

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): **August 31, 2023**

**WHEELER REAL ESTATE INVESTMENT TRUST, INC.**  
(Exact name of registrant as specified in its charter)

**Maryland**

(State or other jurisdiction of  
incorporation or organization)

**001-35713**

(Commission File Number)

**45-2681082**

(IRS Employer  
Identification No.)

**2529 Virginia Beach Blvd.  
Virginia Beach, VA**

(Address of principal executive offices)

**23452**

(Zip code)

Registrant's telephone number, including area code: **(757) 627-9088**

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

- Written communications 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))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.01 par value per share	WHLR	Nasdaq Capital Market
Series B Convertible Preferred Stock	WHLRP	Nasdaq Capital Market
Series D Cumulative Convertible Preferred Stock	WHLRD	Nasdaq Capital Market
7.00% Subordinated Convertible Notes due 2031	WHLRL	Nasdaq Capital Market

**Item 5.05 Amendments to the Registrant's Code of Ethics, or Waiver of a Provision of the Code of Ethics.**

On August 31, 2023, the Board of Directors (the "Board") of Wheeler Real Estate Investment Trust, Inc. (the "Company") approved and adopted a new Code of Business Conduct and Ethics that applies to all officers, directors and employees of the Company and constitutes a "code of ethics" as such term is defined in Item 406(b) of Regulation S-K (the "Code of Ethics"). The Code of Ethics supersedes the Company's existing Code of Business Conduct and Ethics for Board Members, and Code of Business Conduct and Ethics for Employees, Officers, Agents and Representatives (collectively, the "Prior Codes").

As part of the Company's refresh of its corporate governance, the Company determined that the Code of Ethics simplified the Prior Codes, removed unnecessary duplication and presented a clearer and more accessible code of ethics. The adoption of the Code of Ethics did not relate to or result in any waiver, whether explicit or implicit, of any provision of the Prior Codes.

The foregoing summary description of the Code of Ethics does not purport to be complete and is qualified in its entirety by reference to the Code of Ethics, a copy of which is attached to this Current Report on Form 8-K as Exhibit 14.1 and incorporated herein by reference.

**Item 8.01 Other Events.**

On September 1, 2023, the Company received a letter from the Listing Qualifications Department of The Nasdaq Stock Market LLC notifying the Company that, based on the closing bid price of the Company's common stock having been at least \$1.00 per share for the required period, the Company has regained compliance with Nasdaq Listing Rule 5550(a)(2) and the minimum bid price deficiency matter previously disclosed by the Company on June 28, 2023 is now closed.

**Item 9.01 Financial Statements and Exhibits**

(d) Exhibits.

**Exhibit No.**      **Description**

14.1	<a href="#">Code of Business Conduct and Ethics</a>
99.1	<a href="#">Press Release dated September 1, 2023</a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

**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 hereunto duly authorized.

WHEELER REAL ESTATE INVESTMENT TRUST, INC.

By: /s/ M. Andrew Franklin

Name: M. Andrew Franklin

Title: Chief Executive Officer and President

Dated: September 1, 2023



## CODE OF BUSINESS CONDUCT AND ETHICS

### 1. Introduction

Wheeler Real Estate Investment Trust, Inc. and its subsidiaries (together, the "Company") has adopted this Code of Business Conduct and Ethics (the "Code of Conduct") to set out standards of conduct to guide all officers, directors and employees of the Company (collectively, the "Company Personnel").

While this Code of Conduct is intended to meet the standards for a code of business conduct and ethics under the Sarbanes-Oxley Act of 2002, as amended, and the listing standards of the NASDAQ Stock Market ("NASDAQ"), it should not be viewed as a substitute for each person's thoughtful consideration as to whether any proposed individual course of conduct conforms to the highest ethical standards that the Company expects of Company Personnel.

### 2. The Code

#### A. Obeying the Law

Obeying the law, both in letter and in spirit, is the foundation. All Company Personnel must respect and obey the laws of all jurisdictions in which the Company operates.

#### B. Fair Dealing and Competition

It is the Company's policy to deal fairly with its tenants, customers, lenders, suppliers and competitors. In the course of business dealings on behalf of the Company, no Company Personnel should take advantage of another person or party through manipulation, concealment, abuse of privileged information, misrepresentation of material facts or any other unfair business practice.

#### C. Confidentiality

All Company Personnel must maintain the confidentiality of non-public information entrusted to them by the Company, its tenants and customers, or other third parties, except when disclosure is otherwise authorized or legally mandated. Confidential information includes all non-public information that might be of use to competitors, or harmful to the Company or its tenants and customers, if disclosed. In particular, it includes non-public information that tenants and customers have entrusted to the Company.

#### D. Accounting Matters

All Company Personnel participate, in some measure, in the gathering of information made available to the Company's accounting department for use in the preparation of the Company's financial reports and other information required to be publicly disclosed by the Securities and Exchange Commission (the "SEC") and NASDAQ. Company Personnel involved in the gathering of such information should endeavor to ensure that such information is accurate and complete in all material respects through full compliance with the Company's accounting requirements, internal disclosure, and accounting controls and audits.

#### E. Records Retention

All Company Personnel should retain documents and other records for such period of time as they and their colleagues will reasonably need such records in connection with the Company's usual business activities. All documents not required to be retained for business or legal reasons, including draft work product, should not be retained and should be destroyed in order to reduce the high cost of storing and handling the vast amounts of material that would otherwise accumulate. However, under unusual circumstances, such as litigation, governmental investigation or if required by applicable state and federal law and regulations, your supervisor, manager, the human resources department or the Compliance Officer for this Code of Conduct (the "Code of Conduct Compliance Officer") may notify you if retention of documents or other records is necessary.

---

The Code of Conduct Compliance Officer is the Chief Financial Officer of the Company. In his or her absence, you may contact the General Counsel of the Company.

#### F. Use and Protection of Company Assets

Proper use and protection of the Company's assets is the responsibility of all Company Personnel. Company facilities, materials, equipment, information and other assets should be used only for conducting the Company's business and are not to be used for any unauthorized purpose. Company Personnel should guard against waste and abuse of Company assets.

#### G. Conflicts of Interest

Company Personnel are expected to avoid any situation in which their personal interests conflict, or have the appearance of conflicting, with those of the Company.

For example:

(i) Loans to, or guarantees of obligations of, Company Personnel and their family members by the Company may create conflicts of interest and are, accordingly, prohibited by the Sarbanes-Oxley Act of 2002. Accordingly, loans to Company Personnel or their family members by the Company, or guarantees of obligations of Company Personnel or family members from the Company are prohibited.

(ii) A conflict of interest almost always exists when Company Personnel work concurrently for a competitor, customer or supplier. Company Personnel may not work for a competitor as a consultant or board member. The best policy is to avoid any direct or indirect business connection with

the Company's competitors, tenants, customers or suppliers, except on the Company's behalf.

(iii) A conflict of interest may also occur when Company Personnel have an ownership or financial interest in another business organization that is doing business with the Company or when Company Personnel have a direct or indirect interest in a transaction in which the Company is a participant. These transactions between the Company and the other organization are characterized as 'Related Person Transactions'. While not all Related Person Transactions are improper, the Code of Conduct Compliance Officer must be made aware by Company Personnel involved of the details of each such transaction so that she can make a judgment as to the appropriateness of the transaction. The Related Person Transactions Committee has the authority to determine if a Related Person Transaction constitutes an impermissible conflict of interest. Please refer to the *Charter of the Related Person Transactions Committee* for further information.

Conflicts of interest may not always be clear and are not always impermissible, so if you have a question, you should consult with your supervisor, manager, the human resources department or the Code of Conduct Compliance Officer. Also, if you become aware of a conflict or potential conflict, please bring it promptly to the attention of your supervisor, manager, the human resources department or the Code of Conduct Compliance Officer.

#### **H. Discrimination and Harassment**

The Company is firmly committed to providing equal opportunity in all aspects of employment and shall not tolerate illegal discrimination or harassment of any kind.

#### **I. Health and Safety**

All Company Personnel are required to follow health and safety rules, including by reporting accidents, injuries and unsafe equipment, practices or conditions. All Company Personnel must work free from the influence of alcohol or illegal drugs.

---

-2-

#### **J. Insider Trading**

All non-public information about the Company shall be considered confidential information. Company Personnel who have access to confidential information are not permitted to use or share that information for stock trading purposes. To use non-public information for personal financial benefit or to "tip" others who might make an investment decision on the basis of this information is not only unethical but also illegal. Please refer to the Company's *Insider Trading Policy* for further information.

### **3. Questions about the Code of Conduct**

Any questions about how to interpret this Code of Conduct should be raised with your supervisor, manager, the human resources department or the Code of Conduct Compliance Officer.

### **4. Reporting Suspected Violations**

If any Company Personnel knows of or suspects any illegal or unethical conduct, or any other violation of this Code of Conduct, they should promptly report this to the Code of Conduct Compliance Officer. In dealing with any issues arising under, or relating to, this Code of Conduct, the Code of Conduct Compliance Officer shall, to the extent necessary or appropriate, confer with the CEO or the Board of Directors and/or any of its committees. No Company Personnel shall be required to identify themselves when reporting a violation.

To the extent possible, the Company will use its best efforts to keep confidential the identity of anyone reporting a violation of this Code of Conduct. The Company will also use its best efforts to keep confidential the identities of Company Personnel about whom allegations of violations are brought, unless or until it is established that a violation has occurred.

It is the Company's policy that retaliation against any Company Personnel who report actual or suspected violations of this Code of Conduct is prohibited; anyone who attempts to retaliate will be subject to disciplinary action, up to and including dismissal.

### **5. Enforcement**

Upholding this Code of Conduct is the responsibility of every officer, director and employee of the Company. The conduct of Company Personnel matters. Accordingly, violations of this Code of Conduct may lead to significant penalties, including dismissal.

### **6. Amendments and Waivers**

This Code of Conduct is maintained by the Board of Directors. In accordance with SEC rules, any amendment made (other than technical, administrative, or other non-substantive amendments), or waiver granted, to the Code of Conduct that applies to the Company's principal executive officer, principal financial officer, principal accounting officer or persons performing similar functions shall be disclosed in a Form 8-K filing.

**DATE: August 31, 2023**

---

-3-



**WHEELER REGAINS COMPLIANCE WITH  
NASDAQ MINIMUM BID PRICE REQUIREMENT**

**VIRGINIA BEACH, VA / ACCESSWIRE / September 1, 2023** / Wheeler Real Estate Investment Trust, Inc. (**NASDAQ: WHLR**) (“Wheeler” or the “Company”), today announced that on September 1, 2023 it received a notification letter (the “Notification Letter”) from the Listing Qualifications Department of The Nasdaq Stock Market LLC (“Nasdaq”) notifying the Company that it had regained compliance with the minimum bid price requirement set forth in the Nasdaq Listing Rule 5550(a)(2).

Accordingly, the Company has regained compliance with Nasdaq Listing Rule 5550(a)(2) and the minimum bid price deficiency matter previously disclosed by the Company on Form 8-K filed with the SEC on June 28, 2023 is now closed.

**Contact**

Investor Relations (757) 627-9088  
Email: [investorrelations@whlr.us](mailto:investorrelations@whlr.us)

**About Wheeler Real Estate Investment Trust, Inc.**

Headquartered in Virginia Beach, Virginia, Wheeler Real Estate Investment Trust, Inc. is a fully integrated, self-managed commercial real estate investment trust (REIT) focused on owning and operating income-producing retail properties with a primary focus on grocery-anchored centers. For more information on the Company, please visit [www.whlr.us](http://www.whlr.us).