

AMERICAN REAL ESTATE PARTNERS L P
Form 8-K
July 09, 2007

**UNITED STATES
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): July 9, 2007

American Real Estate Partners, L.P.

(Exact name of registrant as specified in its charter)

| | | |
|--|--|---|
| Delaware (State or Other Jurisdiction of Incorporation) | 1-9516 (Commission File Number) | 13-3398766 (IRS Employer Identification No.) |
|--|--|---|

767 Fifth Avenue, Suite 4700, New York, NY 10153
(Address of Principal Executive Offices) (Zip Code)

Registrant's Telephone Number, Including Area Code: **(212) 702-4300**

N/A

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communication pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Section 1 - Registrant's Business and Operations

Item 1.01. - Entry into a Material Definitive Agreement.

Amendment to Merger Agreement

On July 9, 2007, our indirect wholly owned subsidiaries, AREP Car Holdings Corp., or Parent, and AREP Car Acquisition Corp., or Merger Sub, together with Lear Corporation, entered into Amendment No. 1, or the Amendment, to the Agreement and Plan of Merger, dated as of February 9, 2007, by and among Lear, Parent and Merger Sub, or the Merger Agreement, which amends the Merger Agreement to, among other things, increase the consideration payable to Lear stockholders from \$36.00 per share to \$37.25 per share, in each case in cash, without interest and less any applicable withholding tax.

The Amendment also provides that if the requisite stockholder vote for the merger is not obtained on or prior to July 16, 2007, subject to certain exceptions, Lear will (1) pay Parent \$12,500,000, (2) issue to Parent 335,570 shares of Lear's common stock, or the Common Stock, and (3) increase from 24% to 27% the share ownership limitation under the waiver of Section 203 of the Delaware General Corporation Law granted by Lear to affiliates of and funds managed by Carl C. Icahn in October 2006, or collectively, the Termination Consideration.

The Amendment further provides that if the requisite stockholder vote for the merger shall not have been obtained prior to 5:00 p.m., Eastern Time, on July 16, 2007, the Merger Agreement shall automatically terminate. Further, if there is an injunction relating to the merger, the Merger Agreement shall automatically terminate upon the earlier of (i) twenty-four (24) hours after the issuance of the injunction or (ii) immediately prior to the commencement of the annual meeting. In either of the foregoing termination events, Parent shall be entitled to receive the Termination Consideration upon termination of the Merger Agreement. Any payment of the Termination Consideration by Lear to Parent shall be credited against the break-up fee that would otherwise be payable by Lear to Parent in the event Lear enters into a definitive agreement with respect to an alternative acquisition proposal within twelve months after the termination of the merger agreement.

The foregoing summary of the Amendment, and the transactions contemplated thereby, does not purport to be complete and is subject to and qualified in its entirety by the full text of the Amendment, which was filed as Exhibit 2.1 to Lear's Current Report on Form 8-K on July 9, 2007, and the full text of the Merger Agreement, which was filed as Exhibit 2.1 to AREP's Current Report on Form 8-K on February 9, 2007.

Registration Rights Agreement

In connection with the execution of the Amendment, Parent also entered into a Registration Rights Agreement with Lear pursuant to which Lear has agreed, within thirty (30) days after the issuance of any Common Stock pursuant to the Amendment, to (1) prepare and file a "shelf" registration statement, or the Registration Statement, with the U.S. Securities and Exchange Commission, or the SEC, covering the resale of the Common Stock, (2) use its best efforts to cause the Registration Statement to be declared effective upon filing or as promptly as possible thereafter (but no less than one hundred twenty (120) days after the date of issuance), and (3) use its best efforts to keep the Registration Statement continuously effective under the Securities Act, for so long as Parent is unable to freely transfer the Common Stock. In the event Lear does not file the Registration Statement within thirty (30) days after the issuance, Lear will pay Parent an amount equal to 0.5% of the total value of the Common Stock (based on a per share price of \$37.25). Furthermore, if Lear is unable to cause the Registration Statement to be declared effective within one hundred twenty (120) days after the issuance, Lear will pay Parent an amount equal to 0.5% of the total value of the Common Stock. This amount shall increase by an additional 0.5% of the total value of the Common Stock every sixty

(60) days thereafter, until the Registration Statement is declared effective, up to a maximum aggregate amount equal to 5.0% of the total value of the Common Stock.

Section 8 - Other Events

Item 8.01 Other Events.

On July 9, 2007, we issued a press release, a copy of which is furnished as Exhibit 99.1.

Section 9 - Financial Statements and Exhibits

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

2.1 Agreement and Plan of Merger, dated as of February 9, 2007, by and among AREP Car Holdings Corp., AREP Car Acquisition Corp. and Lear Corporation (incorporated by reference to Exhibit 2.1 to AREP's Current Report on Form 8-K (SEC File No. 1-9516), filed on February 9, 2007).

2.2 Amendment No. 1, dated as of July 9, 2007, to the Agreement and Plan of Merger, dated as of February 9, 2007, by and among AREP Car Holdings Corp., AREP Car Acquisition Corp. and Lear Corporation (incorporated by reference to Exhibit 2.1 to Lear's Current Report on Form 8-K (SEC File No. 1-11311), filed on July 9, 2007).

10.4 Registration Rights Agreement, dated as of July 9, 2007, by and among AREP Car Holdings Corp. and Lear Corporation (incorporated by reference to Exhibit 10.2 to Lear's Current Report on Form 8-K (SEC File No. 1-11311), filed on July 9, 2007).

99.1 Press Release dated July 9, 2007.

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SIGNATURE

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 hereunto duly authorized.

AMERICAN REAL ESTATE PARTNERS, L.P.
(Registrant)

By: American Property Investors, Inc.,
its General Partner

By:

/s/ Keith A. Meister

Keith A. Meister
Vice Chairman and Principal Executive
Officer
American Property Investors, Inc.,
the General Partner of
American Real Estate Partners, L.P.

Date: July 9, 2007

EXHIBIT INDEX

Exhibit Description

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