ABLEAUCTIONS COM INC
Form 8-K
October 24, 2003

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities and Exchange Act of 1934

Date of Report (Date of earliest event reported): October 23, 2003

ABLEAUCTIONS.COM, INC.

(exact name of Registrant as specified in charter)

Florida	**000-28179**	**59-3404233**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification Number)

1963 Lougheed Highway

Coquitlam, British Columbia V3K 3T8 Canada

(Address of principal executive offices)

Registrant s telephone number, including area code: 604-805-4580

This Form 8-K and other reports filed by the Registrant from time to time with the Securities and Exchange Commission (collectively the Filings) contain forward looking statements and information that are based upon beliefs of, and information currently available to, the Registrant s management as well as estimates and assumptions made by the Registrant s management. When used in the Filings the words anticipate , believe , estimate , expect , future plan or the negative of these terms and similar expressions as they relate to the Registrant or the Registrant s management identify forward looking statements. Such statements reflect the current view of the Registrant with respect to future events and are subject to risks, uncertainties, assumptions and other factors relating to the Registrant s industry, operations and results of operations and any businesses that may be acquired by the Registrant. Should one or more of these risks or uncertainties materialize, or should the underlying assumptions prove incorrect, actual results may differ significantly from those anticipated, believed, estimated, expected, intended or planned.

Item 5.

Other Events and Regulation FD Disclosure

On October 23, 2003 the Board of Directors of Ableauctions.com, Inc. (the Company) approved a Share Purchase Agreement between the Company, Paul Piotrowski, Jabeel Janmohamed (collectively, Mr. Piotrowski and Mr. Janmohamed will be referred to as the Stockholders) and Rapidfusion Technologies Inc. (RTI) for the purchase of all of the capital stock owned by the Stockholders in RTI. RTI creates and maintains websites, builds and supports custom hardware and network configurations and has developed a point of sale software that allows purchase orders, invoices and shipping notices to be sent by telephone overnight. The consideration for the purchase, all of which was paid for by the Company, was $10.00. There is no material relationship between the Company and the Stockholders, although RTI and the Stockholders, as employees of RTI and as individuals, have provided services to the Company in the past.

The Company intends to continue the business of RTI, and to develop a Windows version of RTI s point of sale software, which the Company believes may be useful to its operations in the future.

Item 7.

Exhibits

10.

Share Purchase Agreement.

SIGNATURES

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

ABLEAUCTIONS.COM, INC.

/s/Abdul Ladha ____________________

Abdul Ladha, Chief Executive Officer

Dated: October 23, 2003

Exhibit 10.

SHARE PURCHASE AGREEMENT

THIS AGREEMENT dated for reference the 1st day of September, 2003.

AMONG:

PAUL PIOTROWSKI, of 1987 Brunette Avenue, Coquitlam, British Columbia, V3K 1H2

(Piotrowski)

- and -

JABEEL JANMOHAMED, of 1987 Brunette Avenue, Coquitlam, British Columbia, V3K 1H2

(Janmohamed)

(Piotrowski and Janmohamed are collectively known as the Vendors)

OF THE FIRST PART

AND:

ABLEAUCTIONS.COM, INC., a company incorporated under the laws of Florida and having a head office at 1963 Lougheed Highway, Coquitlam, British Columbia, V3K 3T8

(the Purchaser)

OF THE SECOND PART

AND:

RAPIDFUSION TECHNOLOGIES INC., a company incorporated under the laws of Canada and having registered and records offices located at 1055 West Georgia Street, Suite 1500 Royal Centre, PO Box 11117, Vancouver, British Columbia, V6E 4N7

(the Company)

OF THE THIRD PART

WHEREAS:

A.

The Vendors are the registered and beneficial owners of 100% of the Company s issued and outstanding common shares; and

B.

The Vendors have agreed to sell and the Purchaser has agreed to purchase not less than 100% of the Company s issued and outstanding common shares, subject to the following terms and conditions;

NOW THEREFORE THIS AGREEMENT WITNESSES THAT, in consideration of the promises, covenants, terms, conditions, representations, and warranties set forth in this Agreement, the parties agree as follows:

1.

<u>INTERPRETATION</u>

Where used in this Agreement, the following words will have the following meanings:

(a)

Accounts Receivable means all trade accounts, notes, and other debts arising out of the operation of the Business and owing to the Companies, whether due or to become due;

(b)

Agreement means this agreement, including the preamble, as supplemented or amended in effect from time to time;

(c)

Assets means all personal property, choses in action, intangible or intellectual property (including patents, copyrights, trade-marks, trade names, or licenses), and all other assets of any kind owned by the Companies;

(d)

Business means the business currently carried on by the Companies described as thesale and installation of Point-of-Sale (POS) software, development of the POS software, installation of computer hardware and POS related hardware, development of web-sites, the servicing and support of the hardware and POS systems. s;

(e)

Closing Date means the closing date of the transaction contemplated by this Agreement as defined in paragraph 6.1 of this Agreement;

(f)

Company means Rapidfusion Technologies Inc.;

(g)

Companies means, collectively, the Company and the Subsidiary;

(h)

Contracts means all material commitments, agreements, contracts, arrangements, instruments, leases, and other documents entered into by the Companies, by which the Companies are bound, or to which any of the Companies or the Assets are subject;

(i)

Effective Date means September 1, 2003;

(j)

Exchange means the American Stock Exchange;

(k)

Indebtedness means all trade accounts, debts, duties, endorsements, guarantees, liabilities, obligations, responsibilities, and undertakings assumed, created, incurred, or made by the Companies, whether voluntary or involuntary, however incurred or made or arising, whether due or not due (except accrued employees salaries that are not yet due), absolute, inchoate, or contingent, liquidated or unliquidated, determined or undetermined, direct or indirect, express or implied, and whether the Companies may be liable individually or jointly with others;

(l)

Lien means any mortgage, debenture, charge, hypothecation, pledge, lien, or other security interest or encumbrance of any kind, regardless of form and whether consensual or arising by laws, statutory, or otherwise, that secures the payment of any Indebtedness or the performance of any obligation or creates in favour of or grants to any Person any proprietary right;

(m)

Person means an individual, corporation, body corporate, partnership, joint venture, society, association, trust, or unincorporated organization, or any trustee, executor, administrator, or other legal representative;

(n)

Purchaser means Ableauctions.com, Inc.;

(o)

Shares means 10,000 common shares without par value of the Company, representing 100% of the Company s issued and outstanding shares, which the Vendors will transfer to the Purchaser;

(p)

Subsidiary means 652297 B.C. Ltd.; and

(q)

Vendors means Paul Piotrowski and Jabeel Janmohamed, being all of the shareholders of the Company.

1.2

In this Agreement, except as otherwise expressly provided:

(a)

the headings are for convenience only and do not form a part of this Agreement and are not intended to interpret, define, or limit the scope, extent, or intent of this Agreement or any of its provisions;

(b)

the singular of any term includes the plural and vice versa, the use of any term is equally applicable to any gender and, where applicable, a body corporate, the word or is not exclusive and the word including is not limited (whether or not non-limited language, such as without limitation or but not limited to or words of similar import is used with reference to that term);

(c)

any accounting term not otherwise defined has the meanings assigned to it in accordance with generally accepted accounting principles applicable in Canada;

(d)

any reference to a statute includes and is a reference to that statute and to the regulations made under that statute, with all amendments made to that statute and in force from time to time, and to any statute or regulations that may be passed that has the effect of supplementing or superseding that statute or those regulations;

(e)

except as otherwise provided, any dollar amount referred to in this Agreement is in Canadian funds; and

(f)

any other term defined within the text of this Agreement has the meaning so ascribed.

2.

PURCHASE AND SALE OF SHARES

2.1

Subject to the conditions and on the terms set forth in this Agreement, the Purchaser agrees to purchase and the Vendors agree to sell to the Purchaser all of their right, title, and interest in and to the Shares.

2.2

On the Closing Date, the Purchaser will pay to the Vendors the purchase price of $10.00 for the Shares to be divided between the Vendors pro rata in accordance with each Vendor s percentage interest in the Shares or as the Vendors may otherwise direct the Purchaser in writing.

2.3

Notwithstanding the Closing Date, the effective date of the purchase and sale of the Shares will be the Effective Date.

3.

REPRESENTATIONS AND WARRANTIES OF THE VENDORS

3.1

To induce the Purchaser to enter into and consummate this Agreement, the Vendors jointly and severally represent and warrant to the Purchaser as follows:

(a)

the Vendors are the registered holder and beneficial owners of the Shares and the Vendors have no other interest, legal or beneficial, direct or indirect, in any other securities of the Company or in the Assets or the Business;

(b)

the Shares are free and clear of all Liens, equities, or claims of any kind, and the Shares are validly issued and outstanding as fully paid and non-assessable;

(c)

the Vendors have the power and capacity and good and sufficient right and authority to enter into this Agreement on the terms and conditions set forth in this Agreement and to transfer the legal and beneficial title and ownership of the Shares to the Purchaser;

(d)

this Agreement constitutes a legal, valid, and binding obligation of the Vendors and the Company, enforceable against the Vendors and the Company in accordance with its terms, except as may be limited by laws of general application affecting the rights of creditors;

(e)

the Vendors are residents of Canada, as that term is defined in the *Income Tax Act* (Canada);

(f)

the Shares represent all of the Company s issued and outstanding shares;

(g)

the Company is a corporation duly incorporated and validly existing under the laws of British Columbia, is in good standing regarding the filing of annual reports, and has the power, authority, and capacity to enter into this Agreement and to carry out its terms;

(h)

neither the signing nor delivery of this Agreement, nor the completion of the purchase and sale of the Shares, will:

(i)

violate any of the terms and provisions of the Company s Articles of Incorporation and Bylaws, or any judgment, order, decree, statute, bylaw, regulation, covenant, restriction, or any Contract or agreement applicable to the Vendors, the Companies, or any of the Assets;

(ii)

give any Person the right to terminate or cancel any Contract or any other right, license, permit, or other benefit enjoyed by the Companies, or remove any of the Assets; or

(iii)

result in the creation or imposition of any Lien or restriction of any nature whatsoever in favour of any Person on or against the Assets or the Shares;

(i)

the Company s authorized capital is an unlimited number of Class A and Class B shares without par value, of which 100 Class A shares are held in the aggregate by the Vendors;

(j)

no Person has any agreement or option or a right capable of becoming an agreement:

(i)

to require the Companies to issue any other securities or to convert or exchange any securities into or for shares of the Companies;

(ii)

for the purchase, subscription, allotment, or issuance of any of the unissued shares of the Companies; or

(iii)

to require the Companies to purchase, redeem, or otherwise acquire any of their issued and outstanding shares;

(k)

the Subsidiary s current authorized capital is 100,000 common shares without par value, of which 100 common shares are held in the aggregate by the Vendors and Raymond Wong, all of which shares of the Subsidiary are free and clear of all Liens, equities, or claims of any kind, and are validly issued and outstanding as fully paid and non-assessable;

(l)

the Company will legally and beneficially own on the Effective Date, all of the issued and outstanding shares of the Subsidiary;

(m)

the Subsidiary is a corporation duly incorporated and validly existing under the laws of British Columbia and is in good standing regarding the filing of annual reports;

(n)

since the Effective Date:

(i)

there have been no material adverse changes in the corporate or financial affairs of the Companies or the Business;

(ii)

the Companies have not incurred, discharged, satisfied or paid any Liens or Indebtedness other than current Indebtedness in the normal course of business;

(iii)

the Companies have not made or authorized any single capital expenditure that exceeds $5,000, without full disclosure to the Purchaser;

(iv)

the Companies have neither waived nor surrendered any right of material value; and

(v)

the Business has been carried on in the normal course;

(o)

the Companies are not indebted nor under obligation to the Vendors, Raymond Wong or any directors, officers, employees, or affiliates of the Companies, and specifically the Companies are not liable to pay any outstanding salaries or wages, except in the normal course of business;

(p)

neither the Vendors nor any director, officer, employee, or affiliate of the Companies are indebted or under obligation to the Companies on any account whatsoever;

(q)

the Companies have not made, declared, or authorized any dividends or other distribution on any of their shares;

(r)

the Companies have the corporate power to own the Assets owned by them and to carry on the Business, the Companies are duly registered and qualified to carry on business in British Columbia and all other jurisdictions in which they do so;

(s)

the Companies have good and marketable title or rights to and possession of all the Assets free and clear of all Liens or other claims whatsoever, and neither the Vendors nor any of their family or affiliates own any Assets used by the Companies;

(t)

each item of machinery and equipment comprised in the Assets is in normal operating condition and in a state of reasonable maintenance and repair;

(u)

to the best of the Vendors knowledge, no copyright, franchise or license, patent right, trademark, trade name, domain name, or other intellectual property of the Companies used in or relating to the Business in any way infringes on the right of any Person under or regarding any patent, trade mark, trade name, copyright, or other industrial or intellectual property;

(v)

the Accounts Receivable arising between the Effective Date and the Closing Date are bona fide and collectible and are not subject to defenses, counterclaims, or set-off;

(w)

neither the Company nor the Subsidiary has altered its Charter documents since its incorporation, except as disclosed in its minute books, and the applicable corporate authorities in Canada have duly approved and registered all alterations;

(x)

there is no basis for and there are no actions, suits, judgments, investigations, or proceedings outstanding or pending or, to the Vendors knowledge, threatened against or affecting the Shares, the Companies, or the Assets at law or in equity or before or by any court or federal, provincial, state, municipal, or other government authority, department, commission, board, bureau, or agency;

(y)

to the best of the Vendors knowledge, the Companies are not in breach, violation, or infringement of any laws, ordinances, statutes, regulations, bylaws, judgments, orders, or decrees to which it is subject or that apply to them;

(z)

the Companies have obtained all permits, certificates, approvals, registrations, and licenses required for the operation of the Business as it is presently being conducted, and the Companies have not experienced, noted, or recorded any violations of any permits, certificates, approvals, registrations, and licenses, and no proceeding is pending or threatened to revoke or limit any of them;

(aa)

the Companies have not experienced nor are the Vendors aware of any occurrence or event that has had, or might reasonably be expected to have, a materially adverse effect on the Business or the results of their operations;

(bb)

the Companies have promptly and properly recorded or filed all of their material transactions in or with their respective books and records, and their minute books contain all records of the meetings and proceedings of shareholders and directors;

(cc)

the only present directors and officers of the Company are as follows:

<u>Name:</u>

<u>Positions:</u>

Paul Piotrowski

President and Director

Jabeel Janmohamed

Secretary and Director

(dd)

the only present directors and officers of the Subsidiary are as follows:

<u>Name:</u>

<u>Positions:</u>

Paul Piotrowski

Secretary and Director

Jabeel Janmohamed

Director

Raymond Wong

President and Director

(ee)

the Board of Directors of each of the Companies, as appropriate or necessary, has approved all of the Contracts and the Companies are not in material breach of or default under any of the terms, conditions, covenants, or provisions of the Contracts, nor have the Companies done or omitted to do anything that, with the giving of notice or lapse of time or both, would constitute a breach of or default under any Contract;

(ff)

the Vendors are not a party to any collective agreement relating to the Business with any labour union or other association of employees and no part of the Business has been certified as a unit appropriate for collective bargaining;

(gg)

the name and position of each of the Companies present employees, the duration of the employment of each employee with the Companies, and the remuneration, benefit obligations, and accrued vacation pay for each employee have been accurately provided to the Purchaser, and the Companies will have paid the full amounts of salaries, pensions, bonuses, commissions, and other remuneration of any nature, including severance pay and unpaid earned wages of the present or former directors, officers, employees, salesmen, consultants, and agents of the Companies, as at the Closing Date, up to the most recent pay day;

(hh)

since the Effective Date, the Companies have not increased the pay of or paid or agreed to pay any pension, bonus, share of profits, or other similar benefit to or for the benefit of any employee, director, officer, or agent of the Companies;

(ii)

there are no pension, profit sharing, incentive, bonus, or similar plans or other compensation plans affecting the Companies and they have no unfunded or unpaid liability for any plans, except for the monthly remittances paid in respect of U.I.C., C.P.P., Workers Compensation;

(jj)

the Companies do not have any Contracts, undertakings, or arrangements, whether oral, written, or implied, with lessees, licensees, managers, accountants, suppliers, agents, distributors, officers, directors, lawyers, or others that they cannot terminate on less than one month's notice;

(kk)

the Companies have been assessed for federal and provincial or state income tax for all years to and including the period ended August 31, 2003, and they have withheld and remitted to Canada Customs and Revenue Agency, or any other applicable tax collecting authority, all amounts required to be remitted to them respecting payments to employees or to non-residents or otherwise, and have paid all instalments of corporate taxes due and payable;

(ll)

the Companies have filed all tax returns, filings, and reports required by law to be filed prior to the date of this Agreement, including all federal, provincial, and state income tax returns, all returns and filings pertaining to compensation of employees of the Companies for job related injuries required by any state or federal law, and any other tax returns applicable to the Companies, and those returns, filings, and reports are true, complete, and correct, and the Companies have paid all taxes and other government charges, including all income, excise, sales, business, and property taxes and other rates, charges, assessment, levies, duties, taxes, contributions, fees, and licences required to be paid, and if not required to be paid as at the date of this Agreement, have been accrued in the financial statements to be provided to the Purchaser pursuant to section 5.3;

(mm)

the Companies have made adequate provision for taxes payable by the Companies for which tax returns are not yet required to be filed and there are no agreements, waivers, or other arrangements providing for an extension of time for the filing of any tax return by or payment of any tax, governmental charge, or deficiency by the Companies, and, to the Vendors knowledge, there are no contingent tax liabilities or any grounds that would prompt a re-assessment; and

(nn)

the Companies have made all elections required to be made under applicable income tax legislation in Canada and the United States, or other tax legislations in connection with any distributions by the Companies, and all elections were true and correct and in the prescribed forms and were made within the prescribed time periods.

3.2

The Vendors representations, warranties, covenants, and agreements contained in this Agreement, as may be amended by the certificate given by the Vendors in accordance with section 6.4, or in any certificates or documents delivered under this Agreement or in connection with the transaction contemplated by this Agreement will be true and correct at and as of the Effective Date and the Closing Date as though the representations and warranties were made at and as of that time. Despite any investigations or inquiries made by the Purchaser before the signing of this Agreement or the waiver of any condition by the Purchaser, the Vendors representations, warranties, covenants, and agreements, as amended by the said certificate will survive the signing and closing of this Agreement and, despite the purchase and sale provided for in this Agreement, will continue in full force and effect for one year from the Closing Date. If any of these representations and warranties are found to be incorrect or if the Vendors breach or are found to breach any covenant or agreement, which incorrectness or breach will result in the Purchaser sustaining, directly or indirectly, any loss or damage, then and subject to the provisions of section 9.1, the Purchaser will be entitled to be indemnified by the Vendors for such loss to the extent set out in section 9.1.

4.

PURCHASER S REPRESENTATIONS AND WARRANTIES

4.1

To induce the Vendors to enter into and consummate this Agreement, the Purchaser represents and warrants to the Vendors as follows:

(a)

the Purchaser is a corporation duly incorporated, validly existing, and in good standing under the laws of Florida, and the Purchaser has the power and capacity to enter into this Agreement and carry out its terms;

(b)

the signing and delivery of this Agreement and the completion of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the Purchaser s part;

(c)

this Agreement constitutes a legal, valid, and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms except as limited by laws of general application affecting the rights of creditors;

(d)

the signing, delivery, and performance of this Agreement and of the other agreements contemplated or referred to in this Agreement, and the completion of the transactions contemplated by this Agreement, will not constitute or result in a violation or breach or default under:

(i)

any term or provision of any of the Articles of Incorporation, as amended, Bylaws, or other constating documents of the Purchaser;

(ii)

the terms of any indenture, agreement, instrument, or understanding, or other obligation or restriction to which the Purchaser is a party or by which it is bound; or

(iii)

any term or provision of any licenses, registrations, or qualification of the Purchaser or any court, government authority, or regulatory body, or any applicable law or regulation of any jurisdiction;

(e)

the Purchaser is a reporting issuer in the United States within the meaning of the *Securities Exchange Act of 1934*; and

(f)

the Purchaser s shares of common stock are listed and posted for trading on the Exchange.

4.2

The Purchaser s representations, warranties, covenants, and agreements contained in this Agreement or in any certificates or documents delivered under this Agreement or in connection with the transaction contemplated by this Agreement will be true and correct at and as of the Effective Date and the Closing Date as though the representations and warranties were made at and as of that time. Despite any investigations or inquiries made by the Vendors before the signing of this Agreement or the waiver of any condition by the Vendors, the Purchaser s representations, warranties, covenants, and agreements will survive the signing and closing of this Agreement and, despite the purchase and sale provided for in this Agreement, will continue in full force and effect for one year from the Closing Date. If any of these representations and warranties are found to be incorrect or if the Purchaser breaches or is found to breach any covenant or agreement, which incorrectness or breach will result in the Vendors sustaining, directly or indirectly, any loss or damage, then the Purchaser will pay to the Vendors the amount of the loss or damage within 30 days of receiving notice of the loss or damage.

5.

COVENANTS OF THE PARTIES

5.1

Between the date of this Agreement and the Closing Date, the Companies will not:

(a)

issue, or enter into any agreements to issue, any securities of the Companies, including without limitation shares, warrants, options, convertible securities, or rights to purchase shares;

(b)

redeem, purchase, or otherwise acquire or commit to acquire any of the shares of the Companies;

(c)

amend their Charter documents;

(d)

effect any subdivision, consolidation, or reclassification of any of the shares of the Companies;

(e)

enter into any Contracts of any nature whatsoever except with the Purchaser s prior written consent;

(f)

purchase or sell any of the Assets except bona fide inventory sold in the normal course of business to Persons at arm s length to the Companies, their directors and officers, and the Vendors;

(g)

make any capital expenditure in excess of $5,000; and

(h)

make or agree to make any payment to any director, officer, employee, or agent of the Companies except in the normal course of business and at the regular rates of salary and commission for that person or as reasonable reimbursement for expenses incurred by that person in connection with the Companies.

5.2

Between the date of this Agreement and the Closing Date, the Vendors and the Company will:

(a)

permit, at all reasonable times, the Purchaser and its officers, counsel, accountant, and other representatives full access, during normal business hours, to the Assets, Contracts, books and records, minute books, and share registers of the Companies, and give the Purchaser and its representatives all information about the Companies that they may reasonably require;

(b)

conduct the Business and affairs of the Companies diligently and only in the normal course;

(c)

preserve and maintain the Companies employees, customers, suppliers, and goodwill, and the Assets and the Business;

(d)

promptly advise the Purchaser regarding any development that materially affects the Companies, the Business, or the Assets, in either case taken as a whole.

5.3

The Vendors will cause the Companies to deliver, not later than October 31, 2003, to the Purchaser unaudited financial statements of the Company and the Subsidiary for the most recent year end or such other period as the parties may agree, which financial statements will be substantially true and correct in every material respect and will present fairly their financial position and the results of their operations for the periods then ended, in accordance with generally accepted accounting principles applied on a basis consistent with that of previous years.

6.

CLOSING MATTERS

6.1

In this Agreement, the Closing Date means the date mutually agreed to by the parties, which will be within five business days following the fulfilment or waiver of all other closing conditions, which conditions must be obtained, fulfilled, or waived not later than October 31, 2003. If the transactions contemplated by this Agreement do not close by October 31, 2003, then this Agreement will terminate unless the parties mutually agree to extend the Closing Date, which extension is not to be unreasonably withheld. On the Closing Date, the Vendors and the Purchaser will complete the transactions contemplated by this Agreement and deliver the documents required to complete the transactions. The closing will be held at the place mutually agreed on by the parties, failing which the closing will be held at the offices of the Purchaser s solicitor, Claudia L. Losie, 1000 595 Burrard Street, Vancouver, British Columbia.

6.2

The Purchaser s obligation to complete the transactions contemplated by this Agreement is subject to the conditions that:

(a)

the Purchaser will have completed due diligence to its satisfaction in respect of the Companies, the Business, the Assets, and other corporate matters related to the Companies;

(b)

the Purchaser will have obtained the approval of the American Stock Exchange (if required) of the purchase of the Shares;

(c)

the representations and warranties of the Vendors set forth in paragraph 3.1 of this Agreement will be true and correct in every particular as if the Vendors made those representations and warranties on the Closing Date;

(d)

the Vendors and the Company will have performed or complied with all covenants and agreements to be performed by them;

(e)

the Purchaser will have obtained an independent valuation of the Companies indicating a fair market value of less than $100,000;

(f)

the Vendors will have delivered all documents to be delivered by it under paragraph 6.4 of this Agreement; and

(g)

the Companies will not have experienced any event or condition or have taken any action of any kind adversely affecting the Assets or the Business to materially reduce the value of the Assets or the Business to the Purchaser.

The conditions set forth in this paragraph 6.2 are for the exclusive benefit of the Purchaser and the Purchaser may waive these conditions in writing in whole or in part on or before the Closing Date, but save as so waived, the completion by the Purchaser of the transaction contemplated by this Agreement will not prejudice or affect in any way the Purchaser s rights regarding the Vendors representations and warranties set forth in paragraphs 3.1 and 3.2.

6.3

The Vendors obligations to complete the transaction contemplated by this Agreement are subject to the conditions that:

(a)

the Purchaser s representations and warranties as set forth in paragraph 4.1 will be true and correct in every particular as if the Purchaser made those representations and warranties on the Closing Date;

(b)

the Purchaser will have performed or complied with all covenants and agreements to be performed or complied with by it; and

(c)

the Purchaser will have delivered all documents to be delivered by it under paragraph 6.5.

The conditions set forth in this paragraph 6.3 are for the Vendors exclusive benefit and the Vendors may waive these conditions in writing in whole or in part on or before the Closing Date, but save as so waived, the completion by the Vendors of the transaction contemplated by this Agreement will not prejudice or affect in any way the Vendors rights regarding the Purchaser s representations and warranties set forth in paragraphs 4.1 and 4.2.

6.4

On the Closing Date, the Vendors will deliver or cause to be delivered to the Purchaser the following:

(a)

all of the Companies corporate records, books of account, Assets, Contracts, registers, and documents, including the Companies minute books and corporate seals;

(b)

a certificate signed by the Vendors confirming the accuracy of all representations and warranties contained in paragraph 3.1 of this Agreement, save as described in such certificate, the fulfilment of all covenants and conditions under this Agreement, unless waived, and any other matters that the Purchaser may reasonably require;

(c)

a certificate representing the Shares registered in the name of the Purchaser;

(d)

sequential resignations in writing of all current directors and officers of the Companies and sequential appointments of new directors and officers of the Company as nominated by the Purchaser evidenced by duly signed resolutions of the Companies directors; and

(e)

duly signed resolutions of the Company s directors changing the authorized signatories of all corporate bank accounts to nominees of the Purchaser and changing the Company s registered and records offices to the office of the Purchaser s counsel.

6.5

On the Closing Date, the Purchaser will deliver to the Vendors a certified cheque or banker s draft in the amount of $10.00 payable by the Purchaser to the Vendors in accordance with the direction of the Vendors.

7.

TRANSACTION EXPENSES

7.1

Each party to this Agreement will bear all costs and expenses incurred by it in negotiating this Agreement and in closing and carrying out the transaction contemplated by this Agreement. All costs and expenses related to satisfying any condition or fulfilling any covenant contained in this Agreement will be borne by the party whose responsibility it is to satisfy the condition or fulfil the covenant in question.

8.

ASSUMPTION OF INDEBTEDNESS

8.1

The Companies agree to assign to the Vendors all Accounts Receivable that arose prior to the Effective Date and in consideration thereof, the Vendors agree to assume and pay all of the Indebtedness incurred and owed by the Companies prior to the Effective Date.

9.

INDEMNITY

9.1

The Vendors will indemnify and hold harmless the Purchaser from and against:

(a)

any and all losses, damages, or deficiencies resulting from any misrepresentation, breach of warranty, or non-fulfilment of any covenant on the part of the Vendors or the Companies under this Agreement, including without limitation the Vendors covenant in section 8.1, or from any misrepresentation in or omission from any certificate or other instrument furnished or to be furnished by the Vendors to the Purchaser; and

(b)

any and all actions, suits, proceedings, demands, assessments, judgments, costs, and legal and other expenses incidental to the foregoing,

provided that:

(c)

the Purchaser gives the Vendors written notice of its claim for indemnification (which notice will, with reasonable particularity, specify the factual basis for the claim) on or before the day that is one year from the Closing Date; and

(d)

the aggregate amount of any and all claims made under this section 9.1 exceeds $5,000, it being understood that once such amount is exceeded, the aggregate of all such claims in excess of $5,000 will be payable to the Purchaser or the Company by the Vendors.

9.2

The Purchaser will indemnify and hold harmless the Vendors from and against:

(a)

any and all losses, damages, or deficiencies resulting from any misrepresentation, breach of warranty, or non-fulfilment of any covenant on the part of the Purchaser under this Agreement or from any misrepresentation in or omission from any certificate or other instrument furnished or to be furnished by the Purchaser to the Vendors; and

(b)

any and all actions, suits, proceedings, demands, assessments, judgments, costs, and legal and other expenses incidental to the foregoing,

provided that:

(c)

the Vendors give the Purchaser written notice of their claim for indemnification (which notice will, with reasonable particularity, specify the factual basis for the claim) on or before the day that is one year from the Closing Date; and

(d)

the aggregate amount of any and all claims made under this section 9.2 exceeds $5,000, it being understood that once such amount is exceeded, the aggregate of all such claims in excess of $5,000 will be payable to the Vendors by the Purchaser.

9.3

Nothing in this Article 9 will derogate from any party s obligation at law to mitigate any damage suffered or incurred by that party.

10.

NOTICES

10.1

Any notices to be given by either party to the other will be sufficiently given if delivered personally or transmitted by facsimile or if sent by registered mail, postage prepaid, to the parties at their respective addresses shown on the first page of this Agreement, or to any other addresses as the parties may notify to the other from time to time in writing. This notice will be deemed to have been given at the time of delivery, if delivered in person or transmitted by facsimile, or within five business days from the date of posting if mailed.

11.

GENERAL

11.1

The parties will sign all other documents and do all other things necessary to carry out and give effect to the intent of this Agreement.

11.2

This Agreement will enure to the benefit of and will be binding on the parties and their respective heirs, executors, administrators, successors, and assigns.

11.3

Time will be of the essence of this Agreement.

11.4

This Agreement constitutes the entire Agreement between the parties and there are no representations or warranties, express or implied, statutory or otherwise, and no terms, conditions, or agreements collateral to this Agreement other than as expressly set forth or referred to in this Agreement. This Agreement supersedes all letters of intent or agreements made between the parties before the date of this Agreement.

11.5

If any part of this Agreement is held invalid or unenforceable by a Court of law, then this Agreement will be read as if the invalid or unenforceable provision were removed.

11.6

The parties may sign this Agreement in several parts in the same form, which parts will together form one original agreement and will be read together and construed as if all signing parties had signed one copy of this Agreement.

11.7

This Agreement will be governed by and construed in accordance with the laws of British Columbia and the parties will attorn to the jurisdiction of the Courts thereof.

IN WITNESS WHEREOF the parties have signed this Agreement as of the date written on the first page of this Agreement.

SIGNED, SEALED AND DELIVERED

)

by **PAUL PIOTROWSKI**

)

in the presence of

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PAUL PIOTROWSKI

Witness

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Witness

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SIGNED, SEALED AND DELIVERED

)

by **JABEEL JANMOHAMED**

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in the presence of

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JABEEL JANMOHAMED

Witness

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THE CORPORATE SEAL OF

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ABLEAUCTIONS.COM, INC.

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cquiring goods or services from nonemployees. The guidance will be effective for fiscal years beginning after December 15, 2018, including the interim periods within that fiscal year. We have not yet adopted this new guidance and do not expect a material impact on our financial position, results of operations or cash flows when the new standard is implemented.

In August 2017, the FASB issued ASU No. 2017-12, "Derivatives and Hedging (Topic 815), Targeted Improvements to Accounting for Hedging Activities." The amendments in the new standard will permit more flexibility in hedging interest rate risk for both variable rate and fixed rate financial instruments and better align a company's financial reporting for hedging activities with the economic objectives of those activities. The standard will also enhance the presentation of hedge results in the financial statements. The guidance is effective for fiscal years beginning after December 15, 2018 and early adoption is permitted. We have not yet adopted the guidance and do not expect a material impact on our financial position, results of operations or cash flows when the new standard is implemented.

In May 2017, the FASB issued ASU No. 2017-09, "Compensation - Stock Compensation (Topic 718), Scope of Modification Accounting." The guidance clarifies the changes to the terms or conditions of a share-based payment award that require an entity to apply modification accounting in ASC 718. The adoption of this guidance, effective January 1, 2018, did not have a material impact on our financial position, results of operations or cash flows.

In February 2017, the FASB issued ASU No. 2017-05, "Other Income-Gains and Losses from the De-recognition of Nonfinancial Assets (Subtopic 610-20)," to add guidance for partial sales of nonfinancial assets, including partial sales of real estate, eliminate rules specifically addressing sales of real estate, remove exceptions to the financial asset derecognition model, and clarifies the accounting for contributions of non-financial assets to joint ventures. Historically, GAAP contained several different accounting models to evaluate whether the transfer of certain assets qualified for sale treatment. ASU 2017-05 reduces the number of potential accounting models that might apply and clarifies which model does apply in various circumstances. The adoption of this guidance, effective January 1, 2018, did not have a material impact on our financial position, results of operations or cash flows.

In January 2017, the FASB issued ASU No. 2017-01, "Business Combinations (Topic 805): Clarifying the Definition of a Business." The guidance clarifies the definition of a business and provides guidance to assist with determining whether transactions should be accounted for as acquisitions of assets or businesses. The main provision is that an acquiree is not a business if substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or group of assets. Upon the adoption of ASU No. 2017-01, we evaluated each acquisition of real estate or in-substance real estate to determine if the integrated set of assets and activities acquired meet the definition of a business and need to be accounted as a business combination. Generally, we expect that acquisitions of real estate or in-substance real estate will not meet the revised definition of a business because substantially all of the fair value is concentrated in a single identifiable asset or group of similar identifiable assets (i.e. land, buildings, and related intangible assets) or because the acquisition does not include a substantive process in the form of an acquired workforce or an acquired contract that cannot be replaced without significant cost, effort or delay. The adoption of this guidance, effective January 1, 2018, did not have a material impact on our financial position, results of operations or cash flows.

In November 2016, the FASB issued ASU No. 2016-18, "Statement of Cash Flows (Topic 230): Restricted Cash." The guidance requires entities to show the changes on the total cash, cash equivalents, restricted cash and restricted cash equivalents in the statement of cash flows. As a result, entities will no longer present transfers between these items on the statement of cash flows. The adoption of this guidance, effective January 1, 2018, resulted in a restatement of our statement of cash flows for the nine months ended September 30, 2017, for comparative purposes. This resulted in a reduction of approximately $0.7 million in net cash used in operating activities from $7.1 million to $6.3 million.

In August 2016, the FASB issued ASU No. 2016-15, "Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments (A Consensus of the FASB Emerging Issues Task Force)." ASU 2016-15 provides final guidance on eight cash flow issues, including debt prepayment or debt extinguishment costs, contingent consideration payments made after a business combination, distributions received from equity method investees, separately identifiable cash flows and application of the predominance principle, and others. The adoption of this guidance, effective January 1, 2018, did not have a material effect on our financial position, results of operations or cash flows.

In February 2016, the FASB issued ASU No. 2016-02, "Leases." ASU 2016-02 outlines a new model for accounting by lessees, whereby their rights and obligations under substantially all leases, existing and new, would be capitalized and recorded on the balance sheet. For lessors, however, the accounting remains largely unchanged from the current model, with the distinction between operating and financing leases retained, but updated to align with certain changes to the lessee model and the new revenue recognition standard discussed above. As lessee, we are party to an office lease with future payment obligations aggregating approximately $3.0 million at September 30, 2018 (see Note 8 - Commitments) for which we expect to record right of use assets and corresponding lease liabilities upon adoption of ASU 2016-02. The new guidance also requires that internal leasing costs be expensed as incurred, as opposed to capitalized and deferred. We do not capitalize internal leasing costs. ASU 2016-02 will also require extensive quantitative and qualitative disclosures and is effective for periods beginning after December 15, 2018, but early adoption is permitted. In July 2018, the FASB issued ASU 2018-11, "Leases (Topic 842) – Targeted Improvements," which provides an optional transition method of applying the new leases standard at the adoption date by recognizing a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption. It also provides lessors with a practical expedient to not separate non-lease revenue components from the associated lease component if certain conditions are met. We are currently evaluating the extent of the impact of adopting this new standard on our consolidated financial statements and related disclosures.

In May 2014, the FASB issued ASU 2014-09 establishing ASC Topic 606, "Revenue from Contracts with Customers" ("ASC 606"). ASU 2014-09, as amended by subsequent ASUs on the topic, establishes a single comprehensive model for entities to use in accounting for revenue arising from contracts with customers and supersedes most of the existing revenue recognition guidance. This standard requires an entity to recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services and also requires certain additional disclosures. We adopted this standard effective January 1, 2018 using the modified retrospective method approach, however, there was no cumulative-effect required to be recognized in our accumulated deficit at the date of adoption. Our revenue contracts are primarily leases that are not within the scope of this standard, as a result, the adoption of ASC 606 did not have a material impact on our financial position, results of operations or cash flows.

Note 3 – Real Estate, Net

As of September 30, 2018 and December 31, 2017, real estate, net, includes the following (in thousands):

	September 30, 2018	**December 31, 2017**
Real estate under development	$ 106,016	$ 69,783
Building and building improvements	47,187	5,817
Tenant improvements	731	606
Furniture and fixtures	694	-
Land and land improvements	30,391	2,452
	185,019	78,658
Less: accumulated depreciation	3,135	2,389
	$ 181,884	$ 76,269

Real estate under development as of September 30, 2018 and December 31, 2017 included 77 Greenwich and the Paramus, New Jersey property. Building and building improvements, tenant improvements and land and land improvements included the West Palm Beach, Florida property and, as of May 24, 2018, the 237 11th property and furniture and fixtures included the 237 11th property (see Properties under Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations for a more detailed description of our properties).

Depreciation expense amounted to approximately $402,000 and $61,000 for the three months ended September 30, 2018 and September 30, 2017, respectively, and $724,000 and $184,000 for the nine months ended September 30, 2018 and September 30, 2017, respectively. The increase in depreciation expense for the three and nine months ended September 30, 2018 primarily relates to the 237 11th property acquisition.

On May 24, 2018, we closed on the acquisition of the 237 11th property, a newly built 105-unit, 12-story apartment building located at 237 11th Street, Brooklyn, New York for a purchase price of $81.0 million, excluding transaction costs. The acquisition was funded through acquisition financing and cash on hand.

We allocate the purchase price of real estate to land and land improvements and building and building improvements (inclusive of tenant improvements) and, if determined to be material, intangibles, such as the value of above-market and below-market leases, real estate tax abatement and origination costs associated with the in-place leases. We depreciate the amount allocated to building and building improvements (inclusive of tenant improvements) over their estimated useful lives, which generally range from one year to 27.5 years. We amortize the amount allocated to values associated with real estate tax abatement over the estimated period of benefit which is 15 years for 237 11th. We amortize the amount allocated to the above-market and below-market leases over the remaining term of the associated lease, which generally range from one to two years, and record it as either an increase (in the case of below-market leases) or a decrease (in the case of above-market leases) to rental income. We amortize the amount allocated to the values associated with in-place leases over the expected term of the associated lease, which generally range from one to two years. If a tenant vacates its space prior to the contractual termination of the lease and no rental payments are being made on the lease, any unamortized balance of the related intangible will be written off. The tenant improvements and origination costs are amortized as an expense over the remaining life of the lease (or charged against earnings if the lease is terminated prior to its contractual expiration date). We assess fair value of the leases based on estimated cash flow projections that utilize appropriate discount and capitalization rates and available market information. Estimates of future cash flows are based on a number of factors including the historical operating results, known trends, and market/economic conditions that may affect the property. The following table presents our purchase price allocation, including transaction costs, for 237 11th (in thousands):

Purchase Price Allocation:	
Land and land improvements	$27,939
Building and building improvements	41,297
Tenant improvements	125
Furniture and fixtures	694
Real estate tax abatement	11,100
Acquired in-place leases	1,090
Assets acquired	82,245
Below-market lease value	(285)

Liabilities assumed	(285)
Purchase price	$81,960

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Through a wholly-owned subsidiary, we entered into an agreement with the New York City School Construction Authority (the "SCA"), whereby we will construct a school that will be sold to the SCA as part of our condominium development at the 77 Greenwich property. Pursuant to the agreement, the SCA will pay us $41.5 million for the purchase of their condominium unit, and reimburse us for the costs associated with constructing the school (including a construction supervision fee of approximately $5.0 million payable to us). Payments for construction will be made by the SCA to the general contractor in installments as construction on their condominium progresses. Payments to us for the land and construction supervision fee commenced in January 2018 and will continue through September 2019. As of September 30, 2018, we have received an aggregate of $20.2 million of payments from the SCA, including the construction supervision fee. We have also received an aggregate of $17.1 million in reimbursable construction costs from the SCA through September 30, 2018. Upon Substantial Completion, as defined in our agreement with the SCA, the SCA will close on the purchase of the school condominium unit from us, at which point title will transfer to the SCA. Under the agreement, we are required to substantially complete construction of the school by September 6, 2023. To secure our obligations, the 77 Greenwich property has been ground leased to the SCA and leased back to us until title to the school is transferred to the SCA. We have also guaranteed certain obligations with respect to the construction of the school. The condominium apartments and construction of a new handicapped accessible subway entrance are currently scheduled to be completed by the end of 2020.

Revenue relating to the ultimate sale of the condominium unit will not be recognized until control of the asset is transferred to the buyer. This generally will include transfer of title to the property. As payments from the SCA are received, the amounts will be recorded on the balance sheet as deferred real estate deposits until sales criteria are satisfied.

Note 4 – Prepaid Expenses and Other Assets, Net

As of September 30, 2018 and December 31, 2017, prepaid expenses and other assets, net, include the following (in thousands):

	September 30, 2018	**December 31, 2017**
Trademarks and customer lists	$ 2,090	$ 2,090
Prepaid expenses	2,127	1,673
Lease commissions	1,309	1,297
Other	1,990	1,203
	7,516	6,263
Less: accumulated amortization	3,150	2,204
	$ 4,366	$ 4,059

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Note 5 – Loans Payable and Secured Line of Credit

Loans Payable

237 11th Loans

On May 24, 2018, in connection with the acquisition of the 237 11th property, wholly owned subsidiaries of ours entered into two-year interest-only financings with an aggregate principal amount of $67.8 million, comprised of a $52.4 million mortgage loan with Canadian Imperial Bank of Commerce and a $15.4 million mezzanine loan with RCG LV Debt VI REIT, LLC (the “237 11th Loans”), bearing interest at a blended average rate of 3.72% over the 30-day LIBOR, each with a one year extension option upon satisfaction of certain conditions. The 237 11th Loans are non-recourse to us except for certain non-recourse carve-out and carry guaranties covering among other things interest and operating expenses, and in the case of the mortgage loan, a guaranty of 25% of the principal amount, decreasing to 10% of the principal balance upon the debt yield ratio becoming equal to or greater than 7.0%. The effective rate at September 30, 2018 was approximately 5.98%. The 237 11th Loans are prepayable at any time in whole, provided that prepayment of the mortgage loan must be accompanied by prepayment of the mezzanine loan, and under certain circumstances in part, upon payment, in the case of the mortgage loan, of a 0.50% deferred commitment fee (unless the loan is refinanced with the mortgage lender in which case no such fee is payable), and, in the case of the mezzanine loan, with no fee if prepaid after 12 months, and if prepaid prior to such date, subject to a make-whole fee equal to the interest that would have been paid through the balance of the 12-month period.

The collateral for the 237 11th mortgage loan is the fee interest of our subsidiary in the 237 11th property and the collateral for the 237 11th mezzanine loan is our equity interests in the mortgage loan borrower. The 237 11th Loans require us to comply with various customary affirmative and negative covenants and provide for certain events of default, the occurrence of which would permit the lenders to declare the 237 11th Loans due and payable, among other remedies. As of September 30, 2018, we were in compliance with all covenants in the 237 11th Loans.

77 Greenwich Construction Facility

On December 22, 2017, a wholly-owned subsidiary of ours closed on a $189.5 million construction facility (the “77 Greenwich Construction Facility”) with Massachusetts Mutual Life Insurance Company, as lender and administrative agent (the “Lender”). We will draw down proceeds as costs related to the construction are incurred for 77 Greenwich over the next few years for the construction of the new mixed-use building containing approximately 300,000 square feet of gross floor area. The plans call for the development of 90 luxury residential condominium apartments, 7,500 square feet of street level retail space, a 476-seat elementary school serving New York City District 2, including the adaptive reuse of the landmarked Robert and Anne Dickey House, and construction of a new handicapped accessible subway entrance on Trinity Place. There was an outstanding balance of approximately $42.8 million and $32.7 million on the 77 Greenwich Construction Facility at September 30, 2018 and December 31, 2017, respectively. As of September 30, 2018, we were in compliance with all covenants of the 77 Greenwich Construction Facility.

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The 77 Greenwich Construction Facility has a four-year term with one extension option for an additional year under certain circumstances. The collateral for the 77 Greenwich Construction Facility is the borrower's fee interest in 77 Greenwich, which is the subject of a mortgage in favor of the lender. The 77 Greenwich Construction Facility will bear interest on amounts drawn at a rate per annum equal to the greater of (i) LIBOR plus 8.25% and (ii) 9.25%. The effective interest rate on the 77 Greenwich Construction Facility was 10.51% as of September 30, 2018 and 9.81% at December 31, 2017. The 77 Greenwich Construction Facility provides for certain interest payments to be advanced as an interest holdback and to the extent that the cash flow from 77 Greenwich is insufficient to pay the interest payments then due and payable, funds in the interest holdback will be applied by the lender as a disbursement to the borrower to make the monthly interest payments on the 77 Greenwich Construction Facility, subject to certain conditions. The 77 Greenwich Construction Facility may be prepaid in part in certain circumstances such as in the event of the sale of residential and retail condominium units. Pursuant to the 77 Greenwich Construction Facility, we are required to achieve completion of the construction work and the improvements for the project on or before a completion date that is forty-two (42) months following the closing of the 77 Greenwich Construction Facility, subject to certain exceptions. The 77 Greenwich Construction Facility also includes a requirement that the Company maintain liquidity of at least $15.0 million, consisting of cash and qualified lines of credit, and additional customary affirmative and negative covenants for loans of this type and our agreements with the SCA. We also entered into certain completion and other guarantees with the Lender and the SCA in connection with the 77 Greenwich Construction Facility.

On December 22, 2017, we entered into an interest rate cap agreement as required under the 77 Greenwich Construction Facility. The interest rate cap agreement provides the right to receive cash if the reference interest rate rises above a contractual rate. We paid a premium of approximately $393,000 for the 2.5% interest rate cap on the 30-day LIBOR rate on a notional amount of $189.5 million. The fair value of the interest rate cap as of September 30, 2018 and December 31, 2017 was approximately $1.2 million and $344,000, respectively, and is recorded in prepaid expenses and other assets, net in our condensed consolidated balance sheets. We did not designate this interest rate cap as a hedge and are recognizing the change in estimated fair value in interest expense. During the nine months ended September 30, 2018, the approximate $839,000 change in value of this instrument had been recorded as interest income and subsequently capitalized to real estate, net.

Prior 77 Greenwich Loan

On February 9, 2015, our wholly-owned subsidiary that owns 77 Greenwich and related assets entered into a loan agreement with Sterling National Bank, as lender and administrative agent, and Israel Discount Bank of New York, as lender, pursuant to which we borrowed $40.0 million (the "Prior 77 Greenwich Loan"). The Prior 77 Greenwich Loan, which was scheduled to mature on November 8, 2017, was extended to February 8, 2018 and repaid in full on December 22, 2017 in conjunction with the closing of the 77 Greenwich Construction Facility. The effective interest rate on the Prior 77 Greenwich Loan was 5.5% as of September 30, 2017.

West Palm Beach, Florida Loan

On May 11, 2016, our subsidiary that owns our West Palm Beach, Florida property, commonly known as The Shoppes at Forest Hill, entered into a loan agreement with Citizens Bank, National Association, as lender (the "WPB Lender"), pursuant to which the WPB Lender agreed to provide a loan in the amount of up to $12.6 million, subject to the terms and conditions as set forth in the loan agreement (the "WPB Loan"). $9.1 million was borrowed at closing. The WPB Loan requires interest-only payments and bears interest at 30-day LIBOR plus 230 basis points. The effective interest rate was 4.56% as of September 30, 2018 and 3.86% as of December 31, 2017. The WPB Loan matures on May 11, 2019, subject to extension until May 11, 2021, under certain circumstances, and can be prepaid at any time, in whole or in part, without premium or penalty.

The collateral for the WPB Loan is the borrower's fee interest in the West Palm Beach, Florida property. The WPB Loan requires the borrower to comply with various customary affirmative and negative covenants and provides for certain events of default, the occurrence of which would permit the WPB Lender to declare the WPB Loan due and payable, among other remedies. As of September 30, 2018, we were in compliance with all covenants in the WPB Loan.

On May 11, 2016, we entered into an interest rate cap agreement as required under the WPB Loan. The interest rate cap agreement provides the right to receive cash if the reference interest rate rises above a contractual rate. We paid a premium of $14,000 for the 3.0% interest rate cap on the 30-day LIBOR rate on a notional amount of $9.1 million. The fair value of the interest rate cap was approximately $2,000 and $5,000 as of September 30, 2018 and December 31, 2017, respectively, and is recorded in prepaid expenses and other assets, net in our condensed consolidated balance sheets. We did not designate this interest rate cap as a hedge and are recognizing the change in estimated fair value in interest expense. For both the nine months ended September 30, 2018 and September 30, 2017, we recognized the change in value of approximately $3,000 in interest expense.

Secured Line of Credit

On February 22, 2017, we entered into two secured lines of credit for an aggregate of $12.0 million, with Sterling National Bank as the lender, which were secured by our properties located in Paramus, New Jersey, and Westbury, New York, respectively, and had an original maturity date of February 22, 2018. On August 4, 2017, in connection with the sale of the Westbury, New York property, the $2.9 million line of credit secured by this property, which was undrawn, matured. The remaining $9.1 million line of credit, secured by the Paramus, New Jersey property, was increased to $11.0 million in September 2017, and the maturity date extended to February 22, 2019. The line of credit bears interest, for drawn amounts only, at 100 basis points over Prime, as defined in the underlying credit agreement, with a floor of 3.75%, and is pre-payable at any time without penalty. This secured line of credit was undrawn at both September 30, 2018 and December 31, 2017.

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Interest

Consolidated interest (income) expense, net includes the following (in thousands):

	Three Months Ended September 30, 2018	Three Months Ended September 30, 2017	Nine Months Ended September 30, 2018	Nine Months Ended September 30, 2017
Interest expense	$ 2,064	$ 644	$ 3,912	$ 1,832
Interest capitalized	(2,064)	(562)	(3,912)	(1,602)
Interest income	(36)	(102)	(182)	(141)
Interest (income) expense, net	$ (36)	$ (20)	$ (182)	$ 89

Note 6 – Fair Value Measurements

The fair value of our financial instruments are determined based upon applicable accounting guidance. Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The guidance requires disclosure of the level within the fair value hierarchy in which the fair value measurements fall, including measurements using quoted process in active markets for identical assets or liabilities (Level 1), quoted process for similar instruments in active markets or quoted process for identical or similar instruments in markets that are not active (Level 2), and significant valuation assumptions that are not readily observable in the market (Level 3).

The fair values of cash and cash equivalents, receivables, prepaid expenses and other assets, accounts payable and accrued expenses, and other liabilities approximated their carrying value because of the short-term nature of these instruments. The fair value of each of the loans payable approximated their carrying value as all our loans are variable-rate instruments.

Note 7 – Pension Plans

Defined Benefit Pension Plan

Our predecessor, Syms, sponsored a defined benefit pension plan for certain eligible employees not covered under a collective bargaining agreement. The pension plan was frozen effective December 31, 2006. As of September 30, 2018 and December 31, 2017, we had a recorded liability of $2.0 million and $2.5 million respectively, which is included in pension liabilities on the accompanying condensed consolidated balance sheets. This liability represents the estimated cost to us of terminating the plan in a standard termination, which would require us to make additional contributions to the plan so that the assets of the plan are sufficient to satisfy all benefit liabilities.

We had contemplated other courses of action, including a distress termination, whereby the Pension Benefits Guaranty Corporation ("PBGC") would take over the plan. On February 27, 2012, Syms notified the PBGC and other affected parties of its consideration to terminate the plan in a distress termination. However, the estimated total cost associated with a distress termination was approximately $15 million. As a result of the cost savings associated with the standard termination approach, Syms elected not to terminate the plan in a distress termination and formally notified the PBGC of this decision. We will maintain the Syms pension plan and make all contributions required under applicable minimum funding rules; provided, however, that we may terminate the Syms pension plan at any time. In the event that we terminate the Syms pension plan, we intend that any such termination shall be a standard termination. Although we have accrued the liability associated with a standard termination, we have not taken any steps to commence such a termination and have made no commitment to do so by a certain date. In accordance with minimum funding requirements and court ordered allowed claims distributions, we paid approximately $4.5 million to the Syms sponsored plan from September 17, 2012 through September 30, 2018. We funded $470,000 to the Syms sponsored plan during the nine months ended September 30, 2018 and $460,000 during the nine months ended September 30, 2017. Historically, we have funded this plan in the third quarter of the calendar year.

Multiemployer Pension Plans

Certain employees covered by collective bargaining agreements participate in multiemployer pension plans. Syms ceased to have an obligation to contribute to these plans in 2012, thereby triggering a complete withdrawal from the plans within the meaning of section 4203 of the Employee Retirement Income Security Act of 1974. Consequently, we are subject to the payment of a withdrawal liability to these pension funds. We have a liability of $1.1 million and $1.7 million which is included in pension liabilities on the accompanying condensed consolidated balance sheets as of September 30, 2018 and December 31, 2017, respectively, related to these plans. We are required to make quarterly distributions in the amount of approximately $203,000 until this liability is completely paid to the multiemployer plan by the beginning of 2020. In accordance with minimum funding requirements and court ordered allowed claims distributions, we paid approximately $5.8 million to the multiemployer plans from September 17, 2012 through September 30, 2018. Approximately $610,000 was funded to the multiemployer plan during each of the nine month periods ended September 30, 2018 and September 30, 2017.

Note 8 – Commitments

a. ***Leases –*** As of September 30, 2018, our corporate office located at 340 Madison Avenue, New York, New York has a lease obligation of approximately $3.0 million payable through March 31, 2025. The rent paid for this operating lease for the three and nine months ended September 30, 2018 was approximately $110,000 and $238,000, respectively.

b. ***Legal Proceedings -*** In the normal course of business, we may become a party to routine legal proceedings. Based on available information and taking into account accruals where they have been established, management currently believes that any liabilities ultimately resulting from this routine litigation will not, individually or in the aggregate, have a material adverse effect on our consolidated financial position. Additionally, as discussed in Note 1 to our condensed consolidated financial statements, as of February 6, 2018, we no longer operate under the Plan that was approved in connection with the resolution of the Chapter 11 cases involving Syms and its subsidiaries.

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Note 9 – Income Taxes

Effects of the Tax Cuts and Jobs Act

On December 22, 2017, the TCJA was signed into U.S. law. ASC 740 requires companies to recognize the effect of tax law changes in the period of enactment even though the effective date for most provisions is for tax years beginning after December 31, 2017, or in the case of certain other provisions of the law, January 1, 2018.

Given the significance of the legislation, the SEC staff issued Staff Accounting Bulletin ("SAB") No. 118 (“SAB 118”), which allows registrants to record provisional amounts during a one year “measurement period” similar to that used when accounting for business combinations. However, the measurement period is deemed to have ended prior to the one year term when the registrant has obtained, prepared, and analyzed the information necessary to finalize its accounting. During the measurement period, impacts of the law are expected to be recorded at the time a reasonable estimate for all or a portion of the effects can be made, and provisional amounts can be recognized and adjusted as information becomes available, prepared, or analyzed.

SAB 118 summarizes a three-step process to be applied at each reporting period to account for and qualitatively disclose: (1) the effects of the change in tax law for which accounting is complete; (2) provisional amounts (or adjustments to provisional amounts) for the effects of the tax law where accounting is not complete, but that a reasonable estimate has been determined; and (3) a reasonable estimate cannot yet be made and therefore taxes are reflected in accordance with law prior to the enactment of the TCJA.

As part of the TCJA, the U.S. corporate income tax rate applicable to us decreased from 35% to 21%. This rate change resulted in the remeasurement of our net deferred tax asset (“DTA”) as of December 31, 2017. The effect was a reduction of the DTA of approximately $33.7 million, which was completely offset by a change in our valuation allowance.

Pursuant to the TCJA, alternative minimum tax (“AMT”) credit carryforwards will be eligible for a 50% refund through tax years 2018 through 2020. Beginning in tax year 2021, any remaining AMT credit carryforwards would be 100% refundable. As a result of these new regulations, as of December 31, 2017, we had released the valuation allowance of $3.1 million formerly reserved against our AMT credit carryforwards and we had recorded a tax benefit and refund receivable of $3.1 million in connection with this valuation allowance release, which is included in receivables, net on the condensed consolidated balance sheets.

Our accounting for the above elements of the TCJA is complete.

Other significant provisions that are not yet effective but may impact income taxes in future years include, but are not limited to: an exemption from U.S. tax on dividends of future foreign earnings, limitation on the current deductibility of net interest expense in excess of 30% of adjusted taxable income and a limitation of net operating losses generated after fiscal 2018 to 80% of taxable income.

Other

At September 30, 2018, we had federal NOLs of approximately $218.8 million. These NOLs will expire in years through fiscal 2034. At September 30, 2018, we also had state NOLs of approximately $100.2 million. These NOLs expire between 2029 and 2037. We also had the New York State and New York City prior NOL conversion (“PNOLC”) subtraction pools of approximately $31.1 million and $25.5 million, respectively. The conversion to the PNOLC under the New York State and New York City corporate tax reforms does not have any material tax impact.

Based on management’s assessment, we believe it is more likely than not that the entire deferred tax assets will not be realized by future taxable income or tax planning strategy. In recognition of this risk, we have provided a valuation allowance of $60.9 million and $59.5 million as of September 30, 2018 and December 31, 2017, respectively. If our assumptions change and we determine we will be able to realize these NOLs, the tax benefits relating to any reversal of the valuation allowance on deferred tax assets would be recognized as a reduction of income tax expense and an increase in equity.

Note 10 – Stockholders’ Equity

Capital Stock

Our authorized capital stock consists of 120,000,000 shares consisting of 79,999,997 shares of common stock, $0.01 par value per share, two (2) shares of preferred stock, $0.01 par value per share (which have been redeemed in accordance with their terms and may not be reissued), one (1) share of special stock, $0.01 par value per share, and 40,000,000 shares of a new class of blank-check preferred stock, $0.01 par value per share. As of September 30, 2018 and December 31, 2017, there were 37,156,068 shares and 36,803,218 shares of common stock issued, respectively, and 31,644,345 shares and 31,451,796 shares of common stock outstanding, respectively, with the difference being held in treasury stock.

At-The-Market Equity Offering Program

In December 2016, we entered into an "at-the-market" equity offering program (the “ATM Program”), to sell up to an aggregate of $12.0 million of our common stock. During 2016 and 2017, we issued 120,299 shares and 2,492 shares, respectively, of our common stock for aggregate gross proceeds of approximately $1.2 million and $23,000, respectively, at a weighted average price of $9.76 and $9.32 per share, respectively. We issued no stock through the

ATM Program during the nine months ended September 30, 2018. As of September 30, 2018, $10.8 million of common stock remained available for issuance under the ATM Program. The sale agreement with our broker, which expired in accordance with its term on December 31, 2017, was extended by an amendment on June 20, 2018, pursuant to which it will remain in effect until June 30, 2019, subject to extension upon mutual agreement, unless earlier terminated by the parties thereto.

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Preferred Stock

We are authorized to issue two shares of preferred stock, (one share each of Series A and Series B preferred stock), one share of special stock and 40,000,000 shares of blank-check preferred stock. Upon the occurrence of the General Unsecured Claim Satisfaction, as defined in the Plan, in March 2016, the share of Series A preferred stock that was issued to a trustee acting for the benefit of our creditors was automatically redeemed in accordance with its terms and may not be reissued. In addition, upon the final payment to the former Majority Shareholder in March 2016, the share of Series B preferred stock that was issued to the former Majority Shareholder was automatically redeemed in accordance with its terms and may not be reissued.

The share of special stock was issued and sold to Third Avenue Trust, and enables Third Avenue or its affiliated designee to elect one member of the Board of Directors.

Note 11 – Stock-Based Compensation

Stock Incentive Plan

We adopted the Trinity Place Holdings Inc. 2015 Stock Incentive Plan (the “SIP”), effective September 9, 2015. Prior to the adoption of the SIP, we granted restricted stock units (“RSUs”) to our executive officers and employees pursuant to individual agreements. The SIP, which has a ten year term, authorizes (i) stock options that do not qualify as incentive stock options under Section 422 of the Code, or NQSOs, (ii) stock appreciation rights, (iii) shares of restricted and unrestricted common stock, and (iv) RSUs. The exercise price of stock options will be determined by the compensation committee, but may not be less than 100% of the fair market value of the shares of common stock on the date of grant. The SIP authorizes the issuance of up to 800,000 shares of our common stock. Our SIP activity was as follows:

	Nine Months Ended September 30, 2018		**Year Ended December 31, 2017**	
	Number of Shares	**Weighted Average Fair Value at Grant Date**	**Number of Shares**	**Weighted Average Fair Value at Grant Date**
Balance available, beginning of period	541,319	-	614,500	-

Granted to employees	(146,000)	$ 6.95	(48,600)	$ 7.34
Granted to non-employee directors	(10,223)	$ 6.78	(18,938)	$ 6.88
Deferred under non-employee director's deferral program	(14,336)	$ 6.73	(5,643)	$ 6.88
Balance available, end of period	370,760	-	541,319	-

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Restricted Stock Units

We grant RSUs to certain employees and executive officers as part of compensation. These grants generally have vesting dates ranging from immediate vest at grant date to three years, with a distribution of shares at various dates ranging from the time of vesting up to seven years after vesting.

During the nine months ended September 30, 2018, we granted 146,000 RSUs to certain employees. These RSUs vest and settle at various times over a two year period, subject to each employee's continued employment. Approximately $190,000 and $571,000 in compensation expense related to these shares was amortized during the three and nine months ended September 30, 2018, respectively, of which approximately $76,000 and $227,000 was capitalized into real estate under development.

Total stock-based compensation expense recognized during the three months ended September 30, 2018 and September 30, 2017 totaled $285,000 and $277,000, respectively, which is net of $161,000 and $311,000 capitalized as part of real estate under development, respectively. Total stock-based compensation expense recognized during the nine months ended September 30, 2018 and September 30, 2017 totaled $921,000 and $831,000, respectively, which is net of $511,000 and $1.3 million capitalized as part of real estate under development, respectively.

Our RSU activity was as follows:

	Nine Months Ended September 30, 2018		**Year Ended December 31, 2017**	
	Number of Shares	**Weighted Average Fair Value at Grant Date**	**Number of Shares**	**Weighted Average Fair Value at Grant Date**
Non-vested at beginning of period	677,734	$ 6.44	1,621,235	$ 6.38
Granted RSUs	146,000	$ 6.95	48,600	$ 7.46
Vested	(203,142)	$ 6.59	(992,101)	$ 6.45
Non-vested at end of period	620,592	$ 6.40	677,734	$ 6.44

As of September 30, 2018, there was approximately $1.1 million of total unrecognized compensation expense related to unvested RSUs, which is expected to be recognized through December 2020.

During the nine months ended September 30, 2018, we issued 343,000 shares of common stock to employees and executive officers to settle vested RSUs from previous RSU grants. In connection with those transactions, we repurchased 160,000 shares to provide for the employees' withholding tax liabilities.

Director Deferred Compensation Program

We adopted our Non-Employee Director's Deferral Program (the "Deferral Program") on November 2, 2016. Under the Deferral Program, our non-employee directors may elect to defer receipt of their annual equity compensation. The non-employee directors' annual equity compensation, and any deferred amounts, are paid under the SIP. Compensation deferred under the Deferral Program is reflected by the grant of stock units under the SIP equal to the number of shares that would have been received absent a deferral election. The stock units, which are fully vested at grant, generally will be settled for an equal number of shares of common stock within 10 days after the participant ceases to be a director. In the event that we distribute dividends, each participant shall receive a number of additional stock units (including fractional stock units) equal to the quotient of (i) the aggregate amount of the dividend that the participant would have received had all outstanding stock units been shares of common stock divided by (ii) the closing price of a share of common stock on the date the dividend was issued.

As of September 30, 2018, 19,979 stock units were deferred under the Deferral Program.

Note 12 – Investment in Our Unconsolidated Joint Venture

Through a wholly-owned subsidiary, we own a 50% interest in a joint venture formed to acquire and operate 223 North 8th Street, Brooklyn, New York, a newly constructed 95-unit multi-family property, known as The Berkley, encompassing approximately 99,000 gross square feet. On December 5, 2016, the joint venture closed on the acquisition of The Berkley through a wholly-owned special purpose entity for a purchase price of $68.885 million, of which $42.5 million was financed through a 10-year loan (the "Loan") secured by The Berkley and the balance was paid in cash (half of which was funded by us). The non-recourse Loan bears interest at the 30-day LIBOR rate plus 216 basis points, is interest only for five years, is pre-payable after two years with a 1% prepayment premium and has covenants and defaults customary for a Freddie Mac financing. We and our joint venture partner are joint and several recourse carve-out guarantors under the Loan pursuant to Freddie Mac's standard form of guaranty. The effective interest rate was 4.42% at September 30, 2018 and 3.72% at December 31, 2017.

This joint venture is a voting interest entity. As we do not control this joint venture, we account for it under the equity method of accounting.

The balance sheets for the unconsolidated joint venture at September 30, 2018 and December 31, 2017 are as follows (in thousands):

	September 30, 2018 **(unaudited)**	December 31, 2017 **(audited)**
ASSETS		
Real estate, net	$ 52,131	$ 53,137
Cash and cash equivalents	180	218
Restricted cash	390	361
Tenant and other receivables, net	35	21
Prepaid expenses and other assets, net	85	71
Intangible assets, net	12,427	12,829
Total assets	$ 65,248	$ 66,637
LIABILITIES		
Mortgage payable, net	$ 41,092	$ 40,963
Accounts payable and accrued expenses	593	608
Total liabilities	41,685	41,571
MEMBERS' EQUITY		
Members' equity	27,276	27,795
Accumulated deficit	(3,713)	(2,729)
Total members' equity	23,563	25,066
Total liabilities and members' equity	$ 65,248	$ 66,637
Our investment in unconsolidated joint venture	$ 11,781	$ 12,533

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The statements of operations for the unconsolidated joint venture for the three and nine months ended September 30, 2018 and September 30, 2017 are as follows (in thousands):

	Three Months Ended September 30, 2018 (unaudited)	**Three Months Ended September 30, 2017 (unaudited)**	**Nine Months Ended September 30, 2018 (unaudited)**	**Nine Months Ended September 30, 2017 (unaudited)**
Revenues				
Rental revenues	$ 829	$ 827	$ 2,644	$ 2,504
Other income	1	2	4	4
Total revenues	830	829	2,648	2,508
Operating Expenses				
Property operating expenses	319	256	773	665
Real estate taxes	11	12	34	35
General and administrative	3	3	5	19
Amortization	134	403	402	1,208
Depreciation	330	328	987	983
Total operating expenses	797	1,002	2,201	2,910
Operating income (loss)	33	(173)	447	(402)
Interest expense, net	463	375	1,302	1,076
Interest expense -amortization of deferred finance costs	43	43	129	130
Net loss	$ (473)	$ (591)	$ (984)	$ (1,608)
Our equity in net loss from unconsolidated joint venture	$ (236)	$ (296)	$ (492)	$ (804)

Note 13 – Subsequent Events

We have performed subsequent event procedures through the date the condensed consolidated financial statements were available to be issued, and there were no subsequent events requiring adjustment to, or disclosure in, the condensed consolidated financial statements.

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

Executive Overview

Trinity Place Holdings Inc. (“Trinity,” “we,” “our,” or “us”) is a real estate holding, investment and asset management company. Our business is primarily to acquire, invest in, own, manage, develop or redevelop and sell real estate assets and/or real estate related securities. Our largest asset is currently a property located at 77 Greenwich Street (“77 Greenwich”) in Lower Manhattan. 77 Greenwich was a vacant building that was demolished and is under development as a residential condominium tower that also includes plans for retail space and a New York City elementary school. We also own a retail strip center located in West Palm Beach, Florida, a property formerly occupied by a retail tenant in Paramus, New Jersey, a newly built 105-unit, 12-story apartment building located at 237 11th Street, Brooklyn, New York (“237 11th”) acquired on May 24, 2018, and, through a joint venture, a 50% interest in a newly constructed 95-unit multi-family property, known as The Berkley, located in Brooklyn, New York (see Properties under this Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations for a more detailed description of our properties). We continue to evaluate new investment opportunities.

We also control a variety of intellectual property assets focused on the consumer sector, a legacy of our predecessor, Syms Corp. (“Syms”), including our on-line marketplace at FilenesBasement.com, our rights to the Stanley Blacker® brand, as well as the intellectual property associated with the Running of the Brides® event and An Educated Consumer is Our Best Customer® slogan. We also had approximately $218.8 million of federal net operating loss carryforwards (“NOLs”) at September 30, 2018, which can be used to reduce our future taxable income.

Trinity is the successor to Syms, which also owned Filene’s Basement. Syms and its subsidiaries filed for relief under the United States Bankruptcy Code in 2011. In September 2012, the Syms Plan of Reorganization (the “Plan”) became effective and Syms and its subsidiaries consummated their reorganization under Chapter 11 through a series of transactions contemplated by the Plan and emerged from bankruptcy. As part of those transactions, reorganized Syms merged with and into Trinity, with Trinity as the surviving corporation and successor issuer pursuant to Rule 12g-3 under the Exchange Act.

On January 18, 2018, Syms and certain of its subsidiaries (together, the “Reorganized Debtors”) filed with the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) a motion (the “Motion”) for entry of a final decree (the “Final Decree”) (i) closing the chapter 11 cases of the Reorganized Debtors; (ii) terminating the services of the claims and noticing agent; and (iii) retaining the Bankruptcy Court’s jurisdiction as provided for in the Plan, including to enforce or interpret its own orders pertaining to the chapter 11 cases including, but not limited to, the Plan and Final Decree. On the same date, the Reorganized Debtors filed a Final Report in support of the Motion. On February 6, 2018, the Bankruptcy Court entered the Final Decree pursuant to which the chapter 11 cases of the Reorganized Debtors were closed.

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Properties

The table below provides information on the commercial and residential properties we owned and had an ownership interest in at September 30, 2018:

Property Location	Type of Property	Building Size (estimated rentable square feet)	Number of Units	Leased at September 30, 2018	Occupancy at September 30, 2018	Occupancy at September 30, 2017
Owned Locations						
New York, New York (77 Greenwich) (1)	Property under development	-	-	N/A	N/A	N/A
Paramus, New Jersey (2)	Property under development	77,000	-	100.0 %	100.0 %	100.0 %
West Palm Beach, Florida (3)	Retail	112,000	-	69.6 %	69.6 %	68.9 %
237 11th Street, Brooklyn, New York (4)	Multi-family	80,000	105	81.9 %	81.9 %	N/A
Total Owned Square Feet		269,000				
Joint Venture						
223 North 8th Street, Brooklyn, New York - 50% (5)	Multi-family	65,000	95	95.8 %	95.8 %	91.6 %
Grand Total Square Feet		334,000				

(1) **77 Greenwich.** We are currently in the development stage for the development of an over 300,000 gross square foot mixed-use building that corresponds to the approximate total of 233,000 zoning square feet. The plans call for the development of 90 luxury residential condominium apartments, 7,500 square feet of street level retail space, a 476-seat elementary school serving New York City District 2, including the adaptive reuse of the landmarked Robert and Anne Dickey House, and construction of a new handicapped accessible subway entrance on Trinity Place. The school project has obtained city council and mayoral approval. Environmental remediation and demolition was completed in the third quarter of 2017, and excavation and foundation work was completed in September 2018. Superstructure work is in process and as of November 7, 2018, five floors have been constructed. We have submitted our condominium offering plan to the attorney general’s office for approval. On December 22, 2017, we closed on a

$189.5 million construction facility. We will draw down proceeds under the construction facility as costs related to the construction are incurred over the next few years, with an aggregate of $42.8 million having been drawn as of September 30, 2018. We currently anticipate that the proceeds available under the construction facility, together with equity funded by us to date and future contributions by the New York City School Construction Authority (the "SCA"), will be sufficient to fund the construction and development of 77 Greenwich without us making any further equity contributions (see Note 5 – Loans Payable and Secured Line of Credit to our condensed consolidated financial statements for further information).

Through a wholly-owned subsidiary, we also entered into an agreement with the SCA, whereby we will construct a school that will be sold to the SCA as part of our condominium development at the 77 Greenwich property. Pursuant to the agreement, the SCA will pay us $41.5 million for the purchase of their condominium unit and reimburse us for the costs associated with constructing the school (including a construction supervision fee of approximately $5.0 million payable to us). Payments for construction will be made by the SCA to the general contractor in installments as construction on their condominium progresses. Payments to us for the land and construction supervision fee commenced in January 2018 and will continue through September 2019, with an aggregate of $20.2 million having been paid as of September 30, 2018. Upon Substantial Completion, as defined in the purchase agreement between us and the SCA, the SCA will close on the purchase of the school condominium unit from us, at which point title will transfer to the SCA. We are required to substantially complete construction of the school by September 6, 2023. To secure our obligations, the 77 Greenwich property has been ground leased to the SCA and leased back to us until title to the school is transferred to the SCA. We have also guaranteed certain obligations with respect to the construction of the school. The condominium apartments and the subway improvements are currently scheduled to be completed by the end of 2020.

(2) **Paramus Property.** The Paramus property consists of a one-story and partial two-story, 73,000 square foot freestanding building and an outparcel building of approximately 4,000 square feet, for approximately 77,000 total square feet of rentable space. The primary building is comprised of approximately 47,000 square feet of ground floor space, and two separate mezzanine levels of approximately 21,000 and 5,000 square feet. The 73,000 square foot building was leased pursuant to a short-term license agreement to Restoration Hardware Holdings, Inc. (NYSE: RH) ("Restoration Hardware") from October 15, 2015 to February 29, 2016, when the tenant vacated the property. Subsequently, we entered into a new twelve month license agreement with Restoration Hardware that began on June 1, 2016, which is terminable upon one month's notice to the other party, and which has since been extended to end on March 31, 2019. The outparcel building is leased to a tenant who has been in the space since 1996 and whose lease expires on March 31, 2019. The land area of the Paramus property consists of approximately 292,000 square feet, or approximately 6.7 acres.

We entered into an option agreement with Carmax (NYSE:KMX) in May 2016, pursuant to which Carmax was to construct a new building after they obtained approvals and we demolished the existing buildings. The option agreement included a fully negotiated lease agreement. This transaction was subject to town approvals based on the potential tenant's intended use of the site. In accordance with an amendment to our agreement with Carmax, beginning in May 2018, Carmax was paying us approximately $56,000 per month for up to 12 months, and up to $106,000 thereafter, net of any payments we were to receive from our tenants, for up to 12 months, until un-appealable town approvals were received. The aforementioned option agreement was terminated on October 16, 2018.

(3) **West Palm Beach Property.** The West Palm Beach property consists of a one-story neighborhood retail strip center that is comprised of approximately 112,000 square feet of rentable area, which includes three outparcel locations with approximately 11,000 combined square feet. The land area of the West Palm Beach property consists of approximately 515,000 square feet, or approximately 11.8 acres. Our redevelopment and repositioning of the center was completed in 2016. We will incur additional lease-up costs as the current vacancies are filled. Our two largest tenants are Walmart Marketplace, with 41,662 square feet of space and Tire Kingdom, a national credit tenant with a 5,400 square foot outparcel.

(4) 237 11th. On May 24, 2018, we closed on the purchase of a newly built 105-unit, 12-story multi-family apartment building encompassing approximately 93,000 gross square feet (approximately 80,000 rentable square feet) located at 237 11th Street, Park Slope, Brooklyn, New York for a purchase price of $81.0 million. The property also includes 6,264 square feet of retail space, a portion of which is leased to Starbucks Inc. (NQGS:SBUX). Leasing began in August 2017 and the residential portion of the property was approximately 63% leased at closing and approximately 82% leased at September 30, 2018. Located on the border of the Park Slope and Gowanus neighborhoods of Brooklyn, the property is located one block from the 4th Avenue/9th Street subway station. 237 11th offers an array of modern amenities that surpass what is available in the neighborhood's "brownstone" housing stock. The property benefits from a 15-year 421a real estate tax exemption.

(5) 223 North 8th Street. Through a joint venture with Pacolet Milliken Enterprises, Inc., we own a 50% interest in the entity formed to acquire and operate The Berkley, a newly constructed 95-unit multi-family property encompassing approximately 99,000 gross square feet (65,000 rentable square feet) at 223 North 8th Street in North Williamsburg, Brooklyn, New York. The Berkley is in close proximity to public transportation and offers a full amenity package. Apartments feature top-of-the-line unit finishes, central air conditioning and heating and most units have private outdoor space. The property benefits from a 25-year 421a real estate tax exemption.

Lease Expirations

The following chart shows the tenancy, by year of lease expiration, of our retail properties for all tenants in place as of September 30, 2018, excluding the license agreement with Restoration Hardware (dollars in thousands):

	Number of Tenants	Leased Square Feet by Year of Expiration	Annualized Rent in Year of Expiration (A)
2019	1	4,000	140
2020	8	12,488	246
2021	2	7,063	119
2022	1	1,200	21
2023	2	3,820	78
Thereafter	5	53,662	1,066
	19	82,233	$ 1,670

(A) This is calculated by multiplying the rent in the final month of the lease by 12.

Critical Accounting Policies and Estimates

Management's discussion and analysis of financial condition and results of operations is based upon our condensed consolidated financial statements, which have been prepared in accordance with generally accepted accounting principles in the United States of America ("GAAP"). The preparation of financial statements in conformity with GAAP requires the use of estimates and assumptions that could affect the reported amounts in our condensed consolidated financial statements. Actual results could differ from these estimates. A summary of our significant accounting policies that management believes are critical to the preparation of the condensed consolidated financial statements are included in this report (see Note 2 - Summary of Significant Accounting Policies - Basis of Presentation to our condensed consolidated financial statements for further information). Certain of the accounting policies used in the preparation of these condensed consolidated financial statements are particularly important for an understanding of the financial position and results of operations presented in the historical condensed consolidated financial statements included in this report and require the application of significant judgment by management and, as a result, are subject to a degree of uncertainty. We believe there have been no material changes to the items that we disclosed as our critical accounting policies under Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations," in our 2017 Annual Report on Form 10-K (the "2017 Annual Report") for the year ended December 31, 2017.

The following discussion and analysis is intended to assist readers in understanding our financial condition and results of operations during the three and nine months ended September 30, 2018 and September 30, 2017 and should be read in conjunction with the condensed consolidated financial statements and notes thereto included in this Quarterly Report on Form 10-Q and our 2017 Annual Report.

These results for the three and nine months ended September 30, 2017 include revenues and expenses from the Westbury property as of May 8, 2017 when the property was classified as an asset held for sale, through its date of sale on August 4, 2017. In prior periods, this property's revenues and expenses were capitalized as the property was considered as real estate under development.

Results of Operations for the Three Months Ended September 30, 2018 Compared to the Three Months Ended September 30, 2017

Rental revenues increased by $852,000 to $1.2 million for the three months ended September 30, 2018 from $336,000 for the three months ended September 30, 2017. The increase in rental revenues was mainly related to the 237 11th property, which was acquired on May 24, 2018, partially offset by a non-cash rent adjustment for a tenant at the West Palm Beach, Florida property and no rental revenue from the Westbury, New York property in 2018 due to its sale in August 2017. Tenant reimbursements decreased by $61,000 to $110,000 for the three months ended September 30, 2018 from $171,000 for the three months ended September 30, 2017 primarily due to no tenant reimbursements from the Westbury, New York property in 2018 due to its sale in August 2017 and lower reimbursable property operating expenses at the West Palm Beach, Florida property.

Property operating expenses increased by $393,000 to $571,000 for the three months ended September 30, 2018 from $178,000 for the three months ended September 30, 2017. These amounts consisted of expenses incurred for utilities, payroll and general operating expenses as well as repairs and maintenance at the 237 11th property, which was acquired on May 24, 2018, and the West Palm Beach, Florida property. The increase in property operating expenses was mainly due to expenses associated with the 237 11th property.

Real estate tax expense decreased by $39,000 to $85,000 for the three months ended September 30, 2018 from $124,000 for the three months ended September 30, 2017. The decrease is primarily due to no real estate taxes being payable in respect of the Westbury, New York property in 2018 due to its sale in August 2017, which was partially offset by real estate taxes in respect of the 237 11th property, which was acquired on May 24, 2018, and a modest increase in real estate taxes at the West Palm Beach, Florida property.

General and administrative expenses decreased by $126,000 to $1.4 million for the three months ended September 30, 2018 from $1.5 million for the three months ended September 30, 2017, primarily due to lower corporate and professional fees, partially offset by an increase in payroll and payroll related expenses arising from increased employee headcount. For the three months ended September 30, 2018, approximately $285,000 related to stock-based compensation, $597,000 related to payroll and payroll related expenses, $333,000 related to other corporate expenses, including board fees, corporate office rent and insurance and $168,000 related to legal, accounting and other professional fees. For the three months ended September 30, 2017, approximately $277,000 related to stock-based compensation, $479,000 related to payroll and payroll related expenses, $389,000 related to other corporate expenses including board fees, corporate office rent and insurance and $364,000 related to legal, accounting and other professional fees.

Transaction related costs increased by $161,000 to $170,000 for the three months ended September 30, 2018 compared to $9,000 for the three months ended September 30, 2017. These costs represent professional fees and other costs incurred in connection with formation activities and the underwriting and evaluation of potential acquisitions and investments for transactions that were not consummated, as well as leases at our retail properties that were not consummated.

Depreciation and amortization expense increased by $1.0 million to $1.2 million for the three months ended September 30, 2018 from $145,000 for the three months ended September 30, 2017, primarily due to the depreciation in respect of the 237 11th property, which was acquired on May 24, 2018. For the three months ended September 30, 2018, depreciation and amortization expense consisted of depreciation in respect of the 237 11th property and the West Palm Beach, Florida property of approximately $402,000 and the amortization of trademarks, lease commissions and acquired in-place leases of approximately $791,000. Depreciation and amortization expense for the three months ended September 30, 2017 consisted of depreciation in respect of the West Palm Beach, Florida property of approximately $61,000 and the amortization of trademarks and lease commissions of approximately $84,000.

There was no write-off of costs for demolished asset for the three months ended September 30, 2018 compared to approximately $3.4 million for the three months ended September 30, 2017. This cost in 2017 related to the demolished asset at the 77 Greenwich property and the acceleration of depreciation of the building and building improvements and the demolition costs at 77 Greenwich due to the completion of demolition of the 57,000 square foot nine-story commercial building.

Operating loss decreased by approximately $2.8 million to $2.1 million for the three months ended September 30, 2018 from $4.9 million for the three months ended September 30, 2017 as a result of the changes in revenues and operating expenses as described above.

Equity in net loss from unconsolidated joint venture decreased by approximately $60,000 to $236,000 for the three months ended September 30, 2018 from $296,000 for the three months ended September 30, 2017, primarily due to lower depreciation and amortization, partially offset by increased interest expense. This amount represents our 50% share of the net loss in the joint venture of the newly constructed 95-unit multi-family property in Brooklyn, New York purchased on December 5, 2016. Our share of the net loss for the three months ended September 30, 2018 is primarily comprised of operating income before depreciation of $250,000, offset by depreciation and amortization of $254,000 and interest expense of $232,000. Our share of the loss for the three months ended September 30, 2017 is primarily comprised of operating income before depreciation of $279,000, offset by depreciation and amortization of $387,000 and interest expense of $188,000.

Interest income, net increased by approximately $16,000 to $36,000 for the three months ended September 30, 2018 from $20,000 for the three months ended September 30, 2017. For the three months ended September 30, 2018, $2.1 million related to gross interest incurred offset by $2.1 million of capitalized interest and $36,000 of interest income. For the three months ended September 30, 2017, $644,000 related to gross interest incurred offset by $562,000 of capitalized interest and $102,000 of interest income. The increase in interest income, net, for the three months ended September 30, 2018 is primarily attributable to 100% capitalization of interest expense into real estate under development for the 2018 period.

Interest expense-amortization of deferred finance costs was zero for the three months ended September 30, 2018 compared to $145,000 for the three months ended September 30, 2017. All interest expense- amortization of deferred finance costs were capitalized to real estate under development for the three months ended September 30, 2018.

There was no reduction of claims liability for the three months ended September 30, 2018 or September 30, 2017, respectively, as claims liability was zero at both dates.

There was no gain on sale from real estate for the three months ended September 30, 2018 compared to approximately $3.9 million for the three months ended September 30, 2017. The gain in 2017 was due to the sale of the Westbury, New York property on August 4, 2017 which generated approximately $15.2 million in net proceeds.

Tax expense was zero for the three months ended September 30, 2018 and September 30, 2017, respectively.

Net loss attributable to common stockholders increased by approximately $852,000 to $2.3 million for the three months ended September 30, 2018 from $1.5 million for the three months ended September 30, 2017 as a result of the changes in revenues and expenses discussed above.

Results of Operations for the Nine Months Ended September 30, 2018 Compared to the Nine Months Ended September 30, 2017

Rental revenues increased by $1.0 million to $2.0 million for the nine months ended September 30, 2018 from $1.0 million for the nine months ended September 30, 2017. The increase in rental revenues was mainly related to the 237 11th property, which was acquired on May 24, 2018, partially offset by a non-cash rent adjustment for a tenant at the West Palm Beach, Florida property and no rental revenue from the Westbury, New York property in 2018 due to its sale in August 2017. Tenant reimbursements decreased by $98,000 to $347,000 for the nine months ended September 30, 2018 from $445,000 for the nine months ended September 30, 2017 primarily due to no tenant reimbursements from the Westbury, New York property in 2018 due to its sale in August 2017 and lower reimbursable property operating expenses at the West Palm Beach, Florida property.

Property operating expenses increased by $510,000 to $1.1 million for the nine months ended September 30, 2018 from $549,000 for the nine months ended September 30, 2017. These amounts consisted of expenses incurred for utilities, payroll and general operating expenses as well as repairs and maintenance at the 237 11th property, which was acquired on May 24, 2018, and the West Palm Beach, Florida property. The increase in property operating expenses was mainly due to expenses associated with the 237 11th property, partially offset by a one-time repair cost at our West Palm Beach, Florida property incurred during the nine months ended September 30, 2017.

Real estate tax expense decreased by $101,000 to $244,000 for the nine months ended September 30, 2018 from $345,000 for the nine months ended September 30, 2017. The decrease is primarily due to no real estate taxes being payable in respect of the Westbury, New York property in 2018 due to its sale in August 2017, partially offset by real estate taxes in respect of the 237 11th property, which was acquired on May 24, 2018, and a modest increase in real estate taxes at the West Palm Beach, Florida property.

General and administrative expenses increased by $249,000 to $4.4 million for the nine months ended September 30, 2018 from $4.2 million for the nine months ended September 30, 2017, primarily due to an increase in payroll and payroll related expenses arising from increased employee headcount. For the nine months ended September 30, 2018, approximately $921,000 related to stock-based compensation, $1.8 million related to payroll and payroll related expenses, $1.0 related to other corporate expenses, including board fees, corporate office rent and insurance and $679,000 related to legal, accounting and other professional fees. For the nine months ended September 30, 2017, approximately $831,000 related to stock-based compensation, $1.4 million related to payroll and payroll related expenses, $1.2 million related to other corporate expenses including board fees, corporate office rent and insurance and $798,000 related to legal, accounting and other professional fees.

Transaction related costs increased by $93,000 to $170,000 for the nine months ended September 30, 2018 compared to $77,000 for the nine months ended September 30, 2017. These costs represent professional fees and other costs incurred in connection with formation activities and the underwriting and evaluation of potential acquisitions and investments for transactions that were not consummated, as well as leases at our retail properties that were not consummated.

Depreciation and amortization expense increased by $1.4 million to $1.8 million for the nine months ended September 30, 2018 from $394,000 for the nine months ended September 30, 2017, primarily due to the depreciation in respect of the 237 11th property, which was acquired on May 24, 2018. For the nine months ended September 30, 2018, depreciation and amortization expense consisted of depreciation in respect of the 237 11th property and the West Palm Beach, Florida property of approximately $724,000 and the amortization of trademarks, lease commissions and acquired in-place leases of approximately $1.1 million. Depreciation and amortization expense for the nine months ended September 30, 2017 consisted of depreciation in respect of the West Palm Beach, Florida property of approximately $184,000 and the amortization of trademarks and lease commissions of approximately $210,000.

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There was no write-off of costs for demolished asset for the nine months ended September 30, 2018 compared to approximately $3.4 million for the nine months ended September 30, 2017. This cost in 2017 related to the demolished asset at the 77 Greenwich property and the acceleration of depreciation of the building and building improvements and the demolition costs at 77 Greenwich due to the completion of demolition of the 57,000 square foot nine-story commercial building.

Operating loss decreased by approximately $2.1 million to $5.4 million for the nine months ended September 30, 2018 from $7.5 million for the nine months ended September 30, 2017 as a result of the changes in revenues and operating expenses as described above.

Equity in net loss from unconsolidated joint venture decreased by approximately $312,000 to $492,000 for the nine months ended September 30, 2018 from $804,000 for the nine months ended September 30, 2017, primarily due to lower depreciation and amortization, partially offset by increased interest expense. This amount represents our 50% share of the net loss in the joint venture of the newly constructed 95-unit multi-family property in Brooklyn, New York purchased on December 5, 2016. Our share of the net loss for the nine months ended September 30, 2018 is primarily comprised of operating income before depreciation of $918,000, offset by depreciation and amortization of $759,000 and interest expense of $651,000. Our share of the net loss for the nine months ended September 30, 2017 is primarily comprised of operating income before depreciation of $900,000, offset by depreciation and amortization of $1.2 million, interest expense of $538,000 and other expenses of $6,000.

Interest income, net increased by approximately $271,000 to $182,000 for the nine months ended September 30, 2018 from interest expense, net of $89,000 for the nine months ended September 30, 2017. For the nine months ended September 30, 2018, $3.9 million related to gross interest incurred offset by $3.9 million of capitalized interest and $182,000 of interest income. For the nine months ended September 30, 2017, $1.8 million related to gross interest incurred offset by $1.6 million of capitalized interest and $141,000 of interest income. The increase in interest income, net, for the nine months ended September 30, 2018 is primarily attributable to 100% capitalization of interest expense into real estate under development for the 2018 period.

Interest expense-amortization of deferred finance costs was zero for the nine months ended September 30, 2018 compared to $345,000 for the nine months ended September 30, 2017. All interest expense-amortization of deferred finance costs were capitalized to real estate under development for the nine months ended September 30, 2018.

There was no reduction of claims liability during the nine months ended September 30, 2018 compared to approximately $1.0 million during the nine months ended September 30, 2017. During the nine months ended September 30, 2017, we entered into a settlement with our insurance carrier for approximately $1.0 million related to a Syms bankruptcy claim.

There was no gain on sale from real estate for the nine months ended September 30, 2018 compared to approximately $3.9 million for the nine months ended September 30, 2017. The gain in 2017 was due to the sale of the Westbury, New York property on August 4, 2017 which generated approximately $15.2 million in net proceeds.

We recorded $2,000 in tax expense for the nine months ended September 30, 2018 compared to $38,000 for the nine months ended September 30, 2017.

Net loss attributable to common stockholders increased by approximately $1.8 million to $5.7 million for the nine months ended September 30, 2018 from $3.9 million for the nine months ended September 30, 2017 as a result of the changes in revenues and expenses discussed above.

Liquidity and Capital Resources

We currently expect that our principal sources of funds to meet our short-term and long-term liquidity requirements for working capital and funds for acquisition and development or redevelopment of properties, tenant improvements, leasing costs, and repayments of outstanding indebtedness will include some or all of the following:

(1) cash on hand;
(2) proceeds from increases to existing debt financings and/or other forms of secured financing;
(3) proceeds from common stock or preferred equity offerings, including rights offerings or convertible debt;
(4) cash flow from operations; and
(5) net proceeds from divestitures of properties.

Cash flow from operations is primarily dependent upon the occupancy level of our portfolio, the net effective rental rates achieved on our leases, the collectability of rent, operating escalations and recoveries from our tenants and the level of operating and other costs.

As of September 30, 2018, we had total cash of $17.2 million, of which approximately $14.6 million was cash and cash equivalents and approximately $2.6 million was restricted cash. As of December 31, 2017, we had total cash of $24.2 million, of which approximately $15.3 million was cash and cash equivalents and approximately $8.9 million was restricted cash. Restricted cash represents amounts required to be restricted under our loan agreements and secured line of credit (see Note 5 – Loans Payable and Secured Line of Credit to our condensed consolidated financial statements for further information), tenant related security deposits and deposits on property acquisitions. The decrease in total cash during the period from January 1, 2018 to September 30, 2018 was primarily the result of the use of cash in connection with the acquisition of the 237 11th property on May 24, 2018, partially offset by the receipt of approximately $8.4 million from the SCA for reimbursement of pre-development costs incurred by us (see Note 3 – Real Estate, net to our condensed consolidated financial statements for further information). In addition we were reimbursed approximately $3.2 million due to an overfunding of equity in connection with the closing of the construction facility for 77 Greenwich.

On May 24, 2018, in connection with the acquisition of the 237 11th property, wholly owned subsidiaries of ours entered into two-year interest-only financings with an aggregate principal amount of $67.8 million, comprised of a $52.4 million mortgage loan with Canadian Imperial Bank of Commerce and a $15.4 million mezzanine loan with RCG LV Debt VI REIT, LLC (the "237 11th Loans"), bearing interest at a blended average rate of 3.72% over the 30-day LIBOR, each with a one-year extension option upon satisfaction of certain conditions. The 237 11th Loans are non-recourse to us except for certain non-recourse carve-out and carry guaranties covering among other things interest and operating expenses, and in the case of the mortgage loan, a guaranty of 25% of the principal amount, decreasing to 10% of the principal balance upon the debt yield ratio becoming equal to or greater than 7.0%. The effective rate at September 30, 2018 was approximately 5.98%. The 237 11th Loans are prepayable at any time in whole, provided that prepayment of the mortgage loan must be accompanied by prepayment of the mezzanine loan, and under certain circumstances in part, upon payment, in the case of the mortgage loan, of a 0.50% deferred commitment fee (unless the loan is refinanced with the mortgage lender in which case no such fee is payable), and, in the case of the mezzanine loan, with no fee if prepaid after 12 months, and if prepaid prior to such date, subject to a make-whole fee equal to the interest that would have been paid through the balance of the 12-month period.

On December 22, 2017, a wholly-owned subsidiary of ours closed on a $189.5 million construction facility for 77 Greenwich (the "77 Greenwich Construction Facility") with Massachusetts Mutual Life Insurance Company. We will draw down proceeds as costs related to construction are incurred for 77 Greenwich over the next few years. In connection with the closing of the 77 Greenwich Construction Facility on December 22, 2017, a portion of the proceeds on the closing date was used to pay in full the outstanding balance, including accrued interest, under our loan with Sterling National Bank, in an aggregate amount of $40.1 million. The balance of the 77 Greenwich Construction Facility was $42.8 million at September 30, 2018. The 77 Greenwich Construction Facility has a four-year term with one extension option for an additional year under certain circumstances. The collateral for the 77 Greenwich Construction Facility is the borrower's fee interest in 77 Greenwich, which is the subject of a mortgage in favor of Lender. The 77 Greenwich Construction Facility will bear interest on amounts drawn at a rate per annum equal to the greater of (i) LIBOR plus 8.25% and (ii) 9.25% (see Note 5 – Loans Payable and Secured Line of Credit to our condensed consolidated financial statements for further information). The effective interest rate at September 30, 2018 and December 31, 2017 was 10.51% and 9.81%, respectively. Although there can be no assurances, we currently anticipate that the proceeds available under the 77 Greenwich Construction Facility, together with equity funded by us to date and future contributions by the SCA, will be sufficient to fund the construction and development of 77 Greenwich without us making any further equity contributions.

On February 22, 2017, we entered into two secured lines of credit for an aggregate of $12.0 million, with Sterling National Bank as the lender, which were secured by our properties located in Paramus, New Jersey, and Westbury, New York, respectively, and had an original maturity date of February 22, 2018. On August 4, 2017, in connection with the sale of the Westbury, New York property, the $2.9 million line of credit that was secured by this property, which was undrawn, matured. The remaining $9.1 million line of credit, secured by the Paramus, New Jersey property, was increased to $11.0 million in September 2017, and the maturity date extended to February 22, 2019. The line of credit bears interest, for drawn amounts only, at 100 basis points over Prime, as defined in the underlying credit agreement, with a floor of 3.75%, and is pre-payable at any time without penalty. As of September 30, 2018 and December 31, 2017, the $11.0 million secured line of credit was undrawn.

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On February 14, 2017, we issued an aggregate of 3,585,000 shares of common stock in a private placement at a purchase price of $7.50 per share, and received gross proceeds of $26.9 million (the “Private Placement”). On April 5, 2017, we issued an aggregate of 1,884,564 shares of common stock in a rights offering at a purchase price of $7.50 per share and received gross proceeds of $14.1 million (the “Rights Offering”). We have been using the proceeds from the Private Placement and the Rights Offering for the development of 77 Greenwich, potential new real estate acquisitions and investment opportunities and for working capital.

On May 11, 2016, our subsidiary that owns our West Palm Beach, Florida property, commonly known as The Shoppes at Forest Hill, entered into a loan agreement with Citizens Bank, National Association, as lender (the “WPB Lender”), pursuant to which the WPB Lender agreed to provide a loan in the amount of up to $12.6 million, subject to the terms and conditions as set forth in the loan agreement (the “WPB Loan”). $9.1 million was borrowed at closing. The WPB Loan requires interest-only payments and bears interest at 30-day LIBOR plus 230 basis points. The effective interest rate at September 30, 2018 and December 31, 2017 was 4.56% and 3.86%, respectively. The WPB Loan matures on May 11, 2019, subject to extension until May 11, 2021, under certain circumstances, and can be prepaid at any time, in whole or in part, without premium or penalty. The balance of the WPB Loan was $9.1 million at both September 30, 2018 and December 31, 2017.

Cash Flows

Cash Flows for the nine months ended September 30, 2018 Compared to the nine months ended September 30, 2017

Net cash used in operating activities decreased by approximately $3.0 million to $3.3 million for the nine months ended September 30, 2018 from $6.3 million for the nine months ended September 30, 2017. This decrease was due partially to the gain on the sale of the Westbury, New York property of approximately $3.9 million in 2017 and a $1.8 million increase in accounts payable and accrued expenses which was partially offset by the $1.6 million write-off of costs relating to the demolished asset at the 77 Greenwich property due to its completion of demolition in 2017.

Net cash used in investing activities increased by approximately $87.2 million to $79.1 million for the nine months ended September 30, 2018 compared to net cash provided by investing activities of approximately $8.1 million for the nine months ended September 30, 2017. This increase was due mainly to the acquisition of the 237 11^{th} property on May 24, 2018 for a purchase price of $81.0 million as well as an increase of approximately $34.6 million in real estate additions primarily from construction at 77 Greenwich. This was partially offset by the $15.2 million in net proceeds from the sale of the Westbury, New York property on August 4, 2017 and the aggregate $37.3 million of cash received from the SCA for reimbursement of pre-development and development costs that were initially paid by us, partial payments for the land and condominium purchase as well as reimbursement of a portion of equity in connection with the closing of the 77 Greenwich Construction Facility.

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Net cash provided by financing activities increased by approximately $38.1 million to $75.4 million for the nine months ended September 30, 2018 compared to approximately $37.3 million for the nine months ended September 30, 2017. This increase is a result of the 237 11th Loans of $67.8 million obtained on May 24, 2018 for the purchase of the 237 11th property and by $10.5 million of draws under the 77 Greenwich Construction Facility during the nine months ended September 30, 2018. During the nine months ended September 30, 2017, we raised net proceeds of approximately $26.6 million through our Private Placement of common stock in February 2017, and we raised net proceeds of approximately $13.9 million through our Rights Offering in April 2017.

Net Operating Losses

We believe that our U.S. Federal NOLs as of the emergence date of the Syms bankruptcy Plan were approximately $162.8 million and believe our U.S. Federal NOLs at September 30, 2018 were approximately $218.8 million. Pursuant to the U.S. Tax Cuts and Jobs Act (the “TCJA”), alternative minimum tax (“AMT”) credit carryforwards will be eligible for a 50% refund through tax years 2018 through 2020. Beginning in tax year 2021, any remaining AMT credit carryforwards would be 100% refundable. As a result of these new regulations, we have released the valuation allowance of $3.1 million formerly reserved against our AMT credit carryforwards. We have recorded a tax benefit and refund receivable of $3.1 million in connection with this valuation allowance release as of September 30, 2018 and December 31, 2017. Based on management’s assessment, it is more likely than not that the entire deferred tax assets will not be realized by future taxable income or tax planning strategies. Accordingly a valuation allowance of $60.9 million was recorded as of September 30, 2018.

We believe that the rights offering and the redemption of the Syms shares owned by the former Majority Shareholder that occurred in connection with our emergence from bankruptcy on September 14, 2012 resulted in us undergoing an “ownership change,” as that term is used in Section 382 of the Code. However, while the analysis is complex and subject to subjective determinations and uncertainties, we believe that we should qualify for treatment under Section 382(l)(5) of the Code. As a result, we currently believe that our NOLs are not subject to an annual limitation under Code Section 382. However, if we were to undergo a subsequent ownership change in the future, our NOLs could be subject to limitation under Code Section 382.

Notwithstanding the above, even if all of our regular U.S. Federal income tax liability for a given year is reduced to zero by virtue of utilizing our NOLs, we may still be subject to state, local or other non-federal income taxes.

Our certificate of incorporation includes a provision intended to help preserve certain tax benefits primarily associated with our NOLs (the “Protective Amendment”). The Protective Amendment generally prohibits transfers of stock that would result in a person or group of persons becoming a 4.75% stockholder, or that would result in an increase or decrease in stock ownership by a person or group of persons that is an existing 4.75% stockholder.

Cautionary Note Regarding Forward-Looking Statements

This Quarterly Report on Form 10-Q, including information included or incorporated by reference in this Quarterly Report or any supplement to this Quarterly Report, may include forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and information relating to us that are based on the beliefs of management as well as assumptions made by and information currently available to management. These forward-looking statements include, but are not limited to, statements about our plans, objectives, expectations and intentions that are not historical facts, and other statements identified by words such as "may," "will," "expects," believes," "plans," "estimates," "potential," or "continues," or the negative thereof or other and similar expressions. In addition, in some cases, you can identify forward-looking statements by words or phrases such as "trend," "potential," "opportunity," "comfortable," "expect," "anticipate," "current," "intention," "estimate," "position," "assume," "outlook," "continue," "remain "sustain," "seek," "achieve," and similar expressions. Such statements reflect our current views with respect to future events, the outcome of which is subject to certain risks, including among others:

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- our limited revenues from operations and reliance on external sources of financing to fund operations in the future;
- our ability to execute our business plan, including as it relates to the development of our largest asset, 77 Greenwich Street in Lower Manhattan;
- adverse trends in the Manhattan condominium market;
- general economic and business conditions, including with respect to real estate, and their effect on the New York City real estate market in particular;
- our investment in property development may be more costly than anticipated and investment returns from our properties planned to be developed may be less than anticipated;
- competition for new acquisitions;
- risks associated with acquisitions and investments in owned and leased real estate generally;
- our ability to enter into new leases and renew existing leases with tenants at our commercial and residential properties;
- risks associated with partnerships or joint ventures;
- our ability to maintain certain state tax benefits with respect to our properties, and to obtain required permits, site plan approvals and/or other governmental approvals in connection with the development or redevelopment of our properties;
- costs associated with complying with environmental laws and environmental contamination, as well as the Americans with Disabilities Act or other safety regulations and requirements;
- loss of key personnel;
- our ability to obtain additional financing and refinance existing loans and on favorable terms;
- the failure of our subsidiaries to repay outstanding indebtedness;

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- the effects of new tax laws;
- our ability to utilize our NOLs to offset future taxable income and capital gains for U.S. Federal, state and local income tax purposes;
- risks associated with current political and economic uncertainty;
- risks associated with breaches of information technology systems;
- stock price volatility;
- the influence of certain significant stockholders;
- limitations in our certificate of incorporation on acquisitions and dispositions of our common stock designed to protect our ability to utilize our NOLs and certain other tax attributes, which may not succeed in protecting our ability to utilize such tax attributes, and/or may limit the liquidity of our common stock;
- certain provisions in our charter documents and Delaware law may have the effect of making more difficult or otherwise discouraging, delaying or deterring a takeover or other change of control of us; and
- unanticipated difficulties which may arise and other factors which may be outside our control or that are not currently known to us or which we believe are not material.

In evaluating such statements, you should specifically consider the risks identified under the section entitled “Risk Factors” in our 2017 Annual Report for the year ended December 31, 2017, as filed with the Securities and Exchange Commission (the “SEC”) on March 15, 2018, any of which could cause actual results to differ materially from the anticipated results. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results or outcomes may vary materially from those contemplated by any forward looking statements. Subsequent written and oral forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by the cautionary statements in this paragraph and elsewhere described in the aforementioned 2017 Annual Report, this Form 10-Q and other reports filed with the SEC. All forward-looking statements speak only as of the date of this Form 10-Q or, in the case of any documents incorporated by reference in this Form 10-Q, the date of such document, in each case based on information available to us as of such date, and we assume no obligation to update any forward-looking statements, except as required by law.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

Market risks that arise from changes in interest rates, foreign currency exchange rates and other market changes affect market sensitive instruments. In pursuing our business strategies, the primary market risk which we are exposed to is interest rate risk.

Low to moderate levels of inflation during the past several years have favorably impacted our operations by stabilizing operating expenses. At the same time, low inflation has had the indirect effect of reducing our ability to increase tenant rents. However, our tenant leases include expense reimbursements and other provisions to minimize the effect of inflation.

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The market risk associated with financial instruments and derivative financial instruments is the risk of loss from adverse changes in market prices or interest rates. Of our long-term debt, which consists of secured financings, the 77 Greenwich Construction Facility bears interest on drawn amounts at a rate per annum equal to the greater of (i) LIBOR plus 8.25% and (ii) 9.25%, the WPB Loan bears interest at 30-day LIBOR plus 230 basis points, and the 237 11^{th} Loans bears interest at a blended average rate of 3.72% over the 30-day LIBOR. Our interest rate risk management objectives are to limit the impact of interest rate changes on earnings and cash flows and to lower our overall borrowing costs. From time to time, we may enter into interest rate hedge contracts such as swaps, caps, collars, and treasury lock agreements in order to mitigate our interest rate risk with respect to various debt instruments. We would not hold or issue these derivative contracts for trading or speculative purposes. We do not have any foreign operations and thus we are not exposed to foreign currency fluctuations.

As of September 30, 2018, our debt consisted of three variable-rate secured mortgage loans payable, with carrying values of $42.8 million, $9.1 million and $67.8 million, which approximated their fair values at September 30, 2018. We also have a secured line of credit of $11.0 million that was undrawn as of September 30, 2018. Changes in market interest rates on our variable-rate debt impact the fair value of the loans and interest incurred or cash flow. For instance, if interest rates increase 100 basis points and our variable-rate debt balance remains constant, we expect the fair value of our obligation to decrease, the same way the price of a bond declines as interest rates rise. The sensitivity analysis related to our variable–rate debt assumes an immediate 100 basis point move in interest rates from their September 30, 2018 levels, with all other variables held constant. A 100 basis point increase in market interest rates would result in a decrease in the fair value of our variable-rate debt by approximately $1.2 million. A 100 basis point decrease in market interest rates would result in an increase in the fair value of our variable-rate debt by approximately $1.3 million. These amounts were determined by considering the impact of hypothetical interest rates changes on our borrowing costs, and assuming no other changes in our capital structure.

As of September 30, 2018, the debt on the unconsolidated joint venture, in which we hold a 50% interest, consisted of a variable-rate secured mortgage loan payable, with a carrying value of $42.5 million (see Note 12 – Investment in Our Unconsolidated Joint Venture to our condensed consolidated financial statements for further information), which approximated its fair value at September 30, 2018. A 100 basis point increase in market interest rates on the loan taken out by the unconsolidated joint venture would result in a decrease in the fair value of the joint ventures' variable-rate debt by approximately $0.5 million. A 100 basis point decrease in market interest rates would result in an increase in the fair value of the joint ventures' variable-rate debt by approximately $0.5 million. These amounts were determined by considering the impact of hypothetical interest rates changes on borrowing costs, and assuming no other changes in the capital structure of the joint venture.

As the information presented above includes only those exposures that existed as of September 30, 2018, it does not consider exposures or positions arising after that date. The information represented herein has limited predictive value. Future actual realized gains or losses with respect to interest rate fluctuations will depend on cumulative exposures, hedging strategies employed and the magnitude of the fluctuations.

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Item 4. Controls and Procedures

a) Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer (the "CEO") and Chief Financial Officer (the "CFO"), as appropriate, to allow timely decisions regarding required disclosure based closely on the definition of "disclosure controls and procedures" in Rule 13a-15(e) of the Exchange Act. Notwithstanding the foregoing, a control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that it will detect or uncover failures within Trinity to disclose material information otherwise required to be set forth in our periodic reports.

Our management, with the participation of our CEO and CFO, evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) promulgated under the Exchange Act) as of the end of the period covered by this Quarterly Report on Form 10-Q. Based on this evaluation, the CEO and CFO concluded that our disclosure controls and procedures were effective as of the end of the period covered by this Quarterly Report on Form 10-Q.

b) Internal Control Over Financial Reporting

There were no changes in our internal control over financial reporting during the three months ended September 30, 2018, that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

In the normal course of business, we may become a party to routine legal proceedings. Based on available information and taking into account accruals where they have been established, management currently believes that any liabilities ultimately resulting from this routine litigation will not, individually or in the aggregate, have a material adverse effect on our consolidated financial position. Additionally, as discussed in Note 1 to our condensed consolidated financial statements, as of February 6, 2018, we no longer operate under the Plan that was approved in connection with the resolution of the Chapter 11 cases involving Syms and its subsidiaries.

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Item 1A. Risk Factors

There are no material changes to the Risk Factors as disclosed in our 2017 Annual Report.

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

3.1	Amended and Restated Certificate of Incorporation of Trinity Place Holdings Inc. (incorporated by reference to Exhibit 3.1 of the Form 8-K filed by us on February 13, 2015)
3.2	Bylaws of Trinity Place Holdings Inc. (incorporated by reference to Exhibit 3.2 of the Form 8-K filed by us on September 19, 2012)
31.1*	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) under the Securities and Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.

31.2*	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) under the Securities and Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1**	Certification of Chief Executive Officer pursuant to Rule 13a-14(b) under the Securities and Exchange Act of 1934 and 18.U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2**	Certification of Chief Financial Officer pursuant to Rule 13a-14(b) under the Securities and Exchange Act of 1934 and 18.U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101*	The following materials from our Quarterly Report on Form 10-Q for the period ended September 30, 2018 formatted in XBRL (eXtensible Business Reporting Language): (i) Condensed Consolidated Balance Sheets as of September 30, 2018 (unaudited) and December 31, 2017 (audited), (ii) Condensed Consolidated Statements of Operations for the three and nine months ended September 30, 2018 (unaudited) and September 30, 2017 (unaudited), (iii) Condensed Consolidated Statement of Stockholders’ Equity for the nine months ended September 30, 2018 (unaudited), (iv) Condensed Consolidated Statements of Cash Flows for the nine months ended September 30, 2018 (unaudited) and September 30, 2017 (unaudited) and (v) Notes to Condensed Consolidated Financial Statements (unaudited).

* Filed herewith

** Furnished herewith

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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.

TRINITY PLACE HOLDINGS INC.

Date: November 7, 2018 **By** /s/ Matthew Messinger
MATTHEW MESSINGER
PRESIDENT and CHIEF EXECUTIVE OFFICER
(Principal Executive Officer)

Date: November 7, 2018 **By** /s/ Steven Kahn
STEVEN KAHN
CHIEF FINANCIAL OFFICER
(Principal Financial Officer)