A Preferred Shares issuable and the number of outstanding rights to prevent dilution that may occur as a result of certain events, including among others, a share dividend, a share split or a reclassification of the Series A Preferred Shares or of the Company s common shares. With certain exceptions, no adjustments to the Purchase Price will be required until cumulative adjustments amount to at least 1% of the Purchase Price.

Amendments. Prior to the Distribution Date, the Board of Directors may supplement or amend any provision of the Rights Agreement in any respect without the approval of the holders of the rights. From and after the Distribution Date, no amendment can adversely affect the interests of the holders of the rights.

Recommendation

The Board of Directors recommends that stockholders vote *FOR* the approval of the Rights Agreement.

Table of Contents

CERTAIN CONSIDERATIONS RELATED TO THE

PROTECTIVE AMENDMENT AND THE RIGHTS AGREEMENT

The Board of Directors believes that attempting to protect the tax benefits of our NOLs as described above under Proposals 5 and 6 Background is in our stockholders best interests. However, we cannot eliminate the possibility that an ownership change will occur even if the Protective Amendment is adopted and the Rights Agreement is approved. Please consider the factors discussed below in voting on Proposals 5 and 6.

The Internal Revenue Service (IRS) could challenge the amount of our NOLs or claim we experienced an ownership change, which could reduce the amount of our NOLs that we can use or eliminate our ability to use them altogether.

The IRS has not audited or otherwise validated the amount of our NOLs. The IRS could challenge the amount of our NOLs, which could limit our ability to use our NOLs to reduce our future income tax liability. In addition, the complexity of Section 382 s provisions and the limited knowledge any public company has about the ownership of its publicly traded stock make it difficult to determine whether an ownership change has occurred. Therefore, we cannot assure you that the IRS will not claim that we experienced an ownership change and attempt to reduce or eliminate the benefit of our NOLs even if the Protective Amendment and the Rights Agreement are in place.

Continued Risk of Ownership Change

Although the Protective Amendment and the Rights Agreement are intended to reduce the likelihood of an ownership change, we cannot assure you that they would prevent all transfers of our common stock that could result in such an ownership change. In particular, absent a court determination, we cannot assure you that the Protective Amendment s restrictions on acquisition of our common stock will be enforceable against all our stockholders, and they may be subject to challenge on equitable grounds, as discussed above under Proposal 5.

Potential Effects on Liquidity

The Protective Amendment will restrict a stockholder s ability to acquire, directly or indirectly, additional shares of our common stock in excess of the specified limitations. Furthermore, a stockholder s ability to dispose of our common stock may be limited by reducing the class of potential acquirers for such common stock. In addition, a stockholder s ownership of our common stock may become subject to the restrictions of the Protective Amendment upon actions taken by persons related to, or affiliated with, them. Stockholders are advised to monitor carefully their ownership of our stock and consult their own legal advisors and/or us to determine whether their ownership of our stock approaches the restricted levels.

Potential Impact on Value

If the Protective Amendment is adopted, the Board of Directors intends to include a legend reflecting the transfer restrictions included in the Protective Amendment on certificates representing newly issued or transferred shares, to disclose such restrictions to persons holding our common stock in uncertificated form and to disclose such restrictions to the public generally. Because certain buyers, including persons who wish to acquire more than 4.95% of our common stock and certain institutional holders who may not be comfortable holding our common stock with restrictive legends, may not be able to purchase our common stock, the Protective Amendment could depress the value of our common stock in an amount that could more than offset any value preserved from protecting our NOLs. The Rights Agreement could have a similar effect if investors object to holding our common stock subject to the terms of the Rights Agreement.

Potential Anti-Takeover Impact

The reason the Board of Directors adopted the Protective Amendment and the Rights Agreement is to preserve the long-term value of our NOLs. The Protective Amendment, if adopted by our stockholders, could be deemed to

Table of Contents

have an anti-takeover effect because, among other things, it will restrict the ability of a person, entity or group to accumulate more than 4.95% of our common stock and the ability of persons, entities or groups now owning more than 4.95% of our common stock to acquire additional shares of our common stock without the approval of the Board of Directors. Similarly, while the Rights Agreement is not intended to prevent a takeover, it does have a potential anti-takeover effect because an Acquiring Person may be diluted upon the occurrence of a triggering event. In addition, the Qualified Offer provisions of the Rights Agreement require, among other things, a majority of the members of the Board of Directors, who are independent of the bidder, to make a determination that the price and terms of the offer are fair and adequate in order to exempt the offer under the Rights Agreement. Accordingly, the overall effects of the Protective Amendment, if adopted by our stockholders, and the Rights Agreement may be to render more difficult, or discourage, a merger, tender offer, proxy contest or assumption of control by a substantial holder of our securities. The Protective Amendment and the Rights Agreement proposals are not part of a plan by us to adopt a series of anti-takeover measures, and we are not presently aware of any potential takeover transaction.

Effect of the Protective Amendment If You Vote For It and Already Own More Than 4.95% of our Common Stock

If you already own more than 4.95% of our common stock, you would be able to transfer shares of our common stock only if the transfer does not increase the percentage of stock ownership of another holder of 4.95% or more of our common stock or create a new holder of 4.95% or more of our common stock. You will also be able to transfer your shares of our common stock through open-market sales to a public group, including a new public group. Shares acquired in any such transaction will be subject to the Protective Amendment s transfer restrictions.

Effect of the Protective Amendment If You Vote For It and Own Less Than 4.95% of our Common Stock

The Protective Amendment will apply to you, but, so long as you own less than 4.95% of our common stock you can transfer your shares to a purchaser who, after the sale, also would own less than 4.95% of our common stock.

Effect of the Protective Amendment If You Vote Against It

Delaware law provides that the transfer restrictions of the Protective Amendment with respect to shares of our common stock issued prior to its effectiveness will be effective as to (i) stockholders with respect to shares that were voted in favor of adopting the Protective Amendment and (ii) purported transferees of such shares if (A) the transfer restriction is conspicuously noted on the certificate(s) representing such shares or (B) the transferee had actual knowledge of the transfer restrictions (even absent such conspicuous notation). We intend to cause shares of our common stock issued after the effectiveness of the Protective Amendment to be issued with the relevant transfer restriction conspicuously noted on the certificate(s) representing such shares, and, therefore, under Delaware law, such newly issued shares will be subject to the transfer restriction. We also intend to disclose such restrictions to persons holding our common stock in uncertificated form. For the purpose of determining whether a stockholder is subject to the Protective Amendment, we intend to take the position that all shares issued prior to the effectiveness of the Protective Amendment that are proposed to be transferred were voted in favor of the Protective Amendment, unless the contrary is established. We may also assert that stockholders have waived the right to challenge or otherwise cannot challenge the enforceability of the Protective Amendment, unless a stockholder establishes that it did not vote in favor of the Protective Amendment. Nonetheless, a court could find that the Protective Amendment is unenforceable, either in general or as applied to a particular stockholder or fact situation.

Table of Contents

SECURITY OWNERSHIP OF MANAGEMENT

The following table sets forth information as of December 13, 2010 with respect to the beneficial ownership of our common stock by each director, each of our named executive officers (NEOs), and all directors and executive officers as a group. Except as otherwise indicated, each beneficial owner possesses sole voting and investment power with respect to all shares.

Name of Beneficial Owner	Number of Common Shares Beneficially Owned (1)(2)(3)(4)	Percent of Outstanding (5)
Laurent Alpert	48,000	*
Brian C. Beazer	133,948	*
Kenneth F. Khoury	247,655	*
Peter G. Leemputte	27,567	*
Ian J. McCarthy	1,789,210	2.33%
Allan P. Merrill	642,532	*
Norma A. Provencio	14,000	*
Robert L. Salomon	83,331	
Larry T. Solari	36,439	*
Stephen P. Zelnak, Jr.	56,464	*
Directors and Executive Officers as a Group (10 persons)	3,079,146	4.00%

* Less than 1%

(1) Beneficial ownership includes restricted stock as follows: Mr. Alpert 15,000, Mr. Beazer 42,528, Mr. Khoury 214,320, Mr. Leemputte 15,000, Mr. McCarthy 691,359, Mr. Merrill 452,332, Ms. Provencio 14,000, Mr. Salomon 75,331, Mr. Solari 15,000 and Mr. Zelnak 15,000.

(2) Beneficial ownership includes performance-based restricted stock as follows: Mr. McCarthy 26,255 and Mr. Merrill 35,294. Such shares of restricted stock were awarded under the 1999 Plan and will vest contingent upon the achievement of performance criteria based on the Company s total stockholder return as compared to the total stockholder return of the Performance Stock Peer Group.

(3) Beneficial ownership includes shares of our common stock held through our 401(k) plan as follows: Mr. McCarthy 5,102.

(4) Beneficial ownership includes shares underlying stock options/Stock-Settled Stock Appreciation Rights (SSARs) and restricted stock units (RSUs), respectively, which were fully vested and exercisable at, or will vest within 60 days of, December 13, 2010 as follows: Mr. Alpert 21,000, Mr. Beazer 10,521, Mr. Khoury 33,335, Mr. Leemputte 3,000, Mr. McCarthy 393,816, Mr. Merrill 154,906, Mr. Salomon 8,000, Mr. Solari 9,000, and Mr. Zelnak 35,576.

(5) Based upon 76,393,208 shares of outstanding common stock as of December 13, 2010, adjusted as necessary to reflect the shares issuable to such person upon the vesting or exercise of his or her stock options/SSARs and RSUs listed in footnote 4 above (and assuming no other stock options/SSARs are exercised). Shares of common stock subject to stock options/SSARs and RSUs that are currently exercisable or vested, or will become exercisable or vested within 60 days of December 13, 2010, are deemed outstanding for computing the percentage ownership of the person holding such stock options/SSARs and RSUs, but are not deemed outstanding for computing the percentage ownership of any other persons.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Exchange Act, as amended, requires our executive officers and directors and persons who own more than ten percent of our stock, as well as certain affiliates of such persons, to file initial reports of ownership and changes of ownership with the SEC and the NYSE. These parties are required to furnish us with copies of the reports they file. Based solely on a review of the copies of the Section 16(a) reports and amendments thereto received by us and on written representations that no other reports were required, we believe that all reports required pursuant to Section 16(a) for fiscal year 2010 were timely filed by all persons known by us to be required to file such reports with respect to our securities.

Table of Contents

EXECUTIVE COMPENSATION

Compensation Discussion and Analysis

Introduction

For fiscal year 2010, our NEOs were comprised of our Chief Executive Officer (Ian J. McCarthy), our Chief Financial Officer (Allan P. Merrill) and our two other most-highly compensated executive officers (our General Counsel, Kenneth F. Khoury, and our Chief Accounting Officer, Robert L. Salomon). As explained below, the actions taken by our Compensation Committee during fiscal year 2010 with respect to NEO compensation reflects a focused approach to executive compensation aimed at incentivizing management to achieve certain key goals as part of our annual bonus program while aligning compensation with stockholders interests over the long-term. In addition, the Compensation Committee believes our compensation program design should retain flexibility to take into account the rapidly changing challenges in the residential housing industry. This flexibility was particularly important in light of the financial issues faced by the Company during a time of distressed financial markets, the worst homebuilding environment in history and the significant litigation and regulatory challenges we confronted and resolved during this time.

Role of the Committee, Management and Advisors

The fundamental responsibilities of our Compensation Committee include:

- establishing, reviewing, overseeing and approving yearly performance objectives for our NEOs;
- evaluating the NEOs performance in light of those performance objectives; and
- based on this evaluation, either as a Committee, or together with other independent directors (as directed by our Board of Directors), determine and approve the compensation level and individual compensation elements for our Chief Executive Officer (with input from our Non-Executive Chairman) and, with our Chief Executive Officer s input, for other executive officers.

During fiscal year 2010, our Compensation Committee relied heavily on regular discussions with key members of the management team to stay informed of our operating and financial strategies and changing operational and financial needs as well as suggestions for appropriate compensation plans that would suitably incentivize the management team in light of those strategies and needs. Specifically, during the course of fiscal year 2010, the Compensation Committee received support from our Non-Executive Chairman, Chief Executive Officer, Chief Financial Officer, General Counsel and Senior Vice President for Human Resources. However, our Chief Executive Officer and our Non-Executive Chairman played the largest roles among this group. During fiscal year 2010, our Chief Executive Officer reviewed the performance of each of the NEOs, which included all of our other current NEOs, and made recommendations to our Compensation Committee based on his review. In addition, our Non-Executive Chairman prepared and presented an assessment to our Compensation Committee of the performance of our Chief Executive Officer. Our Chief Executive Officer was present for Compensation Committee deliberations related to the compensation of his direct reports, but not for Compensation Committee discussions related to his own pay.

In addition, our Compensation Committee received executive compensation advice from PricewaterhouseCoopers (PwC) and MarksonHRC. Our Compensation Committee engaged these firms to provide general executive compensation consulting services, compensation plan design services, compensation benchmarking and to provide review and advice regarding our compensation disclosures.

Table of Contents

Role of Compensation Consultant

In addition to the compensation consulting services provided by PwC directly to our Compensation Committee in fiscal year 2010, PwC provided tax and recapitalization transaction consulting services to the Company. The Chairman of the Compensation Committee consented to management s retention of PwC for these additional consulting services at the time of the engagement.

The fees of PwC for compensation, tax and recapitalization transaction consulting services in fiscal year 2010 were as follows:

Fees for Compensation Consulting Services	$ 193,385
Fees for Tax and Recapitalization Transaction Consulting Services	$ 913,764

The Compensation Committee does not believe that PwC s independence was affected by the additional services provided by the firm to the Company.

Compensation Philosophy and Objectives

Our core compensation objective continues to be that we will pay for performance we believe we should pay higher compensation when our management team achieves the predetermined goals and lower compensation when it does not. Accordingly, our compensation programs are premised on the achievement of predetermined financial and non-financial goals and targets that the Compensation Committee and the Board of Directors believe are critical to enhancing stockholder value. In addition, we believe that our pay programs should be structured with a combination of base salary, annual (or longer-term) cash incentives and long-term equity awards:

- to align management s interests with those of our stockholders;
- to reduce risks that may be associated with compensation that is focused on the achievement of only short-term objectives; and
- to attract, retain and motivate our senior management team to position us to weather the current economic downturn and capitalize on a housing market recovery when it occurs.

Our Compensation Committee also believes that base salary and incentive compensation should be set based on a variety of factors, including Company and executive performance, each executive s specific responsibilities and skill sets and the amount we historically have paid for a particular position, as well as our need to attract and retain qualified executives.

Elements of Executive Compensation Fiscal Year 2010

The following discussion summarizes each element of our compensation program for our NEOs during fiscal year 2010 and the rationale for compensation decisions made during the fiscal year.

For fiscal year 2010, our Compensation Committee used its judgment when approving the mix and levels of the various compensation components for our NEOs and did not adhere to any set formulas or formal allocations for any one component within the total amount of an NEO s overall compensation. However, the Compensation Committee established target bonuses for Messrs. McCarthy, Merrill and Khoury of 100% of base salary, with a maximum bonus of 150% and for Mr. Salomon a target bonus of 100% of base salary, with a maximum bonus of 125%.

For fiscal year 2010, our Compensation Committee also reviewed and examined publicly available compensation and performan