Risk Factors Comparison 2024-02-14 to 2023-02-16 Form: 10-K

Legend: **New Text** ~~Removed Text~~ Unchanged Text Moved Text Section

All of our properties were subject to a Phase I or similar environmental assessment by independent environmental consultants at the time of acquisition. Phase I assessments are intended to discover and evaluate information regarding the environmental condition of the surveyed property and surrounding properties. Phase I assessments ~~generally include a historical review, a public records review, an investigation of the surveyed site and surrounding properties, and preparation and issuance of a written report, but~~ do not include soil sampling or subsurface investigation, sampling and remediation and typically do not include an asbestos survey. While some of these assessments have led to further investigation and sampling, none of our environmental assessments of our properties have revealed an environmental liability that we believe would have a material adverse effect on our business, financial condition or results of operations taken as a whole. However, we cannot give any assurance that such conditions do not exist or may not arise in the future. Material environmental conditions, liabilities or compliance concerns may arise after the environmental assessment has been completed. Environmental laws and regulations in the U. S. also require that owners or operators of buildings containing asbestos properly manage ~~and maintain~~ the asbestos, adequately inform or train those who may come into contact with asbestos and undertake special precautions, including removal or other abatement, in the event that asbestos is disturbed during building renovation or demolition. These laws and regulations may impose fines and penalties on building owners or operators who fail to comply with these requirements and may allow third parties to seek recovery from owners or operators for personal injury associated with exposure to asbestos. Some of our properties may contain asbestos- containing building materials. We ~~invest in properties historically used for industrial, manufacturing and commercial purposes. Some of these properties contain, or may have contained, underground storage tanks for the storage of petroleum products and other hazardous or toxic substances. All of these operations create a potential for the release of petroleum products or other hazardous or toxic substances. Some of our properties are adjacent to or near other properties that may have contained or currently contain underground storage tanks used to store petroleum products, or other hazardous or toxic substances. In addition, previous or current occupants of our properties, including but not limited to, our tenants, and adjacent properties may have engaged, or may in the future engage, in activities that may release petroleum products or other hazardous or toxic substances. We~~ have a portfolio environmental insurance policy that provides coverage for **certain** potential unknown environmental liabilities, subject to the policy' s coverage conditions and limitations ~~, for most of our properties~~. Such policy may not be able to be renewed or may be subject to additional restrictions ~~or~~ **,** limitations **or be insufficient to fully respond to a loss**. From time to time, we may acquire properties or interests in properties, with known adverse environmental conditions where we believe that the environmental liabilities associated with these conditions are quantifiable and that the acquisition will yield a superior risk- adjusted return. In such an instance, we underwrite the costs of environmental investigation, clean- up and monitoring into the cost. Further, in connection with property dispositions, we may agree to remain responsible for, and to bear the cost of, remediating or monitoring certain environmental conditions on the properties. We may incur significant costs complying with various federal, state and local laws ~~,~~ **and** regulations ~~and covenants~~ that are applicable to our properties ~~and, in particular, costs associated with complying with regulations such as the Americans with Disabilities Act of 1990 (the" ADA") may result in unanticipated expenses~~. We may incur significant costs complying with various federal, state and local laws ~~,~~ **and** regulations ~~and covenants~~ that are applicable to our properties ~~and~~ **including** , ~~in particular~~ **without limitation** , **those related to** ~~costs associated with complying with regulations such as~~ the Americans with Disabilities Act of 1990 (the" ADA") **, state and local fire and safety regulations, and greenhouse gas emissions. We** may **be required to make substantial improvements or capital expenditures, or implement operational changes, to comply with applicable laws and regulations, and we may not be able to effectively pass on these additional costs to our tenants. Noncompliance with these laws and regulations, including but not limited to, the ADA, could** result in ~~unanticipated expenses~~ **the imposition of fines or the award of damages or attorneys' fees to private litigants** . ~~The~~ **Any such laws or regulations could also impose substantial costs on our tenants, thereby impacting the financial condition of our tenants and their ability to meet their lease obligations and to lease or re- lease our** properties ~~in our portfolio are subject to various covenants and U. S. federal, state and local laws and regulatory requirements, including permitting and licensing requirements. Local regulations, including municipal or local ordinances, zoning restrictions and restrictive covenants imposed by community developers may restrict our use of our properties and may require us to obtain approval from local officials or restrict our use of our properties and may require us to obtain approval from local officials of community standards organizations at any time with respect to our properties, including prior to acquiring a property or when undertaking renovations of any of our existing properties. Among other things, these restrictions may relate to fire and safety, seismic or hazardous material abatement requirements~~. There can be no assurance that existing laws and regulatory policies will not adversely affect us or the timing or cost of any future acquisitions or renovations, or that additional **laws or** regulation will not be adopted that increase such delays or result in additional costs. ~~Our growth strategy may be affected by our ability to obtain permits, licenses and zoning relief. Our failure to obtain such permits, licenses and zoning relief or to comply with applicable laws could have an adverse effect on our financial condition, results of operations and cash flow. In addition, under the ADA, all places of public accommodation are required to meet certain U. S. federal requirements related to access and use by disabled persons. Noncompliance with the ADA could result in an order to correct any non- complying feature, which could result in substantial capital expenditures. We do not conduct audits or investigations of all of these properties to determine their compliance and we cannot predict the ultimate cost of compliance with the ADA, or other legislation. If one or more of our properties in which we invest is not in compliance with the~~

~~ADA, or other legislation, then we would be required to incur additional costs to bring the property into compliance.~~ If we incur substantial costs to comply with ~~the ADA~~ **applicable laws** or **regulations** ~~other legislation~~ , our financial condition, results of operations, cash flow, our ability to satisfy debt service obligations and to make distributions to our stockholders and unitholders, the market price of the Company' s common stock and the market value of the Units could be adversely affected. Adverse market and economic conditions could cause us to recognize impairment charges. We regularly review our real estate assets for impairment indicators, such as a decline in a property' s occupancy rate, decline in general market conditions or a change in the expected hold period of an asset. If we determine that indicators of impairment are present, we review the properties affected by these indicators to determine whether an impairment charge is required. As a result, we may be required to recognize asset impairment, which could materially and adversely affect our business, financial condition and results of operations. We use considerable judgment in making determinations about impairments, from analyzing whether there are indicators of impairment, to the assumptions used in calculating the fair value of the investment. Accordingly, our subjective estimates and evaluations may not be accurate, and such estimates and evaluations are subject to change or revision. We could be subject to risks and liabilities in connection with joint venture arrangements. Our organizational documents do not limit the amount of available funds that we may invest in joint ventures. We currently have and may in the future selectively acquire, own and / or develop properties through joint ventures with other persons or entities when we deem such transactions are warranted by the circumstances. Joint venture investments, in general, involve certain risks not present where we act alone, including: ~~•~~ **(i)** joint venture partners may share certain approval rights over major decisions, which might ~~(i)~~ significantly delay or make impossible actions and decisions we believe are necessary or advisable with respect to properties owned through a joint venture, and / or ~~(ii)~~ adversely affect our ability to develop, finance, lease or sell properties owned through a joint venture at the most advantageous time for us, if at all; ~~•~~ **(ii)** joint venture partners might experience financial distress **and** ~~, become bankrupt or otherwise~~ fail to fund their share of any required capital contributions; ~~•~~ **(iii)** joint venture partners might have economic or other business interests or goals that are competitive or inconsistent with our business interests or goals that would affect our ability to develop, finance, lease, operate, manage or sell any properties owned by the applicable joint venture; ~~•~~ **(iv)** joint venture partners may have the power to act contrary to our ~~instructions, requests,~~ policies or objectives, including our current policy with respect to maintaining the Company' s qualification as a REIT; ~~•~~ **(v)** joint venture agreements often restrict the transfer of a member' s or joint venture' s interest or may otherwise restrict our ability to sell our interest when we would like to or on advantageous terms; ~~•~~ **(vi)** disputes between us and our joint venture partners may result in litigation or arbitration that would increase our expenses and prevent our employees, officers and directors from focusing their time and effort on our business and subject the properties owned by the applicable joint venture to additional risk; and ~~•~~ **(vii)** we may in certain circumstances be liable for the actions of our joint venture partners. The occurrence of one or more of ~~the~~ **these** events ~~described above~~ could adversely affect our financial condition, results of operations, cash flow and ability to make distributions to our stockholders and unitholders, the market price of the Company' s common stock and the market value of the Units. We own certain properties subject to ground leases that expose us to the loss of such property upon breach or termination of the ground lease. We own the building and improvements and lease the land underlying the improvements under several long- term ground leases. We could lose our interests in the properties if the ground leases are breached by us, terminated or lapse. As we get closer to the lease termination dates, the values of the properties could decrease without an extension in place. Certain of these ground leases have payments subject to annual escalations and / or periodic fair market value adjustments which could adversely affect our financial condition or results of operations. We are exposed to the ~~potential~~ impacts of ~~future~~ climate change. We are exposed to ~~potential~~ physical risks from ~~possible future~~ changes in climate. We have significant investment in properties in coastal markets such as Southern California, Northern California **, Houston** and South Florida and have also targeted those markets for future growth. Our properties, especially the coastal market properties, may be exposed to ~~rare~~ catastrophic weather events, such as severe storms, drought, earthquakes, floods, wildfires or other extreme weather events. If the frequency **or severity** of extreme weather events increases, our exposure to these events could increase and could impact our tenants' operations and their ability to pay rent. **The impacts of climate change on our real estate properties could adversely affect our ability to lease, develop or sell such properties or to borrow using such properties as collateral.** We **currently** carry comprehensive insurance coverage to mitigate our casualty risk, in amounts and of a kind that we believe are appropriate for the markets where each of our properties and their business operations are located **.** ~~given~~ **Given** climate change risk ~~. We may~~ **, we cannot** be **sure that insurance companies will continue** ~~adversely impacted as a real estate owner, manager and developer in the future by potential impacts~~ to **offer products** ~~the supply chain or stricter energy efficiency standards or greenhouse gas regulations for the commercial building sectors. Compliance~~ with **sufficient coverage at commercially reasonable rates** ~~new laws or regulations relating to climate change, including compliance with " green " building codes, may require us to make improvements to our existing properties or result in increased operating costs that we may not be able to effectively pass on to our tenants. Any such laws or regulations could also impose substantial costs on our tenants, thereby impacting the financial condition of our tenants and their ability to meet their lease obligations and to lease or re- lease our properties. We cannot give any assurance that other such conditions do not exist or may not arise in the future. The potential impacts of future climate change on our real estate properties could adversely affect our ability to lease, develop or sell such properties or to borrow using such properties as collateral.~~ Our insurance coverage does not include all potential losses. Real property is subject to casualty risk including damage, destruction, or loss resulting from events that are unusual, sudden and unexpected. Some of our properties are located in areas where casualty risk is higher due to earthquake, wind, wildfire and / or flood risk. We carry comprehensive insurance coverage to mitigate our casualty risk, in amounts and of a kind that we believe are appropriate for the markets where each of our properties and their business operations are located. Among other coverage, we carry property, boiler and machinery, general liability, cyber liability, fire, flood, terrorism, earthquake, **wind storm,** owner' s protective professional indemnity and rental loss insurance. Our coverage includes policy specifications and limits customarily carried for similar properties and business activities. **Our insurance coverage does not insure the total replacement cost of the portfolio.** We evaluate our ~~level of~~ insurance ~~coverage~~ **limits** and deductibles using analysis and modeling, as is customary in our industry. However, we do not insure against all types of casualty, and we may not fully insure against certain perils including, without limitation, earthquake, windstorm **, flood, pandemic, war, civil unrest** and cyber risk, either because coverage is not available or because we do not deem it to be economically feasible or prudent to do so **. Furthermore, we cannot be sure that insurance companies will continue to offer products with sufficient coverage at commercially reasonable rates** . As a result, we could experience a significant loss of capital or revenues, and be exposed to obligations under recourse debt associated with a property. This could occur due to an uninsured or high deductible loss, a loss in excess of insured limits, or a loss not paid due to insurer insolvency. Financing and Capital Risks: Disruptions in the financial markets could affect our ability to obtain financing and may negatively impact our liquidity, financial condition and operating results. A significant amount of our existing indebtedness was issued through capital markets transactions. We anticipate that the capital markets could be a source of refinancing of our existing indebtedness in the future. This source of refinancing may not be available if volatility in or disruption of the capital markets occurs. From time to time, the capital and credit markets in the United States and other countries experience significant price volatility, dislocations and liquidity disruptions, which can cause the market prices of many securities and the spreads on prospective debt financings to fluctuate substantially. These circumstances can materially impact liquidity in the financial markets, making terms for certain financings less attractive, and in some cases result in the unavailability of financing. Furthermore, we could potentially lose access to available liquidity under our Unsecured Credit Facility if one or more participating lenders were to default on their commitments. If our ability to issue additional debt or equity securities or to borrow under our Unsecured Credit Facility were to be impaired by volatility in or disruption of the capital markets, it could have a material adverse effect on our liquidity and financial condition. In addition, price volatility in the capital and credit markets could make the valuation of our properties more difficult. There may be significant uncertainty in the valuation, or in the stability of the value, of our properties that could result in a substantial decrease in the value of our properties. As a result, we may not be able to recover the carrying amount of our properties, which may require us to recognize an impairment loss in earnings **. Our liquidity may be adversely affected if events such as limited liquidity, defaults, non- performance or other adverse developments occur with respect to the banks or other financial institutions that hold our funds, with respect to financial institutions or the financial services industry generally, or based on concerns or rumors related to these or similar risks. For example, the Federal Deposit Insurance Corporation took control of, and was appointed receiver of, Silicon Valley Bank, New York Signature Bank and First Republic Bank on March 10, 2023, March 12, 2023 and May 1, 2023, respectively. Although we did not have any funds held by these banks or other institutions that have been closed, we cannot guarantee that the banks or other financial institutions that hold our funds will not experience similar issues. Additionally, if any of our tenants or other parties with whom we conduct business are unable to access funds from their bank or financial institutions, such parties' ability to pay their obligations to us could be adversely affected** . Debt financing, the degree of leverage and rising interest rates could reduce our cash flow. We use debt to increase the rate of return to our stockholders and unitholders and to allow us to make more investments than we otherwise could. Our use of leverage presents an additional element of risk in the event that the cash flow from our properties is insufficient to meet both debt payment obligations and the distribution requirements of the REIT provisions of the Code. In addition, rising interest rates would reduce our cash flow by increasing the amount of interest due on our floating rate debt and on our fixed rate debt as it matures and is refinanced. Our organizational documents do not contain any limitation on the amount or percentage of indebtedness we may incur ~~. The Financial Conduct Authority announced it intended to stop compelling banks to submit rates for the calculation of LIBOR after June 30, 2023. As a result, in the U. S., the Federal Reserve Board and the Federal Reserve Bank of New York identified the SOFR as its preferred alternative rate for USD LIBOR in debt and derivative financial instruments. As of December 31, 2022, our Unsecured Credit Facility, our $ 200. 0 million term loan and related interest rate swaps are indexed to LIBOR. Our loan documents contain provisions that contemplate alternative methods to determine the base rate applicable to our LIBOR- indexed debt to the extent LIBOR- indexed rates are not available. We plan to modify the affected debt agreements and the related interest rate swaps prior to June 2023~~ . Failure to comply with covenants in our debt agreements could adversely affect our financial condition. The terms of our agreements governing our indebtedness require that we comply with a number of financial and other covenants, such as maintaining debt service coverage and leverage ratios and maintaining insurance coverage. Complying with such covenants may limit our operational flexibility. Our failure to comply with these covenants could cause a default under the applicable debt agreement even if we have satisfied our payment obligations. Consistent with our historical practice, we will continue to interpret and certify our performance under these covenants in a good faith manner that we deem reasonable and appropriate. However, these financial covenants are complex and there can be no assurance that these provisions would not be interpreted by the noteholders or lenders in a manner that could impose and cause us to incur material costs. Our ability to meet our financial covenants may be adversely affected if economic and credit market conditions limit our ability to reduce our debt levels consistent with, or result in net operating income below, our current expectations. Under our Unsecured Credit Facility and our unsecured term loans, an event of default can also occur if the lenders, in their good faith judgment, determine that a material adverse change has occurred that could prevent timely repayment or materially impair our ability to perform our obligations under the loan agreement. Upon the occurrence of an event of default, we would be subject to higher finance costs and fees, and the lenders under our Unsecured Credit Facility will not be required to lend any additional amounts to us. In addition, our indebtedness, together with accrued and unpaid interest and fees, could be accelerated and declared to be immediately due and payable. Furthermore, our Unsecured Credit Facility, our unsecured term loans and the indentures governing our senior unsecured notes contain certain cross- default provisions that may be triggered in the event that our other material indebtedness is in default. These cross- default provisions may require us to repay or restructure our Unsecured Credit Facility, our unsecured term loans or our senior unsecured notes (which includes our private placement notes), depending on which is in default, and such restructuring could adversely affect our financial condition, results of operations, cash flow and ability to make distributions to our stockholders and unitholders, the market price of the Company' s common stock and the market value of the Units. If repayment of any of our indebtedness is accelerated, we cannot provide assurance that we would be able to borrow sufficient funds to refinance such indebtedness or that we would be able to sell sufficient assets to repay such indebtedness. Even if we were able to obtain new financing, it may not be on commercially reasonable terms, or terms that are acceptable to us. Adverse changes in our credit ratings could negatively affect our liquidity and business operations. The credit ratings of our senior unsecured notes are based on our operating performance, liquidity and leverage ratios, overall financial position and other factors employed by the credit rating agencies in their rating analyses. Our credit ratings can affect the availability, terms and pricing of any indebtedness we may incur or preferred stock that we might issue going forward. There can be no assurance that we will be able to maintain any credit rating and, in the event any credit rating is downgraded, we could incur higher borrowing costs or may be unable to access certain or any capital markets. The REIT distribution requirements may limit our ability to retain capital and require us to turn to external financing sources. As a REIT, the Company must distribute to its stockholders at least 90 % of its taxable income (determined without regard to the dividends- paid deduction and by excluding any net capital gain) ~~to our stockholders~~ each year **,** and we may be subject to **additional** tax to the extent our taxable income is not fully distributed. The Company could, in certain instances, have taxable income without sufficient cash to enable it to meet this requirement. In that situation, we could be required to borrow funds or sell properties on adverse terms in order to ~~do so~~ **satisfy the distribution requirement** . The distribution requirement could also limit our ability to accumulate capital to provide capital resources for our ongoing business, and to satisfy our debt repayment obligations and other liquidity needs, we may be more dependent on outside sources of financing, such as debt financing or issuances of additional capital stock, which may or may not be available on favorable terms. Additional debt financings may substantially increase our leverage and additional equity offerings may result in substantial dilution of stockholders' and unitholders' interests. We may have to make lump- sum payments on our existing indebtedness. We are required to make lump- sum or" balloon" payments under the terms of some of our indebtedness. Our ability to make required payments of principal on outstanding indebtedness, whether at maturity or otherwise, may depend on our ability to refinance the applicable indebtedness or to sell properties. Currently, we have no commitments to refinance any of our indebtedness. Failure to hedge effectively against interest rate changes may adversely affect our results of operations. In the normal course of business, we use derivatives to manage our exposure to interest rate volatility on debt instruments, including hedging for future debt issuances. At other times we may utilize derivatives to increase our exposure to floating interest rates. There can be no assurance that these hedging arrangements will have the desired beneficial impact. These arrangements, which can include a number of counterparties, may expose us to additional risks, including failure of any of our counterparties to perform under these contracts, and may involve extensive costs, such as transaction fees or breakage costs, if we terminate them. Hedging may reduce the overall returns on our investments, which could reduce our cash available for distribution to our stockholders and unitholders. Failure to hedge effectively against interest rate changes may materially **and** adversely affect our financial condition, results of operations and cash flow. No strategy can completely insulate us from the risks associated with interest rate fluctuations. We have adopted a practice relating to the use of derivative financial instruments which requires the Company' s Board of Directors to authorize our use of derivative financial instruments to fix the interest rate on anticipated offerings of unsecured debt and to manage the interest rates on our variable rate borrowings. Our practice is that we do not use derivatives for speculative or trading purposes and intend only to enter into contracts with major financial institutions based on their credit rating and other factors, but the Company' s Board of Directors may choose to change these practices in the future. Our mortgages may impact our ability to sell encumbered properties on advantageous terms or at all. Our outstanding mortgage contains, and some future mortgages may contain, substantial prepayment premiums that we would have to pay upon the sale of a property, thereby reducing the net proceeds to us from the sale of any such property. As a result, our willingness to sell certain properties and the price at which we may desire to sell a property may be impacted. If we are unable to sell properties on favorable terms or redeploy the proceeds of property sales in accordance with our business strategy, then our financial condition, results of operations, cash flow and ability to make distributions to our stockholders and unitholders, the market price of the Company' s common stock and the market value of the Units could be adversely affected. Earnings and cash dividends, asset value and market interest rates affect the price of the Company' s common stock. The market value of the Company' s common stock is based in large part upon the market' s perception of the growth potential of the Company' s earnings and cash dividends. The market value of the Company' s common stock is also based upon the value of the Company' s underlying real estate assets. For this reason, shares of the Company' s common stock may trade at prices that are higher or lower than the Company' s net asset value per share. To the extent that the Company retains operating cash flow for investment purposes, working capital reserves, or other purposes, these retained funds, while increasing the value of the Company' s underlying assets, may not correspondingly increase the market price of the Company' s common stock. The Company' s failure to meet the market' s expectations with regard to future earnings and the payment of cash dividends / distributions likely would adversely affect the market price of the Company' s common stock. Further, the distribution yield on the common stock (as a percentage of the price of the common stock) relative to market interest rates may also influence the market price of the Company' s common stock. An increase in market interest rates might lead prospective purchasers of the Company' s common stock to expect a higher distribution yield, which would adversely affect the market price of the Company' s common stock. Any reduction in the market price of the Company' s common stock would, in turn, reduce the market value of the Units. Future sales or issuances of our common stock may cause the market price of our common stock to decline. The sale of substantial amounts of our common stock, whether directly by us or in the secondary market, the perception that such sales could occur or the availability of future issuances of shares of our common stock, limited partnership units of the Operating Partnership or other securities convertible into or exchangeable or exercisable for our common stock, could materially and adversely affect the market price of our common stock and our ability to raise capital through future offerings of equity or equity- related securities. In addition, we may issue capital stock that is senior to our common stock in the future for a number of reasons, including to finance our operations and business strategy, to adjust our ratio of debt to equity or for other reasons. The market price of our common stock may fluctuate significantly. The market price of our common stock may fluctuate significantly in response to many factors, including: • actual or anticipated variations in our operating results, funds from operations, cash flows or liquidity ~~,~~ **;** • changes in our earnings estimates or those of analysts ~~,~~ **;** • changes in asset valuations and related impairment charges ~~,~~ **;** • changes in our dividend policy ~~,~~ **;** • publication of research reports about us or the real estate industry generally ~~,~~ **;** • the ability of our tenants to pay rent to us and meet their obligations to us under the current lease terms and our ability to re- lease space as leases expire ~~,~~ **;** • increases in market interest rates that lead purchasers of our common stock to demand a higher dividend yield ~~,~~ **;** • changes in market valuations of similar companies ~~,~~ **;** • adverse market reaction to the amount of our debt outstanding at any time, the amount of our debt maturing in the near- and medium- term and our ability to refinance our debt, or our plans to incur additional debt in the future ~~,~~ **;** • our ability to comply with applicable financial covenants under our unsecured line of credit and the indentures under which our senior unsecured indebtedness is, or may be, issued ~~,~~ **;** • additions or departures of key management personnel ~~,~~ **;** • actions by institutional stockholders ~~,~~ **;** • speculation in the press or investment community ~~,~~ **; and** • general market and economic conditions. Many of the factors listed above are beyond our control. Those factors may cause the market price of our common stock to decline significantly, regardless of our financial condition, results of operations and prospects. It is impossible to provide any assurance that the market price of our common stock will not fall in the future, and it may be difficult for holders to resell shares of our common stock at prices they find attractive, or at all. Risks Related to Our Organization and Structure: The Company is authorized to issue preferred stock. The issuance of preferred stock could adversely affect the holders of the Company' s common stock issued pursuant to its public offerings. Our declaration of trust authorizes the Company to issue 225, 000, 000 common shares and 10, 000, 000 shares designated as preferred stock. Subject to approval by the Company' s Board of Directors, the Company may issue preferred stock with rights, preferences and privileges that are more beneficial than the rights, preferences and privileges of its common stock. Holders of the Company' s common stock do not have preemptive rights to acquire any shares issued by the Company in the future. If the Company ever creates and issues preferred stock with a distribution preference over common stock, payment of any distribution preferences on outstanding preferred stock would reduce the amount of funds available for the payment of distributions to our common stockholders and unitholders. In addition, holders of preferred stock are normally entitled to receive a preference payment in the event of liquidation, dissolution or winding up before any payment is made to our common stockholders, which would reduce the amount our common stockholders and unitholders ~~,~~ might otherwise receive upon such an occurrence. Also, under certain circumstances, the issuance of preferred stock may have the effect of delaying or preventing a change in control of the Company. The Company' s Board of Directors may change its strategies, policies or procedures without stockholder approval, which may subject us to different and more significant risks in the future. Our investment, financing, leverage and distribution policies and our policies with respect to all other activities, including growth, debt, capitalization and operations, are determined by the Company' s Board of Directors. These policies may be amended or revised at any time and from time to time at the discretion of the Company' s Board of Directors without notice to or a vote of its stockholders. This could result in us conducting operational matters ~~,~~ **or** making investments **differently** or pursuing ~~different~~ **alternate** business or growth strategies. Under these circumstances, we may expose ourselves to different and more significant risks in the future, which could have a material adverse effect on our business and growth. In addition, the Company' s Board of Directors may change its governance policies **,** provided that such changes are consistent with applicable legal requirements. A change in these policies could have an adverse effect on our financial condition, results of operations, cash flow, ability to satisfy our principal and interest obligations, ability to make distributions to our stockholders and unitholders, the market price of the Company' s common stock and the market value of the Units. Certain provisions of our charter and bylaws could hinder, delay or prevent a change in control of our company. Certain provisions of our charter and our bylaws could have the effect of discouraging, delaying or preventing transactions that involve an actual or threatened change in control of our company. These provisions include the following: • Removal of Directors. Under our charter, subject to the rights of one or more classes or series of preferred stock to elect one or more directors, a director may be removed only for cause and only by the affirmative vote of at least a majority of all votes entitled to be cast by our stockholders generally in the election of directors. • Preferred Stock. Under our charter, our board of directors has the power to issue preferred stock from time to time in one or more series and to establish the terms, preferences and rights of any such series of preferred stock, all without approval of our stockholders. • Advance Notice Bylaws. Our bylaws require advance notice procedures with respect to nominations of directors and shareholder proposals. • Ownership Limit. For the purpose, among others, of preserving our status as a REIT under the Internal Revenue Code of 1986, as amended, our charter generally prohibits any single stockholder, or any group of affiliated stockholders, from beneficially owning more than 9. 8 % of our outstanding common and preferred stock unless our board of directors waives or modifies this ownership limit. • Stockholder Action by Written Consent. Our bylaws contain a provision that permits our stockholders to take action by written consent in lieu of an annual or special meeting of stockholders only if the unanimous consent of the stockholders is obtained. • Ability of Stockholders to Call Special Meeting. Under our bylaws, we are only required to call a special meeting at the request of the stockholders if the request is made by at least a majority of all votes entitled to be cast by our stockholders generally in the election of directors. • Maryland Control Share Acquisition Act. Our bylaws contain a provision exempting acquisitions of our shares from the Maryland Control Share Acquisition Act. However, our board of directors may amend our bylaws in the future to repeal or modify this exemption, in which case any control shares of our company acquired in a control share acquisition will be subject to the Maryland Control Share Acquisition Act. Income Tax Risks: The Company might fail to qualify as a REIT under existing laws and / or federal income tax laws could change. The Company intends to operate so as to qualify as a REIT under the Code, and we believe that the Company is organized and will operate in a manner that allows us to continue to do so. However, qualification as a REIT involves the satisfaction of numerous requirements, some of which must be met on a recurring basis. These requirements are established under highly technical and complex Code provisions ~~. There are only limited judicial and administrative interpretations of these provisions,~~ and they involve the determination of various factual matters and circumstances not entirely within our control. If the Company were to fail to qualify as a REIT in any taxable year, the Company would be subject to federal income tax at corporate rates. This could result in a discontinuation or substantial reduction in distributions to our stockholders and unitholders ~~,~~ and could reduce the cash available to pay interest and principal on debt securities and make further investments in real estate. Unless entitled to relief under certain statutory provisions, the Company would be disqualified from electing treatment as a REIT for the four taxable years following the year during which the Company failed to qualify. The IRS, the United States Treasury Department and Congress frequently review federal income tax legislation, and we cannot predict whether, when or to what extent new federal laws, regulations, interpretations or rulings will be adopted. Additional changes to tax laws are likely to continue to occur in the future and any such legislative action may prospectively or retroactively modify the Company' s tax treatment and therefore, may adversely affect taxation of us and / or our stockholders and unitholders. Any such changes could have an adverse effect on an investment in shares **of our common stock** or on the market value or the resale potential of our properties. Stockholders and unitholders are urged to consult with their own tax advisor with respect to the impact of recent legislation, the status of legislative, regulatory, or administrative developments and proposals, and their potential effect on ownership of our shares. Certain property transfers may generate prohibited transaction income, resulting in a penalty tax on the gain attributable to the transaction. As part of our business, we sell properties to third parties as opportunities arise. Under the Code, a 100 % penalty tax could be assessed on the ~~tax~~ **taxable** gain recognized from sales of properties that are deemed to be prohibited transactions. The question of what constitutes a prohibited transaction is based on the facts and circumstances surrounding each transaction. The IRS could contend that certain sales of properties by us are prohibited transactions. While we ~~have implemented~~ -- **implement** controls to avoid prohibited transactions, if a dispute were to arise that was successfully argued by the IRS, the 100 % penalty tax could be assessed against the Company' s profits from these transactions. ~~We may pay some~~ **Even if we maintain our qualification as a REIT for federal income** ~~taxes~~ -- **tax purposes, we may be subject to other tax liabilities that reduce our cash flow and our ability to make distributions to stockholders** . Even if we qualify as a REIT for U. S. federal income tax purposes, we may be subject to federal, state and local taxes on our income and property. From time to time changes in state and local tax laws or regulations are enacted, which may result in an increase in our tax liability. A shortfall in tax revenues for states and municipalities in which we operate may lead to an increase in the frequency and amount of such increase. These actions could adversely affect our financial condition and results of operations. In addition, our TRSs will be subject to federal, state and local income tax for income received. In the normal course of business, certain of our legal entities have undergone tax audits and may undergo audits in the future. There can be no assurance that future audits will not occur with increased frequency or that the ultimate result of such audits will not have a material adverse effect on our results of operations. General Risk Factors: A future outbreak of highly infectious or contagious diseases similar to COVID- 19 may adversely affect our business. ~~The COVID- 19~~ **A future contagious disease outbreak or** pandemic ~~caused, and another pandemic in the future~~ could cause ~~,~~ disruptions to regional and global economies and significant volatility and negative pressure in the financial markets. ~~A future~~ **Such an outbreak or** pandemic could also have a material and adverse effect on our ability to successfully operate and on our financial condition, results of operations and cash flows due to, among other factors: ~~•~~ **(i)** reduced economic activity **which** may severely impact our tenants' businesses ~~, financial condition and liquidity~~ and may cause certain of our tenants to be unable to meet their obligations to us in full, or at all, or to otherwise seek modifications of such obligations and / or terminate their leases early or not renew; ~~•~~ **(ii)** delays to or halting of construction activities, including permitting and obtaining approvals, related to our ongoing development and redevelopment projects as well as tenant improvements; ~~•~~ **(iii)** difficulty in accessing the capital and lending markets (or a significant increase in the costs of doing so), impacts to our credit ratings, a severe disruption or instability in the global financial markets, or deteriorations in credit and financing conditions, **which** may affect our access to capital necessary to fund business operations or address maturing debt obligations on a timely basis; ~~•~~ **(iv) potential impact on** our ability to meet the financial covenants of our Unsecured Credit Facility and other debt agreements ~~and~~ **, which may** result in a default **or** ~~and potentially~~ an acceleration of indebtedness, and such non- compliance could negatively impact our ability to make additional borrowings under our Unsecured Credit Facility and pay dividends; ~~•~~ **(v)** any impairment in value of our tangible or intangible assets which could be recorded as a result of weaker economic conditions; ~~•~~ **(vi)** a general decline in business activity and demand for real estate transactions **, which** could adversely affect our ability to sell or purchase properties, at attractive pricing or at all; ~~•~~ **(vii)** an inability to initiate or pursue litigation due to various court closures, increased case volume and / or moratoriums on certain types of activities; ~~•~~ **(viii)** the potential negative impact on the health of our employees, particularly if a significant number of them are impacted, **which** could result in a deterioration in our ability to ensure business continuity during ~~this~~ **the** disruption ~~, or a future disruption,~~ and **which** may negatively impact our disclosure controls and procedures over financial reporting; and ~~•~~ **(ix)** an extended period of remote work arrangements for our employees **which** could strain our business continuity plans and introduce operational risk including, but not limited to, cybersecurity risks. We face risks relating to cybersecurity attacks and other disruptions to our computer systems. We rely extensively on computer systems to manage our business, and our business is at risk from and may be impacted by cybersecurity attacks and security breaches. These could include attempts to gain unauthorized access to our **computer systems,** data and ~~computer~~ **the data of third parties retained within our** systems through malware, computer viruses, attachments to e- mails, persons inside our Company or persons with access to systems inside our Company, and other significant disruptions of our information technology networks and related systems. Our business is also at risk from and may be impacted by our computer systems malfunctioning or being subject of a significant disruption. The risk of a cybersecurity breach or disruption, particularly through a cyber- incident, including by computer hackers, foreign governments and cyber terrorists, has generally increased as the number, intensity and sophistication of attempted attacks and intrusions from around the world have increased. Although we employ a number of measures to prevent, detect and mitigate these threats, ~~which include password protection, frequent password change events, firewall detection systems, frequent backups, a redundant data system for core applications, a managed detection monitoring and response solution, periodic cyber dwelling reviews and annual penetration testing,~~ even the most well **-** protected information, networks, systems and facilities remain potentially vulnerable because the techniques used in such attempted security breaches evolve and generally are not recognized until launched against a target, and in some cases are designed to not be detected and, in fact, may not be detected. Accordingly, we may be unable to anticipate these techniques or to implement adequate security barriers or other preventative measures, and thus it is impossible for us to entirely mitigate this risk. Moreover, **security events** ~~although we maintain some of our~~ - **or disruptions impacting our vendors** ~~own critical information technology systems~~ , ~~we~~ **sub- processors and service providers could** also ~~depend on~~ **impact our data and operations or the data of** third parties **retained within our system via unauthorized access** to ~~provide important~~ information ~~technology~~ **or disruption of** services ~~relating to, for instance, payroll, electronic communications and certain finance functions. The security measures employed by such third party service providers may prove to be ineffective at preventing breaches of their systems or their systems may malfunction or otherwise become subject to disruption~~ . Our computer systems are essential to the operation of our business and our ability to perform day- to- day operations and, in some cases, may be critical to the operations of certain of our tenants. A successful cybersecurity attack or other disruption of our computer systems could, among other things ~~,~~ : **(i)** ~~• compromise the confidential information of our employees, tenants and vendors; •~~ disrupt the proper functioning of our networks and systems, and therefore our operations and / or those of certain of our tenants; ~~•~~ **(ii)** result in the unauthorized access to, and destruction, loss, theft, misappropriation or release of proprietary, confidential, sensitive or otherwise valuable information of ours or others, which others could use to compete against us or for disruptive, destructive or otherwise harmful purposes and outcomes; ~~•~~ **(iii)** result in misstated financial reports, violations of loan covenants and / or missed reporting deadlines; ~~•~~ **(iv)** result in our inability to properly monitor our compliance with the rules and regulations regarding our qualification as a REIT; ~~•~~ **(v)** require significant management attention and resources to remedy any damages that result; ~~•~~ **(vi)** subject us to claims for breach of contract, damages, credits, penalties or termination of leases or other agreements; ~~•~~ **(vii)** subject us to legal liability; or ~~•~~ **(viii)** damage our reputation among our tenants, investors and associates. We may become subject to litigation. We may become subject to litigation, including claims relating to our operations, offerings, and otherwise in the ordinary course of business. Some of these claims may result in significant defense costs and potentially significant judgments against us, some of which are not, or cannot be, insured against. Resolution of these types of matters could adversely impact our financial condition, results of operations and cash flow. Certain litigation or the resolution of certain litigation may affect the availability or cost of some of our insurance coverage, which could adversely impact our results of operations and cash flows, expose us to increased risks that would be uninsured, and / or adversely impact our ability to attract officers and directors. Terrorist attacks and other acts of violence or war may affect the market for the Company' s common stock, the industry in which we conduct our operations and our profitability. Acts of violence, including terrorist attacks, could occur in the localities in which we conduct business. More generally, these events could cause consumer confidence and spending to decrease or result in increased volatility in the worldwide financial markets and economy. These attacks or armed conflicts may adversely impact our operations or financial condition. In addition, losses resulting from these types of events may be uninsurable. Our business could be adversely impacted if we have deficiencies in our disclosure controls and procedures or internal control over financial reporting. The design and effectiveness of our disclosure controls and procedures and internal control over financial reporting may not prevent all errors, misstatements or misrepresentations. While management will continue to review the effectiveness of our disclosure controls and procedures and internal control over financial reporting, there can be no guarantee that our internal control over financial reporting will be effective in accomplishing all control objectives all of the time. Deficiencies, including any material weakness, in our internal control over financial reporting which may occur could result in misstatements of our results of operations, restatements of our financial statements, a decline in the price / value of our securities, or otherwise materially adversely affect our business, reputation, results of operations, financial condition or liquidity. We may be unable to retain and attract key management personnel. ~~We may~~ **Our success depends to a significant degree upon the continued contributions of certain key personnel including, but not limited to, our executive officers, whose continued service is not guaranteed, and each of whom would** be ~~unable~~ **difficult** to **replace** ~~retain and attract talented personnel~~ . In the event of the loss of key management personnel or upon unexpected death, disability or retirement, we may not be able to find replacements with comparable skill, ability and industry expertise. Until suitable replacements are identified and retained, if at all, our operating results and financial condition could be materially and adversely affected. Item 1B. Unresolved SEC Comments None. Item **1C. Cybersecurity Cybersecurity risk is an important and continuously evolving focus for us, and significant resources are devoted to protecting and enhancing the security of computer systems, software, networks and our other technology assets. We have controls and systems in place to safely receive, protect and store information; collect, use, and share that information appropriately; and detect, contain and respond to data security and denial- of- service incidents. We identify material cyber risks by continually assessing external threats to understand evolving threats, developing issues and industry trends. Cybersecurity is an important and integrated part of the Company' s enterprise risk management function that identifies, monitors and mitigates business, operational and legal risks. We view our main cyber risk areas to be attempts to gain unauthorized access to our data and computer systems and the data of third parties to which we may owe a duty of care through malware, ransomware, computer fraud, insider threat from persons inside our Company or persons with access to systems inside our Company, and other significant disruptions of our information technology networks and related systems. Our processes and controls to mitigate these cyber risks, categorized by five functional areas, Identify, Protect, Detect, Respond and Recover, are addressed below. The first step in our process is to Identify the risks related to our data, personnel, devices, systems and facilities. In connection with this phase, we do the following: • Perform global risk**

assessments which include information technology risk areas including cyber and, in conjunction with this assessment, we engage leading security and technology vendors to periodically perform specific technical information technology risk assessments; • Maintain a matrix that delineates roles and responsibilities for information security supporting significant financial applications, database and networks; • Participate in various consortiums, associations and groups allowing us to share threat intelligence and collaborate with organizations across different industries to share best practices, fight cybercrime, enhance privacy, discuss new technologies, better understand the evolving regulatory environment, and advance capabilities in these areas; • Conduct mandatory information security training for all employees and regularly test our employees several times a year for information security awareness and adherence to our information security recommendations; and • Disclose our computer usage policy on our intranet and distribute to new employees. Next, we perform certain controls and processes in order to Protect against the identified risks. In connection with this phase, we do the following: • Maintain controls and processes over access to our networks and computer systems including: (i) approval and restriction to appropriate personnel as well as ensuring powerful privileges are restricted and segregated to select information technology employees; (ii) utilize a password manager to protect encrypted passwords of power users; (iii) disable system and physical access of terminated employees in a timely manner; (iv) utilize two- factor authentication for remote access to the network; and (v) segregate internal network through the use of internal firewalls; • Maintain physical security at our data center and backup recovery location including door access control system at the primary data center with surveillance; • Block data intrusion to maintain confidentiality and integrity of our data via the following: (i) capacity of our servers and networks have an automated monitoring system; (ii) patch management controls on our key software including monitoring resources for patch criticality and reported issues as well as running vulnerability scans; (iii) change logs are kept and updated on all of our key software; (iv) all major changes to hardware and infrastructure devices are performed and approved prior to production migration; (v) remote access is fully encrypted for all users; and (vi) internal firewalls are used to limit access to sensitive systems and applications; and • Maintain controls and processes relating to payments we make to third parties by using a combination of internal controls around the setup, maintenance and archiving of records to reduce fraud and erroneous payments. We continually monitor our information system in order to Detect anomalous activity and verify the effectiveness of our protective measures. In connection with this phase, we do the following: • Run extended detection and response software on our network at all times, which is comprehensive company- wide personal computer device security monitoring and active threat remediation software that is fully supported by staff and backed by a prevention warranty; • Engage third- party specialists to periodically perform: (i) penetration testing, which is a simulated cyberattack against our computer system, in order to assess our ability to resist potential threats and attacks from external and internal sources; (ii) cyber dwelling, which determines if a threat actor has made its way or could make its way into our computer network and if confidential information was or could be compromised; and (iii) tabletop mock ransomware exercises to gauge our ability to react to an attack; • Evaluate the technical control structure and competency for all new third- party software vendors and review " cloud " third- party software vendor' s Service Organization Control reports, or reasonable substitutes, which give comfort on the maturity of the vendor' s security controls; and • Perform monthly mock phishing email exercises with our employees and provide additional training if needed. We have plans in place in order to Respond to detected cybersecurity incidents: • Maintain written playbooks, which provide sequential instructions on the appropriate steps to take in the wake of various cyberattacks, including a playbook for each of the following: ransomware attack, a data breach, loss of third- party data and partial and full disaster recovery plans; and • Retain a leading provider of incident response to assist us with a security incident as well as an attorney that serves as our data breach coach who specializes in data privacy and cyber security, and has relationships with third- party forensics investigators, crisis communications professionals and other services and organization we may need if a data breach is encountered. In order to Recover systems or assets affected by a cybersecurity incident, full backups of our business systems data are created, tested and kept at multiple locations in online and offline formats. While we have not, as of the date of this Form 10- K, experienced a cybersecurity threat or incident that resulted in a material adverse impact to our business, operations or financial condition, there can be no guarantee that we will not experience such an incident in the future. See Risk Factors for more information on our cybersecurity risks. Our Chief Information Officer, our Senior Director of Information Technology, our Director of Business Systems Applications and our Information Technology Security Manager oversee our cybersecurity program. Collectively, the team has decades of information technology experience and our Information Technology Security Manager holds a masters degree in Network Security. They meet on a regular basis and report to the Audit Committee at least annually on key cybersecurity risks as well as current and future cybersecurity strategy. As delegated by our Board of Directors, our Audit Committee is responsible for reviewing, with management, our internal control systems with respect to information technology security. The Audit Committee Chairperson is also involved in our annual overall risk assessment process. In addition to the foregoing, from time to time, the Board of Directors is updated concerning the Company' s internal control systems with respect to information technology security. Item 2. Properties