

DUKE REALTY CORP  
Form 10-Q  
November 09, 2009  
Table of Contents

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
**WASHINGTON, D.C. 20549**  
**FORM 10-Q**

(Mark One)

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
For the quarterly period ended September 30, 2009

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: 1-9044

**DUKE REALTY CORPORATION**

(Exact Name of Registrant as Specified in Its Charter)

**Indiana**  
(State or Other Jurisdiction  
of Incorporation or Organization)

**35-1740409**  
(I.R.S. Employer  
Identification Number)

**600 East 96<sup>th</sup> Street, Suite 100**

**Indianapolis, Indiana**  
(Address of Principal Executive Offices)

**46240**  
(Zip Code)

Registrant's Telephone Number, Including Area Code: (317) 808-6000

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

## Edgar Filing: DUKE REALTY CORP - Form 10-Q

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definition of "large accelerated filer", "accelerated filer", and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act): YES  NO

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date:

Class	Outstanding at November 1, 2009
Common Stock, \$.01 par value per share	224,001,912 shares

**Table of Contents**

**DUKE REALTY CORPORATION**

**INDEX**

	<b>Page</b>
<b><u>Part I - Financial Information</u></b>	
<b>Item 1. <u>Financial Statements</u></b>	
<u>Consolidated Balance Sheets as of September 30, 2009 (Unaudited) and December 31, 2008</u>	2
<u>Consolidated Statements of Operations (Unaudited) for the three and nine months ended September 30, 2009 and 2008</u>	3
<u>Consolidated Statements of Cash Flows (Unaudited) for the nine months ended September 30, 2009 and 2008</u>	4
<u>Consolidated Statement of Changes in Equity (Unaudited) for the nine months ended September 30, 2009</u>	5
<u>Notes to Consolidated Financial Statements (Unaudited)</u>	6-19
<b>Item 2. <u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u></b>	19-39
<b>Item 3. <u>Quantitative and Qualitative Disclosures About Market Risk</u></b>	39-40
<b>Item 4. <u>Controls and Procedures</u></b>	40
<b><u>Part II - Other Information</u></b>	
Item 1. <u>Legal Proceedings</u>	41
Item 1A. <u>Risk Factors</u>	41
Item 2. <u>Unregistered Sales of Equity Securities and Use of Proceeds</u>	41-42
Item 3. <u>Defaults Upon Senior Securities</u>	42
Item 4. <u>Submission of Matters to a Vote of Security Holders</u>	42
Item 5. <u>Other Information</u>	42
Item 6. <u>Exhibits</u>	43

**Table of Contents****PART I FINANCIAL INFORMATION****Item 1. Financial Statements****DUKE REALTY CORPORATION AND SUBSIDIARIES****Consolidated Balance Sheets****(in thousands, except per share amounts)**

	September 30, 2009 (Unaudited)	December 31, 2008
<b><u>ASSETS</u></b>		
Real estate investments:		
Land and improvements	\$ 1,129,852	\$ 1,077,362
Buildings and tenant improvements	5,302,778	5,220,561
Construction in progress	144,748	159,330
Investments in and advances to unconsolidated companies	483,882	693,503
Undeveloped land	666,175	806,379
	7,727,435	7,957,135
Accumulated depreciation	(1,274,728)	(1,167,113)
Net real estate investments	6,452,707	6,790,022
Cash and cash equivalents	155,914	22,532
Accounts receivable, net of allowance of \$4,901 and \$1,777	23,880	28,026
Straight-line rent receivable, net of allowance of \$4,500 and \$4,086	132,763	123,863
Receivables on construction contracts, including retentions	32,446	75,100
Deferred financing costs, net of accumulated amortization of \$44,662 and \$38,046	45,997	47,907
Deferred leasing and other costs, net of accumulated amortization of \$228,147 and \$195,034	382,784	369,224
Escrow deposits and other assets	212,455	234,209
	\$ 7,438,946	\$ 7,690,883
<b><u>LIABILITIES AND EQUITY</u></b>		
Indebtedness:		
Secured debt	\$ 783,425	\$ 507,351
Unsecured notes	3,133,879	3,285,980
Unsecured lines of credit	15,299	483,659
	3,932,603	4,276,990
Construction payables and amounts due subcontractors, including retentions	66,790	105,227
Accrued real estate taxes	114,529	78,483
Accrued interest	40,701	56,376
Other accrued expenses	35,815	45,059
Other liabilities	203,426	187,425
Tenant security deposits and prepaid rents	37,142	41,348
Total liabilities	4,431,006	4,790,908
Shareholders' equity:		
Preferred shares (\$.01 par value); 5,000 shares authorized; 4,067 shares issued and outstanding	1,016,625	1,016,625

Edgar Filing: DUKE REALTY CORP - Form 10-Q

Common shares (\$.01 par value); 400,000 shares authorized; 223,981 and 148,420 shares issued and outstanding	2,240	1,484
Additional paid-in capital	<b>3,265,270</b>	2,702,513
Accumulated other comprehensive income (loss)	<b>(6,440)</b>	(8,652)
Distributions in excess of net income	<b>(1,313,103)</b>	(867,951)
Total shareholders' equity	<b>2,964,592</b>	2,844,019
Noncontrolling interests	<b>43,348</b>	55,956
Total equity	<b>3,007,940</b>	2,899,975
	<b>\$ 7,438,946</b>	\$ 7,690,883

See accompanying Notes to Consolidated Financial Statements

- 2 -

Table of Contents

## DUKE REALTY CORPORATION AND SUBSIDIARIES

## Consolidated Statements of Operations

For the Three and Nine Months Ended September 30,

(in thousands, except per share amounts)

(Unaudited)

	Three Months Ended		Nine Months Ended	
	2009	2008	2009	2008
		(Revised)		(Revised)
<b>Revenues:</b>				
Rental and related revenue	\$ 224,013	\$ 215,264	\$ 669,713	\$ 638,512
General contractor and service fee revenue	100,880	93,316	335,412	271,847
	<b>324,893</b>	308,580	<b>1,005,125</b>	910,359
<b>Expenses:</b>				
Rental expenses	49,921	48,045	153,081	143,198
Real estate taxes	30,096	25,750	89,181	77,012
General contractor and Service Operations expenses	96,241	96,155	319,352	266,878
Depreciation and amortization	87,647	74,229	254,325	225,358
	<b>263,905</b>	244,179	<b>815,939</b>	712,446
<b>Other operating activities:</b>				
Equity in earnings of unconsolidated companies	2,364	204	7,353	17,184
Gain on disposition of Build-for-Sale properties		20,338		26,657
Earnings from sales of land		4,469	357	8,491
Undeveloped land carrying costs	(2,601)	(1,686)	(7,646)	(5,746)
Impairment charges	(285,168)	(2,474)	(302,637)	(5,273)
General and administrative expense	(11,233)	(10,448)	(34,713)	(29,500)
	<b>(296,638)</b>	10,403	<b>(337,286)</b>	11,813
Operating income (loss)	<b>(235,650)</b>	74,804	<b>(148,100)</b>	209,726
<b>Other income (expenses):</b>				
Interest and other income (expense), net	796	205	924	1,223
Interest expense	(57,719)	(50,071)	(161,746)	(146,001)
Gain (loss) on debt transactions	(13,631)		20,880	
Loss on business combinations			(999)	
Income (loss) from continuing operations before income taxes	<b>(306,204)</b>	24,938	<b>(289,041)</b>	64,948
Income tax benefit (expense)	(7,947)	4,239	(2,053)	4,915
Income (loss) from continuing operations	<b>(314,151)</b>	29,177	<b>(291,094)</b>	69,863
<b>Discontinued operations:</b>				
Income before impairment charges and gain on sales		466	36	3,092
Impairment charges			(772)	
Gain on sale of depreciable properties		1,299	5,168	11,940

Edgar Filing: DUKE REALTY CORP - Form 10-Q

Income from discontinued operations		1,765	<b>4,432</b>	15,032
Net income (loss)	<b>(314,151)</b>	30,942	<b>(286,662)</b>	84,895
Dividends on preferred shares	<b>(18,363)</b>	(18,866)	<b>(55,089)</b>	(53,038)
Net (income) loss attributable to noncontrolling interests	<b>9,632</b>	(586)	<b>11,583</b>	(1,577)
Net income (loss) attributable to common shareholders	<b>\$ (322,882)</b>	\$ 11,490	<b>\$ (330,168)</b>	\$ 30,280
Basic net income (loss) per common share:				
Continuing operations attributable to common shareholders	<b>\$ (1.44)</b>	\$ .07	<b>\$ (1.73)</b>	\$ .10
Discontinued operations attributable to common shareholders		.01	<b>.02</b>	.10
Total	<b>\$ (1.44)</b>	\$ .08	<b>\$ (1.71)</b>	\$ .20
Diluted net income (loss) per common share:				
Continuing operations attributable to common shareholders	<b>\$ (1.44)</b>	\$ .07	<b>\$ (1.73)</b>	.10
Discontinued operations attributable to common shareholders		.01	<b>.02</b>	.10
Total	<b>\$ (1.44)</b>	\$ .08	<b>\$ (1.71)</b>	\$ .20
Weighted average number of common shares outstanding	<b>223,952</b>	146,966	<b>193,520</b>	146,680
Weighted average number of common shares and potential dilutive securities	<b>223,952</b>	154,836	<b>193,520</b>	154,623

See accompanying Notes to Consolidated Financial Statements

**Table of Contents****DUKE REALTY CORPORATION AND SUBSIDIARIES****Consolidated Statements of Cash Flows****For the nine months ended September 30,****(in thousands)****(Unaudited)**

	2009	2008 (Revised)
<b>Cash flows from operating activities:</b>		
Net income (loss)	\$ (286,662)	\$ 84,895
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Depreciation of buildings and tenant improvements	200,370	179,699
Amortization of deferred leasing and other costs	54,303	51,257
Amortization of deferred financing costs	10,134	10,134
Straight-line rent adjustment	(17,166)	(13,523)
Impairment charges	303,409	5,273
Gain on debt transactions	(20,880)	
Loss on business combination	999	
Earnings from land and depreciated property sales	(5,525)	(20,431)
Build-for-Sale operations, net	14,080	31,558
Construction contracts, net	2,482	(12,748)
Other accrued revenues and expenses, net	39,241	6,420
Operating distributions received in excess of equity in earnings from unconsolidated companies	8,973	6,730
<b>Net cash provided by operating activities</b>	<b>303,758</b>	<b>329,264</b>
<b>Cash flows from investing activities:</b>		
Development of real estate investments	(219,346)	(365,781)
Acquisition of real estate investments and related intangible assets	(16,591)	(20,123)
Acquisition of undeveloped land	(5,474)	(35,564)
Recurring tenant improvements, leasing costs and building improvements	(55,976)	(52,396)
Other deferred leasing costs	(11,190)	(18,930)
Other deferred costs and other assets	(6,355)	(8,392)
Proceeds from land and depreciated property sales, net	113,072	85,717
Capital distributions from unconsolidated companies		65,553
Capital contributions and advances to unconsolidated companies, net	(17,542)	(78,760)
<b>Net cash used for investing activities</b>	<b>(219,402)</b>	<b>(428,676)</b>
<b>Cash flows from financing activities:</b>		
Proceeds from issuance of common shares	551,594	14,020
Proceeds from issuance of preferred shares, net		290,014
Proceeds from unsecured debt issuance	500,000	325,000
Payments on and repurchases of unsecured debt	(624,875)	(225,000)
Proceeds from secured debt financings	285,339	
Payments on secured indebtedness including principal amortization	(8,823)	(43,103)
Payments on lines of credit, net	(468,360)	(12,358)
Distributions to common shareholders	(113,251)	(211,898)
Distributions to preferred shareholders	(55,089)	(53,038)
Distributions to noncontrolling interests, net	(399)	(10,481)



Edgar Filing: DUKE REALTY CORP - Form 10-Q

Cash settlement of interest rate swaps		(14,625)
Deferred financing costs	(17,110)	(3,661)
<b>Net cash provided by financing activities</b>	<b>49,026</b>	54,870
<b>Net increase (decrease) in cash and cash equivalents</b>	<b>133,382</b>	(44,542)
Cash and cash equivalents at beginning of period	22,532	48,012
Cash and cash equivalents at end of period	\$ 155,914	\$ 3,470
Non-cash investing and financing activities:		
Conversion of Limited Partner Units to common shares	\$ 626	\$ 5,499
Assumption of secured debt for real estate acquisitions	\$	\$ 39,480
Contribution of property to, net of debt assumed by, unconsolidated companies	\$ 8,054	\$ 113,688
Consolidation of previously unconsolidated companies	\$ 206,852	\$
Distribution of property from partner in unconsolidated company	\$	\$ 28,577

See accompanying Notes to Consolidated Financial Statements

Table of Contents

## DUKE REALTY CORPORATION AND SUBSIDIARIES

## Consolidated Statement of Changes in Equity

For the nine months ended September 30, 2009

(in thousands, except per share data)

(Unaudited)

	Common Shareholders							
	Preferred	Common	Additional	Accumulated	Distributions	Non-		
	Stock	Stock	Paid-in	Other	in Excess of	controlling		Total
			Capital	Income	Net Income	Interests		
				(Loss)				
<b>Balance at December 31, 2008</b>	<b>\$ 1,016,625</b>	<b>\$ 1,484</b>	<b>\$ 2,702,513</b>	<b>\$ (8,652)</b>	<b>\$ (867,951)</b>	<b>\$ 55,956</b>		<b>\$ 2,899,975</b>
Comprehensive Income:								
Net loss					(275,079)	(11,583)		(286,662)
Derivative instrument activity				2,212				2,212
Comprehensive loss								\$ (284,450)
Issuance of common shares		752	551,110					551,862
Stock based compensation plan activity		2	11,023		(1,733)			9,292
Conversion of Limited Partner Units		2	624			(626)		
Distributions to preferred shareholders					(55,089)			(55,089)
Distributions to common shareholders (\$0.59 per share)					(113,251)			(113,251)
Distributions to noncontrolling interests, net						(399)		(399)
<b>Balance at September 30, 2009</b>	<b>\$ 1,016,625</b>	<b>\$ 2,240</b>	<b>\$ 3,265,270</b>	<b>\$ (6,440)</b>	<b>\$ (1,313,103)</b>	<b>\$ 43,348</b>		<b>\$ 3,007,940</b>

See accompanying Notes to Consolidated Financial Statements

**Table of Contents**

**DUKE REALTY CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**(Unaudited)**

**1. General Basis of Presentation**

The interim consolidated financial statements included herein have been prepared by Duke Realty Corporation (the Company) without audit. The 2008 year-end consolidated balance sheet data included in this Quarterly Report on Form 10-Q (this Report) was derived from our audited financial statements, but does not include all disclosures required by accounting principles generally accepted in the United States of America (GAAP). Our audited financial statements, as adjusted for the retrospective application of new accounting standards, are included as Exhibit 99.2 to a Current Report on Form 8-K filed on July 22, 2009. The financial statements have been prepared in accordance with GAAP for interim financial information and in accordance with Rule 10-01 of Regulation S-X of the Securities Exchange Act of 1934, as amended. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation have been included. GAAP requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and revenue and expenses during the reporting period. Our actual results could differ from those estimates and assumptions. These financial statements should be read in conjunction with Management's Discussion and Analysis of Financial Condition and Results of Operations included herein and the consolidated financial statements and notes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2008 or on our Current Report on Form 8-K filed on July 22, 2009.

We believe we qualify as a real estate investment trust (REIT) under the provisions of the Internal Revenue Code of 1986, as amended. Substantially all of our Rental Operations (see Note 9) are conducted through Duke Realty Limited Partnership (DRLP). We owned approximately 97.1% of the common partnership interests of DRLP (Units) at September 30, 2009. At the option of the holders, subject to certain restrictions, the remaining Units are redeemable for shares of our common stock on a one-to-one basis and earn dividends at the same rate as shares of our common stock. If determined to be necessary in order to continue to qualify as a REIT, we may elect to purchase the Units for an equivalent amount of cash rather than issuing shares of common stock upon redemption. We conduct our Service Operations (see Note 9) through Duke Realty Services LLC, Duke Realty Services Limited Partnership and Duke Construction Limited Partnership, which is owned through a taxable REIT subsidiary. The consolidated financial statements include our accounts and the accounts of our majority-owned or controlled subsidiaries. In this Report, unless the context indicates otherwise, the terms we, us and our refer to the Company and those entities owned or controlled by the Company.

**2. New Accounting Pronouncements**

**Fair Value Accounting**

Based on the guidance provided by the Financial Accounting Standards Board (FASB), we only implemented the new accounting standards on fair value measurements as of January 1, 2008, for financial instruments. The new standard on fair value measurements (FASB Accounting Standard Codification (ASC) 820) was adopted on January 1, 2009 for nonfinancial long-lived asset groups that may be measured at fair value for an impairment assessment, reporting units measured at fair value in the first step of the goodwill impairment test, and nonfinancial assets and nonfinancial liabilities initially measured at fair value in a business combination.

## **Table of Contents**

Additional transition guidance, which was effective for us on April 1, 2009, provides criteria to enable a determination to be made as to whether or not a market is active. If markets are determined to be inactive, then an analysis is required as to whether an individual market transaction is not indicative of fair value, potentially requiring fair value to be estimated utilizing inputs other than market transactions.

Further authoritative guidance regarding valuation methodologies that are acceptable for measuring the fair value of a liability will become effective for us on October 1, 2009. We do not expect the new guidance to have a material impact on our results of operations or financial position.

Assets and liabilities recorded at fair value on the consolidated balance sheets are categorized based on the inputs to the valuation techniques as follows:

Level 1 inputs utilize quoted prices (unadjusted) in active markets for identical assets or liabilities to which we have access.

Level 2 inputs are inputs other than quoted prices included in Level 1 that are observable for the asset or liability, either directly or indirectly. Level 2 inputs may include quoted prices for similar assets and liabilities in active markets, as well as inputs that are observable for the asset or liability (other than quoted prices), such as interest rates and yield curves that are observable at commonly quoted intervals.

Level 3 inputs are unobservable inputs for the asset or liability, which are typically based on an entity's own assumptions, as there is little, if any, related market activity.

In instances where the determination of the fair value measurement is based on inputs from different levels of the fair value hierarchy, the level in the fair value hierarchy within which the entire fair value measurement falls is based on the lowest level input that is significant to the fair value measurement in its entirety. Our assessment of the significance of a particular input to the fair value measurement in its entirety requires judgment and considers factors specific to the asset or liability.

## **Convertible Debt Accounting**

On January 1, 2009, we adopted a new accounting standard (FASB ASC 470) for convertible debt instruments that may be settled in cash upon conversion. This new standard requires separate accounting for the debt and equity components of certain convertible instruments. Our 3.75% Exchangeable Senior Notes ( Exchangeable Notes ), issued in November 2006, have an exchange rate of 20.47 common shares per \$1,000 principal amount of the notes, representing an exchange price of \$48.85 per share of our common stock. The Exchangeable Notes are subject to the accounting changes required by this new standard, which requires that the value assigned to the debt component equal the estimated fair value of debt with similar contractual cash flows, but without the conversion feature, resulting in the debt being recorded at a discount. The resulting debt discount will be amortized over the period from its issuance through November 2011, the first optional redemption date, as additional non-cash interest expense. We are required to apply this new accounting standard retrospectively to prior periods.

**Table of Contents**

At September 30, 2009, the Exchangeable Notes had \$235.4 million of principal outstanding, an unamortized discount of \$6.7 million and a net carrying amount of \$228.7 million. The carrying amount of the equity component was \$34.7 million at September 30, 2009. Subsequent to the implementation of the new standard, interest expense is recognized on the Exchangeable Notes at an effective rate of 5.6%. The increase to interest expense (in thousands) on the Exchangeable Notes, which led to a corresponding decrease to net income, for the three and nine months ended September 30, 2009 and 2008 is summarized as follows:

	<b>Three Months Ended September 30,</b>		<b>Nine Months Ended September 30,</b>	
	<b>2009</b>	<b>2008</b>	<b>2009</b>	<b>2008</b>
Interest expense on Exchangeable Notes, excluding effect of accounting for convertible debt	<b>\$ 3,499</b>	\$ 5,391	<b>\$ 12,631</b>	\$ 16,172
Effect of accounting for convertible debt	<b>1,321</b>	1,646	<b>4,296</b>	4,865
<b>Total interest expense on Exchangeable Notes</b>	<b>\$ 4,820</b>	\$ 7,037	<b>\$ 16,927</b>	\$ 21,037

**Purchase Accounting**

On January 1, 2009, we adopted a new accounting standard (FASB ASC 805) on purchase accounting, which requires acquisition related costs to be immediately expensed as period costs. This new standard also requires that 100% of the assets and liabilities of an acquired entity, as opposed to the amount proportional to the portion acquired, must be recorded at fair value upon an acquisition and that a gain or loss must be recognized for the difference between the fair value and the carrying value of any existing ownership interests in acquired entities. Finally, this new standard requires that contingencies arising from a business combination be recorded at fair value if the acquisition date fair value can be determined during the measurement period.

**Noncontrolling Interests**

On January 1, 2009, we adopted a new accounting standard (FASB ASC 810) on noncontrolling interests, which requires noncontrolling interests (previously referred to as minority interests) to be reported as a component of total equity, resulting in changes to the presentation of the noncontrolling interests in the consolidated balance sheets and statements of operations. This new standard also modifies the accounting for changes in the level of ownership in consolidated subsidiaries. The reclassification of noncontrolling interests on the consolidated statements of operations caused an increase of \$586,000 and \$1.6 million, inclusive of the noncontrolling interest share of the effect of convertible debt accounting, to previously reported net income for the three and nine months ended September 30, 2008, respectively.

## **Table of Contents**

### **Participating Securities**

During the first quarter of 2009, we adopted a new accounting standard (FASB ASC 260-10) on participating securities, which we have applied retrospectively to prior period calculations of basic and diluted earnings per common share. Pursuant to this new standard, certain of our share-based awards are considered participating securities because they earn dividend equivalents that are not forfeited even if the underlying award does not vest.

The effect of including the share-based awards as participating securities resulted in a decrease to basic net income attributable to common shareholders of approximately \$409,000 and \$1.2 million in the three and nine months ended September 30, 2008, respectively. Because those share-based awards were included as participating securities for computation of basic net income per share, applying the treasury stock method to those share-based awards would have been anti-dilutive for computing diluted earnings per share, thus the implementation of this new standard also resulted in a decrease to diluted net income attributable to common shareholders of approximately \$409,000 and \$1.2 million and a reduction in dilutive potential shares outstanding of approximately 508,000 and 482,000 in the three and nine months ended September 30, 2008, respectively.

### **Subsequent Events**

During the second quarter of 2009, we adopted a new accounting standard (FASB ASC 855) on subsequent events, which codifies authoritative guidance within the GAAP hierarchy for the accounting for, and disclosure of, subsequent events. This new standard does not change our existing accounting practices for subsequent events, as it is a codification of authoritative guidance that was previously included in generally accepted auditing standards.

### **Interim Fair Value of Financial Instruments Disclosures**

During the second quarter of 2009, we adopted a new accounting standard (FASB ASC 825) on interim disclosures regarding the fair value of financial instruments, which requires the fair value of our debt to be disclosed on a quarterly basis in the notes to the financial statements. These disclosures were previously only required to be made annually. The required disclosures are made in Note 5.

### **FASB Codification**

During the third quarter of 2009, we adopted the FASB's new codification standard, which reorganized all existing authoritative pronouncements from the various U.S. accounting standard setters into one comprehensive body of literature. The codification has no effect on any of our accounting policies.

**Table of Contents****SFAS No. 167**

In June 2009, the FASB issued SFAS No. 167, *Amendments to FASB Interpretation No. 46(R)* ( SFAS 167 ). SFAS 167 eliminates the primarily quantitative model currently in effect to determine the primary beneficiary of a variable interest entity ( VIE ) and replaces it with a qualitative model that focuses on which entities have the power to direct the activities of the VIE as well as the obligation or rights to absorb the VIE's losses or receive its benefits. SFAS 167 will also require assessments at each reporting period of which party within the VIE is considered the primary beneficiary and will require a number of new disclosures related to VIEs. The reconsideration of the initial determination of VIE status is still based on the occurrence of certain events. SFAS 167 will be effective for fiscal years and interim periods beginning after November 15, 2009. We are still evaluating the effect of adopting SFAS 167.

**3. Consolidation of Retail Joint Ventures**

Through March 31, 2009, we were a member in two retail real estate joint ventures with a retail developer. Both entities were jointly controlled by us and our partner, through equal voting interests, and were accounted for as unconsolidated subsidiaries under the equity method. As of April 1, 2009, we had made combined equity contributions of \$37.9 million to the two entities and we also had combined outstanding principal and accrued interest of \$173.0 million on advances to the two entities.

We advanced \$2.0 million to the two entities, who then distributed the \$2.0 million to our partner in exchange for the redemption of our partner's membership interests, effective April 1, 2009, at which time we obtained 100% control of the voting interests of both entities. We entered these transactions to gain control of these two entities because it will allow us to operate or dispose of the entities in a manner that best serves our capital needs.

In conjunction with the redemption of our partner's membership interests, we entered a profits interest agreement that entitles our former partner to additional payments should the combined sales of the two acquired entities, as well as the sale of another retail real estate joint venture that we and our partner still jointly control, result in an aggregate profit. Aggregate profit on the sale of these three projects will be calculated by using a formula defined in the profits interest agreement. We have estimated that the fair value of the potential additional payment to our partner is insignificant and, thus, did not recognize a liability at the acquisition date.

A summary of the fair value of amounts recognized for each major class of assets and liabilities acquired is as follows (in thousands):

Operating rental properties	\$ 176,038
Undeveloped land	6,500
<b>Total real estate investments</b>	<b>182,538</b>
Other assets	3,987
Lease related intangible assets	24,350
<b>Total assets acquired</b>	<b>210,875</b>
Liabilities assumed	(4,023)
 Net recognized value of acquired assets and liabilities	 \$ 206,852

The fair values recognized from the real estate and related assets acquired were primarily determined using the income approach. The most significant assumptions in the fair value estimates were the discount rates and the exit capitalization rates. The estimates of fair value were determined to have primarily relied upon Level 3 inputs.

**Table of Contents**

We recognized a loss of \$999,000 upon acquisition, which represents the difference between the fair value of the recognized assets and the carrying value of our pre-existing equity interest. The acquisition date fair value of the net recognized assets as compared to the acquisition date carrying value of our outstanding advances and accrued interest, as well as the acquisition date carrying value of our pre-existing equity interests, is shown as follows (in thousands):

Net fair value of acquired assets and liabilities	\$ 206,852
Less advances to acquired entities eliminated upon consolidation	(173,006)
Less acquisition date carrying value of equity in acquired entities	(34,845)
Loss on business combination	\$ (999)

Since April 1, 2009, the results of operations for both acquired entities have been included in continuing operations in our consolidated financial statements. Due to our significant pre-existing ownership and financing positions in the two acquired entities, the inclusion of their results of operations did not have a material effect on our operating income.

**4. Reclassifications**

Certain amounts in the accompanying consolidated financial statements for 2008 have been reclassified to conform to the 2009 consolidated financial statement presentation.

**5. Indebtedness**

The following table summarizes the book value and changes in the fair value of our debt for the nine months ended September 30, 2009 (in thousands):

	Book Value at 12/31/08	Book Value at 9/30/09	Fair Value at 12/31/08	Total Realized Losses/(Gains)	Issuances/ Payoffs	Adjustments to Fair Value	Fair Value at 9/30/09
Fixed rate secured debt	\$ 499,061	\$ 769,006	\$ 438,049	\$	\$ 278,500	\$ (7,019)	\$ 709,530
Variable rate secured debt	8,290	14,419	8,290		6,839	(710)	14,419
Fixed rate unsecured notes	3,285,980	3,133,879	2,196,689	(42,028)	(124,875)	1,056,254	3,086,040
Unsecured lines of credit	483,659	15,299	477,080		(468,360)	5,422	14,142
<b>Total</b>	<b>\$ 4,276,990</b>	<b>\$ 3,932,603</b>	<b>\$ 3,120,108</b>	<b>\$ (42,028)</b>	<b>\$ (307,896)</b>	<b>\$ 1,053,947</b>	<b>\$ 3,824,131</b>

*Fixed Rate Secured Debt*

In February, March and July 2009, we borrowed a total of \$270.0 million from three 10-year fixed rate secured debt financings that are secured by 32 existing rental properties. The secured debt bears interest at a weighted average rate of 7.7% and matures at various points in 2019. In June 2009, we borrowed \$8.5 million from two 6.5% 10-year fixed rate mortgages due in 2019, secured by two newly acquired properties. One of our consolidated subsidiaries also borrowed \$6.8 million, bearing interest at LIBOR plus 2.70% and maturing in April 2012, on a secured construction loan during the three-month period ended September 30, 2009.

We utilized a discounted cash flow methodology in order to determine the fair value of our fixed rate secured debt. The net present value of the difference between future contractual interest payments and future interest payments based on our estimate of a current market rate represents the difference between the book value and the fair value. Our estimate of a current market rate is based upon the rate at which we estimate we could obtain similar borrowings when considering current market conditions. The current market rates we utilized were internally estimated; therefore, we have concluded that our determination of fair value for our fixed rate secured debt was primarily based upon Level 3 inputs.





**Table of Contents***Fixed Rate Unsecured Debt*

In February 2009, we repaid \$124.0 million of 6.83% corporate unsecured debt at its scheduled maturity date. During the nine-month period ended September 30, 2009, we also repurchased portions of various series of senior unsecured notes, both on the open market and through cash tender offers, for \$500.9 million. The total face value of these repurchases was \$542.9 million. We recognized a gain of \$27.5 million on the repurchases after writing off applicable issuance costs and other accounting adjustments. The aforementioned gains on repurchase, were partially offset by a \$6.6 million charge to write off fees paid for a cancelled secured debt transaction.

In August 2009, we issued \$500.0 million of unsecured notes in two equal tranches. The first \$250.0 million of the unsecured notes mature in February 2015 and bear interest at an effective rate of 7.50% while the other \$250.0 million of the notes mature in August 2019 and bear interest at an effective rate of 8.38%.

We utilized multiple broker estimates in estimating the fair value of our fixed rate unsecured debt. Our unsecured notes are thinly traded and, in many cases, the broker estimates were not based upon comparable transactions. As such, we have determined that our estimation of the fair value of our fixed rate unsecured debt was primarily based upon Level 3 inputs.

The indentures (and related supplemental indentures) governing our outstanding series of notes also require us to comply with financial ratios and other covenants regarding our operations. We were in compliance with all such covenants as of September 30, 2009.

*Unsecured Lines of Credit*

Our unsecured lines of credit as of September 30, 2009 are described as follows (in thousands):

Description	Borrowing Capacity	Maturity Date	Outstanding Balance at September 30, 2009
Unsecured Line of Credit DRLP	\$ 1,300,000	January 2010	\$
Unsecured Line of Credit Consolidated Subsidiary	\$ 30,000	July 2011	\$ 15,299

We have historically used the DRLP unsecured line of credit to fund development activities, acquire additional rental properties and provide working capital. We repaid all outstanding amounts on this line of credit during the third quarter of 2009. This line of credit provides us with an option to obtain borrowings from financial institutions that participate in the line, at rates that may be lower than the stated interest rate, subject to certain restrictions. The stated rate on the DRLP unsecured line of credit, as of September 30, 2009, was LIBOR plus .65%. We may, at our sole discretion, exercise an option to extend the maturity date of the DRLP line of credit to January 2011. This line of credit also contains various financial covenants that require us to meet financial ratios and defined levels of performance, including those related to fixed charge coverage, variable rate indebtedness, consolidated net worth and debt-to-asset value (with asset value being defined in the DRLP line of credit agreement). As of September 30, 2009, we were in compliance with all covenants under this line of credit.

The consolidated subsidiary's unsecured line of credit allows for borrowings up to \$30.0 million at a rate of LIBOR plus .85% (equal to 1.10% for outstanding borrowings as of September 30, 2009). This unsecured line of credit is used to fund development activities within the consolidated subsidiary and matures in July 2011 with, at our option, a 12-month extension option.

**Table of Contents**

To the extent that there are outstanding borrowings, we utilize a discounted cash flow methodology in order to estimate the fair value of our unsecured lines of credit. The net present value of the difference between future contractual interest payments and future interest payments based on our estimate of a current market rate represents the difference between the book value and the fair value. Our estimate of a current market rate is based upon the rate, considering current market conditions and our specific credit profile, at which we estimate we could obtain similar borrowings. The current market rate we utilized was internally estimated; therefore, we have concluded that our determination of fair value for our unsecured lines of credit was primarily based upon Level 3 inputs.

**6. Shareholders Equity**

In April 2009, we issued 75.2 million shares of common stock for net proceeds of \$551.9 million. The proceeds from this offering were contributed to DRLP in exchange for additional Units in DRLP and were used to repay outstanding borrowings under the DRLP unsecured line of credit and for other general corporate purposes.

**7. Related Party Transactions**

We provide property management, leasing, construction and other tenant related services to unconsolidated companies in which we have equity interests. For the nine months ended September 30, 2009 and 2008, respectively, we earned management fees of \$6.2 million and \$5.6 million, leasing fees of \$2.9 million and \$1.9 million and construction and development fees of \$8.6 million and \$9.6 million from these companies. We recorded these fees based on contractual terms that approximate market rates for these types of services and we have eliminated our ownership percentage of these fees in the consolidated financial statements.

**8. Net Income (Loss) Per Common Share**

Basic net income (loss) per common share is computed by dividing net income (loss) attributable to common shareholders, less dividends on share-based awards expected to vest, by the weighted average number of common shares outstanding for the period. Diluted net income (loss) per common share is computed by dividing the sum of basic net income (loss) attributable to common shareholders and the noncontrolling interest in earnings allocable to Units not owned by us (to the extent the Units are dilutive), by the sum of the weighted average number of common shares outstanding and, to the extent they are dilutive, limited partnership Units outstanding, as well as any potential dilutive securities for the period.

The following table reconciles the components of basic and diluted net income (loss) per common share for the three and nine months ended September 30, 2009 and 2008, respectively (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
Net income (loss) attributable to common shareholders	\$ (322,882)	\$ 11,490	\$ (330,168)	\$ 30,280
Less: Dividends on share-based awards expected to vest	(391)	(409)	(1,366)	(1,218)
Basic net income (loss) attributable to common shareholders	(323,273)	11,081	(331,534)	29,062
Noncontrolling interest in earnings of common unitholders (1)		605		1,615
Diluted net income (loss) attributable to common shareholders	\$ (323,273)	\$ 11,686	\$ (331,534)	\$ 30,677
Weighted average number of common shares outstanding	223,952	146,966	193,520	146,680
Weighted average partnership Units outstanding (1)		7,638		7,727
Other potential dilutive shares (2)		232		216
Weighted average number of common shares and potential dilutive securities	223,952	154,836	193,520	154,623



---

**Table of Contents**

- (1) The partnership Units are anti-dilutive for the three and nine months ended September 30, 2009, as a result of the net loss for both periods. Therefore, 6,646 and 6,711 Units (in thousands) are excluded from the weighted average number of common shares and potential dilutive securities for the three and nine months ended September 30, 2009, respectively, and \$9,545 and \$11,410 noncontrolling interest in earnings of common unitholders (in thousands) is excluded from diluted net loss attributable to common shareholders for the three and nine months ended September 30, 2009, respectively.
- (2) Excludes (in thousands of shares) 7,692 and 7,280 of anti-dilutive shares for the three months ended September 30, 2009 and 2008, respectively, and 7,810 and 7,648 of anti-dilutive shares for the nine months ended September 30, 2009 and 2008, respectively, related to stock-based compensation plans. Also excludes (in thousands of shares) the Exchangeable Notes that have 7,326 and 9,192 of anti-dilutive shares for the three and nine months ended September 30, 2009, respectively, and 11,760 of anti-dilutive shares for the three and nine months ended September 30, 2008.

**9. Segment Reporting**

We have three reportable operating segments, the first two of which consist of the ownership and rental of office and industrial real estate investments. The operations of our office and industrial properties, along with our healthcare and retail properties, are collectively referred to as Rental Operations. Our healthcare and retail properties do not meet the quantitative thresholds for separate presentation as reportable segments. The third reportable segment consists of providing various real estate services such as property management, maintenance, leasing, development and construction management to third-party property owners and joint ventures, as well as our Build-for-Sale operations (defined below), and is collectively referred to as Service Operations. Our reportable segments offer different products or services and are managed separately because each segment requires different operating strategies and management expertise.

Gains on sale of properties developed or acquired with the intent to sell ( Build-for-Sale properties) are classified as part of the income of the Service Operations business segment. The periods of operation for Build-for-Sale properties prior to sale were of short duration.

Other revenue consists of other operating revenues not identified with one of our operating segments. Interest expense and other non-property specific revenues and expenses are not allocated to individual segments in determining our performance measure.

We assess and measure our overall operating results based upon an industry performance measure referred to as Funds From Operations ( FFO ), which management believes is a useful indicator of our consolidated operating performance. FFO is used by industry analysts and investors as a supplemental operating performance measure of a REIT. The National Associations of Real Estate Investment Trusts ( NAREIT ) created FFO as a supplemental measure of REIT operating performance that excludes historical cost depreciation, among other items, from net income determined in accordance with GAAP. FFO is a non-GAAP financial measure. The most comparable GAAP measure is net income (loss) attributable to common shareholders. Consolidated basic FFO attributable to common shareholders should not be considered as a substitute for net income or any other measures derived in accordance with GAAP and may not be comparable to other similarly titled measures of other companies. FFO is calculated in accordance with the definition that was adopted by the Board of Governors of NAREIT. We do not allocate certain income and expenses ( Non-Segment Items as shown in the table below) to our operating segments. Thus, the operational performance measure presented here on a segment-level basis represents net earnings excluding depreciation expense, as well as excluding the Non-Segment Items not allocated, and is not meant to present FFO as defined by NAREIT.

**Table of Contents**

Historical cost accounting for real estate assets in accordance with GAAP implicitly assumes that the value of real estate assets diminishes predictably over time. Since real estate values instead have historically risen or fallen with market conditions, many industry analysts and investors have considered presentation of operating results for real estate companies that use historical cost accounting to be insufficient by themselves. FFO, as defined by NAREIT, represents GAAP net income (loss), excluding extraordinary items as defined under GAAP and gains or losses from sales of previously depreciated real estate assets, plus certain non-cash items such as real estate asset depreciation and amortization, and after similar adjustments for unconsolidated partnerships and joint ventures.

Management believes that the use of consolidated basic FFO attributable to common shareholders, combined with net income (which remains the primary measure of performance), improves the understanding of operating results of REITs among the investing public and makes comparisons of REIT operating results more meaningful. Management believes that, by excluding gains or losses related to sales of previously depreciated real estate assets and excluding real estate asset depreciation and amortization, investors and analysts are able to readily identify the operating results of the long-term assets that form the core of a REIT's activity and assist in comparing these operating results between periods or as compared to different companies.

The following table shows (i) the revenues for each of the reportable segments and (ii) a reconciliation of consolidated basic FFO attributable to common shareholders to net income (loss) attributable to common shareholders for the three and nine months ended September 30, 2009 and 2008, respectively (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
<b>Revenues</b>				
Rental Operations:				
Office	\$ 142,259	\$ 140,237	\$ 427,662	\$ 416,713
Industrial	63,837	62,856	194,636	184,691
Non-reportable Rental Operations segments	15,352	8,014	38,097	22,374
Service Operations	100,880	93,316	335,412	271,847
Total Segment Revenues	322,328	304,423	995,807	895,625
Other Revenue	2,565	4,157	9,318	14,734
Consolidated Revenue from continuing operations	324,893	308,580	1,005,125	910,359
Discontinued Operations		3,880	2,282	17,387
Consolidated Revenue	\$ 324,893	\$ 312,460	\$ 1,007,407	\$ 927,746
<b>Reconciliation of Consolidated Basic Funds From Operations</b>				
Net earnings excluding depreciation and Non-Segment Items				
Office	\$ 84,246	\$ 84,648	\$ 250,689	\$ 251,572
Industrial	48,761	49,283	147,123	141,471
Non-reportable Rental Operations segments	10,120	5,174	24,691	14,029
Service Operations	4,639	17,499	16,060	31,626
	147,766	156,604	438,563	438,698
Non-Segment Items:				
Interest expense	(57,719)	(50,071)	(161,746)	(146,001)
Impairment charges	(285,168)	(2,474)	(302,637)	(5,273)
Interest and other income	796	205	924	1,223
General and administrative expenses	(11,233)	(10,448)	(34,713)	(29,500)
Gain on land sales		4,469	357	8,491
Undeveloped land carrying costs	(2,601)	(1,686)	(7,646)	(5,746)
Gain (loss) on debt transactions	(13,631)		20,880	
Loss on business combinations			(999)	
Income tax benefit (expense)	(7,947)	4,239	(2,053)	4,915
Other non-segment income	869	2,364	4,948	11,230
Net (income) loss attributable to noncontrolling interests	9,632	(586)	11,583	(1,577)

Edgar Filing: DUKE REALTY CORP - Form 10-Q

Noncontrolling interest share of FFO adjustments	<b>(2,771)</b>	(4,363)	<b>(9,302)</b>	(12,351)
Joint venture items	<b>10,907</b>	14,654	<b>35,366</b>	45,458
Dividends on preferred shares	<b>(18,363)</b>	(18,866)	<b>(55,089)</b>	(53,038)
Discontinued operations		1,497	<b>(388)</b>	8,690
Consolidated basic FFO attributable to common shareholders	<b>(229,463)</b>	95,538	<b>(61,952)</b>	265,219

- 15 -

**Table of Contents**

Depreciation and amortization on continuing operations	<b>(87,647)</b>	(74,229)	<b>(254,325)</b>	(225,358)
Depreciation and amortization on discontinued operations		(1,031)	<b>(348)</b>	(5,598)
Company's share of joint venture adjustments	<b>(8,543)</b>	(14,450)	<b>(28,013)</b>	(28,769)
Earnings from depreciated property sales on discontinued operations		1,299	<b>5,168</b>	11,940
Earnings from depreciated property sales-share of joint venture				495
Noncontrolling interest share of FFO adjustments	<b>2,771</b>	4,363	<b>9,302</b>	12,351
Net income (loss) attributable to common shareholders	<b>\$ (322,882)</b>	\$ 11,490	<b>\$ (330,168)</b>	\$ 30,280

**10. Discontinued Operations**

The operations of eleven buildings are currently classified as discontinued operations for the three-and nine-month periods ended September 30, 2009 and September 30, 2008. These eleven buildings consist of four industrial and seven office properties. Of these properties, three were sold during the first nine months of 2009 and eight were sold during 2008.

We allocate interest expense to discontinued operations and have included such interest expense in computing income from discontinued operations. Interest expense allocable to discontinued operations includes interest on any secured debt for properties included in discontinued operations and an allocable share of our consolidated unsecured interest expense for unencumbered properties. The allocation of unsecured interest expense to discontinued operations was based upon the gross book value of the unencumbered real estate assets included in discontinued operations as it related to the total gross book value of our unencumbered real estate assets.

The following table illustrates the operations of the buildings reflected in discontinued operations for the three and nine months ended September 30, 2009 and 2008, respectively (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
Revenues	\$	\$ 3,880	\$ 2,282	\$ 17,387
Operating expenses		(1,462)	(1,201)	(5,355)
Depreciation and amortization		(1,031)	(348)	(5,598)
Operating income		1,387	733	6,434
Interest expense		(921)	(697)	(3,342)
Income before impairment charges and gain on sales		466	36	3,092
Impairment charges			(772)	
Gain on sale of depreciable properties		1,299	5,168	11,940
Income from discontinued operations	\$	\$ 1,765	\$ 4,432	\$ 15,032

The following table illustrates the allocation of the amounts attributable to common shareholders between continuing operations and discontinued operations for the three and nine months ended September 30, 2009 and 2008, respectively (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
Income (loss) from continuing operations attributable to common shareholders	\$ (322,882)	\$ 9,812	\$ (334,452)	\$ 16,001
Income from discontinued operations attributable to common shareholders		1,678	4,284	14,279
Net income (loss) attributable to common shareholders	<b>\$ (322,882)</b>	\$ 11,490	<b>\$ (330,168)</b>	\$ 30,280





**Table of Contents****11. Impairments and Other Charges**

The following table illustrates impairment and other charges recognized during the three and nine months ended September 30, 2009 and 2008, respectively (in thousands):

	Three Months Ended		Nine Months Ended	
	September 30, 2009	2008	September 30, 2009	2008
Land	\$ 131,975	\$	\$ 136,581	\$
Buildings	70,721		78,087	
Investments in unconsolidated companies	50,687		56,437	
Other real estate related assets	31,785	2,474	32,304	5,273
Impairment charges	285,168	2,474	303,409	5,273
Valuation allowance on deferred tax assets	12,273		12,273	
Impairment and other charges	\$ 297,441	\$ 2,474	\$ 315,682	\$ 5,273

*Impairment of Land and Buildings*

In the third quarter of 2009, we completed a comprehensive review of our undeveloped land and, in so doing, finalized a disposition strategy that identified approximately 1,800 acres of non-strategic undeveloped land that we would likely dispose of rather than develop. We conducted an impairment analysis of our land targeted for disposition, which had a total cost basis of \$385.3 million and, as the result of the refinement of our strategy, a significant portion of the non-strategic land was determined to be impaired. We recognized impairment charges of \$132.0 million to write down the land that was determined to be impaired to fair value. We utilized a market approach to determine fair value and, to the extent current comparable sales values were unavailable, made adjustments to historical comparable sales based on the Company's understanding of current market conditions and the experience of our management team. Actual sales of our undeveloped land targeted for disposition could be at prices that differ significantly from our estimates and additional impairments may be necessary in the future in the event market conditions deteriorate further. Our valuation estimates primarily relied upon Level 3 inputs, as defined earlier in this report.

During the third quarter of 2009, we reviewed our existing portfolio of buildings and determined that several buildings, which had previously not been actively marketed for disposal, were not strategic and would not be held as long-term investments. Additionally, we determined it appropriate to re-evaluate certain other buildings that were in various stages of the disposition process for impairment because new information was available since the end of the previous quarter. An impairment charge of \$70.7 million was recognized for 25 office, industrial and retail buildings that were determined to be impaired, either as the result of a refinement in management's strategy or changes in market conditions. In calculating the impairment charges for the aforementioned 25 buildings we determined fair value using either the income approach or the market approach. The most significant assumptions, when using the income approach, included the discount rate as well as future occupancy levels, rental rates and capital expenditures. Fair value measurements for the buildings that were determined to be impaired relied primarily upon Level 3 inputs, as defined earlier in this report.

## **Table of Contents**

In the three-month period ended June 30, 2009, we recognized \$6.6 million of impairment charges in continuing operations on office and industrial buildings that were sold or are under contract to be sold. We additionally recognized \$4.6 million of impairment charges during the three-month period ended June 30, 2009 on certain parcels of undeveloped land that were sold. The buildings sold during the three-month period ended June 30, 2009 were not included in discontinued operations because of our continuing involvement, either through a noncontrolling equity interest or a property management agreement. The fair value used in determining the impairment charges for the aforementioned buildings and land was primarily based upon our realized, or contractually agreed, exit prices upon sale and, thus, we have determined that the valuations relied primarily upon Level 2 inputs, as defined earlier in this report. These charges were the result of increases in estimated capitalization rates and changes in market conditions that negatively affected values.

### *Impairment of Investments in Unconsolidated Subsidiaries*

We have an investment in an unconsolidated entity (the 3630 Peachtree joint venture ) whose sole activity is the development, operation and ultimate sale of the office component of a multi-use office and residential high-rise building located in the Buckhead sub-market of Atlanta. The building is currently in the final stages of development. As the result of declines in rental rates and projected increases in capital costs, we analyzed our investment during the three-month period ended September 30, 2009 and recognized an impairment charge to write off our \$14.4 million investment, as we determined that an other-than-temporary decline in value had taken place. As the result of the joint venture's obligations to the lender in its construction loan agreement, the likelihood that our partner will be unable to contribute their share of the additional equity to fund the joint venture's future capital costs, and ultimately the obligation stemming from our joint and several guarantee of the joint venture loan, we recorded an additional liability of \$36.3 million, and an equal charge to impairment expense, for our probable future obligations to the lender. The estimates of fair value utilized in determining the aforementioned charges relied primarily on Level 3 inputs, as defined earlier in this report.

Due to credit issues with its most significant tenant, an inability to renew third-party financing on acceptable terms and an increase to its projected capital expenditures, we analyzed an investment in an unconsolidated joint venture (the Park Creek joint venture ) during the three-month period ended June 30, 2009 to determine whether there was an other-than-temporary decline in value. As the result of that analysis, we determined that an other-than-temporary decline in value had taken place and wrote our investment in the Park Creek joint venture down to its fair value, thus recognizing a \$5.8 million impairment charge. We estimated the fair value of the Park Creek joint venture using the income approach and the most significant assumption in the estimate was the expected period of time in which we would hold our investment in the joint venture. We concluded that the estimate of fair value relied primarily upon Level 3 inputs, as defined earlier in this report.

### *Impairments of Other Real Estate Related Assets*

We recognized \$31.8 million of impairment charges on other real estate related assets during the three months ended September 30, 2009. The impairment charges related primarily to reserving loans receivable from other real estate entities as well as writing off previously deferred development costs.

**Table of Contents**

*Deferred Tax Asset Valuation Allowance*

Changes in our development strategy in the third quarter of 2009 also caused us to reduce our projections of taxable income in our taxable REIT subsidiary. As the result of these changes in our projections, we determined it more likely than not that the taxable REIT subsidiary would not generate sufficient taxable income to realize any of its deferred tax assets. Accordingly, we recognized a \$12.3 million charge to income tax expense in order to establish a full valuation allowance against the deferred tax assets. Income taxes, with the exception of this non-recurring charge, are not material to our operating results or financial position.

**12. Subsequent Events**

*Declaration of Dividends*

Our board of directors declared the following dividends at its regularly scheduled board meeting held on October 28, 2009:

Class	Quarterly Amount/Share	Record Date	Payment Date
Common	\$ 0.17	November 13, 2009	November 30, 2009
Preferred (per depository share):			
Series J	\$ 0.414063	November 16, 2009	November 30, 2009
Series K	\$ 0.406250	November 16, 2009	November 30, 2009
Series L	\$ 0.412500	November 16, 2009	November 30, 2009
Series M	\$ 0.434375	December 17, 2009	December 31, 2009
Series N	\$ 0.453125	December 17, 2009	December 31, 2009
Series O	\$ 0.523438	December 17, 2009	December 31, 2009

Subsequent events have been evaluated through the issuance date of these financial statements.

**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations**

**Cautionary Notice Regarding Forward-Looking Statements**

Certain statements contained in or incorporated by reference into this Report, including, without limitation, those related to our future operations, constitute forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. The words believe, estimate, expect, anticipate, intend, plan, seek, similar expressions or statements regarding future periods are intended to identify forward-looking statements.

These forward-looking statements involve known and unknown risks, uncertainties and other important factors that could cause our actual results, performance or achievements, or industry results, to differ materially from any predictions of future results, performance or achievements that we express or imply in this Report. Some of the risks, uncertainties and other important factors that may affect future results include, among others:

Changes in general economic and business conditions, including, without limitation, the impact of the current credit crisis and economic down-turn, which are having and may continue to have a negative effect on the fundamentals of our business, the financial condition of our tenants and our lenders, and the value of our real estate assets;

Our continued qualification as a real estate investment trust, or REIT, for U.S. federal income tax purposes;

Edgar Filing: DUKE REALTY CORP - Form 10-Q

Heightened competition for tenants and potential decreases in property occupancy;

Potential increases in real estate construction costs;

Potential changes in the financial markets and interest rates;

- 19 -

**Table of Contents**

Volatility in our stock price and trading volume;

Our continuing ability to raise funds on favorable terms, if at all, through the issuance of debt and equity in the capital markets, which may negatively affect both our ability to refinance our existing debt as well as our future interest expense;

Our ability to successfully identify, acquire, develop and/or manage properties on terms that are favorable to us;

Our ability to be flexible in the development and operations of joint venture properties;

Our ability to successfully dispose of properties, if at all, on terms that are favorable to us;

Inherent risks in the real estate business including, but not limited to, tenant defaults, potential liability relating to environmental matters and liquidity of real estate investments; and

Other risks and uncertainties described herein, as well as those risks and uncertainties discussed from time to time in our other reports and other public filings with the Securities and Exchange Commission ( SEC ).

Although we presently believe that the plans, expectations and results expressed in or suggested by the forward-looking statements are reasonable, all forward-looking statements are inherently subjective, uncertain and subject to change, as they involve substantial risks and uncertainties beyond our control. New factors emerge from time to time, and it is not possible for us to predict the nature, or assess the potential impact, of each new factor on our business. Given these uncertainties, we caution you not to place undue reliance on these forward-looking statements. We undertake no obligation to update or revise any of our forward-looking statements for events or circumstances that arise after the statement is made, except as otherwise may be required by law.

This list of risks and uncertainties, however, is only a summary of some of the most important factors and is not intended to be exhaustive. Additional information regarding risk factors that may affect us is included under the caption "Risk Factors" in Part II, Item 1A of this Report, and in our Annual Report on Form 10-K for the fiscal year ended December 31, 2008, which we filed with the SEC on February 25, 2009. The risk factors contained in our Annual Report are updated by us from time to time in Quarterly Reports on Form 10-Q and other public filings.

**Business Overview**

We are a self-administered and self-managed REIT that began operations through a related entity in 1972. A more complete description of our business, and of management's philosophy and priorities, is included in our Annual Report on Form 10-K.

As of September 30, 2009, we:

Owned or jointly controlled 766 industrial, office, healthcare and other properties, of which 752 properties with more than 132.9 million square feet are in service and 14 properties with more than 2.9 million square feet are under development. The 752 in-service properties are comprised of 545 consolidated properties with more than 91.3 million square feet and 207 jointly controlled properties with more than 41.6 million square feet. The 14 properties under development consist of 10 consolidated properties with approximately 1.4 million square feet and 4 jointly controlled properties with approximately 1.6 million square feet.

Owned, including through ownership interest in unconsolidated joint ventures, approximately 5,100 acres of land and controlled an additional 1,900 acres through purchase options.



**Table of Contents**

Through our Service Operations reportable segment, which includes our taxable REIT subsidiary, we provide the following services for our properties and for certain properties owned by third parties and joint ventures:

Property leasing;

Property management;

Asset management;

Construction;

Development; and

Other tenant-related services.

Through our Service Operations, we have historically developed or acquired properties with the intent to sell (hereafter referred to as Build-for-Sale properties). Build-for-Sale properties were generally identified as such prior to construction commencement and were sold within a relatively short time after being placed in service. We do not anticipate that Build-for-Sale properties will represent a significant component of our operations in the future.

**Key Performance Indicators**

Our operating results depend primarily upon rental income from our industrial, office, healthcare and retail properties (collectively referred to as Rental Operations ). The following discussion highlights the areas of Rental Operations that we consider critical for future revenues.

**Occupancy Analysis:** Our ability to maintain high occupancy rates is a principal driver of maintaining and increasing rental revenue from continuing operations. The following table sets forth occupancy information regarding our in-service portfolio of consolidated rental properties as of September 30, 2009 and 2008, respectively (in thousands, except percentage data):

Type	Total Square Feet		Percent of Total Square Feet		Percent Occupied	
	2009	2008	2009	2008	2009	2008
<b>Industrial</b>	<b>56,843</b>	56,344	<b>62.3%</b>	62.6%	<b>87.8%</b>	87.2%
<b>Office</b>	<b>31,639</b>	31,972	<b>34.6%</b>	35.5%	<b>85.5%</b>	87.7%
<b>Other (Healthcare and Retail)</b>	<b>2,822</b>	1,679	<b>3.1%</b>	1.9%	<b>84.6%</b>	87.8%
Total	<b>91,304</b>	89,995	<b>100.0%</b>	100.0%	<b>86.9%</b>	87.4%

**Lease Expiration and Renewals:** Our ability to maintain and improve occupancy rates primarily depends upon our continuing ability to re-lease expiring space. The following table reflects our consolidated in-service portfolio lease expiration schedule by property type as of September 30, 2009. The table indicates square footage and annualized net effective rents (based on September 2009 rental revenue) under expiring leases (in thousands, except percentage data):



Edgar Filing: DUKE REALTY CORP - Form 10-Q

Year of Expiration	Total Portfolio			Industrial		Office		Other	
	Square Feet	Ann. Rent Revenue	% of Revenue	Square Feet	Ann. Rent Revenue	Square Feet	Ann. Rent Revenue	Square Feet	Ann. Rent Revenue
Remainder of 2009	1,473	\$ 11,048	2%	798	\$ 2,860	675	\$ 8,188		\$
2010	7,883	56,247	9%	5,052	21,350	2,817	34,672	14	225
2011	9,578	68,753	11%	6,304	26,117	3,193	41,300	81	1,336
2012	8,750	64,775	10%	5,444	22,257	3,231	41,117	75	1,401
2013	10,679	84,149	13%	6,559	26,570	4,039	56,194	81	1,385
2014	8,541	60,913	10%	5,712	22,533	2,668	35,589	161	2,791
2015	7,737	48,458	8%	5,870	23,255	1,854	24,941	13	262
2016	5,859	37,055	6%	4,207	14,623	1,413	19,070	239	3,362
2017	4,983	41,031	7%	3,037	12,532	1,502	20,821	444	7,678
2018	3,253	40,974	6%	1,281	6,476	1,388	20,548	584	13,950
2019 and Thereafter	10,600	117,229	18%	5,649	28,076	4,256	73,450	695	15,703
Total Leased	79,336	\$ 630,632	100%	49,913	\$ 206,649	27,036	\$ 375,890	2,387	\$ 48,093
Total Portfolio Square Feet	91,304			56,843		31,639		2,822	
Percent Occupied	86.9%			87.8%		85.5%		84.6%	

**Table of Contents**

Within our consolidated properties, we renewed 86.0% and 81.9% of our leases up for renewal in the three and nine months ended September 30, 2009, totaling approximately 3.2 million and 6.3 million square feet, respectively. This compares to renewals of 70.3% and 73.3% for the three and nine months ended September 30, 2008, which totaled approximately 1.5 million and 3.9 million square feet, respectively. There was a 0.8% decline and 1.5% growth, respectively, in average contractual rents on the renewals in the three and nine months ended September 30, 2009.

The average term of renewals for the three and nine months ended September 30, 2009 was 5.1 and 4.9 years, respectively, compared to an average term of 4.2 and 3.6 years for the three and nine months ended September 30, 2008, respectively.

***Recent and Future Development:***

We had 2.9 million square feet of property under development with total estimated costs upon completion of \$722.2 million at September 30, 2009 compared to 7.0 million square feet with total costs of \$832.1 million at September 30, 2008. The square footage and estimated costs include both consolidated and joint venture development activity at 100%. Considering the continued downturn in the economy, we have substantially reduced our level of development activities and are focused on the lease-up of recent projects.

The following table summarizes our properties under development as of September 30, 2009 (in thousands, except percentage data):

Ownership Type	Square Feet	Percent Leased	Total Estimated Project Costs	Total Incurred to Date	Amount Remaining to be Spent
Consolidated properties	1,365	92%	\$ 223,627	\$ 152,530	\$ 71,097
Joint venture properties	1,576	47%	498,528	264,224	234,304(1)
<b>Total</b>	<b>2,941</b>	<b>68%</b>	<b>\$ 722,155</b>	<b>\$ 416,754</b>	<b>\$ 305,401</b>

(1) These costs will be primarily financed by remaining availability under in-place construction loan facilities.

**Acquisition and Disposition Activity:** Gross sales proceeds related to the dispositions of wholly owned undeveloped land and held-for-rental properties were \$116.1 million and \$95.2 million for the nine months ended September 30, 2009 and 2008, respectively.

Gross sales proceeds related to dispositions of wholly-owned Build-for-Sale properties were \$33.0 million and \$222.8 million for the nine months ended September 30, 2009 and 2008, respectively.

Our share of proceeds from sales of properties within unconsolidated joint ventures, in which we have less than a 100% interest, totaled \$35.1 million for the nine months ended September 30, 2008. We had no such dispositions in the same period in 2009.

For the nine months ended September 30, 2009, we acquired \$17.0 million of income producing properties comprised of two industrial real estate properties in Savannah, Georgia, compared to acquisitions of \$60.5 million of income producing properties in the same market during the same period in 2008. We also acquired \$6.2 million of undeveloped land in the nine months ended September 30, 2009, compared to \$37.4 million in the same period in 2008.

**Table of Contents****Funds From Operations**

Funds From Operations ( FFO ) is used by industry analysts and investors as a supplemental operating performance measure of a REIT. FFO is calculated in accordance with the definition that was adopted by the Board of Governors of the National Association of Real Estate Investment Trusts ( NAREIT ). NAREIT created FFO as a supplemental measure of REIT operating performance that excludes historical cost depreciation, among other items, from net income determined in accordance with accounting principles generally accepted in the United States of America ( GAAP ). FFO is a non-GAAP financial measure. The most comparable GAAP measure is net income (loss) attributable to common shareholders. FFO attributable to common shareholders should not be considered as a substitute for net income or any other measures derived in accordance with GAAP and may not be comparable to other similarly titled measures of other companies.

Historical cost accounting for real estate assets in accordance with GAAP implicitly assumes that the value of real estate assets diminishes predictably over time. Since real estate values instead have historically risen or fallen with market conditions, many industry analysts and investors have considered presentation of operating results for real estate companies that use historical cost accounting to be insufficient by themselves. FFO, as defined by NAREIT, represents GAAP net income (loss), excluding extraordinary items as defined under GAAP and gains or losses from sales of previously depreciated real estate assets, plus certain non-cash items such as real estate depreciation and amortization, and after similar adjustments for unconsolidated partnerships and joint ventures.

Management believes that the use of FFO attributable to common shareholders, combined with net income (which remains the primary measure of performance), improves the understanding of operating results of REITs among the investing public and makes comparisons of REIT operating results more meaningful. Management believes that, by excluding gains or losses related to sales of previously depreciated real estate assets and excluding real estate asset depreciation and amortization, investors and analysts are able to readily identify the operating results of the long-term assets that form the core of a REIT's activity and assist in comparing these operating results between periods or as compared to different companies.

The following table shows a reconciliation of net income (loss) attributable to common shareholders to the calculation of FFO for the three and nine months ended September 30, 2009 and 2008, respectively (in thousands):

	Three Months Ended		Nine Months Ended	
	September 30, 2009	2008	September 30, 2009	2008
Net income (loss) attributable to common shareholders	\$ (322,882)	\$ 11,490	\$ (330,168)	\$ 30,280
Adjustments:				
Depreciation and amortization	87,647	75,260	254,673	230,956
Company share of joint venture depreciation and amortization	8,543	14,450	28,013	28,769
Earnings from depreciable property sales wholly owned		(1,299)	(5,168)	(11,940)
Earnings from depreciable property sales share of joint venture				(495)
Noncontrolling interest share of adjustments	(2,771)	(4,363)	(9,302)	(12,351)
<b>Funds From Operations attributable to common shareholders</b>	<b>\$ (229,463)</b>	<b>\$ 95,538</b>	<b>\$ (61,952)</b>	<b>\$ 265,219</b>

**Table of Contents****Results of Operations**

A summary of our operating results and property statistics for the three and nine months ended September 30, 2009 and 2008, respectively, is as follows (in thousands, except number of properties and per share data):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
Rental and related revenue	\$ 224,013	\$ 215,264	\$ 669,713	\$ 638,512
General contractor and service fee revenue	100,880	93,316	335,412	271,847
Operating income (loss)	(235,650)	74,804	(148,100)	209,726
Net income (loss) attributable to common shareholders	(322,882)	11,490	(330,168)	30,280
Weighted average common shares outstanding	223,952	146,966	193,520	146,680
Weighted average common shares and potential dilutive securities	223,952	154,836	193,520	154,623
Basic income (loss) per common share:				
Continuing operations	\$ (1.44)	\$ .07	\$ (1.73)	\$ .10
Discontinued operations	\$	\$ .01	\$ .02	\$ .10
Diluted income (loss) per common share:				
Continuing operations	\$ (1.44)	\$ .07	\$ (1.73)	\$ .10
Discontinued operations	\$	\$ .01	\$ .02	\$ .10
Number of in-service consolidated properties at end of period	545	538	545	538
In-service consolidated square footage at end of period	91,304	89,995	91,304	89,995
Number of in-service joint venture properties at end of period	207	202	207	202
In-service joint venture square footage at end of period	41,637	38,315	41,637	38,315

**Comparison of Three Months Ended September 30, 2009 to Three Months Ended September 30, 2008****Rental and Related Revenue**

Overall, rental and related revenue from continuing operations increased from \$215.3 million for the quarter ended September 30, 2008 to \$224.0 million for the same period in 2009. The following table sets forth rental and related revenue from continuing operations by reportable segment for the three months ended September 30, 2009 and 2008, respectively (in thousands):

	2009	2008
Rental and Related Revenue:		
Office	\$ 142,259	\$ 140,237
Industrial	63,837	62,856
Non-reportable segments	17,917	12,171
Total	\$ 224,013	\$ 215,264

The following factors contributed to these results:

We acquired or consolidated nine properties and placed 47 developments in service from January 1, 2008 to September 30, 2009 that provided incremental revenues of \$13.4 million in the third quarter of 2009, as compared to the same period in 2008.

The incremental revenues described above were partially offset by a slight decrease in occupancy in our existing base of properties.



**Table of Contents****Rental Expenses and Real Estate Taxes**

The following table sets forth rental expenses and real estate taxes by reportable segment for the three months ended September 30, 2009 and 2008, respectively (in thousands):

	2009	2008
<b>Rental Expenses:</b>		
Office	<b>\$ 38,682</b>	\$ 38,163
Industrial	<b>6,061</b>	5,988
Non-reportable segments	<b>5,178</b>	3,894
<b>Total</b>	<b>\$ 49,921</b>	\$ 48,045
<b>Real Estate Taxes:</b>		
Office	<b>\$ 19,331</b>	\$ 17,426
Industrial	<b>9,015</b>	7,585
Non-reportable segments	<b>1,750</b>	739
<b>Total</b>	<b>\$ 30,096</b>	\$ 25,750

Overall, rental expenses increased by \$1.9 million in the third quarter of 2009, compared to the same period in 2008. The increase was primarily driven by \$3.0 million of incremental costs associated with properties acquired or consolidated and developments placed in service from January 1, 2008 to September 30, 2009.

Of the overall \$4.3 million increase in real estate taxes in the third quarter of 2009, compared to the same period in 2008, \$2.4 million was attributable to properties acquired or consolidated and developments placed in service from January 1, 2008 to September 30, 2009. The remaining increase was driven by increases in taxes on our existing properties.

**Service Operations**

The following table sets forth the components of the Service Operations reportable segment for the three months ended September 30, 2009 and 2008, respectively (in thousands):

	2009	2008
<b>Service Operations:</b>		
General contractor and service fee revenue	<b>\$ 100,880</b>	\$ 93,316
General contractor and Service Operations expenses	<b>(96,241)</b>	(96,155)
Gain on disposition of Build-for-Sale properties, pre-tax		20,338
<b>Total</b>	<b>\$ 4,639</b>	\$ 17,499

Service Operations primarily consist of the leasing, management, development, construction management and general contractor services for joint venture properties and properties owned by third parties. In previous years, sales of Build-for-Sale properties comprised a significant portion of Service Operations. Service Operations are heavily influenced by the current state of the economy, as leasing and property management fees are dependent upon occupancy while construction and development services rely on the expansion of business operations of third-party property owners and joint venture partners. Earnings from Service Operations decreased from \$17.5 million for the three months ended September 30, 2008 to \$4.6 million for the three months ended September 30, 2009. The decrease was primarily a result of gains on the sale of seven properties totaling \$20.3 million for the three months ended September 30, 2008 compared to no such sales in the same period in 2009. This was somewhat offset by general contractor expenses being higher than usual in the third quarter of 2008 as a result of increases in our total cost estimates for two third-party fixed price construction contracts, which reduced the margins on the contracts.



## Table of Contents

### Depreciation and Amortization

Depreciation and amortization expense increased from \$74.2 million during the third quarter of 2008 to \$87.6 million for the same period in 2009 primarily due to increases in our held-for-rental asset base from properties acquired, consolidated or placed in service during 2008 and 2009. Also contributing to the increase was a \$3.0 million increase in the amortization of lease commissions and tenant improvements in the third quarter of 2009 compared to the third quarter of 2008 as a result of lease terminations.

### Equity in Earnings of Unconsolidated Companies

Equity in earnings represents our ownership share of net income from investments in unconsolidated companies that generally own and operate rental properties and develop properties for sale. These earnings increased from \$204,000 in the three months ended September 30, 2008 to \$2.4 million for the same period in 2009. This increase was primarily a result of consolidating two of our retail joint ventures in April 2009 where our share of the equity in earnings was a loss of \$5.6 million in the third quarter of 2008 due to additional depreciation expense recognized when the two underlying properties were removed from held-for-sale classification. The increase was partially offset by our \$2.1 million share of the gain on sale of a property from an unconsolidated entity in the third quarter of 2008, while there were no such sales in the same period in 2009. The increase resulting from the consolidation of the retail joint ventures was also partially offset by a decreased share of operating income within certain of our joint ventures, which is primarily the result of a decrease in occupancy in the underlying rental properties.

### Impairment Charges

Impairment charges classified in continuing operations include the impairment of undeveloped land and buildings, investments in unconsolidated subsidiaries and other real estate related assets. The increase from \$2.5 million in the third quarter of 2008 to \$285.2 million in the third quarter of 2009 is primarily due to the following activity:

In the third quarter of 2009, we completed a comprehensive review of our undeveloped land and, in so doing, finalized a disposition strategy that identified approximately 1,800 acres of non-strategic undeveloped land that we would likely dispose rather than develop. As the result of the change in strategy, we recognized an impairment charge of \$132.0 million to adjust the portion of the undeveloped land targeted for disposition, which was determined to be impaired, to its fair value.

An impairment charge of \$70.7 million was recognized for 25 office, industrial and retail buildings. An impairment analysis of certain of our buildings was triggered either as the result of a change in management's strategy or changes in market conditions.

As the result of declines in rental rates and projected increases in capital costs, we analyzed our investment in an unconsolidated joint venture (the 3630 Peachtree joint venture) whose sole activity is the development, operation and ultimate sale of the office portion of a multi-use high-rise property in the Buckhead sub-market of Atlanta, Georgia. We determined, as the result of this analysis, that it was probable that we would not recover our investment. We recognized an impairment charge to write off our \$14.4 million investment in the 3630 Peachtree joint venture as the result of the other-than-temporary decline in value. As the result of the joint venture's obligations to the lender in its construction loan agreement, the likelihood that our partner will be unable to contribute their share of the additional equity to fund the joint venture's future capital costs, and ultimately from our obligations stemming from our joint and several guarantee of the joint venture's loan, we recorded an additional liability of \$36.3 million for our probable future obligation to the lender.



## Table of Contents

We recognized \$31.8 million of impairment charges on other real estate related assets during the third quarter of 2009 compared to \$2.5 million of charges in the third quarter of 2008. The impairment charges in 2009 related primarily to reserving loans receivable from other real estate entities as well as writing off previously deferred development costs.

### General and Administrative Expense

General and administrative expenses increased from \$10.4 million for the three months ended September 30, 2008 to \$11.2 million for the same period in 2009. General and administrative expenses consist of two components. The first component includes general corporate expenses and the second component includes the indirect operating costs not allocated to the development or operation of our owned properties and Service Operations. Those indirect costs not allocated to these operations are charged to general and administrative expenses. We reduced our total overhead costs by \$7.8 million to compensate for a reduction in the volume of leasing and construction activity. However, the absorption of actual overhead costs by an allocation to leasing, construction and other areas decreased by \$8.6 million, which, when netted with the \$7.8 million savings, resulted in the increase in general and administrative expenses.

### Interest Expense

Interest expense increased from \$50.1 million in the third quarter of 2008 to \$57.7 million in the third quarter of 2009, primarily as a result of a \$7.3 million decrease in capitalization of interest costs due to less development activity in 2009.

There was an increase of \$4.6 million in interest costs on secured debt, largely driven by the \$156.0 million secured financings that we completed in February and March 2009 and the \$114.0 million secured debt financed in July 2009. Partially offsetting the increased interest costs on secured debt was a \$4.1 million decrease in interest costs on the Duke Realty Limited Partnership ( DRLP ) unsecured line of credit that was a result of repaying all outstanding borrowings during the third quarter of 2009.

Interest costs on our unsecured debt remained fairly consistent between the third quarter of 2008 and the third quarter of 2009. Although our two \$250.0 million unsecured debt offerings in August 2009 resulted in an increase in interest costs, we reduced the interest costs on our unsecured debt maturing in the next two years by repurchasing certain of our outstanding series of unsecured notes.

### Gain (Loss) on Debt Transactions

During the third quarter of 2009, we repurchased certain of our outstanding series of unsecured notes scheduled to mature in 2009 through 2011. The majority of our debt repurchases during this period consisted of our 3.75% Exchangeable Senior Notes (the Exchangeable Notes ). In total, we paid \$350.9 million for unsecured notes that had a face value of \$351.9 million, recognizing a net loss on extinguishment of approximately \$7.1 million after considering the write-off of unamortized deferred financing costs and discounts. In addition to these losses, we recognized \$6.6 million of expense in the third quarter of 2009 for the write-off of fees paid for a pending secured financing that was cancelled in the third quarter of 2009.

**Table of Contents****Income Taxes**

We recognized an income tax expense of \$7.9 million and an income tax benefit of \$4.2 million, respectively, for the three months ended September 30, 2009 and 2008. We recorded a full valuation allowance in the amount of \$12.3 million against our deferred tax assets as of September 30, 2009. The valuation allowance was recorded as the result of changes to our projections for future taxable income within our taxable REIT subsidiary. A revision in strategy during the three-month period ended September 30, 2009, whereby we determined that we would indefinitely discontinue the development of Build-to-Suit properties, necessitated the revision of our taxable income projections.

**Discontinued Operations**

The results of operations for properties sold during the year to unrelated parties or classified as held-for-sale at the end of the period are required to be classified as discontinued operations. The property specific components of earnings that are classified as discontinued operations include rental revenues, rental expenses, real estate taxes, allocated interest expense and depreciation expense, as well as the net gain or loss on the disposition of properties.

The operations of eleven buildings are classified as discontinued operations for the three months ended September 30, 2009 and September 30, 2008. These eleven buildings consist of four industrial and seven office properties. As a result, we classified income, before gain on sales, of \$466,000 in discontinued operations for the three months ended September 30, 2008.

Of these properties, two were sold during the third quarter of 2008. The \$1.3 million gain on disposal of these properties for the three months ended September 30, 2008 is also reported in discontinued operations.

**Comparison of Nine Months Ended September 30, 2009 to Nine Months Ended September 30, 2008****Rental and Related Revenue**

Overall, rental and related revenue from continuing operations increased from \$638.5 million for the nine months ended September 30, 2008 to \$669.7 million for the same period in 2009. The following table reconciles rental and related revenue from continuing operations by reportable segment to our total reported rental and related revenue from continuing operations for the nine months ended September 30, 2009 and 2008, respectively (in thousands):

	2009	2008
Rental and Related Revenue:		
Office	\$ 427,662	\$ 416,713
Industrial	194,636	184,691
Non-reportable segments	47,415	37,108
<b>Total</b>	<b>\$ 669,713</b>	<b>\$ 638,512</b>

The following factors contributed to these results:

We acquired or consolidated nine properties and placed 47 developments in service from January 1, 2008 to September 30, 2009 that provided incremental revenues of \$41.7 million for the first nine months of 2009, as compared to the same period in 2008.

We contributed four properties to an unconsolidated joint venture in 2008, resulting in a \$2.2 million reduction in revenues for the nine months ended September 30, 2009. Of these properties, one was contributed in June 2008 and three were contributed in September 2008.



**Table of Contents**

The increase in rental revenues from acquired, consolidated or developed properties was also offset by an increase in our reserves for doubtful receivables as a result of the economic conditions during the first half of 2009.

**Rental Expenses and Real Estate Taxes**

The following table reconciles rental expenses and real estate taxes by reportable segment to our total reported amounts in the statement of operations for the nine months ended September 30, 2009 and 2008, respectively (in thousands):

	2009	2008
<b>Rental Expenses:</b>		
Office	<b>\$ 118,909</b>	\$ 113,439
Industrial	<b>20,562</b>	20,416
Non-reportable segments	<b>13,610</b>	9,343
<b>Total</b>	<b>\$ 153,081</b>	\$ 143,198
<b>Real Estate Taxes:</b>		
Office	<b>\$ 58,064</b>	\$ 51,702
Industrial	<b>26,951</b>	22,804
Non-reportable segments	<b>4,166</b>	2,506
<b>Total</b>	<b>\$ 89,181</b>	\$ 77,012

Of the overall \$9.9 million increase in rental expenses in the first nine months of 2009, compared to the same period in 2008, \$8.1 million was attributable to properties acquired or consolidated and developments placed in service from January 1, 2008 to September 30, 2009.

Of the overall \$12.2 million increase in real estate taxes in the first nine months of 2009, compared to the same period in 2008, \$5.6 million was attributable to properties acquired or consolidated and developments placed in service from January 1, 2008 to September 30, 2009. The remaining increase in real estate taxes was driven by tax increases in our existing base of properties throughout our different markets.

**Service Operations**

The following table sets forth the components of the Service Operations reportable segment for the nine months ended September 30, 2009 and 2008, respectively (in thousands):

	2009	2008
<b>Service Operations:</b>		
General contractor and service fee revenue	<b>\$ 335,412</b>	\$ 271,847
General contractor and Service Operations expenses	<b>(319,352)</b>	(266,878)
Gain on disposition of Build-for-Sale properties, pre-tax		26,657
<b>Total</b>	<b>\$ 16,060</b>	\$ 31,626

Earnings from Service Operations decreased from \$31.6 million for the nine months ended September 30, 2008 to \$16.1 million for the nine months ended September 30, 2009. The decrease was primarily due to gains on the sale of nine properties totaling \$26.7 million net of tax for the nine months ended September 30, 2008 compared to no net gain on sale of three Build-for-Sale properties in the same period in 2009. This decrease was somewhat offset by general contractor expenses being higher than usual in the first nine months of 2008 as a result of increases in our total cost estimates for two third-party fixed price construction contracts, which reduced the margins on the contracts.

## Table of Contents

### Depreciation and Amortization

Depreciation and amortization expense increased from \$225.4 million for the first nine months of 2008 to \$254.3 million for the same period in 2009 primarily due to increases in our held-for-rental asset base from properties acquired or consolidated and developments placed in service during 2008 and 2009.

### Equity in Earnings of Unconsolidated Companies

Equity in earnings decreased from \$17.2 million in the nine months ended September 30, 2008 to \$7.4 million for the same period in 2009. The decrease was primarily a result of our share of the gain on sale of four properties from unconsolidated subsidiaries in the first nine months of 2008 totaling \$7.0 million, compared to no such sales in the same period in 2009. This was partially offset by an increase resulting from consolidating two of our retail joint ventures in April 2009. Our share of the equity in earnings for those joint ventures was a loss of \$3.4 million in the nine months ended September 30, 2008 due to additional depreciation expense recognized in 2008, when two of the ventures' properties were removed from held-for-sale classification. The remaining decrease in equity in earnings is primarily due to a decreased share of operating income within certain of our joint ventures, resulting from a decrease in occupancy in the rental properties within those joint ventures.

### Impairment Charges

Impairment charges classified in continuing operations include the impairment of undeveloped land and buildings, investments in unconsolidated subsidiaries and other real estate related assets. The increase from \$5.3 million in the nine months ended September 30, 2008 to \$302.6 million in the third quarter of 2009 is primarily due to the following activity:

In the third quarter of 2009, we completed a comprehensive review of our undeveloped land and, in so doing, finalized a disposition strategy that identified approximately 1,800 acres of non-strategic undeveloped land that we would likely dispose rather than develop. As the result of the change in strategy, we recognized an impairment charge of \$132.0 million to adjust the portion of the undeveloped land targeted for disposition, which was determined to be impaired, to its fair value.

An impairment charge of \$70.7 million was recognized in the third quarter of 2009 for 25 office, industrial and retail buildings. An impairment analysis of certain of our buildings was triggered either as the result of a change in management's strategy or changes in market conditions.

We recognized \$4.6 million of impairment charges in the second quarter of 2009 on certain parcels of undeveloped land that were either sold in the second quarter of 2009 or identified as sales probable to close shortly thereafter.

We recognized \$6.6 million of impairment charges in continuing operations in the second quarter of 2009 on five office and industrial buildings, four of which were sold in the second quarter of 2009 and one that we intend to contribute to an unconsolidated joint venture later in 2009.

## Table of Contents

We recognized an impairment charge in the third quarter of 2009 to write off our \$14.4 million investment in the 3630 Peachtree joint venture as the result of the other-than-temporary decline in value. As the result of the joint venture's obligations to the lender in its construction loan agreement, the likelihood that our partner will be unable to contribute their share of the additional equity to fund the joint venture's future capital costs, and ultimately from our obligations stemming from our joint and several guarantee of the joint venture's loan, we recorded an additional liability of \$36.3 million for our probable future obligation to the lender.

In June 2009, we recognized a \$5.8 million charge on our investment in an unconsolidated joint venture (the Park Creek joint venture).

We recognized \$32.3 million of impairment charges on other real estate related assets during the nine months ended September 30, 2009 compared to \$5.3 million of charges in the nine months ended September 30, 2008. The impairment charges in 2009 related primarily to reserving loans receivable from other real estate entities as well as writing off previously deferred development costs.

### General and Administrative Expense

General and administrative expenses increased from \$29.5 million for the nine months ended September 30, 2008 to \$34.7 million for the same period in 2009. The increase in general and administrative expenses from the nine months ended September 30, 2008 is primarily the result of a \$2.4 million increase in severance pay. Other than this unusual expense item, we reduced our total overhead costs by \$21.2 million to compensate for an anticipated reduction in the volume of leasing and construction activity. However, the absorption of actual overhead costs by an allocation to leasing, construction and other areas decreased by \$24.1 million, which, when netted with the \$21.2 million reduction in costs, resulted in the remaining increase in general and administrative expenses.

### Interest Expense

Interest expense increased from \$146.0 million for the nine months ended September 30, 2008 to \$161.7 million for the same period in 2009, primarily as a result of a \$21.5 million decrease in capitalization of interest costs, due to less development activity in 2009, and a higher weighted average interest rate on our outstanding borrowings. There was an increase of \$8.5 million in interest costs on secured debt, largely driven by the \$156.0 million secured financings that we had in February and March 2009 and the \$114.0 million secured debt financed in July 2009.

The aforementioned increases to interest expense were partially offset by a \$12.4 million decrease in interest costs on the DRLP unsecured line of credit that resulted from decreases in the LIBOR index as well as repaying the outstanding borrowings on the line of credit.

Interest costs on our unsecured debt remained fairly consistent between the first nine months of 2008 and the same period in 2009. Although our two \$250.0 million unsecured debt offerings in August 2009 resulted in an increase in interest costs, we reduced the interest costs on our debt maturing in the next two years by repurchasing certain of our outstanding series of unsecured notes.

## **Table of Contents**

### **Gain (Loss) on Debt Transactions**

During the first nine months of 2009, we repurchased certain of our outstanding series of unsecured notes scheduled to mature in 2009 through 2011. The majority of our debt repurchases during this period consisted of our Exchangeable Notes. In total, we paid \$500.9 million for unsecured notes that had a face value of \$542.9 million, recognizing a net gain on extinguishment of approximately \$27.5 million after considering the write-off of unamortized deferred financing costs and discounts. Partially offsetting these gains, we recognized \$6.6 million of expense in the nine months ended September 30, 2009 for the write-off of fees paid for a pending secured financing that we cancelled in the third quarter of 2009.

### **Income Taxes**

We recognized an income tax expense of \$2.1 million and an income tax benefit of \$4.9 million, respectively, for the nine months ended September 30, 2009 and 2008. We recorded a full valuation allowance in the amount of \$12.3 million against our deferred tax assets as of September 30, 2009. The valuation allowance was recorded as the result of changes to our projections for future taxable income within our taxable REIT subsidiary. A revision in strategy during the three-month period ended September 30, 2009, whereby we determined that we would indefinitely discontinue the development of Build-to-Suit properties, necessitated the revision of our taxable income projections.

### **Discontinued Operations**

The operations of eleven buildings are currently classified as discontinued operations for the nine months ended September 30, 2009 and September 30, 2008. These eleven buildings consist of four industrial and seven office properties. As a result, we classified income, before impairment charges and gain on sales, of \$36,000 and \$3.1 million in discontinued operations for the nine months ended September 30, 2009 and 2008, respectively.

Of these properties, three were sold during the first nine months of 2009 and seven were sold during the first nine months of 2008. The gains on disposal of these properties of \$5.2 million and \$11.9 million for the nine months ended September 30, 2009 and 2008, respectively, are also reported in discontinued operations, as well as an impairment charge of \$772,000 recognized on one of the three properties sold in the first nine months of 2009.

## **Liquidity and Capital Resources**

### **Sources of Liquidity**

We expect to meet our short-term liquidity requirements over the next twelve months, including payments of dividends and distributions, as well as the recurring capital expenditures needed to maintain our current real estate assets, primarily through working capital, net cash provided by operating activities and proceeds received from real estate dispositions.

We expect to meet long-term liquidity requirements, such as scheduled mortgage and unsecured debt maturities, property acquisitions, financing of development activities and other non-recurring capital improvements, through multiple sources of capital including accessing the public debt and equity markets.

We are constantly monitoring the state of the capital markets and actively managing our capital needs, such as development expenditures and commitments. We have substantially reduced our level of new development activity and are focused on the completion and lease-up of under construction and recently completed projects.

## **Table of Contents**

### **Rental Operations**

We believe our principal source of liquidity, cash flows from Rental Operations, provides a stable source of cash to fund operational expenses. We believe that this cash-based revenue stream is substantially aligned with revenue recognition (except for periodic straight-line rental income accruals and amortization of above or below market rents) as cash receipts from the leasing of rental properties are generally received in advance of or a short time following the actual revenue recognition.

We are subject to a number of risks as a result of the current economic downturn, including reduced occupancy, tenant defaults and bankruptcies, and potential reduction in rental rates upon renewal or re-letting of properties, each of which would result in reduced cash flow from operations. These risks may be heightened as a result of the current economic conditions. In the first nine months of 2009, we recognized \$7.3 million of expense related to reserving doubtful receivables, including reserves on straight-line rent, compared to \$2.4 million in the first nine months of 2008.

### **Unsecured Debt and Equity Securities**

We have historically used the DRLP unsecured line of credit to fund development activities, acquire additional rental properties and provide working capital.

The indentures (and related supplemental indentures) governing our outstanding series of unsecured notes require us to comply with financial ratios and other covenants regarding our operations. We were in compliance with all such covenants, as well as applicable covenants under our unsecured line of credit, as of September 30, 2009.

On July 31, 2009, we filed with the SEC an automatic shelf registration statement on Form S-3, relating to the offer and sale, from time to time, of an indeterminate amount of DRLP's debt securities (including guarantees thereof) and the Company's common shares, preferred shares, depository shares, warrants, stock purchase contracts and units comprised of one or more of these securities. From time to time, we expect to issue additional securities under this automatic shelf registration statement to fund the repayment of DRLP's unsecured line of credit and other long-term debt upon maturity.

In April 2009, we received \$551.9 million of net proceeds from the issuance of approximately 72.5 million shares of common stock. The net proceeds from the offering were used to repay outstanding borrowings under the DRLP \$1.3 billion unsecured revolving line of credit as well as for general corporate purposes.

In August 2009 we issued \$500.0 million of unsecured notes in two equal tranches. \$250.0 million of the unsecured notes mature in February 2015 and bear interest at an effective rate of 7.50% while the other \$250.0 million of the notes mature in August 2019 and bear interest at an effective rate of 8.38%.



## **Table of Contents**

### **Sale of Real Estate Assets**

We pursue opportunities to sell non-strategic real estate assets in order to generate additional liquidity. Our ability to dispose of such properties is dependent on the availability of credit to potential buyers. In light of recent market and economic conditions, including, without limitation, the availability and cost of credit, the U.S. mortgage market, and declining equity and real estate markets, we may be unable to dispose of such properties quickly, if at all, or on favorable terms.

### **Transactions with Unconsolidated Entities**

Transactions with unconsolidated partnerships and joint ventures also provide a source of liquidity. From time to time we will sell properties to an unconsolidated entity, while retaining a continuing interest in that entity, and receive proceeds commensurate to the interest that we do not own. Additionally, unconsolidated entities will from time to time obtain debt financing and will distribute to us, and our partners, all or a portion of the proceeds.

We have a 20% equity interest in an unconsolidated joint venture that will acquire up to \$800.0 million of our newly developed build-to-suit projects over a three-year period from its formation in May 2008. Properties are sold to the joint venture upon completion, lease commencement and satisfaction of other customary conditions. We received net proceeds of approximately \$251.6 million, during the year ended December 31, 2008, related to the joint venture's acquisition of seven of our properties. During the nine months ended September 30, 2009, the joint venture acquired three additional properties from us and we received net proceeds, commensurate to our partner's ownership interest, of approximately \$31.9 million. We expect to receive net proceeds of approximately \$51.0 million, during the three months ended December 31, 2009, related to the sale of two additional properties to the joint venture.

### **Uses of Liquidity**

Our principal uses of liquidity include the following:

property investment;

recurring leasing/capital costs;

dividends and distributions to shareholders and unitholders;

long-term debt maturities;

opportunistic repurchases of outstanding debt; and

other contractual obligations.

### **Property Investment**

We evaluate development and acquisition opportunities based upon market outlook, supply and long-term growth potential. Our ability to make future property investments is dependent upon our continued access to our longer-term sources of liquidity including the issuances of debt or equity securities as well as disposing of selected properties. In light of current economic conditions, management continues to evaluate our investment priorities and to limit new development expenditures.

### **Recurring Expenditures**

## Edgar Filing: DUKE REALTY CORP - Form 10-Q

One of the principal uses of our liquidity is to fund the recurring leasing/capital expenditures of our real estate investments. The following is a summary of our recurring capital expenditures for the nine months ended September 30, 2009 and 2008, respectively (in thousands):

	2009	2008
Recurring tenant improvements	\$ 22,124	\$ 28,075
Recurring leasing costs	28,968	18,934
Building improvements	4,884	5,387
Totals	\$ 55,976	\$ 52,396

- 34 -

**Table of Contents****Dividend and Distribution Requirements**

We are required to meet the distribution requirements of the Internal Revenue Code of 1986, as amended (the Code), in order to maintain our REIT status. Because depreciation and impairments are non-cash expenses, cash flow will typically be greater than operating income. We paid distributions of \$0.25 per common share in the first quarter of 2009 and \$0.17 per common share, after considering the additional issuance of equity in April 2009, in the second and third quarters of 2009. Our board of directors declared dividends of \$0.17 per share for the fourth quarter of 2009. Our future distributions will be declared at the discretion of our board of directors and will be subject to our future capital needs and availability.

At September 30, 2009, we had six series of preferred stock outstanding. The annual dividend rates on our preferred shares range between 6.5% and 8.375% and are paid in arrears quarterly.

**Debt Maturities**

Debt outstanding at September 30, 2009 had a face value totaling \$3.9 billion with a weighted average interest rate of 6.39% and matures at various dates through 2028. We had \$3.1 billion of unsecured debt, \$15.3 million outstanding on a consolidated subsidiary's unsecured line of credit and \$782.2 million of secured debt outstanding at September 30, 2009. Scheduled principal amortization, repurchases and maturities of such debt totaled \$665.2 million for the nine months ended September 30, 2009.

The following is a summary of the scheduled future amortization and maturities of our indebtedness at September 30, 2009 (in thousands, except percentage data):

Year	Scheduled Amortization	Future Repayments		Weighted Average Interest Rate of Future Repayments
		Maturities (1)	Total	
Remainder of 2009	\$ 2,565	\$ 82,141	\$ 84,706	7.83%
2010	11,456	99,849	111,305	5.49%
2011	11,621	611,013	622,634	5.30%
2012	9,767	208,055	217,822	5.86%
2013	9,819	475,000	484,819	6.49%
2014	10,113	272,112	282,225	6.44%
2015	8,785	250,000	258,785	7.46%
2016	7,994	490,900	498,894	6.16%
2017	6,508	469,324	475,832	5.94%
2018	4,671	300,000	304,671	6.08%
2019	3,463	518,438	521,901	7.98%
Thereafter	24,439	50,000	74,439	6.76%
	\$ 111,201	\$ 3,826,832	\$ 3,938,033	6.39%

(1) There is no balance outstanding on the DRLP unsecured line of credit at September 30, 2009. This line of credit may be extended to 2011 at our option.

We anticipate generating capital to fund our debt maturities by using undistributed cash generated from rental operations and property dispositions, as well as by raising additional capital from future debt or equity transactions.

**Repurchases of Outstanding Debt**

During the first nine months of 2009, through a cash tender offer as well as open market transactions, we paid \$500.9 million to repurchase outstanding unsecured notes with a face value of \$542.9 million. We expect to use the \$155.9 million of cash we have on hand at September 30, 2009 to repay unsecured notes maturing in 2009 and 2010.



**Table of Contents****Historical Cash Flows**

Cash and cash equivalents were \$155.9 million and \$3.5 million at September 30, 2009 and 2008, respectively. The following highlights significant changes in net cash associated with our operating, investing and financing activities (in millions):

	<b>Nine Months Ended September 30,</b>	
	<b>2009</b>	<b>2008</b>
Net Cash Provided by Operating Activities	<b>\$ 303.8</b>	\$ 329.3
Net Cash (Used for) Investing Activities	<b>\$ (219.4)</b>	\$ (428.7)
Net Cash Provided by Financing Activities	<b>\$ 49.0</b>	\$ 54.9

**Operating Activities**

The receipt of rental income from Rental Operations continues to be our primary source of operating cash flows. In addition, we have historically developed Build-for-Sale properties with the intent to sell them at or soon after completion. We have ceased new Build-for-Sale development activity to focus on completion of projects that were started in 2008 and have virtually halted all new development activity pending improvements in the economy and capital markets. Build-for-Sale development activity has historically represented a significant use of operating cash, while the proceeds from related sales provided another source of cash from operations.

During the nine-month period ended September 30, 2009, we incurred Build-for-Sale property development costs of \$17.4 million, compared to \$159.2 million for the same period ended September 30, 2008. The difference is reflective of the planned reduction in new development.

We sold three Build-for-Sale properties in the first nine months of 2009, compared to nine such properties sold in the same period in 2008, receiving net proceeds of \$31.9 million and \$220.6 million, respectively. The 2009 sales were nearly break-even, while the 2008 sales resulted in pre-tax gains of \$26.7 million.

**Investing Activities**

Investing activities are one of the primary uses of our liquidity. Development and acquisition activities typically generate additional rental revenues and provide cash flows for operational requirements. Highlights of significant cash sources and uses are as follows:

Held-for-rental development costs decreased to \$219.3 million for the nine-month period ended September 30, 2009 from \$365.8 million for the same period in 2008 largely as the result of the planned reduction in new development.

During the first nine months of 2009, we paid cash of \$16.6 million for acquisitions of properties in service and \$5.5 million for undeveloped land acquisitions, compared to \$20.1 million for acquisitions of properties in service and \$35.6 million for acquisitions of undeveloped land in the same period in 2008. All of the in-service properties acquired in both periods were in our Savannah, Georgia market.

Sales of land and depreciated property provided \$113.1 million in net proceeds for the nine-month period ended September 30, 2009 compared to \$85.7 million for the same period in 2008.

During the first nine months of 2009, we contributed or advanced \$17.5 million to fund development activities within unconsolidated companies, compared to \$78.8 million for the same period in 2008. The decrease was largely as the result of a planned reduction in

new development.

## **Table of Contents**

We received capital distributions (as a result of the sale of properties or refinancing) of \$65.6 million from unconsolidated companies for the nine-month period ended September 30, 2008, compared to no such distributions from unconsolidated companies during the first nine months of 2009.

### **Financing Activities**

The following items highlight major fluctuations in net cash flow related to financing activities in the first nine months of 2009 compared to the same period in 2008:

In February 2009, we repaid \$124.0 million of corporate unsecured debt with an effective interest rate of 6.83% on its scheduled maturity date. This compares to repayments of \$125.0 million and \$100.0 million of senior unsecured notes with effective interest rates of 3.36% and 6.76% on their scheduled maturity dates in January 2008 and May 2008, respectively.

Throughout the first nine months of 2009, we repurchased certain of our outstanding series of unsecured notes maturing in 2009 through 2011. In total, cash payments of \$500.9 million were made to repurchase notes with a face value of \$542.9 million.

In February, March and July 2009, we received cash proceeds of \$270.0 million from three 10-year secured debt financings that are secured by 32 existing rental properties. The secured debt bears interest at a weighted average rate of 7.7% and matures at various points in 2019.

In April 2009, we issued 75.2 million shares of common stock for net proceeds of \$551.9 million. The proceeds from this offering were contributed to DRLP in exchange for additional units in DRLP and were used to repay outstanding borrowings under the DRLP unsecured line of credit and for other general purposes.

In August 2009, we issued \$250.0 million of senior unsecured notes due in 2015 bearing interest at a coupon rate of 7.375% and \$250.0 million of senior unsecured notes due in 2019 bearing interest at a coupon rate of 8.25%.

In order to retain additional cash to help meet our capital needs, we reduced our quarterly dividend beginning in the first quarter of 2009. We paid cash dividends of \$0.25, \$0.17 and \$0.17 per common share in February, May and August 2009, respectively, compared to cash dividends of \$0.48 per common share in both February and May 2008 and \$0.485 per common share in August 2008. The reduction in the cash dividend per share from \$0.25 per share to \$0.17 per share was necessary, as the result of the issuance of additional shares in the April 2009 common stock offering, for us to maintain our planned level of aggregate dividend payments for 2009.

We decreased net borrowings on DRLP's \$1.3 billion line of credit by \$474.0 million for the nine months ended September 30, 2009, completely repaying the outstanding balance, compared to a decrease of \$18.0 million for the same period in 2008.

In February 2008, we received net proceeds of approximately \$290.0 million from the issuance of shares of our Series O Cumulative Redeemable Preferred Stock; we had no new preferred equity issuances in the same period in 2009.

In March 2008, we settled three forward-starting swaps and made a cash payment of \$14.6 million to the counterparties.

In May 2008, we issued \$325.0 million of senior unsecured notes due in May 2013 with an effective interest rate of 7.36%.

### **Contractual Obligations**

## Edgar Filing: DUKE REALTY CORP - Form 10-Q

Aside from changes in long-term debt, there have not been material changes in our outstanding commitments since December 31, 2008 as previously discussed in our 2008 Annual Report on Form 10-K. In most cases we may withdraw from land purchase contracts with the sellers only recourse being earnest money deposits already made.

- 37 -



## **Table of Contents**

### **Off Balance Sheet Arrangements - Investments in Unconsolidated Companies**

We analyze our investments in joint ventures to determine if the joint venture is a variable interest entity (a VIE) and would require consolidation. We (a) evaluate the sufficiency of the total equity investment at risk, (b) review the voting rights and decision-making authority of the equity investment holders as a group, and whether there are any guaranteed returns, protection against losses, or capping of residual returns within the group and (c) establish whether activities within the venture are on behalf of an investor with disproportionately few voting rights in making this VIE determination. We would consolidate a venture that is determined to be a VIE if we were the primary beneficiary. To the extent that our joint ventures do not qualify as VIEs, we further assess each partner's substantive participating rights to determine if the venture should be consolidated.

We have equity interests in unconsolidated partnerships and joint ventures that own and operate rental properties and hold land for development. Our unconsolidated subsidiaries are primarily engaged in the operation and development of Industrial, Office and Retail real estate properties. These investments provide us with increased market share and tenant and property diversification. The equity method of accounting is used for these investments in which we have the ability to exercise significant influence, but not control, over operating and financial policies. As a result, the assets and liabilities of these joint ventures are not included on our balance sheet. Our investments in and advances to unconsolidated companies represented approximately 7% and 9% of our total assets as of September 30, 2009 and December 31, 2008, respectively. Total assets of our unconsolidated subsidiaries were \$2.7 billion and \$2.6 billion as of September 30, 2009 and December 31, 2008, respectively. The combined revenues of our unconsolidated subsidiaries totaled approximately \$192.0 million and \$182.9 million for the nine-month periods ended September 30, 2009 and September 30, 2008, respectively.

As the result of declines in rental rates and projected increases in capital costs, we analyzed our investment in the 3630 Peachtree joint venture during the third quarter of 2009 and, as we determined that an other-than-temporary decline in value had taken place, recognized an impairment charge to write off our \$14.4 million investment. As the result of the joint venture's obligations to the lender in its construction loan agreement, the likelihood our partner in the joint venture will be unable to contribute the additional equity to fund the joint venture's future capital costs, and ultimately from our obligations stemming from our joint and several guarantee of the joint venture's loan, we recorded an additional contingent liability of \$36.3 million in the third quarter of 2009 for our probable future obligations to the lender.

Due to credit issues with its most significant tenant, an inability to renew third party financing on acceptable terms and an increase to its projected capital expenditures, we analyzed our investment in the Park Creek joint venture for impairment during the second quarter of 2009. As the result of that analysis, we determined that an other than temporary loss in value had taken place and wrote our investment in the joint venture down to its fair value, thus recognizing a \$5.8 million impairment charge.

**Table of Contents**

We have guaranteed the repayment of certain secured and unsecured loans of our unconsolidated subsidiaries and the outstanding balances on the guaranteed portion of these loans, including the guaranteed portion of the outstanding balance of the loan on the 3630 Peachtree joint venture, was approximately \$392.9 million at September 30, 2009.

**Recent Accounting Pronouncements**

On January 1, 2009, we adopted a newly effective accounting standard for convertible debt instruments that may be settled in cash upon conversion. The new standard requires separate accounting for the debt and equity components of certain convertible instruments. Our Exchangeable Notes issued in November 2006 have an exchange rate of 20.47 common shares per \$1,000 principal amount of the notes, representing an exchange price of \$48.85 per share of our common stock. The Exchangeable Notes are subject to the accounting changes required by the new standard, which requires that the value assigned to the debt component equal the estimated fair value of debt with similar contractual cash flows, but without the conversion feature, resulting in the debt being recorded at a discount. The resulting debt discount will be amortized over the period from its issuance through November 2011, the first optional redemption date, as additional non-cash interest expense.

At September 30, 2009, the Exchangeable Notes had \$235.4 million of principal outstanding, an unamortized discount of \$6.7 million and a net carrying amount of \$228.7 million. The carrying amount of the equity component was \$34.7 million at September 30, 2009. Subsequent to the implementation of the new standard, interest expense is recognized on the Exchangeable Notes at an effective rate of 5.6%. The increase to interest expense (in thousands) on the Exchangeable Notes, which led to a corresponding decrease to net income, for the three and nine months ended September 30, 2009 and 2008 is summarized as follows:

	<b>Three Months Ended September 30,</b>		<b>Nine Months Ended September 30,</b>	
	<b>2009</b>	<b>2008</b>	<b>2009</b>	<b>2008</b>
Interest expense on Exchangeable Notes, excluding effect of accounting for convertible debt	<b>\$ 3,499</b>	\$ 5,391	<b>\$ 12,631</b>	\$ 16,172
Effect of accounting for convertible debt	<b>1,321</b>	1,646	<b>4,296</b>	4,865
<b>Total interest expense on Exchangeable Notes</b>	<b>\$ 4,820</b>	\$ 7,037	<b>\$ 16,927</b>	\$ 21,037

**Item 3. Quantitative and Qualitative Disclosure About Market Risk**

We are exposed to interest rate changes primarily as a result of our line of credit and long-term borrowings. Our interest rate risk management objective is to limit the impact of interest rate changes on earnings and cash flows and to control overall borrowing costs. To achieve our objectives, we borrow primarily at fixed rates. We do not enter into derivative or interest rate transactions for speculative purposes. Our two outstanding swaps, which fixed the rates on two of our variable rate loans, were not significant to the Financial Statements in terms of notional amount or fair value at September 30, 2009.

**Table of Contents**

Our interest rate risk is monitored using a variety of techniques. The table below presents the principal amounts (in thousands) of the expected annual maturities, weighted average interest rates for the average debt outstanding in the specified period, fair values (in thousands) and other terms required to evaluate the expected cash flows and sensitivity to interest rate changes.

	Remainder of							
	2009	2010	2011	2012	2013	Thereafter	Total	Fair Value
Fixed rate secured debt	\$ 2,565	\$ 10,706	\$ 22,975	\$ 10,153	\$ 8,939	\$ 712,412	\$ 767,750	\$ 709,530
Weighted average interest rate	6.90%	6.91%	7.16%	6.76%	6.61%	6.65%		
Variable rate secured debt	\$ 750	\$ 785	\$ 7,669	\$ 880	\$ 4,335	\$ 14,419	\$ 14,419	\$ 14,419
Weighted average interest rate	N/A	1.44%	1.45%	4.62%	1.47%	1.21%		
Fixed rate unsecured notes	\$ 82,141	\$ 99,849	\$ 583,575	\$ 200,000	\$ 475,000	\$ 1,700,000	\$ 3,140,565	\$ 3,086,040
Weighted average interest rate	7.86%	5.37%	5.35%	5.87%	6.50%	6.72%		
Unsecured lines of credit	\$	\$	\$ 15,299	\$	\$	\$	\$ 15,299	\$ 14,142
Rate at September 30, 2009	N/A	N/A	1.10%	N/A	N/A	N/A		

As the table incorporates only those exposures that exist as of September 30, 2009, it does not consider those exposures or positions that could arise after that date. As a result, our ultimate realized gain or loss with respect to interest rate fluctuations will depend on the exposures that arise during the period, our hedging strategies at that time to the extent we are party to interest rate derivatives, and interest rates. Interest expense on our unsecured lines of credit will be affected by fluctuations in the LIBOR indices as well as changes in our credit rating. The interest rate at such point in the future as we may renew, extend or replace our unsecured lines of credit will be heavily dependent upon the state of the credit environment.

At December 31, 2008, the redemption value of our unsecured notes was \$3.3 billion and we estimated the fair value of those unsecured notes to be \$2.2 billion. Our unsecured notes are thinly traded and our estimate of the fair value of those notes, when compared to their redemption value, has increased since December 31, 2008 largely as the result of recent comparable trades being completed at lower discounts.

**Item 4. Controls and Procedures****(a) Evaluation of Disclosure Controls and Procedures**

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. These disclosure controls and procedures are further designed to ensure that such information is accumulated and communicated to management, including the Chief Executive Officer and the Chief Financial Officer, to allow timely decisions regarding required disclosure.

We carried out an evaluation, under the supervision and with the participation of management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures pursuant to Exchange Act Rules 13a-15 and 15d-15. Based upon the foregoing, the Chief Executive Officer and the Chief Financial Officer concluded that, as of the end of the period covered by this Report, our disclosure controls and procedures are effective in all material respects.

**(b) Changes in Internal Control over Financial Reporting**

There have been no changes in our internal control over financial reporting during the period covered by this report that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**Table of Contents**

**Part II - Other Information**

**Item 1. Legal Proceedings**

From time to time, we are parties to a variety of legal proceedings and claims arising in the ordinary course of our businesses. While these matters generally are covered by insurance, there is no assurance that our insurance will cover any particular proceeding or claim. We presently believe that all of these proceedings to which we were subject as of September 30, 2009, taken as a whole, will not have a material adverse effect on our liquidity, business, financial condition or results of operations.

**Item 1A. Risk Factors**

In addition to the information set forth in this Report, you also should carefully review and consider the information contained in our other reports and periodic filings that we make with the SEC, including, without limitation the information contained under the caption "Item 1A. Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2008. The risks and uncertainties described in our 2008 Annual Report on Form 10-K, and in our Quarterly Report on Form 10-Q for the quarter ended March 31, 2009, are not the only risks that we face. Additional risks and uncertainties not currently known to us, or that we presently deem to be immaterial, also may materially adversely affect our business, financial condition and results of operations.

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds**

**(a) Unregistered Sales of Equity Securities**

None

**(b) Use of Proceeds**

None

**(c) Issuer Purchases of Equity Securities**

From time to time, we repurchase our common shares under a repurchase program that initially was approved by the board of directors and publicly announced in October 2001 (the "Repurchase Program"). In December 2008, the board of directors adopted a resolution (the "December 2008 Resolution") that reaffirmed management's authority to repurchase a maximum of \$75.0 million of common shares, \$75.0 million of debt securities and \$25.0 million of preferred shares. In addition, the December 2008 Resolution further expanded management's authority to allow for repurchases of any outstanding debt securities maturing through December 31, 2011. In March 2009, management's authority to purchase preferred shares was further expanded from \$25.0 million to \$50.0 million. Under the Repurchase Program, we also execute share repurchases on an ongoing basis associated with certain employee elections under our compensation and benefit programs.

**Table of Contents**

The following table shows the share repurchase activity for each of the three months in the quarter ended September 30, 2009:

Month	Total Number of Shares Purchased (1)	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs
July	8,799	\$ 8.56	8,799
August	12,428	\$ 11.47	12,428
September	5,948	\$ 11.60	5,948
Total	27,175	\$ 10.56	27,175

(1) All 27,175 shares repurchased represent common shares repurchased under our Employee Stock Purchase Plan.

**Item 3. Defaults upon Senior Securities**

During the period covered by this Report, we did not default under the terms of any of our material indebtedness, nor has there been any material arrearage of dividends or other material uncured delinquency with respect to any class of our preferred shares.

**Item 4. Submission of Matters to a Vote of Security Holders**

On July 22, 2009, we held a special meeting of shareholders. Our shareholders were asked to take action to (a) approve an increase in the number of authorized shares of our common stock from 250 million to 400 million and (b) approve an increase in the number of authorized shares of our preferred stock from five million to ten million.

The holders of 190,998,385 shares of our common stock voted **FOR** the approval of the increase in the number of authorized shares of our common stock, the holders of 14,460,132 shares voted **AGAINST** approval of such matter, and the holders of 675,050 shares **ABSTAINED** from voting on such matter. As a result, this proposal was approved.

The holders of 85,858,555 shares of our common stock voted **FOR** the approval of the increase in the number of authorized shares of our preferred stock, the holders of 83,116,937 shares voted **AGAINST** approval of such matter, and the holders of 293,652 shares **ABSTAINED** from voting on such matter. As a result, this proposal failed.

**Item 5. Other Information**

During the period covered by this Report, there was no information required to be disclosed by us in a Current Report on Form 8-K that was not so reported, nor were there any material changes to the procedures by which our security holders may recommend nominees to our board of directors.

---

**Table of Contents**

**Item 6. Exhibits**

**(a) Exhibits**

- 3.1(i) Fourth Amended and Restated Articles of Incorporation of Duke Realty Corporation (filed as Exhibit 3.1 to the Company's Current Report on Form 8-K as filed with the SEC on July 30, 2009, File No. 001-09044, and incorporated herein by this reference).
- 3.2(i) Fourth Amended and Restated Bylaws of Duke Realty Corporation (filed as Exhibit 3.2 to the Company's Current Report on Form 8-K as filed with the SEC on July 30, 2009, File No. 001-09044, and incorporated herein by this reference).
- 10.1 Third Amended and Restated Agreement of Limited Partnership of DRLP (filed as Exhibit 3.1 to DRLP's Current Report on Form 8-K, as filed with the SEC on August 5, 2009, File No. 000-20625, and incorporated herein by this reference).
- 11.1 Statement Regarding Computation of Earnings.\*\*\*
- 12.1 Statement of Computation of Ratio of Earnings to Fixed Charges and Ratio of Earnings to Combined Fixed Charges and Preferred Dividends.\*
- 31.1 Rule 13a-14(a) Certification of the Chief Executive Officer.\*
- 31.2 Rule 13a-14(a) Certification of the Chief Financial Officer.\*
- 32.1 Section 1350 Certification of the Chief Executive Officer.\*\*
- 32.2 Section 1350 Certification of the Chief Financial Officer.\*\*

\* Filed herewith.

\*\* The certifications attached as Exhibits 32.1 and 32.2 accompany this Quarterly Report on Form 10-Q and are furnished to the Securities and Exchange Commission pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.

\*\*\* Data required by Statement of Financial Accounting Standard No.128, *Earnings per Share*, is provided in Note 8 to the Consolidated Financial Statements included in this report.

**Table of Contents**

**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.

Date: November 9, 2009

DUKE REALTY CORPORATION

/s/ Dennis D. Oklak  
Dennis D. Oklak  
Chairman and Chief Executive Officer

/s/ Christie B. Kelly  
Christie B. Kelly  
Executive Vice President and  
Chief Financial Officer