

KIMCO REALTY CORP
Form 8-K
April 07, 2009

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

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

Date of Report (Date of earliest event reported): April 3, 2009

KIMCO REALTY CORPORATION

(Exact Name of Registrant as Specified in Charter)

| | | |
|---|-----------------------------|---|
| <u>Maryland</u> | <u>1-10899</u> | <u>13-2744380</u> |
| (State or Other Jurisdiction of Incorporation or Organization) | (Commission File Number) | (I.R.S. Employer Identification No.) |

3333 New Hyde Park Road

Suite 100

New Hyde Park, NY
(Address of Principal Executive Offices)

11042
(Zip Code)

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(516) 869-9000

(Registrant's telephone number, including area code)

Not applicable

(Former name of former address, if changed since last report.)

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

Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17CFR 240.14a-12)

Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry Into a Definitive Material Agreement.

On April 3, 2009, Kimco Realty Corporation (Kimco) entered into an underwriting agreement (the Underwriting Agreement) and a Terms Agreement (the Terms Agreement) with Merrill Lynch, Pierce, Fenner & Smith Incorporated, Deutsche Bank Securities Inc. and UBS Securities LLC as representatives of the several underwriters named therein (the Underwriters), pursuant to which Kimco agreed to sell to the Underwriters 91,500,000 shares of common stock, par value \$.01 per share (the Shares). Additionally, Kimco granted to the Underwriters a 30-day option to purchase up to an additional 13,725,000 Shares to cover over-allotments, if any. The Shares were offered and sold pursuant to a prospectus supplement, dated April 3, 2009 and related prospectus, dated May 8, 2006, each filed with the Securities and Exchange Commission, relating to Kimco s shelf registration statement on Form S-3 (File No. 333-133908). Copies of the Underwriting Agreement and the Terms Agreement are attached hereto as Exhibit 1.1 and Exhibit 1.2, respectively, and are incorporated by reference herein.

Item 7.01 Regulation FD Disclosure.

Please refer to Exhibits 99.1 and 99.2, which are incorporated into this Item 7.01 by reference.

The information in this item shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934, or otherwise subject to the liabilities of Section 18, nor shall it be deemed incorporated by reference into any disclosure document relating to Kimco, except to the extent, if any, expressly set forth by specific reference in such filing.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

KIMCO REALTY CORPORATION

By: */s/ Michael V. Pappagallo*
Name: *Michael V. Pappagallo*
Title: *Executive Vice President,*

*Chief Financial
Officer and
Chief Administrative
Officer*

Dated: April 7, 2009

EXHIBIT INDEX

| <u>Exhibit No.</u> | <u>Description</u> |
|--------------------|---|
| 1.1 | Underwriting Agreement, dated April 3, 2009, by and among Kimco Realty Corporation and Merrill Lynch, Pierce, Fenner & Smith Incorporated, Deutsche Bank Securities Inc. and UBS Securities LLC as representatives of the several underwriters named in the Terms Agreement referenced below. |
| 1.2 | Terms Agreement, dated April 3, 2009, by and among Kimco Realty Corporation and Merrill Lynch, Pierce, Fenner & Smith Incorporated, Deutsche Bank Securities Inc. and UBS Securities LLC as representatives of the several underwriters named therein. |
| 99.1 | Press Release, dated April 3, 2009 issued by Kimco Realty Corporation |
| 99.2 | Press Release, dated April 3, 2009 issued by Kimco Realty Corporation |