GETTY REALTY CORP /MD/
Form 10-Q
November 06, 2015
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D. C. 20549

FORM 10-Q

(Mark one)

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

For the quarterly period ended September 30, 2015

OR

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

For the transition period from __________ to __________

Commission file number 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.)**

Two Jericho Plaza, Suite 110

Jericho, New York 11753

(Address of principal executive offices)

(Zip Code)

(516) 478 - 5400

(Registrant s telephone number, including area code)

(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15 (d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No ¨

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes x No ¨

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

Large Accelerated Filer	¨	Accelerated Filer	x
Non-Accelerated Filer	¨	Smaller Reporting Company	¨

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ¨ No x

Registrant had outstanding 33,421,802 shares of Common Stock, par value $.01 per share, as of November 6, 2015.

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Part I. FINANCIAL INFORMATION

Item 1. Financial Statements

GETTY REALTY CORP. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS

(in thousands, except share data)

(unaudited)

	September 30, 2015	December 31, 2014
ASSETS:		
Real Estate:		
Land	$ 477,123	$ 344,324
Buildings and improvements	306,440	246,112
Construction in progress	242	
	783,805	590,436
Less accumulated depreciation and amortization	(103,839)	(99,510)
Real estate held for use, net	679,966	490,926
Real estate held for sale, net	1,305	4,343
Real estate, net	681,271	495,269
Net investment in direct financing leases	94,549	95,764
Deferred rent receivable (net of allowance of $6,101 as of September 30, 2015 and $7,009 as of December 31, 2014)	24,427	21,049
Cash and cash equivalents	3,756	3,111
Restricted cash	409	713
Notes and mortgages receivable	48,446	34,226
Accounts receivable (net of allowance of $4,489 at September 30, 2015 and $4,160 at December 31, 2014)	4,043	4,395
Prepaid expenses and other assets	49,980	32,974
Total assets	$ 906,881	$ 687,501
LIABILITIES AND SHAREHOLDERS EQUITY:		
Borrowings under credit lines	$ 156,000	$ 25,000
Term loans	175,000	100,000
Mortgage payable, net	301	344
Environmental remediation obligations	91,252	91,566
Dividends payable	8,117	12,150
Accounts payable and accrued liabilities	73,958	51,417

Total liabilities		504,628		280,477
Commitments and contingencies (notes 2, 3, 4 and 5)				
Shareholders equity:				
Common stock, par value $.01 per share; authorized 50,000,000 shares; issued 33,421,802 at September 30, 2015 and 33,417,203 at December 31, 2014		334		334
Paid-in capital		464,026		463,314
Dividends paid in excess of earnings		(62,107)		(56,624)
Total shareholders equity		402,253		407,024
Total liabilities and shareholders equity	$	906,881	$	687,501

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

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GETTY REALTY CORP. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF OPERATIONS

(in thousands, except per share amounts)

(unaudited)

	Three months ended September 30, 2015	Three months ended September 30, 2014	Nine months ended September 30, 2015	Nine months ended September 30, 2014
Revenues:				
Revenues from rental properties	$ 29,077	$ 24,078	$ 78,471	$ 72,198
Interest on notes and mortgages receivable	910	817	2,472	2,287
Total revenues	29,987	24,895	80,943	74,485
Operating expenses:				
Rental property expenses	6,319	5,559	18,002	17,541
Impairment charges	1,700	921	10,682	1,565
Environmental expenses	1,647	1,171	5,259	3,752
General and administrative expenses	4,244	3,732	12,867	11,984
Allowance for uncollectible accounts	263	156	684	2,259
Depreciation and amortization expense	4,629	3,372	12,192	8,034
Total operating expenses	18,802	14,911	59,686	45,135
Operating income	11,185	9,984	21,257	29,350
Gains on dispositions of real estate	1,696	1,389	1,437	1,389
Other income	121	48	7,505	216
Interest expense	(4,479)	(2,416)	(10,214)	(7,430)
Earnings from continuing operations	8,523	9,005	19,985	23,525
Discontinued operations:				
Loss from operating activities	(1,716)	(1,527)	(2,820)	(4,142)
Gains on dispositions of real estate	228	2,757	352	7,127
(Loss)/earnings from discontinued operations	(1,488)	1,230	(2,468)	2,985
Net earnings	$ 7,035	$ 10,235	$ 17,517	$ 26,510
Basic and diluted earnings per common share:				
Earnings from continuing operations	$ 0.25	$ 0.27	$ 0.59	$ 0.70
(Loss)/earnings from discontinued operations	$ (0.04)	$ 0.03	$ (0.07)	$ 0.09
Net earnings	$ 0.21	$ 0.30	$ 0.52	$ 0.79
Weighted average shares outstanding:				

Basic	33,422	33,417	33,420	33,406
Diluted	33,422	33,417	33,420	33,406

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

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GETTY REALTY CORP. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

(in thousands)

(unaudited)

	Nine months ended September 30, 2015	2014
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net earnings	$ 17,517	$ 26,510
Adjustments to reconcile net earnings to net cash flow provided by operating activities:		
Depreciation and amortization expense	12,192	8,034
Impairment charges	15,256	6,583
Gains on dispositions of real estate - discontinued operations	(352)	(7,127)
Gains on dispositions of real estate - continuing operations	(1,437)	(1,389)
Deferred rent receivable, net of allowance	(3,378)	(3,712)
Bad debt expense	720	840
Accretion expense	3,519	2,032
Other	1,434	1,350
Changes in assets and liabilities:		
Accounts receivable	(2,028)	(338)
Prepaid expenses and other assets	(252)	3,566
Environmental remediation obligations	(12,336)	(9,953)
Accounts payable and accrued liabilities	3,500	(3,995)
Net cash flow provided by operating activities	34,355	22,401
CASH FLOWS FROM INVESTING ACTIVITIES:		
Property acquisitions and capital expenditures	(218,618)	(6,437)
Proceeds from dispositions of real estate - discontinued operations	1,375	12,705
Proceeds from dispositions of real estate - continuing operations	4,456	4,380
Change in cash held for property acquisitions	(376)	12,956
Change in restricted cash	304	537
Addition to construction in progress	(242)	
Collection of notes and mortgages receivable	2,230	1,743
Amortization of investment in direct financing leases	1,215	1,004
Net cash flow (used in) provided by investing activities	(209,656)	26,888
CASH FLOWS FROM FINANCING ACTIVITIES:		
Borrowings under prior credit agreement	14,000	3,000
Repayment under prior credit agreement	(39,000)	(34,000)
Borrowing under new credit agreement	166,000	

Borrowing under term loan	75,000	
Repayments under new credit agreement	(10,000)	
Credit agreement origination costs	(2,432)	
Payments of cash dividends	(27,035)	(21,925)
Other	(587)	(3)
Net cash flow provided by (used in) financing activities	175,946	(52,928)
Change in cash and cash equivalents	645	(3,639)
Cash and cash equivalents at beginning of period	3,111	12,035
Cash and cash equivalents at end of period	$ 3,756	$ 8,396
Supplemental disclosures of cash flow information		
Cash paid during the period for:		
Interest paid	$ 8,628	$ 6,686
Income taxes	339	370
Environmental remediation obligations	10,568	9,366
Non-cash transactions:		
Issuance of mortgages receivable related to property dispositions	16,450	5,851
Mortgage payable, net related to property acquisition		390

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

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GETTY REALTY CORP. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

(Unaudited)

1. GENERAL

Basis of Presentation: The consolidated financial statements include the accounts of Getty Realty Corp. and its wholly-owned subsidiaries. We are a real estate investment trust (REIT) specializing in the ownership, leasing and financing of retail motor fuel and convenience store properties. The accompanying consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP). We do not distinguish our principal business or our operations on a geographical basis for purposes of measuring performance. We manage and evaluate our operations as a single segment. All significant intercompany accounts and transactions have been eliminated.

Unaudited, Interim Consolidated Financial Statements: The consolidated financial statements are unaudited but, in our opinion, reflect all adjustments (consisting of normal recurring accruals) necessary for a fair statement of the results for the periods presented. These statements should be read in conjunction with the consolidated financial statements and related notes which appear in our Annual Report on Form 10-K for the year ended December 31, 2014.

Use of Estimates, Judgments and Assumptions: The consolidated financial statements have been prepared in conformity with GAAP, which requires management to make estimates, judgments and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and revenues and expenses during the period reported. Estimates, judgments and assumptions underlying the accompanying consolidated financial statements include, but are not limited to, receivables, deferred rent receivable, net investment in direct financing leases, environmental remediation costs, real estate, depreciation and amortization, impairment of long-lived assets, litigation, environmental remediation obligations, accrued liabilities, income taxes and the allocation of the purchase price of properties acquired to the assets acquired and liabilities assumed. Application of these estimates and assumptions requires exercise of judgment as to future uncertainties and, as a result, actual results could differ materially from these estimates.

Subsequent Events: On October 19, 2015, the U.S. Bankruptcy Court entered a final decree closing the bankruptcy case of Getty Petroleum Marketing Inc. (the Marketing Estate). As a result, on November 3, 2015, we received a final distribution from the Marketing Estate of approximately $10,800,000 on account of our general unsecured claims. We do not expect to receive any further distributions from the Marketing Estate.

New Accounting Pronouncement: In May 2014, the FASB issued ASU 2014-09 Revenue from Contracts with Customers (Topic 606) (ASU 2014-09). ASU 2014-09 is a comprehensive new revenue recognition model requiring a company to recognize revenue to depict the transfer of goods or services to a customer at an amount reflecting the consideration it expects to receive in exchange for those goods or services. In adopting ASU 2014-09, companies may use either a full retrospective or a modified retrospective approach. ASU 2014-09 was effective for the first interim period within annual reporting periods beginning after December 15, 2016, and early adoption was not permitted. On July 9, 2015, the FASB decided to delay the effective date of ASU 2014-09 by one year making it effective for the first interim period within annual reporting periods beginning after December 15, 2017. Early adoption is permitted as of the original effective date. We are currently in the process of evaluating the impact the adoption of ASU 2014-09 will have on our financial position or results of operations.

In August 2014, the FASB issued guidance ASU 2014-15, Presentation of Financial Statements Going Concern: Disclosure of Uncertainties about an Entity s Ability to Continue as a Going Concern. This guidance requires management to evaluate whether there is substantial doubt about the entity s ability to continue as a going concern and, if so, disclose that fact. This guidance is effective for annual periods ending after December 15, 2016, including interim reporting periods thereafter. The new guidance affects disclosures only and is not expected to have a material impact on our consolidated financial position, results of operations or cash flows.

In April 2015, the FASB issued guidance ASU 2015-03, which amends Topic 835, *Other Presentation Matters*. The amendments in ASU 2015-03 require that debt issuance costs be reported on the balance sheet as a direct reduction of the face amount of the debt instrument they relate to, and should not be classified as a deferred charge, as was previously required under the Accounting Standards Codification. ASU 2015-03 is effective, on a retrospective basis, for interim and annual periods beginning after December 15, 2015, and early adoption is permitted. We do not expect the adoption of ASU 2015-03 to have a material impact on our consolidated financial statements.

In August 2015, the FASB issued guidance ASU 2015-15: Presentation and Subsequent Measurement of Debt Issuance Costs Associated with Line of Credit Arrangements (ASU 2015-15) providing guidance regarding the presentation and subsequent measurement of debt issuance costs related to line-of-credit arrangements. Given the absence of authoritative guidance on this matter, the SEC staff has indicated that it would not object to an entity deferring and presenting debt issuance costs as an asset and subsequently amortizing the deferred debt issuance costs ratably over the term of the line-of-credit arrangement, regardless of whether there are any outstanding borrowings on that line-of-credit arrangement. We do not expect the adoption of ASU 2015-15 to have a material impact on our consolidated financial statements.

In September 2015, the FASB issued guidance ASU 2015-16, Simplifying the Accounting for Measurement-Period Adjustments (ASU 2015-16) to simplify the accounting for business combinations, specifically as it relates to measurement-period adjustments. ASU 2015-16 requires acquiring entities in a business combination to recognize measurement-period adjustments in the reporting period in which the adjustment amounts are determined. Also, ASU 2015-16 requires entities to present separately on the face of the income statement (or disclose in the notes to the financial statements) the portion of the amount recorded in the current period earnings, by line item, that would have been recorded in previous reporting periods if the adjustment to the provisional amounts had been recognized as of the acquisition date. ASU 2015-16 is effective beginning on January 1, 2016 and is to be applied prospectively to measurement-period adjustments that occur after the effective date. We do not expect the adoption of ASU 2015-16 to have a significant impact on our consolidated financial statements.

Fair Value Hierarchy: The preparation of consolidated financial statements in accordance with GAAP requires management to make estimates of fair value that affect the reported amounts of assets and liabilities and disclosure of assets and liabilities at the date of the consolidated financial statements and revenues and expenses during the period reported using a hierarchy (the Fair Value Hierarchy) that prioritizes the inputs to valuation techniques used to measure the fair value. The Fair Value Hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements). The levels of the Fair Value Hierarchy are as follows: Level 1 -inputs that reflect unadjusted quoted prices in active markets for identical assets or liabilities that we have the ability to access at the measurement date; Level 2 -inputs other than quoted prices that are observable for the asset or liability either directly or indirectly, including inputs in markets that are not considered to be active; and Level 3 -inputs that are unobservable. Certain types of assets and liabilities are recorded at fair value either on a recurring or non-recurring basis. Assets required or elected to be marked-to-market and reported at fair value every reporting period are valued on a recurring basis. Other assets not required to be recorded at fair value every period may be recorded at fair value if a specific provision or other impairment is recorded within the period to mark the carrying value of the asset to market as of the reporting date. Such assets are valued on a non-recurring basis.

We have mutual fund assets that are measured at fair value on a recurring basis using Level 1 inputs. We have a Supplemental Retirement Plan for executives and other senior management employees. The amounts held in trust under the Supplemental Retirement Plan using Level 2 inputs may be used to satisfy claims of general creditors in the event of our or any of our subsidiaries bankruptcy. We have liability to the employees participating in the Supplemental Retirement Plan for the participant account balances equal to the aggregate of the amount invested at the employees direction and the income earned in such mutual funds.

We have certain real estate assets that are measured at fair value on a non-recurring basis using Level 3 inputs as of September 30, 2015 and December 31, 2014 of $2,496,000 and $9,266,000, respectively, where impairment charges have been recorded. Due to the subjectivity inherent in the internal valuation techniques used in estimating fair value, the amounts realized from the sale of such assets may vary significantly from these estimates.

The following summarizes as of September 30, 2015 our assets and liabilities measured at fair value on a recurring basis by level within the Fair Value Hierarchy:

(in thousands)	Level 1	Level 2	Level 3	Total
Assets:				