AGREE REALTY CORP
Form 8-K
September 25, 2012

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the

Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **September 25, 2012**

AGREE REALTY CORPORATION

(Exact name of registrant specified in its charter)

Maryland	**1-12928**	**38-3148187**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

31850 Northwestern Highway

Farmington Hills, MI 48334

(Address of principal executive offices, zip code)

Registrant’s telephone number, including area code: **(248) 737-4190**

Not applicable

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

¨ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

¨ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

¨ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

¨ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

ITEM 8.01. OTHER EVENTS

Discontinued Operations

Agree Realty Corporation (the "Company") is re-issuing the historical financial statements included in its Annual Report on Form 10-K for the year ended December 31, 2011 (the "2011 Form 10-K") to reflect as discontinued operations additional entities that were presented as discontinued operations during the six months ended June 30, 2012 in accordance with Financial Accounting Standards Board ("FASB") Accounting Standards Codification (ASC) 205-20, Discontinued Operations. During the six months ended June 30, 2012, the Company sold three non-core properties and conveyed four properties to the lender pursuant to a consensual deed-in-lieu-of-foreclosure process that satisfied the loans, each of which qualifies as discontinued operations. In compliance with ASC 205-20, the Company has reported revenue, expenses and net gains from the sale of these properties as discontinued operations for each period presented in its Quarterly Report on Form 10-Q for the quarter ended June 30, 2012 filed with the Securities and Exchange Commission ("SEC") on August 3, 2012. Under SEC requirements, the same reclassification as discontinued operations required by ASC 205-20 following the sale of a property is required for previously issued annual financial statements for each of the three years shown in the Company's last annual report on Form 10-K, if those financials are incorporated by reference in subsequent filings with the SEC made under the Securities Act of 1933, as amended, even though those financial statements relate to periods prior to the date of the sale.

This reclassification has no effect on the Company's previously reported net income (loss) attributable to Company stockholders or funds from operations. As a result of the changes discussed above, this Current Report on Form 8-K updates the following information in Items 6, 7, 8 and 15 (Exhibit 12 only) of the 2011 Form 10-K:

- Selected Financial Data included in Item 6 of the 2011 Form 10-K
- Management's Discussion and Analysis of Financial Condition and Results of Operations included in Item 7 of the 2011 Form 10-K
- Financial Statements and Supplementary Data included in Item 8 of the 2011 Form 10-K
- Exhibit 12 included in Item 15 of the 2011 Form 10-K

No attempt has been made to update matters in the 2011 Form 10-K for any other activities or events occurring after the original filing date except to the extent expressly provided herein. The information in this Current Report on Form 8-K should be read in conjunction with the portions of the 2011 Form 10-K not subject to the updates described herein and the Company's filings made with the SEC subsequent to the filing of the 2011 Form 10-K, including the

Company's Quarterly Report on Form 10-Q for the quarters ended March 31, 2012 and June 30, 2012, and the Company's Current Reports on Form 8-K.

Recent Acquisitions

In connection with its filing on or about the date hereof of a Registration Statement on Form S-3, the Company is also filing this Current Report on Form 8-K to present certain additional disclosures to be incorporated by reference therein, including disclosures relating to:

- historical financial statements related to certain of the Company’s completed acquisitions in 2011 and 2012; and
- unaudited pro forma financial information regarding the Company’s completed acquisitions for purposes of Regulation S-X.

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ITEM 9.01. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial Statements Under Rule 3-14 of Regulation S-X

(b) Unaudited Pro Forma Condensed Consolidated Financial Information

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(c) **Exhibits**

Exhibit No.	Description
12.1	Statement of computation of ratios of earnings to combined fixed charges and preferred stock dividends
23.1	Consent of Baker Tilly Virchow Krause, LLP
99.1	Form 10-K, Item 6. Selected Financial Data Form 10-K, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations Form 10-K, Item 8. Financial Statements and Supplementary Data
100	The following materials from Agree Realty Corporation’s Current Report on Form 8-K updating its Annual Report on Form 10-K for the year ended December 31, 2011 formatted in XBRL (eXtensible Business Reporting Language): (i) the Consolidated Balance Sheets, (ii) the Consolidated Statements of Income, (iii) the Consolidated Statement of Stockholders’ Equity, (iv) the Consolidated Statements of Cash Flows, and (v) related notes to these consolidated financial statements, tagged as blocks of text As provided in Rule 406T of Regulation S-T, this information is furnished and not filed for purposes of Sections 11 and 12 of the Securities Act of 1933 and Section 18 of the Securities Exchange Act of 1934

Report of Independent Registered Public Accounting Firm

To the Shareholders, Audit Committee and Board of Directors

Agree Realty Corporation

Farmington Hills, MI

We have audited the accompanying statement of revenue and certain expenses (the “Statement”) of the Portland, Oregon Property (the “Property”) for the year ended December 31, 2011. This Statement is the responsibility of management. Our responsibility is to express an opinion on this Statement based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the Statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the Statement. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Statement was prepared for the purpose of complying with the rules and regulations of the Securities and Exchange Commission (for inclusion on Form 8-K of Agree Realty Corporation), as described in note 2 and is not intended to be a complete presentation of the Property’s revenue and expenses.

In our opinion, the Statement referred to above presents fairly, in all material respects, the revenue and certain expenses, as described in note 2, of the Property for the year ended December 31, 2011 in conformity with accounting principles generally accepted in the United States of America.

/s/ Baker Tilly Virchow Krause, LLP

Chicago, Illinois
September 25, 2012

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Portland, Oregon Property

Statements of Revenue and Certain Expenses

(Dollars in thousands)

	Period from January 1, 2012 to May 17, 2012 (Unaudited)	Year ended December 31, 2011
Revenue		
Rental revenue	$ 403	$ 1,062
Total revenue	403	1,062
Certain expenses		
Interest expense	188	506
Certain expenses	188	506
Revenue in excess of certain expenses	$ 215	$ 556

The accompanying notes are an integral part to the statements of revenue and certain expenses.

Portland, Oregon Property

Notes to Statements of Revenue and Certain Expenses

December 31, 2011

(Dollars in thousands)

(1) Organization

The Portland, Oregon Property (the “Property”) is a single tenant retail property located in Portland, Oregon. The accompanying statements of revenue and certain expenses (“Statements”) relate to the operations of the Property.

On May 18, 2012, the Property was acquired by Agree Portland OR LLC, a single member limited liability company wholly owned by Agree Limited Partnership, an entity consolidated by Agree Realty Corporation. Prior to May 18, 2012, the Property was owned by an unaffiliated third party.

(2) Significant Accounting Policies

(a) Basis of Presentation

The accompanying Statements have been prepared for the purpose of complying with Rule 3-14 of Regulation S-X promulgated under the Securities Act of 1933, as amended, and accordingly, are not representative of the actual results of operations of the Property, due to the exclusion of the following revenue and expenses which may not be comparable to the proposed future operations of the Property:

· Depreciation and amortization

· Interest income

- Amortization of above and below market leases

- Other miscellaneous revenue and expenses not directly related to the proposed future operations of the Property.

(b) Revenue Recognition

Rental revenue is recognized on a straight-line basis over the term of the non-cancelable portion of the related leases. Differences between rental revenue earned and amounts due under the lease is charged or credited, as applicable, to accrued rental revenue. The impact of the straight-line rent adjustment increased revenue by approximately $40 for the period from January 1, 2012 to May 17, 2012 (unaudited) and increased revenue by approximately $105 for the year ended December 31, 2011. The tenant makes payments for certain expenses and costs, which have been assumed by the tenant under the terms of their respective lease, and are not reflected in the Statements.

(c) Use of Estimates

Management has made a number of estimates and assumptions relating to the reporting and disclosure of revenue and certain expenses during the reporting period to prepare the Statements in conformity with accounting principles generally accepted in the United States of America. Actual results could differ from those estimates.

Portland, Oregon Property

Notes to Statements of Revenue and Certain Expenses

December 31, 2011

(Dollars in thousands)

(d) Unaudited Interim Statement

The statement of revenue and certain expenses for the period from January 1, 2012 to May 17, 2012 is unaudited. In the opinion of management, the statement reflects all adjustments necessary for a fair presentation of the results of the interim period. All such adjustments are of normal recurring nature.

(3) Mortgage Payable

The Property is subject to a non-recourse mortgage loan in the original amount of $11,100. The loan carries a 5.075% interest rate and is payable in monthly installments of $60 with a balloon payment of $9,168 due on the maturity date on June 1, 2014, and is collateralized by related real estate and tenant lease.

The following table presents scheduled principal payments on mortgages as of December 31, 2011:

Year ending December 31,	(In thousands)
2012	$ 224
2013	237
2014	9,271
Total	$ 9,732

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Portland, Oregon Property

Notes to Statements of Revenue and Certain Expenses

December 31, 2011

(Dollars in thousands)

(4) Description of Leasing Arrangements

The Property is leased to one tenant under a non-cancelable operating lease which has an expiration date of September 30, 2029.

Future minimum base rentals over the next five years and in the aggregate on the non-cancelable operating lease at December 31, 2011 are as follows:

2012	$957
2013	957
2014	981
2015	1,053
2016	1,053
Thereafter	15,054
Total	$20,055

The above future minimum lease payments exclude tenant recoveries, amortization of accrued rental revenue and above/below-market lease intangibles.

(5) Commitments and Contingencies

The Property is subject to legal claims and disputes in the ordinary course of business. Management believes that the ultimate settlement of any existing potential claims and disputes would not have a material impact on the Property’s revenue and certain operating expenses.

(6) Subsequent Events

Management has evaluated the events and transactions that have occurred through September 25, 2012, the date which the Statements were available to be issued, and noted no items requiring adjustment of the Statements or additional disclosure.

Report of Independent Registered Public Accounting Firm

To the Shareholders, Audit Committee and Board of Directors

Agree Realty Corporation

Farmington Hills, MI

We have audited the accompanying statement of revenue and certain expenses (the “Statement”) of the Tri-State Properties (the “Properties”) for the year ended December 31, 2011. This Statement is the responsibility of management. Our responsibility is to express an opinion on this Statement based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the Statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the Statement. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Statement was prepared for the purpose of complying with the rules and regulations of the Securities and Exchange Commission (for inclusion on Form 8-K of Agree Realty Corporation), as described in note 2 and is not intended to be a complete presentation of the Properties’ revenue and expenses.

In our opinion, the Statement referred to above presents fairly, in all material respects, the revenue and certain expenses, as described in note 2, of the Properties for the year ended December 31, 2011 in conformity with accounting principles generally accepted in the United States of America.

/s/ Baker Tilly Virchow Krause, LLP

Chicago, Illinois
September 25, 2012

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Tri-State Properties

Statements of Revenue and Certain Expenses

(Dollars in thousands)

	Period from January 1, 2012 to July 18, 2012 (Unaudited)		Year ended December 31, 2011	
Revenue				
Rental revenue	$	617	$	1,122
Total revenue		617		1122
Certain expenses				
Interest expense		310		563
Certain expenses		310		563
Revenue in excess of certain expenses	$	307	$	559

The accompanying notes are an integral part to the statements of revenue and certain expenses.

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Tri-State Properties

Notes to Statements of Revenue and Certain Expenses

December 31, 2011

(Dollars in thousands)

(1) Organization

The Tri-State Properties (the “Properties”), are three single tenant retail properties located in Clifton Heights, Pennsylvania, Newark, Delaware and Vineland, New Jersey. The accompanying statements of revenue and certain expenses (“Statements”) relate to the operations of the Properties.

On July 19, 2012, the Properties were acquired by Agree Tri-State Lease, LLC, a single member limited liability company wholly owned by Agree Limited Partnership, an entity consolidated by Agree Realty Corporation. Prior to July 19, 2012, the Properties were owned by an unaffiliated third party.

(2) Significant Accounting Policies

(a) Basis of Presentation

The accompanying Statements have been prepared for the purpose of complying with Rule 3-14 of Regulation S-X promulgated under the Securities Act of 1933, as amended, and accordingly, are not representative of the actual results of operations of the Properties, due to the exclusion of the following revenue and expenses which may not be comparable to the proposed future operations of the Properties:

- Depreciation and amortization

- Interest income and expense

- Amortization of above and below market leases

- Other miscellaneous revenue and expenses not directly related to the proposed future operations of the Properties.

(b) Revenue Recognition

Rental revenue is recognized on a straight-line basis over the term of the non-cancelable portion of the related leases. Differences between rental revenue earned and amounts due under the lease is charged or credited, as applicable, to accrued rental revenue. The tenant makes payments for certain expenses and costs, which have been assumed by the tenant under the terms of their respective lease, and are not reflected in the Statements.

(c) Use of Estimates

Management has made a number of estimates and assumptions relating to the reporting and disclosure of revenue and certain expenses during the reporting period to prepare the Statements in conformity with accounting principles generally accepted in the United States of America. Actual results could differ from those estimates.

Tri-State Properties

Notes to Statements of Revenue and Certain Expenses

December 31, 2011

(Dollars in thousands)

(d) Unaudited Interim Statement

The statement of revenue and certain expenses for the period from January 1, 2012 to July 18, 2012 is unaudited. In the opinion of management, the statement reflects all adjustments necessary for a fair presentation of the results of the interim period. All such adjustments are of normal recurring nature.

(3) Mortgage Payable

The Properties are subject to a non-recourse mortgage loan in the original amount of $8,580. The loan carries a 6.56% interest rate payable monthly with a balloon payment of $8,580 due on the maturity date on June 11, 2016 and is collateralized by related real estate and related tenant lease.

(4) Description of Leasing Arrangements

The Properties are leased to one tenant under a non-cancelable operating lease which has an expiration date of December 31, 2021.

Future minimum base rentals over the next five years and in the aggregate on the non-cancelable operating lease at December 31, 2011 are as follows:

2012	$1,122
2013	1,122
2014	1,122
2015	1,122

2016	1,122
Thereafter	5,610
Total	$11,220

The above future minimum lease payments exclude tenant recoveries, amortization of accrued rental revenue and above/below-market lease intangibles.

(5) Commitments and Contingencies

The Properties are subject to legal claims and disputes in the ordinary course of business. Management believes that the ultimate settlement of any existing potential claims and disputes would not have a material impact on the Property's revenue and certain operating expenses.

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(6) Subsequent Events

Management has evaluated the events and transactions that have occurred through September 25, 2012, the date which the Statements were available to be issued, and noted no items requiring adjustment of the Statements or additional disclosure.

Report of Independent Registered Public Accounting Firm

To the Shareholders, Audit Committee and Board of Directors

Agree Realty Corporation

Farmington Hills, MI

We have audited the accompanying statement of revenue and certain expenses (the “Statement”) of the Roseville, California Property (the “Property”) for the year ended December 31, 2010. This Statement is the responsibility of management. Our responsibility is to express an opinion on this Statement based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the Statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the Statement. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Statement was prepared for the purpose of complying with the rules and regulations of the Securities and Exchange Commission (for inclusion on Form 8-K of Agree Realty Corporation), as described in note 2 and is not intended to be a complete presentation of the Property’s revenue and expenses.

In our opinion, the Statement referred to above presents fairly, in all material respects, the revenue and certain expenses, as described in note 2, of the Property for the year ended December 31, 2010 in conformity with accounting principles generally accepted in the United States of America.

/s/ Baker Tilly Virchow Krause, LLP

Chicago, Illinois
September 25, 2012

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Roseville, California Property

Statements of Revenue and Certain Expenses

(Dollars in thousands)

	Period from January 1, 2011 to August 29, 2011 (Unaudited)	Year ended December 31, 2010
Revenue		
Rental revenue	$ 481	$ 722
Total revenue	481	722
Certain expenses		
Revenue in excess of certain expenses	$ 481	$ 722

The accompanying notes are an integral part to the statements of revenue and certain expenses.

Roseville, California Property

Notes to Statements of Revenue and Certain Expenses

December 31, 2010

(Dollars in thousands)

(1) Organization

The Roseville, California Property (the “Property”) is a single tenant retail property located in Roseville, California. The accompanying statements of revenue and certain expenses (“Statements”) relate to the operations of the Property.

On August 30, 2011, the Property was acquired by Agree Roseville CA, LLC, a single member limited liability company wholly owned by Agree Limited Partnership, an entity consolidated by Agree Realty Corporation. Prior to August 30, 2011, the Property was owned by an unaffiliated third party.

(2) Significant Accounting Policies

(a) Basis of Presentation

The accompanying Statements have been prepared for the purpose of complying with Rule 3-14 of Regulation S-X promulgated under the Securities Act of 1933, as amended, and accordingly, are not representative of the actual results of operations of the Property, due to the exclusion of the following revenue and expenses which may not be comparable to the proposed future operations of the Property:

- Depreciation and amortization

- Interest income and expense

- Amortization of above and below market leases

- Other miscellaneous revenue and expenses not directly related to the proposed future operations of the Property.

(b) Revenue Recognition

Rental revenue is recognized on a straight-line basis over the term of the non-cancelable portion of the related leases. Differences between rental revenue earned and amounts due under the lease is charged or credited, as applicable, to accrued rental revenue. The impact of the straight-line rent adjustment increased revenue by approximately $40 and $59 for the period January 1, 2011 to August 29, 2011 (unaudited) and the year ended December 31, 2010, respectively. The tenant makes payments for certain expenses and costs, which have been assumed by the tenant under the terms of their respective lease, and are not reflected in the Statements.

(c) Use of Estimates

Management has made a number of estimates and assumptions relating to the reporting and disclosure of revenue and certain expenses during the reporting periods to prepare the Statements in conformity with accounting principles generally accepted in the United States of America. Actual results could differ from those estimates.

Roseville, California Property

Notes to Statements of Revenue and Certain Expenses

December 31, 2010

(Dollars in thousands)

(d) Unaudited Interim Statement

The statement of revenue and certain expenses for the period January 1, 2011 to August 29, 2011 is unaudited. In the opinion of management, the statement reflects all adjustments necessary for a fair presentation of the results of the interim period. All such adjustments are of normal recurring nature.

(3) Description of Leasing Arrangements

The Property is leased to one tenant under a non-cancelable operating lease which has an expiration date of June 30, 2029.

Future minimum base rentals over the next five years and in the aggregate on the non-cancelable operating lease at December 31, 2010 are as follows:

2011	$663
2012	663
2013	663
2014	663
2015	663
Thereafter	10,328
Total	$13,643

The above future minimum lease payments exclude tenant recoveries, amortization of accrued rental revenue and above/below-market lease intangibles.

(4) Commitments and Contingencies

The Property is subject to legal claims and disputes in the ordinary course of business. Management believes that the ultimate settlement of any existing potential claims and disputes would not have a material impact on the Property's revenue and certain operating expenses.

(5) Subsequent Events

Management has evaluated the events and transactions that have occurred through September 25, 2012, the date which the Statements were available to be issued, and noted no items requiring adjustment of the Statements or additional disclosure.

Report of Independent Registered Public Accounting Firm

To the Shareholders, Audit Committee and Board of Directors

Agree Realty Corporation

Farmington Hills, MI

We have audited the accompanying statement of revenue and certain expenses (the “Statement”) of the Salt Lake Property (the “Property”) for the year ended December 31, 2010. This Statement is the responsibility of management. Our responsibility is to express an opinion on this Statement based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the Statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the Statement. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Statement was prepared for the purpose of complying with the rules and regulations of the Securities and Exchange Commission (for inclusion on Form 8-K of Agree Realty Corporation), as described in note 2 and is not intended to be a complete presentation of the Property’s revenue and expenses.

In our opinion, the Statement referred to above presents fairly, in all material respects, the revenue and certain expenses, as described in note 2, of the Property for the year ended December 31, 2010 in conformity with accounting principles generally accepted in the United States of America.

/s/ Baker Tilly Virchow Krause, LLP

Chicago, Illinois
September 25, 2012

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Salt Lake Property

Statements of Revenue and Certain Expenses

(Dollars in thousands)

	Period from January 1, 2011 to October 13, 2011 (Unaudited)	Year ended December 31, 2010
Revenue		
Rental revenue	$ 582	$ 743
Total revenue	582	743
Certain expenses		
Revenue in excess of certain expenses	$ 582	$ 743

The accompanying notes are an integral part to the statements of revenue and certain expenses.

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Salt Lake Property

Notes to Statements of Revenue and Certain Expenses

December 31, 2010

(Dollars in thousands)

(1) Organization

The Salt Lake Property (the "Property"), consists of a single tenant retail building located in Salt Lake City, Utah. The accompanying statements of revenue and certain expenses ("Statements") relate to the operations of the Property.

On October 14, 2011, the Property was acquired by Agree Limited Partnership, a majority-owned partnership, and an entity consolidated by Agree Realty Corporation. Prior to October 14, 2011, the Property was owned by an unaffiliated third party.

(2) Significant Accounting Policies

(a) Basis of Presentation

The accompanying Statements have been prepared for the purpose of complying with Rule 3-14 of Regulation S-X promulgated under the Securities Act of 1933, as amended, and accordingly, are not representative of the actual results of operations of the Property, due to the exclusion of the following revenue and expenses which may not be comparable to the proposed future operations of the Property:

· Depreciation and amortization

· Interest income and expense

- Amortization of above and below market leases

- Other miscellaneous revenue and expenses not directly related to the proposed future operations of the Property.

(b) Revenue Recognition

Rental revenue is recognized on a straight-line basis over the term of the non-cancelable portion of the related leases. Differences between rental revenue earned and amounts due under the lease is charged or credited, as applicable, to accrued rental revenue. The impact of the straight-line rent adjustment increased revenue by approximately $77 for the period from January 1, 2011 to October 13, 2011 (unaudited) and increased revenue by approximately $98 for the year ended December 31, 2010. The tenant makes payments for certain expenses and costs, which have been assumed by the tenant under the terms of their respective lease, and are not reflected in the Statements.

(c) Use of Estimates

Management has made a number of estimates and assumptions relating to the reporting and disclosure of revenue and certain expenses during the reporting periods to prepare the Statements in conformity with accounting principles generally accepted in the United States of America. Actual results could differ from those estimates.