

HIGHWOODS PROPERTIES INC

FORM 8-K

(Unscheduled Material Events)

Filed 6/23/1998 For Period Ending 6/17/1998

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Industry	Real Estate Operations
Sector	Services
Fiscal Year	12/31

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): June 17, 1998

HIGHWOODS PROPERTIES, INC.

(Exact name of registrant specified in its charter)

Maryland
(State of Incorporation)

1-13100
(Commission File Number)

56-1871668
(IRS Employer Identification No.)

3100 Smoketree Court, Suite 600, Raleigh, North Carolina 27604
(Address of principal executive offices, zip code)

Registrant's telephone number, including area code: (919) 872-4924

Item 5. OTHER EVENTS

As previously reported, Highwoods Properties, Inc., ("Highwoods") has entered into an Agreement and Plan of Merger (as amended, the "Merger Agreement") with J. C. Nichols Company ("JCN"). The merger (the "Merger") is subject to the approval of the shareholders of JCN at its special meeting scheduled for July 1, 1998. On June 17, 1998, the Board of Directors of JCN received a letter from Blackacre Capital Management, LLC ("Blackacre") which indicated that Blackacre would like to acquire JCN at \$70.00 per share in a cash merger, subject to (i) the completion of due diligence, (ii) the termination of the Merger Agreement by the Board of Directors of JCN under circumstances that would not cause the break-up fee and expense reimbursement payable to Highwoods to exceed \$2.5 million, and (iii) "certain structuring for tax advantages" to the JCN shareholders. Blackacre requested access to the books and records of JCN and indicated that if such information establishes a higher valuation for JCN, Blackacre would be willing to consider increasing its offer. A copy of the letter is attached hereto as an exhibit.

Highwoods has been informed by JCN that JCN responded to Blackacre's letter with a request for additional information regarding Blackacre's purported offer, including a list of the information Blackacre desired to review and a more detailed description of the structure of the proposed transaction. In a letter dated June 19, 1998, Blackacre provided some of the information requested by JCN, and indicated its intention not to commence its due diligence until the Merger Agreement is terminated. A copy of that letter is attached hereto as an exhibit.

The JCN Board of Directors has expressed concern about certain aspects of Blackacre's offer, including that (a) the transaction structure Blackacre contemplates should not be attempted without IRS approval, and (b) Blackacre will not commence its due diligence until after the Merger Agreement is terminated, meaning that Blackacre would not be obligated to make any offer in the event the Merger is not approved by JCN shareholders. The JCN Board of Directors has expressed its belief that the Merger serves the best interests of JCN shareholders.

Blackacre, which owns approximately 14% of the outstanding shares of the common stock of JCN, also indicated that it currently intends to vote against the Merger Agreement at the upcoming JCN special meeting and to exercise its appraisal rights for its shares of JCN common stock. Under the Merger Agreement, up to 40% of the shares of JCN common stock may be exchanged for cash in the Merger; the other shares of JCN would be exchanged for shares of Highwoods common stock. Therefore, if the Merger is effected and Blackacre does in fact perfect its dissenters' rights, it would reduce the amount of cash available to shareholders who elect to receive cash for some or all of their shares. Shareholders of JCN are urged to see the discussion of the impact of the perfection of appraisal rights on the components of the Merger consideration under the caption "The Merger -- Terms of the Merger" in the Proxy Statement/Prospectus and into which this Form 8-K is incorporated by reference.

Item 7. EXHIBITS

(c) Exhibits

99.1 Letter from Blackacre to JCN Board of Directors, dated June 17, 1998

99.2 Letter from Blackacre to Mr. Barrett Brady, dated June 19, 1998

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

HIGHWOODS PROPERTIES, INC.

By: /s/ Carman J. Liuzzo

Carman J. Liuzzo
Vice President and Chief Financial Officer

Date: June 22, 1998

BLACKACRE
CAPITAL MANAGEMENT LLC

June 17, 1998

The Board of Directors
J.C. Nichols Company
310 Ward Parkway
Kansas City, Missouri 64112
Attention: Chairman of the Board

Ladies and Gentlemen:

As you know, affiliates of Blackacre Capital Management LLC (Blackacre") own approximately 14% of the outstanding shares of Common Stock of J.C. Nichols Company (the "Company"). We have been carefully following the proposed transaction between Highwoods Properties Inc. and the Company (the "Proposed Highwoods Transaction"). After reviewing the proxy materials and meeting with Company representatives, we strongly believe that the Proposed Highwoods Transaction is inadequate from a financial point of view, does not reflect the values inherent in the Company, would subject the Company's stockholders to significant downside equity risk in the Highwoods stock and provides for an above market breakup fee. We believe that the Company and its Board are not taking the best interests of all shareholders into account in recommending this transaction. The proxy materials do not provide compelling evidence that this transaction maximizes value for all shareholders, and in fact we believe, given certain dynamics in the marketplace, there is significant financial risk to any shareholder who takes Highwoods stock.

Consistent with our views of the Proposed Highwoods Transaction, we and our affiliates intend to vote against approval of the Proposed Highwoods Transaction and, if it is nonetheless approved, to exercise appraisal rights for our shares of Common Stock. As you know and as we believe should be conveyed to the Company's stockholders in supplemental proxy materials, this would have the effect, among other things, of reducing by over 35% the amount of cash that would otherwise be available to the Company's stockholders in the Proposed Highwoods

Transaction, thereby forcing stockholders who prefer to take cash to take additional Highwoods shares instead.

Because we see values in the Company not reflected in the Proposed Highwoods Transaction, we are submitting an offer to acquire the Company at \$70.00 per share in an all cash merger, subject to certain structuring for tax advantages to shareholders as described below. If the Company furnishes us information which establishes a higher valuation for the Company, we are prepared to consider increasing our offer. We believe that this offer would result in value to the Company's shareholders that is more certain and significantly above those realizable through the Proposed Highwoods Transaction.

Although we have conducted an extensive analysis of the Company based on publicly available information, our offer is subject to, among other things, satisfactory completion of our due diligence of the Company. Our offer is also subject to the Company's Board of Directors terminating the merger agreement relating to the Proposed Highwoods Transaction under circumstances in which the break-up fee and expense reimbursement payable to Highwoods does not exceed \$2,500,000.

It is intended that the transaction would be structured so as to provide to the Company's long-term stockholders with an ability to transfer their stock on a tax-free basis. In order to facilitate this, we believe that the Company's Employee Stock Ownership Plan and Trust (the "ESOT") would agree to purchase (on a pro rata basis in the event of oversubscription) up to approximately 15% of the outstanding shares of Common Stock from shareholders desiring to effectuate a Section 1042 transaction under the Internal Revenue Code. We believe that the ESOT would also agree to retain approximately 15% interest in the surviving corporation following the merger.

Blackacre and its affiliates have sufficient equity capital to complete the transaction and Blackacre is highly confident that it can secure the debt financing necessary to refinance the existing debt of the Company.

Blackacre stands ready to commence negotiations and due diligence. Once the Company has provided to Blackacre information and access which are equivalent to that received by Highwoods, we believe that a definitive agreement could be achieved expeditiously. Representatives of Blackacre and the Company would then prepare proxy materials necessary to obtain approvals from the

Company's shareholders, which we believe would be quickly received given the significant premium to the current Proposed Highwoods Transaction being offered to the Company's shareholders.

Following consummation of the transaction, we intend on maintaining the Company's corporate identity including owning and operating the Country Club Plaza. In addition, we will honor all current employment contracts and other related agreements with management.

We firmly believe that our all cash proposal provides shareholders of the Company with immediate superior value over the Proposed Highwoods Transaction as well as certainty. Highwoods common stock, a significant component of the value in the Proposed Highwoods Transaction, is a volatile security which will expose Company shareholders to significant market risk after consummation of the Proposed Highwoods Transaction. In the Registration Statement filed in connection with the Proposed Highwoods Transaction, Highwoods has identified a number of disturbing risk factors relating to ownership of Highwoods common stock, including, but not limited to, the following:

- o the potential adverse impact on share price and dilution in ownership resulting from subsequent offerings of Highwoods common stock;
- o possible difficulties in integrating Highwoods and the Company;
- o the fact that Highwoods' management and its board of directors have divergent interests from those of Highwoods stockholders regarding the sale or refinancing of Highwoods' properties; and
- o the fact that Highwoods has no expertise in retail apartments and homebuilding.

Moreover, since the execution of the Highwoods merger agreement, there has been a significant decline in the Highwoods stock price as well as a contraction in the average multiple at which larger public REITs have been trading in the marketplace, reflecting the market's increased concern over the inherent riskiness of such entities.

In summary, we strongly believe that our proposal represents an extraordinary opportunity for the Company and its shareholders. Because time is of the essence, this offer will remain open until July 2, 1998 or its earlier termination by Blackacre upon written notice to the Company. We look forward to meeting with the Company's Board of Directors to discuss our proposal in greater detail at your earliest convenience. Blackacre is determined to take every appropriate action to consummate this transaction.

Sincerely,

BLACKACRE CAPITAL MANAGEMENT LLC

By /s/ Ronald Kravit

BLACKACRE
CAPITAL MANAGEMENT, LLC

June 19, 1998

Mr. Barrett Brady
J.C. Nichols Company
310 Ward Parkway
on the Country Club Plaza
Kansas City, Missouri 64112

Dear Barry,

Pursuant to your letter dated 6/18/98 requesting certain additional information in preparation for your board meeting the following addresses many of your questions. The other items not responded to will follow shortly.

We have attached an initial list of due diligence items we would like to review. We would anticipate completing our reviews on an expeditious basis. However, once we review the information we can provide you with a better indication of specific timing. We believe this could be accomplished within 2-4 weeks depending on the findings of our work. Nonetheless, we are concerned that doing any work which would trigger any breakup fees in excess of \$2.5 million is not in the best interest of the shareholders. Therefore, the exact timing and commencement of work should occur upon termination of the existing merger agreement.

With regard to our financial capacity, let us reiterate Blackacre and its affiliates including Cerberus Capital Management, LP, manage over \$4.0 billion of discretionary investment capital including over \$700 million in current available capital. In addition, Blackacre has the ability to arrange any financing to replace existing debt if necessary from its existing stable of lenders. Obviously, until we complete our due diligence we cannot ascertain the accrual amount required. We believe we are eminently capable to perform.

Sincerely,

/s/ Ronald Kravit

Ronald Kravit

KK/mad

cc: R. Doud

End of Filing

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