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

FORM 10-Q

☒ QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934 FOR THE QUARTERLY PERIOD ENDED JUNE 30, 2022

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 001-37420

SERITAGE GROWTH PROPERTIES

(Exact name of registrant as specified in its charter)

Maryland **(State of Incorporation)**	**38-3976287** **(I.R.S. Employer Identification No.)**
500 Fifth Avenue, Suite 1530, New York, New York **(Address of principal executive offices)**	**10110** **(Zip Code)**

Registrant's telephone number, including area code: (212) 355-7800

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

Title of each class	Trading Symbols	Name of each exchange on which registered
Class A common shares of beneficial interest, par value $0.01 per share	SRG	New York Stock Exchange
7.00% Series A cumulative redeemable preferred shares of beneficial interest, par value $0.01 per share	SRG-PA	New York Stock Exchange

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

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted 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 such files). Yes ☒ No ☐

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

Large accelerated filer	☐	Accelerated filer	☒
Non-accelerated filer	☐	Smaller reporting company	☐
		Emerging growth company	☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

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

As of August 8, 2022, the registrant had the following common shares outstanding:

Class	**Shares Outstanding**
Class A common shares of beneficial interest, par value $0.01 per share	56,032,381
Class B common shares of beneficial interest, par value $0.01 per share	0
Class C common shares of beneficial interest, par value $0.01 per share	0

SERITAGE GROWTH PROPERTIES
QUARTERLY REPORT ON FORM 10-Q

QUARTER ENDED June 30, 2022

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PART I. FINANCIAL INFORMATION

Item 1. Unaudited Condensed Consolidated Financial Statements

SERITAGE GROWTH PROPERTIES
CONDENSED CONSOLIDATED BALANCE SHEETS
(Unaudited, amounts in thousands, except share and per share amounts)

	June 30, 2022	December 31, 2021
ASSETS		
Investment in real estate		
Land	$ 360,067	$ 475,667
Buildings and improvements	818,496	994,221
Accumulated depreciation	(145,584)	(154,971)
	1,032,979	1,314,917
Construction in progress	371,168	381,194
Net investment in real estate	1,404,147	1,696,111
Real estate held for sale	117,013	—
Investment in unconsolidated entities	445,152	498,563
Cash and cash equivalents	149,529	106,602
Restricted cash	7,155	7,151
Tenant and other receivables, net	42,816	29,111
Lease intangible assets, net	10,295	14,817
Prepaid expenses, deferred expenses and other assets, net	61,206	61,783
Total assets [1]	$ 2,237,313	$ 2,414,138
LIABILITIES AND SHAREHOLDERS' EQUITY		
Liabilities		
Term loan facility, net	$ 1,439,543	$ 1,439,332
Sales-leaseback financing obligations	20,652	20,627
Litigation reserve	35,000	—
Accounts payable, accrued expenses and other liabilities	107,720	109,379
Total liabilities [1]	1,602,915	1,569,338
Commitments and contingencies (Note 9)		
Shareholders' Equity		
Class A common shares $0.01 par value; 100,000,000 shares authorized; 43,677,418 and 43,632,364 shares issued and outstanding as of June 30, 2022 and December 31, 2021, respectively	437	436
Series A preferred shares $0.01 par value; 10,000,000 shares authorized; 2,800,000 shares issued and outstanding as of June 30, 2022 December 31, 2021; liquidation preference of $70,000	28	28
Additional paid-in capital	1,242,165	1,241,048
Accumulated deficit	(719,181)	(553,771)
Total shareholders' equity	523,449	687,741
Non-controlling interests	110,949	157,059
Total equity	634,398	844,800
Total liabilities and shareholders' equity	$ 2,237,313	$ 2,414,138

[1] The Company's condensed consolidated balance sheets include assets and liabilities of consolidated variable interest entities ("VIEs"). See Note 2. The condensed consolidated balance sheets, as of June 30, 2022, include the following amounts related to our consolidated VIEs, excluding the Operating Partnership: $6.6 million of land, $3.9 million of building and improvements, $(1.0) million of accumulated depreciation and $4.0 million of other assets included in other line items. The Company's condensed consolidated balance sheets as of December 31, 2021, include the following amounts related to our consolidated VIEs, excluding the Operating Partnership: $6.6 million of land, $3.9 million of building and improvements, $(0.9) million of accumulated depreciation and $4.0 million of other assets included in other line items.

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

SERITAGE GROWTH PROPERTIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited, amounts in thousands, except per share amounts)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
REVENUE				
Rental income	$ 29,418	$ 27,595	$ 58,502	$ 58,741
Management and other fee income	286	279	2,107	414
Total revenue	29,704	27,874	60,609	59,155
EXPENSES				
Property operating	10,801	11,286	21,833	21,929
Real estate taxes	6,425	9,061	14,575	19,216
Depreciation and amortization	10,669	13,328	22,603	26,470
General and administrative	11,093	11,990	20,185	23,222
Litigation reserve	35,000	—	35,000	—
Total expenses	73,988	45,665	114,196	90,837
Gain on sale of real estate, net	68,031	18,097	67,016	42,305
Impairment of real estate assets	(109,343)	(64,539)	(110,334)	(66,239)
Equity in loss of unconsolidated entities	(33,720)	(2,327)	(66,796)	(3,489)
Interest and other income	99	530	110	8,154
Interest expense	(22,663)	(28,976)	(45,251)	(55,126)
Loss before income taxes	(141,880)	(95,006)	(208,842)	(106,077)
(Provision) for income taxes	(203)	(298)	(228)	(160)
Net loss	(142,083)	(95,304)	(209,070)	(106,237)
Net loss attributable to non-controlling interests	31,328	22,464	46,110	25,677
Net loss attributable to Seritage	$ (110,755)	$ (72,840)	$ (162,960)	$ (80,560)
Preferred dividends	(1,225)	(1,225)	(2,450)	(2,450)
Net loss attributable to Seritage common shareholders	$ (111,980)	$ (74,065)	$ (165,410)	$ (83,010)
Net loss per share attributable to Seritage Class A common shareholders - Basic	$ (2.56)	$ (1.73)	$ (3.79)	$ (2.02)
Net loss per share attributable to Seritage Class A common shareholders - Diluted	$ (2.56)	$ (1.73)	$ (3.79)	$ (2.02)
Weighted average Class A common shares outstanding - Basic	43,677	42,772	43,656	41,134
Weighted average Class A common shares outstanding - Diluted	43,677	42,772	43,656	41,134

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

SERITAGE GROWTH PROPERTIES
CONDENSED CONSOLIDATED STATEMENTS OF EQUITY
(Unaudited, amounts in thousands, except per share amounts)

	Class A Common		Series A Preferred		Additional Paid-In Capital	Accumulated Deficit	Non-Controlling Interests	Total Equity
	Shares	Amount	Shares	Amount				
Balance at January 1, 2021	38,896	$ 389	2,800	$ 28	$ 1,177,260	$ (528,637)	$ 233,687	$ 882,727
Net loss	—	—	—	—	—	(80,560)	(25,677)	(106,237)
Preferred dividends declared ($0.875 per share)	—	—	—	—	—	(2,450)	—	(2,450)
Vesting of restricted share units	87	1	—	—	(1)	—	—	—
Share-based compensation	—	—	—	—	849	—	—	849
OP Units exchanges (3,811,865 units)	3,812	38	—	—	51,901	—	(51,939)	—
Balance at June 30, 2021	42,795	$ 428	$ 2,800	$ 28	$ 1,230,009	$ (611,647)	$ 156,071	$ 774,889
Balance at January 1, 2022	43,632	$ 436	2,800	$ 28	$ 1,241,048	$ (553,771)	$ 157,059	$ 844,800
Net loss	—	—	—	—	—	(162,960)	(46,110)	(209,070)
Preferred dividends declared ($0.875 per share)	—	—	—	—	—	(2,450)	—	(2,450)
Vesting of restricted share units	45	1	—	—	(1)	—	—	—
Share-based compensation	—	—	—	—	1,118	—	—	1,118
Balance at June 30, 2022	43,677	$ 437	2,800	$ 28	$ 1,242,165	$ (719,181)	$ 110,949	$ 634,398

	Class A Common		Series A Preferred		Additional Paid-In Capital	Accumulated Deficit	Non-Controlling Interests	Total Equity
	Shares	Amount	Shares	Amount				
Balance at April 1, 2021	40,587	$ 406	2,800	$ 28	$ 1,200,874	$ (537,582)	$ 207,674	871,400
Net loss	—	—	—	—	—	(72,840)	(22,464)	(95,304)
Preferred dividends declared ($0.4375 per share)	—	—	—	—	—	(1,225)	—	(1,225)
Vesting of restricted share units	55	1	—	—	(1)	—	—	—
Share-based compensation	—	—	—	—	(120)	—	—	(120)
OP Units exchanges (2,153,010 units)	2,153	21	—	—	29,256	—	(29,139)	138
Balance at June 30, 2021	42,795	$ 428	2,800	$ 28	$ 1,230,009	$ (611,647)	$ 156,071	$ 774,889
Balance at April 1, 2022	43,675	$ 437	2,800	$ 28	$ 1,241,583	$ (607,201)	$ 142,277	777,124
Net loss	—	—	—	—	—	(110,755)	(31,328)	(142,083)
Preferred dividends declared ($0.4375 per share)	—	—	—	—	—	(1,225)	—	(1,225)
Vesting of restricted share units	2	—	—	—	—	—	—	—
Share-based compensation	—	—	—	—	582	—	—	582
Balance at June 30, 2022	43,677	$ 437	2,800	$ 28	$ 1,242,165	$ (719,181)	$ 110,949	$ 634,398

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

SERITAGE GROWTH PROPERTIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited, amounts in thousands)

	Six Months Ended June 30,	
	2022	**2021**
CASH FLOW FROM OPERATING ACTIVITIES		
Net loss	$ (209,070)	$ (106,237)
Adjustments to reconcile net loss to net cash used in operating activities:		
Equity in loss of unconsolidated entities	66,796	3,489
Distributions from unconsolidated entities	—	1,141
Gain on sale of real estate, net	(67,016)	(42,305)
Impairment of real estate assets	110,334	66,239
Share-based compensation	892	953
Depreciation and amortization	22,603	26,470
Amortization of deferred financing costs	211	212
Amortization of above and below market leases, net	121	63
Straight-line rent adjustment	(4,320)	(1,028)
Interest on sale-leaseback financing obligations	25	—
Litigation reserve	35,000	—
Change in operating assets and liabilities		
Tenants and other receivables	(10,370)	3,436
Prepaid expenses, deferred expenses and other assets	1,713	(1,224)
Accounts payable, accrued expenses and other liabilities	(1,420)	(18,811)
Net cash used in operating activities	(54,501)	(67,602)
CASH FLOW FROM INVESTING ACTIVITIES		
Investment in unconsolidated entities	(15,432)	(21,279)
Distributions from unconsolidated entities	160	—
Net proceeds from sale of real estate	168,186	133,313
Development of real estate	(53,032)	(44,949)
Net cash provided by investing activities	99,882	67,085
CASH FLOW FROM FINANCING ACTIVITIES		
Proceeds from sale-leaseback financing obligations	—	183
Purchase of shares related to stock grant recipients' tax withholdings	—	(262)
Preferred dividends paid	(2,450)	(2,450)
Net cash used in financing activities	(2,450)	(2,529)
Net increase (decrease) in cash and cash equivalents	42,931	(3,046)
Cash and cash equivalents, and restricted cash, beginning of period	113,753	150,254
Cash and cash equivalents, and restricted cash, end of period	$ 156,684	$ 147,208

SERITAGE GROWTH PROPERTIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (Continued)
(Unaudited, amounts in thousands)

	Six Months Ended June 30,	
	2022	**2021**
RECONCILIATION OF CASH AND CASH EQUIVALENTS AND RESTRICTED CASH		
Cash and cash equivalents at beginning of period	$ 106,602	$ 143,728
Restricted cash at beginning of period	7,151	6,526
Cash and cash equivalents and restricted cash at beginning of period	$ 113,753	$ 150,254
Cash and cash equivalents at end of period	$ 149,529	$ 140,058
Restricted cash at end of period	7,155	7,150
Cash and cash equivalents and restricted cash at end of period	$ 156,684	$ 147,208

	Six Months Ended June 30,	
	2022	**2021**
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION		
Cash payments for interest	$ 52,188	$ 56,620
Capitalized interest	7,674	5,722
Income taxes paid	228	160
SUPPLEMENTAL DISCLOSURE OF NON-CASH INVESTING AND FINANCING ACTIVITIES		
Development of real estate financed with accounts payable	$ 28,561	$ 8,090
Preferred dividends declared and unpaid	1,225	1,225
Transfer to real estate assets held for sale	117,013	29,059

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

Note 1 – Organization

Seritage Growth Properties ("Seritage") (NYSE: SRG), a Maryland real estate investment trust formed on June 3, 2015, operated as a fully integrated, self-administered and self-managed real estate investment trust ("REIT") as defined under Section 856(c) of the Internal Revenue Code (the "Code") from formation through December 31, 2021. On March 31, 2022, Seritage revoked its REIT election and became a taxable C Corporation effective January 1, 2022. Seritage's assets are held by and its operations are primarily conducted, directly or indirectly, through Seritage Growth Properties, L.P., a Delaware limited partnership (the "Operating Partnership"). Under the partnership agreement of the Operating Partnership, Seritage, as the sole general partner, has exclusive responsibility and discretion in the management and control of the Operating Partnership. Unless otherwise expressly stated or the context otherwise requires, the "Company" and "Seritage" refer to Seritage, the Operating Partnership and its owned and controlled subsidiaries.

Seritage is principally engaged in the ownership, development, redevelopment, disposition, management and leasing of diversified retail and mixed-use properties throughout the United States. As of June 30, 2022, the Company's portfolio consisted of interests in 150 properties comprised of approximately 19.5 million square feet of gross leasable area ("GLA") or build-to-suit leased area, approximately 433 acres held for or under development and approximately 9.9 million square feet or approximately 821 acres to be disposed of. The portfolio consists of approximately 15.6 million square feet of GLA held by 125 wholly owned properties (such properties, the "Consolidated Properties") and 3.9 million square feet of GLA held by 25 unconsolidated entities (such properties, the "Unconsolidated Properties").

The Company commenced operations on July 7, 2015, following a rights offering to the shareholders of Sears Holdings Corporation ("Sears Holdings" or "Sears") to purchase common shares of Seritage in order to fund, in part, the $2.7 billion acquisition of certain of Sears Holdings' owned properties and its 50% interests in three joint ventures which were simultaneously leased back to Sears Holdings under a master lease agreement (the "Original Master Lease" and the "Original JV Master Leases", respectively).

As of March 15, 2021, the Company no longer had any remaining properties leased to Holdco (as defined below) or Sears Holdings, as further described in Note 5.

On March 1, 2022, the Company announced that its Board of Trustees had commenced a process to review a broad range of strategic alternatives. The Board of Trustees has created a Special Committee (the "Special Committee") of the Company's Board of Trustees to oversee the process. The Special Committee has retained Barclays as its financial advisor. The Company strategic review process remains ongoing. There can be no assurance that the review process will result in any transaction or any strategic change at this time.

On March 31, 2022, the Company announced that its Board of Trustees, with the recommendation of the Special Committee, approved a plan to terminate the Company's REIT status and become a taxable C Corporation, effective for the year ending December 31, 2022. As a result, the Company is no longer required to operate under REIT rules, including the requirement to distribute at least 90% of REIT taxable income to its stockholders, which provides the Company with greater flexibility to use its free cash flow. Effective January 1, 2022, the Company is subject to federal and state income taxes on its taxable income at applicable tax rates and is no longer entitled to a tax deduction for dividends paid. The Company operated as a REIT for the 2021 tax year, and existing REIT requirements and limitations, including those established by the Company's organizational documents, remained in place until December 31, 2021.

As a result of the Company's change in corporate structure to a taxable C Corporation in fiscal year 2022 as announced by the Board of Trustees, the Company incurred a one-time, non-cash deferred tax benefit of approximately $160.3 million during the quarter ended March 31, 2022. The Company also recorded a full valuation allowance against the deferred tax asset pursuant to ASC 740, as discussed in more detail below.

On July 7, 2022, the Company filed its preliminary proxy materials with the SEC in connection with its 2022 Annual Meeting of Shareholders seeking a shareholder vote to approve a proposed plan of sale of the Company's assets and dissolution (the "Plan of Sale") that will allow the Board to sell all of the Company's assets, distribute the net proceeds to shareholders and dissolve the Company. The Plan of Sale is expected to increase the universe of potential buyers by allowing Seritage and potential buyers to enter into and complete value maximizing transactions without subjecting any such transaction to the delay and conditionality associated with having to seek and obtain shareholder approval. The affirmative vote of at least two-thirds of all outstanding common shares of the Company is required to approve the Plan of Sale. On July 6, 2022, Edward Lampert, the Company's former Chairman, entered into a Voting and Support Agreement under which he exchanged his equity interest in the Operating Partnership for Class A common shares and agreed to vote his shares in favor of the Plan of Sale. As of July 6, 2022, after giving effect to the exchange of his Operating Partnership interests, Mr. Lampert owns approximately 29.1% of the Company's outstanding Class A common shares, and Seritage is the sole owner of all outstanding Operating Partnership interests. The strategic review process remains ongoing, and the Company remains open-minded to pursuing value maximizing alternatives, including a potential sale of the Company. There can be no assurance regarding the success of the process.

Liquidity

The Company's primary uses of cash include the payment of property operating and other expenses, including general and administrative expenses and debt service (collectively, "Obligations"), and certain development expenditures. Currently, debt service obligations are comprised of interest expense and annual fees required by the Term Loan Facility (as defined in Note 6 below). The Term Loan Facility requires payments of interest only until maturity on July 31, 2023, unless the maturity is extended beyond July 31, 2023 at the Company's option pursuant to the Second Term Loan Amendment (as defined below). Property rental income, which is the Company's primary source of operating cash flow, did not fully fund Obligations and certain development expenditures incurred during the six months ended June 30, 2022 and the Company incurred net operating cash outflows of $54.5 million. The Company generated investing cash inflows of $99.9 million during the six months ended June 30, 2022, which were driven by asset sales partially offset by development expenditures and investments in unconsolidated entities.

Obligations are projected to continue to exceed property rental income and the Company expects to fund such costs with a combination of capital sources including, cash on hand, and sales of Consolidated and Unconsolidated Properties. During the period from June 30, 2022 through August 8, 2022, the Company sold 10 assets for gross proceeds of $75.3 million and made a $100.0 million principal payment on the Term Loan Facility, bringing the outstanding Term Loan Facility balance as of August 8, 2022 to $1.34 billion. As of August 8, 2022, the Company had 20 assets under contract to sell for total anticipated proceeds of $260.8 million, subject to customary due diligence and closing conditions. In addition, the Company closed on the sale of previously exercised put rights that it has on two Unconsolidated Properties to generate additional gross proceeds of $23.8 million. Management believes that the Company will successfully sell enough assets to pay down its debt by at least $540 million by July 2023, which would allow the Company to exercise the two year extension option on its Term Loan Facility. However, no assurances can be given that the Company will be successful in executing its plan to generate sufficient proceeds required to extend the facility.

Going Concern

The accompanying condensed consolidated financial statements are prepared in accordance with GAAP applicable to a going concern, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. Management is required to evaluate whether there are conditions and events that raise substantial doubt about the Company's ability to continue as a going concern within one year after the date that the financial statements are issued. As part of this evaluation, the Company takes into consideration all obligations due within the subsequent 12 months, as well as, cash on hand and expected cash receipts.

The Company currently anticipates it will continue to use sales of Consolidated Properties as the primary source of capital to repay principal on the Term Loan Facility, its Obligations and certain development expenditures.

As of August 8, 2022, $260.8 million of assets are under contract and the Company is currently negotiating sales, evaluating bona fide offers received and marketing, or about to bring to market for sale, assets with an estimated fair value over $1.2 billion. The Company believes, that if these assets were sold, the Company will be able to meet the $540 million Term Loan Facility principal paydown required to extend the Term Loan Facility.

While the Company believes these assets intended for sale will close before July 31, 2023, these assets are not all under contract within one-year of the maturity date of the Term Loan Facility and are not within the Company's control and therefore, cannot be deemed probable. As a result, the Company has concluded that management's plans do not alleviate substantial doubt about the Company's ability to continue as a going concern until either the extension is executed or asset sales under contract are sufficient to increase the Company's projected cash flows.

The condensed consolidated financial statements do not include any adjustments relating to the recoverability and classification of recorded asset amounts or the amounts and classification of liabilities that might be necessary should the Company be unable to continue as a going concern.

COVID-19 Pandemic

The Coronavirus ("COVID-19") pandemic has caused significant impacts on the real estate industry in the United States, including the Company's properties.

As a result of the development, fluidity and uncertainty surrounding this situation, the Company expects that these conditions may change, potentially significantly, in future periods and results for the three and six months ended June 30, 2022 may not be indicative of the impact of the COVID-19 pandemic on the Company's business for future periods. As such, the Company cannot reasonably estimate the impact of COVID-19 on its financial condition, results of operations or cash flows over the foreseeable future.

As of June 30, 2022, the Company had collected 99% of rental income for the three months ended June 30, 2022. While the Company intends to enforce its contractual rights under its leases, there can be no assurance that tenants will meet their future obligations or that additional rental modification agreements will not be necessary.

Note 2 – Summary of Significant Accounting Policies

Basis of Presentation and Principles of Consolidation

These condensed consolidated financial statements have been prepared in accordance with the instructions to Form 10-Q of the Securities and Exchange Commission ("SEC") and should be read in conjunction with the consolidated financial statements and notes thereto included in our Annual Report on Form 10-K, (the "Annual Report"), for the year ended December 31, 2021. Certain footnote disclosures which would substantially duplicate those contained in our Annual Report have been condensed or omitted from this quarterly report. In the opinion of management, all adjustments necessary for a fair presentation (which include only normal recurring adjustments) have been included in this quarterly report. Operating results for the three and six months ended June 30, 2022 may not be indicative of the results that may be expected for any other interim period or for the year ending December 31, 2022. Capitalized terms used, but not defined in this quarterly report, have the same meanings as set forth in our Annual Report, as amended by Amendment No. 1 on Form 10-K/A filed with the SEC on May 2, 2022.

The accompanying condensed consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States ("GAAP"). The condensed consolidated financial statements include the accounts of the Company, the Operating Partnership, each of their consolidated properties, and all other entities in which the Company has a controlling financial interest. For entities that meet the definition of a variable interest entity ("VIE"), the Company consolidates those entities when the Company is the primary beneficiary of the entity. The Company is determined to be the primary beneficiary when it possesses both the unilateral power to direct activities that most significantly impact the economic performance of the VIE and the obligation to absorb losses or the right to receive benefits that could potentially be significant to the VIE. The Company continually evaluates whether it qualifies as the primary beneficiary and reconsiders its determination of whether an entity is a VIE upon reconsideration events. As of June 30, 2022, the Company consolidates two VIEs in which we are considered the primary beneficiary, as the Company has the power to direct the activities of the entities, specifically surrounding the development plan. As of June 30, 2022 and December 31, 2021, the Company has several investments in unconsolidated VIEs and does not consolidate these entities because the Company is not the primary beneficiary. All intercompany accounts and transactions have been eliminated.

As of June 30, 2022, the Company holds a 77.9% interest in the Operating Partnership and is the sole general partner which gives the Company exclusive and complete responsibility for the day-to-day management, authority to make decisions, and control of the Operating Partnership. The Company has determined that the Operating Partnership is a VIE as the limited partners in the Operating Partnership, although entitled to vote on certain matters, do not possess kick-out rights or substantive participating rights. The Company consolidates its interest in the Operating Partnership. The assets and liabilities of the Operating Partnership are the same as those of the Company and are presented in the condensed consolidated balance sheets.

To the extent such variable interests are in entities that are not evaluated under the VIE model, the Company evaluates its interests using the voting interest entity model.

Certain prior period amounts, if any, have been reclassified to conform to the current period's presentation.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. The most significant assumptions and estimates relate to real estate impairment assessments and assessing the recoverability of accounts receivable. These estimates are based on historical experience and other assumptions which management believes are reasonable under the circumstances. Management evaluates its estimates on an ongoing basis and makes revisions to these estimates and related disclosures as experience develops or new information becomes known. Actual results could differ from these estimates.

Segment Reporting

The Company currently operates in a single reportable segment which includes the ownership, development, redevelopment, management, sale and leasing of real estate properties. The Company's chief operating decision maker, its principal executive officer, assesses and measures the operating and financial results for each property on an individual basis and does not distinguish or group properties based on geography, size, or type. The Company, therefore, aggregates all properties into one reportable segment due to their similarities with regard to the nature and economics of the properties, tenants, and operational process.

Real Estate Investments

Real estate assets are recorded at cost, less accumulated depreciation and amortization.

Expenditures for ordinary repairs and maintenance will be expensed as incurred. Significant renovations which improve the property or extend the useful life of the assets are capitalized. As real estate is undergoing redevelopment activities, all amounts directly associated with and attributable to the project, including planning, development and construction costs, interest costs, personnel costs of employees directly involved, and other miscellaneous costs incurred during the period of redevelopment, are capitalized. The capitalization period begins when redevelopment activities are underway and ends when the project is substantially complete.

Depreciation of real estate assets, excluding land, is recognized on a straight-line basis over their estimated useful lives which generally range between:

Buildings:	25 – 40 years
Site improvements:	5 – 15 years
Tenant improvements:	shorter of the estimated useful life or non-cancelable term of lease

The Company amortizes identified intangibles that have finite lives over the period they are expected to contribute directly or indirectly to the future cash flows of the property or business acquired, generally the remaining non-cancelable term of a related lease.

The Company, on a periodic basis, assesses whether there are indicators, including macroeconomic conditions, that the value of the real estate assets may be impaired. If an indicator is identified, management will estimate the real estate asset recoverability based on projected operating cash flows (undiscounted and unleveraged), taking into account the anticipated holding period and capitalization rates, to determine if the undiscounted cash flows are less than a real estate asset's carrying value. If the carrying value of an asset exceeds the undiscounted cash flows, an analysis is performed to determine the estimated fair value of the real estate asset. In estimating the fair value of an asset, various factors are considered, including expected future operating income, trends and leasing prospects and the effects of demand, competition, and other economic factors such as discount rates and market comparables. Changes in any estimates and/or assumptions, including the anticipated holding period, could have a material impact on the projected operating cash flows. If management determines that the carrying value of a real estate asset is impaired, a loss will be recorded for the excess of its carrying amount over its estimated fair value. As discussed in Note 4, The Company recognized impairment charges of $109.3 million and $64.5 million during the three months ended June 30, 2022 and 2021, respectively, and impairment charges of $110.3 million and $66.2 million during the six months ended June 30, 2022 and 2021 respectively.

Real Estate Dispositions

When the Company disposes of all or a portion of a real estate asset, it recognizes a gain or loss on sale of real estate as the difference between the carrying value and consideration received. Consideration consists of cash proceeds received and in certain circumstances, non-cash consideration which is typically in the form of equity and is reported in equity in loss of unconsolidated entities on the Company's condensed consolidated statements of operations. Refer to Note 4 for more information on the Company's unconsolidated entity transactions.

The following table summarizes our gain on sale of real estate, net during the three and six months ended June 30, 2022 and 2021 (in millions):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Dispositions to third parties				
Gross proceeds	$ 163.4	$ 80.0	$ 172.3	$ 126.9
Gain on sale of real estate, net	68.0	18.1	67.0	42.3

Real Estate Held for Sale

When a real estate asset is identified by management as held for sale, the Company ceases depreciation of the asset and estimates its fair value, net of estimated costs to sell. If the estimated fair value, net of estimated costs to sell, of an asset is less than its net carrying value, an adjustment is recorded to reflect the estimated fair value. Properties classified as real estate held for sale generally represent properties that are either under contract for sale or have been identified for sale and all requirements to sell have been satisfied and are probable to close within a year.

In evaluating whether a property meets the held for sale criteria, the Company makes a determination as to the point in time that it is probable that a sale will be consummated. Given the nature of all real estate sales contracts, it is not unusual for such contracts to allow potential buyers a period of time to evaluate the property prior to formal acceptance of the contract. In addition, certain other matters critical to the final sale, such as financing arrangements, often remain pending even upon contract acceptance. As a result, properties under contract may not close within the expected time period or at all.

As of June 30, 2022, 24 properties, including 5 partial sites and pad sites, were classified as held for sale with assets of $117.0 million and no liabilities, and, as of December 31, 2021, no properties were classified as held for sale.

Investments in Unconsolidated Entities

The Company accounts for its investments in unconsolidated entities using the equity method of accounting as the Company exercises significant influence but does not have a controlling financial interest. These investments are initially recorded at cost and are subsequently adjusted for cash contributions, cash distributions, and earnings which are recognized in accordance with the terms of the applicable agreement.

On a periodic basis, management assesses whether there are indicators, including the operating performance of the underlying real estate and general market conditions which include macroeconomic conditions, that the value of the Company's investments in unconsolidated entities may be impaired. An investment's value is impaired if management's estimate of the fair value of the Company's investment is less than its carrying value and such difference is deemed to be other-than-temporary. To the extent impairment has occurred, the loss is measured as the excess of the carrying amount of the investment over its estimated fair value.

The Company recorded $32.5 million in impairment losses in investments in unconsolidated entities for the three and six months ended June 30, 2022. There were no impairment losses in investments in unconsolidated entities for the three and six months ended June 30, 2021.

Restricted Cash

As of June 30, 2022 and December 31, 2021, restricted cash represents cash collateral for a letter of credit.

Rental Revenue Recognition and Tenant Receivables

Rental income is comprised of base rent and reimbursements of property operating expenses. The Company commences rental revenue recognition when the lessee takes control of the physical use of the leased asset based on evaluation of several factors. Base rent is recognized on a straight-line basis over the non-cancelable terms of the related leases. For leases that have fixed and measurable base rent escalations, the difference between such rental income earned and the cash rent due under the provisions of the lease is recorded as straight-line rent receivable and included as a component of tenant and other receivables on the condensed consolidated balance sheets. Reimbursement of property operating expenses arises from tenant leases which provide for the recovery of all or a portion of the operating expenses and real estate taxes of the respective property. This revenue is accrued in the same periods as the expenses are incurred.

The Company periodically reviews its receivables for collectability, taking into consideration changes in factors such as the tenant's payment history, the financial condition of the tenant, business conditions in the industry in which the tenant operates, and economic conditions in the area where the property is located. Tenant receivables, including receivables arising from the straight-lining of rents, are written-off directly when management deems that the collectability of substantially all future lease payments from a specified lease is not probable of collection, at which point, the Company will begin recognizing revenue on a cash basis, based on actual amounts received. Any receivables that are deemed to be uncollectible are recognized as a reduction to rental income in the Company's condensed consolidated statements of operations. If future circumstances change such that the Company believes that it is reasonably certain that the Company will collect all rental income remaining on such leases, the Company will resume accruing rental income and recognize a cumulative catch up for previously written-off receivables.

The Company recorded a reduction to rental income of $0.4 million and an increase to rental income of $0.8 million during the three months ended June 30, 2022 and 2021, respectively, as a result of the Company's evaluation of collectability. The Company recorded a reduction to rental income of $0.2 million and an increase to rental income of $1.0 million during the six months ended June 30, 2022 and 2021, respectively. In addition, the Company also recorded a reversal of previously recorded straight-line rent of $0.1 million for the three and six months ended June 30, 2022. The Company also recorded income of previously reserved straight-line rent of $0.5 million and a reduction of income of previously recorded straight-line rent of $0.5 million for the three and six months ended June 30, 2021, respectively. During the three and six months ended June 30, 2022, the Company recorded an increase to rental income of $0.2 million and $0.1 million related to the allowance for deferral agreements, respectively. During the three and six months ended June 30, 2021, the Company recorded an increase to rental income of $0.4 million and $0.5 million related to the allowance for deferral agreements.

Due to the COVID-19 pandemic, the Company has entered into amendments to existing leases with certain tenants (the "Rent Deferral Agreements"), that provide for the deferral of all or some portion of rental payments due during the period which such tenant was affected by the COVID-19 pandemic ("Deferred Rent"). The Rent Deferral Agreements typically provide for repayment of the Deferred Rent within six to 12 months following the end of the rent deferral period and, in many instances, waive certain other conditions in favor of the Company while Deferred Rent is outstanding. Deferred Rent generally becomes immediately due and payable under the Rent Deferral Agreements if the tenant does not make the minimum contractual payments or otherwise defaults on the lease. We recognize lease concessions related to the COVID-19 pandemic such as rent deferrals and abatements in accordance with the Lease Modification Q&A issued by the Financial Accounting Standards Board, ("FASB"), in April 2020, which provides entities with the option to elect to account for lease concessions as though the enforceable rights and obligations existed in the original lease. As a result, the Company has not adjusted accrued rental revenues or the portion of accrued rental revenues related to the straight-line method for the portion which has been deferred. When the Deferred Rents are repaid, the Company will relieve the accrual in tenant and other receivables.

In leasing tenant space, the Company may provide funding to the lessee through a tenant allowance. In accounting for a tenant allowance, the Company will determine whether the allowance represents funding for the construction of leasehold improvements and evaluate the ownership of such improvements. If the Company is considered the owner of the improvements for accounting purposes, the Company will capitalize the amount of the tenant allowance and depreciate it over the shorter of the useful life of the improvements or the related lease term. If the tenant allowance represents a payment for a purpose other than funding leasehold improvements, or in the event the Company is not considered the owner of the improvements for accounting purposes, the allowance is considered a lease incentive and is recognized over the lease term as a reduction of rental revenue on a straight-line basis.

Tenant and Other Receivables

Tenant and other receivables includes unpaid amounts billed to tenants, accrued revenues for future billings to tenants for property expenses, and amounts arising from the straight-lining of rent, as discussed above. Tenant and other receivables also includes management fees receivable for services performed for the benefit of certain unconsolidated entities. In the event that the collectability of a management fee receivable is in doubt, a provision for uncollectible amounts will be established or a direct write-off of the specific receivable will be made.

Management and Other Fee Income

Management and other fee income represents property management, construction, leasing and development fees for services performed for the benefit of certain unconsolidated entities.

Property management fee income is reported at 100% of the revenue earned from such unconsolidated properties in management and other fee income on the condensed consolidated statements of operations. The Company's share of management expenses incurred by the unconsolidated entities is reported in equity in loss of unconsolidated entities on the condensed consolidated statements of operations and in other expenses in the combined financial data in Note 4.

Leasing and development fees are initially reported at the portion of revenue earned attributable to outside ownership of the related unconsolidated entities. The Company's share in leasing and development fee income is recognized over the useful life of the associated development project, in the case of development fees, or lease term, in the case of leasing fees, as the associated asset is depreciated over the same term and included in equity in loss of unconsolidated entities on the condensed consolidated statements of operations and in other expenses in the combined financial data in Note 4.

Management determined that property and asset management and construction and development management services each represent a series of stand-ready performance obligations satisfied over time with each day of service being a distinct performance obligation. For property and asset management services, the Company is typically compensated for its services through a monthly management fee earned based on a specified percentage of monthly rental income or rental receipts generated from the property under management. For construction and development services, the Company is typically compensated for planning, administering and monitoring the design and construction of projects within our unconsolidated entities based on a percentage of project costs or a fixed fee. Revenues from such management contracts are recognized over the life of the applicable contract.

Conversely, leasing services are considered to be performance obligations, satisfied as of a point in time. The Company's leasing fee is typically paid upon the occurrence of certain contractual event(s) that may be contingent and the pattern of revenue recognition may differ from the timing of payment. For these services, the obligations are typically satisfied at lease execution and tenant opening date, and revenue is recognized in accordance with the related agreement at the point in time when the obligation has been satisfied.

Share-Based Compensation

The Company generally recognizes equity awards to employees as compensation expense and includes such expense within general and administrative expenses in the condensed consolidated statements of operations. Compensation expense for equity awards is based on the grant date fair value of the awards. Compensation expense is recognized ratably over the vesting period for awards with time-based vesting and awards with market-based vesting conditions (e.g. total shareholder return). For awards with performance-based vesting determined by Company operating criteria, the Company recognizes compensation expense at the date the achievement of performance criteria is deemed probable for the amount which would have been recognized ratably from the date of the grant through the date the achievement of performance criteria is deemed probable, and then ratably from the date the achievement of performance criteria is deemed probable through the remainder of the vesting period. The Company utilizes a third-party valuation firm to measure the grant date fair value of restricted stock unit awards with market-based criteria using the Monte Carlo model. Forfeitures are recorded on an actual basis.

Concentration of Credit Risk

Concentrations of credit risk arise when a number of operators, tenants, or obligors related to the Company's investments are engaged in similar business activities, or activities in the same geographic region, or have similar economic features that would cause their ability to meet contractual obligations, including those to the Company, to be similarly affected by changes in economic conditions. Management believes the Company's portfolio is reasonably diversified and does not contain any significant concentrations of credit risk. As of June 30, 2022, the Company has one tenant that comprises 13.8% of annualized based rent, with no other tenants exceeding 10.0% of annualized based rent. The Company's portfolio of 125 Consolidated Properties and 25 Unconsolidated Properties was diversified by location across 37 states and Puerto Rico.

Earnings/(Loss) per Share

The Company has three classes of common stock. The rights, including the liquidation and dividend rights, of the holders of the Company's Class A common shares and Class C non-voting common shares are identical, except with respect to voting. As the liquidation and dividend rights are identical, the undistributed earnings are allocated on a proportionate basis. The net earnings (loss) per share amounts are the same for Class A and Class C common shares because the holders of each class are legally entitled to equal per share distributions whether through dividends or in liquidation. Since August 29, 2018, all outstanding Class C common shares had been exchanged for Class A common shares and there are currently no Class C common shares outstanding.

Class B non-economic common shares are excluded from earnings per share computations as they do not have economic rights. Since December 31, 2020, all outstanding Class B common shares have been surrendered and there are currently no Class B common shares outstanding.

All outstanding non-vested shares that contain non-forfeitable rights to dividends are considered participating securities and are included in computing earnings per share pursuant to the two-class method which specifies that all outstanding non-vested share-based payment awards that contain non-forfeitable rights to distributions are considered participating securities and should be included in the computation of earnings per share.

Income Taxes

The condensed consolidated financial statements reflect provisions for federal, state and local income taxes. The Company recognizes deferred tax assets and liabilities for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax basis, as well as operating loss and tax credit carryforwards. The Company measures deferred tax assets and liabilities using enacted tax rates expected to apply to taxable income in the years in which those temporary differences and carryforwards are expected to be recovered or settled. The effect on deferred tax assets and liabilities as a result of a change in tax rates is recognized as income in the period that includes the enactment date. For years prior to 2022, the Company was taxed as a REIT and did not expect to pay federal, state or local income taxes at the REIT level (including its qualified REIT subsidiaries). While a REIT, the Company was required to distribute at least 90% of its REIT level taxable income to shareholders, and the resulting dividends paid deduction offset its REIT taxable income. Consequently, while a REIT, since the Company did not expect to pay taxes on its REIT taxable income, it did not recognize deferred tax assets or liabilities.

Deferred income taxes are determined based on the estimated future tax effects of differences between the financial statement and tax basis of assets and liabilities given the provisions of enacted tax laws. Significant judgments are required to determine the consolidated provision (benefit) for income taxes. Deferred income tax provisions and benefits are based on changes to the assets or liabilities from year to year. Realization of the Company's deferred tax assets is dependent upon many factors such as tax regulations applicable to the jurisdictions in which the Company operates, estimates of future taxable income and the character of such taxable income.

Deferred tax assets are reduced by a valuation allowance when it is more likely than not that some portion or all of the deferred tax assets will not be realized. A valuation allowance is recorded to adjust net deferred tax assets to the amount which management believes will more likely than not be recoverable. In making such determination, management considers available positive and negative evidence, including future reversals of existing taxable temporary differences, future taxable income, and the implementation of prudent tax planning strategies. In the event that the Company is able to utilize its deferred tax assets in excess of their recorded amount, the valuation allowance will be reduced with a corresponding reduction to income tax expense.

Recently Issued Accounting Pronouncements

The Company has not adopted any Accounting Standards Updates ("ASUs") issued by the FASB during the three and six months ended June 30, 2022. Any other recently issued accounting standards or pronouncements not disclosed have been excluded as they either are not applicable to the Company, or they are not expected to have a material effect on the condensed consolidated financial statements of the Company.

Note 3 – Lease Intangible Assets and Liabilities

The following tables summarize the Company's lease intangible assets (acquired in-place leases and above-market leases) and liabilities (acquired below-market leases, which is included in accounts payable, accrued expenses and other liabilities on the consolidated balance sheets), net of accumulated amortization, as of June 30, 2022 and December 31, 2021 (in thousands):

June 30, 2022

Lease Intangible Assets	Gross Asset	Accumulated Amortization	Balance
In-place leases, net	$ 23,982	$ (14,361)	$ 9,621
Above-market leases, net	2,485	(1,811)	674
Total	$ 26,467	$ (16,172)	$ 10,295

Lease Intangible Liabilities	Gross Liability	Accumulated Amortization	Balance
Below-market leases, net	$ 4,731	$ (1,736)	$ 2,995
Total	$ 4,731	$ (1,736)	$ 2,995

December 31, 2021

Lease Intangible Assets	Gross Asset	Accumulated Amortization	Balance
In-place leases, net	$ 30,071	$ (16,670)	$ 13,401
Above-market leases, net	3,925	(2,509)	1,416
Total	$ 33,996	$ (19,179)	$ 14,817

Lease Intangible Liabilities	Gross Liability	Accumulated Amortization	Balance
Below-market leases, net	$ 5,802	$ (2,146)	$ 3,656
Total	$ 5,802	$ (2,146)	$ 3,656

Amortization of acquired below-market leases, net of acquired above-market leases, resulted in additional rental income of $0.1 million for the three and six months ended June 30, 2022 and 2021, respectively. Amortization of an acquired below-market ground lease resulted in additional property expense of $0.1 million for the three and six months ended June 30, 2022 and 2021, respectively. Amortization of acquired in-place leases resulted in additional depreciation and amortization expense of $0.6 million and $0.8 million for the three months ended June 30, 2022 and 2021, respectively and $1.3 million and $1.6 million for the six months ended June 30, 2022 and 2021, respectively. Future amortization of these leases intangibles is set forth below (in thousands):

	(Above) / below market leases, net	Below market ground lease	In-place leases
Remainder of 2022	$ (7)	$ 101	$ 1,159
2023	(2)	203	1,506
2024	22	203	979
2025	85	203	725
2026	166	203	478
2027	166	203	392
Thereafter	1,885	9,230	4,501

Note 4 – Investments in Unconsolidated Entities

The Company conducts a portion of its property rental activities through investments in unconsolidated entities. The Company's partners in these unconsolidated entities are unrelated real estate entities or commercial enterprises. The Company and its partners in these unconsolidated entities make initial and/or ongoing capital contributions to these unconsolidated entities. The obligations to make capital contributions are governed by each unconsolidated entity's respective operating agreement and related governing documents.

As of June 30, 2022, the Company had investments in 11 unconsolidated entities as follows:

Unconsolidated Entities	Entity Partner(s)	Seritage % Ownership	# of Properties	Total GLA
GS Portfolio Holdings II LLC ("GGP I JV")	Brookfield Properties Retail (formerly GGP Inc.)	50.0%	3	402,900
GS Portfolio Holdings (2017) LLC ("GGP II JV")	Brookfield Properties Retail (formerly GGP Inc.)	50.0%	3	474,100
MS Portfolio LLC ("Macerich JV")	The Macerich Company	50.0%	7	1,266,600
SPS Portfolio Holdings II LLC ("Simon JV")	Simon Property Group, Inc.	50.0%	5	872,200
Mark 302 JV LLC ("Mark 302 JV")	An investment fund managed by Invesco Real Estate	50.0%	1	103,000
SI UTC LLC ("UTC JV")	A separate account advised by Invesco Real Estate	50.0%	1	226,200
SF WH Joint Venture LLC ("West Hartford JV")	An affiliate of First Washington Realty	50.0%	1	163,700
GGCAL SRG HV LLC ("Cockeysville JV")	An affiliate of Greenberg Gibbons	50.0%	1	160,200
Tech Ridge JV Holding LLC ("Tech Ridge JV")	An affiliate of RD Management	50.0%	1	—
J&J Baldwin Park LLC ("Carson Investment")	An affiliate of NewMark Merrilll Companies and other entities	20.0%	1	182,200
Landmark Land Holdings, LLC ("Landmark JV")	Landmark Holdings, LLC	31.3%	1	—
			25	3,851,100

The Company has contributed certain properties to unconsolidated entities in exchange for equity interests in those unconsolidated entities. The contribution of property to unconsolidated entities is accounted for as a sale of real estate and the Company recognizes the gain or loss on the sale (the "Gain (Loss)") based upon the transaction price attributed to the property at the closing of the unconsolidated entities transaction (the "Contribution Value"). The Gain or (Loss) is included in gain on sale of real estate on the condensed consolidated statements of operations.

In certain circumstances, the Contribution Value is subject to revaluation as defined in the respective unconsolidated entity agreements, which may result in an adjustment to the gain or loss recognized. If the Contribution Value is subject to revaluation, the Company initially recognizes the gain or loss at the value that is the expected amount within the range of possible outcomes and will re-evaluate the expected amount on a quarterly basis through the final determination date.

Upon revaluation, the primary inputs in determining the Contribution Value will be updated for actual results and may result in a cash settlement or capital account adjustment between the unconsolidated entity partners, as well as an adjustment to the initial gain or loss.

Each reporting period, the Company re-analyzes the primary inputs that determine the Contribution Value and the gain or loss for those unconsolidated entities subject to a revaluation. The following table summarizes the properties contributed to the Company's unconsolidated entities (in millions):

		June 30, 2022	
Unconsolidated Entities	**Contribution Date**	**Contribution Value**	**Gain (Loss)**
2018			
Mark 302 JV (1)	March 20, 2018	$ 60.0	$ 8.8
2019			
Cockeysville JV (2)	March 29, 2019	$ 14.6	$ 5.9
Tech Ridge JV (3)	September 27, 2019	$ 3.0	$ 0.1

(1) The Mark 302 JV was subject to a revaluation which resulted in the Company adjusting the Contribution Value down to $60.0 million and reduced the Gain (Loss) by $30.0 million. As of September 30, 2021, the amended determination date, there has been no change to the adjusted Contribution Value and the final Contribution Value is $60.0 million.

(2) The Cockeysville JV is subject to revaluation upon our partner contributing an adjacent parcel of land (the "Additional Land Parcel") to the joint venture which was conditioned on certain milestones being met with respect to entitling the Additional Land Parcel for residential use. As of December 31, 2021, the parcel has been entitled and, with our consent, the partner entered a sales contract with a third party for the land. As a result, the Company received its share of the proceeds from the sale in lieu of the parcel being contributed to the venture and recorded an additional gain of $2.1 million during the year ended December 31, 2021. The Company has determined that the final contribution value is $14.6 million.

(3) The Tech Ridge JV is subject to a revaluation primarily based upon the number of residential units constructed by the Tech Ridge JV. The Contribution Value cannot be less than $2.75 million.

The following tables present combined condensed financial data for the Company's unconsolidated entities (in thousands):

	June 30, 2022	December 31, 2021
ASSETS		
Investment in real estate		
Land	$ 396,463	$ 410,323
Buildings and improvements	564,455	528,854
Accumulated depreciation	(109,708)	(96,856)
	851,210	842,321
Construction in progress	162,236	206,109
Net investment in real estate	1,013,446	1,048,430
Cash and cash equivalents	52,764	50,279
Investment in unconsolidated entities	54,760	53,215
Tenant and other receivables, net	4,939	7,914
Other assets, net	28,492	33,812
Total assets	$ 1,154,401	$ 1,193,650
LIABILITIES AND MEMBERS' INTERESTS		
Liabilities		
Mortgage loans payable, net	$ 56,075	$ 56,075
Accounts payable, accrued expenses and other liabilities	58,807	56,398
Total liabilities	114,882	112,473
Members' Interest		
Additional paid in capital	1,108,127	1,097,842
Retained earnings (accumulated deficit)	(68,608)	(16,665)
Total members' interest	1,039,519	1,081,177
Total liabilities and members' interest	$ 1,154,401	$ 1,193,650

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Total revenue	$ 7,919	$ 6,526	$ 15,759	$ 14,255
Property operating expenses	(3,110)	(2,834)	(7,036)	(5,413)
Depreciation and amortization	(6,503)	(6,563)	(14,011)	(13,044)
Operating income / (loss)	(1,694)	(2,871)	(5,288)	(4,202)
Other expenses	(826)	(1,676)	(2,260)	(2,719)
Gains, losses and impairments	(32,474)	—	(93,614)	—
Net loss	$ (34,994)	$ (4,547)	$ (101,162)	$ (6,921)
Equity in loss of unconsolidated entities (1)	$ (33,720)	$ (2,327)	$ (66,796)	$ (3,489)

(1) Equity in loss of unconsolidated entities on the condensed consolidated statements of operations includes basis difference adjustments.

The Company shares in the profits and losses of these unconsolidated entities generally in accordance with the Company's respective equity interests. In some instances, the Company may recognize profits and losses related to investment in an unconsolidated entity that differ from the Company's equity interest in the unconsolidated entity. This may arise from impairments that the Company recognizes related to its investment that differ from the impairments the unconsolidated entity recognizes with respect to its assets, differences between the Company's basis in assets it has transferred to the unconsolidated entity and the unconsolidated entity's basis in those assets or other items. During the quarter ended June 30, 2022, in conjunction with the Plan of Sale, the Company recognized a change in plan to reduce the holding periods of all its investments in unconsolidated entities, which triggered the need for an impairment analysis pursuant to ASC 323, *Equity Method and Joint Ventures*. The Company utilized appraisals and third-party prepared fair value estimates as well as negotiated offers to sell the investments for the impairment analysis. As a result of the Company's analysis, other-than-temporary impairment of $32.5 million was recorded against equity method investments in three unconsolidated entities for the three and six months ended June 30, 2022. No such impairment was recorded for the three and six months ended June 30, 2021. This impairment is included in the equity in loss of unconsolidated entities line in the condensed consolidated statements of operations.

During the three and six months ended June 30, 2022, the Company exercised the put rights that is has on two and four Unconsolidated Properties, respectively. One of the Company's partners considered this to be a triggering event to assess impairment on its underlying assets pursuant to ASC 360, *Property, Plant and Equipment*, and recorded impairment on two Unconsolidated Properties of $0 million and $61.1 million for the three and six months ended June 30, 2022, respectively. There was no impairment recorded on Unconsolidated Properties for the three and six months ended June 30, 2021. Subsequent to June 30, 2022, the Company exercised put rights on an additional two Unconsolidated Properties, closed on the sale of two of the previously exercised put rights, and sold its interest in one Unconsolidated Entity.

Unconsolidated Entity Management and Related Fees

The Company acts as the operating partner and day-to-day manager for the Mark 302 JV, the West Hartford JV, the UTC JV, and Tech Ridge JV. The Company is entitled to receive certain fees for providing management, leasing, and construction supervision services to certain of its unconsolidated entities. Refer to Note 2 for the Company's accounting policies.

Note 5 – Leases

Lessor Disclosures

Future minimum rental receipts, excluding variable payments and tenant reimbursements of expenses, under non-cancelable operating leases executed as of June 30, 2022 are approximately as follows:

(in thousands)	June 30, 2022
Remainder of 2022	$ 43,779
2023	84,576
2024	81,785
2025	81,869
2026	78,034
2027	75,329
Thereafter	304,450
Total	$ 749,822

The components of lease revenues for the three and six months ended June 30, 2022 and 2021 were as follows:

(in thousands)	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Fixed rental income	$ 21,341	$ 23,135	$ 45,119	$ 45,407
Variable rental income	4,482	3,222	9,083	12,268
Total rental income	$ 25,823	$ 26,357	$ 54,202	$ 57,675

Lessee Disclosures

The Company has one ground lease and one corporate office lease which are classified as operating leases. As of June 30, 2022, and December 31, 2021, the outstanding amount of right-of-use, or ROU, assets were $16.6 million and $17.0 million, respectively, which is included in prepaid expenses, deferred expenses and other assets, net on the condensed consolidated balance sheets.

The Company recorded rent expense related to leased corporate office space of $0.2 million and $0.3 million for the three months ended June 30, 2022 and 2021, respectively. The Company recorded rent expense related to leased corporate office space of $0.5 million and $0.7 million for the six months ended June 30, 2022 and 2021, respectively. Such rent expense is classified within general and administrative expenses in the condensed consolidated statements of operations.

In addition, the Company recorded ground rent expense of approximately $0.1 million for the three and six months ended June 30, 2022 and 2021. Such ground rent expense is classified within property operating expenses in the condensed consolidated statements of operations. The ground lease requires the Company to make fixed annual rental payments and expires in 2073 assuming all extension options are exercised.

The Company expects to make cash payments on operating leases of $0.5 million in 2022, $1.1 million in 2023, $1.2 million in 2024, $1.2 million in 2025, $1.2 million in 2026, $1.2 million in 2027 and $2.9 million for the periods thereafter. The present value discount is ($3.0) million.

The following table sets forth information related to the measurement of our lease liabilities as of June 30, 2022:

	June 30, 2022
Weighted average remaining lease term (in years)	9.65
Weighted average discount rate	6.98 %
Cash paid for operating leases (in thousands)	$ 847

Sale-leaseback Financing Obligations

During the year ended December 31, 2020, the Company completed a sale-leaseback transaction of a property in Hialeah, Florida for $21.0 million which is included in sales-leaseback financing obligations on the condensed consolidated balance sheets. As part of the sale-leaseback transaction, the Company agreed to lease all land and improvements on the land for a fixed term of 25 years at an initial base rent of $1.5 million per annum which will increase by 1.5% per year thereafter. For the initial periods of the sale-leaseback, cash payments are less than the interest expense recognized, which causes the obligation to increase during the initial years of the lease term. The implied interest rate is approximately 7.00%. The Company has a purchase option during years four, five or seven of the 25-year term to reacquire, solely at the Company's option, the Hialeah property at a predetermined price. The Hialeah property continues to be reflected as a long-lived asset and depreciated over its remaining useful life.

Future sale-leaseback financing obligations as of June 30, 2022 are approximately as follows:

(in thousands)	June 30, 2022
Remainder of 2022	$ 734
2023	1,486
2024	1,508
2025	1,531
2026	1,554
2027	1,577
Thereafter	32,445
Interest	(20,183)
Total	$ 20,652

Subsequent to June 30, 2022, the Company repurchased the property and concurrently sold it to another buyer, thus terminating the sales-leaseback financing obligation.

Original Master Lease and Holdco Master Lease

On February 28, 2019, the Company and certain affiliates of Transform Holdco LLC ("Holdco"), an affiliate of ESL Investments, Inc., executed the Holdco Master Lease (the "Holdco Master Lease") which became effective on March 12, 2019 when the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") issued an order approving the rejection of the Original Master Lease. The Company analyzed this transaction under applicable accounting guidance and determined that the termination of the Original Master Lease and entering into the Holdco Master Lease should be accounted for as a modification. The Holdco Master Lease provided the Company with the right to recapture the space occupied by the tenant at all properties (other than five specified properties) and the right to recapture any automotive care centers which are free-standing or attached as "appendages" to the properties, all outparcels or outlots and certain portions of parking areas and common areas. Under the terms of the Holdco Master Lease, Holdco had the right, at any time, to terminate the Holdco Master Lease with respect to any property upon the payment of a termination fee equal to one year of base rent plus annual taxes and other operating expenses. Sears Holdings exercised termination rights with respect to 87 properties under the Original Master Lease prior to its rejection on March 12, 2019 and Holdco exercised termination rights with respect to all remaining properties under the Holdco Master Lease during the year ended December 31, 2020, with the remaining five properties effective in March 2021.

Revenues from the Holdco Master Lease as amended by the Amendment, and the Original Master Lease for the three months ended June 30, 2022 and 2021 are as follows (in thousands). No straight line rental income was recorded during these periods.

(in thousands)	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Fixed rental income	$ —	$ —	$ —	$ —
Variable rental income	—	—	—	4,510
Total rental income	$ —	$ —	$ —	$ 4,510

Note 6 – Debt

Term Loan Facility

On July 31, 2018, the Operating Partnership, as borrower, and the Company, as guarantor, entered into a Senior Secured Term Loan Agreement (the "Term Loan Agreement") providing for a $2.0 billion term loan facility (the "Term Loan Facility") with Berkshire Hathaway Life Insurance Company of Nebraska ("Berkshire Hathaway") as lender and administrative agent. The Term Loan Facility provided for an initial funding of $1.6 billion at closing and includes a $400.0 million incremental funding facility (the "Incremental Funding Facility") subject to certain conditions described below. The Term Loan Facility matures on July 31, 2023, with the ability to extend based on meeting certain criteria.

Funded amounts under the Term Loan Facility bear interest at an annual rate of 7.0% and unfunded amounts under the Incremental Funding Facility are subject to an annual fee of 1.0% until drawn. The Company prepays the annual fee and amortizes the expense to interest expense on the condensed consolidated statements of operations.

On December 31, 2021, the Company paid down $160 million towards the Term Loan's unpaid principal balance. As of June 30, 2022 and December 31, 2021, the aggregate principal amount outstanding under the Term Loan Facility was $1.44 billion, respectively. Subsequent to June 30, 2022, the Company made a $100.0 million principal paydown, thus bringing the outstanding principal balance down to $1.34 billion at the issuance date.

The Company's ability to access the Incremental Funding Facility is subject to (i) the Company achieving rental income from non-Sears Holdings tenants, on an annualized basis (after giving effect to SNO Leases expected to commence rent payment within 12 months) for the fiscal quarter ending prior to the date of incurrence of the Incremental Funding Facility, of not less than $200 million, (ii) the Company's good faith projection that rental income from non-Sears Holdings tenants (after giving effect to SNO Leases expected to commence rent payment within 12 months) for the succeeding four consecutive fiscal quarters (beginning with the fiscal quarter during which the incremental facility is accessed) will be not less than $200 million, and (iii) the repayment by the Operating Partnership of any deferred interest permitted under the amendment to the Term Loan Amendment as further described below. As of June 30, 2022, the Company has not yet achieved the requirements to access the Incremental Funding Facility.

The Term Loan Facility is guaranteed by the Company and, subject to certain exceptions, is required to be guaranteed by all existing and future subsidiaries of the Operating Partnership. The Term Loan Facility is secured on a first lien basis by a pledge of the capital stock of the direct subsidiaries of the Operating Partnership and the guarantors, including its joint venture interests, except as prohibited by the organizational documents of such entities or any joint venture agreements applicable to such entities, and contains a requirement to provide mortgages and other customary collateral upon the breach of certain financial metrics described below, the occurrence and continuation of an event of default and certain other conditions set forth in the Term Loan Agreement. During 2019, mortgages were recorded on a majority of the Company's portfolio and during the year ended December 31, 2021, mortgages, mortgages were recorded on the remaining unmortgaged properties in all but three locations.

The Term Loan Facility includes certain financial metrics to govern springing collateral requirements and certain covenant exceptions set forth in the Term Loan Agreement, including: (i) a total fixed charge coverage ratio of not less than 1.00 to 1.00 for each fiscal quarter beginning with the fiscal quarter ending September 30, 2018 through the fiscal quarter ending June 30, 2022, and not less than 1.20 to 1.00 for each fiscal quarter thereafter; (ii) an unencumbered fixed charge coverage ratio of not less than 1.05 to 1.00 for each fiscal quarter beginning with the fiscal quarter ending September 30, 2018 through the fiscal quarter ending June 30, 2022, and not less than 1.30 to 1.00 for each fiscal quarter thereafter; (iii) a total leverage ratio of not more than 65%; (iv) an unencumbered ratio of not more than 60%; and (v) a minimum net worth of at least $1.2 billion. Any failure to satisfy any of these financial metrics triggers the springing mortgage and collateral requirements but will not result in an event of default. The Term Loan Facility also includes certain limitations relating to, among other activities, the Company's ability to: sell assets or merge, consolidate or transfer all or substantially all of its assets; incur additional debt; incur certain liens; enter into, terminate or modify certain material leases and/or the material agreements for the Company's properties; make certain investments (including limitations on joint ventures) and other restricted payments; pay distributions on or repurchase the Company's capital stock; and enter into certain transactions with affiliates.

The Term Loan Facility contains customary events of default, including (subject to certain materiality thresholds and grace periods) payment default, material inaccuracy of representations or warranties, and bankruptcy or insolvency proceedings. If there is an event of default, the lenders may declare all or any portion of the outstanding indebtedness to be immediately due and payable, exercise any rights they might have under any of the Term Loan Facility documents, and require the Company to pay a default interest rate on overdue amounts equal to 2.0% in excess of the then applicable interest rate.

As of June 30, 2022, the Company was not in compliance with certain of the financial metrics described above. As a result, the Company was previously required to receive the consent of Berkshire Hathaway to dispose of assets via sale or joint venture and, as of June 30, 2022, Berkshire Hathaway had provided such consent for all such transactions submitted for approval. The Third Term Loan Amendment (defined below) executed on June 16, 2022 eliminates this requirement. The Company believes it is in compliance with all other terms and conditions of the Term Loan Agreement.

The Company incurred $2.1 million of debt issuance costs related to the Term Loan Facility which are recorded as a direct deduction from the carrying amount of the Term Loan Facility and amortized over the term of the Term Loan Agreement. As of June 30, 2022 and December 31, 2021, the unamortized balance of the Company's debt issuance costs were $0.5 million and $0.7 million, respectively.

On May 5, 2020, the Operating Partnership and Berkshire Hathaway entered into an amendment to the Term Loan Agreement (the "First Term Loan Amendment") by and among the Operating Partnership and Berkshire Hathaway as initial lender and administrative agent that permits the deferral of payment of interest under the Term Loan Agreement if, as of the first day of each applicable month, (x) the amount of unrestricted and unencumbered (other than liens created under the Term Loan Agreement) cash on hand of the Operating Partnership and its subsidiaries, minus (y) the aggregate amount of anticipated necessary expenditures for such period (such sum, "Available Cash") is equal to or less than $30.0 million. In such instances, for each interest period, the Operating Partnership is obligated to make payments of interest in an amount equal to the difference between (i) Available Cash and (ii) $20.0 million (provided that such payment shall not exceed the amount of current interest otherwise due under the Term Loan Agreement). Any deferred interest shall accrue interest at 2.0% in excess of the then applicable interest rate and shall be due and payable on July 31, 2023; provided, that the Operating Partnership is required to pay any deferred interest from Available Cash in excess of $30.0 million (unless otherwise agreed to by the administrative agent under the Term Loan Agreement in its sole discretion). In addition, repayment of any outstanding deferred interest is a condition to any borrowings under the $400.0 million Incremental Funding Facility under the Term Loan Agreement. The Company has paid all interest due under the Term Loan Agreement and has not deferred any interest as permitted under the amendment to the Term Loan Amendment.

Additionally, the First Term Loan Amendment provides that the administrative agent and the lenders express their continued support for asset dispositions, subject to the administrative agent's right to approve the terms of individual transactions due to the occurrence of a Financial Metric Trigger Event, as such term is defined under the Term Loan Agreement. The Third Term Loan Amendment (defined below) executed on June 16, 2022 eliminated this right.

On November 24, 2021, the Operating Partnership, the Company and Berkshire Hathaway entered into an amendment (the "Second Term Loan Amendment") to the Term Loan Agreement by and among the Operating Partnership, the Company and Berkshire Hathaway to which the Operating Partnership, the Company and Berkshire Hathaway mutually agreed that (i) the "make whole" provision in the Senior Secured Term Loan Agreement shall not be applicable to prepayments of principal ; and (ii) the Senior Secured Term Loan Agreement, as amended for (i) above, may at the Operating Partnership's election be extended for two years from July 31, 2023 to July 31, 2025 (the "Maturity Date") if its principal has been reduced to $800 million by the July 31, 2023. If it has not been reduced to this limit by the Maturity Date, the loan will be due and payable on that date. In all other respects, the Senior Secured Term Loan Agreement remains unchanged.

On June 16, 2022, the Operating Partnership, the Company and Berkshire Hathaway entered into an amendment (the "Third Term Loan Amendment") to the Term Loan Agreement by and among the Operating Partnership, the Company and Berkshire Hathaway to which the Operating Partnership, the Company and Berkshire Hathaway mutually agreed that notwithstanding anything to the contrary in the asset sale covenant, the parent, borrower, and their respective subsidiaries will be permitted without the consent of the administrative agent to sell, transfer, or otherwise dispose of properties (including but not limited to properties or equity interests of any subsidiary) to unaffiliated third parties for no less than fair market value, provided that the borrower deposits all net proceeds received into a controlled account and the use of such net proceeds will be subject to the terms and conditions of the Term Loan Agreement, including but not limited to the restricted payments and investments/loans covenants.

Note 7 – Income Taxes

The Company had previously elected to be taxed as a REIT as defined under Section 856(c) of the Code for federal income tax purposes upon formation and through December 31, 2021. On March 31, 2022, the Company announced that its Board of Trustees unanimously approved a plan to terminate the Company's REIT status and become a taxable C Corporation, effective for the year ending December 31, 2022. As a result, the Company is no longer required to operate under REIT rules, including the requirement to distribute at least 90% of REIT taxable income to its stockholders, which provides the Company with greater flexibility to use its free cash flow. Effective January 1, 2022, the Company is subject to federal, state and local income taxes on its taxable income at applicable tax rates and is no longer entitled to a tax deduction for dividends paid. The Company operated as a REIT for the 2021 tax year, and existing REIT requirements and limitations, including those established by the Company's organizational documents, remained in place until December 31, 2021.

As a result of the Company's revocation of its REIT status in fiscal year 2022, the Company incurred a one-time, non-cash deferred tax benefit of approximately $160.3 million during the three months ended March 31, 2022. As a result of ongoing operations and sales activity, the Company recognized an additional deferred tax benefit of $40.9 million during the six months ended June 30, 2022. As of June 30, 2022, the Company has recorded a full valuation allowance of $201.2 million against the deferred tax asset pursuant to ASC 740, as discussed in more detail below. While the Company has recorded a full valuation allowance against its DTAs due to the uncertainty that it will be able to utilize them, if the Company is able to sell assets at prices above its tax basis, the DTAs will be utilize to offset any taxes due on those gains to the extent of the DTAs.

The Company's effective tax rate of 0% differs from the U.S. statutory rate of 21% in 2022 primarily due to the placement of a valuation allowance on its deferred tax assets.

The significant components of the Company's deferred tax assets of $201.2 million as of June 30, 2022 consist of basis differences in its investment in the Operating Partnership and net operating losses. As discussed below, the Company has recorded a full valuation allowance on the deferred tax assets as of June 30, 2022. As the Company was a REIT as of December 31, 2021, it reported no deferred tax assets.

Valuation allowances are recorded related to deferred tax assets based on the "more likely than not" criteria. ASC 740 states that deferred tax assets shall be reduced by a valuation allowance if there is insufficient objectively verifiable evidence to support that it is more likely than not that they will be realized. This evaluation requires significant judgment which should be weighted commensurate with the extent to which the evidence can be objectively verified. Additionally, under ASC 740, forming a conclusion that a valuation allowance is not needed is difficult when there is negative evidence such as cumulative losses in recent years. Given the Company's history of cumulative losses combined with the fact that the Company's utilization of deferred tax assets is highly dependent on the outcome of the review of a broad range of strategic alternatives announced by its Board of Trustees and the uncertainty in timing and volume of future property sales, we have deemed that their realization, at this time, cannot be objectively verified. The Company has therefore recorded a full valuation allowance against the Company's deferred tax assets as of June 30, 2022. The Company will evaluate this position each quarter as verifiable positive evidence becomes available, such as the execution of asset sales, to support the future utilization of the deferred tax assets.

Note 8 – Fair Value Measurements

ASC 820, *Fair Value Measurement*, defines fair value and establishes a framework for measuring fair value. The objective of fair value is to determine the price that would be received upon the sale of an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (the "exit price"). ASC 820 establishes a fair value hierarchy that prioritizes observable and unobservable inputs used to measure fair value into three levels:

Level 1 - quoted prices (unadjusted) in active markets that are accessible at the measurement date for assets or liabilities

Level 2 - observable prices based on inputs not quoted in active markets, but corroborated by market data

Level 3 - unobservable inputs used when little or no market data is available

The fair value hierarchy gives the highest priority to Level 1 inputs and the lowest priority to Level 3 inputs. In determining fair value, the Company utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible. The Company also considers counterparty credit risk in its assessment of fair value.

Assets Measured at Fair Value on a Nonrecurring Basis

Assets measured at fair value on a nonrecurring basis on our condensed consolidated balance sheets consist of real estate assets that have been written down to estimated fair value and are classified as Level 3 within the fair value hierarchy.

During the three and six months ended June 30, 2022, in accordance with ASC 360-10, *Property, Plant and Equipment*, the Company recorded impairment losses of $109.3 million and $110.3 million, respectively, on real estate assets which are included in impairment on real estate assets within the condensed consolidated statements of operations. During the three and six months ended June 30, 2022, in accordance with ASC 323, *Equity Method and Joint Ventures*, the Company recorded other than temporary impairment losses of $32.5 million on investments in unconsolidated entities which are included in equity in loss of unconsolidated entities within the condensed consolidated statements of operations. During the three months ended June 30, 2022, the Company, in connection with the strategic review and the Plan of Sale, determined that the best plan for all assets and its investments in unconsolidated entities is to pursue sales. As a result of the foregoing, the Company's anticipated holding periods with respect to certain assets and investments has decreased. This affected the Company's view of recoverability of the carrying value of those assets over their respective holding periods. Of the $109.3 million of impairments recorded during the second quarter, approximately $70.7 million resulted from the change in holding period as a result of the Company's decision to monetize additional assets through sales calculated based on fair value estimates described below. Additionally, $13.7 million of impairment is the result of the Company agreeing to sell certain assets below their carrying value and is driven from negotiated contract values. We continue to evaluate our portfolio, including our development plans and holding periods, which may result in additional impairments in future periods on our consolidated properties. Impairment losses of $64.5 million and $66.2 million were recognized for the three and six months ended June 30, 2021.

The fair value estimates used to determine the impairment charges were determined primarily by discounted cash flow analyses, market comparable data, third-party appraisals/valuations and/or offers received, as applicable. The cash flows utilized in such analyses are comprised of unobservable inputs which include, among other things, estimated revenue and expense growth rates, discount rates and capitalization rates based upon market conditions and future expectations. Comparable data utilizes comparable sales, listings, sales contracts and letters of intent which are subject to judgment as to comparability to the valued property. Because of these inputs, we have determined that the fair values of these properties are classified within Level 3 of the fair value hierarchy.

Financial Assets and Liabilities not Measured at Fair Value

Financial assets and liabilities that are not measured at fair value on the condensed consolidated balance sheets include cash equivalents, restricted cash and the term loan facility. The fair value of cash equivalents and restricted cash are classified as Level 1 and the fair value of term loan facility is classified as Level 2. Cash equivalents and restricted cash are carried at cost, which approximates fair value. The fair value of debt obligations is calculated by discounting the future contractual cash flows of these instruments using current risk-adjusted rates available to borrowers with similar credit ratings. As of June 30, 2022 and December 31, 2021, the estimated fair values of the Company's debt obligations were $1.4 billion and $1.5 billion, respectively, which approximated the carrying value at such dates as the current risk-adjusted rate approximates the stated rates on the Company's debt obligations.

Note 9 – Commitments and Contingencies

Insurance

The Company maintains general liability insurance and all-risk property and rental value, with sub-limits for certain perils such as floods and earthquakes on each of the Company's properties. The Company also maintains coverage for terrorism acts as defined by the Terrorism Risk Insurance Program Reauthorization Act, which expires in December 2027.

Insurance premiums are charged directly to each of the properties. The Company will be responsible for deductibles and losses in excess of insurance coverage, which could be material. The Company continues to monitor the state of the insurance market and the scope and costs of coverage for acts of terrorism. However, the Company cannot anticipate what coverage will be available on commercially reasonable terms in the future.

Environmental Matters

Under various federal, state and local laws, ordinances and regulations, the Company may be considered an owner or operator of real property or may have arranged for the disposal or treatment of hazardous or toxic substances. As a result, the Company may be liable for certain costs including removal, remediation, government fines and injuries to persons and property.

Under the Original Master Lease and the Holdco Master Lease, Holdco is required to indemnify the Company from certain environmental liabilities at the Consolidated Properties before or during the period in which each Consolidated Property was leased to Holdco, including removal and remediation of all affected facilities and equipment constituting the automotive care center. In addition, an environmental reserve was funded at the closing of the transactions in connection with the Company commencing operations in the amount of approximately $12.0 million. As of June 30, 2022 and December 31, 2021, the balance of the environmental reserve was approximately $9.5 million, respectively, and is included in accounts payable, accrued expenses and other liabilities in the condensed consolidated balance sheets.

Litigation and Other Matters

In accordance with accounting standards regarding loss contingencies, the Company accrues an undiscounted liability for those contingencies where the incurrence of a loss is probable and the amount can be reasonably estimated, and the Company discloses the amount accrued and the amount of a reasonably possible loss in excess of the amount accrued or discloses the fact that such a range of loss cannot be estimated. The Company does not record liabilities when the likelihood that the liability has been incurred is probable but the amount cannot be reasonably estimated, or when the liability is believed to be only reasonably possible or remote.

On April 18, 2019, at the direction of the Restructuring Sub-Committee of the Restructuring Committee of the Board of Directors of Sears Holdings, plaintiffs Sears Holdings, Sears, Roebuck & Co., Sears Development Co., Kmart Corporation, and Kmart of Washington, LLC filed a lawsuit (the “Litigation”) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) against, among others, Edward S. Lampert, ESL Investments, Inc. and certain of its affiliates and investors, Fairholme Capital Management, L.L.C., certain members of the Sears Holdings board of directors, and the Company, the Operating Partnership, and certain of our affiliates and subsidiaries (the Company, the Operating Partnership, and certain of our affiliates and subsidiaries collectively, the “Seritage Defendants”). The Litigation is dual captioned as In re: Sears Holdings Corporation, et al., Case No. 18-23538 (RDD) and Sears Holdings Corporation et al., v. Lampert et al., Case No. 19-08250 (RDD). The initial complaint has been superseded by the Amended Complaint, as described below.

On October 15, 2019, the Bankruptcy Court entered an order (the “Confirmation Order”) confirming the Modified Second Amended Joint Chapter 11 Plan of Sears Holdings and its affiliated debtors (the “Chapter 11 Plan”). Pursuant to the terms of the Confirmation Order, upon the effective date of the Chapter 11 Plan, a liquidating trust will be formed, and the Litigation will vest in the liquidating trust. The Confirmation Order further provides that, prior to the effective date of the Chapter 11 Plan and the formation of the liquidating trust, the Litigation shall be controlled by five litigation designees selected by Sears Holdings and the Official Committee of Unsecured Creditors’ (the “Creditors' Committee”). For further information, refer to the Chapter 11 Plan, Confirmation Order and liquidating trust agreement, each of which has been publicly filed with the Bankruptcy Court.

On November 25, 2019, the Creditors’ Committee filed a first amended complaint (the “Amended Complaint”) in the Bankruptcy Court. The Amended Complaint alleges, among other things, that certain transactions undertaken by Sears Holdings since 2011 (including the July 2015 transactions giving rise to Seritage, the execution of the Master Lease with Sears Holdings (the “Original Master Lease”), and the acquisition of real estate from Sears Holdings) constituted actual and/or constructive fraudulent transfers and/or illegal dividends by Sears Holdings and that the real estate acquired by Seritage from Sears Holdings in July 2015 was worth hundreds of millions of dollars more than the purchase price paid. (The Company notes the original complaint filed in the Litigation alleged, among other things, that the real estate acquired by Seritage from Sears Holdings in July 2015 was worth at least $649 million to $749 million more than the purchase price paid.) The Amended Complaint further alleges that certain releases provided to Seritage and certain other defendants in connection with the Sears Holdings derivative litigation in the Delaware Court of Chancery in 2017 should be avoided and/or declared null and void as an actual and/or constructive fraudulent conveyance. The Litigation seeks as relief, among other things, declaratory relief, avoidance of the allegedly actual and/or constructive fraudulent transfers and either (i) rescission of the transfers of real estate from Sears Holdings to Seritage in 2015 and return of the proceeds of the transactions between Sears Holdings and Seritage, or, in the alternative, (ii) payment by Seritage to Sears Holdings of damages at least equal to the value of the transferred property.

On February 21, 2020, the Seritage Defendants filed a partial motion to dismiss seeking dismissal of the claims in the Amended Complaint relating to the release received in the Sears Holdings derivative litigation, unjust enrichment and equitable subordination. Briefing and oral argument on the motions were completed in August 2020, and the parties are awaiting a decision.

On March 15, 2021, the Court consolidated the Litigation with a case captioned Sears Holding Corp. et al. v. Andrew H. Tisch, et al., Case No. 20-07007 (RDD) (the "Shareholder Litigation," and, together with the Litigation, the "Consolidated Litigation"). The Shareholder Litigation was brought by the UCC (as defined below), Sears Holdings Corporation, and Sears, Roebuck and Co., against certain shareholders of Sears Holdings or its related companies. Seritage was not named as a defendant in the Shareholder Litigation, which alleges, among other things, that certain transactions undertaken by Sears Holdings since 2014 (including the July 2015 transactions giving rise to Seritage, the execution of the Original Master Lease with Sears Holdings, and the acquisition of real estate from Sears Holdings) constituted actual and/or constructive fraudulent transfers and/or illegal dividends.

On April 6, 2022, the Court entered an order in the Consolidated Litigation, upon the agreement of the parties thereto, providing for a mediation of the litigation. The parties and the Court extended the mediation several times, through August, and up until the settlement described below was reached.

On August 9, 2022, following the mediation, all of the parties to the Litigation and certain of the parties to the Shareholder Litigation (to which Seritage is not a defendant) entered into a settlement agreement pursuant to which, pending final Court approval, the defendants will pay to the Sears estate $175 million (of which the Seritage Defendants will contribute approximately $35 million) in exchange for dismissal of the Consolidated Litigation and for the full and final satisfaction and release of all claims in the Consolidated Litigation (including, in the case of the Seritage Defendants, any and all claims between the Seritage Defendants and the Sears estate in the Sears bankruptcy proceeding). The settlement is subject to final Court approval, following notice and an opportunity for objections (if any) at a hearing currently scheduled for August 31, 2022. As previously disclosed, the Company remains in active litigation with its D&O insurers concerning potential coverage for the Litigation, and any amounts received from the insurers will offset the Seritage Defendants' approximately $35 million contribution.

While the Company believes that the claims against the Seritage Defendants in the Litigation are without merit, the Company has entered into the settlement, without admitting any fault or wrongdoing, in order to avoid the continued imposition of legal defense costs, distraction, and the uncertainty and risk inherent in any litigation. If the settlement does not receive final Court approval, the Company intends to defend against the claims in the Litigation vigorously. The Company has reserved $35 million based on the Company's contributions to the proposed settlement, subject to final Court approval, of the Litigation. This estimate is recorded as litigation reserve in the condensed consolidated statement of operations during the three and six months ended June 30, 2022.

On March 2, 2021, the Company brought a lawsuit in Delaware state court against QBE Insurance Corporation, Endurance American Insurance Company, Allianz Global Risks US Insurance Company and Continental Casualty Company, each of which are D&O insurance providers of the Company (the "D&O Insurers"). The Company's lawsuit is seeking, among other things, declaratory relief and money damages as a result of certain of the D&O Insurers refusal to pay certain costs and expenses related to the defense of the Litigation discussed above.

In addition to the litigation described above, the Company is subject, from time to time, to various legal proceedings and claims that arise in the ordinary course of business and due to the current environment. While the resolution of such matters cannot be predicted with certainty, management believes, based on currently available information, that the final outcome of such matters will not have a material effect on the condensed consolidated financial position, results of operations, cash flows or liquidity of the Company. As of June 30, 2022, and December 31, 2021, the Company did not record any amounts for litigation or other matters.

Note 10 – Related Party Disclosure

Edward S. Lampert

Edward S. Lampert is the Chairman and Chief Executive Officer of ESL, which owns Holdco, and was Chairman of Sears Holdings. Mr. Lampert was also the Chairman of Seritage prior to his retirement effective March 1, 2022.

As of June 30, 2022, Mr. Lampert beneficially owned a 22.1% interest in the Operating Partnership and approximately 9.0% of the outstanding Class A common shares. On July 6, 2022, Mr. Lampert converted all of his Operating Partnership Units ("OP Units") to Class A common shares. As a result, he owned 29.1% of the outstanding Class A shares of the Company as of such date.

Subsidiaries of Holdco, as lessees, and subsidiaries of the Company, as lessors, were parties to the Holdco Master Lease and subsidiaries of Sears Holdings, as lessees, and subsidiaries of the Company, as lessors, were parties to the Original Master Lease (see Note 5).

Winthrop Capital Advisors

On December 29, 2021, the Company entered into a Services Agreement with Winthrop Capital Advisors LLC to provide additional staffing to the Company. On January 7, 2022, the Company announced that John Garilli, an employee of Winthrop, has been appointed interim chief financial officer on a full-time basis, effective January 14, 2022. The Company pays Winthrop a monthly fee of $0.1 million and reimbursement for certain employee expenses.

Unconsolidated Entities

Certain unconsolidated entities have engaged the Company to provide management, leasing, construction supervision and development services at the properties owned by the unconsolidated entities. Refer to Note 2 for the Company's significant accounting policies.

In addition, as of June 30, 2022, the Company had incurred no development expenditures at properties owned by certain unconsolidated entities for which the Company will be repaid by the respective unconsolidated entities. As of December 31, 2021, the Company had incurred $0.2 million of such development expenditures. These amounts are included in tenant and other receivables, net on the Company's condensed consolidated balance sheets.

The Company has certain put rights on properties held by the Unconsolidated Entities, which may require the Company's partner to buy out the Company's investment in such properties. During the three and six months June 30, 2022, the Company put two and four properties, respectively to two of their partners. Subsequent to June 30, 2022, the Company put an additional two properties to one of their partners.

Note 11 – Non-Controlling Interests

Partnership Agreement

On July 7, 2015, Seritage and ESL entered into the agreement of limited partnership of the Operating Partnership which was amended and restated on December 14, 2017. Pursuant to this partnership agreement, as the sole general partner of the Operating Partnership, Seritage exercises exclusive and complete responsibility and discretion in its day-to-day management, authority to make decisions, and control of the Operating Partnership, and may not be removed as general partner by the limited partners.

As of June 30, 2022, the Company held a 77.9% interest in the Operating Partnership and ESL held a 22.1% interest. The portions of consolidated entities not owned by the Company are presented as non-controlling interest as of and during the periods presented. Refer to Note 10 above for subsequent changes to Operating Partnership ownership.

Note 12 – Shareholders' Equity

Class A Common Shares

As of June 30, 2022, 43,677,418 Class A common shares were issued and outstanding. Class A shares have a par value of $0.01 per share. During the six months ended June 30, 2022, no OP Units were issued and exchanged for an equal number of Class A shares.

Class B Non-Economic Common Shares

As of June 30, 2022, there were no Class B non-economic common shares issued and outstanding.

Series A Preferred Shares

In December 2017, the Company issued 2,800,000 7.00% Series A Cumulative Redeemable Preferred Shares (the "Series A Preferred Shares") in a public offering at $25.00 per share. The Company received net proceeds from the offering of approximately $66.4 million, after deducting payment of the underwriting discount and offering expenses.

The Company may not redeem the Series A Preferred Shares before December 14, 2022, or upon the occurrence of a Change of Control, as defined in the trust agreement addendum designating the Series A Preferred Shares. On and after December 14, 2022, the Company may redeem any or all of the Series A Preferred Shares at $25.00 per share plus any accrued and unpaid dividends. In addition, upon the occurrence of a Change of Control, the Company may redeem any or all of the Series A Preferred Shares for cash within 120 days after the first date on which such Change of Control occurred at $25.00 per share plus any accrued and unpaid dividends. The Series A Preferred Shares have no stated maturity, are not subject to any sinking fund or mandatory redemption and will remain outstanding indefinitely unless the Company redeems or otherwise repurchases them or they are converted.

Dividends and Distributions

The Company's Board of Trustees has not declared dividends on the Company's Class A common shares during 2022, 2021 or 2020. The last dividend on the Company's Class A and C common shares that the Board of Trustees declared was on February 25, 2019, which was paid on April 11, 2019 to shareholders of record on March 29, 2019.

The Board of Trustees will continue to assess the Company's investment opportunities and its expectations of taxable income in its determination of future distributions, if any.

The Company's Board of Trustees declared the following dividends on preferred shares during 2022 and 2021:

Declaration Date	Record Date	Payment Date	Series A Preferred Share
2022			
July 26	September 30	October 17	$ 0.43750
April 26	June 30	July 15	0.43750
February 16	March 31	April 15	0.43750
2021			
October 26	December 31	January 14, 2022	$ 0.43750
July 27	September 30	October 15	0.43750
April 27	June 30	July 15	0.43750
February 23	March 31	April 15	0.43750

Note 13 – Earnings per Share

The table below provides a reconciliation of net income/(loss) and the number of common shares used in the computations of "basic" earnings per share ("EPS"), which utilizes the weighted-average number of common shares outstanding without regard to dilutive potential common shares, and "diluted" EPS, which includes all such shares. Potentially dilutive securities consist of shares of non-vested restricted stock and the redeemable non-controlling interests in the Operating Partnership.

All outstanding non-vested shares that contain non-forfeitable rights to dividends are considered participating securities and are included in computing EPS pursuant to the two-class method which specifies that all outstanding non-vested share-based payment awards that contain non-forfeitable rights to distributions are considered participating securities and should be included in the computation of EPS.

(in thousands except per share amounts)	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Numerator - Basic and Diluted				
Net loss	$ (142,083)	$ (95,304)	$ (209,070)	$ (106,237)
Net loss attributable to non-controlling interests	31,328	22,464	46,110	25,677
Preferred dividends	(1,225)	(1,225)	(2,450)	(2,450)
Net loss attributable to common shareholders - Basic	$ (111,980)	$ (74,065)	$ (165,410)	$ (83,010)
Denominator - Basic and Diluted				
Weighted average Class A common shares outstanding	43,677	42,772	43,656	41,134
Weighted average Class A common shares outstanding - Basic	43,677	42,772	43,656	41,134
Weighted average Class A common shares outstanding - Diluted	43,677	42,772	43,656	41,134
Loss per share attributable to Class A common shareholders - Basic	$ (2.56)	$ (1.73)	$ (3.79)	$ (2.02)
Loss per share attributable to Class A common shareholders - Diluted	$ (2.56)	$ (1.73)	$ (3.79)	$ (2.02)

No adjustments were made to the numerator for the three and six months ended June 30, 2022 and 2021 because the Company generated a net loss. During periods of net loss, undistributed losses are not allocated to the participating securities as they are not required to absorb losses.

No adjustments were made to the denominator for the three and six months ended June 30, 2022 and 2021 because (i) the inclusion of outstanding non-vested restricted shares would have had an anti-dilutive effect and (ii) including the non-controlling interest in the Operating Partnership would also require that the share of the Operating Partnership loss attributable to such interests be added back to net loss, therefore, resulting in no effect on earnings per share.

As of June 30, 2022 and December 31, 2021, there were 573,861 and 288,068 shares, respectively, of non-vested restricted shares outstanding.

Note 14 – Share-Based Compensation

On July 7, 2015, the Company adopted the Seritage Growth Properties 2015 Share Plan (the "Plan"). The number of shares of common stock reserved for issuance under the Plan is 3,250,000. The Plan provides for grants of restricted shares, share units, other share-based awards, options, and share appreciation rights, each as defined in the Plan (collectively, the "Awards"). Directors, officers, other employees, and consultants of the Company and its subsidiaries and affiliates are eligible for Awards.

Restricted Shares and Share Units

Pursuant to the Plan, the Company has periodically made grants of restricted shares or share units. The vesting terms of these grants are specific to the individual grant and vary in that a portion of the restricted shares and share units vest in equal annual amounts over the subsequent three years (time-based vesting) and a portion of the restricted shares and share units vest on the third, and in some instances, the fourth anniversary of the grants subject to the achievement of certain performance criteria (performance-based and market-based vesting).

In general, participating employees are required to remain employed for vesting to occur (subject to certain limited exceptions). Restricted shares and share units that do not vest are forfeited. Dividends on restricted shares and share units with time-based vesting are paid to holders of such shares and share units and are not returnable, even if the underlying shares or share units do not ultimately vest. Dividends on restricted shares and share units with performance-based vesting are accrued when declared and paid to holders of such shares on the third, and in some instances, the fourth anniversary of the initial grant subject to the vesting of the underlying shares. See Note 2 for valuation information related to the grants of the awards that are subject to market-based vesting conditions.

The following table summarizes restricted share activity for the six months ended June 30, 2022:

	Six Months Ended June 30,	
	Shares	Weighted-Average Grant Date Fair Value
Unvested restricted shares at beginning of period	288,068	$ 17.65
Share units granted	335,033	11.31
Restricted shares vested	(38,400)	15.18
Restricted shares forfeited	(10,840)	13.22
Unvested restricted shares at end of period	573,861	$ 14.20

The Company recognized $0.5 million and $0.1 million in compensation expense related to the restricted shares for the three months ended June 30, 2022 and 2021, respectively and $0.9 million and $1.0 million for the six months ended June 30, 2022 and 2021, respectively. Compensation expenses related to the restricted shares are included in general and administrative expenses on the Company's condensed consolidated statements of operations.

As of June 30, 2022, there were approximately $6.3 million of total unrecognized compensation costs related to the outstanding restricted shares which are expected to be recognized over a weighted-average period of approximately 2.3 years. As of June 30, 2021, there were approximately $3.8 million of total unrecognized compensation costs related to the outstanding restricted shares which were expected to be recognized over a weighted-average period of approximately 2.3 years.

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

Certain statements contained herein constitute forward-looking statements as such term is defined in Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Forward-looking statements are not guarantees of future performance. They represent our intentions, plans, expectations and beliefs and are subject to numerous assumptions, risks and uncertainties. Our future results, financial condition and business may differ materially from those expressed in these forward-looking statements. You can find many of these statements by looking for words such as "approximates," "believes," "expects," "anticipates," "estimates," "intends," "plans," "projects," "would," "may" or other similar expressions in this Quarterly Report on Form 10-Q. Many of the factors that will determine the outcome of these and our other forward-looking statements are beyond our ability to control or predict. For further discussion of factors that could materially affect the outcome of our forward-looking statements, see "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2021 and in Part II, Item 1A of this Quarterly Report on Form 10-Q. For these statements, we claim the protection of the safe harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995. You are cautioned not to place undue reliance on our forward-looking statements, which speak only as of the date of this Quarterly Report on Form 10-Q. All subsequent written and oral forward-looking statements attributable to us or any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. We do not undertake any obligation to release publicly any revisions to our forward-looking statements to reflect events or circumstances occurring after the date of this Quarterly Report on Form 10-Q. The following discussion should be read in conjunction with the condensed consolidated financial statements and notes thereto included in Part 1 of this Quarterly Report.

Overview

We are principally engaged in the ownership, development, redevelopment, disposition, management and leasing of diversified retail and mixed-use properties throughout the United States. As of June 30, 2022, our portfolio consisted of interests in 150 properties comprised of approximately 19.5 million square feet of gross leasable area ("GLA") or build-to-suit leased area, approximately 3.9 million of which is held by unconsolidated entities (the "Unconsolidated Properties"), approximately 433 acres held for or under development and approximately 9.9 million square feet or approximately 821 acres to be disposed of.

In the second quarter of 2021, we announced an organizational restructuring and in conjunction commenced a portfolio review resulting in the modification of the plan for certain assets. We continue to evaluate our strategy and at this time, we expect to reposition our portfolio into three business lines: residential developments, premier mixed-use assets, and multi-tenant retail destinations.

Review of Strategic Alternatives

On March 1, 2022, the Company announced that its Board of Trustees has commenced a process to review a broad range of strategic alternatives to enhance shareholder value. The Board of Trustees created a special committee of the Board of Trustees (the "Special Committee") to oversee the process. The Special Committee has retained a financial advisor. The strategic review process remains ongoing. There can be no assurance that the review process will result in any transaction or any strategic change at this time. See "Item 1A. Risk Factors—Risks Related to Our Business and Operations—There can be no assurance that our review of strategic alternatives will result in any transaction or any strategic change at this time." On July 7, 2022, we filed our preliminary proxy materials with the SEC in connection with our 2022 Annual Meeting of Shareholders seeking a shareholder vote to approve a proposed plan of sale of our assets and dissolution (the "Plan of Sale") that will allow our board to sell all of our assets, distribute the net proceeds to shareholders and dissolve the Company. See Note 1 – Organization of the Notes to the condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q for additional information about the Plan of Sale.

Impairment of Real Estate Assets and Investments in Unconsolidated Entities

In the first quarter of 2022, we announced a Review of Strategic Alternatives and during the second quarter determined that the best plan for all assets is to pursue sales. As a result of the foregoing, the Company's anticipated holding periods with respect to certain assets has changed. This affected our view of recoverability of the carrying value of those assets over their respective holding periods. We have recognized $109.3 million and $110.3 million of impairment losses during the three and six months ended June 30, 2022, respectively, which are included in impairment on real estate assets within the condensed consolidated statements of operations. We have recognized $32.5 million of other than temporary impairment losses to our investments in unconsolidated entities during the three and six months ended June 30, 2022, respectively, which are included in equity in loss of unconsolidated entities within the condensed consolidated statements of operations. We continue to evaluate our portfolio, including our development plans and offers received, which may result in additional impairments in future periods on our consolidated properties and investments in unconsolidated entities.

REIT Election

On March 31, 2022, the Company announced that its Board of Trustees, with the recommendation of the Special Committee, approved a plan to terminate the Company's REIT status and become a taxable C Corporation, effective for the year ending December 31, 2022. As a result, the Company is no longer required to operate under REIT rules, including the requirement to distribute at least 90% of REIT taxable income to its stockholders, which provides the Company with greater flexibility to use its free cash flow. Effective January 1, 2022, the Company is subject to federal and state income taxes on its taxable income at applicable tax rates and is no longer entitled to a tax deduction for dividends paid. The Company operated as a REIT for the 2021 tax year, and existing REIT requirements and limitations, including those established by the Company's organizational documents, remained in place until December 31, 2021. Refer to Note 7 – Income Taxes of the Notes to the condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

Business Strategies

The Company's primary objective is to create value for its shareholders through either the re-leasing and redevelopment of its core Consolidated Properties and Unconsolidated Properties, disposition certain of its non-core assets which have been identified for near term disposition, or through the monetization of assets through our strategic review process. In particular, we have identified various sites that we believe have the demand and demographic profile to support other uses such as residential, biotechnology, office and others. Given our fee ownership of these properties and control over parking lots and outparcels, we believe that these sites are well positioned for such value creation opportunities. We additionally look to further lease our built retail footprint and densify any excess parking land through the addition of triple net ("NNN") pad sites, which are standalone sites upon which a customized space can be built or leased for a tenant. We have identified 103 pad site opportunities across our portfolio.

In order to achieve its objective, the Company intends to execute the following strategies:

- *Multi-tenant Retail:* Our portfolio of 38 multitenant retail assets provide positive cash flow and are primarily leased to a variety of national credit tenants. As of June 30, 2022, this portfolio was 84.0% leased with a pipeline of 0.2 million square feet. A majority of our leases are effectively NNN based on the structure of our leases, providing an important inflation hedge. This portfolio also affords numerous further densification opportunities through the addition of pads on excess parking areas.
- *Densification and Redevelopment Opportunities:* In particular, we have identified various sites that we believe have the demand and demographic profile to support other uses such as residential, biotechnology, office and others. Given our fee ownership of these properties and control over parking lots and outparcels, we believe that these sites are well positioned for such value creation opportunities. We additionally look to further densification by converting vacant land to pad sites.
- *Premier/Master Planned Mixed Use and Residential:* As of June 30, 2022, our full portfolio included approximately 2,000 acres of land, or an average of 13 acres per site, and our most significant geographic concentrations were in higher growth markets in California, Florida, Texas, and the Northeast. We believe these land holdings will provide meaningful opportunities to create value through entitlements, leasing and developments. Twenty sites have been identified as potential residential developments. The average acreage per site is 11.9.
- *Non-core Assets for Monetization:* We continue to assess the best use for all sites within our portfolio, including residential, retail, and converting excess land area to pad sites, and will strategically dispose of non-core assets in order to fund development and deploy capital more strategically.

On March 1, 2022, the Company announced that its Board of Trustees has commenced a process to review a broad range of strategic alternatives to enhance shareholder value. The Company will continue to evaluate its portfolio strategy and corporate structure to optimize the outcome of such review. See within "—Review of Strategic Alternatives" above.

On July 7, 2022, we filed our preliminary proxy materials with the SEC in connection with our 2022 Annual Meeting of Shareholders seeking a shareholder vote to approve a proposed plan of sale of our assets and dissolution (the "Plan of Sale") that will allow our board to sell all of our assets, distribute the net proceeds to shareholders and dissolve the Company. See Note 1 – Organization of the Notes to the condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q for additional information about the Plan of Sale.

COVID-19 Pandemic

The Coronavirus ("COVID-19") pandemic has caused and continues to cause significant impacts on the real estate industry in the United States, including the Company's properties.

As a result of the development, fluidity and uncertainty surrounding this situation, the Company expects that these conditions may change, potentially significantly, in future periods and results for the three and six months ended June 30, 2022 may not be indicative of the impact of the COVID-19 pandemic on the Company's business for future periods. As such, the Company cannot reasonably estimate the impact of COVID-19 on its financial condition, results of operations or cash flows over the foreseeable future.

As of June 30, 2022, we had collected 99% of rental income for the three months ended June 30, 2022. While the Company intends to enforce its contractual rights under its leases, there can be no assurance that tenants will meet their future obligations or that additional rental modification agreements will not be necessary.

Results of Operations

We derive substantially all of our revenue from rents received from tenants under existing leases at each of our properties. This revenue generally includes fixed base rents and recoveries of expenses that we have incurred and that we pass through to the individual tenants, in each case as provided in the respective leases.

Our primary cash expenses consist of our property operating expenses, general and administrative expenses, interest expense, and construction and development related costs. Property operating expenses include real estate taxes, repairs and maintenance, management fees, insurance, ground lease costs and utilities; general and administrative expenses include payroll, office expenses, professional fees, and other administrative expenses; and interest expense is on our term loan facility. In addition, we incur substantial non-cash charges for depreciation of our properties and amortization of intangible assets and liabilities.

Comparison of the Three Months Ended June 30, 2022 to the Three Months Ended June 30, 2021

The following table presents selected data on comparative results from the Company's condensed consolidated statements of operations for the three months ended June 30, 2022, as compared to the three months ended June 30, 2021 (in thousands):

	Three Months Ended June 30,		
	2022	2021	$ Change
Revenue			
Rental income	$ 29,418	$ 27,595	$ 1,823
Expenses			
Property operating	10,801	11,286	(485)
Real estate taxes	6,425	9,061	(2,636)
Depreciation and amortization	10,669	13,328	(2,659)
General and administrative	11,093	11,990	(897)
Litigation reserve	35,000	-	35,000
Gain on sale of real estate, net	68,031	18,097	49,934
Impairment of real estate assets	109,343	64,539	44,804
Equity in loss of unconsolidated entities	33,720	2,327	31,393
Interest expense	22,663	28,976	(6,313)

Rental Income

The following table presents the results for rental income for the three months ended June 30, 2022, as compared to the corresponding period in 2021 (in thousands):

	Three Months Ended June 30, 2022		Three Months Ended June 30, 2021		
	Rental Income	% of Total Rental Income	Rental Income	% of Total Rental Income	$ Change
In-place retail leases	$ 25,823	87.8%	$ 26,357	95.5%	(534)
Straight-line rent	3,599	12.2%	1,238	4.5%	2,361
Amortization of the above/below market leases	(4)	0.0%	—	0.0%	(4)
Total rental income	$ 29,418	100.0%	$ 27,595	100.0%	$ 1,823

The increase of $2.4 million in straight-line rental income was primarily due to the commencing of new leases with fixed rent increases.

Property Operating Expenses and Real Estate Taxes

The decrease of $0.5 million in property operating expense for the three months ended June 30, 2022 was due primarily to asset sales.

The decrease of $2.6 million in real estate taxes for the three months ended June 30, 2022 was due primarily to asset sales and was partially offset by a decrease in amounts capitalized.

Depreciation and Amortization Expenses

The decrease of $2.7 million in depreciation and amortization expenses for the three months ended June 30, 2022 was primarily due to a decrease of $1.8 million in net scheduled depreciation due to property sales.

General and Administrative Expenses

General and administrative expenses consist of personnel costs, including share-based compensation, professional fees, office expenses and overhead expenses.

The decrease of $0.9 million in general and administrative expenses for the three months ended June 30, 2022 was driven by a decrease in compensation expenses resulting from a decrease in employee head count and a decrease in restructuring costs which had been incurred in the second quarter of 2021. This was partially offset by an increase in legal fees resulting from the comprehensive review of strategic alternatives and litigation.

Litigation Reserve

During the three months ended June 30, 2022, the Company recorded a $35 million litigation reserve related to the Company's contribution to the proposed settlement, subject to final Court approval, of the Litigation. See Note 9 – Commitments and Contingencies.

Gain on Sale of Real Estate, Net

During the three months ended June 30, 2022, the Company sold 13 properties for aggregate consideration of $163.4 million and recorded a gain totaling $68.0 million, which is included in gain on sale of real estate, net within the condensed consolidated statements of operations.

Impairment of Real Estate Assets

During the three months ended June 30, 2022, the Company recognized $109.3 million in impairment on 32 real estate assets, which is included within the condensed consolidated statements of operations. These impairments arose from the Company's plan to sell these properties resulting in a reduction to the holding periods of all properties, which triggered the need for an impairment analysis pursuant to ASC 360, *Property, Plant and Equipment*.

Equity in Loss of Unconsolidated Entities

The increase of $31.4 million in loss of unconsolidated entities for the three months ended June 30, 2022 was driven by a $32.5 million other-than-temporary impairment charge recorded against three investments. These impairments arose from the Company's plan to sell these properties resulting in a reduction to the holding periods of all its investments in unconsolidated entities, which triggered the need for an impairment analysis pursuant to ASC 323, *Equity Method and Joint Ventures*.

Interest Expense

The decrease of $6.3 million in interest expense for the three months ended June 30, 2022 was driven by a decrease in interest expense incurred resulting from the partial term loan pay down of $160 million in December 2021 and an increase in amounts capitalized due to an increase in project development activity.

Comparison of the Six Months Ended June 30, 2022 to the Six Months Ended June 30, 2021

The following table presents selected data on comparative results from the Company's condensed consolidated statements of operations for the six months ended June 30, 2022, as compared to the six months ended June 30, 2021 (in thousands):

	Six Months Ended June 30,		
	2022	2021	$ Change
Revenue			
Rental income	$ 58,502	$ 58,741	$ (239)
Expenses			
Property operating	21,833	21,929	(96)
Real estate taxes	14,575	19,216	(4,641)
Depreciation and amortization	22,603	26,470	(3,867)
General and administrative	20,185	23,222	(3,037)
Litigation reserve	35,000	—	35,000
Gain on sale of real estate, net	67,016	42,305	24,711
Impairment of real estate assets	110,334	66,239	44,095
Equity in loss of unconsolidated entities	66,796	3,489	63,307
Interest expense	45,251	55,126	(9,875)

Rental Income

The following table presents the results for rental income for the six months ended June 30, 2022, as compared to the corresponding period in 2021 (in thousands):

	Six Months Ended June 30, 2022		Six Months Ended June 30, 2021		
	Rental Income	% of Total Rental Income	Rental Income	% of Total Rental Income	$ Change
Sears or Kmart	$ —	0.0%	$ 4,510	7.7%	$ (4,510)
In-place retail leases	54,202	92.6%	53,165	90.5%	1,037
Straight-line rent / (expense)	4,320	7.4%	1,028	1.8%	3,292
Amortization of above/below market leases	(20)	0.0%	38	0.0%	(58)
Total rental income	$ 58,502	100.0%	$ 58,741	100.0%	$ (239)

The decrease of $4.5 million in Sears or Kmart rental income is due to a reduction in the number of properties leased to Sears or Kmart under the Holdco Master Lease, as a result of terminations. As of March 15, 2021, Sears no longer occupied any space in the portfolio.

The increase of $1.0 million in diversified tenants rental income during 2022 is primarily due to newly commenced leases at locations formerly occupied by Sears or Kmart.

The increase of $3.3 million in straight-line rental income was primarily due to the commencement of new leases with fixed rent increases.

The decrease of $0.1 million in amortization of above/below market leases during 2022 was due primarily to the termination of certain leases previously acquired by the Company.

Property Operating Expenses and Real Estate Taxes

The decrease of $0.1 million in property operating expense for the six months ended June 30, 2022 was due primarily to asset sales.

The decrease of $4.6 million in real estate taxes for the six months ended June 30, 2022 was due primarily to asset sales and was partially offset by a decrease in amounts capitalized.

Depreciation and Amortization Expenses

The decrease of $3.9 million in depreciation and amortization expenses for the six months ended June 30, 2022 was primarily due to a $3.0 million decrease in net scheduled depreciation due to property sales.

General and Administrative Expenses

General and administrative expenses consist of personnel costs, including share-based compensation, professional fees, office expenses and overhead expenses.

The decrease of $3.0 million in general and administrative expenses for the six months ended June 30, 2022 was driven by a decrease in compensation expenses and share based compensation resulting from a decrease in employee head count and a decrease in restructuring costs which had been incurred in the second quarter of 2021. This was partially offset by an increase in legal fees resulting from the comprehensive review of strategic alternatives.

Litigation Reserve

During the six months ended June 30, 2022, the Company recorded a $35 million litigation reserve related to the Company's contribution to the proposed settlement, subject to final Court approval, of the Litigation. See Note 9 – Commitments and Contingencies.

Gain on Sale of Real Estate, Net

During the six months ended June 30, 2022, the Company sold 14 properties for aggregate consideration of $172.3 million and recorded a gain totaling $67.0 million, which is included in gain on sale of real estate, net within the condensed consolidated statements of operations.

Impairment of Real Estate Assets

During the six months ended June 30, 2022, the Company recognized $110.3 million in impairment on 36 real estate assets, which is included within the condensed consolidated statements of operations. These impairments arose from the Company's plan to sell these properties resulting in a reduction to the holding periods of all properties, which triggered the need for an impairment analysis pursuant to ASC 360, *Property, Plant and Equipment*.

Equity in Loss of Unconsolidated Entities

The increase of $63.3 million in loss of unconsolidated entities for the six months ended June 30, 2022 was driven by $61.1 million impairment charge recorded in one investment, resulting in the Company picking up their share of this impairment at $30.6 million plus other-than-temporary impairment recorded to our investments of $32.5 million. These impairments arose from the Company's plan to sell these properties resulting in a reduction to the holding periods of all its investments in unconsolidated entities, which triggered the need for an impairment analysis pursuant to ASC 323, *Equity Method and Joint Ventures*.

Interest Expense

The decrease of $9.9 million in interest expense for the six months ended June 30, 2022 was driven by a decrease in interest expense incurred resulting from the partial term loan pay down of $160 million in December 2021, and an increase in amounts capitalized due to an increase in project development activity. Interest was decreased due to mortgage recording costs incurred in the prior year.

Liquidity and Capital Resources

Our primary uses of cash include the payment of property operating and other expenses, including general and administrative expenses and debt service (collectively, "Obligations"), and certain development expenditures. Property rental income, which is the Company's primary source of operating cash flow, did not fully fund obligations incurred during the six months ended June 30, 2022 and the Company recorded net operating cash outflows of $54.5 million. Additionally, the Company's generated investing cash inflows of $99.9 million during the six months ended June 30, 2022, which were driven by asset sales and partially offset by development expenditures.

Obligations are projected to continue to exceed property rental income and we expect to fund such obligations and any development expenditures with cash on hand and a combination of capital sources including, but not limited to the following, subject to any approvals that may be required under the Term Loan Agreement:

- Sales of Consolidated Properties. As of June 30, 2022, we had sold 102 Consolidated Properties, and additional outparcels at certain properties, and generated approximately $1.2 billion of gross proceeds since we began our capital recycling program in July 2017.

- Sales of interests in Unconsolidated Properties. As of June 30, 2022, we had sold our interests in 15 Unconsolidated Properties and generated approximately $278.1 million of gross proceeds since July 2017. Certain of our unconsolidated entity agreements also include rights that allow us to sell our interests in select Unconsolidated Properties to our partners at fair market value. During the six months ended June 30, 2022, the Company exercised such rights to put four properties to two of our partners, two of which closed subsequent to June 30, 2022 and generated approximately $23.8 million of gross proceeds. Additionally, subsequent to June 30, 2022, we exercised two additional put rights and we closed on the sale of our interest in one Unconsolidated Entity for gross proceeds of $3.3 million;
- Unconsolidated Properties. As of June 30, 2022, we had contributed interests in 12 properties to unconsolidated entities, which generated approximately $242.4 million of gross proceeds since July 2017. In addition to generating liquidity upon closing, these entities also reduce our development expenditures by the amount of our partners' interests in the unconsolidated entities;
- Unconsolidated entities debt. We may incur property-level debt in new or existing unconsolidated entities, including construction financing for properties under development and longer-term mortgage debt for stabilized properties; and
- Other credit and capital markets transactions. We may raise additional capital through the public or private issuance of debt securities, common or preferred equity or other instruments convertible into or exchangeable for common or preferred equity.

As of August 8, 2022, we had nine assets under contract for sale with no contingencies for total anticipated proceeds of $83.5 million. We had 11 assets under contract for sale for total anticipated proceeds of $177.3 million, subject to customary due diligence and closing conditions. We are currently negotiating sales, evaluating bona fide offers received and marketing, or about to bring to market for sale, assets with an estimated fair value over $1.2 billion. In addition, we exercised the put rights that we have on four Unconsolidated Properties. Subsequent to June 30, 2022, we sold 10 assets for gross proceeds of $75.3 million, closed on the sale of two previously exercised puts of Unconsolidated Properties for gross proceeds of $23.8 million and sold our interest in one Unconsolidated Entity for gross proceeds of $3.3 million.

As previously disclosed, on May 5, 2020, the Operating Partnership and Berkshire Hathaway entered into an amendment (the "Term Loan Amendment") to the Term Loan Agreement by and among the Operating Partnership and Berkshire Hathaway as initial lender and administrative agent that permits the deferral of payment of interest under the Term Loan Agreement if, as of the first day of each applicable month, (x) the amount of unrestricted and unencumbered (other than liens created under the Term Loan Agreement) cash on hand of the Operating Partnership and its subsidiaries, minus (y) the aggregate amount of anticipated necessary expenditures for such period (such sum, "Available Cash") is equal to or less than $30.0 million. In such instances, for each interest period, the Operating Partnership is obligated to make payments of interest in an amount equal to the difference between (i) Available Cash and (ii) $20.0 million (provided that such payment shall not exceed the amount of current interest otherwise due under the Term Loan Agreement). Any deferred interest shall accrue interest at 2.0% in excess of the then applicable interest rate and shall be due and payable on July 31, 2023; provided, that the Operating Partnership is required to pay any deferred interest from Available Cash in excess of $30.0 million (unless otherwise agreed to by the administrative agent under the Term Loan Agreement in its sole discretion). In addition, repayment of any outstanding deferred interest is a condition to any borrowings under the $400.0 million incremental funding facility under the Term Loan Agreement (the "Incremental Funding Facility").

Additionally, the Term Loan Amendment provides that the administrative agent and the lenders express their continued support for asset dispositions, subject to the administrative agent's right to approve the terms of individual transactions due to the occurrence of a Financial Metric Trigger Event, as such term is defined under the Term Loan Agreement. The Third Term Loan Amendment (defined below) executed on June 16, 2022 eliminated this right.

Our Term Loan Facility includes a $400.0 million Incremental Funding Facility, access to which is subject to rental income from non-Sears Holdings tenants of at least $200.0 million, on an annualized basis and after giving effect to SNO leases expected to commence rent payment within 12 months, which we have not yet achieved, as disclosed in Note 6. There is no assurance of the Company's ability to access the Incremental Funding Facility.

On November 24, 2021, the Operating Partnership, the Company and Berkshire Hathaway entered into an amendment (the "Second Term Loan Amendment") to the Term Loan Agreement by and among the Operating Partnership, the Company and Berkshire Hathaway to which the Operating Partnership, the Company and Berkshire Hathaway mutually agreed that (i) the "make whole" provision in the Senior Secured Term Loan Agreement shall not be applicable to prepayments of principal; and (ii) the Senior Secured Term Loan Agreement, as amended for (i) above, may at the Operating Partnership's election be extended for two years from July 31, 2023 to July 31, 2025 (the "Maturity Date") if its principal has been reduced to $800 million by the Maturity Date. If it has not been reduced to this limit by the Maturity Date, the loan will be due and payable on that date. In all other respects, the Term Loan Agreement remains unchanged.

On June 16, 2022, the Operating Partnership, the Company and Berkshire Hathaway entered into an amendment (the "Third Term Loan Amendment") to the Term Loan Agreement by and among the Operating Partnership, the Company and Berkshire Hathaway to which the Operating Partnership, the Company and Berkshire Hathaway mutually agreed that notwithstanding anything to the contrary in the asset sale covenant, the parent, borrower, and their respective subsidiaries will be permitted without the consent of the administrative agent to sell, transfer, or otherwise dispose of properties (including but not limited to properties or equity interests of any subsidiary) to unaffiliated third parties for no less than fair market value, provided that the borrower deposits all net proceeds received into a controlled account and the use of such net proceeds will be subject to the terms and conditions of the Term Loan Agreement, including but not limited to the restricted payments and investments/loans covenants.

During the year ended December 31, 2021, we repaid $160.0 million against the principal of the Term Loan Facility. Our outstanding balance as of June 30, 2022, is $1.44 billion. Subsequent to June 30, 2022, we made a $100.0 million repayment against the principal, bringing our outstanding balance to $1.34 billion as of August 8, 2022.

In addition to the $260.8 million of assets referenced above under contract, the Company is currently negotiating sales, evaluating received bona fide offers received and marketing, or about to bring to market for sale, assets with an estimated fair value over $1.2 billion, which would, if sold, allow the Company to meet the $540 million Term Loan Facility principal pay down required to extend the facility. While these assets are intended for sale, and the Company believes that they will close before the maturity, there is no assurance that these assets will be under contract within the one year timeframe in which the Term Loan Facility principal will need to be factored into the going concern analysis, which raises substantial doubt about its ability to continue as a going concern. See Note 1 – Going Concern of the Notes to the condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q for a discussion of the going concern.

Cash Flows for the Six Months Ended June 30, 2022 Compared to the Six Months Ended June 30, 2021

The following table summarizes the Company's cash flow activities for the six months ended June 30, 2022 and 2021 (in thousands):

	Six Months Ended June 30,		
	2022	2021	$ Change
Net cash used in operating activities	$ (54,501)	$ (67,602)	$ 13,101
Net cash provided by investing activities	99,882	67,085	32,797
Net cash used in financing activities	(2,450)	(2,529)	79

Cash Flows from Operating Activities

Significant components of net cash used in operating activities include:

In 2022, a decrease in rental income and a decrease in accounts payable, accrued expenses and other liabilities, partially offset by a decrease in tenant and other receivables.

Cash Flows from Investing Activities

Significant components of net cash provided by (used in) investing activities include:

- In 2022, $168.2 million of net proceeds from the sale of real estate offset by development of real estate of ($53.0) million and investments in unconsolidated entities of ($15.4); and
- In 2021, $122.3 million of net proceeds from the sale of real estate offset by development of real estate of ($44.9) million and investments in unconsolidated entities of ($21.3) million.

Cash Flows from Financing Activities

Significant components of net cash used in financing activities include:

- In 2022, cash payments of preferred dividends, ($2.5) million; and
- In 2021, cash payments of preferred dividends, ($2.5) million.

Dividends and Distributions

The Company's Board of Trustees did not declared dividends on the Company's Class A common shares during the six months ended June 30, 2022 and 2021.

The Company's Board of Trustees declared the following dividends on preferred shares during 2022 and 2021:

Declaration Date	Record Date	Payment Date	Series A Preferred Share
2022			
July 26	September 30	October 17	$ 0.43750
April 26	June 30	July 15	0.43750
February 16	March 31	April 15	0.43750
2021			
October 26	December 31	January 14, 2022	$ 0.43750
July 27	September 30	October 15	0.43750
April 27	June 30	July 15	0.43750
February 23	March 31	April 15	0.43750

Our Board of Trustees will continue to assess the Company's investment opportunities and its expectations of taxable income in its determination of future distributions, if any.

Off-Balance Sheet Arrangements

The Company accounts for its investments in entities that it does not have a controlling interest in or is not the primary beneficiary using the equity method of accounting and those investments are reflected on the condensed consolidated balance sheets of the Company as investments in unconsolidated entities. As of June 30, 2022 and December 31, 2021, we did not have any off-balance sheet financing arrangements.

Contractual Obligations

There have been no significant changes in the contractual obligations disclosed in our Form 10-K for the year ended December 31, 2021.

Capital Expenditures

During the three and six months ended June 30, 2022 the Company invested $30.6 million and $53.0 million, respectively, in our consolidated development and operating properties and an additional $7.8 million and $15.4 million, respectively, into our unconsolidated joint ventures, as we continue to advance our business plans, including our previously announced projects.

During the three and six months ended June 30, 2021 the Company invested $18.1 million and $44.9 million, respectively, in our consolidated development and operating properties and an additional $11.4 million and $21.3 million, respectively, into our unconsolidated joint ventures.

During the three and six months ended June 30, 2022, we incurred no maintenance capital expenditures that were not associated with re-tenanting and redevelopment projects.

During the three and six months ended June 30, 2021, we incurred maintenance capital expenditures of approximately $0.3 million and $0.9 million, respectively, that were not associated with re-tenanting and redevelopment projects.

Litigation and Other Matters

In accordance with accounting standards regarding loss contingencies, we accrue an undiscounted liability for those contingencies where the incurrence of a loss is probable and the amount can be reasonably estimated, and we disclose the amount accrued and the amount of a reasonably possible loss in excess of the amount accrued or disclose the fact that such a range of loss cannot be estimated. We do not record liabilities when the likelihood that the liability has been incurred is probable but the amount cannot be reasonably estimated, or when the liability is believed to be only reasonably possible or remote. In such cases, we disclose the nature of the contingency, and an estimate of the possible loss, range of loss, or disclose the fact that an estimate cannot be made.

During the Sears Holdings bankruptcy proceedings, the Official Committee of Unsecured Creditors of Sears Holdings (the "UCC") and others, including the Restructuring Subcommittee of the Board of Directors of Sears Holdings, alleged that the 2015 transactions between us and Sears Holdings constituted a fraudulent conveyance, and indicated an intent to pursue litigation challenging the 2015 transactions on that and other grounds. The approval of the Holdco Acquisition by the Bankruptcy Court expressly preserved claims relating to the 2015 transactions between us and Sears Holdings.

On April 6, 2022, the Court entered an order in the Consolidated Litigation, upon the agreement of the parties thereto, providing for a mediation of the litigation. The parties and the Court extended the mediation several times, through August, and up until the settlement described below was reached.

On August 9, 2022, following the mediation, all of the parties to the Litigation and certain of the parties to the Shareholder Litigation (to which Seritage is not a defendant) entered into a settlement agreement pursuant to which, pending final Court approval, the defendants will pay to the Sears estate $175 million (of which the Seritage Defendants will contribute approximately $35 million) in exchange for dismissal of the Consolidated Litigation and for the full and final satisfaction and release of all claims in the Consolidated Litigation (including, in the case of the Seritage Defendants, any and all claims between the Seritage Defendants and the Sears estate in the Sears bankruptcy proceeding). The settlement is subject to final Court approval, following notice and an opportunity for objections (if any) at a hearing currently scheduled for August 31, 2022. As previously disclosed, the Company remains in active litigation with its D&O insurers concerning potential coverage for the Litigation, and any amounts received from the insurers will offset the Seritage Defendants' approximately $35 million contribution.

See Note 9 – Commitments and Contingencies Litigation and Other Matters of the Notes to the condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q for a discussion of the Consolidated Litigation in respect of the Sears Holdings bankruptcy and related matters.

On March 2, 2021, the Company brought a lawsuit in Delaware state court against QBE Insurance Corporation, Endurance American Insurance Company, Allianz Global Risks US Insurance Company and Continental Casualty Company, each of which are D&O insurance providers of the Company (the "D&O Insurers"). The Company's lawsuit is seeking, among other things, declaratory relief and money damages as a result of certain of the D&O Insurers refusal to pay certain costs and expenses related to the defense of the Litigation discussed above. The parties to the Company's lawsuit have cross-moved for summary judgment, and those motions currently are pending.

We are subject, from time to time, to various legal proceedings and claims that arise in the ordinary course of business and due to the current environment. While the resolution of such matters cannot be predicted with certainty, management believes, based on currently available information, the final outcome of such ordinary course legal proceedings and claims will not have a material effect on the condensed consolidated financial position, results of operations or liquidity of the Company.

Critical Accounting Policies

A summary of our critical accounting policies is included in our Annual Report on Form 10-K for the year ended December 31, 2021 in Management's Discussion and Analysis of Financial Condition and Results of Operations. For the six months ended June 30, 2022, there were no material changes to these policies aside from changes resulting from our decision to terminate the Company's REIT status and become a taxable C Corporation, effective for the year ending December 31, 2022.

Non-GAAP Supplemental Financial Measures and Definitions

The Company makes reference to NOI and Total NOI which are financial measures that include adjustments to GAAP.

Net Operating Income ("NOI") and Total NOI

NOI is defined as income from property operations less property operating expenses. Other real estate companies may use different methodologies for calculating NOI, and accordingly the Company's depiction of NOI may not be comparable to other real estate companies. The Company believes NOI provides useful information regarding Seritage, its financial condition, and results of operations because it reflects only those income and expense items that are incurred at the property level.

The Company also uses Total NOI, which includes its proportional share of unconsolidated properties. The Company believes this form of presentation offers insights into the financial performance and condition of the Company as a whole given our ownership of unconsolidated properties that are accounted for under GAAP using the equity method.

The Company also considers NOI and Total NOI to be a helpful supplemental measure of its operating performance because it excludes from NOI variable items such as termination fee income, as well as non-cash items such as straight-line rent and amortization of lease intangibles.

Due to the adjustments noted, NOI and Total NOI should only be used as an alternative measure of the Company's financial performance.

Reconciliation of Non-GAAP Financial Measures to GAAP Financial Measures

Neither NOI nor Total NOI are measures that (i) represent cash flow from operations as defined by GAAP; (ii) are indicative of cash available to fund all cash flow needs, including the ability to make distributions; (iii) are alternatives to cash flow as a measure of liquidity; or (iv) should be considered alternatives to net income (which is determined in accordance with GAAP) for purposes of evaluating the Company's operating performance. Reconciliations of these measures to the respective GAAP measures we deem most comparable are presented below on a comparative basis for all periods.

The following table reconciles NOI and Total NOI to GAAP net loss for the three and six months ended June 30, 2022 and 2021 (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
NOI and Total NOI	**2022**	**2021**	**2022**	**2021**
Net loss	$ (142,083)	$ (95,304)	$ (209,070)	$ (106,237)
Termination fee income	(92)	—	(369)	(2,611)
Management and other fee (income)	(286)	(279)	(2,107)	(414)
Depreciation and amortization	10,669	13,328	22,603	26,470
General and administrative expenses	11,093	11,990	20,185	23,222
Litigation reserve	35,000	—	35,000	—
Equity in loss of unconsolidated entities	33,720	2,327	66,796	3,489
Gain on sale of real estate, net	(68,031)	(18,097)	(67,016)	(42,305)
Impairment of real estate assets	109,343	64,539	110,334	66,239
Interest and other income	(99)	(530)	(110)	(8,154)
Interest expense	22,663	28,976	45,251	55,126
Provision for income taxes	203	298	228	160
Straight-line rent	(3,599)	(1,238)	(4,320)	(1,028)
Above/below market rental expense	56	102	121	63
NOI	$ 8,557	$ 6,112	$ 17,526	$ 14,020
Unconsolidated entities				
Net operating income of unconsolidated entities	2,267	1,646	4,113	4,083
Straight-line rent	(228)	(168)	(556)	(304)
Above/below market rental (income)/expense	6	(29)	12	(62)
Termination fee income	—	(9)	—	(751)
Total NOI	$ 10,602	$ 7,552	$ 21,095	$ 16,986

Item 3. Quantitative and Qualitative Disclosure about Market Risk

There were no material changes in the Quantitative and Qualitative Disclosures about Market Risk set forth in our 2021 Annual Report on Form 10-K.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures.

Under the supervision and with the participation of our management, including the principal executive officer and the principal financial officer, we conducted an evaluation of the effectiveness of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of the end of the period covered by this report. Based on this evaluation, our principal executive officer and our principal financial officer concluded that our disclosure controls and procedures were effective as of such date.

Changes in Internal Controls.

There were no changes in our internal control over financial reporting that occurred during the period ended June 30, 2022 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

The information required by this Item is incorporated by reference to Note 9 of the condensed consolidated financial statements included herein.

Item 1A. Risk Factors

Information regarding risk factors appears in our 2021 Annual Report on Form 10-K in Part I, Item 1A. Risk Factors. There have been no material changes from the risk factors previously disclosed in our 2021 Annual Report on Form 10-K, except for the following updates:

Risks Related to Our Business and Operations

Following the Sears Holdings bankruptcy, we have been named as a defendant in litigation that could adversely affect our business and financial condition, divert management's attention from our business, and subject us to significant liabilities, including remedies that may be imposed as a result of a finding of fraudulent conveyance.

On April 18, 2019, at the direction of the Restructuring Sub-Committee of the Restructuring Committee of the Board of Directors of Sears Holdings, plaintiffs Sears Holdings, Sears, Roebuck & Co., Sears Development Co., Kmart Corporation, and Kmart of Washington, LLC filed a lawsuit (the "Litigation") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") against, among others, Edward S. Lampert, ESL Investments, Inc. and certain of its affiliates and investors, Fairholme Capital Management, L.L.C., certain members of the Sears Holdings board of directors, and the Company, the Operating Partnership, and certain of our affiliates and subsidiaries (the Company, the Operating Partnership, and certain of our affiliates and subsidiaries, collectively, the "Seritage Defendants"). The Litigation is dual captioned as In re: Sears Holdings Corporation, et al., Case No. 18-23538 (RDD) and Sears Holdings Corporation et al., v. Lampert et al., Case No. 19-08250 (RDD). The initial complaint has been superseded by the Amended Complaint, as described below.

On October 15, 2019, the Bankruptcy Court entered an order (the "Confirmation Order") confirming the Modified Second Amended Joint Chapter 11 Plan of Sears Holdings and its affiliated debtors (the "Chapter 11 Plan"). Pursuant to the terms of the Confirmation Order, upon the effective date of the Chapter 11 Plan, a liquidating trust will be formed, and the Litigation will vest in the liquidating trust. The Confirmation Order further provides that, prior to the effective date of the Chapter 11 Plan and the formation of the liquidating trust, the Litigation will be controlled by five litigation designees selected by Sears Holdings and the Official Committee of Unsecured Creditors' (the "Creditors' Committee"). For further information, refer to the Chapter 11 Plan, Confirmation Order and liquidating trust agreement, each of which has been publicly filed with the Bankruptcy Court.

On November 25, 2019, the Creditors' Committee filed a first amended complaint (the "Amended Complaint") in the Bankruptcy Court. The Amended Complaint alleges, among other things, that certain transactions undertaken by Sears Holdings since 2011 (including the July 2015 transactions giving rise to Seritage, the execution of the Master Lease with Sears Holdings (the "Original Master Lease"), and the acquisition of real estate from Sears Holdings) constituted actual and/or constructive fraudulent transfers and/or illegal dividends by Sears Holdings and that the real estate acquired by Seritage from Sears Holdings in July 2015 was worth hundreds of millions of dollars more than the purchase price paid. (The Company notes the original complaint filed in the Litigation alleged, among other things, that the real estate acquired by Seritage from Sears Holdings in July 2015 was worth at least $649 to $749 million more than the purchase price paid.) The Amended Complaint further alleges that certain releases provided to Seritage and certain other defendants in connection with the Sears Holdings derivative litigation in the Delaware Court of Chancery in 2017 should be avoided and/or declared null and void as an actual and/or constructive fraudulent conveyance. The Litigation seeks as relief, among other things, declaratory relief, avoidance of the allegedly actual and/or constructive fraudulent transfers and either (i) rescission of the transfers of real estate from Sears Holdings to Seritage in 2015 and return of the proceeds of the transactions between Sears Holdings and Seritage, or, in the alternative, (ii) payment by Seritage to Sears Holdings of damages at least equal to the value of the transferred property.

On February 21, 2020, the Seritage Defendants filed a partial motion to dismiss seeking dismissal of the claims in the Amended Complaint relating to the release received in the Sears Holdings derivative litigation unjust enrichment and equitable subordination. Briefing and oral argument on the motions were completed in August 2020, and the parties are awaiting a decision.

On March 15, 2021, the Court consolidated the Litigation with a case captioned Sears Holding Corp. et al. v. Andrew H. Tisch, et al., Case No. 20-07007 (RDD) (the "Shareholder Litigation," and, together with the Litigation, the "Consolidated Litigation"). The Shareholder Litigation was brought by the UCC, Sears Holdings Corporation, and Sears, Roebuck and Co., against certain shareholders of Sears Holdings or its related companies. Seritage was not named as a defendant in the Shareholder Litigation, which alleges, among other things, that certain transactions undertaken by Sears Holdings since 2014 (including the July 2015 transactions giving rise to Seritage, the execution of the Original Master Lease with Sears Holdings, and the acquisition of real estate from Sears Holdings) constituted actual and/or constructive fraudulent transfers and/or illegal dividends.

On April 6, 2022, the Court entered an order in the Consolidated Litigation, upon the agreement of the parties thereto, providing for a mediation of the litigation. The parties and the Court extended the mediation several times, through August, and up until the settlement described below was reached.

On August 9, 2022, following the mediation, all of the parties to the Litigation and certain of the parties to the Shareholder Litigation (to which Seritage is not a defendant) entered into a settlement agreement pursuant to which, pending final Court approval, the defendants will pay to the Sears estate $175 million (of which the Seritage Defendants will contribute approximately $35 million) in exchange for dismissal of the Consolidated Litigation and for the full and final satisfaction and release of all claims in the Consolidated Litigation (including, in the case of the Seritage Defendants, any and all claims between the Seritage Defendants and the Sears estate in the Sears bankruptcy proceeding). The settlement is subject to final Court approval, following notice and an opportunity for objections (if any) at a hearing currently scheduled for August 31, 2022. As previously disclosed, the Company remains in active litigation with its D&O insurers concerning potential coverage for the Litigation, and any amounts received from the insurers will offset the Seritage Defendants' approximately $35 million contribution.

While the Company believes that the claims against the Seritage Defendants in the Litigation are without merit, the Company has entered into the settlement, without admitting any fault or wrongdoing, in order to avoid the continued imposition of legal defense costs, distraction, and the uncertainty and risk inherent in any litigation. If the settlement does not receive final Court approval, the Company intends to defend against the claims in the Litigation vigorously.

Fraudulent transfers or conveyances include transfers made or obligations incurred with the actual intent to hinder, delay or defraud current or future creditors, or transfers made or obligations incurred in exchange for less than reasonably equivalent value when the debtor was, or was rendered, insolvent, inadequately capitalized or unable to pay its debts as they become due. To remedy a fraudulent conveyance, a court could void the challenged transfer or obligation, requiring us to return consideration that we received, or impose substantial liabilities upon us for the benefit of unpaid creditors of the debtor that made the fraudulent conveyance, which could adversely affect our financial condition and our results of operations. Among other things, a court could require our shareholders to return to Sears Holdings or its creditors some or all of the securities issued in the distribution made in connection with the formation of Seritage.

Although we believe that the claims against us in the Litigation are without merit and intend, if settlement does not receive final Court approval, to defend against them vigorously, we are not able to predict the ultimate outcome of the Litigation, the magnitude of any potential losses or the effect such litigation may have on us or our operations. It is possible that the Litigation could cause us to incur substantial costs and that one or more of the claims against us could be resolved adversely to us, result in substantial damages or other forms of relief, result in or be connected to additional claims, affect our relations with counterparties to commercial transactions and divert management's attention and resources, any of which could harm our business. Protracted litigation, including any adverse outcomes, may have an adverse impact on our business, results of operations or financial condition and could subject us to adverse publicity and require us to incur significant legal fees. The Company has reserved $35 million based on the Company's contribution to the settlement, subject to final Court approval, of the Litigation. Please see Note 9 – Commitments and Contingencies – in our Annual Report on Form 10-K and Note 9 – Commitments and Contingencies – in this Quarterly Report for additional information regarding the Litigation.

On March 2, 2021, the Company brought a lawsuit in Delaware state court against QBE Insurance Corporation, Endurance American Insurance Company, Allianz Global Risks US Insurance Company and Continental Casualty Company, each of which are D&O insurance providers of the Company (the "D&O Insurers"). The Company's lawsuit is seeking, among other things, declaratory relief and money damages as a result of certain of the D&O Insurers refusal to pay certain costs and expenses related to the defense of the Litigation discussed above. The parties to the Company's lawsuit have cross-moved for summary judgment, and those motions are pending.

Our investments in and redevelopment of properties, and investments in and acquisitions or development of additional properties, may be unsuccessful or fail to meet our expectations.

We have historically grown our business through investments in, and acquisitions or development of, properties, including through the recapture and redevelopment of space at many of our properties. However, our industry is highly competitive, and we face competition from REITs, investment companies, private equity and hedge fund investors, sovereign funds, lenders, and other investors, some of whom are significantly larger and have greater resources and lower costs of capital. This competition makes it more challenging to successfully capitalize on acquisition and development opportunities that meet our investment objectives. If we are unable to finance development opportunities on commercially favorable terms, our business, financial condition or results of operations could be materially adversely affected. Further, if debt or equity financing is not available on acceptable terms, our ability to execute on development opportunities might be limited or curtailed.

Our business entails risks associated with real estate investments generally, including (but not limited to) the following risks and as noted elsewhere in this section:

- we may be unable to acquire a desired property because of competition;
- even if we are able to acquire a desired property, competition from other potential acquirers may significantly increase the purchase price;
- even if we enter into agreements for the acquisition of properties, these agreements are subject to customary conditions to closing, including completion of due diligence investigations to our satisfaction;
- we may incur significant costs and divert management attention in connection with evaluation and negotiation of potential acquisitions, including ones that we are subsequently unable to complete;
- we may acquire properties that are not initially accretive to our results upon acquisition, and we may not successfully manage and lease those properties to meet our expectations;
- we may be unable to finance the acquisition on favorable terms in the time period we desire, or at all;
- even if we are able to finance the acquisition, our cash flow may be insufficient to meet our required principal and interest payments;
- we may spend more than budgeted to make necessary improvements or renovations to acquired properties;
- we may be unable to quickly and efficiently integrate new acquisitions, particularly the acquisition of portfolios of properties, into our existing operations;
- market conditions may result in higher than expected vacancy rates and lower than expected rental rates; and
- we may acquire properties subject to liabilities and without any recourse, or with only limited recourse, with respect to unknown liabilities.

In addition, we intend to redevelop a significant portion of the properties after termination or recapture of asset from the Holdco Master Lease or Original Master Lease in order to make space available for lease to additional retail tenants and potentially other lessees for other uses. The redevelopment of these properties involves the risks associated with real estate development activities generally. If we are unable to successfully redevelop properties or to lease the redeveloped properties to third parties on acceptable terms, our business, results of operations and financial condition could be materially adversely affected.

There can be no assurance that any strategic transaction or strategic change of the type contemplated by the Special Committee of our Board of Trustees will be approved by shareholders, or that we will be able to complete any such transaction on terms satisfactory to the Special Committee.

On March 1, 2022, we announced that our Board of Trustees had commenced a process to review a broad range of strategic alternatives to enhance shareholder value. The Board of Trustees created a Special Committee to oversee the process. The strategic review process remains ongoing. On July 7, 2022, in connection with the strategic review process, we filed preliminary proxy materials with the SEC in connection with our 2022 Annual Meeting of Shareholders seeking a shareholder vote to approve a proposed plan of sale of our assets and dissolution (the “Plan of Sale”) that will allow our board to sell all of our assets, distribute the net proceeds to shareholders and dissolve the Company. The affirmative vote of at least two-thirds of all outstanding common shares of the Company is required to approve the Plan of Sale. Edward Lampert, our former Chairman, entered into a Voting and Support Agreement under which he exchanged his equity interest in the Operating Partnership for Class A common shares and agreed to vote his shares in favor of the Plan of Sale. As of July 6, 2022, after giving effect to the exchange of his operating partnership interests, Mr. Lampert owns approximately 29.1% of the Company’s outstanding Class A common shares, and Seritage is the sole owner of all outstanding Operating Partnership interests. The strategic review process remains ongoing, and the Company remains open-minded to pursuing value maximizing alternatives, including a potential sale of the Company. There can be no assurance regarding the success of the process.

Further, if our shareholders approve the Plan of Sale and we commence implementing the Plan of Sale, it may dissuade parties that might have an interest in acquiring our Company as a whole by means of a merger transaction or otherwise from pursuing such an acquisition and may also preclude other possible courses of action not yet identified by our Board. The strategic review process remains ongoing, and the Company remains open-minded to pursuing value maximizing alternatives, including a potential sale of the Company. There can be no assurance regarding the success of the process.

We have ongoing capital needs and may not be able to obtain additional financing or other sources of funding on acceptable terms.

As of June 30, 2022, we had aggregate outstanding indebtedness of $1.44 billion. We may incur additional indebtedness in the future to refinance our existing indebtedness, to finance our ongoing operations, or to fund retenanting and redevelopment projects. Our existing debt and any significant additional indebtedness could require a substantial portion of our cash flow to make interest and principal payments. Demands on our cash resources from debt service will reduce funds available to us to pay dividends, make capital expenditures and acquisitions or carry out other aspects of our business strategy. Our indebtedness may also limit our ability to adjust rapidly to changing market conditions, make us more vulnerable to general adverse economic and industry conditions and create competitive disadvantages for us compared to other companies with relatively lower debt levels. Increased future debt service obligations may limit our operational flexibility, including our ability to finance or refinance our properties, contribute properties to joint ventures or sell properties as needed.

Our primary uses of cash include the payment of property operating and other expenses, including general and administrative expenses and debt service, and the reinvestment in and redevelopment of our properties. As a result of a decrease in occupancy levels due to our recapture of space for redevelopment purposes and the execution of termination rights under the Original Master Lease and Holdco Master Lease, our property rental income, which is our primary source of operating cash flow, did not fully fund property operating and other expenses incurred during the year ended December 31, 2021. Property operating and other expenses are projected to continue to exceed property rental income until such time as additional tenants commence paying rent, and we plan to incur additional development expenditures as we continue to invest in the redevelopment of our portfolio. While we do not currently have the liquid funds available to fully fund projected property and other expenses and planned development expenditures, we expect to fund these uses of cash with a combination of capital sources including, but not limited to, sales of Consolidated Properties, sales of interests in Unconsolidated Properties and potential credit and capital markets transactions, subject to compliance with certain conditions and/or the consent of our lender under our Term Loan Facility.

As of December 31, 2021, we were not in compliance with certain financial metrics applicable to us under the agreements governing our term loan facility. Additionally, the lender had the right to request mortgages against our assets pursuant to the mortgage and collateral requirement. During the year ended December 31, 2019, the lender requested mortgages on a majority of our portfolio, and then during the year ended December 31, 2020, the lender requested mortgages on the remaining unencumbered assets.

The Term Loan Facility also provides for the $400 million Incremental Funding Facility. Our ability to access the Incremental Funding Facility is subject to (i) our achieving rental income from non-Sears Holdings tenants, on an annualized basis (after giving effect to SNO Leases expected to commence rent payment within 12 months) for the fiscal quarter ending prior to the date of incurrence of the Incremental Funding Facility, of not less than $200 million, (ii) our good faith projection that rental income from non-Sears Holdings tenants (after giving effect to SNO Leases expected to commence rent payment within 12 months) for the succeeding four consecutive fiscal quarters (beginning with the fiscal quarter during which the incremental facility is accessed) will be not less than $200 million, and (iii) the repayment by the Operating Partnership of any deferred interest permitted under the amendment to the Term Loan Agreement (as defined below) as further described below. As of June 30, 2022, the Company has not yet achieved the requirements to access the Incremental Funding Facility.

As of August 8, 2022, the Company is currently negotiating sales, evaluating bona fide offers received and marketing, or about to bring to market for sale, assets with an estimated fair value over $1.2 billion, inclusive of the assets noted above as under contract, which would, if sold, allow the Company to meet the $540 million Term Loan Facility principal pay down to extend the term loan. While these assets are intended for sale, and the Company believes that they will close before the maturity, there is no assurance that these assets will be under contract within the one-year timeframe in which the Term Loan Facility principal will need to be factored into the going concern analysis. See Note 1 – Going Concern of the Notes to the condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q for a discussion of the going concern.

If the Plan of Sale is approved, we will seek to sell all of our assets and make shareholder distributions (either directly or through a liquidating trust or similar liquidating entity) as soon as possible in order to maximize shareholder value, and we estimate that such sales may be completed within 18 to 30 months after the plan of sale is approved. There are no assurances that sales of assets will be completed within that timeframe, which may be impacted by, among other things, market conditions, the nature and terms of the proposals received from third parties and what the Board determines to be in the best interests of the Company. The final distribution in connection with the Plan of Sale or any other strategic transaction, if completed, will not be made until the resolution of all contingent liabilities. Additionally, our Board has discretion as to the timing of distributions of net sales proceeds.

Real estate related taxes may increase, and if these increases are not passed on to tenants, our income will be reduced.

Some local real property tax assessors may seek to reassess some of our properties as a result of our acquisitions and/or redevelopment of properties. Generally, from time to time, our property taxes increase as property values or assessment rates change or for other reasons deemed relevant by the assessors. An increase in the assessed valuation of a property for real estate tax purposes will result in an increase in the related real estate taxes on that property. Although some leases may permit us to pass through such tax increases to the tenants for payment, there is no assurance that renewal leases or future leases will be negotiated on the same basis. Increases not passed through to tenants will reduce our income.

Rising expenses could reduce cash flow and funds available for future development.

If any property is not fully occupied or becomes vacant in whole or in part, or if rents are being paid in an amount that is insufficient to cover operating costs and expenses, we could be required to expend funds with respect to that property for operating expenses. Our properties are subject to increases in tax rates and tax assessments, utility costs, insurance costs, repairs, maintenance and administrative expenses, and other operating expenses. We may also incur significant expenditures as a result of deferred maintenance for the properties we own (subject to reserved funds to cover certain of these costs). If we are unable to lease properties on a triple-net-lease basis or on a basis requiring the tenants to pay all or some of such expenses, or if tenants fail to pay required tax, utility and other impositions and other operating expenses, we could be required to pay those costs which could adversely affect funds available for future development.

We may incur mortgage indebtedness and other borrowings, which may increase our business risks.

We may incur mortgage debt and pledge all or some of our real properties as security for that debt to finance newly acquired properties or capital contributions to joint ventures, or to fund retenanting and redevelopment projects. Since December 31, 2019, we were required to provide mortgages to the lender under our term loan facility on a majority of our portfolio. This restriction, together with the other provisions of the Term Loan Facility, limits our ability to obtain additional secured financing using such properties as collateral. In addition, incurring mortgage debt increases the risk of loss since defaults on indebtedness secured by a property may result in lenders initiating foreclosure actions. In that case, we could lose the property securing the loan that is in default. For U.S. federal income tax purposes, a foreclosure of any of our properties generally would be treated as a sale of the property for a purchase price equal to the outstanding balance of the debt secured by the mortgage. If the outstanding balance of the debt secured by the mortgage exceeds our tax basis in the property, we would recognize taxable income on foreclosure, but would not receive any cash proceeds. If any mortgages contain cross-collateralization or cross-default provisions, a default on a single property could affect multiple properties.

Our rights and the rights of our shareholders to take action against our trustees and officers are limited.

As permitted by the Maryland law, the Company's Declaration of Trust limits the liability of its trustees and officers to Seritage and its shareholders for money damages, except for liability resulting from:

- actual receipt of an improper benefit or profit in money, property or services; or
- a final judgment based upon a finding of active and deliberate dishonesty by the trustee or officer that was material to the cause of action adjudicated.

In addition, our Declaration of Trust authorizes us and our bylaws obligate us to indemnify our present and former trustees and officers for actions taken by them in those capacities and to pay or reimburse their reasonable expenses in advance of final disposition of a proceeding to the maximum extent permitted by Maryland law, and we have entered into indemnification agreements with our trustees and executive officers. As a result, the Company and our shareholders may have more limited rights against our trustees and officers than might otherwise exist absent the provisions in our Declaration of Trust and bylaws or that might exist with other companies. Accordingly, in the event that actions taken by any of our trustees or officers are immune or exculpated from, or indemnified against, liability but which impede our performance, the Company and our shareholders' ability to recover damages from that trustee or officer will be limited.

Our Declaration of Trust and bylaws and Maryland law contain provisions that may delay, defer or prevent an acquisition of Class A common shares or a change in control.

The Company's Declaration of Trust and bylaws, Maryland law and the partnership agreement of the Operating Partnership contain a number of provisions, the exercise or existence of which could delay, defer or prevent a transaction or a change in control that might involve a premium price for our shareholders or otherwise be in their best interests, including the following:

- The Company's Board of Trustees Has the Power to Cause Us to Issue Additional Shares of Beneficial Interest and Classify and Reclassify Any Unissued Class A Common Shares without Shareholder Approval. Our Declaration of Trust authorizes us to issue additional authorized but unissued common shares or preferred shares of beneficial interest. We have also issued 2,800,000 shares of Series A Preferred Shares that are senior to our common shares with respect to priority of dividend payments and rights upon liquidation, dissolution or winding up. In addition, the Board of Trustees may, without shareholder approval, (i) amend the Declaration of Trust to increase or decrease the aggregate number of shares of beneficial interest or the number of shares of beneficial interest of any class or series that we have authority to issue and (ii) classify or reclassify any unissued common shares or preferred shares of beneficial interest and set the preferences, rights and other terms of the classified or reclassified shares. As a result, the Board of Trustees may establish a class or series of common shares or preferred shares of beneficial interest that could delay or prevent a transaction or a change in control that might involve a premium price for Class A common shares or otherwise be in the best interests of our shareholders.

- The Board of Trustees Is Divided into Three Classes and Trustee Elections Require a Vote of Two-Thirds of the Class A Common Shares and Class B Non-Economic Common Shares Votes Cast. The Board of Trustees is divided into three classes of trustees, with each class to be as nearly equal in number as possible. As a result, approximately one-third of the Board of Trustees will be elected at each annual meeting of shareholders, with, in both contested and uncontested elections, trustees elected by the vote of two-thirds of the votes cast of the Class A common shares and Class B non-economic common shares (voting together as a single class) entitled to be cast in the election of trustees. In the event that an incumbent trustee does not receive a sufficient percentage of votes cast for election, he or she will continue to serve on the Board of Trustees until a successor is duly elected and qualifies. The classification of trustees and requirement that trustee nominees receive a vote of two-thirds of the votes cast of the Class A common shares and Class B non-economic shares (voting together as a single class) entitled to be cast in the election of trustees may have the effect of making it more difficult for shareholders to change the composition of the Board of Trustees. The requirement that trustee nominees receive a vote of two-thirds of the votes cast of the common shares entitled to be cast in the election of trustees may also have the effect of making it more difficult for shareholders to elect trustee nominees that do not receive the votes of shares of our largest shareholder, Mr. Lampert, who owns approximately 29.1% of the Company's outstanding Class A common shares as of July 6, 2022.

- Certain Provisions of Maryland Law May Limit the Ability of a Third Party to Acquire Control of Us. Certain provisions of the Maryland General Corporation Law (the "MGCL") applicable to Maryland REITs may have the effect of inhibiting a third party from acquiring us or of impeding a change of control of the Company under circumstances that otherwise could provide Class A common shareholders with the opportunity to realize a premium over the then-prevailing market price of such shares or otherwise be in the best interest of shareholders, including:

  - "business combination" provisions that, subject to certain exceptions and limitations, prohibit certain business combinations between a Maryland REIT and an "interested shareholder" (defined generally as any person who beneficially owns, directly or indirectly, 10% or more of the voting power of the Company's outstanding voting shares or an affiliate or associate of the Maryland REIT who, at any time within the two-year period immediately prior to the date in question, was the beneficial owner of 10% or more of the voting power of the then-outstanding shares of the Company) or an affiliate of any interested shareholder and the Maryland REIT for five years after the most recent date on which the shareholder becomes an interested shareholder, and thereafter imposes two supermajority shareholder voting requirements on these combinations;

  - "control share" provisions that provide that, subject to certain exceptions, holders of "control shares" of our company (defined as voting shares that, if aggregated with all other shares owned or controlled by the acquirer, would entitle the acquirer to exercise one of three increasing ranges of voting power in electing trustees) acquired in a "control share acquisition" (defined as the direct or indirect acquisition of issued and outstanding "control shares") have no voting rights with respect to the control shares except to the extent approved by our shareholders by the affirmative vote of at least two-thirds of all of the votes entitled to be cast on the matter, excluding all interested shares; and;

  - Additionally, Title 3, Subtitle 8 of the MGCL permits the Board of Trustees, without shareholder approval and regardless of what is currently provided in our Declaration of Trust or bylaws, to implement certain takeover defenses.

The Board of Trustees has, by resolution, exempted from the provisions of the Maryland Business Combination Act all business combinations (a) between us and (i) Sears Holdings or its affiliates or (ii) ESL or Fairholme Capital Management L.L.C. ("FCM") and/or certain clients of FCM or their respective affiliates and (b) between us and any other person, provided that in the latter case the business combination is first approved by the Board of Trustees (including a majority of our trustees who are not affiliates or associates of such person). In addition, our bylaws contain a provision opting out of the Maryland control share acquisition act.

The COVID-19 pandemic has continued to, and the future outbreak of other highly infectious or contagious diseases may, materially and adversely impact the business of our tenants and materially or adversely impact and disrupt our business, income, cash flow, results of operations, financial condition, liquidity, prospects and ability to service our debt obligations.

In March 2020, the World Health Organization declared COVID-19 a global pandemic. The COVID-19 pandemic has had, and other pandemics in the future could have, repercussions across regional and global economies and financial markets. The outbreak of COVID-19 in many countries, including the United States, has significantly adversely impacted global economic activity, the U.S. economy and the local economies in which our properties are located and has contributed to significant volatility and negative pressure in financial markets. The global impact of the outbreak has been rapidly evolving and, as cases of COVID-19 have continued to be identified in additional countries, many countries, including the United States, have reacted by instituting quarantines, mandating business and school closures and restricting travel.

Certain states and cities, including where our tenants conduct their business and where we own properties, have development sites and where our corporate offices are located, have also reacted to the COVID-19 pandemic by instituting quarantines, restrictions on travel, "shelter in place" rules, restrictions on types of business that may continue to operate, and/or restrictions on the types of construction projects that may continue. The Company cannot predict if additional states and cities will implement similar restrictions, when restrictions currently in place will expire or if such restrictions will be implemented again. As a result, the COVID-19 pandemic is negatively impacting almost every industry directly or indirectly, including industries in which the Company and our tenants operate.

These containment measures and other factors have affected operations at the Company's properties. As of June 30, 2022, the Company had collected 99% of rental income for the three months ended June 30, 2022. While the Company intends to enforce its contractual rights under its leases, there can be no assurance that tenants will meet their future obligations or that additional rental modification agreements will not be necessary. Some of our tenants may not re-open even after the aforementioned restrictions are lifted, which could have a material impact on occupancy at our properties which could result in an increase in the number of co-tenancy claims due to falling below required occupancy thresholds and may impact our results.

Furthermore, in the event of any default by a tenant for non-payment of lease charges or early or limited cessation of operations, we might not be able to fully recover and/or experience delays and additional costs in enforcing our rights as landlord to recover amounts due to us under the terms of our agreements with such parties due to potential moratoriums imposed by various jurisdictions in light of the COVID-19 pandemic on landlord initiated commercial eviction and collection actions. One or more of our tenants may seek the protection of the bankruptcy laws as a result of the prolonged impact of the COVID-19 pandemic, which could result in the termination of such tenants' leases, and consequently causing a reduction in our income. Tenant bankruptcies may make it more difficult for us to lease the remainder of the property or properties in which the bankrupt tenant operates and adversely impact our ability to successfully execute our re-leasing strategy.

A sustained downturn in the U.S. economy and reduced consumer spending as well as consumer activity at brick-and-mortar commercial establishments due to the prolonged existence and threat of the COVID-19 pandemic, or a future pandemic, could impose an economic slowdown or recession in the United States which could impact our tenants' ability to meet their lease obligations due to poor operating results, lack of liquidity or other reasons and therefore decrease the revenue generated by our properties or the value of our properties. Our ability to lease space and negotiate and maintain favorable rents could also be negatively impacted by a prolonged recession in the U.S. economy. Moreover, the demand for leasing space in our properties could substantially decline during a significant downturn in the U.S. economy which could make it difficult for us to renew or re-lease our properties at lease rates equal to or above historical rates and lead us to incur significant re-leasing costs.

The COVID-19 pandemic has also led to complete or partial shutdowns of manufacturing facilities and distribution centers in many countries and disruptions in our tenants' supply chains, and may otherwise delay the delivery of inventory or other goods necessary for our tenants' operations. Our tenants may also be negatively impacted if the outbreak of COVID-19 occurs within their workforce or otherwise disrupts their management.

The COVID-19 pandemic, or a future pandemic, could also have material and adverse effects on our ability to successfully operate and on our financial condition, results of operations, liquidity and cash flows due to, among other factors:

- Difficulty accessing debt and equity capital on attractive terms, or at all, impacts to our credit ratings, and a severe disruption and instability in the global financial markets or deteriorations in credit and financing conditions may affect our access to capital necessary to fund business operations or address maturing liabilities on a timely basis and our tenants' ability to fund their business operations and meet their obligations to us;
- The financial impact could negatively impact our ability to pay dividends to our shareholders;
- The financial impact of the COVID-19 pandemic could negatively impact our future compliance with financial covenants of our term loan facility (the "Term Loan Facility") with Berkshire Hathaway Life Insurance Company of Nebraska ("Berkshire Hathaway") or result in a default and potentially an acceleration of indebtedness, which non-compliance could negatively impact our ability to make additional borrowings under our Incremental Funding Facility (as defined below), conduct asset sales, fund development activity or pay dividends to our shareholders;
- The worsening of estimated future cash flows due to a change in our plans, policies, or views of market and economic conditions as it relates to one or more of our adversely impacted properties could result in the recognition of substantial impairment charges imposed on our assets;
- The credit quality of our tenants could be negatively impacted and we may significantly increase our allowance for doubtful accounts;
- Difficulties completing our redevelopment projects on a timely basis, on budget or at all;
- A general decline in business activity and demand for real estate transactions could adversely affect our ability or desire to reinvest in or redevelop our properties; and
- The potential negative impact on the health of our personnel, particularly if a significant number of them are impacted, could result in a deterioration in our ability to ensure business continuity during this disruption.

The extent to which the COVID-19 pandemic, or a future pandemic, impacts our operations and those of our tenants will depend on future developments, which are highly uncertain and cannot be predicted with confidence, including the scope, severity and duration of the pandemic, the actions taken to contain the pandemic or mitigate its impact, and the direct and indirect economic effects of the pandemic and containment measures, among others. Additional closures by our tenants of their stores and early terminations by our tenants of their leases could reduce our cash flows, which could impact our ability to pay dividends.

The fluidity of this situation precludes any prediction as to the full adverse impact of the COVID-19 pandemic. Nevertheless, the COVID-19 pandemic presents, and future outbreaks of other highly infectious or contagious diseases may present, material uncertainty and risk with respect to our business, income, cash flow, results of operations, financial condition, liquidity, prospects and ability to service our debt obligations.

Risks Related to Our Tax Status

Our obligations to pay income taxes are expected to increase beginning in 2022, which could result in a reduction to our earnings, and could have negative consequences to us.

We revoked our REIT election and become a taxable C corporation effective January 1, 2022. As a result, we will not be allowed a deduction for dividends paid to our stockholders in computing our taxable income and will be subject to U.S. federal and state taxes on our taxable income at corporate rates. This treatment could also reduce our net earnings available for investment or distribution to our stockholders because of the additional tax liability on us. Further, U.S. federal and state income tax rates could increase in the future, exacerbating these risks. The Administration of President Biden has proposed increasing the U.S. federal corporate income tax rate from 21% to 28%, and the U.S. Congress has, in the past, made similar proposals. We also will be disqualified from electing REIT status through December 31, 2026.

We may fail to realize the anticipated benefits of revoking our REIT election and becoming a taxable C corporation, or those benefits may take longer to realize than expected, if at all, or may not offset the costs of revoking our REIT election and becoming a taxable C corporation.

We believe that revoking our REIT election and becoming a taxable C corporation, among other things, provides us with the enhanced flexibility to efficiently pursue a variety of potential alternatives to maximize the value of our diverse portfolio of assets, including a potential sale or series of sales of assets. In reaching this determination, we considered, among other things, the potential timing and transaction limitations that would be imposed on us if we remained subject to the REIT tax rules, the significant tax basis we have in our assets, and our net operating losses. However, our ability to pursue potential alternatives to maximize the value of our assets, including the timing and amount of sales of assets, may not meet our expectations or may cause us to incur increased U.S. federal and state income taxes which may reduce, or eliminate, the anticipated benefits of the transition from a REIT to a taxable C corporation. Moreover, there can be no assurance that the anticipated benefits of the transition from a REIT to a taxable C corporation will offset its costs, which could be greater than we expect. Our failure to achieve the anticipated benefits of the transition from a REIT to a taxable C corporation at all, or in a timely manner, or a failure of any benefits realized to offset its costs, could negatively affect our business, financial condition, results of operations or the market price of our common stock.

We no longer qualify for taxation as a REIT for U.S. federal income tax purposes effective as of January 1, 2022, and there can be no assurance that the IRS will not challenge our previous REIT status.

Although we elected for U.S. federal income tax purposes to be treated as a REIT for the 2021 taxable year and in prior taxable years, we revoked our REIT election for the tax year beginning January 1, 2022 and intend to be treated as a regular C corporation for the current year and any year in the foreseeable future, and, as a result, we will be unable to claim the U.S. federal income tax benefits associated with REIT status. Moreover, there can be no assurance that the IRS will not challenge our qualification as a REIT for years in which we intended to qualify as a REIT. Although we believe we did qualify as a REIT in each such year, if the IRS were to successfully challenge our previous REIT status, we would suffer adverse tax consequences, such as those described below.

For the 2022 taxable year and future years (and for any prior year if we were to fail to qualify as a REIT in such year), we will generally be subject to U.S. federal income tax on our taxable income at regular corporate rates, and distributions to stockholders would not be deductible by us in computing our taxable income. Any such corporate tax liability could be substantial and would reduce the amount of cash available for distribution to our stockholders, which in turn could have an adverse impact on the value of, and trading prices for, our stock. Our decision to revoke our REIT election could also have other effects on any given stockholder,
depending on its particular circumstances. For example, certain foreign investors that own large positions in our stock may be subject to less favorable rules under the Foreign Investment in Real Property Tax Act of 1980 following the revocation of our REIT election. Stockholders are urged consult their tax advisors regarding the effects to them of the revocation of our REIT elections in light of their particular circumstances.

Our board of directors' decision to revoke our REIT election means we will no longer be required to distribute substantially all of our net taxable income to our stockholders.

Prior to termination of our REIT election, we made distributions of a minimum of 90% of our taxable income each year in order to maintain our REIT status. On March 31, 2022, we revoked our election to be treated as a REIT, effective January 1, 2022. Consequently, we are no longer subject to the distribution requirements applicable to REITs. All future dividend distributions will be made at the discretion of our board of directors and will depend upon, among other things, our earnings, investment strategy, financial condition and liquidity, and such other factors as the board of directors deems relevant, as well as any contractual restrictions.

If we experience an "ownership change" for purposes of Section 382 of the Code, our ability to utilize our net operating loss and net capital loss carryforwards and certain built-in losses to reduce our future taxable income could be limited, potentially increasing the net taxable income on which we must pay corporate-level taxes, and potentially adversely affecting our liquidity, and our desire to preserve our net operating losses and net capital loss carryforwards may cause us to forgo otherwise attractive opportunities.

If we experience an "ownership change," our future ability to utilize our net operating loss and net capital loss carryforwards to reduce our taxable income may be limited by certain provisions of the Code. Specifically, the Code limits the ability of a company that undergoes an "ownership change" to utilize its net operating loss and net capital loss carryforwards and certain built-in losses to offset taxable income earned in years after the ownership change. An ownership change occurs if, during a three-year testing period, more than 50% of the stock of a company is acquired by one or more persons (or certain groups of persons) who own, directly or constructively, 5% or more of the stock of such company. An ownership change can occur as a result of a public offering of stock, as well as through secondary market purchases of our stock and certain types of reorganization transactions. Generally, when an ownership change occurs, the annual limitation on the use of net operating loss and net capital loss carryforwards and certain built-in losses is equal to the product of the applicable long-term tax exempt rate and the value of the company's stock immediately before the ownership change. We have substantial net operating and net capital loss carry forwards which we have used, and will continue to use, to offset our taxable income.

If we experience an ownership change, our income tax liability could materially increase. In addition, if we were to undergo an ownership change, our net operating losses and net capital loss carryforwards could become subject to additional limitations, which could result in us incurring materially greater tax liability than if we had not undergone such an ownership change. The determination of whether an ownership change has occurred or will occur is complicated and depends on changes in percentage stock ownership among stockholders. In addition, we may decide in the future that it is necessary or in our interest to take certain actions that could result in an ownership change. Therefore, no assurance can be provided as to whether an ownership change will occur in the future. Moreover, the potential negative consequences of the limitations that would result from an ownership change may discourage us from, among other things, redeeming our stock or issuing additional common stock to raise capital or to acquire businesses or assets. Accordingly, our desire to preserve our net operating losses and net capital loss carryforwards may cause us to forgo otherwise attractive opportunities.

If we do not qualify to be taxed as a REIT for any taxable year through 2021, we will be subject to U.S. federal income tax as a regular corporation and could face a substantial tax liability, which would reduce the amount of cash available for distribution to our shareholders.

As described above, we operated through December 31, 2021 in a manner intended to qualify us as a REIT for U.S. federal income tax purposes. However, qualification as a REIT involves the application of highly technical and complex provisions of the Code, for which only a limited number of judicial and administrative interpretations exist. Even a technical or inadvertent violation could jeopardize our REIT qualification through 2021. Our qualification as a REIT through 2021 depends on the satisfaction of certain asset, income, organizational, distribution, shareholder ownership and other requirements.

If we were to fail to qualify as a REIT in any taxable year through 2021, and no available relief provision applied, we would be subject to U.S. federal income tax on our taxable income at regular corporate rates (which is 21% for periods ending after December 31, 2017 through 2021), as well as U.S. state and local income tax, and dividends paid to our shareholders would not be deductible by us in computing our taxable income. Any resulting corporate tax liability could be substantial and would reduce the amount of cash available for distribution to our shareholders, which in turn could have an adverse impact on the value of our common shares.

We could fail to qualify to be taxed as a REIT through 2021 if income we received is not treated as qualifying income.

Under applicable provisions of the Code, we will not be treated as a REIT through 2021 unless we satisfied various requirements, including requirements relating to the sources of our gross income. Rents we received or accrued from tenants may not be treated as qualifying rent for purposes of these requirements if the applicable lease is not respected as a true lease for U.S. federal income tax purposes and is instead treated as a service contract, joint venture, financing, or some other type of arrangement. We believe that the Holdco Master Lease should be respected as a true lease for U.S. federal income tax purposes for the years in which such lease was in effect. If, contrary to expectations, the Holdco Master Lease is not respected as a true lease for U.S. federal income tax purposes, the IRS may determine that we failed to qualify to be taxed as a REIT during such time. Furthermore, our qualification as a REIT through 2021 depended on the satisfaction of certain asset, income, organizational, distribution, shareholder ownership and other requirements. Our ability to satisfy the asset tests depends upon our analysis of the characterization and fair market values of our assets, some of which are not susceptible to a precise determination, and for some of which we did not obtain independent appraisals.

In addition, subject to certain exceptions, rents we received or accrued from our tenants would not be treated as qualifying rent for purposes of these requirements if we or an actual or constructive owner of 10% or more of our outstanding shares (by value) actually or constructively owned 10% or more of the interests in the assets or net profits of a non-corporate tenant, or, if the tenant is a corporation, 10% or more of the total combined voting power of all classes of stock of such tenant entitled to vote or 10% or more of the total value of all classes of stock of such tenant. For purposes of determining whether rental payments received by a REIT are treated as qualifying rent, the stock, assets or net profits owned by a partner in an entity classified as a partnership for U.S. federal income tax purposes are attributed to such partnership only if the partner owns (directly or indirectly) 25% or more of the capital interest or profits interest in the partnership. As a result of these constructive ownership rules, it is possible that we could have been treated as owning 10% or more of a tenant, and in such case rent payments received from such tenant may not be treated as qualifying rent for purposes of these requirements. Our Declaration of Trust provided for restrictions on ownership and transfer of Class A common shares and Series A Preferred Shares prior to the revocation of our REIT election for 2022, including restrictions on such ownership or transfer that would cause the rents we received or accrued from a tenant to be treated as non-qualifying rent for purpose of the REIT gross income requirements. Nevertheless, such restrictions may not be effective in ensuring that rents we received or accrued from our tenants will be treated as qualifying rent for purposes of REIT qualification requirements.

We may be subject to adverse legislative or regulatory tax changes that could increase our tax liability, reduce our operating flexibility and reduce the price of our common stock.

The rules dealing with U.S. federal income taxation are constantly under review by persons involved in the legislative process and by the IRS and the U.S. Department of the Treasury. Changes to the tax laws or interpretations thereof, with or without retroactive application, could materially and adversely affect our investors or us. We cannot predict how changes in the tax laws might affect our investors or us. Any such changes could have an adverse effect on an investment in our shares or on the market value or the resale potential of our assets. You are urged to consult with your tax advisor with respect to the status of legislative, regulatory or administrative developments and proposals and their potential effect on an investment in our shares.

Risks Related to Ownership of our Securities

The market price and trading volume of our securities may be volatile.

The market price of our securities may be volatile, and the trading volume in our securities may fluctuate and cause significant price variations to occur. Some of the factors that could negatively affect the market price of our securities or result in fluctuations in the price or trading volume of our securities include:

- actual or anticipated variations in our quarterly results of operations;
- changes in our funds from operations or earnings estimates;
- publication of research reports about us or the real estate or retail industries;
- increases in market interest rates that may cause purchasers of our securities to demand a higher yield;
- changes in market valuations of similar companies;
- adverse market reaction to any additional debt we may incur in the future;
- actions by ESL, or by institutional shareholders;
- speculation in the press or investment community about our company or industry or the economy in general;
- adverse performance or potential financial distress or bankruptcy of our major tenants, including Holdco;
- the occurrence of any of the other risk factors presented in this filing;
- adverse developments in the Litigation;
- complications regarding the Plan of Sale;
- specific real estate market and real estate economic conditions; and
- general market and economic conditions.

The transactions with Sears Holdings and Holdco could give rise to disputes or other unfavorable effects, which could have a material adverse effect on our business, financial condition or results of operations.

Disputes with third parties could arise out of our historical transactions with Sears Holdings or future transactions with Holdco, and we could experience unfavorable reactions from employees, ratings agencies, regulators or other interested parties. These disputes and reactions of third parties could have a material adverse effect on our business, financial condition or results of operations. In addition, disputes between us and Sears Holdings or Holdco could arise in connection with any of our past or future agreements with those counterparties. See "—Risks Related to Our Business and Operations—Following the Sears Holdings bankruptcy, we have been named as a defendant in litigation that could adversely affect our business and financial condition, divert management's attention from our business, and subject us to significant liabilities, including remedies that may be imposed as a result of a finding of fraudulent conveyance."

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

None.

Item 3. **Defaults Upon Senior Securities**

None.

Item 4. **Mine Safety Disclosures**

Not applicable.

Item 5. **Other Information**

None.

Item 6. Exhibits

Exhibit No.	Description	SEC Document Reference
10.1	Amendment No. 3 to the Senior Secured Term Loan Agreement, dated June 16, 2022, among Seritage Growth Properties, L.P., Seritage Growth Properties and Berkshire Hathaway Life Insurance Company of Nebraska.	Incorporated by reference to Exhibit 10.1 to our Current Report on Form 8-K, filed June 21, 2022.
31.1	Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	Filed herewith.
31.2	Certification of the Interim Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	Filed herewith.
32.1	Certification of the Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350	Furnished herewith.
32.2	Certification of the Interim Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350	Furnished herewith.
101.INS	Inline XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.	Filed herewith.
101.SCH	Inline XBRL Taxonomy Extension Schema Document	Filed herewith.
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document	Filed herewith.
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document	Filed herewith.
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document	Filed herewith.
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document	Filed herewith.
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)	Filed herewith.

SIGNATURES

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

SERITAGE GROWTH PROPERTIES

Dated: August 9, 2022

/s/ Andrea Olshan

By: Andrea Olshan
President and Chief Executive Officer
(Principal Executive Officer)

Dated: August 9, 2022

/s/ John Garilli

By: John Garilli
Interim Chief Financial Officer
(Principal Financial and Accounting Officer)

Exhibit 31.1

CERTIFICATION

I, Andrea Olshan, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Seritage Growth Properties;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rule 13a-15(f) and 15d-15(f)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Andrea Olshan

Date: August 9, 2022

Andrea Olshan
President and Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION

I, John Garilli, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Seritage Growth Properties;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rule 13a-15(f) and 15d-15(f)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ John Garilli

Date: August 9, 2022

John Garilli
Interim Chief Financial Officer
(Principal Financial and Accounting Officer)

Exhibit 32.1

CERTIFICATION PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002
(18 U.S.C. SECTION 1350)

In connection with the Quarterly Report of Seritage Growth Properties, a Maryland real estate investment trust (the "Company"), on Form 10-Q for the quarter ended June 30, 2022 as filed with the Securities and Exchange Commission (the "Report"), I, Andrea Olshan, President and Chief Executive Officer of the Company, certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to the best of my knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Andrea Olshan
Andrea Olshan
President and Chief Executive Officer
(Principal Executive Officer)
August 9, 2022

A signed original of this written statement required by Section 906 has been provided to Seritage Growth Properties and will be retained by Seritage Growth Properties and furnished to the Securities and Exchange Commission or its staff upon request.

Exhibit 32.2

CERTIFICATION PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002
(18 U.S.C. SECTION 1350)

In connection with the Quarterly Report of Seritage Growth Properties, a Maryland real estate investment trust (the "Company"), on Form 10-Q for the quarter ended June 30, 2022 as filed with the Securities and Exchange Commission (the "Report"), I, John Garilli, Interim Chief Financial Officer of the Company, certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to the best of my knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ John Garilli
John Garilli
Interim Chief Financial Officer
(Principal Financial and Accounting Officer)
August 9, 2022

A signed original of this written statement required by Section 906 has been provided to Seritage Growth Properties and will be retained by Seritage Growth Properties and furnished to the Securities and Exchange Commission or its staff upon request.