GETTY REALTY CORP /MD/
Form 10-K
March 16, 2010

# UNITED STATES
# SECURITIES AND EXCHANGE COMMISSION
### WASHINGTON, D.C. 20549
# FORM 10-K

þ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
FOR THE FISCAL YEAR ENDED DECEMBER 31, 2009

OR

o TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
COMMISSION FILE NUMBER 001-13777

# GETTY REALTY CORP.

(Exact name of registrant as specified in its charter)

| | |
|---|---|
| Maryland | 11-3412575 |
| (State or other jurisdiction of incorporation or organization) | (I.R.S. employer identification no.) |
| 125 Jericho Turnpike, Suite 103, Jericho, New York | 11753 |
| (Address of principal executive offices) | (Zip Code) |

Registrant's telephone number, including area code: (516) 478-5400

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

| TITLE OF EACH CLASS | NAME OF EACH EXCHANGE ON WHICH REGISTERED |
|---|---|
| Common Stock, $0.01 par value | New York Stock Exchange |

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

None

(Title of Class)

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 o No o

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

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K 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. o

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 the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

| | | | |
|---|---|---|---|
| Large accelerated filer o | Accelerated filer þ | Non-accelerated filer o<br>(Do not check if a smaller reporting company) | Smaller reporting company o |

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).
Yes o No þ
The aggregate market value of common stock held by non-affiliates (17,324,093 shares of common stock) of the Company was $326,905,635 as of June 30, 2009.

The registrant had outstanding 24,766,426 shares of common stock as of March 16, 2010.

DOCUMENTS INCORPORATED BY REFERENCE

| **DOCUMENT** | **PART OF FORM 10-K** |
|---|---|
| Selected Portions of Definitive Proxy Statement for the 2010 Annual Meeting of Stockholders (the "Proxy Statement"), which will be filed by the registrant on or prior to 120 days following the end of the registrant's year ended December 31, 2009 pursuant to Regulation 14A. | III |

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**Cautionary Note Regarding Forward-Looking Statements**

Certain statements in this Annual Report on Form 10-K may constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. When we use the words "believes," "expects," "plans," "projects," "estimates," "predicts" and similar expressio we intend to identify forward-looking statements. (All capitalized and undefined terms used in this section shall have the same meanings hereafter defined below in this Annual Report on Form 10-K.) Examples of forward-looking statements include, but are not limited to, statements regarding: our primary tenant, Marketing, and the Marketing Leases included in "Item 1A. Risk Factors" and "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations - Marketing and the Marketing Leases" and elsewhere in this Annual Report on Form 10-K; our belief that our network of retail motor fuel and convenience store properties and terminal properties are unique and not readily available for purchase or lease from other owners or landlords; our belief regarding the difficulty of obtaining the permits necessary to operate a network of petroleum marketing properties such as ours; future acquisitions and their impact on our financial performance; compliance with federal, state and local provisions enacted or adopted pertaining to environmental matters; our estimates and assumptions regarding the Marketing Environmental Liabilities; the impact of any modification or termination of the Marketing Leases on our business and ability to pay dividends or our stock price; our ability to predict if Marketing will continue to be dependent on financial support from Lukoil to meet its obligations as they become due through the terms of the Marketing Leases, that it is probable that Lukoil will continue to provide financial support to Marketing in the future and that Lukoil will not allow Marketing to fail to perform its rental, environmental and other obligations under the Marketing Leases; our belief that it is not probable that Marketing will not pay for substantially all of the Marketing Environmental Liabilities; our belief that Marketing is exiting the direct-supplied retail gasoline business by entering into subleases with petroleum distributors; our belief that Marketing is seeking subtenants for other significant portions of the portfolio of properties it leases from us; our decision to attempt to negotiate with Marketing for a modification of the Marketing Leases which removes certain properties from the Marketing Leases; our ability to predict if, or when, the Marketing Leases will be modified or terminated, the terms of any such modification or termination or what actions Marketing and Lukoil will take and what our recourse will be whether the Marketing Leases are modified or terminated or not; our belief that it is not probable that we will not collect the deferred rent receivable related to the properties subject to the Marketing Leases other than the deferred rent receivable related to the three hundred fifty properties we identified as being the most likely to be removed from the Marketing Leases; the expected effect of regulations on our long-term performance; our expected ability to maintain compliance with applicable regulations; our ability to renew expired leases; the adequacy of our current and anticipated cash flows from operations, borrowings under our Credit Agreement and available cash and cash equivalents; our ability to re-let properties at market rents or sell properties; our ability to maintain our federal tax status as a real estate investment trust ("REIT"); the probable outcome of litigation or regulatory actions and its impact on us; our belief that Marketing or other counterparties are responsible for certain environmental remediation costs; our expected recoveries from underground storage tank funds; our exposure and liability due to environmental remediation costs; our estimates and assumptions regarding remediation costs; our belief that our accruals for environmental litigation matters were appropriate based on information then currently available; our expectations as to the long-term effect of environmental liabilities on our business, financial condition, results of operations, liquidity, ability to pay dividends and stock price; our exposure to interest rate fluctuations and the manner in which we expect to manage this exposure; the expected reduction in interest-rate risk resulting from our interest rate Swap Agreement and our expectation that we will not settle the interest rate Swap Agreement prior to its maturity; our expectation as to our continued compliance with the financial covenants in our Credit Agreement and our Term Loan Agreement and that the Credit Agreement will be refinanced with variable interest-rate debt at its maturity; our expectations regarding corporate level federal income taxes; the indemnification obligations of the Company and others; our assessment of the likelihood of future competition; our beliefs regarding our insurance coverage; our belief that Marketing had removed, or has scheduled removal of the gasoline tanks and related equipment at approximately one hundred fifty, or 18%, of our properties and our beliefs that most of these properties are either vacant or provide negative or marginal contribution to Marketing's results; assumptions regarding the future applicability of our accounting estimates, assumptions and policies; our intention to pay future dividends and the amounts thereof; and our beliefs about the reasonableness of our accounting estimates, judgments and assumptions including the estimated net sales value we expect to receive on the properties where we reduced the carrying amount of the properties during 2009.

These forward-looking statements are based on our current beliefs and assumptions and information currently available to us, and involve known and unknown risks (including the risks described below in "Item 1A. Risk Factors" and other risks that we describe from time to time in our other filings with the SEC, uncertainties and other factors which may cause our actual results, performance and achievements to be materially different from any future results, performance or achievements expressed or implied by these forward-looking statements.

These risks include, but are not limited to risks associated with: owning and leasing real estate generally; adverse developments in general business, economic or political conditions; material dependence on Marketing as a tenant; the impact of Marketing's announced restructuring of its business; our inability to provide access to financial information about Marketing; the modification or termination of the Marketing Leases; Marketing paying its environmental obligations or changes in our assumptions for environmental liabilities related to the Marketing Leases; competition for properties and tenants; performance of our tenants of their lease obligations, tenant non-renewal and our ability to re-let or sell vacant properties; the effects of taxation and change to other applicable standards or regulations; potential exposure related to pending lawsuits and claims; costs of completing environmental remediation and of compliance with environmental legislation and regulations; our exposure to counterparty risk and our ability to effective manage or mitigate this risk; owning real estate primarily concentrated in the Northeast and Mid-Atlantic regions of the United States; substantially all of our tenants depending on the same industry for their revenues; potential future acquisitions; losses not covered by insurance; the impact of our electing to be treated as a REIT under the federal income tax laws, including subsequent failure to qualify as a REIT; our dependence on external sources of capital; generalized credit market dislocations and contraction of available credit; our business operations generating sufficient cash for distributions or debt service; changes in interest rates and our ability to manage or mitigate this risk effectively; our potential inability to pay dividends; changes to our dividend policy; changes in market conditions; adverse affect of inflation; the loss of a member or members of our management team; the uncertainty of our estimates, judgments and assumptions associated with our accounting policies and methods; and terrorist attacks and other acts of violence and war.

As a result of these and other factors, we may experience material fluctuations in future operating results on a quarterly or annual basis, which could materially and adversely affect our business, financial condition, operating results or stock price. An investment in our stock involves various risks, including those mentioned above and elsewhere in this report and those that are described from time to time in our other filings with the SEC.

You should not place undue reliance on forward-looking statements, which reflect our view only as of the date hereof. We undertake no obligation to publicly release revisions to these forward-looking statements that reflect future events or circumstances or reflect the occurrence of unanticipated events.

# PART I

## Item 1. Business

### Overview

Getty Realty Corp., a Maryland corporation, is the largest publicly-traded real estate investment trust ("REIT") in the United States specializing in the ownership and leasing of retail motor fuel and convenience store properties and petroleum distribution terminals. As of December 31, 2009, we owned nine hundred ten properties and leased one hundred sixty-one additional properties. Our properties are located primarily in the Northeast and the Mid-Atlantic regions in the United States. The Company also owns or leases properties in Texas, North Carolina, Hawaii, California, Florida, Arkansas, Illinois, Ohio, and North Dakota.

Nearly all of our properties are leased or sublet to distributors and retailers engaged in the sale of gasoline and other motor fuel products, convenience store products and automotive repair services. These tenants are responsible for managing the operations conducted at these properties and for the payment of taxes, maintenance, repair, insurance and other operating expenses related to our properties. Our tenants' financial results are largely dependent on the performance of the petroleum marketing industry, which is highly competitive and subject to volatility. As of December 31, 2009, we leased approximately 78% of our one thousand seventy-one owned and leased properties on a long-term triple-net basis to Getty Petroleum Marketing Inc. ("Marketing"). Marketing is wholly-owned by a subsidiary of OAO LUKoil ("Lukoil"), one of the largest integrated Russian oil companies. Marketing operates the petroleum distribution terminals but typically does not itself directly operate the retail motor fuel and convenience store properties it leases from us. Rather, Marketing generally subleases our retail properties to subtenants that either operate their gas stations, convenience stores, automotive repair services or other businesses at our properties or are petroleum distributors who may operate our properties directly and/or sublet our properties to the operators. (For information regarding factors that could adversely affect us relating to our lessees, including our primary tenant, Marketing, see "Item 1A. Risk Factors". For additional information regarding the portion of our financial results that are attributable to Marketing, see Note 11 in "Item 8. Financial Statements and Supplementary Data - Notes to Consolidated Financial Statements." For additional information regarding Marketing and the Marketing Leases (as defined below), see "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations — General — Marketing and the Marketing Leases".)

We are self-administered and self-managed by our experienced management team, which has over one hundred-two years of combined experience in owning, leasing and managing retail motor fuel and convenience store properties. Our executive officers are engaged exclusively in the day-to-day business of the Company. We administer nearly all management functions for our properties, including leasing, legal, data processing, finance and accounting. We have invested, and will continue to invest, in real estate and real estate related investments, such as mortgage loans, when appropriate opportunities arise.

### The History of Our Company

Our founders started the business in 1955 with the ownership of one gasoline service station in New York City and combined real estate ownership, leasing and management with service station operation and petroleum distribution. We held our initial public offering in 1971 under the name Power Test Corp. We acquired, from Texaco in 1985, the petroleum distribution and marketing assets of Getty Oil Company in the Northeast United States along with the Getty® name and trademark in connection with our real estate and the petroleum marketing business in the United States. We became one of the largest independent owner/operators of petroleum marketing assets in the country, serving retail and wholesale customers through a distribution and marketing network of Getty® and other branded retail motor fuel and convenience store properties and petroleum distribution terminals.

Marketing was formed to facilitate the spin-off of our petroleum marketing business to our shareholders which was completed in 1997 (the "Spin-Off"). At that time, our shareholders received a tax-free dividend of one share of common stock of Marketing for each share of our common stock. Following the Spin-Off, Marketing held the assets and liabilities of our petroleum marketing operations and a portion of our home heating oil business, and we continued to operate primarily as a real estate company specializing in the ownership and leasing of retail motor fuel and convenience store properties and petroleum distribution terminals. We acquired Power Test Investors Limited Partnership (the "Partnership") in 1998, thereby acquiring fee title to two hundred ninety-five properties we had previously leased from the Partnership and which the

Partnership had acquired from Texaco in 1985. We later sold the remaining portion of our home heating oil business. As a result, we are now exclusively engaged in the ownership, leasing and management of real estate assets, principally in the petroleum marketing industry.

Marketing was acquired by a U.S. subsidiary of Lukoil in December 2000. In connection with Lukoil's acquisition of Marketing, we renegotiated our long-term unitary triple-net lease (the "Master Lease") with Marketing. As of December 31, 2009, Marketing leased from us eight hundred thirty properties under the Master Lease and ten properties under supplemental leases (collectively with the Master Lease, the "Marketing Leases"). Eight hundred thirty-one of the properties leased to Marketing are retail motor fuel and convenience store properties and nine of the properties are petroleum distribution terminals. Seven hundred eight of the properties leased to Marketing are owned by us and one hundred thirty-two of the properties are leased by us from third parties. The Master Lease has an initial term expiring in December 2015, and generally provides Marketing with three renewal options of ten years each and a final renewal option of three years and ten months extending to 2049. The Master Lease is a unitary lease and, therefore, Marketing's exercise of any renewal option can only be on an "all or nothing" basis. The supplemental leases have initial terms of varying expiration dates. The Marketing Leases are "triple-net" leases, pursuant to which Marketing is responsible for the payment of taxes, maintenance, repair, insurance and other operating expenses. We have licensed the Getty® trademarks to Marketing on an exclusive basis in its marketing territory as of December 2000. We have also licensed the trademarks to Marketing on a non-exclusive basis outside that territory, subject to a gallonage-based royalty, although to date, Marketing has not used the trademark outside that territory. (For additional information regarding Marketing and the Marketing Leases, see "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations — General — Marketing and the Marketing Leases".)

We elected to be treated as a REIT under the federal income tax laws beginning January 1, 2001. A REIT is a corporation, or a business trust that would otherwise be taxed as a corporation, which meets certain requirements of the Internal Revenue Code. The Internal Revenue Code permits a qualifying REIT to deduct dividends paid, thereby effectively eliminating corporate level federal income tax and making the REIT a pass-through vehicle for federal income tax purposes. To meet the applicable requirements of the Internal Revenue Code, a REIT must, among other things, invest substantially all of its assets in interests in real estate (including mortgages and other REITs) or cash and government securities, derive most of its income from rents from real property or interest on loans secured by mortgages on real property, and distribute to shareholders annually a substantial portion of its otherwise taxable income. As a REIT, we are required to distribute at least ninety percent of our taxable income to our shareholders each year and would be subject to corporate level federal income taxes on any taxable income that is not distributed.

**Real Estate Business**

The operators of our properties are primarily distributors and retailers engaged in the sale of gasoline and other motor fuel products, convenience store products and automotive repair services. Over the past decade, these lines of business have matured into a single industry as operators increased their emphasis on co-branded locations with multiple uses. The combination of petroleum product sales with other offerings, particularly convenience store products, has helped provide one-stop shopping for consumers and we believe represented a driving force behind the industry's historical growth. In those instances where we determine that the best use for a property is no longer as a retail motor fuel outlet, we will seek an alternative tenant or buyer for the property. We lease or sublet approximately twenty of our properties for such uses as fast food restaurants, automobile sales and other retail purposes.

Revenues from rental properties included in continuing operations for the year ended December 31, 2009 were $84.5 million which is comprised of $82.5 million of lease payments received and $2.0 million of "Rental Revenue Adjustments" consisting of deferred rental income recognized due to the straight-line method of accounting for the leases with Marketing and certain of our other tenants, amortization of above-market and below-market rent for acquired in-place leases and income recognized for direct financing leases. In 2009, we received lease payments from Marketing aggregating approximately $60.0 million (or 72.7%) of the $82.5 million lease payments received included in continuing operations. Our financial results are materially dependent upon the ability of Marketing to meet its rental and environmental obligations under the Marketing Leases. Marketing's financial results depend on retail petroleum marketing margins from the sale of refined petroleum products and rental income from its subtenants. Marketing's subtenants either operate their gas stations, convenience stores, automotive repair services or other businesses at our properties or are petroleum distributors who may operate our properties directly and/or sublet our properties to the operators. Since a substantial portion of our revenues are derived from the Marketing Leases, any factor that adversely affects Marketing's ability to meet its obligations under the Marketing Leases may have a material adverse effect on our business, financial condition, revenues, operating expenses, results of operations, liquidity, ability to pay dividends or stock price. Marketing has made all required monthly rental payments under the Marketing Leases when due through March 2010, although there can be no assurance that it will continue to do so. (For additional information regarding the portion of our financial results that are attributable to Marketing, see Note 11 in “Item 8. Financial Statements and Supplementary Data - Notes to Consolidated Financial Statements.” For additional information regarding Marketing and the Marketing Leases, see “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations — General — Marketing and the Marketing Leases”.) You can find more information about our revenues, profits and assets by referring to the financial statements and supplemental financial information in “Item 8. Financial Statements and Supplementary Data”.

As of December 31, 2009, we owned fee title to nine hundred one retail motor fuel, convenience store and other retail properties and nine petroleum distribution terminals. We also leased one hundred sixty-one retail motor fuel, convenience store and other retail properties. Our typical property is used as a retail motor fuel outlet or convenience store, and is located on between one-half and three quarters of an acre of land in a metropolitan area. Our properties are located primarily in the Northeast and the Mid-Atlantic regions in the United States. The Company also owns or leases properties in Texas, North Carolina, Hawaii, California, Florida, Arkansas, Illinois, Ohio, and North Dakota. Approximately one-half of our retail motor fuel properties have repair bays (typically two or three bays per station) and nearly half have convenience stores, canopies or both. We lease four thousand square feet of office space at 125 Jericho Turnpike, Jericho, New York, which is used for our corporate headquarters.

We believe our network of retail motor fuel and convenience store properties and terminal properties across the Northeast and the Mid-Atlantic regions of the United States is unique and that comparable networks of properties are not readily available for purchase or lease from other owners or landlords. Many of our properties are located at highly trafficked urban intersections or conveniently close to highway entrance and exit ramps. Furthermore, we believe that obtaining the permits necessary to operate a network of petroleum marketing properties such as ours would be a difficult, time consuming and costly process for any potential competitor. However, the real estate industry is highly competitive, and we compete for tenants with a large number of property owners. Our principal means of competition are rents charged in relation to the income producing potential of the location. In addition, we expect other major real estate investors with significant capital will compete with us for attractive acquisition opportunities. These competitors include petroleum manufacturing, distributing and marketing companies, other REITs, investment banking firms and private institutional investors. This competition has increased prices for commercial properties and may impair our ability to make suitable property acquisitions on favorable terms in the future.

As part of our overall growth strategy we regularly review opportunities to acquire additional properties and we expect to continue to pursue acquisitions that we believe will benefit our financial performance. To the extent that our current sources of liquidity are not sufficient to fund such acquisitions we will require other sources of capital, which may or may not be available on favorable terms or at all.

**Trademarks**

We own the Getty® name and trademark in connection with our real estate and the petroleum marketing business in the United States and have licensed the Getty® trademarks to Marketing on an exclusive basis in its marketing territory as of December 2000. We have also licensed the trademarks to Marketing on a non-exclusive basis outside that territory, subject to a gallonage-based royalty, although to date, Marketing has not used the trademark outside that territory. The trademark licenses with Marketing are coterminous with the Master Lease.

**Regulation**

We are subject to numerous existing federal, state and local laws and regulations including matters related to the protection of the environment such as the remediation of known contamination and the retirement and decommissioning or removal of long-lived assets including buildings containing hazardous materials, underground storage tanks (“UST” or “USTs”) and other equipment. Petroleum properties are governed by numerous federal, state and local environmental laws and regulations. These laws have included: (i) requirements to report to governmental authorities discharges of petroleum products into the environment and, under certain circumstances, to remediate the soil and/or groundwater contamination pursuant to governmental order and directive, (ii) requirements to remove and replace USTs that have exceeded governmental-mandated age limitations and (iii) the requirement to provide a certificate of financial responsibility with respect to claims relating to UST failures. Our tenants are directly responsible for compliance with various environmental laws and regulations as the operators of our properties.

We believe that we are in substantial compliance with federal, state and local provisions enacted or adopted pertaining to environmental matters. Although we are unable to predict what legislation or regulations may be adopted in the future with respect to environmental protection and waste disposal, existing legislation and regulations have had no material adverse effect on our competitive position. (For additional information with respect to pending environmental lawsuits and claims see "Item 3. Legal Proceedings".)

Environmental expenses are principally attributable to remediation costs which include installing, operating, maintaining and decommissioning remediation systems, monitoring contamination, and governmental agency reporting incurred in connection with contaminated properties. We seek reimbursement from state UST remediation funds related to these environmental expenses where available. We enter into leases and various other agreements which allocate responsibility for known and unknown environmental liabilities by establishing the percentage and method of allocating responsibility between the parties. In accordance with leases with certain tenants, we have agreed to bring the leased properties with known environmental contamination to within applicable standards, and to either regulatory or contractual closure ("Closure") in an efficient and economical manner. Generally, upon achieving Closure at each individual property, our environmental liability under the lease for that property will be satisfied and future remediation obligations will be the responsibility of our tenant. As of December 31, 2009, we have regulatory approval for remediation action plans in place for two hundred forty-five (95%) of the two hundred fifty-eight properties for which we continue to retain remediation responsibility and the remaining thirteen properties (5%) were in the assessment phase. In addition, we have nominal post-closure compliance obligations at twenty-two properties where we have received "no further action" letters.

Our tenants are directly responsible to pay for (i) remediation of environmental contamination they cause and compliance with various environmental laws and regulations as the operators of our properties, and (ii) environmental liabilities allocated to our tenants under the terms of our leases and various other agreements between our tenants and us. Generally, the liability for the retirement and decommissioning or removal of USTs and other equipment is the responsibility of our tenants. We are contingently liable for these obligations in the event that our tenants do not satisfy their responsibilities. A liability has not been accrued for obligations that are the responsibility of our tenants based on our tenants' past histories of paying such obligations and/or our assessment of their respective financial abilities to pay their share of such costs. However, there can be no assurance that our assessments are correct or that our tenants who have paid their obligations in the past will continue to do so.

It is possible that our assumptions regarding the ultimate allocation methods and share of responsibility that we used to allocate environmental liabilities may change, which may result in adjustments to the amounts recorded for environmental litigation accruals, environmental remediation liabilities and related assets. We will be required to accrue for environmental liabilities that we believe are allocable to others under various agreements if we determine that it is probable that the counter-party will not meet its environmental obligations. We may ultimately be responsible to directly pay for environmental liabilities as the property owner if the counterparty fails to pay them. The ultimate resolution of these matters could have a material adverse effect on our business, financial condition, results of operations, liquidity, ability to pay dividends or stock price.

For additional information please refer to "Item 1A. Risk Factors" and to "General – Marketing and the Marketing Leases," "Liquidity and Capital Resources," "Environmental Matters" and "Contractual Obligations" in "Management's Discussion and Analysis of Financial Condition and Results of Operations" which appear in Item 7. of this Annual Report on Form 10-K.

**Personnel**

As of March 16, 2010, we had sixteen employees.

**Access to our filings with the Securities and Exchange Commission and Corporate Governance Documents**

Our website address is www.gettyrealty.com. Our address, phone number and a list of our officers is available on our website. Our website contains a hyperlink to the EDGAR database of the Securities and Exchange Commission at www.sec.gov where you can access, free-of-charge, our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and all amendments to these reports as soon as reasonably practicable after such reports are filed. Our website also contains our business conduct guidelines, corporate governance guidelines and the charters of the Compensation, Nominating/Corporate Governance and Audit Committees of our Board of Directors. We also will provide copies of these reports and corporate governance documents free-of-charge upon request, addressed to Getty Realty Corp., 125 Jericho Turnpike, Suite 103, Jericho, NY 11753, Attn: Investor Relations. Information available on or accessible through our website shall not be deemed to be a part of this Annual Report on Form 10-K. You may read and copy any materials that we file with the Securities and Exchange Commission at the Securities and Exchange Commission's Public Reference Room at 100 F Street, N.E., Washington, DC 20549. You may obtain information on the operation of the Public Reference Room by calling the Securities and Exchange Commission at 1-800-SEC-0330.

**Item 1A. Risk Factors**

We are subject to various risks, many of which are beyond our control. As a result of these and other factors, we may experience material fluctuations in our future operating results on a quarterly or annual basis, which could materially and adversely affect our business, financial condition, results of operations liquidity, ability to pay dividends or stock price. An investment in our stock involves various risks, including those mentioned below and elsewhere this Annual Report on Form 10-K and those that are described from time to time in our other filings with the SEC.

***We are subject to risks inherent in owning and leasing real estate.***

We are subject to varying degrees of risk generally related to leasing and owning real estate many of which are beyond our control. In addition to general risks related to owning properties used in the petroleum marketing industry, our risks include, among others:

- our liability as a lessee for long-term lease obligations regardless of our revenues,
- deterioration in national, regional and local economic and real estate market conditions,
- potential changes in supply of, or demand for, rental properties similar to ours,
- competition for tenants and declining rental rates,
- difficulty in selling or re-letting properties on favorable terms or at all,
- impairments in our ability to collect rent payments when due,
- increases in interest rates and adverse changes in the availability, cost and terms of financing,
- the potential for uninsured casualty and other losses,
- the impact of present or future environmental legislation and compliance with environmental laws,
- adverse changes in zoning laws and other regulations, and
- acts of terrorism and war.

Each of these factors could cause a material adverse effect on our business, financial condition, results of operations, liquidity, ability to pay dividends or stock price. In addition, real estate investments are relatively illiquid, which means that our ability to vary our portfolio of properties in response to changes in economic and other conditions may be limited.

***Adverse developments in general business, economic, or political conditions could have a material adverse effect on us.***

Adverse developments in general business and economic conditions, including through recession, downturn or otherwise, either in the economy generally or in those regions in which a large portion of our business is conducted, could have a material adverse effect on us and significantly increase certain of the risks we are subject to. The general economic conditions in the United States are, and for an extended period of time may be, significantly less favorable than that of prior years. Among other effects, adverse economic conditions could depress real estate values, impact our ability to re-let or sell our properties and have an adverse effect on our tenants' level of sales and financial performance generally. Our revenues are dependent on the economic success of our tenants and any factors that adversely impact our tenants could also have a material adverse effect on our business, financial condition and results of operations liquidity, ability to pay dividends or stock price.

***Because our financial results are materially dependent on the performance of Marketing, in the event that Marketing does not perform its rental or environmental obligations under the Marketing Leases, our business, financial condition, revenues, operating expenses, results of operations, liquidity, ability to pay dividends or stock price could be materially adversely affected. The financial performance of Marketing had been deteriorating over the three years ending December 31, 2008. No assurance can be given that Marketing will have the ability to meet its obligations under the Marketing Leases.***

Our financial results are materially dependent upon the ability of Marketing to meet its rental and environmental obligations under the Marketing Leases. A substantial portion of our revenues (71% for the year ended December 31, 2009) are derived from the Marketing Leases. Accordingly, any factor that adversely affects Marketing's ability to meet its obligations under the Marketing Leases may have a material adverse effect on our business, financial condition, revenues, operating expenses, results of operations, liquidity, ability to pay dividends or stock price. For additional information regarding the portion of our financial results that are attributable to Marketing, see Note 11 in "Item 8. Financial Statements and Supplementary Data - Notes to Consolidated Financial Statements." Marketing has made all required monthly rental payments under the Marketing Leases when due through March 2010, although there can be no assurance that it will continue to do so.

For the year ended December 31, 2008, Marketing reported a significant loss, continuing a trend of reporting large losses in recent years. We have not received Marketing's operating results for the year ended December 31, 2009. As a result of Marketing's significant losses for each of the three years ended December 31, 2008, 2007 and 2006 and the cumulative impact of those losses on Marketing's financial position as of December 31, 2008, we previously concluded that Marketing likely does not have the ability to generate cash flows from its business sufficient to meet its obligations as they come due in the ordinary course through the terms of the Marketing Leases unless it shows significant improvement in its financial results, generates sufficient liquidity through the sale of assets or otherwise, or receives financial support from OAO LUKoil, ("Lukoil"), its parent company. As discussed in more detail below, Marketing has recently undergone a restructuring of its business. We do not know whether Marketing will continue to be dependent on financial support from Lukoil to meet its obligations as they become due through the terms of the Marketing Leases. Lukoil is not, however, a guarantor of the Marketing Leases. Even though Marketing is a wholly-owned subsidiary of Lukoil, and Lukoil has provided capital to Marketing in the past, there can be no assurance that Lukoil will provide financial support or additional capital to Marketing in the future. If Marketing does not meet its obligations under the Marketing Leases, our business, financial condition, revenues, operating expenses, results of operations, liquidity, ability to pay dividends or stock price may be materially adversely affected.

***In the fourth quarter of 2009, Marketing announced a restructuring of its business. We cannot predict with certainty what impact Marketing's restructuring and other changes in its business model will have on us.***

In the fourth quarter of 2009, Marketing announced a restructuring of its business. Marketing disclosed that the restructuring included the sale of all assets unrelated to the properties it leases from us, the elimination of parent-guaranteed debt, and steps to reduce operating costs. Marketing sold all assets unrelated to the properties it leases from us to its affiliates, LUKOIL Pan Americas L.L.C. and LUKOIL North America LLC. Marketing paid off debt which had been guaranteed by Lukoil with proceeds from the sale of assets to Lukoil affiliates and with financial support from Lukoil. Marketing also announced additional steps to reduce its costs including closing two marketing regions, eliminating jobs and exiting the direct-supplied retail gasoline business.

We believe that Marketing is exiting the direct-supplied retail gasoline business by entering into subleases with petroleum distributors who supply their own petroleum products to our properties. Approximately two hundred fifty retail properties, comprising substantially all of the properties in New England that we lease to Marketing, have been subleased by Marketing to a single distributor. These properties are in the process of being rebranded BP stations and are being supplied petroleum products under a supply contract with BP. In addition, we believe that Marketing recently entered into a sublease with a single distributor in New Jersey covering approximately eighty-five of our properties. We believe that Marketing is seeking subtenants for other significant portions of the portfolio of properties it leases from us.

In connection with its restructuring, Marketing eliminated debt which had been guaranteed by Lukoil with proceeds from the sale of assets to Lukoil affiliates and with financial support from Lukoil. We cannot predict whether the restructuring announced by Marketing will stem Marketing's recent history of significant annual operating losses, and whether Marketing will continue to be dependent on financial support from Lukoil to meet its obligations as they become due through the terms of the Marketing Leases. Lukoil is not, however, a guarantor of the Marketing Leases. Even though Marketing is a wholly-owned subsidiary of Lukoil, and Lukoil has provided capital to Marketing in the past, there can be no assurance that Lukoil will provide financial support or additional capital to Marketing in the future. We cannot predict with certainty what impact Marketing's restructuring and other changes in its business model will have on us. If Marketing does not meet its obligations under the Marketing Leases, our business, financial condition, revenues, operating expenses, results of operations, liquidity, ability to pay dividends or stock price may be materially adversely affected.

***Although we periodically receive and review the unaudited financial statements and other financial information from Marketing, this information is not publicly available to investors. You will not have access to financial information about Marketing provided to us by Marketing to allow you to independently assess Marketing's financial condition or its ability to satisfy its obligations under the Marketing Leases.***

We periodically receive and review Marketing's unaudited financial statements and other financial information. We receive the financial statements and other financial information from Marketing pursuant to the terms of the Marketing Leases. However, the financial statements and other financial information are not publicly available to investors and Marketing contends that the terms of the Marketing Leases prohibit us from including the financial statements and other financial information in our Annual Reports on Form 10-K, our Quarterly Reports on Form 10-Q or in our Annual Reports to Shareholders. The Marketing Leases provide that Marketing's financial information which is not publicly available shall be delivered to us within one hundred fifty days after the end of each fiscal year. We have not received Marketing's operating results for the year ended December 31, 2009. The financial statements and other financial information that we receive from Marketing is unaudited and neither we, nor our auditors, have been involved with its preparation and as a result have no assurance as to its correctness or completeness. You will not have access to financial statements and other financial information about Marketing provided to us by Marketing to allow you to independently assess Marketing's financial condition or its ability to satisfy its obligations under the Marketing Leases, which may put your investment in us at greater risk of loss.

***If the Marketing Leases are modified significantly or terminated, our business, financial condition, revenues, operating expenses, results of operations, liquidity, ability to pay dividends or stock price could be materially adversely affected.***

From time to time we have held discussions with representatives of Marketing regarding potential modifications to the Marketing Leases. These efforts have been unsuccessful to date as we have not yet reached a common understanding with Marketing that would form a basis for modification of the Marketing Leases. From time to time, however, we have been able to agree with Marketing on terms to allow for removal of individual properties from the Marketing Leases as mutually beneficial opportunities arise. We intend to continue to pursue the removal of individual properties from the Marketing Leases, and we remain open to removal of groups of properties; however, there is no fixed agreement in place providing for removal of properties from the Marketing Leases. Accordingly, the removal of properties from the Marketing Leases is subject to negotiation on a case-by-case basis. If Marketing ultimately determines that its business strategy is to exit all or a portion of the properties it leases from us, it is our intention to cooperate with Marketing in accomplishing those objectives if we determine that it is prudent for us to do so. Any modification of the Marketing Leases that removes a significant number of properties from the Marketing Leases would likely significantly reduce the amount of rent we receive from Marketing and increase our operating expenses. We cannot accurately predict if, or when, the Marketing Leases will be modified; what composition of properties, if any, may be removed from the Marketing Leases as part of any such modification; or what the terms of any agreement for modification of the Marketing Leases may be. We also cannot accurately predict what actions Marketing and Lukoil may take, and what our recourse may be, whether the Marketing Leases are modified or not. We may be required to reserve additional amounts of the deferred rent receivable, record additional impairment charges related to our properties, or accrue for environmental liabilities as a result of the potential or actual modification or termination of the Marketing Leases or leases with our other tenants, which may result in material adjustments to the amounts recorded for these assets and liabilities.

As permitted under the terms of the Marketing Leases, Marketing generally can, subject to any contrary terms under applicable third party leases, use each property for any lawful purpose, or for no purpose whatsoever. We believe that as of December 31, 2009, Marketing had removed, or has scheduled removal of, the underground gasoline storage tanks and related equipment at approximately one hundred fifty, or 18%, of our properties and we also believe that most of these properties are either vacant or provide negative contribution to Marketing's results. Marketing recently agreed to permit us to list with brokers and to show to prospective purchasers and lessees seventy-five of the properties where Marketing has removed, or has scheduled to remove, underground gasoline storage tanks and related equipment, and we are marketing such properties for sale or leasing. As previously discussed, however, there is no agreement between us and Marketing on terms for removal of properties from the Marketing Leases. In those instances where we determine that the best use for a property is no longer as a retail motor fuel outlet, we will seek an alternative tenant or buyer for such property. With respect to properties that are vacant or have had underground gasoline storage tanks and related equipment removed, it may be more difficult or costly to re-let or sell such properties as gas stations because of capital costs or possible zoning or permitting rights that are required and that may have lapsed during the period since gasoline was last sold at the property.

We intend either to re-let or sell any properties that are removed from the Marketing Leases, whether such removal arises consensually by negotiation or as a result of default by Marketing, and reinvest any realized sales proceeds in new properties. We intend to offer properties removed from the Marketing Leases to replacement tenants or buyers individually, or in groups of properties, or by seeking a single tenant for the entire portfolio of properties subject to the Marketing Leases. In the event that properties are removed from the Marketing Leases, we cannot accurately predict if, when, or on what terms such properties could be re-let or sold. If the Marketing Leases are significantly modified or terminated, our business, financial condition, revenues, operating expenses, results of operations, liquidity, ability to pay dividends or stock price may be materially adversely affected.

***If it becomes probable that Marketing will not pay its environmental obligations, or if we change our assumptions for environmental liabilities related to the Marketing Leases our business, financial condition, revenues, operating expenses, results of operations, liquidity, ability to pay dividends stock price could be materially adversely affected.***

Marketing is directly responsible to pay for (i) remediation of environmental contamination it causes and compliance with various environmental laws and regulations as the operator of our properties, and (ii) known and unknown environmental liabilities allocated to Marketing under the terms of the Marketing Leases and various other agreements with us relating to Marketing's business and the properties it leases from us (collectively the "Marketing Environmental Liabilities"). However, we continue to have ongoing environmental remediation obligations at one hundred eighty-seven retail sites and for certain pre-existing conditions at six of the terminals we lease to Marketing. If Marketing fails to pay the Marketing Environmental Liabilities, we may ultimately be responsible to pay directly for Marketing Environmental Liabilities as the property owner. We do not maintain pollution legal liability insurance to protect us from potential future claims for Marketing Environmental Liabilities. If we incur material environmental liabilities our business, financial condition, revenues, operating expenses, results of operations, liquidity, ability to pay dividends or stock price may be materially adversely affected. We will be required to accrue for Marketing Environmental Liabilities if we determine that it is probable that Marketing will not meet its obligations and we can reasonably estimate the amount of the Marketing Environmental Liabilities for which we will be directly responsible to pay, or if our assumptions regarding the ultimate allocation methods or share of responsibility that we used to allocate environmental liabilities changes. However, we continue to believe that it is not probable that Marketing will not pay for substantially all of the Marketing Environmental Liabilities since we believe that Lukoil will not allow Marketing to fail to perform its rental, environmental and other obligations under the Marketing Leases. Accordingly, we did not accrue for the Marketing Environmental Liabilities as of December 31, 2009 or December 31, 2008. Nonetheless, we have determined that the aggregate amount of the Marketing Environmental Liabilities (as estimated by us) could be material to us if we were required to accrue for all of the Marketing Environmental Liabilities in the future since we believe that as a result of any such accrual, it is reasonably possible that we may not be in compliance with the existing financial covenants in our Credit Agreement and our Term Loan Agreement. Such non-compliance could result in an event of default under the Credit Agreement and the Term Loan Agreement which, if not cured or waived, could result in the acceleration of all of our indebtedness under the Credit Agreement and our Term Loan Agreement. If we determine that it is probable that Marketing will not meet the Marketing Environmental Liabilities and we accrue for such liabilities, our business, financial condition, revenues, operating expenses, results of operations, liquidity, ability to pay dividends or stock price may be materially adversely affected.

We estimate that as of December 31, 2009, the aggregate Marketing Environmental Liabilities for which we may ultimately be responsible to pay range between $13 million and $20 million, net of expected recoveries from underground storage tank funds, of which between $6 million and $9 million relate to the three hundred fifty properties that we identified as the basis for our estimate of the deferred rent receivable reserve. Since we generally do not have access to certain site specific information available to Marketing, which is the party responsible for paying and managing its environmental remediation expenses at our properties, our estimates were developed in large part by review of the limited publically available information gathered through electronic databases and freedom of information requests and assumptions we made based on that data and on our own experiences with environmental remediation matters. The actual aggregate Marketing Environmental Liabilities and the actual Marketing Environmental Liabilities related to the three hundred fifty properties that we identified as the basis for our estimate of the deferred rent receivable reserve may differ materially from our estimates and we can provide no assurance as to the accuracy of these estimates.

***Substantially all of our tenants depend on the same industry for their revenues.***

We derive substantially all of our revenues from leasing, primarily on a triple-net basis, retail motor fuel and convenience store properties and petroleum distribution terminals to tenants in the petroleum marketing industry. Accordingly, our revenues will be dependent on the economic success of the petroleum marketing industry, and any factors that adversely affect that industry could also have a material adverse effect on our business, financial condition and results of operations liquidity, ability to pay dividends or stock price. The success of participants in that industry depends upon the sale of refined petroleum products at margins in excess of fixed and variable expenses. The petroleum marketing industry is highly competitive and volatile. Petroleum products are commodities, the prices of which depend on numerous factors that affect supply and demand. The prices paid by our tenants and other petroleum marketers for products are affected by global, national and regional factors. A large, rapid increase in wholesale petroleum prices would adversely affect the profitability and cash flows of Marketing and our other tenants if the increased cost of petroleum products could not be passed on to their customers or if automobile consumption of gasoline were to decline significantly. Petroleum products are commodities, the prices of which depend on numerous factors that affect the supply of and demand for petroleum products. The prices paid by Marketing and other petroleum marketers for products are affected by global, national and regional factors. We cannot be certain how these factors will affect petroleum product prices or supply in the future, or how in particular they will affect Marketing or our other tenants.

***Our future cash flow is dependent on the performance of our tenants of their lease obligations, renewal of existing leases and either re-letting or selling our vacant properties.***

We are subject to risks that financial distress, default or bankruptcy of our existing tenants may lead to vacancy at our properties or disruption in rent receipts as a result of partial payment or nonpayment of rent or that expiring leases may not be renewed. Under unfavorable general economic conditions, there can be no assurance that our tenants' level of sales and financial performance generally will not be adversely affected, which in turn, could impact the reliability of our rent receipts. We are subject to risks that the terms of renewal or re-letting our properties (including the cost of required renovations, replacement of gasoline tanks and related equipment or environmental remediation) may be less favorable than current lease terms, or that the values of our properties that we sell may be adversely affected by unfavorable general economic conditions. Unfavorable general economic conditions may also negatively impact our ability to re-let or sell our properties. Numerous properties compete with our properties in attracting tenants to lease space. The number of available or competitive properties in a particular area could have a material adverse effect on our ability to lease or sell our properties and on the rents charged. In addition to the risk of disruption in rent receipts, we are subject to the risk of incurring real estate taxes, maintenance, environmental and other expenses at vacant properties.

The financial distress, default or bankruptcy of our tenants may also lead to a protracted and expensive processes for retaking control of our properties than would otherwise be the case, including, eviction or other legal proceedings related to or resulting from the tenant's default. These risks are greater with respect to certain of our tenants who lease multiple properties from us, such as Marketing. (For additional information regarding the portion of our financial results that are attributable to Marketing, see Note 11 in "Item 8. Financial Statements and Supplementary Data - Notes to Consolidated Financial Statements." For additional information with respect to concentration of tenant risk, see "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations — General — Marketing and the Marketing

Leases".) If a tenant files for bankruptcy protection it is possible that we would recover substantially less than the full value of our claims against the tenant.

If our tenants do not perform their lease obligations, or we were unable to renew existing leases and promptly recapture and re-let or sell vacant locations; or if lease terms upon renewal or re-letting were less favorable than current lease terms, or if the values of properties that we sell are adversely affected by market conditions; or if we incur significant costs or disruption related to or resulting from tenant financial distress, default or bankruptcy; our cash flow could be significantly adversely affected.

***Property taxes on our properties may increase without notice.***

Each of the properties we own or lease is subject to real property taxes. The leases for certain of the properties that we lease from third parties obligate us to pay real property taxes with regard to those properties. The real property taxes on our properties and any other properties that we develop, acquire or lease in the future may increase as property tax rates change and as those properties are assessed or reassessed by tax authorities. To the extent that our tenants are unable or unwilling to pay such increase in accordance with their leases, our net operating expenses may increase.

***We have incurred, and may incur significantly higher operating costs as a result of environmental laws and regulations, which could reduce our profitability.***

We are subject to numerous federal, state and local laws and regulations, including matters relating to the protection of the environment. Under certain environmental laws, a current or previous owner or operator of real estate may be liable for contamination resulting from the presence or discharge of hazardous or toxic substances or petroleum products at, on, or under, such property, and may be required to investigate and clean-up such contamination. Such laws typically impose liability and clean-up responsibility without regard to whether the owner or operator knew of or caused the presence of the contaminants, or the timing or cause of the contamination, and the liability under such laws has been interpreted to be joint and several unless the harm is divisible and there is a reasonable basis for allocation of responsibility. For example, liability may arise as a result of the historical use of a property or from the migration of contamination from adjacent or nearby properties. Any such contamination or liability may also reduce the value of the property. In addition, the owner or operator of a property may be subject to claims by third parties based on injury, damage and/or costs, including investigation and clean-up costs, resulting from environmental contamination present at or emanating from a property. The properties owned or controlled by us are leased primarily as retail motor fuel and convenience store properties, and therefore may contain, or may have contained, USTs for the storage of petroleum products and other hazardous or toxic substances, which creates a potential for the release of such products or substances. Some of our properties may be subject to regulations regarding the retirement and decommissioning or removal of long-lived assets including buildings containing hazardous materials, USTs and other equipment. Some of the properties may be adjacent to or near properties that have contained or currently contain USTs used to store petroleum products or other hazardous or toxic substances. In addition, certain of the properties are on, adjacent to, or near properties upon which others have engaged or may in the future engage in activities that may release petroleum products or other hazardous or toxic substances. There may be other environmental problems associated with our properties of which we are unaware. These problems may make it more difficult for us to re-let or sell our properties on favorable terms, or at all.

For additional information with respect to pending environmental lawsuits and claims, environmental remediation costs and estimates, and Marketing and the Marketing Leases see "Item 3. Legal Proceedings", "Environmental Matters" and "General – Marketing and the Marketing Leases" in "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations" and Note 5 in "Item 8. Financial Statements and Supplementary Data - Notes to Consolidated Financial Statements" each of which is incorporated by reference herein.

We enter into leases and various other agreements which allocate responsibility for known and unknown environmental liabilities by establishing the percentage and method of allocating responsibility between the parties. Our tenants are directly responsible to pay for (i) remediation of environmental contamination they cause and compliance with various environmental laws and regulations as the operators of our properties, and (ii) environmental liabilities allocated to our tenants under the terms of our leases and various other agreements between our tenants and us. Generally, the liability for the retirement and decommissioning or removal of USTs and other equipment is the responsibility of our tenants. We are contingently liable for these obligations in the event that our tenants do not satisfy their responsibilities. A liability has not been accrued for obligations that are the responsibility of our tenants based on our tenants' past histories of paying such obligations and/or our assessment of their respective financial abilities to pay their share of such costs. However, there can be no assurance that our assessments are correct or that our tenants who have paid their obligations in the past will continue to do so.

As of December 31, 2009, we had accrued $12.6 million as management's best estimate of the net fair value of reasonably estimable environmental remediation costs which is comprised of $16.5 million of estimated environmental obligations and liabilities offset by $3.9 million of estimated recoveries from state UST remediation funds, net of allowance. Environmental exposures are difficult to assess and estimate for numerous reasons, including the extent of contamination, alternative treatment methods that may be applied, location of the property which subjects it to differing local laws and regulations and their interpretations, as well as the time it takes to remediate contamination. In developing our liability for probable and reasonably estimable environmental remediation costs on a property by property basis, we consider among other things, enacted laws and regulations, assessments of contamination and surrounding geology, quality of information available, currently available technologies for treatment, alternative methods of remediation and prior experience. Environmental accruals are based on estimates which are subject to significant change, and are adjusted as the remediation treatment progresses, as circumstances change and as environmental contingencies become more clearly defined and reasonably estimable. Adjustments to accrued liabilities for environmental remediation costs will be reflected in our financial statements as they become probable and a reasonable estimate of fair value can be made.

We have not accrued for approximately $1.0 million in costs allegedly incurred by the current property owner in connection with removal of USTs and soil remediation at a property that was leased to and operated by Marketing. We believe that Marketing is responsible for such costs under the terms of the Master Lease, and have tendered the matter for defense and indemnification from Marketing, but Marketing had denied its liability for claims and its responsibility to defend against, and indemnify us, for the claim. We have filed third party claims against Marketing for indemnification in this matter. The property owner's claim for reimbursement of costs incurred and our claim for indemnification by Marketing were actively litigated, leading to a trial held before a judge. The trial court issued its decision in August 2009 under which the Company and Marketing were held jointly and severally responsible to the current property owner for the costs incurred by the owner to remove USTs and remediate contamination at the site, but, as between the Company and Marketing, Marketing was accountable for such costs under the indemnification provisions of the Master Lease. The order on the trial court's decision was entered in February 2010, making such decision final for purposes of initiating the limited period of time following which appeal may be taken. We believe that Marketing will appeal the decision; however, we believe the probability that Marketing will not be ultimately responsible for the claim for clean-up costs incurred by the current property owner is remote. It is reasonably possible that our assumption that Marketing will be ultimately responsible for the claim may change, which may result in our providing an accrual for this matter.

It is possible that our assumptions regarding the ultimate allocation methods and share of responsibility that we used to allocate environmental liabilities may change, which may result in adjustments to the amounts recorded for environmental litigation accruals, environmental remediation liabilities and related assets. We will be required to accrue for environmental liabilities that we believe are allocable to others under various other agreements if we determine that it is probable that the counter-party will not meet its environmental obligations. We may ultimately be responsible to directly pay for environmental liabilities as the property owner if the counterparty fails to pay them.

We cannot predict what environmental legislation or regulations may be enacted in the future, or if or how existing laws or regulations will be administered or interpreted with respect to products or activities to which they have not previously been applied. We cannot predict whether state UST fund programs will be administered and funded in the future in a manner that is consistent with past practices and if future environmental spending will continue to be eligible for reimbursement at historical recovery rates under these programs. Compliance with more stringent laws or regulations, as well as more vigorous enforcement policies of the regulatory agencies or stricter interpretation of existing laws which may develop in the future, could have an adverse effect on our financial position, or that of our tenants, and could require substantial additional expenditures for future remediation.

As a result of the factors discussed above, or others, compliance with environmental laws and regulations could have a material adverse effect on our business, financial condition, results of operations, liquidity, ability to pay dividends or stock price.

***We are defending pending lawsuits and claims and are subject to material losses.***

We are subject to various lawsuits and claims, including litigation related to environmental matters, such as those arising from leaking USTs and releases of motor fuel into the environment, and toxic tort claims. The ultimate resolution of certain matters cannot be predicted because considerable uncertainty exists both in terms of the probability of loss and the estimate of such loss. Our ultimate liabilities resulting from such lawsuits and claims, if any, could cause a material adverse effect on our business, financial condition, results of operations, liquidity, ability to pay dividends or stock price. For additional information with respect to pending environmental lawsuits and claims and environmental remediation costs and estimates see "Item 3. Legal Proceedings" and "Environmental Matters" in "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations" and Note 5 in "Item 8. Financial Statements and Supplementary Data - Notes to Consolidated Financial Statements" each of which is incorporated by reference herein.

***A significant portion of our properties are concentrated in the Northeast and Mid-Atlantic regions of the United States, and adverse conditions in those regions, in particular, could negatively impact our operations.***

A significant portion of the properties we own and lease are located in the Northeast and Mid-Atlantic regions of the United States. Because of the concentration of our properties in those regions, in the event of adverse economic conditions in those regions, we would likely experience higher risk of default on payment of rent payable to us (including under the Marketing Leases) than if our properties were more geographically diversified. Additionally, the rents on our properties may be subject to a greater risk of default than other properties in the event of adverse economic, political, or business developments or natural hazards that may affect the Northeast or Mid-Atlantic United States and the ability of our lessees to make rent payments. This lack of geographical diversification could have a material adverse effect on our business, financial condition, results of operations, liquidity, ability to pay dividends or stock price.

***We are in a competitive business.***

The real estate industry is highly competitive. Where we own properties, we compete for tenants with a large number of real estate property owners and other companies that sublet properties. Our principal means of competition are rents charged in relation to the income producing potential of the location. In addition, we expect other major real estate investors, some with much greater financial resources or more experienced personnel than we have, will compete with us for attractive acquisition opportunities. These competitors include petroleum manufacturing, distributing and marketing companies, other REITs, investment banking firms and private institutional investors. This competition has increased prices for properties we seek to acquire and may impair our ability to make suitable property acquisitions on favorable terms in the future.

***We are exposed to counterparty credit risk and there can be no assurances that we will manage or mitigate this risk effectively.***

We regularly interact with counterparties in various industries. The types of counterparties most common to our transactions and agreements include, but are not limited to, landlords, tenants, vendors and lenders. Our most significant counterparties include, but are not limited to, Marketing as our primary tenant, the members of the Bank Syndicate that are counterparties to our Credit Agreement as our primary source of financing and JPMorgan Chase as the counterparty to our interest rate Swap Agreement. The default, insolvency or other inability of a significant counterparty to perform its obligations under an agreement or transaction, including, without limitation, as a result of the rejection of an agreement or transaction in bankruptcy proceedings, could have a material adverse effect on us. (For additional information with respect to, and definitions of, the Bank Syndicate, the Credit Agreement and the Swap Agreement, see “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations - Liquidity and Capital Resources” and “Item 7A. Quantitative and Qualitative Disclosures About Market Risks”.)

***We may acquire or develop new properties, and this may create risks.***

We may acquire or develop properties or acquire other real estate companies when we believe that an acquisition or development matches our business strategies. These properties may have characteristics or deficiencies currently unknown to us that affect their value or revenue potential. It is possible that the operating performance of these properties may decline after we acquire them, they may not perform as expected and, if financed using debt or new equity issuances, may result in shareholder dilution. Our acquisitions of new properties will also expose us to the liabilities of those properties, some of which we may not be aware of at the time of acquisition. We face competition in pursuing these acquisitions and we may not succeed in leasing newly developed or acquired properties at rents sufficient to cover their costs of acquisition or development and operations. Newly acquired properties may require significant management attention that would otherwise be devoted to our ongoing business. We may not succeed in consummating desired acquisitions or in completing developments on time or within our budget. Consequences arising from or in connection with any of the foregoing could have a material adverse effect on our business, financial condition, results of operations, liquidity, ability to pay dividends or stock price.

***We are subject to losses that may not be covered by insurance.***

Marketing, and other tenants, as the lessees of our properties, are required to provide insurance for such properties, including casualty, liability, fire and extended coverage in amounts and on other terms as set forth in our leases. We do not maintain pollution legal liability insurance to protect the Company from potential future claims for environmental contamination, including the environmental liabilities that are the responsibility of our tenants. We carry insurance against certain risks and in such amounts as we believe are customary for businesses of our kind. However, as the costs and availability of insurance change, we may decide not to be covered against certain losses (such as certain environmental liabilities, earthquakes, hurricanes, floods and civil disorder) where, in the judgment of management, the insurance is not warranted due to cost or availability of coverage or the remoteness of perceived risk. There is no assurance that our insurance against loss will be sufficient. The destruction of, or significant damage to, or significant liabilities arising out of conditions at, our properties due to an uninsured cause would result in an economic loss and could result in us losing both our investment in, and anticipated profits from, such properties. When a loss is insured, the coverage may be insufficient in amount or duration, or a lessee's customers may be lost, such that the lessee cannot resume its business after the loss at prior levels or at all, resulting in reduced rent or a default under its lease. Any such loss relating to a large number of properties could have a material adverse effect on our business, financial condition, results of operations, liquidity, ability to pay dividends or stock price.

***Failure to qualify as a REIT under the federal income tax laws would have adverse consequences to our shareholders.***

We elected to be treated as a REIT under the federal income tax laws beginning January 1, 2001. We cannot, however, guarantee that we will continue to qualify in the future as a REIT. We cannot give any assurance that new legislation, regulations, administrative interpretations or court decisions will not significantly change the requirements relating to our qualification. If we fail to qualify as a REIT, we would not be allowed a deduction for distributions to shareholders in computing our taxable income and will again be subject to federal income tax at regular corporate rates, we could be subject to the federal alternative minimum tax, we would be required to pay significant income taxes and we would have less money available for our operations and distributions to shareholders. This would likely have a significant adverse effect on the value of our securities. We could also be precluded from treatment as a REIT for four taxable years following the year in which we lost the qualification, and all distributions to shareholders would be taxable as regular corporate dividends to the extent of our current and accumulated earnings and profits. Loss of our REIT status would result in an event of default that, if not cured or waived, could result in the acceleration of all of our indebtedness under our Credit Agreement and Term Loan Agreement which could have a material adverse effect on our business, financial condition, results of operations, liquidity, ability to pay dividends or stock price.

***We are dependent on external sources of capital which may not be available on favorable terms, if at all.***

We are dependent on external sources of capital to maintain our status as a REIT and must distribute to our shareholders each year at least ninety percent of our net taxable income, excluding any net capital gain. Because of these distribution requirements, it is not likely that we will be able to fund all future capital needs, including acquisitions, from income from operations. Therefore, we will have to continue to rely on third-party sources of capital, which may or may not be available on favorable terms, or at all. As part of our overall growth strategy we regularly review opportunities to acquire additional properties and we expect to continue to pursue acquisitions that we believe will benefit our financial performance. To the extent that our current sources of liquidity are not sufficient to fund such acquisitions we will require other sources of capital, which may or may not be available on favorable terms or at all. We cannot accurately predict how periods of illiquidity in the credit markets, such as current market conditions, will impact our access to or cost of capital. In addition, additional equity offerings may result in substantial dilution of shareholders' interests, and additional debt financing may substantially increase our leverage. Our access to third-party sources of capital depends upon a number of factors including general market conditions, the market's perception of our growth potential, our current and potential future earnings and cash distributions, covenants and limitations imposed under our Credit Agreement and our Term Loan Agreement and the market price of our common stock.

The United States credit markets experienced an unprecedented contraction beginning in 2007. As a result of the tightened credit markets, we may not be able to obtain additional financing on favorable terms, or at all. If one or more of the financial institutions that supports our Credit Agreement fails, we may not be able to find a replacement, which would negatively impact our ability to borrow under our the Credit Agreement. If the current pressures on credit continue or worsen, we may not be able to refinance our outstanding debt when due in March 2011, (or in March 2012 if we exercise our option to extend the term of the Credit Agreement for one additional year), which could have a material adverse effect on us. We may be precluded from exercising our option to extend the term of the Credit Agreement for one additional year if we are in default of the Credit Agreement.

Our ability to meet the financial and other covenants relating to our Credit Agreement and our Term Loan Agreement may be dependent on the performance of our tenants, including Marketing. Should our assessments, assumptions and beliefs that affect our accounting prove to be incorrect, or if circumstances change, we may have to materially adjust the amounts recorded in our financial statements for certain assets and liabilities, and as a result of which, we may not be in compliance with the financial covenants in our Credit Agreement and our Term Loan Agreement. We have determined that the aggregate amount of the Marketing Environmental Liabilities (as estimated by us, based on our assumptions and analysis of information currently available to us described in more detail above) could be material to us if we were required to accrue for all of the Marketing Environmental Liabilities in the future since we believe that it is reasonably possible that as a result of such accrual, we may not be in compliance with the existing financial covenants in our Credit Agreement and our Term Loan Agreement. (For additional information with respect to The Marketing Environmental Liabilities, see "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations — General — Marketing and the Marketing Leases".) If we are not in compliance with one or more of our covenants which, if not complied with could result in an event of default under our Credit Agreement or our Term Loan Agreement, there can be no assurance that our lenders would waive such non-compliance. A default under our Credit Agreement or our Term Loan Agreement, if not cured or waived, whether due to a loss of our REIT status, a material adverse effect on our business, financial condition or prospects, a failure to comply with financial and certain other covenants in the Credit Agreement or our Term Loan Agreement or otherwise, could result in the acceleration of all of our indebtedness under our Credit Agreement and our Term Loan Agreement. This could have a material adverse affect on our business, financial condition, results of operations, liquidity, ability to pay dividends or stock price.

***The downturn in the credit markets has increased the cost of borrowing and has made financing difficult to obtain, which may negatively impact our business, and may have a material adverse effect on us. Lenders may require us to enter into more restrictive covenants relating to our operations.***

During 2007, the United States housing and residential lending markets began to experience accelerating default rates, declining real estate values and increasing backlog of housing supply. The residential sector issues quickly spread more broadly into the corporate, asset-backed and other credit and equity markets and the volatility and risk premiums in most credit and equity markets have increased dramatically, while liquidity has decreased. These issues have continued into the beginning of 2010. Increasing concerns regarding the United States and world economic outlook, such as large asset write-downs at banks, volatility in oil prices, declining business and consumer confidence and increased unemployment and bankruptcy filings, are compounding these issues and risk premiums in most capital markets remain near historical all-time highs. These factors are precipitating generalized credit market dislocations and a significant contraction in available credit. As a result, it is becoming increasingly difficult to obtain cost-effective debt capital to finance new investment activity or to refinance maturing debt, and most lenders are imposing more stringent restrictions on the terms of credit. Any future credit agreements or loan documents we execute may contain additional or more restrictive covenants. The negative impact on the tightening of the credit markets and continuing credit and liquidity concerns could have negative effects on our business such as (i) we could have difficulty in acquiring or developing properties, which would adversely affect our business strategy, (ii) our liquidity could be adversely affected, (iii) we may be unable to repay or refinance our indebtedness or (iv) we may need to make higher interest and principal payments or sell some of our assets on unfavorable terms to fund our liquidity needs. These negative effects may cause other material adverse effects on our business, financial condition, results of operations, ability to pay dividends or stock price. Additionally, there is no assurance that the increased financing costs, financing with increasingly restrictive terms or the increase in risk premiums that are demanded by investors will not have a material adverse effect on us.

***Our business operations may not generate sufficient cash for distributions or debt service.***

There is no assurance that our business will generate sufficient cash flow from operations or that future borrowings will be available to us in an amount sufficient to enable us to make distributions on our common stock, to pay our indebtedness, or to fund our other liquidity needs. We may not be able to repay or refinance existing indebtedness on favorable terms, which could force us to dispose of properties on disadvantageous terms (which may also result in losses) or accept financing on unfavorable terms.

***We are exposed to interest rate risk and there can be no assurances that we will manage or mitigate this risk effectively.***

We are exposed to interest rate risk, primarily as a result of our $175.0 million Credit Agreement and our $25.0 million Term Loan Agreement. Borrowings under our Credit Agreement and our Term Loan Agreement bear interest at a floating rate. Accordingly, an increase in interest rates will increase the amount of interest we must pay under our Credit Agreement and our Term Loan Agreement. A significant increase in interest rates could also make it more difficult to find alternative financing on desirable terms. We have entered into an interest rate Swap Agreement with a major financial institution with respect to a portion of our variable rate debt outstanding under our Credit Agreement. We are, and will be, exposed to interest rate risk to the extent that our aggregate borrowings floating at market rates exceed the $45.0 million notional amount of the Swap Agreement. Although the Swap Agreement is intended to lessen the impact of rising interest rates, it also exposes us to the risk that the other party to the agreement will not perform, the agreement will be unenforceable and the underlying transactions will fail to qualify as a highly-effective cash flow hedge for accounting purposes. Further, there can be no assurance that the use of an interest rate swap will always be to our benefit. While the use of an interest rate Swap Agreement is intended to lessen the adverse impact of rising interest rates, it also conversely limits the positive impact that could be realized from falling interest rates with respect to the portion of our variable rate debt covered by the interest rate Swap Agreement. (For additional information with respect to interest rate risk, see “Item 7A. Quantitative and Qualitative Disclosures About Market Risks”.)

***We may be unable to pay dividends.***

Under the Maryland General Corporation Law, our ability to pay dividends would be restricted if, after payment of the dividend, (1) we would not be able to pay indebtedness as it becomes due in the usual course of business or (2) our total assets would be less than the sum of our liabilities plus the amount that would be needed, if we were to be dissolved, to satisfy the rights of any shareholders with liquidation preferences. There currently are no shareholders with liquidation preferences. No assurance can be given that our financial performance in the future will permit our payment of any dividends. (For additional information regarding Marketing and the Marketing Leases, see “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations — General — Marketing and the Marketing Leases”.) In particular, our Credit Agreement and our Term Loan Agreement prohibit the payments of dividends during certain events of default. As a result of the factors described above, we may experience material fluctuations in future operating results on a quarterly or annual basis, which could materially and adversely affect our business, stock price and ability to pay dividends.

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

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 such factors as the Board of Directors deems relevant and the dividend paid may vary from expected amounts. Any change in our dividend policy could adversely affect our business and the market price of our common stock. A recent Internal Revenue Service (“IRS”) revenue procedure allows us to satisfy the REIT income distribution requirement by distributing up to 90% of our dividends on our common stock in shares of our common stock in lieu of paying dividends entirely in cash. 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. shareholders 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 shareholders might have to pay the tax using cash from other sources. If a U.S. shareholder 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 common stock at the time of the sale. Furthermore, with respect to non-U.S. shareholders, 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 shareholders 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.

***Changes in market conditions could adversely affect the market price of our publicly traded common stock.***

As with other publicly traded securities, the market price of our publicly traded common stock 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 common stock are the following:

- 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);
- an increase in market interest rates, which may lead prospective investors to demand a higher distribution rate in relation to the price paid for publicly traded securities;
- our financial condition and performance and that of our significant tenants;
- the market's perception of our growth potential and potential future earnings;
- the extent of institutional investor interest in us; and
- general economic and financial market conditions.

***Inflation may adversely affect our financial condition and results of operations.***

Although inflation has not materially impacted our results of operations in the recent past, increased inflation could have a more pronounced negative impact on any variable rate debt we incur in the future and on our results of operations. During times when inflation is greater than increases in rent, as provided for in our leases, rent increases may not keep up with the rate of inflation. Likewise, even though our triple net leases reduce our exposure to rising property expenses due to inflation, substantial inflationary pressures and increased costs may have an adverse impact on our tenants if increases in their operating expenses exceed increases in revenue, which may adversely affect the tenants' ability to pay rent.

***The loss of certain members of our management team could adversely affect our business.***

We depend upon the skills and experience of our executive officers. Loss of the services of any of them could have a material adverse effect on our business, financial condition, results of operations, liquidity, ability to pay dividends or stock price. We do not have employment agreements with any of our executives.

***Our accounting policies and methods are fundamental to how we record and report our financial position and results of operations, and they require management to make estimates, judgments and assumptions about matters that are inherently uncertain.***

Our accounting policies and methods are fundamental to how we record and report our financial position and results of operations. We have identified several accounting policies as being critical to the presentation of our financial position and results of operations because they require management to make particularly subjective or complex judgments about matters that are inherently uncertain and because of the likelihood that materially different amounts would be recorded under different conditions or using different assumptions. Because of the inherent uncertainty of the estimates, judgments and assumptions associated with these critical accounting policies, we cannot provide any assurance that we will not make subsequent significant adjustments to our consolidated financial statements including those included in this Annual Report on Form 10-K. Estimates, judgments and assumptions underlying our consolidated financial statements include, but are not limited to, deferred rent receivable, income under direct financing leases, recoveries from state UST funds, environmental remediation costs, real estate including impairment charges related to the reduction in market value of our real estate, depreciation and amortization, impairment of long-lived assets, litigation, accrued expenses, income taxes and the allocation of the purchase price of properties acquired to the assets acquired and liabilities assumed. For example, we have made judgments regarding the level of environmental reserves and reserves for our deferred rent receivable relating to Marketing and the Marketing Leases and leases with our other tenants. We may be required to reserve additional amounts of the deferred rent receivable, record additional impairment charges related to our properties, or accrue for environmental liabilities as a result of the potential or actual modification or termination of the Marketing Leases or leases with our other tenants, which may result in material adjustments to the amounts recorded for these assets and liabilities. These judgments, assumptions and allocations may prove to be incorrect and our business, financial condition, revenues, operating expense,

results of operations, liquidity, ability to pay dividends or stock price may be materially adversely affected if that is the case. (For information regarding our critical accounting policies, see “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations - Critical Accounting Policies”.)

***Amendments to the Accounting Standards Codification made by the Financial Accounting Standards Board (the “FASB”) or changes in accounting standards issued by other standard-setting bodies may adversely affect our reported revenues, profitability or financial position.***

Our financial statements are subject to the application of GAAP in accordance with the Accounting Standards Codification, which is periodically amended by the FASB. The application of GAAP is also subject to varying interpretations over time. Accordingly, we are required to adopt amendments to the Accounting Standards Codification or comply with revised interpretations that are issued from time-to-time by recognized authoritative bodies, including the FASB and the SEC. Those changes could adversely affect our reported revenues, profitability or financial position.

***Terrorist attacks and other acts of violence or war may affect the market on which our common stock trades, the markets in which we operate, our operations and our results of operations.***

Terrorist attacks or other acts of violence or war could affect our business or the businesses of our tenants or of Marketing or its parent. The consequences of armed conflicts are unpredictable, and we may not be able to foresee events that could have a material adverse effect on us. More generally, any of these events could cause consumer confidence and spending to decrease or result in increased volatility in the United States and worldwide financial markets and economy. Terrorist attacks also could be a factor resulting in, or a continuation of, an economic recession in the United States or abroad. Any of these occurrences could have a material adverse effect on our business, financial condition, results of operations, liquidity, ability to pay dividends or stock price.

**Item 1B. Unresolved Staff Comments**

As of December 31, 2009, one comment remained unresolved as part of a periodic review commenced in 2004 by the Division of Corporation Finance of the SEC of our Annual Report on Form 10-K for the year ended December 31, 2003 pertaining to the SEC’s position that we must include the financial statements and summarized financial data of Marketing in our periodic filings, which Marketing contends is prohibited under the terms of the Master Lease. In June 2005, the SEC indicated that, unless we filed Marketing’s financial statements and summarized financial data with our periodic reports: (i) it would not consider our Annual Reports on Forms 10-K for the years beginning with fiscal 2000 to be compliant; (ii) it would not consider us to be current in our reporting requirements; (iii) it would not be in a position to declare effective any registration statements we may file for public offerings of our securities; and (iv) we should consider how the SEC’s conclusion impacts our ability to make offers and sales of our securities under existing registration statements and whether we would have a liability for such offers and sales made pursuant to registration statements that did not contain the financial statements of Marketing.

Subsequent to December 31, 2009, we have had communications with the SEC regarding the unresolved comment and as a result thereof we have included additional disclosures regarding Marketing, including supplemental condensed combining financial information in our financial statement footnotes. The financial information disclosure presents our results of operations, net assets and cash flows, allocated between Marketing, our other tenants and our general corporate functions. See “Footnote 11 – Supplemental Condensed Combining Financial Information in Item 8. Financial Statements and Supplementary Data - Notes to Consolidated Financial Statements.” The comment has been resolved.

**Item 2. Properties**

Nearly all of our properties are leased or sublet to petroleum distributors and retailers engaged in the sale of gasoline and other motor fuel products, convenience store products and automotive repair services who are responsible for managing the operations conducted at these properties and for the payment of taxes, maintenance, repair, insurance and other operating expenses relating to our properties. In those instances where we determine that the best use for a property is no longer as a retail motor fuel outlet, we will seek an alternative tenant or buyer for the property. We lease or sublet approximately twenty of our properties under similar lease terms primarily for uses such as fast food restaurants, automobile sales and other retail purposes.

The following table summarizes the geographic distribution of our properties at December 31, 2009. The table also identifies the number and location of properties we lease from third-parties and which Marketing leases from us under the Marketing Leases. In addition, we lease four thousand square feet of office space at 125 Jericho Turnpike, Jericho, New York, which is used for our corporate headquarters, which we believe will remain suitable and adequate for such purposes for the immediate future.

| | OWNED BY GETTY REALTY | | LEASED BY GETTY REALTY | | | |
|---|---|---|---|---|---|---|
| | MARKETING AS TENANT (1) | OTHER TENANTS | MARKETING AS TENANT | OTHER TENANTS | TOTAL PROPERTIES BY STATE | PERCENT OF TOTAL PROPERTIES |
| New York | 236 | 31 | 64 | 5 | 336 | 31.3% |
| Massachusetts | 127 | 1 | 21 | — | 149 | 13.9 |
| New Jersey | 106 | 7 | 21 | 6 | 140 | 13.1 |
| Pennsylvania | 104 | 5 | 1 | 4 | 114 | 10.6 |
| Connecticut | 60 | 28 | 13 | 10 | 111 | 10.4 |
| Maryland | 4 | 39 | — | 2 | 45 | 4.2 |
| Virginia | 3 | 24 | 4 | 1 | 32 | 3.0 |
| New Hampshire | 25 | 3 | 3 | — | 31 | 2.9 |
| Maine | 18 | 1 | 2 | — | 21 | 2.0 |
| Rhode Island | 15 | 1 | 2 | — | 18 | 1.7 |
| Texas | — | 17 | — | — | 17 | 1.6 |
| North Carolina | — | 11 | — | — | 11 | 1.0 |
| Delaware | 9 | — | 1 | — | 10 | 0.9 |
| Hawaii | — | 10 | — | — | 10 | 0.9 |
| California | — | 8 | — | 1 | 9 | 0.8 |
| Florida | — | 6 | — | — | 6 | 0.6 |
| Ohio | — | 4 | — | — | 4 | 0.4 |
| Arkansas | — | 3 | — | — | 3 | 0.3 |
| Illinois | — | 2 | — | — | 2 | 0.2 |
| North Dakota | — | 1 | — | — | 1 | 0.1 |
| Vermont | 1 | — | — | — | 1 | 0.1 |
| Total | 708 | 202 | 132 | 29 | 1,071 | 100.0% |

(1) Includes nine terminal properties owned in New York, New Jersey, Connecticut and Rhode Island.

The properties that we lease have a remaining lease term, including renewal option terms, averaging over eleven years. The following table sets forth information regarding lease expirations, including renewal and extension option terms, for properties that we lease from third parties:

| CALENDAR YEAR | NUMBER OF LEASES EXPIRING | PERCENT OF TOTAL LEASED PROPERTIES | PERCENT OF TOTAL PROPERTIES |
|---|---|---|---|
| 2010 | 10 | 6.21 | 0.93 |
| 2011 | 9 | 5.59 | 0.84 |

| | | | |
|---|---|---|---|
| 2012 | 13 | 8.08 | 1.22 |
| 2013 | 4 | 2.48 | 0.37 |
| 2014 | 3 | 1.86 | 0.28 |
| Subtotal | 39 | 24.22 | 3.64 |
| Thereafter | 122 | 75.78 | 11.39 |
| Total | 161 | 100.00% | 15.03% |

We have rights-of-first refusal to purchase or lease one hundred twenty-nine of the properties we lease. Although there can be no assurance regarding any particular property, historically we generally have been successful in renewing or entering into new leases when lease terms expire. Approximately 68% of our leased properties are subject to automatic renewal or extension options.

For the year ended December 31, 2009 we received $82.8 million of lease payments with respect to 1,061 average rental properties held during the year resulting in an average annual rent received of $78,000 per rental property. For the year ended December 31, 2008 we received $81.0 million of lease payments with respect to 1,078 average rental properties held during the year resulting in an average annual rent received of $75,100 per rental property.

Rental unit expirations and the current annualized contracted rent as of December 31, 2009, are as follows (in thousands, except for the number of rental units data):

| | | CURRENT ANNUALIZED CONTRACTUAL RENT (a) | | | |
|---|---|---|---|---|---|
| **CALENDAR YEAR** | **NUMBER OF RENTAL UNITS EXPIRING (b)** | **MARKETING** | **OTHER TENANTS** | **TOTAL** | **PERCENTAGE OF TOTAL ANNUALIZED RENT** |
| 2010 | 49 | $ 1,360 | $ 467 | $ 1,827 | 2.15 |
| 2011 | 25 | 824 | 167 | 991 | 1.17 |
| 2012 | 45 | 1,269 | 582 | 1,851 | 2.18 |
| 2013 | 22 | 625 | 842 | 1,467 | 1.73 |
| 2014 | 31 | 697 | 1,464 | 2,161 | 2.55 |
| 2015 | 781 | 55,070 | 91 | 55,161 | 65.03 |
| 2016 | 5 | — | 332 | 332 | 0.39 |
| 2017 | 5 | — | 445 | 445 | 0.53 |
| 2018 | 12 | — | 1,108 | 1,108 | 1.31 |
| 2019 | 70 | — | 5,134 | 5,134 | 6.05 |
| Thereafter | 130 | 42 | 14,304 | 14,346 | 16.91 |
| Total | 1,175 | $ 59,887 | $ 24,936 | $ 84,823 | 100.00% |

(a) Represents the monthly contractual rent due from tenants under existing leases as of December 31, 2009 multiplied by twelve. This amount excludes real estate tax reimbursements which are billed to the tenant when paid.

(b) Rental units include properties subdivided into multiple premises with separate tenants. Rental units also include individual properties comprising a single "premises" as such term is defined under a unitary master lease related to such properties. With respect to a unitary master lease that includes properties subject to third party leases, the expiration dates for rental units refers to the dates that the underlying third party leases expire, not the expiration date of the unitary master lease itself.

In the opinion of our management, our owned and leased properties are adequately covered by casualty and liability insurance. In addition, we require our tenants to provide insurance for all properties they lease from us, including casualty, liability, fire and extended coverage in amounts and on other terms satisfactory to us. We have no plans for material improvements to any of our properties. However, our tenants frequently make improvements to the properties leased from us at their expense. We are not aware of any material liens or encumbrances on any of our properties.

We lease eight hundred thirty-one retail motor fuel and convenience store properties and nine petroleum distribution terminals to Marketing under the Marketing Leases. The Master Lease is a unitary lease and has an initial term expiring in 2015, and generally provides Marketing with three renewal options of ten years each and a final renewal option of three years and ten months extending to 2049. The Master Lease is a unitary lease and, therefore, Marketing's exercise of any renewal option can only be exercised on an "all or nothing" basis. The Marketing Leases are "triple-net" leases, under which Marketing is responsible for the payment of taxes, maintenance, repair, insurance and other operating expenses. As permitted under the terms of our leases with Marketing, Marketing can generally use each property for any lawful purpose, or for no purpose whatsoever. We believe that as of December 31, 2009, Marketing had removed, or has scheduled removal of the gasoline tanks and related equipment at approximately one hundred fifty, or 18%, of our properties and we also believe that most of these properties are either vacant or provide negative or marginal contribution to Marketing's results. (For additional information regarding the portion of our financial results that are attributable to Marketing, see Note 11 in "Item 8. Financial Statements and Supplementary Data - Notes to

Consolidated Financial Statements." For additional information regarding

Marketing and the Marketing Leases, see "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations — General — Marketing and the Marketing Leases".)

If Marketing fails to pay rent, taxes or insurance premiums when due under the Marketing Leases and the failure is not cured by Marketing within a specified time after receipt of notice, we have the right to terminate the Marketing Leases and to exercise other customary remedies against Marketing. If Marketing fails to comply with any other obligation under the Master Lease after notice and opportunity to cure, we do not have the right to terminate the Master Lease. In the event of Marketing's default where we do not have the right to terminate the Master Lease, our available remedies under the Master Lease are to seek to obtain an injunction or other equitable relief requiring Marketing to comply with its obligations under the Master Lease and to recover damages from Marketing resulting from the failure. If any lease we have with a third-party landlord for properties that we lease to Marketing is terminated as a result of our default and the default is not caused by Marketing, we have agreed to indemnify Marketing for its losses with respect to the termination. Marketing has the right-of-first refusal to purchase any property leased to Marketing under the Marketing Leases that we decide to sell.

We have also agreed to provide limited environmental indemnification to Marketing, capped at $4.25 million, for certain pre-existing conditions at six of the terminals we own and lease to Marketing. Under the agreement, Marketing is obligated to pay the first $1.5 million of costs and expenses incurred in connection with remediating any pre-existing terminal condition, Marketing will share equally with us the next $8.5 million of those costs and expenses and Marketing is obligated to pay all additional costs and expenses over $10.0 million. We have accrued $0.3 million as of December 31, 2009 and 2008 in connection with this indemnification agreement. Under the Master Lease, we continue to have additional ongoing environmental remediation obligations at one hundred eighty-seven scheduled sites and our agreements with Marketing provide that Marketing otherwise remains liable for all environmental matters. (For additional information regarding Marketing and the Marketing Leases, see "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations — General — Marketing and the Marketing Leases".)

**Item 3. Legal Proceedings**

The Company is engaged in a number of legal proceedings, many of which we consider to be routine and incidental to our business. The following is a description of material legal proceedings, including those involving private parties and governmental authorities under federal, state and local laws regulating the discharge of materials into the environment. We are vigorously defending all of the legal proceedings involving the Company, including each of the legal proceedings matters listed below.

In April 2003, our subsidiary, Leemilt's Petroleum Inc., was named as a defendant, along with Amoco Oil Co., BP Corporation North America, CITGO Petroleum Corporation, Exxon Mobil Corp., Sunoco, Inc., Tosco Corporation, Valero Energy Inc., and others, in a complaint seeking class action classification, filed by three individuals, on behalf of themselves and others similarly situated, in the New York Supreme Court in Dutchess County, NY, arising out of alleged contamination of ground water with methyl tertiary butyl ether (a fuel derived from methanol, commonly referred to as "MTBE"). We served an answer to the complaint in which we denied liability and asserted affirmative defenses. The plaintiffs have not responded to our answer and there has been no activity in the case since it was commenced.

In September 2003, we were notified by the New Jersey Department of Environmental Protection (the "NJDEP") that we may be responsible for damages to natural resources ("NRDs") by reason of a petroleum release at a retail motor fuel property formerly operated by us in Egg Harbor, NJ. We have remediated the resulting contamination at the property in accordance with a plan approved by the NJDEP and continue required sampling of monitoring wells that were required to be installed. In addition, we responded to the notice and, in late 2003, we met with the NJDEP to determine whether, and to what extent, we may be responsible for NRDs regarding this property and other properties formerly supplied by us with gasoline in New Jersey. Since our meeting with the NJDEP we have had no communication with the NJDEP arising from this matter regarding NRDs.

In November 2003, we received a demand from the State of New York for reimbursement of cleanup and removal costs claimed to have been incurred by the New York Environmental Protection and Spill Compensation Fund regarding contamination it alleges emanated from one of our retail motor fuel properties in 1997. We responded to the State's demand and denied responsibility for reimbursement of such costs. In September 2004, the State of New York commenced an action against us and Costa Gas Station, Inc., The Ingraham Bedell Corporation, Exxon Mobil Corporation, Shell Oil Company, Shell Oil Products Company, Motiva Enterprises, LLC, and related parties, in New York Supreme Court in Albany County seeking recovery of such costs as well as additional costs and future costs for remediation, and interest and penalties. Discovery in this case is ongoing.

In October 2007, the Company received a demand from the State of New York to pay the costs allegedly arising from investigation and remediation of petroleum spills that occurred at a property formerly owned by us and taken by eminent domain by the State of New York in 1991. No formal legal action has yet been commenced by the State.

In September 2008, we received a directive and notice of violation from the NJDEP calling for a remedial investigation and cleanup, to be conducted by us and Gary and Barbara Galliker, individually and trading Millstone Auto Service, Auto Tech, and other named parties, of petroleum-related contamination found at a retail motor fuel property. We did not own or lease this property, but did supply gas to the operator of this property in 1985 and 1986. We have responded to the NJDEP, denying liability, and we have also tendered the matter to Marketing for defense and indemnification under the Reorganization and Distribution Agreement between Getty Petroleum Corp. (n/k/a/ Getty Properties Corp.) and Marketing dated as of February 1, 1997 (the "Spin-Off Agreement"). Marketing has denied responsibility for this matter. In November, 2009, the NJDEP issued an Administrative Order and Notice of Civil Administrative Penalty Assessment (the "Order and Assessment") to the Company, Marketing and Gary and Barbara Galliker, individually and trading as Millstone Auto Service. Both Marketing and the Company have filed requests for a hearing to contest the allegations of the Order and Assessment. The hearing request is still pending. For additional information regarding Marketing and the Marketing Leases (as defined below), see "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations — General — Marketing and the Marketing Leases".)

In November 2009, an action was commenced by the State of New York in the Supreme Court, Albany County, seeking the recovery of costs incurred in remediating alleged petroleum contamination down gradient of a gasoline station formerly owned by us, and gasoline stations that were allegedly owned or operated by other named defendants, including M&A Realty, Inc., Gas Land Petroleum, Inc., and Mid-Valley Oil Company. The Company has tendered the matter to M&A Realty Inc. for defense and indemnification as relates to discharges of petroleum that occurred on or after July of 1994 at the site which is the subject of allegations against the Company. This site was leased by the Company to M & A Realty Inc. in 1994 and sold to M & A Realty Inc. in 2002. M&A Realty Inc. has demanded that the Company defend and indemnify M&A Realty Inc. for contamination at this site as of 1994. The Company has answered the complaint denying liability and asserting affirmative defenses and cross claims against co-defendants. Discovery is ongoing.

*MTBE Litigation*

From October 2003 through September 2009, we were named as a defendant in lawsuits brought on behalf of private and public water providers and governmental agencies in Connecticut, Florida, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, Virginia, and West Virginia. These cases allege various theories of liability due to contamination of groundwater with MTBE as the basis for claims seeking compensatory and punitive damages. We have settled one case and have been dismissed from five of the cases initially filed against us. Presently, fifty-three of these MTBE cases remain pending against us. Each of these cases name as defendants approximately fifty petroleum refiners, manufacturers, distributors and retailers of MTBE, or gasoline containing MTBE, including Irving Oil Corporation, Mobil Oil Corporation, Sunoco, Inc., Texaco, Inc., Tosco Corporation, Unocal Corporation, Valero Energy Corporation, Marathon Oil Company, Shell Oil Company, Giant Yorktown, Inc., BP Amoco Chemical Company, Inc., Atlantic Richfield Company, Coastal Oil New England, Inc., Chevron Texaco Corporation, Amerada Hess Corp., Chevron U.S.A., Inc., CITGO Petroleum Corporation, ConocoPhillips Company, Exxon Mobil Corporation, Getty Petroleum Marketing, Inc., and Gulf Oil Limited Partnership.

Pursuant to consolidation procedures under federal law, most of the MTBE cases originally filed in various state and federal courts were transferred to the United States District Court for the Southern District of New York for coordinated Multi-District Litigation proceedings. We are presently named as a defendant in thirty-nine out of more than one hundred cases that have been consolidated in this Multi-District Litigation. We are also named as a defendant in fourteen related MTBE cases pending in the Supreme Court of New York, Nassau County.

The Federal District Court initially designated three individual cases as "focus" cases for discovery and trial purposes. We were a named as a defendant in two of these three initial focus cases. The two focus cases in which we were a named defendant, brought on behalf of the Suffolk County Water Authority and United Water of New York, had been set for trial in

September 2008. Prior to the scheduled trial date, a majority of the primary defendants entered into global settlement agreements which settled one hundred two cases brought by the same law firm on behalf of various plaintiffs. Although we were not a party to these global settlements, the two focus cases in which we were a named defendant were included in these settlements. As a result of these multi-party settlements, the Court vacated the September 2008 trial date for the two initial focus cases in which we were a named defendant. A new trial date for these two focus cases has not yet been rescheduled. We remain a defendant in a total of twenty-seven out of the one hundred two individual cases brought by the same firm and previously settled by other named defendants. Should these two focus cases or any of the other twenty-five cases represented by this firm proceed to trial, the Court has indicated that trials would be scheduled stating in June 2010.

The Court has designated two additional cases as focus cases for discovery and trial purposes. These cases were brought on behalf of water authorities of the Village of Hempstead and the Village of West Hempstead. These cases are presently scheduled for trial in June 2010. We believe that several defendants have settled these two focus cases as part of a multi-case settlement comprising a total of twenty-five cases brought by the same law firm (a different law firm from that indicated above) on behalf of various plaintiffs. We remain a defendant in the Village of Hempstead and the Village of West Hempstead focus cases, which are among twenty-five total cases brought by this other law firm.

In addition to the above described cases, there is one other MTBE case in the consolidated Multi-District Litigation that is pending against us. This case is brought by various governmental agencies of the State of New Jersey, including the NJDEP, and names many refiners, manufacturers, distributors and retailers as defendants. In December 2008, the Court designated this case as a focus case. This case remains in its preliminary stages.

We have tendered defense and indemnification to Marketing and its insurers under the Spin-Off Agreement and the Master Lease. In 2009, we provided litigation reserves of $2.3 million relating to a majority of the MTBE cases pending against us. However, we are still unable to estimate our liability for a minority of the cases pending against us. Further, notwithstanding that we have provided a litigation reserve as to certain of these cases, there remains uncertainty as to the accuracy of the allegations in the MTBE cases as they relate to us, our defenses to the claims, our rights to indemnification or contribution from Marketing, and the aggregate possible amount of damages for which we may be held liable.

*Matters related to our Newark, New Jersey Terminal and the Lower Passaic River*

In September 2003, we received a directive (the “Directive”) issued by the NJDEP under the New Jersey Spill Compensation and Control Act. The Directive indicated that we are one of approximately sixty-six potentially responsible parties for alleged NRDs resulting from the discharges of hazardous substances along the lower Passaic River (the “Lower Passaic River”). Other named recipients of the Directive are 360 North Pastoria Environmental Corporation, Amerada Hess Corporation, American Modern Metals Corporation, Apollo Development and Land Corporation, Ashland Inc., AT&T Corporation, Atlantic Richfield Assessment Company, Bayer Corporation, Benjamin Moore & Company, Bristol Myers-Squibb, Chemical Land Holdings, Inc., Chevron Texaco Corporation, Diamond Alkali Company, Diamond Shamrock Chemicals Company, Diamond Shamrock Corporation, Dilorenzo Properties Company, Dilorenzo Properties, L.P., Drum Service of Newark, Inc., E.I. Dupont De Nemours and Company, Eastman Kodak Company, Elf Sanofi, S.A., Fine Organics Corporation, Franklin-Burlington Plastics, Inc., Franklin Plastics Corporation, Freedom Chemical Company, H.D. Acquisition Corporation, Hexcel Corporation, Hilton Davis Chemical Company, Kearny Industrial Associates, L.P., Lucent Technologies, Inc., Marshall Clark Manufacturing Corporation, Maxus Energy Corporation, Monsanto Company, Motor Carrier Services Corporation, Nappwood Land Corporation, Noveon Hilton Davis Inc., Occidental Chemical Corporation, Occidental Electro-Chemicals Corporation, Occidental Petroleum Corporation, Oxy-Diamond Alkali Corporation, Pitt-Consol Chemical Company, Plastics Manufacturing Corporation, PMC Global Inc., Propane Power Corporation, Public Service Electric & Gas Company, Public Service Enterprise Group, Inc., Purdue Pharma Technologies, Inc., RTC Properties, Inc., S&A Realty Corporation, Safety-Kleen Envirosystems Company, Sanofi S.A., SDI Divestiture Corporation, Sherwin Williams Company, SmithKline Beecham Corporation, Spartech Corporation, Stanley Works Corporation, Sterling Winthrop, Inc., STWB Inc., Texaco Inc., Texaco Refining and Marketing Inc., Thomasset Colors, Inc., Tierra Solution, Incorporated, Tierra Solutions, Inc., and Wilson Five Corporation.

The Directive provided, among other things, that the recipients thereof must conduct an assessment of the natural resources that have been injured by the discharges into the Lower Passaic River and must implement interim compensatory restoration for the injured natural resources. NJDEP alleges that our liability arises from alleged discharges originating from our Newark, New Jersey Terminal site. We responded to the Directive by asserting that we were not liable. There has been no material activity and/or communications by NJDEP with respect to the Directive since early after its issuance.

Effective in June 2004, the United States Environmental Protection Agency (“EPA”) entered into an Administrative Order on Consent (“AOC”) with thirty-one parties (some of which are also named in the Directive) who agreed to fund a portion of the costs for EPA to perform a Remedial Investigation and Feasibility Study (“RI/FS”) for the Lower Passaic River. The RI/FS is intended to address the investigation and evaluation of alternative remedial actions with respect to alleged damages to the Lower Passaic River. After being notified by the EPA that they considered us to be a potentially responsible party, we reserved our defenses to liability, became a party to an amended AOC, and joined the Cooperating Parties Group (“CPG”), which consists of the parties which had executed the initial AOC and other parties (including Chevron/Texaco). Pursuant to the amended AOC and subsequent amendments adding additional parties, the CPG has agreed to take over performance of the RI/FS from EPA. The RI/FS does not resolve liability issues for remedial work or restoration of, or compensation for, natural resource damages to the Lower Passaic River, which are not known at this time. As to such matters, separate proceedings or activities are currently ongoing.

In a related action, in December 2005, the State of New Jersey brought suit in the Superior Court of New Jersey, Law Division, against certain parties to the Directive, Occidental Chemical Corporation, Tierra Solutions, Inc., Maxus Energy Corporation and related entities which the State alleges are responsible for pollution of the Passaic River from a former Diamond Alkali manufacturing plant and seeking recovery of alleged damages incurred and to be incurred on account of alleged discharges of hazardous substances to the Passaic River. In February 2009, certain of these defendants filed third-party complaints against approximately three hundred additional parties, including us as well as the other members of the CPG, seeking contribution for a pro-rata share of response costs, cleanup and removal costs, and other damages. The Company has answered the complaint, denying responsibility for any discharges of hazardous substances released into the Lower Passaic River. On December 9, 2009, the court entered an order under which a Special Master is tasked with facilitating discussions for the purpose of designing an alternative dispute resolution process for achieving a global resolution of the Action. The Special Master and certain party representatives are in the process of developing a potential framework for such an alternative dispute resolution process.

We have made a demand upon Chevron/Texaco for indemnity under certain agreements between the Company and Chevron/Texaco that allocate environmental liabilities for the Newark Terminal Site between the parties. In response, Chevron/Texaco has asserted that the proceedings and claims are still not yet developed enough to determine the extent to which indemnities apply. The Company and Chevron/Texaco are engaged in discussions regarding the Company’s demands for indemnification, and, to facilitate said discussions, in October, 2009 entered into a Tolling/Standstill Agreement which tolls all claims by and among the Company and Chevron/Texaco that relate to the various Lower Passaic River matters from May 8, 2007, until either party terminates such Tolling/Standstill Agreement.

Our ultimate liability, if any, in the pending and possible future proceedings pertaining to the Lower Passaic River is uncertain and subject to numerous contingencies which cannot be predicted and the outcome of which are not yet known.

## PART II

### Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

**Capital Stock**

Our common stock is traded on the New York Stock Exchange (symbol: “GTY”). There were approximately 13,000 shareholders of our common stock as of March 16, 2010, of which approximately 1,300 were holders of record. The price range of our common stock and cash dividends declared with respect to each share of common stock during the years ended December 31, 2009 and 2008 was as follows:

| QUARTER ENDED | PRICE RANGE HIGH | PRICE RANGE LOW | CASH DIVIDENDS PER SHARE |
|---|---|---|---|
| March 31, 2008 | $ 28.58 | $ 13.33 | $ .4650 |
| June 30, 2008 | 19.04 | 14.34 | .4650 |
| September 30, 2008 | 23.12 | 13.12 | .4700 |
| December 31, 2008 | 22.40 | 13.35 | .4700 |
| March 31, 2009 | 21.87 | 13.25 | .4700 |
| June 30, 2009 | 20.99 | 16.36 | .4700 |
| September 30, 2009 | 26.32 | 18.61 | .4750 |
| December 31, 2009 | 25.63 | 21.50 | .4750 |

For a discussion of potential limitations on our ability to pay future dividends see “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations — Liquidity and Capital Resources”.

**Issuer Purchases of Equity Securities**

None

**Sales of Unregistered Securities**

None

**Stock Performance Graph**

We have chosen as our Peer Group the following companies: National Retail Properties, Entertainment Properties Trust, Realty Income Corp. and Hospitality Properties Trust. We have chosen these companies as our Peer Group because a substantial segment of each of their businesses is owning and leasing commercial properties. We cannot assure you that our stock performance will continue in the future with the same or similar trends depicted in the graph above. We do not make or endorse any predictions as to future stock performance.

This performance graph and related information shall not be deemed filed for the purposes of Section 18 of the Exchange Act or otherwise subject to the liability of that Section and shall not be deemed to be incorporated by reference into any filing that we make under the Securities Act or the Exchange Act.

| | **12/31/2004** | **12/31/2005** | **12/31/2006** | **12/31/2007** | **12/31/2008** | **12/31/2009** |
|---|---|---|---|---|---|---|
| Getty Realty Corp. | 100.00 | 97.61 | 122.09 | 112.75 | 98.63 | 120.99 |
| Standard & Poors 500 | 100.00 | 103.00 | 117.03 | 121.16 | 74.53 | 92.01 |
| Peer Group | 100.00 | 93.63 | 123.44 | 109.86 | 82.57 | 110.65 |

Assumes $100 invested at the close of trading 12/04 in Getty Realty Corp. common stock, Standard & Poors 500, and Peer Group.

*Cumulative total return assumes reinvestment of dividends.

**Item 6. Selected Financial Data**

**GETTY REALTY CORP. AND SUBSIDIARIES**
**SELECTED FINANCIAL DATA**
**(in thousands, except per share amounts and number of properties)**

| | FOR THE YEARS ENDED DECEMBER 31, | | | | |
|---|---|---|---|---|---|
| | 2009 (a) | 2008 | 2007 (b) | 2006 | 2005 |
| OPERATING DATA: | | | | | |
| Revenues from rental properties | $ 84,539 | $ 82,802 | $ 79,207 | $ 72,491 | $ 71,282 |
| Earnings before income taxes and discontinued operations | 41,424 | 38,767 | 27,842(c) | 40,927 | 42,846 |
| Income tax benefit (d) | — | — | — | 700 | 1,494 |
| Earnings from continuing operations | 41,424 | 38,767 | 27,842 | 41,627 | 44,340 |
| Earnings from discontinued operations | 5,625 | 3,043 | 6,052(c) | 1,098 | 1,108 |
| Net earnings | 47,049 | 41,810 | 33,894 | 42,725 | 45,448 |
| Diluted earnings per common share: | | | | | |
| Earnings from continuing operations | 1.67 | 1.57 | 1.12 | 1.68 | 1.79 |
| Net earnings | 1.90 | 1.69 | 1.37 | 1.73 | 1.84 |
| Diluted weighted-average common shares outstanding | 24,767 | 24,767 | 24,769 | 24,752 | 24,736 |
| Cash dividends declared per share | 1.89 | 1.87 | 1.85 | 1.82 | 1.76 |
| FUNDS FROM OPERATIONS AND ADJUSTED FUNDS FROM OPERATION (e): | | | | | |
| Net earnings | 47,049 | 41,810 | 33,894 | 42,725 | 45,448 |
| Depreciation and amortization of real estate assets | 11,027 | 11,875 | 9,794 | 7,883 | 8,113 |
| Gains on dispositions of real estate | (5,467) | (2,787) | (6,179) | (1,581) | (1,309) |
| Funds from operations | 52,609 | 50,898 | 37,509 | 49,027 | 52,252 |
| Revenue Recognition Adjustments | (2,065) | (2,593) | (4,159) | (3,010) | (4,170) |
| Allowance for deferred rental revenue | — | — | 10,494 | — | — |
| Impairment charges | 1,135 | — | — | — | — |
| Income tax benefit (d) | — | — | — | (700) | (1,494) |
| Adjusted funds from operations | 51,679 | 48,305 | 43,844 | 45,317 | 46,588 |
| BALANCE SHEET DATA (AT END OF YEAR): | | | | | |
| Real estate before accumulated depreciation and amortization | $ 503,874 | $ 473,567 | $ 474,254 | $ 383,558 | $ 370,495 |
| Total assets | 432,872 | 387,813 | 396,911 | 310,922 | 301,468 |
| Debt | 175,570 | 130,250 | 132,500 | 45,194 | 34,224 |
| Shareholders' equity | 207,669 | 205,897 | 212,178 | 225,575 | 227,883 |
| NUMBER OF PROPERTIES: | | | | | |
| Owned | 910 | 878 | 880 | 836 | 814 |
| Leased | 161 | 182 | 203 | 216 | 241 |
| Total properties | 1,071 | 1,060 | 1,083 | 1,052 | 1,055 |

(a) Includes (from the date of the acquisition) the effect of the $49.0 million acquisition of the real estate assets and improvements of thirty-six convenience store properties from White Oak Petroleum LLC which were acquired on September 25, 2009.

(b) Includes (from the date of the acquisition) the effect of the $84.5 million acquisition of convenience stores and gas station properties from FF-TSY Holding Company II LLC (successor to Trustreet Properties, Inc.) which was substantially completed by the end of the first quarter of 2007.

(c) Includes the effect of a $10.5 million non-cash deferred rent receivable reserve, $10.2 million of which is included in earnings from continuing operations and $0.3 million of which is included in earnings from discontinued operations, based on the deferred rent receivable recorded as of December 31, 2007 related to approximately 40% of the properties then under leases with our primary tenant, Getty Petroleum Marketing, Inc. (For additional information regarding Marketing and the Marketing Leases, see “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations — General — Marketing and the Marketing Leases”.)

(d) The years ended 2006 and 2005 include income tax benefits recognized due to the elimination of, or reduction in, amounts accrued for uncertain tax positions related to being taxed as a C-corp. prior to our election to be taxed as a real estate investment trust (“REIT”) under the federal income tax laws in 2001. Income taxes have not had a significant impact on our earnings since we first elected to be treated as a REIT.

(e) In addition to measurements defined by accounting principles generally accepted in the United States of America (“GAAP”), our management also focuses on funds from operations (“FFO”) and adjusted funds from operations (“AFFO”) to measure our performance. FFO is generally considered to be an appropriate supplemental non-GAAP measure of the performance of real estate investment trusts (“REITs”). FFO is defined by the National Association of Real Estate Investment Trusts as net earnings before depreciation and amortization of real estate assets, gains or losses on dispositions of real estate, (including such non-FFO items reported in discontinued operations), extraordinary items, and cumulative effect of accounting change. Other REITs may use definitions of FFO and/or AFFO that are different than ours and; accordingly, may not be comparable.

We believe that FFO and AFFO are helpful to investors in measuring our performance because both FFO and AFFO exclude various items included in GAAP net earnings that do not relate to, or are not indicative of, our fundamental operating performance. FFO excludes various items such as gains or losses from property dispositions and depreciation and amortization of real estate assets. In our case, however, GAAP net earnings and FFO typically include the impact of deferred rental revenue (straight-line rental revenue), the net amortization of above-market and below-market leases and income recognized from direct financing leases on its recognition of revenue from rental properties (collectively the “Revenue Recognition Adjustments”), as offset by the impact of related collection reserves. GAAP net earnings and FFO from time to time may also include impairment charges and/or income tax benefits. Deferred rental revenue results primarily from fixed rental increases scheduled under certain leases with our tenants. In accordance with GAAP, the aggregate minimum rent due over the current term of these leases are recognized on a straight-line (or an average) basis rather than when the payment is contractually due. The present value of the difference between the fair market rent and the contractual rent for in-place leases at the time properties are acquired is amortized into revenue from rental properties over the remaining lives of the in-place leases. Income from direct financing leases is recognized over the lease term using the effective interest method which produces a constant periodic rate of return on the net investment in the leased property. Impairment of long-lived assets represents charges taken to write-down real estate assets to fair value estimated when events or changes in circumstances indicate that the carrying amount of the property may not be recoverable. In prior periods, income tax benefits have been recognized due to the elimination of, or a net reduction in, amounts accrued for uncertain tax positions related be being taxed as a C-corp., rather than as a REIT, prior to 2001 (see note (d) above).

Management pays particular attention to AFFO, a supplemental non-GAAP performance measure that we define as FFO less Revenue Recognition Adjustments, impairment charges and income tax benefit. In management’s view, AFFO provides a more accurate depiction than FFO of our fundamental operating performance related to: (i) the impact of scheduled rent increases from operating leases; (ii) the rental revenue from acquired in-place leases; (iii) the impact of rent due from direct financing leases, (iv) our rental operating expenses (exclusive of impairment charges); and (v) our election to be treated as a REIT under the federal income tax laws beginning in 2001. Neither FFO nor AFFO represent cash generated from operating activities calculated in accordance with GAAP and therefore these measures should not be considered an alternative for GAAP net earnings or as a measure of liquidity.

**Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations**

The following discussion and analysis should be read in conjunction with the "Cautionary Note Regarding Forward-Looking Statements" on page 2; the risks and uncertainties described in "Item 1A. Risk Factors"; the selected financial data in "Item 6. Selected Financial Data"; and the consolidated financial statements and related notes in "Item 8. Financial Statements and Supplementary Data".

**GENERAL**

***Real Estate Investment Trust***

We are a real estate investment trust ("REIT") specializing in the ownership and leasing of retail motor fuel and convenience store properties and petroleum distribution terminals. We elected to be treated as a REIT under the federal income tax laws beginning January 1, 2001. As a REIT, we are not subject to federal corporate income tax on the taxable income we distribute to our shareholders. In order to continue to qualify for taxation as a REIT, we are required, among other things, to distribute at least ninety percent of our taxable income to shareholders each year.

***Retail Petroleum Marketing Business***

We lease or sublet our properties primarily to distributors and retailers engaged in the sale of gasoline and other motor fuel products, convenience store products and automotive repair services. These tenants are responsible for managing the operations conducted at these properties and for the payment of taxes, maintenance, repair, insurance and other operating expenses relating to our properties. Our tenants' financial results are largely dependent on the performance of the petroleum marketing industry, which is highly competitive and subject to volatility. In those instances where we determine that the best use for a property is no longer as a retail motor fuel outlet, we will seek an alternative tenant or buyer for the property. We lease or sublet approximately twenty of our properties for uses such as fast food restaurants, automobile sales and other retail purposes. (See "Item 1. Business — Real Estate Business" and "Item 2. Properties" for additional information regarding our real estate business and our properties.) (For information regarding factors that could adversely affect us relating to our lessees, including our primary tenant, Getty Petroleum Marketing Inc., see "Item 1A. Risk Factors".)

***Marketing and the Marketing Leases***

As of December 31, 2009, we leased eight hundred forty properties, or 78% of our one thousand seventy-one properties, on a long-term triple-net basis to Getty Petroleum Marketing Inc. ("Marketing"), a wholly-owned subsidiary of OAO LUKoil ("Lukoil"), one of the largest integrated Russian oil companies. Eight hundred thirty of the properties we lease to Marketing are leased under a unitary master lease (the "Master Lease") with an initial term effective through December 2015. The Master Lease is a unitary lease and, therefore, Marketing's exercise of any renewal option can only be on an "all or nothing" basis. Ten of the properties we lease to Marketing are leased under supplemental leases with initial terms of varying expiration dates (collectively with the Master Lease, the "Marketing Leases").

Our financial results are materially dependent upon the ability of Marketing to meet its rental and environmental obligations under the Marketing Leases. Marketing's financial results depend on retail petroleum marketing margins from the sale of refined petroleum products and rental income from its subtenants. Marketing's subtenants either operate their gas stations, convenience stores, automotive repair services or other businesses at our properties or are petroleum distributors who may operate our properties directly and/or sublet our properties to the operators. Since a substantial portion of our revenues (71% for the year ended December 31, 2009) are derived from the Marketing Leases, any factor that adversely affects Marketing's ability to meet its obligations under the Marketing Leases may have a material adverse effect on our business, financial condition, revenues, operating expenses, results of operations, liquidity, ability to pay dividends or stock price. (For additional information regarding the portion of our financial results that are attributable to Marketing, see Note 11 in "Item 8. Financial Statements and Supplementary Data - Notes to Consolidated Financial Statements.") Marketing has made all required monthly rental payments under the Marketing Leases when due through March 2010, although there can be no assurance that it will continue to do so.

For the year ended December 31, 2008, Marketing reported a significant loss, continuing a trend of reporting large losses in recent years. We have not received Marketing's operating results for the year ended December 31, 2009. As a result of Marketing's significant losses for each of the three years ended December 31, 2008, 2007 and 2006 and the cumulative impact of those losses on Marketing's financial position as of December 31, 2008, we previously concluded that Marketing likely does not have the ability to generate cash flows from its business sufficient to meet its obligations as they come due in the ordinary course through the terms of the Marketing Leases unless it shows significant improvement in its financial results, generates sufficient liquidity through the sale of assets or otherwise, or receives financial support from Lukoil, its parent company.

In the fourth quarter of 2009, Marketing announced a restructuring of its business. Marketing disclosed that the restructuring included the sale of all assets unrelated to the properties it leases from us, the elimination of parent-guaranteed debt, and steps to reduce operating costs. Marketing sold all assets unrelated to the properties it leases from us to its affiliates, LUKOIL Pan Americas L.L.C. and LUKOIL North America LLC. Marketing paid off debt which had been guaranteed by Lukoil with proceeds from the sale of assets to Lukoil affiliates and with financial support from Lukoil. Marketing also announced additional steps to reduce its costs including closing two marketing regions, eliminating jobs and exiting the direct-supplied retail gasoline business. Marketing’s announcement also indicated that LUKOIL North America LLC is the vehicle through which Lukoil expects to concentrate its future growth in the United States.

We believe that Marketing is exiting the direct-supplied retail gasoline business by entering into subleases with petroleum distributors who supply their own petroleum products to the properties leased from us by Marketing. Approximately two hundred fifty retail properties, comprising substantially all of the properties in New England that we lease to Marketing, have been subleased by Marketing to a single distributor. These properties are in the process of being rebranded BP stations and are being supplied petroleum products under a supply contract with BP. In addition, we believe that Marketing recently entered into a sublease with a single distributor in New Jersey covering approximately eighty-five of our properties. We believe that Marketing is seeking subtenants for other significant portions of the portfolio of properties it leases from us.

In connection with its restructuring, Marketing eliminated debt which had been guaranteed by Lukoil with proceeds from the sale of assets to Lukoil affiliates and with financial support from Lukoil, which we believe increased Marketing’s liquidity and improved its balance sheet. However, we cannot predict whether the restructuring announced by Marketing will stem Marketing’s recent history of significant annual operating losses, and whether Marketing will continue to be dependent on financial support from Lukoil to meet its obligations as they become due through the terms of the Marketing Leases. We continue to believe that to the extent Marketing requires continued financial support from Lukoil, it is probable that Lukoil will continue to provide such support. Lukoil is not, however, a guarantor of the Marketing Leases. Even though Marketing is a wholly-owned subsidiary of Lukoil, and Lukoil has provided capital to Marketing in the past, there can be no assurance that Lukoil will provide financial support or additional capital to Marketing in the future. It is reasonably possible that our beliefs regarding the likelihood of Lukoil providing continuing financial support to Marketing will prove to be incorrect or will change as circumstances change. If Marketing should fail to meet its financial obligations to us, including payment of rent, such default could lead to a protracted and expensive process for retaking control of our properties. In addition to the risk of disruption in rent receipts, we are subject to the risk of incurring real estate taxes, maintenance, environmental and other expenses at properties subject to the Marketing Leases.

From time to time we have held discussions with representatives of Marketing regarding potential modifications to the Marketing Leases. These efforts have been unsuccessful to date as we have not yet reached a common understanding with Marketing that would form a basis for modification of the Marketing Leases. From time to time, however, we have been able to agree with Marketing on terms to allow for removal of individual properties from the Marketing Leases as mutually beneficial opportunities arise. We intend to continue to pursue the removal of individual properties from the Marketing Leases, and we remain open to removal of groups of properties; however, there is no fixed agreement in place providing for removal of properties from the Marketing Leases. Accordingly, the removal of properties from the Marketing Leases is subject to negotiation on a case-by-case basis. If Marketing ultimately determines that its business strategy is to exit all or a portion of the properties it leases from us, it is our intention to cooperate with Marketing in accomplishing those objectives if we determine that it is prudent for us to do so. Any modification of the Marketing Leases that removes a significant number of properties from the Marketing Leases would likely significantly reduce the amount of rent we receive from Marketing and increase our operating expenses. We cannot accurately predict if, or when, the Marketing Leases will be modified; what composition of properties, if any, may be removed from the Marketing Leases as part of any such modification; or what the terms of any agreement for modification of the Marketing Leases may be. We also cannot accurately predict what actions Marketing or Lukoil may take, and what our recourse may be, whether the Marketing Leases are modified or not.

We intend either to re-let or sell any properties that are removed from the Marketing Leases, whether such removal arises consensually by negotiation or as a result of default by Marketing, and reinvest any realized sales proceeds in new properties. We intend to offer properties removed from the Marketing Leases to replacement tenants or buyers individually, or in groups of properties, or by seeking a single tenant for the entire portfolio of properties subject to the Marketing Leases. Although we are the fee or leasehold owner of the properties subject to the Marketing Leases and the owner of the Getty® brand, and have prior experience with tenants who operate their gas stations, convenience stores, automotive repair services or other businesses at our properties, in the event that properties are removed from the Marketing Leases, we cannot accurately predict if, when, or on what terms such properties could be re-let or sold.

As permitted under the terms of the Marketing Leases, Marketing generally can, subject to any contrary terms under applicable third party leases, use each property for any lawful purpose, or for no purpose whatsoever. We believe that as of December 31, 2009, Marketing had removed, or has scheduled removal of, underground gasoline storage tanks and related equipment at approximately one hundred fifty, or 18%, of our properties and we also believe that most of these properties are either vacant or provide negative or marginal contribution to Marketing's results. Marketing recently agreed to permit us to list with brokers and to show to prospective purchasers and lessees seventy-five of the properties where Marketing has removed, or has scheduled to remove, underground gasoline storage tanks and related equipment, and we are marketing such properties for sale or leasing. As previously discussed, however, there is no agreement between us and Marketing on terms for removal of properties from the Marketing Leases. In those instances where we determine that the best use for a property is no longer as a retail motor fuel outlet, we will seek an alternative tenant or buyer for such property. With respect to properties that are vacant or have had underground gasoline storage tanks and related equipment removed, it may be more difficult or costly to re-let or sell such properties as gas stations because of capital costs or possible zoning or permitting rights that are required and that may have lapsed during the period since gasoline was last sold at the property. Conversely, it may be easier to re-let or sell properties where underground gasoline storage tanks and related equipment have been removed if the property will not be used as a retail motor fuel outlet or if environmental contamination has been remediated.

In accordance with accounting principles generally accepted in the United States of America ("GAAP"), the aggregate minimum rent due over the current terms of the Marketing Leases, substantially all of which are scheduled to expire in December 2015, is recognized on a straight-line (or an average) basis rather than when payment contractually is due. We record the cumulative difference between lease revenue recognized under this straight line accounting method and the lease revenue recognized when payment is due under the contractual payment terms as deferred rent receivable on our consolidated balance sheets. We provide reserves for a portion of the recorded deferred rent receivable if circumstances indicate that a property may be disposed of before the end of the current lease term or if it is not reasonable to assume that a tenant will make all of its contractual lease payments during the current lease term. Our assessments and assumptions regarding the recoverability of the deferred rent receivable related to the properties subject to the Marketing Leases are reviewed on a quarterly basis and such assessments and assumptions are subject to change.

Based on our prior decision to attempt to negotiate with Marketing for a modification of the Marketing Leases to remove approximately 40% of the properties from the Marketing Leases, we previously concluded in March 2008 that we could not reasonably assume that we will collect all of the rent due to us related to those properties for the remainder of the current term of each lease comprising the Marketing Leases. Accordingly, we recorded a $10.5 million non-cash deferred rent receivable reserve as of December 31, 2007 based on the deferred rent receivable recorded related to those properties because we then believed those properties were most likely to be removed from the Marketing Leases as a result of a modification of the Marketing Leases. Providing this $10.5 million non-cash deferred rent receivable reserve reduced our net earnings and our funds from operations for 2007 but did not impact our cash flow from operating activities or adjusted funds from operations since the impact of the straight-line method of accounting is not included in our determination of adjusted funds from operations. (For additional information regarding funds from operations and adjusted funds from operations, which are non-GAAP measures, see "— General — Supplemental Non-GAAP Measures" below.) The deferred rent receivable and the related $10.5 million deferred rent receivable reserve have declined since December 31, 2007 as a result of regular monthly lease payments being made by Marketing and the removal of individual properties from the Marketing Leases.

We continue to believe that it is likely that the Marketing Leases will be modified and therefore we cannot reasonably assume that we will collect all of the rent due to us for the entire portfolio of properties we lease to Marketing for the remainder of the current term of each lease comprising the Marketing Leases. However, as a result of Marketing's restructuring announced in the fourth quarter of 2009 and the potential effect on our properties caused by changes in Marketing's business model, we reevaluated the entire portfolio of properties we lease to Marketing, and reconstituted the list of properties that we used to estimate the deferred rent receivable reserve as of December 31, 2009. We reviewed the properties that had previously been designated to us by Marketing for removal and which were the subject of our prior decision to attempt to negotiate with Marketing for a modification of the Marketing Leases and from that group of properties, we excluded properties that we no longer considered to be the most likely to be removed from the Marketing Leases, such as those which are subject to significant subleases between Marketing and various distributors (as described above) and third party leased properties. Then, to the group of properties remaining, we added properties most likely to be removed from the Marketing Leases, properties previously designated by Marketing for removal from time to time and properties that we believe are currently negative or marginal contributors to Marketing's results, such as those that are vacant or have had tanks removed. Based on our reevaluation of the entire portfolio of properties we lease to Marketing, we identified three hundred fifty properties as being the most likely to be removed from the Marketing Leases. Our estimate of the deferred rent receivable reserve as of December 31, 2009 of $9.4 million is based on the deferred rent receivable attributable to these three hundred fifty properties. We have not provided a deferred rent receivable reserve related to the remaining properties subject to the Marketing Leases since, based on our assessments and assumptions, we continue to believe that it is probable that we will collect the deferred rent receivable related to those remaining properties and that Lukoil will not allow Marketing to fail to perform its rental, environmental and other obligations under the Marketing Leases.

We perform an impairment analysis of the carrying amount of the properties subject to the Marketing Leases from time to time in accordance with GAAP when indicators of impairment exist. During the year ended December 31, 2008, we adjusted the estimated useful lives of certain long-lived assets for properties subject to the Marketing Leases resulting in accelerating the depreciation expense recorded for those assets. The impact to depreciation expense due to adjusting the estimated lives for certain long-lived assets beginning with the year ended December 31, 2008 was not material. During the year ended December 31, 2009, we reduced the carrying amount to fair value (generally estimated as sales value net of disposal costs), and recorded impairment charges aggregating $1.1 million, for certain properties leased to Marketing where the carrying amount of the property exceeded the estimated undiscounted cash flows expected to be received during the assumed holding period and the estimated net sales value expected to be received at disposition. The impairment charges were attributable to general reductions in real estate valuations and, in certain cases, by the removal or scheduled removal of underground storage tanks by Marketing.

Marketing is directly responsible to pay for (i) remediation of environmental contamination it causes and compliance with various environmental laws and regulations as the operator of our properties, and (ii) known and unknown environmental liabilities allocated to Marketing under the terms of the Marketing Leases and various other agreements with us relating to Marketing's business and the properties it leases from us (collectively the "Marketing Environmental Liabilities"). However, we continue to have ongoing environmental remediation obligations at one hundred eighty-seven retail sites and for certain pre-existing conditions at six of the terminals we lease to Marketing. If Marketing fails to pay the Marketing Environmental Liabilities, we may ultimately be responsible to pay directly for Marketing Environmental Liabilities as the property owner. We do not maintain pollution legal liability insurance to protect the Company from potential future claims for Marketing Environmental Liabilities. We will be required to accrue for Marketing Environmental Liabilities if we determine that it is probable that Marketing will not meet its obligations and we can reasonably estimate the amount of the Marketing Environmental Liabilities for which we will be directly responsible to pay, or if our assumptions regarding the ultimate allocation methods or share of responsibility that we used to allocate environmental liabilities changes. However, we continue to believe that it is not probable that Marketing will not pay for substantially all of the Marketing Environmental Liabilities since we believe that Lukoil will not allow Marketing to fail to perform its rental, environmental and other obligations under the Marketing Leases. Accordingly, we did not accrue for the Marketing Environmental Liabilities as of December 31, 2009 or December 31, 2008. Nonetheless, we have determined that the aggregate amount of the Marketing Environmental Liabilities (as estimated by us) could be material to us if we were required to accrue for all of the Marketing Environmental Liabilities in the future since we believe that as a result of any such accrual, it is reasonably possible that we may not be in compliance with the existing financial covenants in our Credit Agreement and our Term Loan Agreement. Such non-compliance could result in an event of default under the Credit Agreement and the Term Loan Agreement which, if not cured or waived, could result in the acceleration of our indebtedness under the Credit Agreement and the Term Loan Agreement.

We estimate that as of December 31, 2009, the aggregate Marketing Environmental Liabilities for which we may ultimately be responsible to pay range between $13 million and $20 million, net of expected recoveries from underground storage tank funds of which between $6 million to $9 million relate to the three hundred fifty properties that we identified as the basis for our estimate of the deferred rent receivable reserve. Although we do not have a common understanding with Marketing that would form a basis for modification of the Marketing Leases, if the Marketing Leases are modified to remove any composition of properties, it is not our intention to assume Marketing's Environmental Liabilities related to the properties that are so removed without adequate consideration from Marketing. Since we generally do not have access to certain site specific information available to Marketing, which is the party responsible for paying and managing its environmental remediation expenses at our properties, our estimates were developed in large part by review of the limited publically available information gathered through electronic databases and freedom of information requests and assumptions we made based on that data and on our own experiences with environmental remediation matters. The actual aggregate

Marketing Environmental Liabilities and the actual Marketing Environmental Liabilities related to the three hundred fifty properties that we identified as the basis for our estimate of the deferred rent receivable reserve may differ materially from our estimates and we can provide no assurance as to the accuracy of these estimates.

Our belief that to the extent Marketing requires continued financial support from Lukoil, it is probable that Lukoil will continue to provide such support, and that Lukoil will not allow Marketing to fail to perform its obligations under the Marketing Leases are critical assumptions regarding future uncertainties affecting the accounting for matters related to Marketing and the Marketing Leases. Our beliefs are based on various factors, including, among other things, Marketing’s timely payment history despite its trend of reporting large losses, capital contributions made and credit support provided in the past by Lukoil, and the potential damage to Lukoil’s brand and reputation which we do not believe Lukoil would be willing to suffer as a result of default or bankruptcy of one of its wholly owned subsidiaries. Prior to Marketing’s restructuring discussed above, we also based our beliefs on Lukoil’s guarantees of substantially all of Marketing’s outstanding debt which was repaid in the fourth quarter of 2009. We cannot predict whether the restructuring announced by Marketing will stem Marketing’s recent history of significant annual operating losses, and whether Marketing will continue to be dependent on financial support from Lukoil to meet its obligations as they become due through the terms of the Marketing Leases. We cannot predict what actions Marketing or Lukoil will take if, subsequent to the restructuring, Marketing continues to be dependent on financial support from Lukoil to meet its obligations as they become due through the terms of the Marketing Leases.

Should our assessments, assumptions and beliefs prove to be incorrect, including, in particular, our belief that Lukoil will continue to provide financial support to Marketing, or if circumstances change, the conclusions we reached may change relating to (i) whether any or what combination of the properties subject to the Marketing Leases are likely to be removed from the Marketing Leases; (ii) recoverability of the deferred rent receivable for some or all of the properties subject to the Marketing Leases; (iii) potential impairment of the properties subject to the Marketing Leases; and (iv) Marketing’s ability to pay the Marketing Environmental Liabilities. We intend to regularly review our assumptions that affect the accounting for deferred rent receivable; long-lived assets; environmental litigation accruals; environmental remediation liabilities; and related recoveries from state underground storage tank funds. Accordingly, we may be required to reserve additional amounts of the deferred rent receivable, record additional impairment charges related to the properties subject to the Marketing Leases, or accrue for Marketing Environmental Liabilities as a result of the potential or actual modification of the Marketing Leases or other factors, which may result in material adjustments to the amounts recorded for these assets and liabilities, and as a result of which, we may not be in compliance with the financial covenants in our Credit Agreement and our Term Loan Agreement.

We cannot provide any assurance that Marketing will continue to meet its rental, environmental or other obligations under the Marketing Leases. In the event that Marketing does not perform its rental, environmental or other obligations under the Marketing Leases; if the Marketing Leases are modified significantly or terminated; if we determine that it is probable that Marketing will not meet its rental, environmental or other obligations and we accrue for certain of such liabilities; if we are unable to promptly re-let or sell the properties upon recapture from the Marketing Leases; or, if we change our assumptions that affect the accounting for rental revenue or Marketing Environmental Liabilities related to the Marketing Leases and various other agreements; our business, financial condition, revenues, operating expenses, results of operations, liquidity, ability to pay dividends or stock price may be materially adversely affected.

***Supplemental Non-GAAP Measures***

We manage our business to enhance the value of our real estate portfolio and, as a REIT, place particular emphasis on minimizing risk and generating cash sufficient to make required distributions to shareholders of at least ninety percent of our taxable income each year. In addition to measurements defined by accounting principles generally accepted in the United States of America ("GAAP"), our management also focuses on funds from operations available to common shareholders ("FFO") and adjusted funds from operations available to common shareholders ("AFFO") to measure our performance. FFO is generally considered to be an appropriate supplemental non-GAAP measure of the performance of REITs. FFO is defined by the National Association of Real Estate Investment Trusts as net earnings before depreciation and amortization of real estate assets, gains or losses on dispositions of real estate, (including such non-FFO items reported in discontinued operations), extraordinary items and cumulative effect of accounting change. Other REITs may use definitions of FFO and/or AFFO that are different than ours and; accordingly, may not be comparable.

We believe that FFO and AFFO are helpful to investors in measuring our performance because both FFO and AFFO exclude various items included in GAAP net earnings that do not relate to, or are not indicative of, our fundamental operating performance. FFO excludes various items such as gains or losses from property dispositions and depreciation and amortization of real estate assets. In our case, however, GAAP net earnings and FFO typically include the impact of deferred rental revenue (straight-line rental revenue), the net amortization of above-market and below-market leases and income recognized from direct financing leases on our recognition of revenues from rental properties (collectively, the "Revenue Recognition Adjustments"), as offset by the impact of related collection reserves. GAAP net earnings and FFO from time to time may also include impairment charges and/or income tax benefits. Deferred rental revenue results primarily from fixed rental increases scheduled under certain operating leases with our tenants. In accordance with GAAP, the aggregate minimum rent due over the current term of these leases are recognized on a straight-line (or an average) basis rather than when payment is contractually due. The present value of the difference between the fair market rent and the contractual rent for in-place leases at the time properties are acquired is amortized into revenue from rental properties over the remaining lives of the in-place leases. Income from direct financing leases is recognized over the lease term using the effective interest method which produces a constant periodic rate of return on the net investment in the leased property. Impairment of long-lived assets represents charges taken to write-down real estate assets to fair value estimated when events or changes in circumstances indicate that the carrying amount of the property may not be recoverable. In prior periods, income tax benefits have been recognized due to the elimination of, or a net reduction in, amounts accrued for uncertain tax positions related to being taxed as a C-corp., rather than as a REIT, prior to 2001.

Management pays particular attention to AFFO, a supplemental non-GAAP performance measure that we define as FFO less Revenue Recognition Adjustments, impairment charges and income tax benefit. In management's view, AFFO provides a more accurate depiction than FFO of our fundamental operating performance related to: (i) the impact of scheduled rent increases under certain operating leases; (ii) rental revenue from acquired in-place leases; (iii) the impact of rent due from direct financing leases, (iv) our rental operating expenses (exclusive of impairment charges); and (v) our election to be treated as a REIT under the federal income tax laws beginning in 2001. Neither FFO nor AFFO represent cash generated from operating activities calculated in accordance with GAAP and therefore these measures should not be considered an alternative for GAAP net earnings or as a measure of liquidity. For a reconciliation of FFO and AFFO, see "Item 6. Selected Financial Data".

Net earnings, earning from continuing operations and FFO for 2007 were reduced by all or substantially all of the $10.5 million non-cash deferred rent receivable reserve recorded as of December 31, 2007 for approximately 40% of the properties leased to Marketing under the Marketing Leases. (See "— General — Marketing and the Marketing Leases" above for additional information.) If the applicable amount of the non-cash deferred rent receivable reserve were added to our 2007 net earnings, earning from continuing operations and FFO; net earnings would have been $44.4 million, or $1.79 per share, for the year ended December 31, 2007; earnings from continuing operations would have been $38.0 million for the year ended December 31, 2007; and FFO would have been $48.0 million, or $1.94 per share, for the year ended December 31, 2007. Accordingly, as compared to the respective prior year periods; net earnings for 2008 would have decreased by $2.6 million and for 2007 would have increased by $1.7 million; earnings from continuing operations for 2008 would have increased by $0.8 million and for 2007 would have decreased by $3.6 million; and FFO for 2008 would have increased by $2.9 million and for 2007 would have decreased by $1.0 million. We believe that these supplemental non-GAAP measures for 2007 are important to assist in the analysis of our performance for 2008 as compared to 2007 and 2007 as compared to 2006, exclusive of the impact of the non-cash deferred rent receivable reserve on our results of operations and are reconciled below (in thousands):

| | Non-adjusted | Reserve | As Adjusted |
|---|---|---|---|
| Net earnings | $ 33,894 | $ 10,494 | $ 44,388 |
| Earnings from continuing operations | 27,842 | 10,206 | 38,048 |
| Funds from operations | 37,509 | 10,494 | 48,003 |

***2009 and 2008 Acquisitions***

On September 25, 2009 we acquired the real estate assets and improvements of thirty-six gasoline stations and convenience store properties located primarily in Prince George's County Maryland, for $49.0 million from White Oak Petroleum LLC ("White Oak") for cash with $24.5 million draw under our existing Credit Agreement and $24.5 provided by the three-year Term Loan Agreement entered into on that date.

The real estate assets were acquired in a simultaneous transaction among ExxonMobil, White Oak and us, whereby White Oak acquired the real estate assets and the related businesses from ExxonMobil and simultaneously completed a sale/leaseback of the real estate assets of all thirty-six properties with us. We entered into a unitary triple-net lease for the real estate assets with White Oak which has an initial term of twenty years and provides White Oak with options for three renewal terms of ten years each extending to 2059. The unitary triple-net lease provides for annual rent escalations of 2½% per year. White Oak is responsible to pay for all existing and future environmental liabilities related to the properties.

In 2009 we also exercised our fixed price purchase option for one leased property and purchased three properties. In 2008 we exercised our fixed price purchase options for three leased properties and purchased six properties.

**RESULTS OF OPERATIONS**

***Year ended December 31, 2009 compared to year ended December 31, 2008***

Revenues from rental properties included in continuing operations increased by $1.7 million to $84.5 million for the year ended December 31, 2009, as compared to $82.8 million for 2008. We received approximately $60.0 million for 2009 and 2008, from properties leased to Marketing under the Marketing Leases. We also received rent of $22.5 million for 2009 and $20.3 million for 2008 from other tenants. The increase in rent received was primarily due to rent escalations, and rental income from properties acquired, partially offset by the effect of lease expirations. In accordance with GAAP, we recognize rental revenue in amounts which vary from the amount of rent contractually due or received during the periods presented. As a result, revenues from rental properties include non-cash adjustments recorded for deferred rental revenue due to the recognition of rental income on a straight-line (or an average) basis over the current lease term, net amortization of above-market and below-market leases and recognition of rental income recorded under a direct financing lease using the effective interest method which produces a constant periodic rate of return on the net investment in the leased property (the "Revenue Recognition Adjustments"). Rental revenue included in continuing operations includes Revenue Recognition Adjustments of $2.0 million for the year ended December 31, 2009, which decreased by $0.5 million for the year as compared to $2.5 million in 2008.

Rental property expenses, which are primarily comprised of rent expense and real estate and other state and local taxes, included in continuing operations were $10.9 million for 2009, as compared to $11.5 million for 2008. The decrease in rental property expenses is due to a reduction in rent expense incurred as a result of third party lease expirations as compared to the prior year.

Environmental expenses, net of estimated recoveries from state underground storage tank ("UST" or "USTs") funds included in continuing operations for 2009 were $8.8 million, as compared to $7.4 million for 2008. The increase was due to a $2.4 million net increase in environmental related litigation reserves, which was partially offset by a reduction in legal fees of $0.2 million and a reduction in estimated environmental remediation costs of $0.7 million, respectively. The increase in environmental litigation reserves was principally attributed to settlement of twenty-seven MTBE cases in which we were named a defendant. See Environmental Matters – Environmental Litigation below for additional information related to our defense of MTBE cases. Environmental expenses vary from period to period and, accordingly, undue reliance should not be placed on the magnitude or the direction of change in reported environmental expenses for one period as compared to prior periods.

General and administrative expenses for 2009 were $6.8 million, which was comparable to 2008.

Depreciation and amortization expense included in continuing operations for 2009 was $11.0 million, as compared to $11.7 million for 2008. The decrease was primarily due to the effect of assets becoming fully depreciated, dispositions of real estate and lease expirations.

The $1.1 million of impairment charges recorded in the year ended December 31, 2009 was attributable to general reductions in real estate valuations and, in certain cases, the removal or scheduled removal of underground storage tanks by Marketing.

As a result, total operating expenses increased by approximately $1.2 million for 2009 as compared to 2008.

Other income, net, included in income from continuing operations increased by $0.2 million to $0.6 million for 2009, as compared to $0.4 million for 2008. Gains on dispositions of real estate included in discontinued operations were $5.3 million for 2009 as compared to $2.4 million for 2008. Gains on dispositions of real estate in 2009 increased by an aggregate of $2.7 million to $5.5 million, as compared to $2.8 million for the prior year. For 2009, there were eight property dispositions and two partial land takings under eminent domain. For 2008, there were eleven property dispositions, four partial land takings under eminent domain. Property dispositions for 2009 and 2008 include four and seven properties, respectively, that were mutually agreed to be removed from the Marketing Leases prior to their scheduled lease expiration. Other income, net and gains on disposition of real estate vary from period to period and, accordingly, undue reliance should not be placed on the magnitude or the direction of change in reported gains for one period as compared to prior periods.

Interest expense was $5.1 million for 2009, as compared to $7.0 million for 2008. The decrease was due to lower average interest rates in 2009 on our floating rate borrowings, partially offset by increased average borrowings outstanding relating to the acquisition of properties in the third quarter of 2009.

As a result, net earnings were $47.0 million for 2009, as compared to $41.8 million for 2008, an increase of 12.4%, or $5.2 million. Earnings from continuing operations were $41.4 million for 2009, as compared to $38.8 million for 2008, an increase of 6.7%, or $2.6 million. For the same period, FFO increased by 3.3% to $52.6 million, as compared to $50.9 million for prior year period and AFFO increased by 7.0%, or $3.4 million, to $51.7 million, as compared to $48.3 million for 2008. The increase in FFO for 2009 was primarily due to the changes in net earnings described above but excludes a $0.9 million decrease in depreciation and amortization expense and a $2.7 million increase in gains on dispositions of real estate. The increase in AFFO for 2009 also excludes a $0.5 million reduction in Rental Revenue Adjustments which cause our reported revenues from rental properties to vary from the amount of rent payments contractually due or received by us during the periods presented, and a $1.1 million impairment charge recorded in 2009 (which are included in net earnings and FFO but are excluded from AFFO).

Diluted earnings per share were $1.90 per share for 2009, an increase of $0.21 per share, as compared to $1.69 per share for 2008. Diluted FFO per share for 2009 was $2.12 per share, an increase of $0.06 per share, as compared to 2008. Diluted AFFO per share for 2009 was $2.09 per share, an increase of $0.14 per share, as compared to 2008.

***Year ended December 31, 2008 compared to year ended December 31, 2007***

Revenues from rental properties included in continuing operations increased by $3.6 million to $82.8 million for the year ended December 31, 2008, as compared to $79.2 million for 2007. We received approximately $60.0 million for 2008, and $59.3 million for 2007, from properties leased to Marketing under the Marketing Leases. We also received rent of $20.3 million for 2008 and $16.3 million for 2007 from other tenants. The increase in rent received was primarily due to rent escalations, and rental income from properties acquired, partially offset by the effect of lease expirations. In accordance with GAAP, we recognize rental revenue in amounts which vary from the amount of rent contractually due or received during the periods presented As a result revenues from rental properties for 2008 and 2007 include non-cash Revenue Recognition Adjustments recorded due to the recognition of rental income on a straight-line (or an average) basis over the current lease term and net amortization of above-market and below-market leases. Rental revenue included in continuing operations includes Revenue Recognition Adjustments of $2.5 million for the year ended December 31, 2008, which decreased by $1.1 million for the year as compared to $3.6 million in 2007.

Rental property expenses, which are primarily comprised of rent expense and real estate and other state and local taxes, included in continuing operations were $11.5 million for 2008, as compared to $10.9 million for 2007. Increases in real estate and other state and local taxes were partially offset by the decrease in rent expense which was principally due to the reduction in the number of leased locations compared to the prior year.

Environmental expenses, net of estimated recoveries from state UST funds included in continuing operations for 2008 were $7.4 million, as compared to $8.2 million for 2007. The decrease was primarily due to a $0.5 million decrease in change in estimated environmental remediation costs, and a $0.4 million net decrease in environmental related litigation reserves and legal fees as compared to the prior year period. Environmental expenses vary from period to period and, accordingly, undue reliance should not be placed on the magnitude or the direction of change in reported environmental expenses for one period as compared to prior periods.

General and administrative expenses for 2008 were $6.8 million, as compared to $6.7 million recorded for 2007. The increase in general and administrative expenses was due to $0.5 million of higher professional fees associated with previously disclosed potential modification of the Marketing Leases which was partially offset by a $0.2 million reduction in insurance loss reserves and a $0.3 million reduction in employee related expenses. The insurance loss reserves were established under our self funded insurance program that was terminated in 1997. Employee related expenses recorded in 2007 include the payment of severance in connection with the resignation of Mr. Andy Smith, the former President and Chief Legal Officer of the Company.

Allowance for deferred rent receivable reported in continuing operations and discontinued operations were $10.2 million and $0.3 million, respectively, for the year ended December 31, 2007. The non-cash allowance was provided in 2007 since we could no longer reasonably assume that we will collect all of the rent due to us related to approximately 40% of the properties leased to Marketing for the remainder of the current terms of the Marketing Leases. (See "— General — Marketing and the Marketing Leases" above for additional information.)

Depreciation and amortization expense included in continuing operations for 2008 was $11.7 million, as compared to $9.6 million for 2007. The increase was primarily due to properties acquired in 2007 and the acceleration of depreciation expense resulting from the reduction in the estimated useful lives of certain assets which may be removed from the unitary lease with Marketing, which increases were partially offset by the effect of dispositions of real estate and lease expirations.

As a result, total operating expenses decreased by approximately $8.1 million for 2008 as compared to 2007.

Other income, net, substantially all of which is comprised of certain gains from dispositions of real estate and leasehold interests, decreased by $1.5 million to $0.4 million for 2008, as compared to $1.9 million for 2007. Gains on dispositions of real estate from discontinued operations were $2.4 million for 2008 as compared to $4.6 million for 2007. Gain on dispositions of real estate in 2008 decreased by an aggregate of $3.4 million to $2.8 million, as compared to $6.2 million for the prior year. For 2008, there were eleven property dispositions and four partial land takings under eminent domain. For 2007, there were thirteen property dispositions, a partial land taking under eminent domain and an increase in the awards for two takings that occurred in prior years. Property dispositions for 2008 and 2007 include seven and six properties, respectively, that were mutually agreed to be removed from the Marketing Leases prior to their scheduled lease expiration. Gains on disposition of real estate vary from period to period and, accordingly, undue reliance should not be placed on the magnitude or the direction of change in reported gains for one period as compared to prior periods.

Interest expense was $7.0 million for 2008, as compared to $7.8 million for 2007. The decrease was due to reduction in interest rates, partially offset by increased average borrowings outstanding used to finance the acquisition of properties in 2007.

As a result, net earnings were $41.8 million for 2008, as compared to $33.9 million for 2007, an increase of 23.4%, or $7.9 million. Earnings from continuing operations were $38.8 million for 2008, as compared to $27.8 million for 2007, an increase of 39.6%, or $11.0 million. For the same period, FFO increased by 35.7% to $50.9 million, as compared to $37.5 million for prior year period and AFFO increased by 10.2%, or $4.5 million, to $48.3 million, as compared to $43.8 million for 2007. The increase in FFO for 2008 was primarily due to the changes in net earnings described above but excludes a $2.1

million increase in depreciation and amortization expense and a $3.4 million decrease in gains on dispositions of real estate. The increase in AFFO for 2008 also excludes a $1.6 million reduction in Revenue Recognition Adjustments which cause our reported revenues from rental properties to vary from the amount of rent payments contractually due or received by us during the periods presented and a $10.5 million deferred rent receivable reserve recorded in 2007 (which are included in net earnings and FFO but are excluded from AFFO).

Diluted earnings per share were $1.69 per share for 2008, an increase of $0.32 per share, as compared to $1.37 per share for 2007. Diluted FFO per share for 2008 was $2.06 per share, an increase of $0.55 per share, as compared to 2007. Diluted AFFO per share for 2008 was $1.95 per share, an increase of $0.18 per share, as compared to 2007.

**LIQUIDITY AND CAPITAL RESOURCES**

Our principal sources of liquidity are the cash flows from our operations, funds available under a revolving credit agreement that expires in March 2011 and available cash and cash equivalents. Management believes that our operating cash needs for the next twelve months can be met by cash flows from operations, borrowings under our credit agreement and available cash and cash equivalents. There can be no assurance, however, that our business operations or liquidity will not be adversely affected by Marketing and the Marketing Leases discussed in "General - Marketing and the Marketing Leases" above or the other risk factors described in our filings with the SEC.

Disruptions in the credit markets, and the resulting impact on the availability of funding generally, may limit our access to one or more funding sources. In addition, we expect that the costs associated with any additional borrowings we may undertake may be adversely impacted, as compared to such costs prior to the disruption of the credit markets. As a result of the current credit markets, we may not be able to obtain additional financing on favorable terms, or at all. If one or more of the financial institutions that supports our credit agreement fails, we may not be able to find a replacement, which would negatively impact our ability to borrow under our credit agreement. In addition, if the pressures on credit continue or worsen, we may not be able to refinance our outstanding debt when due, which could have a material adverse effect on us.

As of December 31, 2009, borrowings under the Credit Agreement, described below, were $151.2 million, bearing interest at a weighted-average effective rate of 3.0% per annum. The weighted-average effective rate is based on $106.2 million of LIBOR rate borrowings floating at market rates plus a margin of 1.25% and $45.0 million of LIBOR rate borrowings effectively fixed at 5.44% by an interest rate Swap Agreement, described below, plus a margin of 1.25%. We are party to a $175.0 million amended and restated senior unsecured revolving credit agreement (the "Credit Agreement") with a group of domestic commercial banks led by JPMorgan Chase Bank, N.A. (the "Bank Syndicate") which expires in March 2011. We had $23.8 million available under the terms of the Credit Agreement as of December 31, 2009. The Credit Agreement does not provide for scheduled reductions in the principal balance prior to its maturity. The Credit Agreement permits borrowings at an interest rate equal to the sum of a base rate plus a margin of 0.0% or 0.25% or a LIBOR rate plus a margin of 1.0%, 1.25% or 1.5%. The applicable margin is based on our leverage ratio at the end of the prior calendar quarter, as defined in the Credit Agreement, and is adjusted effective mid-quarter when our quarterly financial results are reported to the Bank Syndicate. Based on our leverage ratio as of December 31, 2009, the applicable margin will remain at 0.0% for base rate borrowings and 1.25% for LIBOR rate borrowings.

Subject to the terms of the Credit Agreement and continued compliance with the covenants therein, we have the option to extend the term of the Credit Agreement for one additional year to March 2012 and/or, subject to approval by the Bank Syndicate, increase the amount of the credit facility available pursuant to the Credit Agreement by $125.0 million to $300.0 million. We do not expect to exercise our option to increase the amount of the Credit Agreement at this time. In addition, based on the current lack of liquidity in the credit markets, we believe that we would need to renegotiate certain terms in the Credit Agreement in order to obtain approval from the Bank Syndicate to increase the amount of the credit facility at this time. No assurance can be given that such approval from the Bank Syndicate will be obtained on terms acceptable to us, if at all. The annual commitment fee on the unused Credit Agreement ranges from 0.10% to 0.20% based on the average amount of borrowings outstanding. The Credit Agreement contains customary terms and conditions, including financial covenants such as those requiring us to maintain minimum tangible net worth, leverage ratios and coverage ratios which may limit our ability to incur debt or pay dividends The Credit Agreement contains customary events of default, including change of control, failure to maintain REIT status and a material adverse effect on our business, assets, prospects or condition. Any event of default, if not cured or waived, could result in the acceleration of our indebtedness under our Credit Agreement and could also give rise to an event of default and consequent acceleration of our indebtedness under our Term Loan Agreement described below.

We are party to a $45.0 million LIBOR based interest rate Swap Agreement with JPMorgan Chase Bank, N.A. as the counterparty (the "Swap Agreement"), effective through June 30, 2011. The Swap Agreement is intended to hedge our current exposure to market interest rate risk by effectively fixing, at 5.44%, the LIBOR component of the interest rate determined under our existing Credit Agreement or future exposure to variable interest rate risk due to borrowing arrangements that may be entered into prior to the expiration of the Swap Agreement. As a result of the Swap Agreement, as of December 31, 2009, $45.0 million of our LIBOR based borrowings under the Credit Agreement bear interest at an effective rate of 6.69%.

In order to partially finance the acquisition of thirty-six properties in September 2009, we entered into a $25.0 million three-year Term Loan Agreement with TD Bank (the "Term Loan Agreement") which expires in September 2012. The Term Loan Agreement bears interest at a rate equal to a thirty day LIBOR rate (subject to a floor of 0.4%) plus a margin of 3.1%. As of December 31, 2009, borrowings under the Term Loan Agreement were $24.4 million bearing interest at a rate of 3.5% per annum. The Term Loan Agreement provides for annual reductions of $0.8 million in the principal balance with a $22.2 million balloon payment due at maturity. The Term Loan Agreement contains customary terms and conditions, including financial covenants such as those requiring us to maintain minimum tangible net worth, leverage ratios and coverage ratios which may limit our ability to incur debt or pay dividends. The Term Loan Agreement contains customary events of default, including change of control, failure to maintain REIT status and a material adverse effect on our business, assets, prospects or condition. Any event of default, if not cured or waived, could result in the acceleration of our indebtedness under the Term Loan Agreement and could also give rise to an event of default and consequent acceleration of our indebtedness under our Credit Agreement.

Since we generally lease our properties on a triple-net basis, we do not incur significant capital expenditures other than those related to acquisitions. As part of our overall business strategy, we regularly review opportunities to acquire additional properties and we expect to continue to pursue acquisitions that we believe will benefit our financial performance. Capital expenditures, including acquisitions, for 2009, 2008 and 2007 amounted to $55.3 million, $6.6 million and $90.6 million, respectively. To the extent that our current sources of liquidity are not sufficient to fund capital expenditures and acquisitions we will require other sources of capital, which may or may not be available on favorable terms or at all. We cannot accurately predict how periods of illiquidity in the credit markets, such as current market conditions, will impact our access to capital.

We elected to be treated as a REIT under the federal income tax laws with the year beginning January 1, 2001. As a REIT, we are required, among other things, to distribute at least ninety percent of our taxable income to shareholders each year. Payment of dividends is subject to market conditions, our financial condition and other factors, and therefore cannot be assured. In particular, our Credit Agreement and our Term Loan Agreement prohibit the payment of dividends during certain events of default. Dividends paid to our shareholders aggregated $46.8 million, $46.3 million and $45.7 million for 2009, 2008 and 2007, respectively, and were paid on a quarterly basis during each of those years. We presently intend to pay common stock dividends of $0.475 per share each quarter ($1.90 per share, or $47.2 million, on an annual basis including dividend equivalents paid on outstanding restricted stock units), and commenced doing so with the quarterly dividend declared in August 2009. Due to contingencies related to Marketing and the Marketing Leases discussed in "General - Marketing and the Marketing Leases" above, there can be no assurance that we will be able to continue to pay dividends at the rate of $0.475 per share per quarter, if at all.

**CONTRACTUAL OBLIGATIONS**

Our significant contractual obligations and commitments are comprised of borrowings under the Credit Agreement and the Term Loan Agreement, operating lease payments due to landlords and estimated environmental remediation expenditures, net of estimated recoveries from state UST funds. In addition, as a REIT we are required to pay dividends equal to at least ninety percent of our taxable income in order to continue to qualify as a REIT. Our contractual obligations and commitments as of December 31, 2009 are summarized below (in thousands):

| | TOTAL | LESS THAN- ONE YEAR | ONE-TO THREE YEARS | THREE TO FIVE YEARS | MORE THAN FIVE YEARS |
|---|---|---|---|---|---|
| Operating leases | $ 23,782 | $ 6,673 | $ 9,473 | $ 4,678 | $ 2,958 |
| Borrowing under the Credit Agreement (a)(b) | 151,200 | — | 151,200 | — | — |
| Borrowings under the Term Loan Agreement (a) | 24,370 | 780 | 23,590 | — | — |
| Estimated environmental remediation expenditures (c) | 16,527 | 5,951 | 5,951 | 2,388 | 2,237 |
| Estimated recoveries from state underground storage tank funds (c) | (3,882) | (1,298) | (1,491) | (690) | (403) |
| Estimated net environmental remediation expenditures (c) | 12,645 | 4,653 | 4,460 | 1,698 | 1,834 |
| Total | $ 211,997 | $ 12,106 | $ 188,723 | $ 6,376 | $ 4,792 |

(a) Excludes related interest payments. (See "— Liquidity and Capital Resources" above and "Item 7A. Quantitative and Qualitative Disclosures About Market Risk" for additional information.)

(b) Subject to the terms of the Credit Agreement and continued compliance with the covenants therein, we have the option to extend the term of the Credit Agreement to March 2012.

(c) Estimated environmental remediation expenditures and estimated recoveries from state UST funds have been adjusted for inflation and discounted to present value.

Generally, the leases with our tenants are "triple-net" leases, with the tenant responsible for managing the operations conducted at these properties and for the payment of taxes, maintenance, repair, insurance, environmental remediation and other operating expenses. We estimate that Marketing makes annual real estate tax payments for properties leased under the Marketing Leases of approximately $13.0 million and makes additional payments for other operating expenses related to our properties, including environmental remediation costs other than those liabilities that were retained by us. These costs are not reflected in our consolidated financial statements. (See "— General — Marketing and the Marketing Leases" above for additional information.)

We have no significant contractual obligations not fully recorded on our consolidated balance sheets or fully disclosed in the notes to our consolidated financial statements. We have no off-balance sheet arrangements as defined in Item 303(a)(4)(ii) of Regulation S-K promulgated by the Exchange Act.

**CRITICAL ACCOUNTING POLICIES AND ESTIMATES**

The consolidated financial statements included in this Annual Report on Form 10-K include the accounts of Getty Realty Corp. and our wholly-owned subsidiaries. The accompanying consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America. The preparation of financial statements in accordance with GAAP requires management to make estimates, judgments and assumptions that affect the amounts reported in its financial statements. Although we have made estimates, judgments and assumptions regarding future uncertainties relating to the information included in our financial statements, giving due consideration to the accounting policies selected and materiality, actual results could differ from these estimates, judgments and assumptions and such differences could be material.

Estimates, judgments and assumptions underlying the accompanying consolidated financial statements include, but are not limited to, deferred rent receivable, income under direct financing leases, recoveries from state underground storage tank funds, environmental remediation costs, real estate, depreciation and amortization, impairment of long-lived assets, litigation, accrued expenses, income taxes, allocation of the purchase price of properties acquired to the assets acquired and liabilities assumed and exposure to paying an earnings and profits deficiency dividend. The information included in our financial statements that is based on estimates, judgments and assumptions is subject to significant change and is adjusted as circumstances change and as the uncertainties become more clearly defined. Our accounting policies are described in Note 1 of Notes to Consolidated Financial Statements in "Item 8. Financial Statements and Supplementary Data - Notes to Consolidated Financial Statements". We believe the following are our critical accounting policies:

Revenue recognition — We earn revenue primarily from operating leases with Marketing and other tenants. We recognize income under the Master Lease with Marketing, and with other tenants, on the straight-line method, which effectively recognizes contractual lease payments evenly over the current term of the leases. The present value of the difference between the fair market rent and the contractual rent for in-place leases at the time properties are acquired is amortized into revenue from rental properties over the remaining lives of the in-place leases. A critical assumption in applying the straight-line accounting method is that the tenant will make all contractual lease payments during the current lease term and that the net deferred rent receivable of $27.5 million recorded as of December 31, 2009 will be collected when the payment is due, in accordance with the annual rent escalations provided for in the leases. Historically our tenants have generally made rent payments when due. However, we may be required to reverse, or provide reserves for, or adjust our $9.4 million reserve as of December 31, 2009 for, a portion of the recorded deferred rent receivable if it becomes apparent that a property may be disposed of before the end of the current lease term or if circumstances indicate that the tenant may not make all of its contractual lease payments when due during the current term of the lease. The straight-line method requires that rental income related to those properties for which a reserve was specifically provided is effectively recognized in subsequent periods when payment is due under the contractual payment terms. (See Marketing and the Marketing Leases in "— General — Marketing and the Marketing Leases" above for additional information.)

Direct Financing Lease — Income under direct financing leases is included in revenues from rental properties and is recognized over the lease term using the effective interest rate method which produces a constant periodic rate of return on the net investment in the leased property. Net investment in direct financing lease represents the investment in leased assets accounted for as a direct financing lease. The investment is reduced by the receipt of lease payments, net of interest income earned and amortized over the life of the lease.

Impairment of long-lived assets — Real estate assets represent "long-lived" assets for accounting purposes. We review the recorded value of long-lived assets for impairment in value whenever any events or changes in circumstances indicate that the carrying amount of the assets may not be recoverable. We may become aware of indicators of potentially impaired assets upon tenant or landlord lease renewals, upon receipt of notices of potential governmental takings and zoning issues, or upon other events that occur in the normal course of business that would cause us to review the operating results of the property. We believe our real estate assets are not carried at amounts in excess of their estimated net realizable fair value amounts.

Income taxes — Our financial results generally do not reflect provisions for current or deferred federal income taxes since we elected to be treated as a REIT under the federal income tax laws effective January 1, 2001. Our intention is to operate in a manner that will allow us to continue to be treated as a REIT and, as a result, we do not expect to pay substantial corporate-level federal income taxes. Many of the REIT requirements, however, are highly technical and complex. If we were to fail to meet the requirements, we may be subject to federal income tax, excise taxes, penalties and interest or we may have to pay a deficiency dividend to eliminate any earnings and profits that were not distributed. Certain states do not follow the federal REIT rules and we have included provisions for these taxes in rental property expenses.

Environmental costs and recoveries from state UST funds — We provide for the estimated fair value of future environmental remediation costs when it is probable that a liability has been incurred and a reasonable estimate of fair value can be made (see "— Environmental Matters" below for additional information). Environmental liabilities and related recoveries are measured based on their expected future cash flows which have been adjusted for inflation and discounted to present value. Since environmental exposures are difficult to assess and estimate and knowledge about these liabilities is not known upon the occurrence of a single event, but rather is gained over a continuum of events, we believe that it is appropriate that our accrual estimates are adjusted as the remediation treatment progresses, as circumstances change and as environmental contingencies become more clearly defined and reasonably estimable. A critical assumption in accruing for these liabilities is that the state environmental laws and regulations will be administered and enforced in the future in a manner that is consistent with past practices. Recoveries of environmental costs from state UST remediation funds, with respect to past and future spending, are accrued as income, net of allowance for collection risk, based on estimated recovery rates developed from our experience with the funds when such recoveries are considered probable. A critical assumption in accruing for these recoveries is that the state UST fund programs will be administered and funded in the future in a manner that is consistent with past practices and that future environmental spending will be eligible for reimbursement at historical rates under these programs. We accrue environmental liabilities based on our share of responsibility as defined in our lease contracts with our tenants and under various other agreements with others or if circumstances indicate that the counter-party may not have the financial resources to pay its share of the costs. It is possible that our assumptions regarding the ultimate allocation method and share of responsibility that we used to allocate environmental liabilities may change, which may result in material adjustments to the amounts recorded for environmental litigation accruals, environmental remediation liabilities and related assets. (See "— General — Marketing and the Marketing Leases" above for additional information.) We may ultimately be responsible to directly pay for environmental liabilities as the property owner if Marketing or our other tenants or other counter-parties fail to pay them. In certain environmental matters the effect on future financial results is not subject to reasonable estimation because considerable uncertainty exists both in terms of the probability of loss and the estimate of such loss. The ultimate liabilities resulting from such lawsuits and claims, if any, may be material to our results of operations in the period in which they are recognized.

Litigation — Legal fees related to litigation are expensed as legal services are performed. We provide for litigation reserves, including certain environmental litigation (see "— Environmental Matters" below for additional information), when it is probable that a liability has been incurred and a reasonable estimate of the liability can be made. If the estimate of the liability can only be identified as a range, and no amount within the range is a better estimate than any other amount, the minimum of the range is accrued for the liability.

Recent Accounting Developments and Amendments to the Accounting Standards Codification — In September 2006, the FASB amended the accounting standards related to fair value measurements of assets and liabilities (the "Fair Value Measurements Amendment"). The Fair Value Measurements Amendment generally applies whenever other standards require assets or liabilities to be measured at fair value. The Fair Value Measurements Amendment was effective in fiscal years beginning after November 15, 2007. The FASB subsequently delayed the effective date of the Fair Value Measurements Amendment by one year for nonfinancial assets and liabilities that are recognized or disclosed at fair value in the financial statements on a nonrecurring basis to fiscal years beginning after November 15, 2008. The adoption of the Fair Value Measurements Amendment in January 2008 and the adoption of the provisions of the Fair Value Measurements Amendment for nonfinancial assets and liabilities that are recognized or disclosed at fair value on a nonrecurring basis in January 2009 did not have a material impact on our financial position and results of operations.

In December 2007, the FASB amended the accounting standards related to business combinations (the Business Combinations Amendment"), affecting how the acquirer shall recognize and measure in its financial statements at fair value the identifiable assets acquired, liabilities assumed, any noncontrolling interest in the acquiree and goodwill acquired in a business combination. The Business Combinations Amendment requires that acquisition costs, which could be material to our future financial results, will be expensed rather than included as part of the basis of the acquisition. The adoption of this standard by us on January 1, 2009 did not result in a write-off of acquisition related transactions costs associated with transactions not yet consummated.

**ENVIRONMENTAL MATTERS**

***General***

We are subject to numerous existing federal, state and local laws and regulations, including matters relating to the protection of the environment such as the remediation of known contamination and the retirement and decommissioning or removal of long-lived assets including buildings containing hazardous materials, USTs and other equipment. Our tenants are directly responsible for compliance with various environmental laws and regulations as the operators of our properties. Environmental expenses are principally attributable to remediation costs which include installing, operating, maintaining and decommissioning remediation systems, monitoring contamination, and governmental agency reporting incurred in connection with contaminated properties. We seek reimbursement from state UST remediation funds related to these environmental expenses where available.

We enter into leases and various other agreements which allocate responsibility for known and unknown environmental liabilities by establishing the percentage and method of allocating responsibility between the parties. In accordance with the leases with certain of our tenants, we have agreed to bring the leased properties with known environmental contamination to within applicable standards, and to either regulatory or contractual closure ("Closure"). Generally, upon achieving Closure at an individual property, our environmental liability under the lease for that property will be satisfied and future remediation obligations will be the responsibility of our tenant. As of December 31, 2009, we have regulatory approval for remediation action plans in place for two hundred forty-five (95%) of the two hundred fifty-eight properties for which we continue to retain remediation responsibility and the remaining thirteen properties (5%) were in the assessment phase. In addition, we have nominal post-closure compliance obligations at twenty-two properties where we have received "no further action" letters.

Our tenants are directly responsible to pay for (i) remediation of environmental contamination they cause and compliance with various environmental laws and regulations as the operators of our properties, and (ii) environmental liabilities allocated to our tenants under the terms of our leases and various other agreements between our tenants and us. Generally, the liability for the retirement and decommissioning or removal of USTs and other equipment is the responsibility of our tenants. We are contingently liable for these obligations in the event that our tenants do not satisfy their responsibilities. A liability has not been accrued for obligations that are the responsibility of our tenants based on our tenants' past histories of paying such obligations and/or our assessment of their respective financial abilities to pay their share of such costs. However, there can be no assurance that our assessments are correct or that our tenants who have paid their obligations in the past will continue to do so.

It is possible that our assumptions regarding the ultimate allocation methods or share of responsibility that we used to allocate environmental liabilities may change, which may result in adjustments to the amounts recorded for environmental litigation accruals, environmental remediation liabilities and related assets. We will be required to accrue for environmental liabilities that we believe are allocable to others under various other agreements if we determine that it is probable that the counter-party will not meet its environmental obligations. We may ultimately be responsible to directly pay for environmental liabilities as the property owner if the counter-party fails to pay them. The ultimate resolution of these matters could have a material adverse effect on our business, financial condition, results of operations, liquidity, ability to pay dividends or stock price. (See "— General — Marketing and the Marketing Leases" above for additional information.)

We have not accrued for approximately $1.0 million in costs allegedly incurred by the current property owner in connection with removal of USTs and soil remediation at a property that was leased to and operated by Marketing. We believe that Marketing is responsible for such costs under the terms of the Master Lease and tendered the matter for defense and indemnification from Marketing. Marketing denied its liability for the claim and its responsibility to defend against, and indemnify us for, the claim. We filed third party claims against Marketing for indemnification in this matter. The property owner's claim for reimbursement of costs incurred and our claim for indemnification by Marketing were actively litigated, leading to a trial held before a judge. The trial court issued its decision in August 2009 under which the Company and Marketing were held jointly and severally responsible to the current property owner for the costs incurred by the owner to remove USTs and remediate contamination at the site, but, as between the Company and Marketing, Marketing was accountable for such costs under the indemnification provisions of the Master Lease. The order on the trial court's decision was entered in February 2010, making such decision final for purposes of initiating the limited period of time following which appeal may be taken. We believe that Marketing will appeal the decision; however, we believe the probability that Marketing will not be ultimately responsible for the claim for clean-up costs incurred by the current property owner is remote. It is reasonably possible that our assumption that Marketing will be ultimately responsible for the claim may change, which may result in our providing an accrual for this matter.

We have also agreed to provide limited environmental indemnification to Marketing, capped at $4.25 million, for certain pre-existing conditions at six of the terminals we own and lease to Marketing. Under the indemnification agreement, Marketing is required to pay (and has paid) the first $1.5 million of costs and expenses incurred in connection with remediating any such pre-existing conditions, Marketing shares equally with us the next $8.5 million of those costs and expenses and Marketing is obligated to pay all additional costs and expenses over $10.0 million. We have accrued $0.3 million as of December 31, 2009 and December 31, 2008 in connection with this indemnification agreement. Under the Master Lease, we continue to have additional ongoing environmental remediation obligations at one hundred eighty-seven scheduled sites.

As the operator of our properties under the Marketing Leases, Marketing is directly responsible to pay for the remediation of environmental contamination it causes and to comply with various environmental laws and regulations. In addition, the Marketing Leases and various other agreements between Marketing and us allocate responsibility for known and unknown environmental liabilities between Marketing and us relating to the properties subject to the Marketing Leases. Based on various factors, including our assessments and assumptions at this time that Lukoil would not allow Marketing to fail to perform its obligations under the Marketing Leases, we believe that Marketing will continue to pay for substantially all environmental contamination and remediation costs allocated to it under the Marketing Leases. It is possible that our assumptions regarding the ultimate allocation methods or share of responsibility that we used to allocate environmental liabilities may change, which may result in adjustments to the amounts recorded for environmental litigation accruals, environmental remediation liabilities and related assets. If Marketing fails to pay them, we may ultimately be responsible to directly pay for environmental liabilities as the property owner. We are required to accrue for environmental liabilities that we believe are allocable to Marketing under the Marketing Leases and various other agreements if we determine that it is probable that Marketing will not pay its environmental obligations and we can reasonably estimate the amount of the Marketing Environmental Liabilities for which we will be directly responsible to pay.

Based on our assessment of Marketing’s financial condition and our assumption that Lukoil would not allow Marketing to fail to perform its obligations under the Marketing Leases and certain other factors, including but not limited to those described above, we believe at this time that it is not probable that Marketing will not pay the environmental liabilities allocable to it under the Marketing Leases and various other agreements and, therefore, have not accrued for such environmental liabilities. Our assessments and assumptions that affect the recording of environmental liabilities related to the properties subject to the Marketing Leases are reviewed on a quarterly basis and such assessments and assumptions are subject to change.

We have determined that the aggregate amount of the environmental liabilities attributable to Marketing related to our properties (as estimated by us, based on our assumptions and our analysis of information currently available to us described in more detail above) (the “Marketing Environmental Liabilities”) could be material to us if we were required to accrue for all of the Marketing Environmental Liabilities in the future since we believe that it is reasonably possible that as a result of such accrual, we may not be in compliance with the existing financial covenants in our Credit Agreement and our Term Loan Agreement. Such non-compliance could result in an event of default under the Credit Agreement and our Term Loan Agreement which, if not cured or waived, could result in the acceleration of our indebtedness under the Credit Agreement and the Term Loan Agreement. (See “— General — Marketing and the Marketing Leases” above for additional information.)

The estimated future costs for known environmental remediation requirements are accrued when it is probable that a liability has been incurred and a reasonable estimate of fair value can be made. Environmental liabilities and related recoveries are measured based on their expected future cash flows which have been adjusted for inflation and discounted to present value. The environmental remediation liability is estimated based on the level and impact of contamination at each property and other factors described herein. The accrued liability is the aggregate of the best estimate for the fair value of cost for each component of the liability. Recoveries of environmental costs from state UST remediation funds, with respect to both past and future environmental spending, are accrued at fair value as an offset to environmental expense, net of allowance for collection risk, based on estimated recovery rates developed from our experience with the funds when such recoveries are considered probable.

Environmental exposures are difficult to assess and estimate for numerous reasons, including the extent of contamination, alternative treatment methods that may be applied, location of the property which subjects it to differing local laws and regulations and their interpretations, as well as the time it takes to remediate contamination. In developing our liability for probable and reasonably estimable environmental remediation costs on a property by property basis, we consider among other things, enacted laws and regulations, assessments of contamination and surrounding geology, quality of information available, currently available technologies for treatment, alternative methods of remediation and prior experience. Environmental accruals are based on estimates which are subject to significant change, and are adjusted as the remediation treatment progresses, as circumstances change and as environmental contingencies become more clearly defined and reasonably estimable.

As of December 31, 2009, we had accrued $12.6 million as management’s best estimate of the net fair value of reasonably estimable environmental remediation costs which is comprised of $16.5 million of estimated environmental obligations and liabilities offset by $3.9 million of estimated recoveries from state UST remediation funds, net of allowance. Environmental expenditures, net of recoveries from UST funds, were $4.7 million $5.0 million and $4.7 million, respectively, for 2009, 2008, and 2007. For 2009, 2008 and 2007 estimated environmental remediation cost and accretion expense included in environmental expenses in continuing operations in our consolidated statements of operations amounted to $3.9 million, $4.6 million and $5.1 million, respectively, which amounts were net of probable recoveries from state UST remediation funds.

Environmental liabilities and related assets are currently measured at fair value based on their expected future cash flows which have been adjusted for inflation and discounted to present value. We also use probability weighted alternative cash flow forecasts to determine fair value. We assumed a 50% probability factor that the actual environmental expenses will exceed engineering estimates for an amount assumed to equal one year of net expenses aggregating $4.5 million. Accordingly, the environmental accrual as of December 31, 2009 was increased by $1.8 million, net of assumed recoveries and before inflation and present value discount adjustments. The resulting net environmental accrual as of December 31, 2009 was then further increased by $1.0 million for the assumed impact of inflation using an inflation rate of 2.75%. Assuming a credit-adjusted risk-free discount rate of 7.0%, we then reduced the net environmental accrual, as previously adjusted, by a $2.1 million discount to present value. Had we assumed an inflation rate that was 0.5% higher and a discount rate that was 0.5% lower, net environmental liabilities as of December 31, 2009 would have increased by $0.2 million and $0.1 million, respectively, for an aggregate increase in the net environmental accrual of $0.3 million. However, the aggregate net change in estimated environmental estimates expense recorded during the year ended December 31, 2009 would not have changed significantly if these changes in the assumptions were made effective December 31, 2008.

In view of the uncertainties associated with environmental expenditures, contingencies concerning Marketing and the Marketing Leases and contingencies related to other parties, however, we believe it is possible that the fair value of future actual net expenditures could be substantially higher than these estimates. (See "— General — Marketing and the Marketing Leases" above for additional information.) Adjustments to accrued liabilities for environmental remediation costs will be reflected in our financial statements as they become probable and a reasonable estimate of fair value can be made. Future environmental costs could cause a material adverse effect on our business, financial condition, results of operations, liquidity, ability to pay dividends or stock price.

We cannot predict what environmental legislation or regulations may be enacted in the future or how existing laws or regulations will be administered or interpreted with respect to products or activities to which they have not previously been applied. We cannot predict if state UST fund programs will be administered and funded in the future in a manner that is consistent with past practices and if future environmental spending will continue to be eligible for reimbursement at historical recovery rates under these programs. Compliance with more stringent laws or regulations, as well as more vigorous enforcement policies of the regulatory agencies or stricter interpretation of existing laws, which may develop in the future, could have an adverse effect on our financial position, or that of our tenants, and could require substantial additional expenditures for future remediation.

***Environmental litigation***

We are subject to various legal proceedings and claims which arise in the ordinary course of our business. In addition, we have retained responsibility for certain legal proceedings and claims relating to the petroleum marketing business that were identified at the time of the Spin-Off. As of December 31, 2009 and December 31, 2008, we had accrued $3.8 million and $1.7 million, respectively, for certain of these matters which we believe were appropriate based on information then currently available. It is possible that our assumptions regarding the ultimate allocation method and share of responsibility that we used to allocate environmental liabilities may change, which may result in our providing an accrual, or adjustments to the amounts recorded, for environmental litigation accruals. Matters related to the Lower Passaic River and certain MTBE multi-district litigation cases, in particular, for which accruals have been provided in part, could cause a material adverse effect on our business, financial condition, results of operations, liquidity, ability to pay dividends and/or stock price. See "Item 3. Legal Proceedings" for additional information with respect these and other pending environmental lawsuits and claims.

*The Lower Passaic River*

In September 2003, we received a directive (the "Directive") from the State of New Jersey Department of Environmental Protection (the "NJDEP") that we are one of approximately sixty-six potentially responsible parties for natural resource damages resulting from discharges of hazardous substances into the Lower Passaic River. The Directive calls for an assessment of the natural resources that have been injured by the discharges into the Lower Passaic River and interim compensatory restoration for the injured natural resources. NJDEP alleges that our liability arises from alleged discharges originating from our Newark, New Jersey Terminal site. There has been no material activity with respect to the NJDEP Directive since early after its issuance. The responsibility for the alleged damages, the aggregate cost to remediate the Lower Passaic River, the amount of natural resource damages and the method of allocating such amounts among the potentially responsible parties have not been determined. We are a member of a Cooperating Parties Group which has agreed to take over from the United States Environmental Protection Agency ("EPA") performance of a remedial investigation and feasibility study intended to evaluate alternative remedial actions with respect to alleged damages to the Lower Passaic River. The remedial investigation and feasibility study does not resolve liability issues for remedial work or restoration of, or compensation for, natural resource damages to the Lower Passaic River, which are not known at this time.

In a related action, in December 2005, the State of New Jersey brought suit against certain companies which the State alleges are responsible for pollution of the Lower Passaic River. In February 2009, certain of these defendants filed third-party complaints against approximately three hundred additional parties, including us, seeking contribution for a pro-rata share of response costs, cleanup, and other damages. A Special Master has been appointed by the court to try and design an alternative dispute resolution process for achieving a global resolution of this litigation.

We believe that ChevronTexaco is contractually obligated to indemnify us, pursuant to an indemnification agreement for most, if not all of the conditions at the property identified by the NJDEP and the EPA. Our ultimate liability, if any, in the pending and possible future proceedings pertaining to the Lower Passaic River is uncertain and subject to numerous contingencies which cannot be predicted and the outcome of which are not yet known.

*MTBE Litigation*

As of December 31, 2009, we are defending against fifty-three lawsuits brought by or on behalf of private and public water providers and governmental agencies in Connecticut, Florida, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, Virginia, and West Virginia. These cases allege various theories of liability due to contamination of groundwater with MTBE as the basis for claims seeking compensatory and punitive damages, and name as defendant approximately fifty petroleum refiners, manufacturers, distributors and retailers of MTBE, or gasoline containing MTBE. Pursuant to consolidation procedures under federal law, most of the MTBE cases originally filed were transferred to the United States District Court for the Southern District of New York for coordinated Multi-District Litigation proceedings. We are presently named as a defendant in thirty-nine out of more than one hundred cases that have been consolidated in this Multi-District Litigation, and we are also named as a defendant in fourteen related MTBE cases pending in the Supreme Court of New York, Nassau County. A majority of the primary defendants entered into global settlement agreements which settled one hundred two individual cases brought by the same law firm on behalf of various plaintiffs. We remain a defendant in twenty-seven of these one hundred two cases. We are also a defendant in twenty-five other individual MTBE cases brought by another firm, and we are also a defendant in a final MTBE case in the consolidated Multi-District Litigation brought by the State of New Jersey.

In 2009, we provided litigation reserves of $2.3 million relating to a majority of the MTBE cases pending against us. However, we are still unable to estimate our liability for a minority of the cases pending against us. Further, notwithstanding that we have provided a litigation reserve as to certain of the MTBE cases, there remains uncertainty as to the accuracy of the allegations in these cases as they relate to us, our defenses to the claims, our rights to indemnification or contribution from Marketing, and the aggregate possible amount of damages for which we may be held liable.

**Item 7A. Quantitative and Qualitative Disclosures about Market Risk**

Prior to April 2006, when we entered into the Swap Agreement with JPMorgan Chase, N.A. (the "Swap Agreement"), we had not used derivative financial or commodity instruments for trading, speculative or any other purpose, and had not entered into any instruments to hedge our exposure to interest rate risk. We do not have any foreign operations, and are therefore not exposed to foreign currency exchange rate.

We are exposed to interest rate risk, primarily as a result of our $175.0 million Credit Agreement and our $25.0 million Term Loan Agreement. We use borrowings under the Credit Agreement to finance acquisitions and for general corporate purposes. We used borrowings under the Term Loan Agreement to partially finance an acquisition in September 2009. Total borrowings outstanding as of December 31, 2009 under the Credit Agreement and the Term Loan Agreement were $151.2 million and $24.4 million, respectively, bearing interest at a weighted-average rate of 1.8% per annum, or a weighted-average effective rate of 3.1% including the impact of the Swap Agreement discussed below. The weighted-average effective rate is based on (i) $106.2 million of LIBOR rate borrowings outstanding under the Credit Agreement floating at market rates plus a margin of 1.25%, (ii) $45.0 million of LIBOR rate borrowings outstanding under the Credit Agreement effectively fixed at 5.44% by the Swap Agreement plus a margin of 1.25% and (iii) $24.4 million of LIBOR based borrowings outstanding under the Term Loan Agreement floating at market rates (subject to a 30 day LIBOR floor of 0.4%) plus a margin of 3.1%. Our Credit Agreement, which expires in March 2011, permits borrowings at an interest rate equal to the sum of a base rate plus a margin of 0.0% or 0.25% or a LIBOR rate plus a margin of 1.0%, 1.25% or 1.5%. The applicable margin is based on our leverage ratio at the end of the prior calendar quarter, as defined in the Credit Agreement, and is adjusted effective mid-quarter when our quarterly financial results are reported to the Bank Syndicate. Based on our leverage ratio as of December 31, 2009, the applicable margin will remain at 0.0% for base rate borrowings and 1.25% for LIBOR rate borrowings.

We manage our exposure to interest rate risk by minimizing, to the extent feasible, our overall borrowing and monitoring available financing alternatives. Our interest rate risk as of December 31, 2009 has increased significantly, as compared to December 31, 2008 primarily as a result of the $24.5 million drawn under the Credit Agreement to partially finance an acquisition in September 2009 and the $24.5 million borrowings outstanding under the $25.0 million three-year Term Loan Agreement entered into in September 2009. We entered into a $45.0 million LIBOR based interest rate Swap Agreement, effective through June 30, 2011, to manage a portion of our interest rate risk. The Swap Agreement is intended to hedge $45.0 million of our current exposure to variable interest rate risk by effectively fixing, at 5.44%, the LIBOR component of the interest rate determined under our existing Credit Agreement or future exposure to variable interest rate risk due to borrowing arrangements that may be entered into prior to the expiration of the Swap Agreement. As a result of the Swap Agreement, as of December 31, 2009, $45.0 million of our LIBOR based borrowings outstanding under the Credit Agreement bear interest at an effective rate of 6.69%. As a result, we are, and will be, exposed to interest rate risk to the extent that our aggregate borrowings floating at market rates exceed the $45.0 million notional amount of the Swap Agreement. As of December 31, 2009, our aggregate borrowings floating at market rates exceeded the notional amount of the Swap Agreement by $130.6 million. We do not foresee any significant changes in how we manage our interest rate risk in the near future.

We entered into the $45.0 million notional five year interest rate Swap Agreement, designated and qualifying as a cash flow hedge to reduce our exposure to the variability in future cash flows attributable to changes in the LIBOR rate. Our primary objective when undertaking hedging transactions and derivative positions is to reduce our variable interest rate risk by effectively fixing a portion of the interest rate for existing debt and anticipated refinancing transactions. This in turn, reduces the risks that the variability of cash flows imposes on variable rate debt. Our strategy protects us against future increases in interest rates. Although the Swap Agreement is intended to lessen the impact of rising interest rates, it also exposes us to the risk that the other party to the agreement will not perform, the agreement will be unenforceable and the underlying transactions will fail to qualify as a highly-effective cash flow hedge for accounting purposes. Further, there can be no assurance that the use of an interest rate swap will always be to our benefit. While the use of an interest rate Swap Agreement is intended to lessen the adverse impact of rising interest rates, it also conversely limits the positive impact that could be realized from falling interest rates with respect to the portion of our variable rate debt covered by the interest rate Swap Agreement.

In the event that we were to settle the Swap Agreement prior to its maturity, if the corresponding LIBOR swap rate for the remaining term of the Swap Agreement is below the 5.44% fixed strike rate at the time we settle the Swap Agreement, we would be required to make a payment to the Swap Agreement counter-party; if the corresponding LIBOR swap rate is above the fixed strike rate at the time we settle the Swap Agreement, we would receive a payment from the Swap Agreement counter-party. The amount that we would either pay or receive would equal the present value of the basis point differential between the fixed strike rate and the corresponding LIBOR swap rate at the time we settle the Swap Agreement.

Based on our aggregate average outstanding borrowings under the Credit Agreement and the Term Loan Agreement projected at $178.8 million for 2010, an increase in market interest rates of 0.5% for 2010 would decrease our 2010 net income and cash flows by $0.7 million. This amount was determined by calculating the effect of a hypothetical interest rate change on our aggregate borrowings floating at market rates that is not covered by our $45.0 million interest rate Swap Agreement and assumes that the $154.9 million average outstanding borrowings under the Credit Agreement during the fourth quarter of 2009 plus the $23.9 million average scheduled outstanding borrowings for 2010 under the Term Loan Agreement is indicative of our future average borrowings for 2010 before considering additional borrowings required for future acquisitions. The calculation also assumes that there are no other changes in our financial structure or the terms of our borrowings. Our exposure to fluctuations in interest rates will increase or decrease in the future with increases or decreases in the outstanding amount under our Credit Agreement and decreases in the outstanding amount under our Term Loan Agreement.

In order to minimize our exposure to credit risk associated with financial instruments, we place our temporary cash investments with high-credit-quality institutions. Temporary cash investments, if any, are currently held in an overnight bank time deposit with JPMorgan Chase Bank, N.A

**Item 8. Financial Statements and Supplementary Data**

**GETTY REALTY CORP. INDEX TO FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**


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**GETTY REALTY CORP. AND SUBSIDIARIES**
**CONSOLIDATED STATEMENTS OF OPERATIONS**
**(in thousands, except per share amounts)**

| | YEAR ENDED DECEMBER 31, | | |
|---|---|---|---|
| | **2009** | **2008** | **2007** |
| Revenues from rental properties | $ 84,539 | $ 82,802 | $ 79,207 |
| Operating expenses: | | | |
| Rental property expenses | 10,851 | 11,482 | 10,864 |
| Impairment charges | 1,135 | — | — |
| Environmental expenses, net | 8,799 | 7,365 | 8,189 |
| General and administrative expenses | 6,849 | 6,831 | 6,669 |
| Allowance for deferred rent receivable | — | — | 10,206 |
| Depreciation and amortization expense | 10,975 | 11,726 | 9,600 |
| Total operating expenses | 38,609 | 37,404 | 45,528 |
| Operating income | 45,930 | 45,398 | 33,679 |
| Other income, net | 585 | 403 | 1,923 |
| Interest expense | (5,091) | (7,034) | (7,760) |
| Earnings from continuing operations | 41,424 | 38,767 | 27,842 |
| Discontinued operations: | | | |
| Earnings from operating activities | 299 | 645 | 1,487 |
| Gains on dispositions of real estate | 5,326 | 2,398 | 4,565 |
| Earnings from discontinued operations | 5,625 | 3,043 | 6,052 |
| Net earnings | $ 47,049 | $ 41,810 | $ 33,894 |
| Basic and diluted earnings per common share: | | | |
| Earnings from continuing operations | $ 1.67 | $ 1.57 | $ 1.12 |
| Earnings from discontinued operations | $ .23 | $ .12 | $ .24 |
| Net earnings | $ 1.90 | $ 1.69 | $ 1.37 |
| Weighted average shares outstanding: | | | |
| Basic | 24,766 | 24,766 | 24,765 |
| Stock options | 1 | 1 | 4 |
| Diluted | 24,767 | 24,767 | 24,769 |

The accompanying notes are an integral part of these consolidated financial statements.

**GETTY REALTY CORP. AND SUBSIDIARIES**
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**
**(in thousands)**

| | YEAR ENDED DECEMBER 31, | | |
|---|---|---|---|
| | 2009 | 2008 | 2007 |
| Net earnings | $ 47,049 | $ 41,810 | $ 33,894 |
| Other comprehensive loss: | | | |
| Net unrealized gain (loss) on interest rate swap | 1,303 | (1,997) | (1,478) |
| Comprehensive Income | $ 48,352 | $ 39,813 | $ 32,416 |

The accompanying notes are an integral part of these consolidated financial statements.

**GETTY REALTY CORP. AND SUBSIDIARIES**
**CONSOLIDATED BALANCE SHEETS**
**(in thousands, except share data)**

| | DECEMBER 31, 2009 | DECEMBER 31, 2008 |
|---|---|---|
| ASSETS: | | |
| Real Estate: | | |
| Land | $ 252,083 | $ 221,540 |
| Buildings and improvements | 251,791 | 252,027 |
| | 503,874 | 473,567 |
| Less — accumulated depreciation and amortization | (136,669) | (129,322) |
| Real estate, net | 367,205 | 344,245 |
| Net investment in direct financing lease | 19,156 | — |
| Deferred rent receivable (net of allowance of $9,389 at December 31, 2009 and $10,029 at December 31, 2008) | 27,481 | 26,718 |
| Cash and cash equivalents | 3,050 | 2,178 |
| Recoveries from state underground storage tank funds, net | 3,882 | 4,223 |
| Mortgages and accounts receivable, net | 2,402 | 1,533 |
| Prepaid expenses and other assets | 9,696 | 8,916 |
| Total assets | $ 432,872 | $ 387,813 |
| LIABILITIES AND SHAREHOLDERS' EQUITY: | | |
| Borrowings under credit line | $ 151,200 | $ 130,250 |
| Term loan | 24,370 | — |
| Environmental remediation costs | 16,527 | 17,660 |
| Dividends payable | 11,805 | 11,669 |
| Accounts payable and accrued expenses | 21,301 | 22,337 |
| Total liabilities | 225,203 | 181,916 |
| Commitments and contingencies (notes 2, 3, 5 and 6) | | |
| Shareholders' equity: | | |
| Common stock, par value $.01 per share; authorized 50,000,000 shares; issued 24,766,376 at December 31, 2009 and 24,766,166 at December 31, 2008 | 248 | 248 |
| Paid-in capital | 259,459 | 259,069 |
| Dividends paid in excess of earnings | (49,045) | (49,124) |
| Accumulated other comprehensive loss | (2,993) | (4,296) |
| Total shareholders' equity | 207,669 | 205,897 |
| Total liabilities and shareholders' equity | $ 432,872 | $ 387,813 |

The accompanying notes are an integral part of these consolidated financial statements.

**GETTY REALTY CORP. AND SUBSIDIARIES**
**CONSOLIDATED STATEMENTS OF CASH FLOWS**
**(in thousands)**

| | YEAR ENDED DECEMBER 31, | | |
|---|---|---|---|
| | 2009 | 2008 | 2007 |
| CASH FLOWS FROM OPERATING ACTIVITIES: | | | |
| Net earnings | $ 47,049 | $ 41,810 | $ 33,894 |
| Adjustments to reconcile net earnings to net cash flow provided by operating activities: | | | |
| Depreciation and amortization expense | 11,027 | 11,875 | 9,794 |
| Impairment charges | 1,135 | — | — |
| Gain from dispositions of real estate | (5,467) | (2,787) | (6,179) |
| Deferred rental revenue, net of allowance | (763) | (1,803) | (3,112) |
| Allowance for deferred rent receivable | — | — | 10,494 |
| Amortization of above-market and below-market leases | (1,217) | (790) | (1,047) |
| Amortization of investment in direct financing lease | (85) | — | — |
| Accretion expense | 884 | 956 | 974 |
| Stock-based employee compensation expense | 390 | 326 | 492 |
| Changes in assets and liabilities: | | | |
| Recoveries from state underground storage tank funds, net | 724 | 827 | (379) |
| Mortgages and accounts receivable, net | (724) | (5) | 44 |
| Prepaid expenses and other assets | 339 | 423 | (130) |
| Environmental remediation costs | (2,400) | (2,217) | (80) |
| Accounts payable and accrued expenses | 1,640 | (1,031) | (249) |
| Net cash flow provided by operating activities | 52,532 | 47,584 | 44,516 |
| CASH FLOWS FROM INVESTING ACTIVITIES: | | | |
| Property acquisitions and capital expenditures | (55,317) | (6,579) | (90,636) |
| Proceeds from dispositions of real estate | 6,939 | 5,295 | 8,420 |
| (Increase) decrease in cash held for property acquisitions | (1,623) | 2,397 | (2,079) |
| Collection (issuance) of mortgages receivable, net | (145) | (55) | 267 |
| Net cash flow provided by (used in) investing activities | (50,146) | 1,058 | (84,028) |
| CASH FLOWS FROM FINANCING ACTIVITIES: | | | |
| Borrowings (repayments) under credit agreement, net | 20,950 | (2,250) | 87,500 |
| Borrowings under term loan agreement, net | 24,370 | | |