UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

☒ QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934 FOR THE QUARTERLY PERIOD ENDED SEPTEMBER 30, 2023

or

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

For the transition period from _______to _______

Commission File Number 001-37420

SERITAGE GROWTH PROPERTIES

(Exact name of registrant as specified in its charter)

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

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

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

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

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

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

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

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

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

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

As of November 3, 2023, the registrant had the following common shares outstanding:

Class	**Shares Outstanding**
Class A common shares of beneficial interest, par value $0.01 per share	56,185,420
Class B common shares of beneficial interest, par value $0.01 per share	0
Class C common shares of beneficial interest, par value $0.01 per share	0

SERITAGE GROWTH PROPERTIES
QUARTERLY REPORT ON FORM 10-Q

QUARTER ENDED September 30, 2023

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PART I. FINANCIAL INFORMATION

Item 1. Unaudited Condensed Consolidated Financial Statements

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

	September 30, 2023	December 31, 2022
ASSETS		
Investment in real estate		
Land	$ 108,366	$ 172,813
Buildings and improvements	324,781	463,616
Accumulated depreciation	(35,119)	(57,330)
	398,028	579,099
Construction in progress	131,015	185,324
Net investment in real estate	529,043	764,423
Real estate held for sale	110,616	455,617
Investment in unconsolidated entities	208,672	382,597
Cash and cash equivalents	98,886	133,480
Restricted cash	15,962	11,459
Tenant and other receivables, net	20,638	41,495
Lease intangible assets, net	930	1,791
Prepaid expenses, deferred expenses and other assets, net	31,543	50,859
Total assets [(1)]	$ 1,016,290	$ 1,841,721
LIABILITIES AND SHAREHOLDERS' EQUITY		
Liabilities		
Term loan facility, net	$ 400,000	$ 1,029,754
Accounts payable, accrued expenses and other liabilities	56,028	89,368
Total liabilities [(1)]	456,028	1,119,122
Commitments and contingencies (Note 9)		
Shareholders' Equity		
Class A common shares $0.01 par value; 100,000,000 shares authorized; 56,182,522 and 56,052,546 shares issued and outstanding as of September 30, 2023 and December 31, 2022, respectively	562	561
Series A preferred shares $0.01 par value; 10,000,000 shares authorized; 2,800,000 shares issued and outstanding as of September 30, 2023 and December 31, 2022; liquidation preference of $70,000	28	28
Additional paid-in capital	1,361,384	1,360,411
Accumulated deficit	(802,801)	(640,531)
Total shareholders' equity	559,173	720,469
Non-controlling interests	1,089	2,130
Total equity	560,262	722,599
Total liabilities and equity	$ 1,016,290	$ 1,841,721

[(1)] The Company's consolidated balance sheets include assets and liabilities of consolidated variable interest entities ("VIEs"). See Note 2. The consolidated balance sheets, as of September 30, 2023, include the following amounts related to our consolidated VIEs, excluding the Operating Partnership: $3.3 million of land, $2.8 million of building and improvements, $(0.8) million of accumulated depreciation and $2.0 million of other assets included in other line items. The Company's consolidated balance sheets as of December 31, 2022, include the following amounts related to our consolidated VIEs, excluding the Operating Partnership: $6.6 million of land, $3.9 million of building and improvements, $(1.0) million of accumulated depreciation and $4.0 million of other assets included in other line items.

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

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

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
REVENUE				
Rental income	$ 4,525	$ 23,253	$ 10,459	$ 81,755
Management and other fee income	523	248	1,152	2,355
Total revenue	5,048	23,501	11,611	84,110
EXPENSES				
Property operating	4,564	9,700	17,945	31,535
Real estate taxes	1,204	6,483	4,910	21,056
Depreciation and amortization	2,913	9,169	11,628	31,772
General and administrative	8,030	10,811	30,349	30,996
Litigation settlement	—	533	—	35,533
Total expenses	16,711	36,696	64,832	150,892
Gain on sale of real estate, net	18,506	45,433	64,386	112,449
(Loss) gain on sale of interest in unconsolidated entities	(916)	(139)	6,407	(139)
Impairment of real estate assets	—	(10,275)	(107,043)	(120,609)
Equity in income (loss) of unconsolidated entities	993	(2,275)	(49,077)	(69,071)
Interest and other income	2,030	(1,047)	17,484	(937)
Interest expense	(9,763)	(21,916)	(37,493)	(67,167)
Loss before income taxes	(813)	(3,414)	(158,557)	(212,256)
Provision for income taxes	(89)	(67)	(38)	(295)
Net loss	(902)	(3,481)	(158,595)	(212,551)
Net loss attributable to non-controlling interests	—	42	—	46,152
Net loss attributable to Seritage	$ (902)	$ (3,439)	$ (158,595)	$ (166,399)
Preferred dividends	(1,225)	(1,225)	(3,675)	(3,675)
Net loss attributable to Seritage common shareholders	$ (2,127)	$ (4,664)	$ (162,270)	$ (170,074)
Net loss per share attributable to Seritage Class A common shareholders - Basic	$ (0.04)	$ (0.08)	$ (2.89)	$ (3.57)
Net loss per share attributable to Seritage Class A common shareholders - Diluted	$ (0.04)	$ (0.08)	$ (2.89)	$ (3.57)
Weighted average Class A common shares outstanding - Basic	56,183	55,361	56,139	47,600
Weighted average Class A common shares outstanding - Diluted	56,183	55,361	56,139	47,600

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

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

	Class A Common		Series A Preferred		Additional Paid-In	Accumulated	Non-Controlling	Total
	Shares	Amount	Shares	Amount	Capital	Deficit	Interests	Equity
Balance at January 1, 2022	43,632	$ 436	2,800	$ 28	$ 1,241,048	$ (553,771)	$ 157,059	$ 844,800
Net loss	—	—	—	—	—	(166,399)	(46,152)	(212,551)
Preferred dividends declared ($1.3125 per share)	—	—	—	—	—	(3,675)	—	(3,675)
Vesting of restricted share units	45	1	—	—	(1)	—	—	—
Share-based compensation	—	—	—	—	2,071	—	—	2,071
OP Units exchanges (12,354,963 units)	12,355	123	—	—	116,568	(7,914)	(108,777)	—
Balance at September 30, 2022	56,032	$ 560	$ 2,800	$ 28	$ 1,359,686	$ (731,759)	$ 2,130	$ 630,645
Balance at January 1, 2023	56,053	$ 561	2,800	$ 28	$ 1,360,411	$ (640,531)	$ 2,130	$ 722,599
Net loss	—	—	—	—	—	(158,595)	—	(158,595)
Preferred dividends declared ($1.3125 per share)	—	—	—	—	—	(3,675)	—	(3,675)
Vesting of restricted share units	130	1	—	—	(1)	—	—	—
Share-based compensation	—	—	—	—	2,109	—	—	2,109
Sale of consolidated joint venture	—	—	—	—	(1,135)	—	(1,082)	(2,217)
Contributions to consolidated joint ventures	—	—	—	—	—	—	41	41
Balance at September 30, 2023	56,183	$ 562	2,800	$ 28	$ 1,361,384	$ (802,801)	$ 1,089	$ 560,262

	Class A Common		Series A Preferred		Additional Paid-In	Accumulated	Non-Controlling	Total
	Shares	Amount	Shares	Amount	Capital	Deficit	Interests	Equity
Balance at July 1, 2022	43,677	$ 437	2,800	$ 28	$ 1,242,165	$ (719,181)	$ 110,949	634,398
Net loss	—	—	—	—	—	(3,439)	(42)	(3,481)
Preferred dividends declared ($0.4375 per share)	—	—	—	—	—	(1,225)	—	(1,225)
Vesting of restricted share units	—	—	—	—	—	—	—	—
Share-based compensation	—	—	—	—	953	—	—	953
OP Units exchanges (12,354,963 units)	12,355	123	—	—	116,568	(7,914)	(108,777)	—
Balance at September 30, 2022	56,032	$ 560	2,800	$ 28	$ 1,359,686	$ (731,759)	$ 2,130	$ 630,645
Balance at July 1, 2023	56,183	$ 562	2,800	$ 28	$ 1,360,718	$ (800,674)	$ 1,048	561,682
Net loss	—	—	—	—	—	(902)	—	(902)
Preferred dividends declared ($0.4375 per share)	—	—	—	—	—	(1,225)	—	(1,225)
Share-based compensation	—	—	—	—	666	—	—	666
Contributions to consolidated joint ventures	—	—	—	—	—	—	41	41
Balance at September 30, 2023	56,183	$ 562	2,800	$ 28	$ 1,361,384	$ (802,801)	$ 1,089	$ 560,262

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

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

	Nine Months Ended September 30,	
	2023	2022
CASH FLOW FROM OPERATING ACTIVITIES		
Net loss	$ (158,595)	$ (212,551)
Adjustments to reconcile net loss to net cash used in operating activities:		
Equity in loss of unconsolidated entities	49,077	69,071
(Gain) loss on sale of interest in unconsolidated entities	(6,407)	139
Gain on sale of real estate, net	(64,386)	(112,449)
Impairment of real estate assets	107,043	120,609
Share-based compensation	2,074	1,735
Depreciation and amortization	11,628	31,772
Amortization of deferred financing costs	246	316
Amortization of above and below market leases, net	138	175
Straight-line rent adjustment	16,142	(1,447)
Interest on sale-leaseback financing obligations	—	447
Litigation settlement	—	35,533
Change in operating assets and liabilities		
Tenants and other receivables	4,841	(9,095)
Prepaid expenses, deferred expenses and other assets	2,337	(3,189)
Accounts payable, accrued expenses and other liabilities	(6,159)	5,387
Net cash used in operating activities	(42,021)	(73,547)
CASH FLOW FROM INVESTING ACTIVITIES		
Investment in unconsolidated entities	(11,948)	(22,439)
Distributions from unconsolidated entities	—	55,670
Net proceeds from sale of real estate	577,451	329,051
Net proceeds from disposition of interest in unconsolidated entities	141,643	11,922
Development of real estate	(61,582)	(78,077)
Net cash provided by investing activities	645,564	296,127
CASH FLOW FROM FINANCING ACTIVITIES		
Repayment of term loan	(630,000)	(170,000)
Repayment of sales-leaseback financing obligations	—	(22,070)
Preferred dividends paid	(3,675)	(3,675)
Contributions from noncontrolling interests in to consolidated VIEs	41	—
Net cash used in financing activities	(633,634)	(195,745)
Net (decrease) and increase in cash and cash equivalents	(30,091)	26,835
Cash and cash equivalents, and restricted cash, beginning of period	144,939	113,753
Cash and cash equivalents, and restricted cash, end of period	$ 114,848	$ 140,588

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

	Nine Months Ended September 30, 2023	Nine Months Ended September 30, 2022
RECONCILIATION OF CASH AND CASH EQUIVALENTS AND RESTRICTED CASH		
Cash and cash equivalents at beginning of period	$ 133,480	$ 106,602
Restricted cash at beginning of period	11,459	7,151
Cash and cash equivalents and restricted cash at beginning of period	$ 144,939	$ 113,753
Cash and cash equivalents at end of period	$ 98,886	$ 129,767
Restricted cash at end of period	15,962	10,821
Cash and cash equivalents and restricted cash at end of period	$ 114,848	$ 140,588

	Nine Months Ended September 30, 2023	Nine Months Ended September 30, 2022
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION		
Cash payments for interest	$ 39,093	$ 77,573
Capitalized interest	3,096	11,588
Income taxes paid	38	295
SUPPLEMENTAL DISCLOSURE OF NON-CASH INVESTING AND FINANCING ACTIVITIES		
Development of real estate financed with accounts payable	$ 21,668	$ 31,524
Preferred dividends declared and unpaid	1,225	1,225
Transfer to / (from) real estate assets held for sale	(345,001)	202,777

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

Note 1 – Organization

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

Prior to the adoption of the Company's Plan of Sale (defined below), Seritage was principally engaged in the ownership, development, redevelopment, disposition, management and leasing of diversified retail and mixed-use properties throughout the United States. Seritage will continue to actively manage each remaining location until such time as each property is sold. As of September 30, 2023, the Company's portfolio consisted of interests in 42 properties comprised of approximately 5.6 million square feet of gross leasable area ("GLA") or build-to-suit leased area, approximately 126 acres held for or under development until time of sale and approximately 2.9 million square feet or approximately 259 acres to be disposed of in its current state. The portfolio consists of approximately 4.3 million square feet of GLA held by 33 consolidated properties (such properties, the "Consolidated Properties") and 1.2 million square feet of GLA held by nine unconsolidated properties (such properties, the "Unconsolidated Properties").

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

As of March 15, 2021, the Company no longer had any remaining properties leased to Transform Holdco LLC ("Holdco"), an affiliate of ESL Investments, Inc. or Sears Holdings.

On March 1, 2022, the Company announced that its Board of Trustees had commenced a process to review a broad range of strategic alternatives. The Board of Trustees created a Special Committee (the "Special Committee") of the Company's Board of Trustees to oversee the process. The Special Committee retained Barclays as its financial advisor. The agreement with Barclays expired in August 2023. The Company's strategic review process remains ongoing as the Company executes sales pursuant to the Plan of Sale. There can be no assurance that the review process will result in any transaction or that the Company will be successful in fully executing the Plan of Sale.

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

As a result of the Company's change in corporate structure to a taxable C Corporation in fiscal year 2022, the Company incurred a one-time, non-cash deferred tax benefit of approximately $161.3 million during the three months ended March 31, 2022. The Company also recorded a full valuation allowance against the deferred tax asset pursuant to ASC 740, *Income Taxes*, as discussed in more detail below.

The Company sought a shareholder vote to approve a proposed plan of sale of the Company's assets and dissolution (the "Plan of Sale") that would allow the Board to sell all of the Company's assets, distribute the net proceeds to shareholders and dissolve the Company. The Plan of Sale allows Seritage and potential buyers to enter into and complete value maximizing transactions without subjecting any such transaction to the delay and conditionality associated with having to seek and obtain shareholder approval. On July 6, 2022, Edward Lampert, the Company's former Chairman, entered into a Voting and Support Agreement under which he exchanged his equity interest in the Operating Partnership for Class A common shares and agreed to vote his shares in favor of the Plan of Sale. As of September 30, 2023, Mr. Lampert owns approximately 26.8% of the Company's outstanding Class A common shares, and Seritage, including its consolidated subsidiaries, is the sole owner of all outstanding Operating Partnership interests.

The affirmative vote of at least two-thirds of all outstanding common shares of the Company was required to approve the Plan of Sale. The 2022 Annual Meeting of Shareholders occurred on October 24, 2022, following the Company's filing of a final proxy statement with the SEC on September 14, 2022. During the meeting, the Plan of Sale was approved by the shareholders. The strategic review process remains ongoing as the Company executes the Plan of Sale. There can be no assurance that the review process will result in any transaction or that the Company will be successful in fully executing on the Plan of Sale.

Liquidity

The Company’s primary uses of cash include the payment of property operating and other expenses, including general and administrative expenses and debt service (collectively, “Obligations”), and certain development expenditures. Property rental income, which is the Company’s primary source of operating cash flow, did not fully fund Obligations and certain development expenditures incurred during the nine months ended September 30, 2023 and the Company incurred net operating cash outflows of $42.0 million. Additionally, the Company generated investing cash inflows of $645.6 million during the nine months ended September 30, 2023, which were driven by asset sales partially offset by development expenditures and investments in unconsolidated entities.

Obligations are projected to continue to exceed property rental income and the Company expects to fund such costs with a combination of capital sources including, cash on hand, and sales of Consolidated and Unconsolidated Properties. During the nine months ended September 30, 2023, the Company sold 49 consolidated assets and eight unconsolidated properties for gross proceeds of $745.3 million and made aggregate principal prepayments of $630.0 million on the Term Loan Facility, reducing the outstanding Term Loan Facility balance to $400.0 million at September 30, 2023. Subsequent to September 30, 2023, the Company made an additional $40 million principal prepayment reducing the balance of the Term Loan Facility to $360 million. Pursuant to the terms of the Term Loan Facility, by reducing the outstanding principal balance to $800 million, the maturity date for the Term Loan Facility was extended for two years to July 31, 2025.

Going Concern

In accordance with ASC 205-40, *Presentation of Financial Statements - Going Concern*, for each annual and interim reporting period, management evaluates whether there are conditions and events that raise substantial doubt about the Company’s ability to continue as a going concern within one year after the date that the financial statements are issued. As part of this evaluation, the Company takes into consideration all obligations due within the subsequent 12 months, as well as cash on hand and expected cash receipts. Management has determined that it is probable its plans, as described under Liquidity, will be effectively implemented within one year after the date the financial statements are issued and that these actions will provide the necessary cash flows to fund the Company’s obligations and development expenditures for the one-year period.

As the outstanding balance of the Term Loan Facility is not due within the 12 month period subsequent to the date that the financial statements are issued, the Company’s Term Loan Facility is not factored into the Company’s analysis as a current obligation.

The anticipated proceeds from the sales of assets under contract of $78.0 million and existing cash on hand, would allow the Company to fund its Obligations and certain development expenditures. As a result, the Company has concluded that management’s plans do alleviate substantial doubt about the Company’s ability to continue as a going concern.

Note 2 – Summary of Significant Accounting Policies

Basis of Presentation and Principles of Consolidation

These condensed consolidated financial statements have been prepared in accordance with the instructions to Form 10-Q of the Securities and Exchange Commission (“SEC”) and should be read in conjunction with the consolidated financial statements and notes thereto included in our Annual Report on Form 10-K, (the “Annual Report”), for the year ended December 31, 2022. Certain footnote disclosures which would substantially duplicate those contained in our Annual Report have been condensed or omitted from this quarterly report. In the opinion of management, all adjustments necessary for a fair presentation (which include only normal recurring adjustments) have been included in this quarterly report. Operating results for the three and nine months ended September 30, 2023 may not be indicative of the results that may be expected for any other interim period or for the year ending December 31, 2023. Capitalized terms used, but not defined in this quarterly report, have the same meanings as set forth in our Annual Report.

The accompanying condensed consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States (“GAAP”). The condensed consolidated financial statements include the accounts of the Company, the Operating Partnership, each of their consolidated properties, and all other entities in which the Company has a controlling financial interest. For entities that meet the definition of a variable interest entity (“VIE”), the Company consolidates those entities when the Company is the primary beneficiary of the entity. The Company is determined to be the primary beneficiary when it possesses both the unilateral power to direct activities that most significantly impact the economic performance of the VIE and the obligation to absorb losses or the right to receive benefits that could potentially be significant to the VIE. The Company continually evaluates whether it qualifies as the primary beneficiary and reconsiders its determination of whether an entity is a VIE upon reconsideration events. As of September 30, 2023, the Company consolidates one VIE in which we are considered the primary beneficiary, as the Company has the power to direct the activities of the entity, specifically surrounding the development plan. As of September 30, 2023 and December 31, 2022, the Company has several investments in unconsolidated VIEs and does not consolidate these entities because the Company is not the primary beneficiary. All intercompany accounts and transactions have been eliminated.

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

As of September 30, 2023, the Company, and its wholly owned subsidiaries, holds a 100% interest in the Operating Partnership and is the sole general partner which gives the Company exclusive and complete responsibility for the day-to-day management, authority to make decisions, and control of the Operating Partnership.

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

Use of Estimates

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

Segment Reporting

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

Real Estate Investments

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

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

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

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

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

The Company, on a periodic basis, assesses whether there are indicators, including macroeconomic conditions, that the value of the real estate assets may be impaired. If an indicator is identified, management will estimate the real estate asset recoverability based on projected operating cash flows (undiscounted and unleveraged), taking into account the anticipated holding period and capitalization rates, to determine if the undiscounted cash flows are less than a real estate asset's carrying value. If the carrying value of an asset exceeds the undiscounted cash flows, an analysis is performed to determine the estimated fair value of the real estate asset. In estimating the fair value of an asset, various factors are considered, including expected future operating income, trends and leasing prospects and the effects of demand, competition, and other economic factors such as discount rates and market comparables. Changes in any estimates and/or assumptions, including the anticipated holding period, could have a material impact on the projected operating cash flows. If management determines that the carrying value of a real estate asset is impaired, a loss will be recorded for the excess of its carrying amount over its estimated fair value. The Company recognized no impairment charges during the three months ended September 30, 2023 and impairment charges of $10.3 million during the three months ended September 30, 2022. The Company recognized impairment charges of $107.0 million and $120.6 million during the nine months ended September 30, 2023 and 2022, respectively.

Real Estate Dispositions

When the Company disposes of all or a portion of a real estate asset, it recognizes a gain or loss on sale of real estate as the difference between the carrying value and consideration received. Consideration consists of cash proceeds received.

The following table summarizes our gain on sale of real estate, net during the three and nine months ended September 30, 2023 and 2022 (in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Dispositions to third parties				
Gross proceeds	$ 62.9	$ 147.0	$ 602.4	$ 319.4
Gain on sale of real estate, net	18.5	45.4	64.4	112.4

Real Estate Held for Sale

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

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

As of September 30, 2023, 12 properties were classified as held for sale with assets of $110.6 million and no liabilities, and, as of December 31, 2022, 34 properties, including three partial sites and pad sites, were classified as held for sale with assets of $455.6 million and no liabilities.

Investments in Unconsolidated Entities

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

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

The Company recorded no other-than-temporary impairment losses in investments in unconsolidated entities for the three months ended September 30, 2023. The Company recorded $12.7 million in other-than-temporary impairment losses in investments in unconsolidated entities for the nine months ended September 30, 2023. The Company recorded $3.1 million and $35.6 million in other-than-temporary impairment losses in investments in unconsolidated entities for the three and nine months ended September 30, 2022, respectively.

Restricted Cash

As of September 30, 2023 and December 31, 2022, respectively, restricted cash represents cash collateral for letters of credit and cash escrowed for development purposes.

Rental Revenue Recognition and Tenant Receivables

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

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

The Company recorded an increase to rental income of $0.1 million and a reduction to rental income of $0.7 million during the three months ended September 30, 2023 and 2022, respectively, as a result of the Company's evaluation of collectability. The Company recorded an increase to rental income of $0.2 million and a reduction to rental income of $0.9 million during the nine months ended September 30, 2023 and 2022, respectively, as a result of the Company's evaluation of collectability. In addition, the Company recorded a reduction of income of previously recorded straight-line rent of $1.5 million and $0.6 million for the three months ended September 30, 2023 and 2022, respectively. The Company recorded a reduction of income of previously recorded straight-line rent of $16.3 million and $0.4 million for the nine months ended September 30, 2023 and 2022, respectively. During the three and nine months ended September 30, 2023 there was no impact on income related to deferral agreements. During the three and nine months ended September 30, 2022, the Company recorded an increase to rental income of $0.7 million and $1.0 million, respectively, related to the allowance for deferral agreements.

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

Tenant and Other Receivables

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

Management and Other Fee Income

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

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

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

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

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

Share-Based Compensation

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

Concentration of Credit Risk

Concentrations of credit risk arise when a number of operators, tenants, or obligors related to the Company's investments are engaged in similar business activities, or activities in the same geographic region, or have similar economic features that would cause their ability to meet contractual obligations, including those to the Company, to be similarly affected by changes in economic conditions. Management believes the Company's portfolio is reasonably diversified and does not contain any significant concentrations of credit risk. As of September 30, 2023, the Company has three tenants that comprises 39.7% of annualized based rent, with no other tenants exceeding 10.0% of annualized based rent. The Company's portfolio of 33 Consolidated Properties and nine Unconsolidated Properties was diversified by location across 17 states.

Earnings/(Loss) per Share

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

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

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

Income Taxes

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

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

The Inflation Reduction Act of 2022 was enacted on August 16, 2022 and is effective January 1, 2023. The Inflation Reduction Act includes a 15% corporate alternative minimum tax (the "CAMT") based on the adjusted financial statement income ("book income") of applicable corporations. The CAMT generally applies to corporations with average annual book income over a 3-year period exceeding $1 billion. The Company does not expect this legislation to have a material effect on the condensed consolidated financial statements.

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

Recently Issued Accounting Pronouncements

The Company has not adopted any Accounting Standards Updates ("ASUs") issued by the FASB during the three and nine months ended September 30, 2023. Any other recently issued accounting standards or pronouncements not disclosed have been excluded as they either are not applicable to the Company, or they are not expected to have a material effect on the condensed consolidated financial statements of the Company.

Note 3 – Lease Intangible Assets and Liabilities

The following tables summarize the Company's lease intangible assets (acquired in-place leases and above-market leases) and liabilities (acquired below-market leases, which is included in accounts payable, accrued expenses and other liabilities on the consolidated balance sheets), net of accumulated amortization, as of September 30, 2023 and December 31, 2022 (in thousands):

September 30, 2023

Lease Intangible Assets	Gross Asset	Accumulated Amortization	Balance
In-place leases, net	$ 1,637	$ (707)	$ 930
Above-market leases, net	—	—	—
Total	$ 1,637	$ (707)	$ 930

Lease Intangible Liabilities	Gross Liability	Accumulated Amortization	Balance
Below-market leases, net	$ 1,304	$ (443)	$ 861
Total	$ 1,304	$ (443)	$ 861

December 31, 2022

Lease Intangible Assets	Gross Asset	Accumulated Amortization	Balance
In-place leases, net	$ 8,614	$ (6,978)	$ 1,636
Above-market leases, net	908	(753)	155
Total	$ 9,522	$ (7,731)	$ 1,791

Lease Intangible Liabilities	Gross Liability	Accumulated Amortization	Balance
Below-market leases, net	$ 1,826	$ (848)	$ 978
Total	$ 1,826	$ (848)	$ 978

Amortization of acquired below-market leases, net of acquired above-market leases, resulted in additional rental income of $0.1 million for the three and nine months ended September 30, 2023 and 2022, respectively. Amortization of an acquired below-market ground lease resulted in additional property expense of $0.1 million for each of the three months ended September 30, 2023 and 2022, respectively and $0.2 million for the nine months ended September 30, 2023 and 2022, respectively. Amortization of acquired in-place leases resulted in additional depreciation and amortization expense of $0.1 million and $0.6 million for the three months ended September 30, 2023 and 2022, respectively and $0.3 million and $1.9 million for the nine months ended September 30, 2023 and 2022, respectively. Future amortization of these leases intangibles is set forth below (in thousands):

	(Above) / below market leases, net	Below market ground lease	In-place leases
Remainder of 2023	$ 20	$ 51	$ 21
2024	81	203	86
2025	81	203	86
2026	81	203	82
2027	81	203	77
2028	81	203	77
Thereafter	438	9,027	501

Note 4 – Investments in Unconsolidated Entities

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

As of September 30, 2023, the Company had investments in seven unconsolidated entities as follows:

Unconsolidated Entities	Entity Partner(s)	Seritage % Ownership	# of Properties	Total GLA
GS Portfolio Holdings II LLC ("GGP I JV")	Brookfield Properties Retail (formerly GGP Inc.)	50.0%	1	87,500
GS Portfolio Holdings (2017) LLC ("GGP II JV")	Brookfield Properties Retail (formerly GGP Inc.)	50.0%	1	93,500
SPS Portfolio Holdings II LLC ("Simon JV")	Simon Property Group, Inc.	50.0%	3	275,700
Mark 302 JV LLC ("Mark 302 JV")	An investment fund managed by Invesco Real Estate	50.0%	1	51,500
SI UTC LLC ("UTC JV")	A separate account advised by Invesco Real Estate	50.0%	1	106,200
Tech Ridge JV Holding LLC ("Tech Ridge JV")	An affiliate of RD Management	50.0%	1	—
Landmark Land Holdings, LLC ("Landmark JV")	The Howard Hughes Corporation and Foulger-Pratt	31.3%	1	—
			9	614,400

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

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

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

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

		September 30, 2023	
Unconsolidated Entities	**Contribution Date**	**Contribution Value**	**Gain (Loss)**
2019			
Tech Ridge JV (1)	September 27, 2019	$ 3.0	$ 0.1

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

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

	September 30, 2023	December 31, 2022
ASSETS		
Investment in real estate		
Land	$ 173,429	$ 263,169
Buildings and improvements	237,821	419,920
Accumulated depreciation	(46,403)	(68,482)
	364,847	614,607
Construction in progress	114,101	219,870
Net investment in real estate	478,948	834,477
Cash and cash equivalents	45,984	29,072
Investment in unconsolidated entities	-	55,247
Tenant and other receivables, net	7,291	5,041
Other assets, net	43,031	14,245
Total assets	$ 575,254	$ 938,082
LIABILITIES AND MEMBERS' INTERESTS		
Accounts payable, accrued expenses and other liabilities	79,660	52,808
Total liabilities	79,660	52,808
Members' Interest		
Additional paid in capital	587,829	957,154
Retained earnings (accumulated deficit)	(92,235)	(71,880)
Total members' interest	495,594	885,274
Total liabilities and members' interest	$ 575,254	$ 938,082

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Total revenue	$ 7,962	$ 8,361	$ 19,337	$ 24,120
Property operating expenses	(2,000)	(3,902)	(7,845)	(10,938)
Depreciation and amortization	(4,236)	(5,257)	(13,773)	(19,268)
Operating loss	1,726	(798)	(2,281)	(6,086)
Other expenses	20	(802)	(371)	(3,062)
Gains (losses) and (impairments)	277	(373)	(95,441)	(93,987)
Net loss	$ 2,023	$ (1,973)	$ (98,093)	$ (103,135)
Equity in loss of unconsolidated entities (1)	$ 993	$ (2,275)	$ (49,077)	$ (69,071)

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

The Company shares in the profits and losses of these unconsolidated entities generally in accordance with the Company's respective equity interests. In some instances, the Company may recognize profits and losses related to investment in an unconsolidated entity that differ from the Company's equity interest in the unconsolidated entity. This may arise from impairments that the Company recognizes related to its investment that differ from the impairments the unconsolidated entity recognizes with respect to its assets, differences between the Company's basis in assets it has transferred to the unconsolidated entity and the unconsolidated entity's basis in those assets or other items. In conjunction with the Plan of Sale, the Company recognized a change in plan to reduce the holding periods of all its investments in unconsolidated entities, which triggered the need for a quarterly impairment analysis pursuant to ASC 323, Equity Method and Joint Ventures. The Company utilizes appraisals and third-party prepared fair value estimates as well as negotiated offers to sell the investments for the impairment analysis. As a result of the Company's analysis, other-than-temporary impairment of $12.7 million was recorded against equity method investments in three unconsolidated entities for the nine months ended September 30, 2023. No other-than-temporary impairment was recorded during the three months ended September 30, 2023. Other-than-temporary impairment of $3.1 million and $35.6 million was recorded against equity method investments in three unconsolidated entities for the three and nine months ended September 30, 2022, respectively. This impairment is included in the equity in loss of unconsolidated entities line in the condensed consolidated statements of operations.

During the three and nine months ended September 30, 2023, the Company sold its interest in three and eight unconsolidated properties, respectively, resulting in a loss of $0.9 million and a gain of $6.4 million, respectively, which is included on the condensed consolidated statements of operations.

During the three months ended September 30, 2023, the Company did not exercise any put rights. During the nine months ended September 30, 2023, the Company exercised its put right on one Unconsolidated Property. The Company has exercised its put rights on seven Unconsolidated Properties since January 1, 2022. The Company closed on the sale of three and four exercised put rights during the three and nine months ended September 30, 2023, respectively. During the year ended December 31, 2022, the Company closed on the sale of three of the previously exercised put rights. The Company's partners assess impairment on its underlying assets pursuant to ASC 360, Property, Plant and Equipment, and recorded impairment on unconsolidated properties of $70.8 million and $61.1 million for the nine months ended September 30, 2023 and 2022, respectively. The Company's 50% share of these impairment charges is included in equity in loss of unconsolidated entities on the condensed consolidated statements of operations. No such impairment was recorded during the three months ended September 30, 2023 and 2022, respectively.

Unconsolidated Entity Management and Related Fees

The Company acts as the operating partner and day-to-day manager for the Mark 302 JV, the UTC JV, and Tech Ridge JV. The Company is entitled to receive certain fees for providing management, leasing, and construction supervision services to certain of its unconsolidated entities. During the three months ended September 30, 2023 and 2022, the Company recorded management and related fees of $0.5 million and $0.2 million, respectively. During the nine months ended September 30, 2023 and 2022, the Company recorded management and related fees of $1.2 million and $2.4 million, respectively. These fees are included in management and other fee income on the condensed consolidated statements of operations. Refer to Note 2 for the Company's accounting policies.

Note 5 – Leases

Lessor Disclosures

Future minimum rental receipts, excluding variable payments and tenant reimbursements of expenses, under non-cancelable operating leases executed as of September 30, 2023 are approximately as follows:

(in thousands)	September 30, 2023
Remainder of 2023	$ 4,773
2024	21,851
2025	22,404
2026	21,008
2027	19,768
2028	17,092
Thereafter	62,214
Total	$ 169,110

The components of lease revenues for the three and nine months ended September 30, 2023 and 2022 were as follows:

(in thousands)	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Fixed rental income	$ 5,903	$ 23,121	$ 25,959	$ 68,241
Variable rental income	119	3,008	627	12,090
Total rental income	$ 6,022	$ 26,129	$ 26,586	$ 80,331

Lessee Disclosures

The Company has one ground lease and one corporate office lease which are classified as operating leases. As of September 30, 2023, and December 31, 2022, the outstanding amount of right-of-use, or ROU, assets were $14.7 million and $16.2 million, respectively, which is included in prepaid expenses, deferred expenses and other assets, net on the condensed consolidated balance sheets. During the three months ended June 30, 2023, the Company entered into a sublease agreement to sublease a portion of its corporate office. As a result, this triggered the need for an ROU impairment assessment and the Company determined that the ROU asset was impaired. The Company recorded impairment of $0.8 million which is included in impairment of real estate assets on the condensed consolidated statements of operations.

The Company recorded rent expense related to leased corporate office space of $0.3 million for the three months ended September 30, 2023 and 2022, respectively and $0.8 million for the nine months ended September 30, 2023 and 2022, respectively. Such rent expense is classified within general and administrative expenses in the condensed consolidated statements of operations.

In addition, the Company recorded ground rent expense of approximately $0.1 million for the three and nine months ended September 30, 2023 and 2022. Such ground rent expense is classified within property operating expenses in the condensed consolidated statements of operations. The ground lease requires the Company to make fixed annual rental payments and expires in 2073 assuming all extension options are exercised.

The Company expects to make cash payments on operating leases of $0.3 million for the remainder of 2023, $1.2 million in 2024, $1.2 million in 2025, $1.2 million in 2026, $1.2 million in 2027 and $2.9 million for the periods thereafter. The present value discount is ($3.3) million.

The following table sets forth information related to the measurement of our lease liabilities as of September 30, 2023:

	September 30, 2023
Weighted average remaining lease term (in years)	10.8
Weighted average discount rate	6.76%
Cash paid for operating leases (in thousands)	$ 1,562

Note 6 – Debt

Term Loan Facility

On July 31, 2018, the Operating Partnership, as borrower, and the Company, as guarantor, entered into a Senior Secured Term Loan Agreement (the "Term Loan Agreement") providing for a $2.0 billion term loan facility (the "Term Loan Facility") with Berkshire Hathaway Life Insurance Company of Nebraska ("Berkshire Hathaway") as lender and administrative agent. The Term Loan Facility provided for an initial funding of $1.6 billion at closing and includes a $400.0 million incremental funding facility (the "Incremental Funding Facility") subject to certain conditions described below. On February 2, 2023, the Company made a $230 million voluntary prepayment, reducing the unpaid principal balance to $800 million, and the debt maturity was extended for two years to July 31, 2025. The Company made additional voluntary prepayments aggregating $400 million during the second quarter and third quarter of 2023, reducing the unpaid principal balance to $400 million at September 30, 2023. Subsequent to September 30, 2023, the Company made an additional $40 million principal prepayment reducing the balance of the Term Loan Facility to $360 million.

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

The Company's ability to access the Incremental Funding Facility is subject to (i) the Company achieving rental income from non-Sears Holdings tenants, on an annualized basis (after giving effect to SNO Leases expected to commence rent payment within 12 months) for the fiscal quarter ending prior to the date of incurrence of the Incremental Funding Facility, of not less than $200 million, (ii) the Company's good faith projection that rental income from non-Sears Holdings tenants (after giving effect to SNO Leases expected to commence rent payment within 12 months) for the succeeding four consecutive fiscal quarters (beginning with the fiscal quarter during which the incremental facility is accessed) will be not less than $200 million, and (iii) the repayment by the Operating

Partnership of any deferred interest permitted under the amendment to the Term Loan Amendment as further described below. As of September 30, 2023, the Company has not yet achieved the requirements to access the Incremental Funding Facility.

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

The Term Loan Facility includes certain financial metrics to govern springing collateral requirements and certain covenant exceptions set forth in the Term Loan Agreement, including: (i) a total fixed charge coverage ratio of not less than 1.00 to 1.00 for each fiscal quarter beginning with the fiscal quarter ending September 30, 2018 through the fiscal quarter ending June 30, 2021, and not less than 1.20 to 1.00 for each fiscal quarter thereafter; (ii) an unencumbered fixed charge coverage ratio of not less than 1.05 to 1.00 for each fiscal quarter beginning with the fiscal quarter ending September 30, 2018 through the fiscal quarter ending June 30, 2021, and not less than 1.30 to 1.00 for each fiscal quarter thereafter; (iii) a total leverage ratio of not more than 65%; (iv) an unencumbered ratio of not more than 60%; and (v) a minimum net worth of at least $1.2 billion on a book basis. Any failure to satisfy any of these financial metrics triggers the springing mortgage and collateral requirements but will not result in an event of default. The Term Loan Facility also includes certain limitations relating to, among other activities, the Company's ability to: sell assets or merge, consolidate or transfer all or substantially all of its assets; incur additional debt; incur certain liens; enter into, terminate or modify certain material leases and/or the material agreements for the Company's properties; make certain investments (including limitations on joint ventures) and other restricted payments; pay distributions on or repurchase the Company's capital stock; and enter into certain transactions with affiliates.

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

As of September 30, 2023, the Company was not in compliance with certain of the financial metrics described above. As a result, the Company was previously required to receive the consent of Berkshire Hathaway to dispose of assets via sale or joint venture. The Third Term Loan Amendment (defined below) executed on June 16, 2022 provides exceptions to this requirement and allows the Company to dispose of assets without Berkshire Hathaway's consent as further detailed below. There are no other impacts from non-compliance with financial metrics.

The Company incurred $2.1 million of debt issuance costs related to the Term Loan Facility which were recorded as a direct deduction from the carrying amount of the Term Loan Facility and amortized over the initial term of the Term Loan Agreement. As of September 30, 2023 the Company's debt issuance costs were fully amortized and as of December 31, 2022, the unamortized balance of the Company's debt issuance costs were $0.2 million.

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

Additionally, the First Term Loan Amendment provides that the administrative agent and the lenders express their continued support for asset dispositions, subject to the administrative agent's right to approve the terms of individual transactions due to the occurrence of a Financial Metric Trigger Event, as such term is defined under the Term Loan Agreement.

On November 24, 2021, the Operating Partnership, the Company and Berkshire Hathaway entered into an amendment (the "Second Term Loan Amendment") to the Term Loan Agreement by and among the Operating Partnership, the Company and Berkshire Hathaway to which the Operating Partnership, the Company and Berkshire Hathaway mutually agreed that (i) the "make whole" provision in the Senior Secured Term Loan Agreement shall not be applicable to prepayments of principal ; and (ii) the Senior Secured Term Loan Agreement, as amended for (i) above, may at the Operating Partnership's election be extended for two years from July 31, 2023 to July 31, 2025 (the "Maturity Date") if its principal has been reduced to $800 million by the July 31, 2023. The outstanding principal balance was reduced to $800 million on February 2, 2023, and the Maturity Date has been extended to July 31, 2025.

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

As of September 30, 2023, the Company has paid down a total of $1.2 billion towards the Term Loan's principal balance. The aggregate principal amount outstanding under the Term Loan Facility as of September 30, 2023 was $400 million. Subsequent to September 30, 2023, the Company made an additional $40 million principal prepayment reducing the balance of the Term Loan Facility to $360 million.

Note 7 – Income Taxes

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

As a result of the Company's revocation of its REIT status in fiscal year 2022, the Company incurred a one-time, non-cash deferred tax benefit of approximately $161.3 million during the three months ended March 31, 2022 and had a deferred tax benefit balance of $162.8 million as of December 31, 2022. As a result of ongoing operations and sales activity, the Company recognized a deferred tax benefit of $11.8 million and $50.3 million during the three and nine months ended September 30, 2023. As of September 30, 2023, the Company has recorded a full valuation allowance of $213.1 million against the deferred tax asset pursuant to ASC 740, as discussed in more detail below. While the Company has recorded a full valuation allowance against its DTAs due to the uncertainty that it will be able to utilize them, if the Company is able to sell assets at prices above its tax basis, the DTAs will be utilized to offset any taxes due on those gains to the extent of the DTAs.

The Company's effective tax rate of 0% differs from the U.S. statutory rate of 21% in 2023 primarily due to the placement of a valuation allowance on its deferred tax assets.

The significant components of the Company's deferred tax assets of $213.1 million as of September 30, 2023 consist of book to tax basis differences, net operating losses, and carryover net operating losses. As discussed below, the Company has recorded a full valuation allowance on the deferred tax assets as of September 30, 2023 and 2022, respectively.

Valuation allowances are recorded related to deferred tax assets based on the "more likely than not" criteria. ASC 740 states that deferred tax assets shall be reduced by a valuation allowance if there is insufficient objectively verifiable evidence to support that it is more likely than not that they will be realized. This evaluation requires significant judgment which should be weighted commensurate with the extent to which the evidence can be objectively verified. Additionally, under ASC 740, forming a conclusion that a valuation allowance is not needed is difficult when there is negative evidence such as cumulative losses in recent years. Given the Company's history of cumulative losses combined with the fact that the Company's utilization of deferred tax assets is highly dependent on the outcome of the review of a broad range of strategic alternatives announced by its Board of Trustees and the uncertainty in timing and volume of future property sales, we have deemed that their realization, at this time, cannot be objectively verified. The Company has therefore recorded a full valuation allowance against the Company's deferred tax assets as of September 30, 2023. The Company will evaluate this position each quarter as verifiable positive evidence becomes available, such as the execution of asset sales, to support the future utilization of the deferred tax assets.

Note 8 – Fair Value Measurements

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

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

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

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

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

Assets Measured at Fair Value on a Nonrecurring Basis

The following tables present the Company's assets measured at fair value on a non-recurring basis as of September 30, 2023 and December 31, 2022, aggregated by the level in the fair value hierarchy within which those measurements fall:

Description (1)	Balance September 30, 2023	Fair Value Measurements Using (Level 1)	(Level 2)	(Level 3)
Impaired real estate assets	$ 216,768	$ 6,000	$ 13,800	$ 196,968
Impaired right-of-use assets	3,020	-	-	3,020
Other-than-temporary impaired investments in unconsolidated entities	108,116	67,414	40,702	-

(1) Represents non-recurring fair value measurement. The fair value is calculated as of the impairment date.

Description (1)	Balance December 31, 2022	Fair Value Measurements Using (Level 1)	(Level 2)	(Level 3)
Impaired real estate assets	$ 343,237	$ 68,125	$ 254,005	$ 21,107
Other-than-temporary impaired investments in unconsolidated entities	153,215	23,795	38,124	91,296

(1) Represents non-recurring fair value measurement. The fair value is calculated as of the impairment date.

In accordance with ASC 360-10, *Property, Plant and Equipment*, the Company reviews the carrying value of its real estate assets at each reporting period. The Company did not record any impairment losses during the three months ended September 30, 2023. The Company recorded impairment losses of $10.3 million on real estate assets during the three months ended September 30, 2022, which are included in impairment on real estate assets within the condensed consolidated statements of operations. During the nine months ended September 30, 2023 and 2022, the Company recorded impairment losses of $107.0 million and $120.6 million, respectively. The $107.0 million of impairment recorded during the nine months ended September 30, 2023 is primarily the result of continued increases to development and construction costs, deteriorating market conditions and, in certain instances excluding Aventura, the Company agreeing to sell a property for less than its carrying value. We continue to evaluate our portfolio, including our development plans and holding periods, which may result in additional impairments in future periods on our consolidated properties.

In accordance with ASC 323, Equity Method and Joint Ventures, the Company reviews the carrying value in its investments in unconsolidated entities at each reporting period. The Company did not record any other-than-temporary impairment losses on investments in unconsolidated entities during the three months ended September 30, 2023. The Company recorded other-than-temporary impairment losses on investments in unconsolidated entities of $3.1 million during the three months ended September 30, 2022, as a result of the Company agreeing to sell Unconsolidated Properties for less than their carrying value. During the nine months ended September 30, 2023 and 2022, the Company recorded other-than-temporary impairment losses on investments in unconsolidated entities of $12.7 million and $35.6 million, respectively.

The fair value estimates used to determine the impairment charges for consolidated and unconsolidated properties were determined primarily by discounted cash flow analyses, market comparable data, third-party appraisals/valuations and/or offers received, as applicable. The cash flows utilized in such analyses are comprised of unobservable inputs which include, among other things, estimated revenue and expense growth rates, discount rates and capitalization rates based upon market conditions and future expectations. The most significant unobservable inputs utilized in determining the fair value of these assets are capitalization rates and discount rates which were between 5.5% and 8.0%. Because of these inputs, we have determined that the fair values of these properties are classified within Level 3 of the fair value hierarchy. The most significant observable inputs utilized in determining the fair value of these assets are market comparables for land and building. Comparable data utilizes comparable sales, listings, sales contracts and letters of intent which are subject to judgment as to comparability to the valued property. Because these inputs are derived from observable market data, we have determined that the fair values of these properties are classified within Level 2 of the fair value hierarchy. We consider fair values based upon the agreed-upon contract sales price to be classified within Level 1 of the fair value hierarchy.

Financial Assets and Liabilities not Measured at Fair Value

Financial assets and liabilities that are not measured at fair value on the condensed consolidated balance sheets include cash equivalents, restricted cash and the term loan facility. The fair value of cash equivalents and restricted cash are classified as Level 1 and the fair value of term loan facility is classified as Level 2. Cash equivalents and restricted cash are carried at cost, which approximates fair value. The fair value of debt obligations is calculated by discounting the future contractual cash flows of these instruments using current risk-adjusted rates available to borrowers with similar credit ratings. As of September 30, 2023 and December 31, 2022, respectively, the estimated fair values of the Company's debt obligations were $0.4 billion and $1.0 billion, respectively, which approximated the carrying value at such dates as the current risk-adjusted rate approximates the stated rates on the Company's debt obligations.

Note 9 – Commitments and Contingencies

Insurance

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

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

Environmental Matters

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

Litigation and Other Matters

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

Beginning in 2019, the Company had been in litigation related to the bankruptcy of Sears Holdings (the "Litigation"). On September 2, 2022, the United States Bankruptcy Court for the Southern District of New York entered an order approving a settlement amongst the parties to the Litigation and, on October 18, 2022, the Litigation was dismissed.

The Company made a settlement payment of $35.5 million based on the Company's contributions to the settlement of the Litigation. This payment is recorded as litigation settlement in the consolidated statements of operations during the three and nine months ended September 30, 2022.

On March 2, 2021, the company brought a lawsuit in Delaware state court against QBE Insurance Corporation, Endurance American Insurance Company, Allianz Global Risks US Insurance Company and Continental Casualty Company, each of which are D&O insurance providers of the Company (the "D&O Insurers"). The Company's lawsuit sought, among other things, declaratory relief and money damages as a result of certain of the D&O Insurers refusal to pay certain costs and expenses related to the defense of the Litigation. During the year ended December 31, 2022, the Company reached settlement agreements with two of the D&O Insurers and received gross proceeds of $12.7 million, which was recorded in interest and other income in the consolidated statements of operations during the year ended December 31, 2022. During the three months ended March 31, 2023, the Company reached settlement agreements with the other two D&O Insurers for gross proceeds of $11.6 million. The Company received $11.6 million during the nine months ended September 30, 2023, which is recorded in interest and other income in the consolidated statements of operations.

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

Note 10 – Related Party Disclosure

Edward S. Lampert

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

On July 6, 2022, Mr. Lampert converted all Operating Partnership Units ("OP Units") to Class A common shares. As a result, he owns 26.8% of the outstanding Class A shares as of September 30, 2023.

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

Winthrop Capital Advisors

On December 29, 2021, the Company entered into a Services Agreement with Winthrop Capital Advisors LLC to provide additional staffing to the Company. On January 7, 2022, the Company announced that John Garilli, an employee of Winthrop, has been appointed interim chief financial officer on a full-time basis, effective January 14, 2022. The Company pays Winthrop a monthly fee for services and reimbursement for certain employees. The Company paid Winthrop $0.9 million and $0.4 million during the three months ended September 30, 2023 and 2022, respectively. The Company paid Winthrop $2.0 million and $1.1 million during the nine months ended September 30, 2023 and 2022, respectively.

Unconsolidated Entities

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

In addition, as of September 30, 2023 and December 31, 2022, respectively, the Company had incurred no development expenditures at properties owned by certain unconsolidated entities for which the Company will be repaid by the respective unconsolidated entities.

The Company has certain put rights on properties held by the Unconsolidated Entities, which may require the Company's partner to buy out the Company's investment in such properties. During the nine months ended September 30, 2023, the Company exercised its put rights on one property. During the three and nine months ended September 30, 2022, the Company exercised its put rights on two and six properties, respectively, to two of their partners.

Note 11 – Non-Controlling Interests

Partnership Agreement

On July 7, 2015, Seritage and ESL entered into the agreement of limited partnership of the Operating Partnership which was amended and restated on December 14, 2017 and further amended and restated on January 4, 2023. Pursuant to this partnership agreement, as the sole general partner of the Operating Partnership, Seritage exercises exclusive and complete responsibility and discretion in its day-to-day management, authority to make decisions, and control of the Operating Partnership, and may not be removed as general partner by the limited partners.

On July 6, 2022, ESL converted all Operating Partnership Units to Class A common shares. As a result, the Company, and its wholly owned subsidiaries, holds a 100% interest in the Operating Partnership as of September 30, 2023.

Note 12 – Shareholders' Equity

Class A Common Shares

As of September 30, 2023, 56,182,522 Class A common shares were issued and outstanding. Class A shares have a par value of $0.01 per share.

Class B Non-Economic Common Shares

As of September 30, 2023, there were no Class B non-economic common shares issued and outstanding.

Series A Preferred Shares

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

As of December 14, 2022, the Company may redeem any or all of the Series A Preferred Shares at $25.00 per share plus any accrued and unpaid dividends. The Series A Preferred Shares have no stated maturity, are not subject to any sinking fund or mandatory redemption and will remain outstanding indefinitely unless the Company redeems or otherwise repurchases them or they are converted.

Dividends and Distributions

The Company's Board of Trustees has not declared dividends on the Company's Class A common shares during 2023 or 2022. The last dividend on the Company's Class A and C common shares that the Board of Trustees declared was on February 25, 2019, which was paid on April 11, 2019 to shareholders of record on March 29, 2019.

The Board of Trustees will determine future distributions following the pay down of the Term Loan Facility.

The Company's Board of Trustees declared the following dividends on preferred shares during 2023 and 2022:

Declaration Date	Record Date	Payment Date		Series A Preferred Share
2023				
October 30	December 29	January 16, 2024	$	0.43750
July 25	September 29	October 13		0.43750
April 27	June 30	July 14		0.43750
February 15	March 31	April 17		0.43750
2022				
November 1	December 30	January 16, 2023	$	0.43750
July 26	September 30	October 17		0.43750
April 26	June 30	July 15		0.43750
February 16	March 31	April 15		0.43750

Note 13 – Earnings per Share

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

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

(in thousands except per share amounts)	Three Months Ended September 30, 2023	Three Months Ended September 30, 2022	Nine Months Ended September 30, 2023	Nine Months Ended September 30, 2022
Numerator - Basic and Diluted				
Net loss	$ (902)	$ (3,481)	$ (158,595)	$ (212,551)
Net loss attributable to non-controlling interests	—	42	-	46,152
Preferred dividends	(1,225)	(1,225)	(3,675)	(3,675)
Net loss attributable to common shareholders - Basic	$ (2,127)	$ (4,664)	$ (162,270)	$ (170,074)
Denominator - Basic and Diluted				
Weighted average Class A common shares outstanding	56,183	55,361	56,139	47,600
Weighted average Class A common shares outstanding - Basic	56,183	55,361	56,139	47,600
Weighted average Class A common shares outstanding - Diluted	56,183	55,361	56,139	47,600
Loss per share attributable to Class A common shareholders - Basic	$ (0.04)	$ (0.08)	$ (2.89)	$ (3.57)
Loss per share attributable to Class A common shareholders - Diluted	$ (0.04)	$ (0.08)	$ (2.89)	$ (3.57)

No adjustments were made to the numerator for the three and nine months ended September 30, 2023 and 2022, respectively, because the Company generated a net loss. During periods of net loss, undistributed losses are not allocated to the participating securities as they are not required to absorb losses.

No adjustments were made to the denominator for the three and nine months ended September 30, 2023 and 2022, respectively, because (i) the inclusion of outstanding non-vested restricted shares would have had an anti-dilutive effect and (ii) including the non-controlling interest in the Operating Partnership would also require that the share of the Operating Partnership loss attributable to such interests be added back to net loss, therefore, resulting in no effect on earnings per share.

As of September 30, 2023 and December 31, 2022, there were 375,091 and 535,650 shares, respectively, of non-vested restricted shares outstanding.

Note 14 – Share-Based Compensation

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

Restricted Shares and Share Units

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

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

The following table summarizes restricted share activity for the nine months ended September 30, 2023:

	Nine Months Ended September 30, 2023	
	Shares	Weighted-Average Grant Date Fair Value
Unvested restricted shares at beginning of period	535,650	$ 14.31
Restricted shares vested	(148,283)	13.74
Restricted shares forfeited	(12,276)	24.22
Unvested restricted shares at end of period	375,091	$ 14.20

The Company recognized $0.6 million and $1.0 million in compensation expense related to the restricted shares for the three months ended September 30, 2023 and 2022, respectively and $2.1 million for the nine months ended September 30, 2023 and 2022, respectively. Compensation expenses related to the restricted shares are included in general and administrative expenses on the Company's condensed consolidated statements of operations.

As of September 30, 2023, there were approximately $2.4 million of total unrecognized compensation costs related to the outstanding restricted shares which are expected to be recognized over a weighted-average period of approximately 1.2 years. As of September 30, 2022, there were approximately $5.3 million of total unrecognized compensation costs related to the outstanding restricted shares which were expected to be recognized over a weighted-average period of approximately 2.0 years.

Item 2. <u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u>

Certain statements contained herein constitute forward-looking statements as such term is defined in Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Forward-looking statements are not guarantees of future performance. They represent our intentions, plans, expectations and beliefs and are subject to numerous assumptions, risks and uncertainties. Our future results, financial condition and business may differ materially from those expressed in these forward-looking statements. You can find many of these statements by looking for words such as "approximates," "believes," "expects," "anticipates," "estimates," "intends," "plans," "projects," "would," "may" or other similar expressions in this Quarterly Report on Form 10-Q. Many of the factors that will determine the outcome of these and our other forward-looking statements are beyond our ability to control or predict. For further discussion of factors that could materially affect the outcome of our forward-looking statements, see "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2022. For these statements, we claim the protection of the safe harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995. You are cautioned not to place undue reliance on our forward-looking statements, which speak only as of the date of this Quarterly Report on Form 10-Q. All subsequent written and oral forward-looking statements attributable to us or any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. We do not undertake any obligation to release publicly any revisions to our forward-looking statements to reflect events or circumstances occurring after the date of this Quarterly Report on Form 10-Q. The following discussion should be read in conjunction with the condensed consolidated financial statements and notes thereto included in Part 1 of this Quarterly Report.

Overview

Prior to the adoption of the Company's Plan of Sale (defined below), Seritage was principally engaged in the ownership, development, redevelopment, disposition, management and leasing of diversified retail and mixed-use properties throughout the United States. Seritage will continue to actively manage each remaining location until such time as each property is sold. As of September 30, 2023, the Company's portfolio consisted of interests in 42 properties comprised of approximately 5.6 million square feet of gross leasable area ("GLA") or build-to-suit leased area, approximately 126 acres held for or under development until time of sale and approximately 2.9 million square feet or approximately 259 acres to be disposed of in its current state. The portfolio consists of approximately 4.3 million square feet of GLA held by 33 consolidated properties (such properties, the "Consolidated Properties") and 1.2 million square feet of GLA held by nine unconsolidated properties (such properties, the "Unconsolidated Properties").

Review of Strategic Alternatives

On March 1, 2022, the Company announced that its Board of Trustees has commenced a process to review a broad range of strategic alternatives to enhance shareholder value. The Board of Trustees created a special committee of the Board of Trustees (the "Special Committee") to oversee the process. The Special Committee has retained a financial advisor. The Company sought a shareholder vote to approve a proposed plan of sale of our assets and dissolution (the "Plan of Sale") that would allow our board to sell all of our assets, distribute the net proceeds to shareholders and dissolve the Company.

The 2022 Annual Meeting of Shareholders occurred on October 24, 2022, at which time the Plan of Sale was approved by the shareholders, following our filing of a final proxy statement with the SEC on September 14, 2022. See Note 1 – Organization of the Notes to the condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q for additional information about the Plan of Sale. The strategic review process remains ongoing as the Company executes the Plan of Sale. There can be no assurance that the review process will result in any transaction or that the Company will be successful in fully executing on the Plan of Sale.

Impairment of Real Estate Assets and Investments in Unconsolidated Entities

In the first quarter of 2022, we announced a Review of Strategic Alternatives and during the second quarter determined that the best plan for all assets is to pursue sales. As a result of the foregoing, the Company's anticipated holding periods with respect to certain assets has changed. This affected our view of recoverability of the carrying value of those assets over their respective holding periods and during the year ended December 31, 2022, $126.9 million of impairment was recorded. Due to increasing development and construction costs, deteriorating market conditions and, in certain instances excluding Aventura, agreeing to sell below carrying value, we have recognized $107.0 million of impairment losses during the nine months ended September 30, 2023, which are included in impairment on real estate assets within the condensed consolidated statements of operations. We recognized $12.7 million of other-than-temporary impairment losses to our investments in unconsolidated entities during the nine months ended September 30, 2023. No impairment losses or other-than-temporary impairment losses in investments in unconsolidated entities were recorded during the three months ended September 30, 2023. We continue to evaluate our portfolio, including our development plans and offers received, which may result in additional impairments in future periods on our consolidated properties and investments in unconsolidated entities.

REIT Election

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

Business Strategies

The Company's primary objective is to create value for its shareholders through the monetization of the Company's assets through the Plan of Sale, which can be suspended by the Board of Trustees. Additionally, we have identified various sites that we believe have the demand and demographic profile to support other uses such as residential, biotechnology, office and others. Given our fee ownership of these properties and control over parking lots and outparcels, we believe that these sites are well positioned for such value creation opportunities. We additionally look to further lease our built retail footprint and densify any excess parking land through the addition of triple net ("NNN") pad sites, which are standalone sites upon which a customized space can be built or leased for a tenant, to the extent that we believe these actions would be accretive to shareholder value.

The Company continues to assess the best use for all sites within its portfolio, including residential, retail and converting land area to pad sites. In order to achieve its objective, the Company intends to execute the following strategies:

- *Multi-tenant Retail:* Our portfolio of seven multitenant retail assets provides positive cash flow and are primarily leased to a variety of national credit tenants. As of September 30, 2023, this portfolio was 69.8% leased with a pipeline of 0.1 million square feet. A majority of our leases are effectively NNN based on the structure of our leases, providing an important inflation hedge. This portfolio also affords numerous further densification opportunities through the addition of pads on excess parking areas. We are working to maximize value of these assets and position them for sale.
- *Densification and Redevelopment Opportunities:* In particular, we have identified various sites that we believe have the demand and demographic profile to support other uses such as residential, biotechnology, office and others. Given our fee ownership of these properties and control over parking lots and outparcels, we believe that these sites are well positioned for such value creation opportunities through entitlements, leasing and development. As of September 30, 2023, our full portfolio included approximately 591 acres of land, or an average of 14.1 acres per site, and our most significant geographic concentrations were in higher growth markets in California, Florida, Texas, and the Northeast.
- *Non-core Assets for Monetization:* We continue to assess the best use for all sites within our portfolio, including residential, retail, and converting excess land area to pad sites. The non-core assets are those assets where we believe we will maximize value by selling in its current state.

Results of Operations

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

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

Comparison of the Three Months Ended September 30, 2023 to the Three Months Ended September 30, 2022

The following table presents selected data on comparative results from the Company's condensed consolidated statements of operations for the three months ended September 30, 2023, as compared to the three months ended September 30, 2022 (in thousands):

	Three Months Ended September 30, 2023	Three Months Ended September 30, 2022	$ Change
Revenue			
Rental income	$ 4,525	$ 23,253	$ (18,728)
Expenses			
Property operating	(4,564)	(9,700)	5,136
Real estate taxes	(1,204)	(6,483)	5,279
Depreciation and amortization	(2,913)	(9,169)	6,256
General and administrative	(8,030)	(10,811)	2,781
Litigation settlement	—	(533)	533
Gain on sale of real estate, net	18,506	45,433	(26,927)
Loss on sale of interest in unconsolidated entities	(916)	(139)	(777)
Impairment of real estate assets	—	(10,275)	10,275
Equity in income (loss) of unconsolidated entities	993	(2,275)	3,268
Interest and other income	2,030	(1,047)	3,077
Interest expense	(9,763)	(21,916)	12,153

Rental Income

The following table presents the results for rental income for the three months ended September 30, 2023, as compared to the corresponding period in 2022 (in thousands):

	Three Months Ended September 30, 2023		Three Months Ended September 30, 2022		
	Rental Income	% of Total Rental Income	Rental Income	% of Total Rental Income	$ Change
In-place retail leases	$ 6,022	133.1 %	$ 26,129	112.4 %	(20,107)
Straight-line rent (expense)	(1,503)	(33.2 %)	(2,873)	-12.4 %	1,370
Amortization of the above/below market leases	6	0.1 %	(3)	0.0 %	9
Total rental income	$ 4,525	100.0 %	$ 23,253	100.0 %	$ (18,728)

The decrease of $20.1 million in in-place retail lease rental income during 2023 is primarily due to property sales.

The increase of $1.4 million in straight-line rental income was primarily due to an adjustment recorded during the quarter ended September 30, 2022.

Property Operating Expenses and Real Estate Taxes

The decrease of $5.1 million in property operating expense for the three months ended September 30, 2023 was due primarily to asset sales and partially offset by a decrease in amounts capitalized.

The decrease of $5.3 million in real estate taxes for the three months ended September 30, 2023 was due primarily to asset sales and refunds received during the three months ended September 30, 2023.

Depreciation and Amortization Expenses

The decrease of $6.3 million in depreciation and amortization expenses for the three months ended September 30, 2023 was primarily due to a decrease of $6.3 million in net scheduled depreciation due to property sales.

General and Administrative Expenses

General and administrative expenses consist of personnel costs, including amortization of costs associated with share-based compensation awarded in prior years, professional fees, office expenses and overhead expenses.

The decrease of $2.8 million in general and administrative expenses for the three months ended September 30, 2023 was driven by a decrease in legal expenses resulting from settling the outstanding Litigation described below in 2022 as well as a decrease in compensation expenses due to a decrease in employee headcount. This was partially offset by an increase in consulting related expenses utilized to execute the plan of sale.

Gain on Sale of Real Estate, Net

During the three months ended September 30, 2023, the Company sold six properties for aggregate consideration of $62.9 million and recorded a gain totaling $18.5 million, which is included in gain on sale of real estate, net within the condensed consolidated statements of operations.

Loss on Sale of Interest in Unconsolidated Entities

During the three months ended September 30, 2023, the Company sold its interest in three unconsolidated properties and recorded a loss totaling $0.9 million, which is included in loss on sale of interest in unconsolidated entities within the consolidated statements of operations.

Impairment of Real Estate Assets

During the three months ended September 30, 2023, the Company recognized no impairment of real estate assets. During the three months ended September 30, 2022, the Company recognized $10.3 million of impairment losses as a result of the Company's plan to pursue the Plan of Sale, which is included within the condensed consolidated statements of operations..

Equity in Loss of Unconsolidated Entities

The increase of $3.3 million in income (loss) of unconsolidated entities for the three months ended September 30, 2023 was driven by a straight-line rent adjustment of $5.2 million at one unconsolidated entity, which we picked up as our share of $2.6 million compared to recording a $3.1 million other-than-temporary impairment charge against one investment during the three months ended September 30, 2022. In addition, two unconsolidated entities recorded net gains of $3.4 million during the three months ended September 30, 2022, which resulted in us picking up our share of $1.7 million in gains. This impairment arose from the Company's impairment analysis pursuant to ASC 323, Equity Method and Joint Ventures.

Interest and other income

The increase of $3.1 million of interest and other income is primarily due the Company recognizing miscellaneous expense of $2.2 million in the prior year, relating to historic receivables that the Company deemed to no longer be collectable upon the finalization of the Sears litigation settlement. The Company also recognized greater interest revenue on the Company's cash accounts.

Interest Expense

The decrease of $12.2 million in interest expense for the three months ended September 30, 2023 was driven by the partial Term Loan Facility pay down totaling $1.2 billion as of September 30, 2023.

Comparison of the Nine Months Ended September 30, 2023 to the Nine Months Ended September 30, 2022

The following table presents selected data on comparative results from the Company's condensed consolidated statements of operations for the three months ended September 30, 2023, as compared to the three months ended September 30, 2022 (in thousands):

	Nine Months Ended September 30, 2023	Nine Months Ended September 30, 2022	$ Change
Revenue			
Rental income	$ 10,459	$ 81,755	$ (71,296)
Expenses			
Property operating	(17,945)	(31,535)	13,590
Real estate taxes	(4,910)	(21,056)	16,146
Depreciation and amortization	(11,628)	(31,772)	20,144
General and administrative	(30,349)	(30,996)	647
Litigation settlement	—	(35,533)	35,533
Gain on sale of real estate, net	64,386	112,449	(48,063)
Gain (loss) on sale of interest in unconsolidated entities	6,407	(139)	6,546
Impairment of real estate assets	(107,043)	(120,609)	13,566
Equity in loss of unconsolidated entities	(49,077)	(69,071)	19,994
Interest and other income	17,484	(937)	18,421
Interest expense	(37,493)	(67,167)	29,674

Rental Income

The following table presents the results for rental income for the nine months ended September 30, 2023, as compared to the corresponding period in 2022 (in thousands):

	Nine Months Ended September 30, 2023		Nine Months Ended September 30, 2022		
	Rental Income	% of Total Rental Income	Rental Income	% of Total Rental Income	$ Change
In-place retail leases	$ 26,586	254.2 %	$ 80,331	98.3 %	$ (53,745)
Straight-line rent (expense) income	(16,142)	-154.3 %	1,447	1.7 %	(17,589)
Amortization of above/below market leases	15	0.0 %	(23)	0.0 %	38
Total rental income	$ 10,459	100.0 %	$ 81,755	100.0 %	$ (71,296)

The decrease of $53.7 million in in-place retail lease rental income during 2023 is primarily due to property sales.

The decrease of $17.6 million in straight-line rental income was primarily due to a reversal of $16.3 million of straight-line rent due to property sales.

Property Operating Expenses and Real Estate Taxes

The decrease of $13.6 million in property operating expense for the nine months ended September 30, 2023 was due primarily to asset sales and partially offset by a decrease in amounts capitalized.

The decrease of $16.1 million in real estate taxes for the nine months ended September 30, 2023 was due primarily to asset sales and refunds received during the nine months ended September 30, 2023.

Depreciation and Amortization Expenses

The decrease of $20.1 million in depreciation and amortization expenses for the nine months ended September 30, 2023 was primarily due to a decrease of $21.7 million in net scheduled depreciation due to property sales.

General and Administrative Expenses

General and administrative expenses consist of personnel costs, including amortization of costs associated with share-based compensation awarded in prior years, professional fees, office expenses and overhead expenses.

The decrease of $0.6 million in general and administrative expenses for the nine months ended September 30, 2023 was primarily driven by decreases in legal expenses primarily due to the Company settling outstanding litigation in 2022, and compensation expenses due to a decrease in employee headcount. This was partially offset by increases in consulting expenses utilized to execute the plan of sale, and employee bonus expenses to retain employees.

Gain on Sale of Real Estate, Net

During the nine months ended September 30, 2023, the Company sold 49 properties for aggregate consideration of $602.4 million and recorded a gain totaling $64.4 million, which is included in loss on sale of real estate, net within the condensed consolidated statements of operations.

Gain on Sale of Interest in Unconsolidated Entities, Net

During the nine months ended September 30, 2023, the Company sold its interest in eight unconsolidated properties, and recorded a gain totaling $6.4 million, which is included in gain on sale of interest in unconsolidated entities within the consolidated statements of operations.

Impairment of Real Estate Assets

During the nine months ended September 30, 2023, the Company recognized $107.0 million in impairment of real estate assets, which is included within the condensed consolidated statements of operations. This impairment arose primarily from recognizing $101.5 million of impairment on the Company's development property in Aventura, FL due to continued increasing development and construction costs and deteriorating market conditions, which triggered the need for an impairment analysis pursuant to ASC 360, *Property, Plant and Equipment*. The Company determined the fair value of this property by applying a discount to projected cash flows. During the nine months ended September 30, 2022, the Company recognized $120.6 million of impairment losses as a result of the Company's plan to pursue the Plan of Sale.

Equity in Loss of Unconsolidated Entities

The decrease of $20.0 million in loss in the unconsolidated entities for the nine months ended September 30, 2023 was driven by a $70.8 million impairment charge recorded in one investment resulting in the Company picking up their share of this impairment at $35.4 million and a $12.7 million other-than-temporary impairment charge recorded against two investments compared to a $61.1 million impairment charge recorded in two underlying properties, resulting in the Company picking up its share of impairment totaling $30.6 million plus other-than-temporary impairment recorded to our investments of $35.6 million during the nine months ended September 30, 2022. These impairments arose from the Company's impairment analysis pursuant to ASC 323, Equity Method and Joint Ventures.

Interest and other income

The increase of $18.4 million of interest and other income is primarily due to the receipt of $11.6 million relating to the settlement with the D&O Insurers, greater interest received on the Company's cash accounts and the Company recognizing miscellaneous expense of $2.2 million in the prior year, relating to historic receivables that the Company deemed to no longer be collectable upon the finalization of the Sears litigation settlement.

Interest Expense

The decrease of $29.7 million in interest expense for the nine months ended September 30, 2023 was driven by the partial Term Loan Facility pay down totaling $1.2 billion as of September 30, 2023.

Liquidity and Capital Resources

Our primary uses of cash include the payment of property operating and other expenses, including general and administrative expenses and debt service (collectively, "Obligations"), and certain development expenditures. Property rental income, which is the Company's primary source of operating cash flow, did not fully fund obligations incurred during the nine months ended September 30, 2023 and the Company recorded net operating cash outflows of $42.0 million. Additionally, the Company generated investing cash inflows of $645.6 million during the nine months ended September 30, 2023, which were driven by asset sales and partially offset by development expenditures.

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

- Sales of Consolidated Properties. We began our capital recycling program in July 2017 and have been monetizing assets since. In March of 2022, we elected to terminate our REIT status effective January 1, 2022 in order to remove any restrictions around asset sales. On October 24, 2022, we received shareholder approval of the Plan of Sale.
    - We sold 90 Consolidated Properties, and additional outparcels at certain properties, and generated approximately $986.8 million of gross proceeds from the beginning of our capital recycling program in July 2017 through the date our REIT status terminated on December 31, 2021;
    - We sold 40 Consolidated Properties, and additional outparcels at certain properties, and generated approximately $438.1 million of gross proceeds from December 31, 2021, the date we terminated our REIT status, through the approval of the Plan of Sale on October 24, 2022;
    - From the approval of the Plan of Sale on October 24, 2022 through September 30, 2023, we sold 65 Consolidated Properties, and additional outparcels at certain properties, and generated approximately $756.9 million of gross proceeds.
- Sales of interests in Unconsolidated Properties. Certain of our unconsolidated entity agreements also include rights that allow us to sell our interests in select Unconsolidated Properties to our partners at fair market value;
    - We sold our interests in 15 Unconsolidated Properties and generated approximately $278.1 million of gross proceeds from the beginning of our capital recycling program in July 2017 through the date our REIT status terminated on December 31, 2021;
    - We sold our interests in 8 Unconsolidated Properties and generated approximately $84.8 million of gross proceeds since we terminated our REIT status on December 31, 2021, through the approval of the Plan of Sale on October 24, 2022;
    - From the approval of the Plan of Sale on October 24, 2022 through September 30, 2023, we sold our interests in eight Unconsolidated Properties and generated approximately $140.7 million of gross proceeds.
- Unconsolidated Properties. As of September 30, 2023, we had contributed interests in 12 properties to unconsolidated entities, which generated approximately $242.4 million of gross proceeds since July 2017. In addition to generating liquidity upon closing, these entities also reduce our development expenditures by the amount of our partners' interests in the unconsolidated entities;

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

Additionally, the Term Loan Amendment provides that the administrative agent and the lenders express their continued support for asset dispositions, subject to the administrative agent's right to approve the terms of individual transactions due to the occurrence of a Financial Metric Trigger Event, as such term is defined under the Term Loan Agreement. The Third Term Loan Amendment (as defined in Note 6 – Debt of the Notes to the condensed consolidated financial statements included in Part I, Item I of this Quarterly Report on Form 10-Q) executed on June 16, 2022 provided exceptions to this right.

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

During the nine months ended September 30, 2023, we have repaid $630 million against the principal of the Term Loan Facility. Our outstanding balance as of September 30, 2023, is $400 million. Subsequent to September 30, 2023, the Company made an additional $40 million principal prepayment reducing the balance of the Term Loan Facility to $360 million.

See Note 1 – Organization of the Notes to the condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q for a discussion of liquidity and going concern.

Cash Flows for the Nine Months Ended September 30, 2023 Compared to the Nine Months Ended September 30, 2022

The following table summarizes the Company's cash flow activities for the nine months ended September 30, 2023 and 2022, respectively (in thousands):

	Nine Months Ended September 30, 2023	Nine Months Ended September 30, 2022	$ Change
Net cash used in operating activities	$ (42,021)	$ (73,547)	$ 31,526
Net cash provided by investing activities	645,564	296,127	349,437
Net cash used in financing activities	(633,634)	(195,745)	(437,889)

<u>*Cash Flows from Operating Activities*</u>

Significant components of net cash used in operating activities include:

In 2023, a decrease in rental income and a decrease to accounts payable, accrued expenses and other liabilities, partially offset by a decrease to tenant and other receivables.

<u>*Cash Flows from Investing Activities*</u>

Significant components of net cash provided by investing activities include:

- In 2023, $719.1 million of net proceeds from the sale of real estate and interests in unconsolidated entities, offset by development of real estate of ($61.6) million and investments in unconsolidated entities of ($11.9) million; and
- In 2022, $329.1 million of net proceeds from the sale of real estate and $67.6 million of net proceeds and distributions from the disposition of interests in unconsolidated entities offset by development of real estate of ($78.1) million and investments in unconsolidated entities of ($22.4) million.

<u>*Cash Flows from Financing Activities*</u>

Significant components of net cash used in financing activities include:

- In 2023, ($630.0) million cash repayment of Term Loan Facility principal and cash payments of preferred dividends, ($3.7) million; and
- In 2022, ($170.0) million cash repayment of Term Loan Facility principal, ($22.1) million cash repayment to terminate sale-leaseback financing obligation, and cash payments of preferred dividends, ($3.7) million.

<u>*Dividends and Distributions*</u>

The Company's Board of Trustees did not declare dividends on the Company's Class A common shares during the nine months ended September 30, 2023 and 2022, respectively.

The Company's Board of Trustees declared the following dividends on preferred shares during 2023 and 2022:

Declaration Date	Record Date	Payment Date	Series A Preferred Share
2023			
October 30	December 29	January 16, 2024	$ 0.43750
July 25	September 29	October 13	0.43750
April 27	June 30	July 14	0.43750
February 15	March 31	April 17	0.43750
2022			
November 1	December 30	January 16, 2023	$ 0.43750
July 26	September 30	October 17	0.43750
April 26	June 30	July 15	0.43750
February 16	March 31	April 15	0.43750

The Board of Trustees will determine future distributions following the pay down of the Term Loan Facility.

Off-Balance Sheet Arrangements

The Company accounts for its investments in entities that it does not have a controlling interest in or is not the primary beneficiary using the equity method of accounting and those investments are reflected on the condensed consolidated balance sheets of the Company as investments in unconsolidated entities. As of September 30, 2023 and December 31, 2022, we did not have any off-balance sheet financing arrangements.

Contractual Obligations

There have been no significant changes in the contractual obligations disclosed in our Form 10-K for the year ended December 31, 2022.

Capital Expenditures

During the three and nine months ended September 30, 2023, the Company invested $11.7 million and $61.6 million, respectively, in our consolidated development and operating properties and an additional $0.8 million and $11.9 million, respectively, into our unconsolidated joint ventures, as we continue to advance our business plans, including our previously announced projects.

During the three and nine months ended September 30, 2022, the Company invested $25.0 million and $78.1 million, respectively, in our consolidated development and operating properties and an additional $7.0 million and $22.4 million, respectively, into our unconsolidated joint ventures.

During the three and nine months ended September 30, 2023 and 2022, respectively, we incurred no maintenance capital expenditures that were not associated with re-tenanting and redevelopment projects.

Litigation and Other Matters

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

Beginning in 2019, the Company had been engaged in litigation related to the bankruptcy of Sears Holding (the “Litigation”). On September 2, 2022, the United States Bankruptcy Court for the Southern District of New York entered an order approving a settlement amongst the parties to the Litigation and, on October 18, 2022, the Litigation was dismissed.

We made a settlement payment of $35.5 million based on our contributions to the settlement of the Litigation. This payment is recorded as litigation settlement in the consolidated statements of operations during the year ended December 31, 2022.

On March 2, 2021, we brought a lawsuit in Delaware state court against QBE Insurance Corporation, Endurance American Insurance Company, Allianz Global Risks US Insurance Company and Continental Casualty Company, each of which are D&O insurance providers of the Company (the “D&O Insurers”). Our lawsuit sought, among other things, declaratory relief and money damages as a result of certain of the D&O Insurers refusal to pay certain costs and expenses related to the defense of the Litigation. Any amounts received from the insurers will offset the Seritage Defendants’ contribution. We reached settlement agreements with two of the D&O Insurers for gross proceeds of $12.7 million which is recorded in interest and other income in the consolidated statements of operations during the year ended December 31, 2022. During the nine months ended September 30, 2023, we reached settlement agreements with the other two D&O Insurers for gross proceeds of $11.6 million. We received $11.6 million during the nine months ended September 30, 2023, which is recorded in interest and other income in the consolidated statements of operations.

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

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

Critical Accounting Policies

A summary of our critical accounting policies is included in our Annual Report on Form 10-K for the year ended December 31, 2022 in Management's Discussion and Analysis of Financial Condition and Results of Operations. For the nine months ended September 30, 2023, there were no material changes to these policies.

Non-GAAP Supplemental Financial Measures and Definitions

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

Net Operating Income ("NOI") and Total NOI

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

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

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

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

Reconciliation of Non-GAAP Financial Measures to GAAP Financial Measures

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

The following table reconciles NOI and Total NOI to GAAP net loss for the three and nine months ended September 30, 2023 and 2022 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
NOI and Total NOI	**2023**	**2022**	**2023**	**2022**
Net loss	$ (902)	$ (3,481)	$ (158,595)	$ (212,551)
Termination fee income	—	—	—	(369)
Management and other fee income	(523)	(248)	(1,152)	(2,355)
Depreciation and amortization	2,913	9,169	11,628	31,772
General and administrative expenses	8,030	10,811	30,349	30,996
Litigation settlement	—	533	—	35,533
Equity in loss of unconsolidated entities	(993)	2,275	49,077	69,071
Loss (gain) on sale of interest in unconsolidated entities	916	139	(6,407)	139
Gain on sale of real estate, net	(18,506)	(45,433)	(64,386)	(112,449)
Impairment of real estate assets	—	10,275	107,043	120,609
Interest and other income	(2,030)	1,047	(17,484)	937
Interest expense	9,763	21,916	37,493	67,167
(Benefit) provision for income taxes	89	67	38	295
Straight-line rent	1,504	2,873	16,142	(1,447)
Above/below market rental expense	45	54	138	175
NOI	$ 306	$ 9,997	$ 3,884	$ 27,523
Unconsolidated entities				
Net operating income of unconsolidated entities	3,445	2,450	6,404	6,563
Straight-line rent	(2,629)	(305)	(3,069)	(860)
Above/below market rental expense	(3)	8	(1)	19
Total NOI	$ 1,119	$ 12,150	$ 7,218	$ 33,245

Item 3. Quantitative and Qualitative Disclosure about Market Risk

There were no material changes in the Quantitative and Qualitative Disclosures about Market Risk set forth in our 2022 Annual Report on Form 10-K.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures.

Under the supervision and with the participation of our management, including the principal executive officer and the principal financial officer, we conducted an evaluation of the effectiveness of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of the end of the period covered by this report. Based on this evaluation, our principal executive officer and our principal financial officer concluded that, as of the end of the reporting period covered by this report, our disclosure controls and procedures were not effective due to the material weakness described below.

Notwithstanding the material weaknesses in our internal control over financial reporting, our principal executive officer and principal financial officer have concluded that the unaudited condensed consolidated financial statements included in this Form 10-Q fairly present, in all material respects, our financial position, results of operations and cash flows for the periods presented in conformity with accounting principles generally accepted in the United States of America.

Material Weakness

A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the annual or interim financial statements will not be prevented or detected on a timely basis. In the course of preparing our financial statements for the interim period ended June 30, 2023, management identified a material weakness in our internal control over financial reporting that existed due to a deficiency in the design of our control over the identification of impairment indicators for investments in real estate and documentation of evidence of review. The deficiency relates to the failure to identify potential indicators of impairment related to development projects in a timely manner. This deficiency contributed to the potential for there to be material errors in our financial statements.

Remediation Plan

Management is enhancing its internal control over the identification of impairment indicators for investments in real estate to include specific indicators related to development assets. In addition, management is enhancing the documentation of evidence reviewed as part of the control.

The material weakness cannot be considered completely remediated until the applicable control has operated for a sufficient period of time and management has concluded, through testing, that the control is operating effectively.

Changes in Internal Controls.

Other than the remediation efforts described above, there were no other changes in our internal control over financial reporting that occurred during the three months ended September 30, 2023 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

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

Item 1A. Risk Factors

Please refer to Item 1A—Risk Factors in our Annual Report on Form 10-K for the year ended December 31, 2022 for a description of certain material risks and uncertainties to which our business, financial condition and results of operations are subject. There have been no material changes to the risk factors discussed in our Annual Report on Form 10-K for the year ended December 31, 2022, except as set forth below.

We have identified a material weakness in our internal control over financial reporting, and our management has concluded that our internal control over financial reporting and disclosure controls and procedures were not effective as of the end of the period covered by this report. While we are working to remediate the identified material weakness, we cannot assure you that additional material weaknesses or significant deficiencies will not occur in the future. If we fail to maintain an effective system of internal controls, we may not be able to accurately report our financial results or prevent fraud. As a result, our stockholders could lose confidence in our financial reporting, which could harm our business and the trading price of our common stock

The Sarbanes-Oxley Act of 2002 requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. As disclosed in this Quarterly Report on Form 10-Q, in the course of preparing our interim financial statements for the quarter ended June 30, 2023, we identified a material weakness in our internal control over financial reporting. The material weakness was due to a deficiency in the design of our control over the identification of impairment indicators for investments in real estate and documentation of evidence of review. The deficiency relates to the failure to identify potential indicators related to development projects in a timely manner, as described in more detail under the heading Part I—Item 4. Controls and Procedures in this Quarterly Report on Form 10-Q. We have commenced efforts to remediate the material weakness as described in more detail under the heading Part I—Item 4. Controls and Procedures in this Quarterly Report on Form 10-Q. The material weakness in our internal control over financial reporting will not be considered remediated until the controls operate for a sufficient period of time and management has concluded, through testing, that these controls operate effectively. If we do not successfully remediate the material weakness, or if other material weaknesses or other deficiencies arise in the future, we may be unable to accurately report our financial results, which could cause our financial results to be materially misstated and require restatement. In such case, we may be unable to maintain compliance with securities law requirements regarding timely filing of periodic reports in addition to applicable stock exchange listing requirements, investors may lose confidence in our financial reporting and our stock price may decline as a result. We cannot assure you that the measures we have taken to date, or any measures we may take in the future, will be sufficient to remediate the control deficiencies that led to a material weakness in our internal control over financial reporting or that they will prevent or avoid potential future material weaknesses. In addition, the Company will continue to evaluate its portfolio, including its development plans and holdings periods, which may result in additional impairments in future periods.

Item 2. Unregistered Sales of Equity Securities, Use of Proceeds and Issuer Purchases of Equity Securities

None.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

a) None.

b) None.

c) During the three months ended September 30, 2023, no director or officer of the Company adopted or terminated a “Rule 10b5-1 trading arrangement” or “non-Rule 10b5-1 trading arrangement,” as each term is defined in Item 408(a) of Regulation S-K.

Item 6. Exhibits

Exhibit No.	Description	SEC Document Reference
10.35†	Employment Agreement Amendment, dated October 23, 2023, among Seritage Growth Properties, Seritage Growth Properties, L.P. and Eric Dinenberg	Filed herewith.
10.36†	Employment Agreement Amendment, dated October 23, 2023, among Seritage Growth Properties, Seritage Growth Properties, L.P. and Matthew Fernand	Filed herewith.
31.1	Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	Filed herewith.
31.2	Certification of the Interim Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	Filed herewith.
32.1	Certification of the Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350	Furnished herewith.
32.2	Certification of the Interim Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350	Furnished herewith.
101.INS	Inline XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.	Filed herewith.
101.SCH	Inline XBRL Taxonomy Extension Schema Document	Filed herewith.
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document	Filed herewith.
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document	Filed herewith.
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document	Filed herewith.
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document	Filed herewith.
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)	Filed herewith.

† Management contract or compensatory plan or arrangement.

SIGNATURES

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

SERITAGE GROWTH PROPERTIES

Dated: November 8, 2023

/s/ Andrea Olshan

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

Dated: November 8, 2023

/s/ John Garilli

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

AMENDED AND RESTATED

EMPLOYMENT OFFER LETTER ADDENDUM

October 23, 2023

Eric Dinenberg

Dear Eric,

Reference is made to that certain offer letter between you and Seritage Growth Properties (the "**Company**"), dated March 14, 2019 (the "**Offer Letter**"), as amended by that certain Employment Offer Letter Addendum, dated March 15, 2022 (the "**Original Addendum**"). Capitalized terms that are not defined herein shall have the meanings assigned to such terms in the Offer Letter.

In recognition of the contributions that you have made, and which we expect you to continue to make, to the success of the Company, the Compensation Committee of the Board of Trustees of the Company has approved certain amendments to your Offer Letter and the Original Addendum, subject to all of the terms and conditions of this Amended and Restated Offer Letter Addendum (this "**Addendum**"), which terms shall (i) be deemed to be added to the terms of your Offer Letter and (ii) supersede the terms of the Original Addendum.

1. Term. This Addendum will be effective as of the date hereof and will continue in full force and effect until March 15, 2025 (the "**Initial Term**"), will be automatically extended for a renewal term of one year (each, a "**Renewal Term**") at the end of the Initial Term, and thereafter will be automatically extended for an additional one year Renewal Term at the end of each Renewal Term (the last day of the Initial Term and the last day of each Renewal Term is referred to herein as a "**Term Date**"), unless (a) either party notifies the other party of its non-renewal of this Addendum not later than 120 days prior to a Term Date by providing written notice to the other party of such party's intent not to renew (such notice, a "**Non-Renewal Notice**") or (b) your employment is sooner terminated with or without Cause or Good Reason or due to your death or Disability (each, as defined below).

2. Retention Bonus.

(a) Except as otherwise provided in Section 2(b) below, you will be entitled to one-quarter of the Retention Bonus Amount on each July 15th and November 15th to occur during the period of your employment with the Company and one-half of the Retention Bonus Amount on each March 15th to occur during the period of your employment with the Company (each such date, a "**Payment Date**" and each such bonus, a "**Retention Bonus**"), subject in each case to your remaining actively employed in good standing with the Company through each respective Payment Date. Each Retention Bonus will be paid on the Company's first regular payroll date following each respective Payment Date. For purposes of this Addendum, the (1) "**Retention Bonus Amount**" means (i) $750,000 for the Retention Period beginning March 16, 2023; (ii) $787,500 for the Retention Period beginning March 16, 2024; (iii) $826,875 for the Retention Period beginning March 16, 2025; and (iv) for each Retention Period thereafter, an amount equal to 105% of the Retention Bonus Amount for the immediately preceding Retention Period, and (2) the "**Retention Period**" means the period of time beginning on March 16th of a particular calendar year and ending on March 15th of the following calendar year.

(b) If your employment is terminated by the Company without Cause (including due to your death or Disability), by the Company through delivery of a Non-Renewal Notice, or by you for Good Reason prior to the expiration of the Initial Term or any Renewal Term, as applicable, the following amounts will be added as additional components of the severance benefits to which you are entitled: (i) any unpaid Retention Bonus scheduled to be paid during the Initial Term or Renewal Term, as applicable, as of the effective date of your termination of employment; (ii) an amount equal the Annual Salary that would have been paid to you for the period beginning on the effective date of your termination of employment and ending on the expiration of the Initial Term or Renewal Term, as applicable; (iii) an amount equal to (1) the sum of the Target Bonus Amounts plus the Target Equity Amounts that would have been paid or granted to you during the Initial Term or Renewal Term, as applicable, *minus* (2) in the case of the Initial Term only, the total amount of the Target Bonus Amounts and the Target Equity Amounts paid to you in the ordinary course of business on or prior to the effective date of your termination of employment for the same performance year(s) (including, for the avoidance of doubt, the total amount paid to you pursuant to Section 3, whether due to ordinary course or accelerated vesting and payment, and excluding, for the avoidance of doubt, any amount associated with the 2022 Award (as defined below)); and (iv) in the case of a termination of employment by the Company without Cause that occurs after the Non-Renewal Notice is due (and such notice was not timely delivered) for the Initial Term or the Renewal Term, as applicable, and before the next Renewal Term commences, an additional amount equal to one-third of the sum of your Annual Salary, Target Bonus Amount, and Target Equity Amount for the next Retention Period (collectively clauses (i), (ii), (iii) and (iv), the "**Additional Severance Payments**"). Your entitlement to payment of the Additional Severance Payments will be (i) conditioned on your execution and non-revocation of the Company's standard form general release of claims against the Company within 60 days after your termination date (the "**Release Requirement**") and (ii) payable to you on the Company's first regular payroll date after your termination date, subject to your prior satisfaction of the Release Requirement. For the avoidance of doubt, the Additional Severance Payments are intended to be in addition to, and not in lieu of, any severance payments to which you are entitled under the terms of your Offer Letter, as amended by this Addendum, or pursuant to the Company's general policies and practices.

(c) If you cease to be actively employed in good standing with the Company prior to any Payment Date during the period of your employment with the Company other than in the circumstances described in Section 2(b) above, you will forfeit all rights to receive any remaining unpaid Retention Bonuses.

(d) For purposes of this Addendum and your rights to receive the Retention Bonuses and the Additional Severance Payments, (1) "**Cause**" means, (i) a material breach by you (other than a breach resulting from your incapacity due to death or a Disability) of your duties and responsibilities as set forth in Section 3(a) below, which breach is demonstrably willful and deliberate on your part, is committed in bad faith or without reasonable belief that such breach is in the best interests of the Company or the Company's affiliates and is not remedied in a reasonable period of time after receipt of written notice from the Company specifying such breach; or (ii) the indictment of you of a felony (other than vehicular-related), and (2) "**Disability**" means disability as defined under the Company's long-term disability plan (regardless of whether you are a participant under such plan) or if no such plan exists, your inability by reason of disability to perform your duties for 180 consecutive days.

3. **Offer Letter Amendments**.

(a) *Position and Duties.* Your Offer Letter provides that you will serve as the Company's Senior Vice President, Development and Construction, reporting to the Executive Vice President, Development and Construction. Since entering into your Offer Letter, your position has changed to Chief Operating Officer, reporting to the Chief Executive Officer. During the period of your employment with the Company, you will continue to serve as the Company's Chief Operating Officer, and you will have only the duties, authorities and responsibilities consistent with such position.

(b) *Annual Salary*. Your Annual Salary will continue to be paid in periodic installments in accordance with the Company's customary payroll practices and applicable wage payment laws. During the period of your employment with the Company, your "**Annual Salary**" will be (i) $400,000 for the Retention Period beginning March 16, 2023; (ii) $420,000 for the Retention Period beginning March 16, 2024; (iii) $441,000 for the Retention Period beginning March 16, 2025; and (iv) for each Retention Period thereafter, an amount equal to 105% of the Annual Salary for the immediately preceding Retention Period.

(c) *Annual Bonus.* Your annual bonus for each calendar year during the period of your employment with the Company will be paid no later than March 15 of the following calendar year, if you are actively employed on the payment date in the ordinary course, in the amount of your applicable Target Bonus Amount, and there will be no performance metrics applicable to your annual bonus. For purposes of this Addendum, "**Target Bonus Amount**" means (i) $300,000 for the Retention Period beginning March 16, 2023; (ii) $315,000 for the Retention Period beginning March 16, 2024; (iii) $330,750 for the Retention Period beginning March 16, 2025; and (iv) for each Retention Period thereafter, an amount equal to 105% of the Target Bonus Amount for the immediately preceding Retention Period.

(d) *Cash in Lieu of Annual Equity Grants.* In lieu of any future annual equity grants, your Target Equity Amount will be granted to you in the form of a cash award on March 15th of the applicable year during the period of your employment with the Company, rather than in the form of an equity award (each, a "**Cash Award**"). For purposes of this Addendum, "**Target Equity Amount**" means (i) $300,000 for the Retention Period beginning March 16, 2023; (ii) $315,000 for the Retention Period beginning March 16, 2024; (iii) $330,750 for the Retention Period beginning March 16, 2025; and (iv) for each Retention Period thereafter, an amount equal to 105% of the Target Equity Amount for the immediately preceding Retention Period. Each Cash Award will vest in the manner set forth below, subject to your active employment in good standing through the applicable vesting date. The vested portion of each Cash Award will be paid to you on the Company's first regular payroll date after the applicable vesting date. Notwithstanding the foregoing or anything in Section 2(c) to the contrary, if your employment is terminated by the Company without Cause (including due to death or Disability), by the Company through delivery of a Non-Renewal Notice or by you for Good Reason, (i) any Cash Awards scheduled to be granted during the Initial Term or Renewal Term, as applicable, will become immediately granted, vested and payable as of your termination date and (ii) the unvested portion of your outstanding Cash Awards will become vested and payable as of your termination date.

1) 2022 Award. Pursuant to the terms of the Original Addendum, in lieu of your 2022 annual equity grant, you were granted a Cash Award of $300,000 on March 15, 2023 (the "**2022 Award**"). For the avoidance of doubt, the 2022 Award will continue to vest in three equal annual installments measured from the grant date, subject to your active employment in good standing through the applicable vesting date.

2) Future Awards. Beginning in 2024 and for each subsequent calendar year thereafter during the period of your employment with the Company, in lieu of all future annual equity grants, you will be granted a Cash Award with a value equal to the applicable Target Equity Amount on March 15 of the applicable year (each, a "**Future Award**"), subject to your continued active employment in good standing on the grant date. The Future Award will vest as to (i) 1/3rd of the award on the grant date and (ii) 2/3rds of the award will vest in equal annual installments on each anniversary from the grant date, subject to your active employment in good standing through such vesting date.

(e) *Lump Sum Payment of Severance; Definition of Good Reason.* In the event your employment is terminated by the Company without Cause (including due to your death or Disability), by the Company through delivery of a Non-Renewal Notice or by you for Good Reason, subject to your prior satisfaction of the Release Requirement, the severance payable under Section 5(a)(i) of your Offer Letter will be payable to you in a single lump sum no later than the Company's first regular payroll date after your termination date. The definition of "Good Reason" in your Offer Letter is hereby amended and restated as follows: "'**Good Reason**' shall mean, without your written consent, (i) a reduction of your annual base salary from the rate in effect as of the date of this Addendum; (ii) your mandatory relocation to an office more than twenty-five (25) miles from the primary location at which you are required to perform your duties on the date of this Addendum; (iii) any action or inaction that constitutes a material breach of the terms of your Offer Letter, as amended by this Addendum, including (A) the failure of a successor company to assume or fulfill the obligations under your Offer Letter, as amended by this Addendum, (B) the assignment of duties or responsibilities inconsistent with your position as set forth in Section 3(a) above, provided, that, if applicable, assignment of other duties or responsibilities will not constitute a material breach if such other duties are reasonable, taking into account the size, composition and value of the Company's portfolio at such time, the intended plan for such portfolio, and if applicable, the winding down of the Company's business pursuant to its plan of sale, and (C) the failure to pay amounts due pursuant to the terms hereof; or (iv) a material reduction in your duties or adverse change in title, other than, if applicable, the reduction in your duties associated with winding down of the Company's business pursuant to its plan of sale." The same notice and cure provisions set forth in your Offer Letter will continue to apply.

(f) *Acceleration of Equity Awards.* Notwithstanding anything to the contrary in your Offer Letter or an applicable equity award agreement, in the event your employment is terminated by the Company without Cause (including due to death or Disability), by the Company through delivery of a Non-Renewal Notice or by you for Good Reason, all of your outstanding unvested equity awards will vest, effective as of the effective date of your termination of employment; provided, that for any performance-based unvested equity awards, such awards will vest on a prorated basis (based on the portion of the performance period that has lapsed as of the effective date of your termination of employment) with performance measured as of the effective date of your termination of employment.

4. Miscellaneous.

(a) The Retention Bonuses, Additional Severance Payments and any other compensatory payments set forth in this Addendum will be subject to the withholding of any taxes required to be withheld under applicable federal, state and local law. You will not have any right to transfer, assign, pledge, alienate or create a lien on the Retention Bonuses or Additional Severance Payments, and the right to the Retention Bonuses and the Additional Severance Payments is not assignable by you. The Retention Bonuses and Additional Severance Payments are unfunded and unsecured and are payable out of the general funds of the Company. Nothing in this Addendum is intended to suggest any guaranteed period of continued service and your service to the Company will at all times continue to be terminable by you or the Company at-will. The Retention Bonuses and any Additional Severance Payments payable pursuant to this Addendum are intended to be exempt from Section 409A of the Internal Revenue Code of 1986, as amended, and this Addendum will be construed and administered consistent with that intent.

(b) This Addendum shall be considered an amendment to your Offer Letter, and shall supersede any prior addendum thereto (including, without limitation, the Original Addendum), pursuant to the terms thereof. All other terms and conditions set forth in the Offer Letter, except as specifically modified by this Addendum, shall continue in full force and effect.

(c) This Addendum shall be binding whether it is between the Company and you or between any such successor and you.

(d) Except to the extent that the information contained in the Addendum is required to be publicly disclosed under the applicable rules and regulation of the Securities and Exchange Commission, the amount of the Retention Bonuses and Additional Severance Payments for which you are eligible is confidential and should not be discussed with anyone (including co-workers).

(e) This Addendum constitutes the entire agreement between the parties hereto, and supersedes all prior representations, agreements, and understandings (including any prior course of dealings), both written and oral, between the parties hereto with respect to any retention bonus or changes to the Company's cash bonus program, annual equity grant program and severance entitlements.

(f) This Addendum may be executed via PDF or facsimile and in any number of counterparts, each of which shall be deemed an original, but all such counterparts shall together constitute one and the same instrument.

[Signature Page Follows]

We look forward to your continued contributions to the success of the Company. Please acknowledge your acceptance of the terms of this Addendum and return it to the Company as soon as possible.

Sincerely,

Seritage Growth Properties

By:
Name: Andrea Olshan
Title: CEO & President

Acknowledged and agreed:

Eric Dinenberg

Date:

Exhibit 10.36

AMENDED AND RESTATED

EMPLOYMENT OFFER LETTER ADDENDUM

October 23, 2023

Matthew Fernand

Dear Matthew,

Reference is made to that certain offer letter between you and Seritage Growth Properties (the "**Company**"), dated May 15, 2015 (the "**Offer Letter**"), as amended by that certain Employment Offer Letter Addendum, dated March 15, 2022 (the "**Original Addendum**"). Capitalized terms that are not defined herein shall have the meanings assigned to such terms in the Offer Letter.

In recognition of the contributions that you have made, and which we expect you to continue to make, to the success of the Company, the Compensation Committee of the Board of Trustees of the Company has approved certain amendments to your Offer Letter and the Original Addendum, subject to all of the terms and conditions of this Amended and Restated Offer Letter Addendum (this "**Addendum**"), which terms shall (i) be deemed to be added to the terms of your Offer Letter and (ii) supersede the terms of the Original Addendum.

1. Term. This Addendum will be effective as of the date hereof and will continue in full force and effect until March 15, 2026 (the "**Initial Term**"), will be automatically extended for a renewal term of one year (each, a "**Renewal Term**") at the end of the Initial Term, and thereafter will be automatically extended for an additional one year Renewal Term at the end of each Renewal Term (the last day of the Initial Term and the last day of each Renewal Term is referred to herein as a "**Term Date**"), unless (a) either party notifies the other party of its non-renewal of this Addendum not later than 120 days prior to a Term Date by providing written notice to the other party of such party's intent not to renew (such notice, a "**Non-Renewal Notice**") or (b) your employment is sooner terminated with or without Cause or Good Reason or due to your death or Disability (each, as defined below).

2. Retention Bonus.

(a) Except as otherwise provided in Section 2(b) below, you will be entitled to one-quarter of the Retention Bonus Amount on each July 15th and November 15th to occur during the period of your employment with the Company and one-half of the Retention Bonus Amount on each March 15th to occur during the period of your employment with the Company (each such date, a "**Payment Date**" and each such bonus, a "**Retention Bonus**"), subject in each case to your remaining actively employed in good standing with the Company through each respective Payment Date. Each Retention Bonus will be paid on the Company's first regular payroll date following each respective Payment Date. For purposes of this Addendum, the (1) "**Retention Bonus Amount**" means (i) $796,875 for the Retention Period beginning March 16, 2023; (ii) $836,718.75 for the Retention Period beginning March 16, 2024; (iii) $878,554.69 for the Retention Period beginning March 16, 2025; and (iv) for each Retention Period thereafter, an amount equal to 105% of the Retention Bonus Amount for the immediately preceding Retention Period, and (2) the "**Retention Period**" means the period of time beginning on March 16th of a particular calendar year and ending on March 15th of the following calendar year.

(b) If your employment is terminated by the Company without Cause (including due to your death or Disability), by the Company through delivery of a Non-Renewal Notice, or by you for Good Reason prior to the expiration of the Initial Term or any Renewal Term, as applicable, the following amounts will be added as additional components of the severance benefits to which you are entitled: (i) any unpaid Retention Bonus scheduled to be paid during the Initial Term or Renewal Term, as applicable, as of the effective date of your termination of employment; (ii) an amount equal the Annual Salary that would have been paid to you for the period beginning on the effective date of your termination of employment and ending on the expiration of the Initial Term or Renewal Term, as applicable; (iii) an amount equal to (1) the sum of the Target Bonus Amounts plus the Target Equity Amounts that would have been paid or granted to you during the Initial Term or Renewal Term, as applicable, *minus* (2) in the case of the Initial Term only, the total amount of the Target Bonus Amounts and the Target Equity Amounts paid to you in the ordinary course of business on or prior to the effective date of your termination of employment for the same performance year(s) (including, for the avoidance of doubt, the total amount paid to you pursuant to Section 3, whether due to ordinary course or accelerated vesting and payment, and excluding, for the avoidance of doubt, any amount associated with the 2022 Award (as defined below)); and (iv) in the case of a termination of employment by the Company without Cause that occurs after the Non-Renewal Notice is due (and such notice was not timely delivered) for the Initial Term or the Renewal Term, as applicable, and before the next Renewal Term commences, an additional amount equal to one-third of the sum of your Annual Salary, Target Bonus Amount, and Target Equity Amount for the next Retention Period (collectively clauses (i), (ii), (iii) and (iv), the "**Additional Severance Payments**"). Your entitlement to payment of the Additional Severance Payments will be (i) conditioned on your execution and non-revocation of the Company's standard form general release of claims against the Company within 60 days after your termination date (the "**Release Requirement**") and (ii) payable to you on the Company's first regular payroll date after your termination date, subject to your prior satisfaction of the Release Requirement. For the avoidance of doubt, the Additional Severance Payments are intended to be in addition to, and not in lieu of, any severance payments to which you are entitled under the terms of your Offer Letter, as amended by this Addendum, or pursuant to the Company's general policies and practices.

(c) If you cease to be actively employed in good standing with the Company prior to any Payment Date during the period of your employment with the Company other than in the circumstances described in Section 2(b) above, you will forfeit all rights to receive any remaining unpaid Retention Bonuses.

(d) For purposes of this Addendum and your rights to receive the Retention Bonuses and the Additional Severance Payments, (1) "**Cause**" means, (i) a material breach by you (other than a breach resulting from your incapacity due to death or a Disability) of your duties and responsibilities as set forth in Section 3(a) below, which breach is demonstrably willful and deliberate on your part, is committed in bad faith or without reasonable belief that such breach is in the best interests of the Company or the Company's affiliates and is not remedied in a reasonable period of time after receipt of written notice from the Company specifying such breach; or (ii) the indictment of you of a felony (other than vehicular-related), and (2) "**Disability**" means disability as defined under the Company's long-term disability plan (regardless of whether you are a participant under such plan) or if no such plan exists, your inability by reason of disability to perform your duties for 180 consecutive days.

3. **Offer Letter Amendments**.

(a) *Position and Duties.* Your Offer Letter provides that you will serve as the Company's General Counsel and Executive Vice President, reporting to the Chief Executive Officer. Since entering into your Offer Letter, your position has changed to Chief Legal Officer and Corporate Secretary. During the period of your employment with the Company, you will continue to serve as the Company's Chief Legal

Officer and Corporate Secretary, and you will have only the duties, authorities and responsibilities consistent with such position.

(b) *Annual Salary*. Your Annual Salary will continue to be paid in periodic installments in accordance with the Company's customary payroll practices and applicable wage payment laws. During the period of your employment with the Company, your "**Annual Salary**" will be (i) $425,000 for the Retention Period beginning March 16, 2023; (ii) $446,250 for the Retention Period beginning March 16, 2024; (iii) $468,562.50 for the Retention Period beginning March 16, 2025; and (iv) for each Retention Period thereafter, an amount equal to 105% of the Annual Salary for the immediately preceding Retention Period.

(c) *Annual Bonus.* Your annual bonus for each calendar year during the period of your employment with the Company will be paid no later than March 15 of the following calendar year, if you are actively employed on the payment date in the ordinary course, in the amount of your applicable Target Bonus Amount, and there will be no performance metrics applicable to your annual bonus. For purposes of this Addendum, "**Target Bonus Amount**" means (i) $318,750 for the Retention Period beginning March 16, 2023; (ii) $334,687.50 for the Retention Period beginning March 16, 2024; (iii) $351,421.88 for the Retention Period beginning March 16, 2025; and (iv) for each Retention Period thereafter, an amount equal to 105% of the Target Bonus Amount for the immediately preceding Retention Period.

(d) *Cash in Lieu of Annual Equity Grants.* In lieu of any future annual equity grants, your Target Equity Amount will be granted to you in the form of a cash award on March 15th of the applicable year during the period of your employment with the Company, rather than in the form of an equity award (each, a "**Cash Award**"). For purposes of this Addendum, "**Target Equity Amount**" means (i) $318,750 for the Retention Period beginning March 16, 2023; (ii) $334,687.50 for the Retention Period beginning March 16, 2024; (iii) $351,421.88 for the Retention Period beginning March 16, 2025; and (iv) for each Retention Period thereafter, an amount equal to 105% of the Target Equity Amount for the immediately preceding Retention Period. Each Cash Award will vest in the manner set forth below, subject to your active employment in good standing through the applicable vesting date. The vested portion of each Cash Award will be paid to you on the Company's first regular payroll date after the applicable vesting date. Notwithstanding the foregoing or anything in Section 2(c) to the contrary, if your employment is terminated by the Company without Cause (including due to death or Disability), by the Company through delivery of a Non-Renewal Notice or by you for Good Reason, (i) any Cash Awards scheduled to be granted during the Initial Term or Renewal Term, as applicable, will become immediately granted, vested and payable as of your termination date and (ii) the unvested portion of your outstanding Cash Awards will become vested and payable as of your termination date.

(1) <u>2022 Award</u>. Pursuant to the terms of the Original Addendum, in lieu of your 2022 annual equity grant, you were granted a Cash Award of $318,750 on March 15, 2023 (the "**2022 Award**"). For the avoidance of doubt, the 2022 Award will continue to vest in three equal annual installments measured from the grant date, subject to your active employment in good standing through the applicable vesting date.

(2) <u>Future Awards</u>. Beginning in 2024 and for each subsequent calendar year thereafter during the period of your employment with the Company, in lieu of all future annual equity grants, you will be granted a Cash Award with a value equal to the applicable Target Equity Amount on March 15 of the applicable year (each, a "**Future Award**"), subject to your continued active employment in good standing on the grant date. The Future Award will vest as to (i) 1/3rd of the award on the grant date and (ii) 2/3rds of the award will vest in equal annual installments on each anniversary from the grant date, subject to your active employment in good standing through such vesting date.

(e) *Lump Sum Payment of Severance; Definition of Good Reason.* In the event your employment is terminated by the Company without Cause (including due to your death or Disability), by the Company through delivery of a Non-Renewal Notice or by you for Good Reason, subject to your prior satisfaction of the Release Requirement, the severance payable under Section 5(a)(i)(A) and (B) of your Offer Letter will be payable to you in a single lump sum no later than the Company's first regular payroll date after your termination date. The definition of "Good Reason" in your Offer Letter is hereby amended and restated as follows: "'**Good Reason**' shall mean, without your written consent, (i) a reduction of your annual base salary from the rate in effect as of the date of this Addendum; (ii) your mandatory relocation to an office more than fifty (50) miles from the primary location at which you are required to perform your duties on the date of this Addendum; (iii) any action or inaction that constitutes a material breach of the terms of your Offer Letter, as amended by this Addendum, including (A) the failure of a successor company to assume or fulfill the obligations under your Offer Letter, as amended by this Addendum, (B) the assignment of duties or responsibilities inconsistent with your position as set forth in Section 3(a) above, provided, that, if applicable, assignment of other duties or responsibilities will not constitute a material breach if such other duties are reasonable, taking into account the size, composition and value of the Company's portfolio at such time, the intended plan for such portfolio, and if applicable, the winding down of the Company's business pursuant to its plan of sale, and (C) the failure to pay amounts due pursuant to the terms hereof; or (iv) a material reduction in your duties or adverse change in title, other than, if applicable, the reduction in your duties associated with winding down of the Company's business pursuant to its plan of sale." The same notice and cure provisions set forth in your Offer Letter will continue to apply.

(f) *Acceleration of Equity Awards.* Notwithstanding anything to the contrary in your Offer Letter or an applicable equity award agreement, in the event your employment is terminated by the Company without Cause (including due to death or Disability), by the Company through delivery of a Non-Renewal Notice or by you for Good Reason, all of your outstanding unvested equity awards will vest, effective as of the effective date of your termination of employment; provided, that for any performance-based unvested equity awards, such awards will vest on a prorated basis (based on the portion of the performance period that has lapsed as of the effective date of your termination of employment) with performance measured as of the effective date of your termination of employment.

4. Miscellaneous.

(a) The Retention Bonuses, Additional Severance Payments and any other compensatory payments set forth in this Addendum will be subject to the withholding of any taxes required to be withheld under applicable federal, state and local law. You will not have any right to transfer, assign, pledge, alienate or create a lien on the Retention Bonuses or Additional Severance Payments, and the right to the Retention Bonuses and the Additional Severance Payments is not assignable by you. The Retention Bonuses and Additional Severance Payments are unfunded and unsecured and are payable out of the general funds of the Company. Nothing in this Addendum is intended to suggest any guaranteed period of continued service and your service to the Company will at all times continue to be terminable by you or the Company at-will. The Retention Bonuses and any Additional Severance Payments payable pursuant to this Addendum are intended to be exempt from Section 409A of the Internal Revenue Code of 1986, as amended, and this Addendum will be construed and administered consistent with that intent.

(b) This Addendum shall be considered an amendment to your Offer Letter, and shall supersede any prior addendum thereto (including, without limitation, the Original Addendum), pursuant to the terms thereof. All other terms and conditions set forth in the Offer Letter, except as specifically modified by this Addendum, shall continue in full force and effect.

(c) This Addendum shall be binding whether it is between the Company and you or between any such successor and you.

(d) Except to the extent that the information contained in the Addendum is required to be publicly disclosed under the applicable rules and regulation of the Securities and Exchange Commission, the amount of the Retention Bonuses and Additional Severance Payments for which you are eligible is confidential and should not be discussed with anyone (including co-workers).

(e) This Addendum constitutes the entire agreement between the parties hereto, and supersedes all prior representations, agreements, and understandings (including any prior course of dealings), both written and oral, between the parties hereto with respect to any retention bonus or changes to the Company's cash bonus program, annual equity grant program and severance entitlements.

(f) This Addendum may be executed via PDF or facsimile and in any number of counterparts, each of which shall be deemed an original, but all such counterparts shall together constitute one and the same instrument.

[Signature Page Follows]

We look forward to your continued contributions to the success of the Company. Please acknowledge your acceptance of the terms of this Addendum and return it to the Company as soon as possible.

Sincerely,

Seritage Growth Properties

By:
Name: Andrea Olshan
Title: CEO & President

Acknowledged and agreed:

Matthew Fernand

Date:

[Signature Page To Amended and Restated Employment Offer Letter Addendum]

Exhibit 31.1

CERTIFICATION

I, Andrea Olshan, certify that:

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

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

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

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

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

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

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

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

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

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

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

/s/ Andrea Olshan

Date: November 8, 2023

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

Exhibit 31.2

CERTIFICATION

I, John Garilli, certify that:

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

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

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

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

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

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

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

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

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

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

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

/s/ John Garilli

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

Date: November 8, 2023

Exhibit 32.1

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

In connection with the Quarterly Report of Seritage Growth Properties, a Maryland real estate investment trust (the "Company"), on Form 10-Q for the quarter ended September 30, 2023 as filed with the Securities and Exchange Commission (the "Report"), I, Andrea Olshan, President and Chief Executive Officer of the Company, certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to the best of my knowledge:

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

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

/s/ Andrea Olshan

Andrea Olshan
President and Chief Executive Officer
(Principal Executive Officer)
November 8, 2023

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

Exhibit 32.2

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

In connection with the Quarterly Report of Seritage Growth Properties, a Maryland real estate investment trust (the “Company”), on Form 10-Q for the quarter ended September 30, 2023 as filed with the Securities and Exchange Commission (the “Report”), I, John Garilli, Interim Chief Financial Officer of the Company, certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to the best of my knowledge:

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

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

/s/ John Garilli

John Garilli
Interim Chief Financial Officer
(Principal Financial and Accounting Officer)
November 8, 2023

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