KIMCO REALTY CORP
Form 10-K
March 01, 2010
Table of Contents

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 10-K

þ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

[NO FEE REQUIRED]

For the fiscal year ended December 31, 2009

OR

¨ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

[NO FEE REQUIRED]

For the transition period from __________ to __________

Commission file number 1-10899

Kimco Realty Corporation

(Exact name of registrant as specified in its charter)

Maryland	13-2744380
(State of incorporation)	(I.R.S. Employer Identification No.)

3333 New Hyde Park Road, New Hyde Park, NY 11042-0020

(Address of principal executive offices - zip code)

(516) 869-9000

(Registrant s telephone number, including area code)

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

Title of each class	Name of each exchange on which registered
Common Stock, par value $.01 per share.	New York Stock Exchange
Depositary Shares, each representing one-tenth of a share of 6.65% Class F Cumulative Redeemable Preferred Stock, par value $1.00 per share.	New York Stock Exchange
Depositary Shares, each representing one-hundredth of a share of 7.75% Class G Cumulative Redeemable Preferred Stock, par value $1.00 per share.	New York Stock Exchange

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

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes þ No ¨

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ¨ No þ

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 þ No ¨

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 (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes þ No ¨

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. þ

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 12-b of the Exchange Act.

Large accelerated filer	þ	Accelerated filer	¨
Non-accelerated filer	¨	Smaller reporting company	¨
(Do not check if a small 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 þ

The aggregate market value of the voting stock held by non-affiliates of the registrant was approximately $3.7 billion based upon the closing price on the New York Stock Exchange for such stock on June 30, 2009.

(APPLICABLE ONLY TO CORPORATE REGISTRANTS)

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

405,544,542 shares as of February 18, 2010.

DOCUMENTS INCORPORATED BY REFERENCE

Part III incorporates certain information by reference to the Registrant's definitive proxy statement to be filed with respect to the Annual Meeting of Stockholders expected to be held on May 5, 2010.

Index to Exhibits begins on page 73.

TABLE OF CONTENTS

Item No.		Form 10-K Report Page
	PART I	
1.	Business	3
1A.	Risk Factors	11
1B.	Unresolved Staff Comments	18
2.	Properties	18
3.	Legal Proceedings	20
4.	Reserved	20
	Executive Officers of the Registrant	43
	PART II	
5.	Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities	44
6.	Selected Financial Data	45
7.	Management s Discussion and Analysis of Financial Condition and Results of Operations	47
7A.	Quantitative and Qualitative Disclosures About Market Risk	69
8.	Financial Statements and Supplementary Data	70

9.	Changes in and Disagreements With Accountants on Accounting and Financial Disclosure	70
9A.	Controls and Procedures	70
9B.	Other Information	70

PART III

10.	Directors, Executive Officers and Corporate Governance>/a>	71
11.	Executive Compensation	71
12.	Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters	71
13.	Certain Relationships and Related Transactions, and Director Independence	71
14.	Principal Accounting Fees and Services	71

PART IV

15.	Exhibits Financial Statement Schedules	72

Table of Contents

PART I

FORWARD-LOOKING STATEMENTS

This annual report on Form 10-K, together with other statements and information publicly disseminated by the Company contains certain 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 Company intends such forward-looking statements to be covered by the safe harbor provisions for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995 and includes this statement for purposes of complying with these safe harbor provisions. Forward-looking statements, which are based on certain assumptions and describe the Company s future plans, strategies and expectations, are generally identifiable by use of the words believe, expect, intend, anticipate, estimate, project or similar expressions. You should not rely on forward-looking statements sinc they involve known and unknown risks, uncertainties and other factors which are, in some cases, beyond the Company s control and which could materially affect actual results, performances or achievements. Factors which may cause actual results to differ materially from current expectations include, but are not limited to (i) general adverse economic and local real estate conditions, (ii) the inability of major tenants to continue paying their rent obligations due to bankruptcy, insolvency or general downturn in their business, (iii) financing risks, such as the inability to obtain equity, debt or other sources of financing or refinancing on favorable terms, (iv) the Company s ability to raise capital by selling its assets, (v) changes in governmental laws and regulations, (vi) the level and volatility of interest rates and foreign currency exchange rates, (vii) the availability of suitable acquisition opportunities, (viii) valuation of joint venture investments, (ix) valuation of marketable securities and other investments, (x) increases in operating costs, (xi) changes in the dividend policy for the Company s common stock, (xii) the reduction in the Company s income in the event of multiple lease terminations by tenants or a failure by multiple tenants to occupy their premises in a shopping center, (xiii) impairment charges, (xiv) unanticipated changes in the Company s intention or ability to prepay certain debt prior to maturity and/or hold certain securities until maturity And the risks and uncertainties identifies under Item 1A, Risk Factors. Accordingly, there is no assurance that the Company s expectations will be realized.

Item 1. Business

General

Kimco Realty Corporation, a Maryland corporation, is one of the nation's largest owners and operators of neighborhood and community shopping centers. The terms "Kimco," the "Company," "we," "our" and "us" each refer to Kimco Realty Corporation and our subsidiaries unless the context indicates otherwise. The Company is a self-administered real estate investment trust ("REIT") and its management has owned and operated neighborhood and community shopping centers for more than 50 years. The Company has not engaged, nor does it expect to retain, any REIT advisors in connection with the operation of its properties. As of December 31, 2009, the Company had interests in 1,915 properties, totaling approximately 176.9 million square feet of gross leasable area (GLA) located in 45 states, Puerto Rico, Canada, Mexico, Chile, Brazil and Peru. The Company s ownership interests in real estate consist of its consolidated portfolio and in portfolios where the Company owns an economic interest, such as

properties in the Company s investment management programs, where the Company partners with institutional investors and also retains management (See Note 7 of the Notes to Consolidated Financial Statements included in this annual report on Form 10-K). The Company believes its portfolio of neighborhood and community shopping center properties is the largest (measured by GLA) currently held by any publicly traded REIT.

The Company's executive offices are located at 3333 New Hyde Park Road, New Hyde Park, New York 11042-0020 and its telephone number is (516) 869-9000.

The Company s Web site is located at *http://www.kimcorealty.com*. The information contained on our Web site does not constitute part of this annual report on Form 10-K. On the Company s Web site you can obtain, free of charge, a copy of our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act of 1934, as amended, as soon as reasonably practicable, after we file such material electronically with, or furnish it to, the Securities and Exchange Commission (the "SEC").

History

The Company began operations through its predecessor, The Kimco Corporation, which was organized in 1966 upon the contribution of several shopping center properties owned by its principal stockholders. In 1973, these principals formed the

---

Table of Contents

Company as a Delaware corporation, and, in 1985, the operations of The Kimco Corporation were merged into the Company. The Company completed its initial public stock offering (the "IPO") in November 1991, and, commencing with its taxable year which began January 1, 1992, elected to qualify as a REIT in accordance with Sections 856 through 860 of the Internal Revenue Code of 1986, as amended (the "Code"). In 1994, the Company reorganized as a Maryland corporation.

The Company's growth through its first 15 years resulted primarily from the ground-up development and construction of its shopping centers. By 1981, the Company had assembled a portfolio of 77 properties that provided an established source of income and positioned the Company for an expansion of its asset base. At that time, the Company revised its growth strategy to focus on the acquisition of existing shopping centers and creating value through the redevelopment and re-tenanting of those properties. As a result of this strategy, a majority of the operating shopping centers added to the Company s portfolio since 1981 have been through the acquisition of existing shopping centers.

During 1998, the Company, through a merger transaction, completed the acquisition of The Price REIT, Inc., a Maryland corporation, (the "Price REIT"). Prior to the merger, Price REIT was a self-administered and self-managed equity REIT that was primarily focused on the acquisition, development, management and redevelopment of large retail community shopping center properties concentrated in the western part of the United States. In connection with the merger, the Company acquired interests in 43 properties, located in 17 states. With the completion of the Price REIT merger, the Company expanded its presence in certain western states including Arizona, California and Washington. In addition, Price REIT had strong ground-up development capabilities. These development capabilities, coupled with the Company s own construction management expertise, provided the Company the ability to pursue ground-up development opportunities on a selective basis.

Also during 1998, the Company formed Kimco Income Operating Partnership, L.P. ("KIR"), an entity in which the Company held a 99.99% limited partnership interest. KIR was established for the purpose of investing in high-quality properties financed primarily with individual non-recourse mortgages. The Company believed that these properties were appropriate for financing with greater leverage than the Company traditionally used. At the time of formation, the Company contributed 19 properties to KIR, each encumbered by an individual non-recourse mortgage. During 1999, KIR sold a significant interest in the partnership to institutional investors, thus establishing the Company s investment management program. The Company holds a 45.0% noncontrolling limited partnership interest in KIR and accounts for its investment in KIR under the equity method of accounting. (See Note 8 of the Notes to Consolidated Financial Statements included in this annual report on Form 10-K.)

The Company has expanded its investment management program through the establishment of other various institutional joint venture programs in which the Company has noncontrolling interests ranging generally from 5% to 45%. The Company s largest joint venture, Kimco Prudential Joint Venture ("KimPru"), was formed in 2006, in connection with the Pan Pacific Retail Properties Inc. ("Pan Pacific") merger transaction, with Prudential Real Estate Investors ("PREI"). The Company earns management fees, acquisition fees, disposition fees and promoted interests based on value creation. (See Note 8 of the Notes to Consolidated Financial Statements included in this annual report on Form 10-K.)

In connection with the Tax Relief Extension Act of 1999 (the "RMA"), which became effective January 1, 2001, the Company is permitted to participate in REIT activities from which it was previously precluded in order to maintain its qualification as a REIT, so long as these activities are conducted in entities which elect to be treated as taxable REIT subsidiaries under the Code, subject to certain limitations. As such, the Company, through its taxable REIT subsidiaries, has been engaged in various retail real estate related opportunities, including (i) ground-up development of neighborhood and community shopping centers and the subsequent sale thereof upon completion (see Recent Developments - Ground-Up Development), (ii) retail real estate advisory and disposition services, which primarily focused on leasing and disposition strategies for real estate property interests of both healthy and distressed retailers and (iii) acting as an agent or principal in connection with tax-deferred exchange transactions. The Company may consider other investments through taxable REIT subsidiaries should suitable opportunities arise.

The Company has continued its geographic expansion with investments in Canada, Mexico, Puerto Rico, Chile, Brazil and Peru. During October 2001, the Company formed three joint ventures (collectively, the "RioCan Ventures") with RioCan Real Estate Investment Trust ("RioCan", Canada s largest publicly traded REIT measured by GLA) in which the Company has 50% noncontrolling interests, to acquire retail properties and development projects in Canada. The Company accounts for this investment under the equity method of accounting. The Company has expanded its presence in Canada with the establishment of other joint venture arrangements. During 2002, the Company, along with various strategic co-investment partners, began acquiring operating and development properties located in Mexico. During 2006, the Company acquired interests in shopping center properties located in Puerto Rico through joint ventures in which the Company holds controlling ownership interests.

Table of Contents

During 2007, the Company acquired an interest in four shopping center properties located in Chile through a joint venture in which the Company holds a noncontrolling ownership interest. During 2008, the Company acquired interests in two shopping center properties in Brazil through a joint venture in which the Company holds a controlling ownership interest and a land parcel for ground-up development located in Peru through a joint venture in which the Company holds a controlling interest. (See Notes 4 and 8 of the Notes to Consolidated Financial Statements included in this annual report on Form 10-K.)

In addition, the Company continues to capitalize on its established expertise in retail real estate by establishing other ventures in which the Company owns a smaller equity interest and provides management, leasing and operational support for those properties. The Company has also provided preferred equity capital in the past to real estate entrepreneurs and, from time to time, provides real estate capital and advisory services to both healthy and distressed retailers. The Company has also made selective investments in secondary market opportunities where a security or other investment is, in management s judgment, priced below the value of the underlying assets, however these investments are subject to volatility within the equity and debt markets.

Investment and Operating Strategy

The Company's investment objective is to increase cash flow, current income and, consequently, the value of its existing portfolio of properties and to seek continued growth through (i) the strategic re-tenanting, renovation and expansion of its existing centers and (ii) the selective acquisition of established income-producing real estate properties and properties requiring significant re-tenanting and redevelopment, primarily in neighborhood and community shopping centers in geographic regions in which the Company presently operates. The Company may consider investments in other real estate sectors and in geographic markets where it does not presently operate should suitable opportunities arise.

The Company's neighborhood and community shopping center properties are designed to attract local area customers and typically are anchored by a discount department store, a supermarket or a drugstore tenant offering day-to-day necessities rather than high-priced luxury items. The Company may either purchase or lease income-producing properties in the future and may also participate with other entities in property ownership through partnerships, joint ventures or similar types of co-ownership. Equity investments may be subject to existing mortgage financing and/or other indebtedness. Financing or other indebtedness may be incurred simultaneously or subsequently in connection with such investments. Any such financing or indebtedness would have priority over the Company s equity interest in such property. The Company may make loans to joint ventures in which it may or may not participate.

In addition to property or equity ownership, the Company provides property management services for fees relating to the management, leasing, operation, supervision and maintenance of real estate properties.

While the Company has historically held its properties for long-term investment and accordingly has placed strong emphasis on its ongoing program of regular maintenance, periodic renovation and capital improvement, it is possible

that properties in the portfolio may be sold, in whole or in part, as circumstances warrant, subject to REIT qualification rules.

The Company seeks to reduce its operating and leasing risks through diversification achieved by the geographic distribution of its properties and a large tenant base. As of December 31, 2009, no single neighborhood and community shopping center accounted for more than 1.2% of the Company's annualized base rental revenues or more than 1.0% of the Company s total shopping center GLA. At December 31, 2009, the Company s five largest tenants were The Home Depot, TJX Companies, Sears Holdings, Wal-Mart and Kohl s, which represent approximately 3.3%, 2.6%, 2.5%, 2.2% and 2.0%, respectively, of the Company s annualized base rental revenues, including the proportionate share of base rental revenues from properties in which the Company has less than a 100% economic interest.

In connection with the RMA, which became effective January 1, 2001, the Company had expanded its investment and operating strategy to include new real estate-related opportunities which the Company was precluded from previously in order to maintain its qualification as a REIT. As such, the Company established a merchant building business through its wholly owned taxable REIT subsidiaries, which made selective acquisitions of land parcels for the ground-up development primarily of neighborhood and community shopping centers and subsequent sale thereof upon completion. During 2009, the Company changed its merchant building business strategy from a sale upon completion strategy to a long-term hold strategy for its remaining merchant building projects. Additionally, the Company had developed a business which specialized in providing capital, real estate advisory services and disposition services of real estate controlled by both healthy and distressed and/or bankrupt retailers. These services included assistance with inventory and fixture liquidation in connection with going-out-of-business sales. The Company may participate with other entities in providing these advisory services through partnerships, joint ventures or other co-ownership arrangements. The Company, as part of its investment strategy, may selectively seek investments for its taxable REIT subsidiaries as suitable opportunities arise.

Table of Contents

The Company emphasizes equity real estate investments. The Company may at its discretion, invest in preferred equity investments, mortgages, other real estate interests and other investments. The mortgages in which the Company may invest may be either first mortgages, junior mortgages or other mortgage-related securities. The Company, from time to time, provides mortgage financing to retailers with significant real estate assets, in the form of leasehold interests or fee-owned properties, where the Company believes the underlying value of the real estate collateral is in excess of its loan balance. In addition, the Company may, on a selective basis, acquire debt instruments at a discount in the secondary market where the Company believes the asset value of the enterprise is greater than the current value, however these investments are subject to volatility within the equity and debt markets.

The Company s vision is to be the premier owner and operator of retail shopping centers with its core business operations focusing on owning and operating neighborhood and community shopping centers through equity investments in North America. This vision will entail a shift away from certain non-strategic assets that the Company currently holds. These investments include non-retail preferred equity investments, marketable securities, mortgages on non-retail properties and several urban mixed-use properties. The Company s plan is to sell certain non-strategic assets and investments. The Company realizes that the sale of these assets will be over a period of time given the current unfavorable market conditions. In addition, the Company continues to be dedicated to building its institutional management business by forming joint ventures with high quality domestic and foreign institutional partners for the purpose of investing in neighborhood and community shopping centers.

The Company may offer shares of capital stock or other senior securities in exchange for property and to repurchase or otherwise reacquire its common stock or any other securities and may engage in such activities in the future. At all times, the Company intends to make investments in such a manner as to be consistent with the requirements of the Code to qualify as a REIT unless, because of circumstances or changes in the Code (or in Treasury Regulations), the Board of Directors determines that it is no longer in the best interests of the Company to qualify as a REIT.

Capital Strategy and Resources

The Company intends to maintain strong debt service coverage and fixed charge coverage ratios as part of its commitment to maintaining its investment-grade debt ratings of BBB+ from Standard and Poors and Baa1 from Moody's Investor Services. The Company plans to strengthen its balance sheet by pursuing deleveraging efforts over time. It is management's intention that the Company continually have access to the capital resources necessary to expand and develop its business. Accordingly, the Company may, from time-to-time, seek to obtain funds through additional common and preferred equity offerings, unsecured debt financings and/or mortgage/construction loan financings and other capital alternatives in a manner consistent with its intention to operate with a conservative debt structure.

Since the completion of the Company's IPO in 1991, the Company has utilized the public debt and equity markets as its principal source of capital for its expansion needs. Since the IPO, the Company has completed additional offerings of its public unsecured debt and equity, raising in the aggregate over $7.4 billion. Proceeds from public capital market activities have been used for repaying indebtedness, acquiring interests in neighborhood and community shopping centers, funding ground-up development projects, expanding and improving properties in the portfolio and other

investments. The Company also has revolving credit facilities totaling approximately $1.7 billion available for general corporate purposes. At December 31, 2009 the Company had approximately $139.5 million outstanding on these facilities.

Capital markets continue to experience increased volatility. As available, the Company will continue to access these markets. In addition to capital markets, the Company had over 420 unencumbered property interests in its portfolio as of December 31, 2009. The Company has capacity within its bond and other debt covenants to raise up to $2.0 billion in secured financing on these unencumbered properties.

In March 2006, the Company was added to the S & P 500 Index, an index containing the stock of 500 Large Cap companies, most of which are U.S. corporations. For further discussion regarding capital strategy and resources, see Management s Discussion and Analysis of Results of Operations and Financial Condition - Financing Activities.

Competition

As one of the original participants in the growth of the shopping center industry and one of the nation's largest owners and operators of neighborhood and community shopping centers, the Company has established close relationships with a large number of major national and regional retailers and maintains a broad network of industry contacts. Management is associated with and/or actively participates in many shopping center and REIT industry organizations. Notwithstanding these

---

relationships, there are numerous regional and local commercial developers, real estate companies, financial institutions and other investors who compete with the Company for the acquisition of properties and other investment opportunities and in seeking tenants who will lease space in the Company s properties.

Operating Practices

Nearly all operating functions, including leasing, legal, construction, data processing, maintenance, finance and accounting, are administered by the Company from its executive offices in New Hyde Park, New York and supported by the Company s regional offices. The Company believes it is critical to have a management presence in its principal areas of operation and, accordingly, the Company maintains regional offices in various cities throughout the United States. As of December 31, 2009, a total of 640 persons are employed at the Company's executive and regional offices.

The Company's regional offices are generally staffed by a regional business leader and the operating personnel necessary to both function as local representatives for leasing and promotional purposes, to complement the corporate office s administrative and accounting efforts and to ensure that property inspection and maintenance objectives are achieved. The regional offices are important in reducing the time necessary to respond to the needs of the Company's tenants. Leasing and maintenance personnel from the corporate office also conduct regular inspections of each shopping center.

As of December 31, 2009, the Company also employs a total of 25 persons at several of its larger properties in order to more effectively administer its maintenance and security responsibilities.

Qualification as a REIT

The Company has elected, commencing with its taxable year which began January 1, 1992, to be taxed as a REIT under the Code. If, as the Company believes, it is organized and operates in such a manner so as to qualify and remain qualified as a REIT under the Code, the Company generally will not be subject to federal income tax, provided that distributions to its stockholders equal at least the amount of its REIT taxable income as defined under the Code.

Recent Developments

The following describes the Company s significant transactions and events that occurred during the year ended December 31, 2009. (See Item 8 and Notes 2, 3, 4, 5, 6, 8, 9 and 10 of the Notes to Consolidated Financial Statements included in this annual report on Form 10-K.)

Operating Properties -

Acquisitions -

During November 2009, the Company purchased the remaining 85% interest in PL Retail LLC, an entity that indirectly owns through wholly-owned subsidiaries 21 shopping centers, comprising approximately 5.2 million square feet of GLA, in which the Company held a 15% noncontrolling interest prior to this transaction. The Company paid a purchase price equal to approximately $175.0 million, after customary adjustments and closing prorations, which was equivalent to 85% of PL Retail LLC s gross asset value, which equaled approximately $825 million, less the assumption of $564 million of non-recourse mortgage debt encumbering 20 properties and $50 million of perpetual preferred stock. The purchase price includes approximately $20 million for the purchase of development rights for one shopping center. This transaction resulted in a gain of approximately $7.6 million as a result of a change in control and remeasuring the Company s 15% noncontrolling equity interest to fair value. Subsequently, the Company repaid approximately $269 million of the non-recourse mortgage debt which encumbered 10 properties.

During 2009, the Company acquired the remaining ownership interest in 11 unencumbered operating properties from a joint venture in which the Company held a 15% noncontrolling interest comprising an aggregate 1.5 million square feet of GLA for an aggregate purchase price of approximately $106.9 million.

Additionally, during 2009, the Company acquired the remaining ownership interest in an operating property in which the Company held a 10% noncontrolling interest comprising 0.1 million square feet of GLA for a purchase price of approximately $23.6 million, including the assumption of a $13.5 million non-recourse mortgage.

Dispositions -

During 2009, the Company disposed of, in separate transactions, portions of six operating properties and one land parcel for an aggregate sales price of approximately $28.9 million, which resulted in an aggregate gain of approximately $4.1 million, net of income tax of approximately $0.2 million.

Also during 2009, a consolidated joint venture in which the Company has a controlling interest disposed of a parcel of land for approximately $4.8 million and recognized a gain of approximately $4.4 million, before income taxes and noncontrolling interest. This gain has been recorded as Other income/(expense), net in the Company s Consolidated Statements of Operations.

Redevelopments -

The Company has an ongoing program to reformat and re-tenant its properties to maintain or enhance its competitive position in the marketplace. During 2009, the Company substantially completed the redevelopment and re-tenanting of various operating properties. The Company expended approximately $43.4 million in connection with these major redevelopments and re-tenanting projects during 2009. The Company is currently involved in redeveloping several other shopping centers in the existing portfolio. The Company anticipates its capital commitment toward these and other redevelopment projects will be approximately $30.0 million to $40.0 million during 2010.

Ground-Up Development -

The Company is engaged in ground-up development projects which consist of (i) U.S. ground-up development projects which will be held as long-term investments by the Company and (ii) various ground-up development projects located in Latin America for long-term investment (see Recent Developments - International Real Estate Investments and Note 3 of the Notes to Consolidated Financial Statements included in this annual report on Form 10-K). During 2009, the Company changed its merchant building business strategy from a sale upon completion strategy to a long-term hold strategy. Those properties previously considered merchant building have been either placed in service as long-term investment properties or included in U.S. ground-up development. The ground-up development projects generally have significant pre-leasing prior to the commencement of construction. As of December 31, 2009, the Company had in progress a total of 11 ground-up development projects, consisting of seven ground-up development projects located throughout Mexico, two ground-up development projects located in the U.S., one ground-up development project located in Chile, and one ground-up development project located in Brazil. The Company anticipates its capital commitment toward its ground-up development projects will be approximately $50.0 million to $60.0 million during 2010. The availability under the Company s revolving lines of credit is expected to be sufficient to fund these anticipated capital requirements.

U.S. ground-up development -

During 2009, the Company expended approximately $45.0 million in connection with construction costs related to U.S. ground-up development projects. Additionally, the Company purchased, in separate transactions, various partners interests in five former merchant building projects for an aggregate $9.9 million.

Construction loans -

During 2009, the Company fully repaid nine construction loans aggregating approximately $212.2 million. As of December 31, 2009, total loan commitments on the Company s four remaining construction loans aggregated approximately $69.7 million of which approximately $45.8 million has been funded. These loans have scheduled maturities ranging from 11 months to 56 months (excluding any extension options which may be available to the Company) and bear interest at rates ranging from 2.13% to 4.50% at December 31, 2009. Approximately $3.4 million of the outstanding loan balance matures in 2010. These maturing loans are anticipated to be repaid with operating cash flows, borrowings under the Company s credit facilities and additional debt financings. In addition, the Company may pursue or exercise existing extension options with lenders where available.

Dispositions -

During 2009, the Company sold, in separate transactions, five out-parcels, four land parcels and three ground leases for aggregate proceeds of approximately $19.4 million. These transactions resulted in gains on sale of development properties of approximately $5.8 million, before income taxes of $2.3 million.

Table of Contents

Kimsouth -

During 2009, the Company acquired the remaining 7.5% interest in Kimsouth, a consolidated taxable REIT subsidiary in which the Company held a 92.5% controlling interest, for a purchase price of approximately $5.5 million.

Investment and Advances in Real Estate Joint Ventures **-**

The Company has various institutional and non-institutional joint venture programs in which the Company has various noncontrolling interests, which are accounted for under the equity method of accounting. (See Note 8 of the Notes to Consolidated Financial Statements included in this annual report on Form 10-K.)

Dispositions -

During November 2009, the 85% owner in PL Retail, LLC, an entity that indirectly owns through wholly-owned subsidiaries 21 shopping centers, comprising approximately 5.2 million square feet of GLA, in which the Company held a 15% noncontrolling interest prior to this transaction, sold its interest to the Company. The Company paid a purchase price equal to approximately $175.0 million, after customary adjustments and closing prorations, which was equivalent to 85% of PL Retail LLC s gross asset value, which equaled approximately $825 million, less the assumption of $564 million of non-recourse mortgage debt encumbering 20 properties and $50 million of perpetual preferred stock. This transfer resulted in an aggregate net gain of approximately $57.5 million of which the Company s share was approximately $8.6 million. As a result of this transaction the Company now consolidates this entity.

Additionally, during 2009, KimPru sold 22 operating properties for an aggregate sales price of approximately $214.0 million, comprised of (i) 11 operating properties sold to the Company for an aggregate sales price of approximately $106.9 million which resulted in an aggregate net gain of approximately $0.9 million of which the Company s share was approximately $0.1 million and (ii) 11 operating properties and its interest in an unconsolidated joint venture, sold in separate transactions, for an aggregate sales price of approximately $107.1 million. These sales resulted in an aggregate net gain of approximately $0.1 million. Proceeds from these property sales were used to repay a portion of the outstanding balance on KimPru s credit facility, described below.

Also, during 2009, a joint venture in which the Company held a 10% noncontrolling interest sold one operating property comprising 0.1 million square feet of GLA to the Company for a purchase price of approximately $23.6 million, including the assumption of a $13.5 million non-recourse mortgage. This sale resulted in a gain of approximately $3.4 million of which the Company s share was approximately $0.3 million.

Financings -

During 2009, joint ventures in which the Company has noncontrolling interests (i) repaid approximately $113.8 million in non-recourse mortgage debt with interest rates ranging from 2.75% to 8.30%, (ii) refinanced approximately $212.9 million in mortgage debt with approximately $226.6 million of new mortgage debt which bear interest at rates ranging from 6.64% to 7.88% and maturity dates ranging from three years to seven years, and (iii) obtained new mortgage debt on previously unencumbered properties of approximately $214.0 million with interest rates ranging from 3.75% to 7.85% and maturity dates ranging from three to ten years.

International Real Estate Investments -

Canadian Investments -

The Company recognized equity in income from its unconsolidated Canadian investments in real estate joint ventures of approximately $12.2 million, $18.6 million and $22.5 million during 2009, 2008 and 2007, respectively. In addition, income from its Canadian preferred equity investments was approximately $12.9 million, $23.2 million, $35.1 million during 2009, 2008 and 2007, respectively.

During 2009, an unconsolidated Canadian joint venture in which the Company has a 50% noncontrolling interest refinanced approximately $30.3 million in mortgage debt with approximately $46.1 million in mortgage debt which bears interest at rates ranging from 5.90% to 6.82% and maturity dates ranging from five years to ten years.

Latin American Investments -

During 2009, the Company acquired a land parcel located in Rio Clara, Brazil through a newly formed consolidated joint venture in which the Company has a 70% controlling ownership interest for a purchase price of 3.3 million Brazilian Reals (approximately USD $1.5 million). This parcel will be developed into a 48,000 square foot retail shopping center.

Additionally, during 2009, the Company acquired a land parcel located in San Luis Potosi, Mexico, through an unconsolidated joint venture in which the Company has a noncontrolling interest, for an aggregate purchase price of approximately $0.8 million.

The Company recognized equity in income from its unconsolidated Mexican investments in real estate joint ventures of approximately $7.0 million, $17.1 million, and $5.2 million during 2009, 2008 and 2007, respectively.

The Company recognized equity in income from its unconsolidated Chilean investments in real estate joint ventures of approximately $0.4 million, $0.2 and $0.1 million during 2009, 2008 and 2007, respectively.

The Company s revenues from its consolidated Mexican subsidiaries aggregated approximately $23.4 million, $20.3 million, $8.5 million during 2009, 2008 and 2007, respectively. The Company s revenues from its consolidated Brazilian subsidiaries aggregated approximately $1.5 million and $0.4 million during 2009 and 2008, respectively. The Company s revenues from its consolidated Chilean subsidiaries aggregated less than $100,000 during 2009 and 2008, respectively.

Mortgages and Other Financing Receivables -

During 2009, the Company provided financing to five borrowers for an aggregate amount of approximately $8.3 million. During 2009, the Company received an aggregate of approximately $40.4 million which fully paid down the outstanding balance on four mortgage receivables. As of December 31, 2009, the Company had 37 loans with total commitments of up to $178.9 million, of which approximately $131.3 million has been funded. Availability under the Company s revolving credit facilities are expected to be sufficient to fund these remaining commitments. (See Note 10 of the Notes to Consolidated Financial Statements included in this annual report on Form 10-K.)

Asset Impairments

On a continuous basis, management assesses whether there are any indicators, including property operating performance and general market conditions, that the value of the Company s assets (including any related amortizable intangible assets or liabilities) may be impaired. To the extent impairment has occurred, the carrying value of the asset would be adjusted to an amount to reflect the estimated fair value of the asset.

During 2009, economic conditions had continued to experience volatility resulting in further declines in the real estate and equity markets. Year over year increases in capitalization rates, discount rates and vacancies as well as the deterioration of real estate market fundamentals, negatively impacted net operating income and leasing which further contributed to declines in real estate markets in general.

As a result of the volatility and declining market conditions described above, as well as the Company s strategy in relation to certain of its non-retail assets, the Company recognized non-cash impairment charges during 2009, aggregating approximately $175.1 million, before income tax benefit of approximately $22.5 million and noncontrolling interests of approximately $1.2 million. Details of these non-cash impairment charges are as follows (in millions):

Impairment of property carrying values	$	50.0
Real estate under development		2.1
Investments in other real estate investments		49.2
Marketable securities and other investments		30.1
Investments in real estate joint ventures		43.7
Total impairment charges	$	175.1

(See Notes 2, 6, 8, 9, 10 and 11 of the Notes to Consolidated Financial Statements included in this annual report on Form 10-K.)

In addition to the impairment charges above, the Company recognized impairment charges during 2009 of approximately $38.7 million, before income tax benefit of approximately $11.0 million, relating to certain properties held by unconsolidated joint ventures in which the Company holds noncontrolling interests ranging from 15% to 45%. These impairment charges are included in Equity in income of joint ventures, net in the Company s Consolidated Statements of Operations.

Financing Transactions -

During December 2009, the Company completed a primary public stock offering of 28,750,000 shares of the Company s common stock. The net proceeds from this sale of common stock, totaling approximately $345.1 million (after related transaction costs of $0.75 million) were used to partially repay the outstanding balance under the Company s U.S. revolving credit facility.

During September 2009, the Company issued $300.0 million of 10-year Senior Unsecured Notes at an interest rate of 6.875% payable semi-annually in arrears. These notes were sold at 99.84% of par value. Net proceeds from the issuance were approximately $297.3 million, after related transaction costs of approximately $0.3 million. The proceeds from this issuance were primarily used to repay the Company s $220.0 million unsecured term loan described below. The remaining proceeds were used to repay certain construction loans that were scheduled to mature in 2010 (see Note 12 of the Notes to Consolidated Financial Statements included in this annual report on Form 10-K).

During April 2009, the Company completed a primary public stock offering of 105,225,000 shares of the Company s common stock. The net proceeds from this sale of common stock, totaling approximately $717.3 million (after related transaction costs of $0.7 million) were used to partially repay the outstanding balance under the Company s U.S. revolving credit facility and for general corporate purposes.

During April 2009, the Company obtained a two-year $220.0 million unsecured term loan with a consortium of banks, which accrued interest at a spread of 4.65% to LIBOR (subject to a 2% LIBOR floor) or at the Company s option, at a spread of 3.65% to the ABR, as defined in the Credit Agreement. The term loan was scheduled to mature in April 2011. The Company utilized proceeds from this term loan to partially repay the outstanding balance under the Company s U.S. revolving credit facility and for general corporate purposes. During September 2009, the Company fully repaid the $220.0 million outstanding balance on this loan.

During the year ended December 31, 2009, the Company repaid (i) its $130.0 million 6.875% senior notes, which matured on February 10, 2009, (ii) its $20.0 million 7.56% Medium Term Note, which matured in May 2009 and (iii) its $25.0 million 7.06% Medium Term Note, which matured in July 2009.

During 2009, the Company (i) obtained an aggregate of approximately $400.2 of non-recourse mortgage debt on 21 operating properties, (ii) assumed approximately $579.2 million of individual non-recourse mortgage debt relating to the acquisition of 22 operating properties, including approximately $1.6 million of fair value debt adjustments and (iii) paid off approximately $437.7 million of individual non-recourse mortgage debt that encumbered 24 operating properties.

For further discussion regarding financing transactions see Management's Discussion and Analysis of Results of Operations and Financial Condition - Financing Activities and Contractual Obligations and Other Commitments. (See Notes 12, 13, 14 and 18 of the Notes to Consolidated Financial Statement included in this annual report on Form 10-K.)

Exchange Listings

The Company's common stock, Class F Depositary Shares and Class G Depositary Shares are traded on the New York Stock Exchange (NYSE) under the trading symbols "KIM", "KIMprF" and KIMprG , respectively.

Item 1A. Risk Factors

We are subject to certain business and legal risks including, but not limited to, the following:

Risks Related to Our Status as a Real Estate Investment Trust

Loss of our tax status as a real estate investment trust could have significant adverse consequences to us and the value of our securities.

We have elected to be taxed as a REIT for federal income tax purposes under the Code. We currently intend to operate so as to qualify as a REIT and believe that our current organization and method of operation complies with the rules and regulations promulgated under the federal income tax code to enable us to qualify as a REIT.

Qualification as a REIT involves the application of highly technical and complex federal income tax code provisions for which there are only limited judicial and administrative interpretations. The determination of various factual matters and circumstances not entirely within our control may affect our ability to qualify as a REIT. New legislation, regulations, administrative interpretations or court decisions could significantly change the tax laws with respect to qualification as a REIT, the federal income tax consequences of such qualification or the desirability of an investment in a REIT relative to other investments. There can be no assurance that we have qualified or will continue to qualify as a REIT for tax purposes.

If we lose our REIT status, we will face serious tax consequences that will substantially reduce the funds available to pay dividends to stockholders. If we fail to qualify as a REIT:

.

we would not be allowed a deduction for distributions to stockholders in computing our taxable income and would be subject to federal income tax at regular corporate rates;

.

we could be subject to the federal alternative minimum tax and possibly increased state and local taxes;

.

unless we were entitled to relief under statutory provisions, we could not elect to be subject to tax as a REIT for four taxable years following the year during which we were disqualified; and

.

we would not be required to make distributions to stockholders.

As a result of all these factors, our failure to qualify as a REIT could impair our ability to expand our business and raise capital and could adversely affect the value of our securities.

Risks Related to Adverse Global Market and Economic Conditions

Adverse global market and economic conditions and competition may impede our ability to generate sufficient income to pay expenses and maintain our properties.

Recent market and economic conditions have been unprecedented and challenging with slower growth and tighter credit conditions. Continued concerns about the systemic impact of the availability and cost of credit, the U.S. mortgage market, inflation, energy costs, geopolitical issues and declining real estate markets have contributed to increased market volatility and diminished expectations for the U.S. economy. These adverse market conditions and competition may impede our ability to generate sufficient income to pay expenses, maintain our properties, pay dividends and refinance debt.

The retail shopping sector has been negatively affected by recent economic conditions. Adverse economic conditions have forced some weaker retailers, in some cases, to declare bankruptcy and close stores. Certain retailers have announced store closings even though they have not filed for bankruptcy protection. These downturns in the retailing industry likely will have a direct impact on our performance. Continued store closings or declarations of bankruptcy by our tenants may have a material adverse effect on the Company s overall performance. Adverse general or local economic conditions could result in the inability of some tenants of the Company to meet their lease obligations and could otherwise adversely affect the Company s ability to attract or retain tenants. Lease terminations by certain tenants or a failure by certain tenants to occupy their premises in a shopping center could result in lease terminations or significant reductions in rent by other tenants in the same shopping centers under the terms of some leases, in which case we may be unable to re-lease the vacated space at attractive rents or at all, and our rental payments from our continuing tenants could significantly decrease.

We are unable to predict whether, or to what extent or for how long, these adverse market and economic conditions will persist. The continuation and/or intensification of these conditions may impede our ability to generate sufficient operating cash flow to pay expenses, maintain properties, pay dividends and refinance debt.

During 2009, the Company recognized non-cash impairment charges of approximately $175.1 million, before income taxes and noncontrolling interest, relating to adjustments to property carrying values, investments in real estate joint ventures, real estate under development and other real estate investments. Ongoing adverse market and economic conditions could cause us to recognize additional impairments in the future.

Table of Contents

Ongoing adverse market and economic conditions and market volatility will likely continue to make it difficult to value the properties and investments owned by us and our unconsolidated joint ventures. There may be significant uncertainty in the valuation, or in the stability of the value, of such properties and investments that could result in a substantial decrease in the value thereof. In addition, we intend to sell many of our non-core assets over the next several years. No assurance can be given that we will be able to recover the current carrying amount of all of our properties and investments and those of our unconsolidated joint ventures in the future. Our failure to do so would require us to recognize additional impairment charges for the period in which we reached that conclusion, which could materially and adversely affect us.

The economic performance and value of our properties is subject to all of the risks associated with owning and operating real estate including:

.

changes in the national, regional and local economic climate;

.

local conditions, including an oversupply of, or a reduction in demand for, space in properties like those that we own;

.

the attractiveness of our properties to tenants;

.

the ability of tenants to pay rent;

.

competition from other available properties;

.

changes in market rental rates;

.

the need to periodically pay for costs to repair, renovate and re-let space;

.

changes in operating costs, including costs for maintenance, insurance and real estate taxes;

.

the fact that the expenses of owning and operating properties are not necessarily reduced when circumstances such as market factors and competition cause a reduction in income from the properties; and

.

changes in laws and governmental regulations, including those governing usage, zoning, the environment and taxes.

Our properties consist primarily of community and neighborhood shopping centers and other retail properties. Our performance therefore is generally linked to economic conditions in the market for retail space. In the future, the market for retail space could be adversely affected by:

.

weakness in the national, regional and local economies;

.

the adverse financial condition of some large retailing companies;

.

ongoing consolidation in the retail sector;

.

the excess amount of retail space in a number of markets; and

.

increasing consumer purchases through catalogues and the internet.

Failure by any anchor tenant with leases in multiple locations to make rental payments to us because of a deterioration of its financial condition or otherwise could impact our performance.

Our performance depends on our ability to collect rent from tenants. At any time, our tenants may experience a downturn in their business that may significantly weaken their financial condition. As a result, our tenants may delay a number of lease commencements, decline to extend or renew leases upon expiration, fail to make rental payments when due, close stores or declare bankruptcy. Any of these actions could result in the termination of the tenants leases and the loss of rental income attributable to these tenants leases. In the event of a default by a tenant, we may experience delays and costs in enforcing our rights as landlord under the terms of our leases.

In addition, multiple lease terminations by tenants or a failure by multiple tenants to occupy their premises in a shopping center could result in lease terminations or significant reductions in rent by other tenants in the same shopping centers under the terms of some leases. In that event, we may be unable to re-lease the vacated space at attractive rents or at all, and our rental payments from our continuing tenants could significantly decrease. The occurrence of any of the situations described above, particularly if it involves a substantial tenant with leases in multiple locations, could have a material adverse effect on our performance.

Table of Contents

We may be unable to collect balances due from tenants in bankruptcy.

A tenant that files for bankruptcy protection may not continue to pay us rent. A bankruptcy filing by or relating to one of our tenants or a lease guarantor would bar all efforts by us to collect pre-bankruptcy debts from the tenant or the lease guarantor, or their property, unless the bankruptcy court permits us to do so. A tenant or lease guarantor bankruptcy could delay our efforts to collect past due balances under the relevant leases and could ultimately preclude collection of these sums. If a lease is rejected by a tenant in bankruptcy, we would have only a general unsecured claim for damages. As a result, it is likely that we would recover substantially less than the full value of any unsecured claims we hold, if at all.

Risks Related to Our Acquisition, Development, Operation, and Sale of Real Property

We may be unable to sell our real estate property investments when appropriate or on favorable terms.

Real estate property investments are illiquid and generally cannot be disposed of quickly. In addition, the federal tax code imposes restrictions on a REIT s ability to dispose of properties that are not applicable to other types of real estate companies. Therefore, we may not be able to vary our portfolio in response to economic or other conditions promptly or on favorable terms.

We may acquire or develop properties or acquire other real estate related companies and this may create risks.

We may acquire or develop properties or acquire other real estate related companies when we believe that an acquisition or development is consistent with our business strategies. We may not succeed in consummating desired acquisitions or in completing developments on time or within budget. We face competition in pursuing these acquisition or development opportunities that could increase our costs. When we do pursue a project or acquisition, we may not succeed in leasing newly developed or acquired properties at rents sufficient to cover the costs of acquisition or development and operations. Difficulties in integrating acquisitions may prove costly or time-consuming and could divert management s attention. Acquisitions or developments in new markets or industries where we do not have the same level of market knowledge may result in poorer than anticipated performance. We may also abandon acquisition or development opportunities that management has begun pursuing and consequently fail to recover expenses already incurred and have devoted management time to a matter not consummated. Furthermore, our acquisitions of new properties or companies will expose us to the liabilities of those properties or companies, some of which we may not be aware at the time of acquisition. In addition, development of our existing properties presents similar risks.

There is a lack of operating history with respect to our recent acquisitions and development of properties and we may not succeed in the integration or management of additional properties.

These properties may have characteristics or deficiencies currently unknown to us that affect their value or revenue potential. It is also possible that the operating performance of these properties may decline under our management. As we acquire additional properties, we will be subject to risks associated with managing new properties, including lease-up and tenant retention. In addition, our ability to manage our growth effectively will require us to successfully integrate our new acquisitions into our existing management structure. We may not succeed with this integration or effectively manage additional properties. Also, newly acquired properties may not perform as expected.

We face competition in leasing or developing properties.

We face competition in the acquisition, development, operation and sale of real property from others engaged in real estate investment. Some of these competitors may have greater financial resources than we do. This could result in competition for the acquisition of properties for tenants who lease or consider leasing space in our existing and subsequently acquired properties and for other real estate investment opportunities.

Risks Related to Our Joint Venture and Preferred Equity Investments

We do not have exclusive control over our joint venture and preferred equity investments, such that we are unable to ensure that our objectives will be pursued.

Table of Contents

We have invested in some cases as a co-venturer or partner in properties instead of owning directly. In these investments, we do not have exclusive control over the development, financing, leasing, management and other aspects of these investments. As a result, the co-venturer or partner might have interests or goals that are inconsistent with ours, take action contrary to our interests or otherwise impede our objectives. These investments involve risks and uncertainties, including the risk of the co-venturer or partner failing to provide capital and fulfill its obligations, which may result in certain liabilities to us for guarantees and other commitments, the risk of conflicts arising between us and our partners and the difficulty of managing and resolving such conflicts, and the difficulty of managing or otherwise monitoring such business arrangements. The co-venturer or partner also might become insolvent or bankrupt, which may result in significant losses to us.

Although our joint venture arrangements may allow us to share risks with our joint-venture partners, these arrangements may also decrease our ability to manage risk. Joint ventures have additional risks, such as:

.

potentially inferior financial capacity, diverging business goals and strategies and our need for the venture partner continued cooperation;

.

our inability to take actions with respect to the joint venture activities that we believe are favorable if our joint venture partner does not agree;

.

our inability to control the legal entity that has title to the real estate associated with the joint venture;

.

our lenders may not be easily able to sell our joint venture assets and investments or view them less favorably as collateral, which could negatively affect our liquidity and capital resources;

.

our joint venture partners can take actions that we may not be able to anticipate or prevent, which could result in negative impacts on our debt and equity; and

.

our joint venture partners business decisions or other actions or omissions may result in harm to our reputation or adversely affect the value of our investments.

We may not be able to recover our investments in our joint venture or preferred equity investments, which may result in significant losses to us.

Our joint venture and preferred equity investments generally own real estate properties for which the economic performance and value is subject to all the risks associated with owning and operating real estate as described above.

Risks Related to Our International Operations

We have significant international operations, which may be affected by economic, political and other risks associated with international operations, and this could adversely affect our business.

We invest in and conduct operations outside the United States. The risks we face in international business operations include, but are not limited to:

.

currency risks, including currency fluctuations;

.

unexpected changes in legislative and regulatory requirements;

.

potential adverse tax burdens;

.

burdens of complying with different accounting and permitting standards, labor laws and a wide variety of foreign laws;

.

obstacles to the repatriation of earnings and cash;

.

regional, national and local political uncertainty;

.

economic slowdown and/or downturn in foreign markets;

.

difficulties in staffing and managing international operations;

.

difficulty in administering and enforcing corporate policies, which may be different than the normal business practices of local cultures; and

.

reduced protection for intellectual property in some countries.

Table of Contents

Each of these risks might impact our cash flow or impair our ability to borrow funds, which ultimately could adversely affect our business, financial condition, operating results and cash flows.

In order to fully develop our international operations, we must overcome cultural and language barriers and assimilate different business practices. In addition, we are required to create compensation programs, employment policies and other administrative programs that comply with laws of multiple countries. We also must communicate and monitor standards and directives in our international locations. Our failure to successfully manage our geographically diverse operations could impair our ability to react quickly to changing business and market conditions and to enforce compliance with standards and procedures. Since a meaningful portion of our revenues are generated internationally, we must devote substantial resources to managing our international operations.

Our future success will be influenced by our ability to anticipate and effectively manage these and other risks associated with our international operations. Any of these factors could, however, materially adversely affect our international operations and, consequently, our financial condition, results of operations and cash flows.

Our international operations are subject to a variety of laws and regulations, and we can predict neither the impact of associated requirements to which our international operations may be subject nor the potential that we may face regulatory sanctions.

Our international operations are subject to a variety of U.S. and foreign laws and regulations, including the U.S. Foreign Corrupt Practices Act, or FCPA. We cannot assure you that we will continue to be found to be operating in compliance with, or be able to detect violations of, any such laws or regulations. In addition, we cannot predict the nature, scope or effect of future regulatory requirements to which our international operations might be subject or the manner in which existing laws might be administered or interpreted.

We cannot assure you that our employees will adhere to our code of business ethics or any other of our policies, applicable anti-corruption laws, including the FCPA, or other legal requirements. Failure to comply with these requirements may subject us to legal, regulatory or other sanctions, which could adversely affect our financial condition, results of operations and cash flows.

Risks Related to Our Financing Activities

We may be unable to obtain financing through the debt and equities market, which would have a material adverse effect on our growth strategy, our results of operations and our financial condition.

The capital and credit markets have become increasingly volatile and constrained as a result of adverse conditions that have caused the failure and near failure of a number of large financial services companies. We cannot assure you that we will be able to access the capital and credit markets to obtain additional debt or equity financing or that we will be able to obtain financing on favorable terms. The inability to obtain financing could have negative effects on our business, such as:

.

we could have great difficulty acquiring or developing properties, which would materially adversely affect our business strategy;

.

our liquidity could be adversely affected;

.

we may be unable to repay or refinance our indebtedness;

.

we may need to make higher interest and principal payments or sell some of our assets on unfavorable terms to fund our indebtedness; and

.

we may need to issue additional capital stock, which could further dilute the ownership of our existing shareholders.

Financial covenants to which we are subject may restrict our operating and acquisition activities.

Our revolving credit facilities and the indentures under which our senior unsecured debt is issued contain certain financial and operating covenants, including, among other things, certain coverage ratios, as well as limitations on our ability to incur debt, make dividend payments, sell all or substantially all of our assets and engage in mergers and consolidations and certain acquisitions. These covenants may restrict our ability to pursue certain business initiatives or certain acquisition transactions that might otherwise be advantageous. In addition, failure to meet any of the financial covenants could cause an event of default under and/or accelerate some or all of our indebtedness, which would have a material adverse effect on us.

Table of Contents

Adverse changes in our credit ratings could impair our ability to obtain additional debt and equity financing on favorable terms, if at all, and could significantly reduce the market price of our publicly traded securities.

Risks Related to the Market Price of Our Publicly Traded Securities

Changes in market conditions could adversely affect the market price of our publicly traded securities.

As with other publicly traded securities, the market price of our publicly traded securities depends on various market conditions, which may change from time-to-time. Among the market conditions that may affect the market price of our publicly traded securities are the following:

.

the extent of institutional investor interest in us;

.

the reputation of REITs generally and the reputation of REITs with portfolios similar to us;

.

the attractiveness of the securities of REITs in comparison to securities issued by other entities (including securities issued by other real estate companies);

.

our financial condition and performance;

.

the market s perception of our growth potential and potential future cash dividends;

.

an increase in market interest rates, which may lead prospective investors to demand a higher distribution rate in relation to the price paid for our shares; and

.

general economic and financial market conditions.

We may change the dividend policy for our common stock in the future.

We may distribute taxable dividends that are partially payable in cash and partially payable in our stock. Under recent IRS guidance, up to 90% of any such taxable dividend with respect to calendar years 2008 through 2011, and in some cases declared as late as December 31,2012, could be payable in our stock if certain conditions are met. Although we reserve the right to utilize this procedure in the future, we currently have no intent to do so. In the event that we pay a portion of a dividend in shares of our common stock, taxable U.S. stockholders would be required to pay tax on the entire amount of the dividend, including the portion paid in shares of common stock, in which case such stockholders might have to pay the tax using cash from other sources. If a U.S. stockholder sells the stock it receives as a dividend in order to pay this tax, the sales proceeds may be less than the amount included in income with respect to the dividend, depending on the market price of our stock at the time of the sale. Furthermore, with respect to non-U.S. stockholders, we may be required to withhold U.S. tax with respect to such dividend, including in respect of all or a portion of such dividend that is payable in stock. In addition, if a significant number of our stockholders sell shares of our common stock in order to pay taxes owed on dividends, such sales would put downward pressure on the market price of our common stock.

The decision to declare and pay dividends on our common stock in the future, as well as the timing, amount and composition of any such future dividends, will be at the sole discretion of our Board of Directors and will depend on our earnings, funds from operations, liquidity, financial condition, capital requirements, contractual prohibitions or other limitations under our indebtedness and preferred stock, the annual distribution requirements under the REIT provisions of the Code, state law and such other factors as our Board of Directors deems relevant. Any change in our dividend policy could have a material adverse effect on the market price of our common stock.

Risks Related to Our Marketable Securities and Mortgage Receivables

We may not be able to recover our investments in marketable securities or mortgage receivables, which may result in significant losses to us.

Our investments in marketable securities are subject to specific risks relating to the particular issuer of the securities, including the financial condition and business outlook of the issuer, which may result in significant losses to us.

Marketable securities are generally unsecured and may also be subordinated to other obligations of the issuer. As a result, investments in marketable securities are subject to risks of:

Table of Contents

.

limited liquidity in the secondary trading market;

.

substantial market price volatility resulting from changes in prevailing interest rates;

.

subordination to the prior claims of banks and other senior lenders to the issuer;

.

the possibility that earnings of the issuer may be insufficient to meet its debt service and distribution obligations; and

.

the declining creditworthiness and potential for insolvency of the issuer during periods of rising interest rates and economic downturn.

The issuers of our marketable securities also might become insolvent or bankrupt, which may result in significant losses to us.

These risks may adversely affect the value of outstanding marketable securities and the ability of the issuers to make distribution payments.

We invest in mortgage receivables. Our investments in mortgage receivables normally are not insured or otherwise guaranteed by any institution or agency. In the event of a default by a borrower, it may be necessary for us to foreclose our mortgage or engage in costly negotiations. Delays in liquidating defaulted mortgage loans and repossessing and selling the underlying properties could reduce our investment returns. Furthermore, in the event of default, the actual value of the property securing the mortgage may decrease. A decline in real estate values will adversely affect the value of our loans and the value of the mortgages securing our loans.

Our mortgage receivables may be or become subordinated to mechanics' or materialmen's liens or property tax liens. In these instances we may need to protect a particular investment by making payments to maintain the current status of a prior lien or discharge it entirely. In these cases, the total amount we recover may be less than our total investment, resulting in a loss. In the event of a major loan default or several loan defaults resulting in losses, our investments in mortgage receivables would be materially and adversely affected.

Risks Related to Environmental Regulations

We may be subject to environmental regulations.

Under various federal, state, and local laws, ordinances and regulations, we may be considered an owner or operator of real property and may be responsible for paying for the disposal or treatment of hazardous or toxic substances released on or in our property, as well as certain other potential costs which could relate to hazardous or toxic substances (including governmental fines and injuries to persons and property). This liability may be imposed whether or not we knew about, or were responsible for, the presence of hazardous or toxic substances.

Item 1B. Unresolved Staff Comments

None

Item 2. Properties

Real Estate Portfolio

As of December 31, 2009, the Company had interests in 1,915 properties, including 1,478 in retail operating properties, 437 in non-retail properties, totaling approximately 176.9 million square feet of GLA located in 45 states, Puerto Rico, Canada, Mexico and South America. The Company s portfolio includes interests ranging from 5% to 50% in 433 shopping center properties comprising approximately 65.8 million square feet of GLA relating to the Company s investment management programs and other joint ventures. Neighborhood and community shopping centers comprise the primary focus of the Company's current portfolio. As of December 31, 2009, the Company s total shopping center portfolio, comprised of total GLA of 127.3 million from 912 properties, was approximately 92.6% leased.

The Company's neighborhood and community shopping center properties, which are generally owned and operated through subsidiaries or joint ventures, had an average size of approximately 140,000 square feet as of December 31,

2009. The Company generally retains its shopping centers for long-term investment and consequently pursues a program of regular physical maintenance together with major renovations and refurbishing to preserve and increase the value of its properties.

Table of Contents

These projects usually include renovating existing facades, installing uniform signage, resurfacing parking lots and enhancing parking lot lighting. During 2009, the Company capitalized approximately $9.2 million in connection with these property improvements and expensed to operations approximately $20.3 million.

The Company's neighborhood and community shopping centers are usually "anchored" by a national or regional discount department store, supermarket or drugstore. As one of the original participants in the growth of the shopping center industry and one of the nation's largest owners and operators of shopping centers, the Company has established close relationships with a large number of major national and regional retailers. Some of the major national and regional companies that are tenants in the Company's shopping center properties include The Home Depot, TJX Companies, Sears Holdings, Wal-Mart, Kohl s, Costco, Best Buy and Royal Ahold.

A substantial portion of the Company's income consists of rent received under long-term leases. Most of the leases provide for the payment of fixed-base rentals monthly in advance and for the payment by tenants of an allocable share of the real estate taxes, insurance, utilities and common area maintenance expenses incurred in operating the shopping centers. Although many of the leases require the Company to make roof and structural repairs as needed, a number of tenant leases place that responsibility on the tenant, and the Company's standard small store lease provides for roof repairs to be reimbursed by the tenant as part of common area maintenance. The Company's management places a strong emphasis on sound construction and safety at its properties.

Approximately 20.9% of the Company's leases also contain provisions requiring the payment of additional rent calculated as a percentage of tenants gross sales above predetermined thresholds. Percentage rents accounted for less than 1% of the Company's revenues from rental property for the year ended December 31, 2009. Additionally, a majority of the Company s leases have built in contractual rent increases as well as escalation clauses. Such e