

DUKE REALTY CORP  
Form 8-K  
May 07, 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): May 7, 2012

**DUKE REALTY CORPORATION**

(Exact name of registrant as specified in its charter)

**Indiana**  
(State of

Incorporation)

**1-9044**  
(Commission

File Number)

**600 East 96th Street**

**Suite 100**

**Indianapolis, IN 46240**

(Address of principal executive offices, zip code)

**35-1740409**  
(IRS Employer

Identification No.)

Registrant's telephone number, including area code: **(317) 808-6000**

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:

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- .. 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 1.01. Entry into a Material Definitive Agreement.**

On May 7, 2012, Duke Realty Corporation, an Indiana corporation (the Company), and Duke Realty Limited Partnership, an Indiana limited partnership (the Operating Partnership), of which the Company is the sole general partner, entered into an Equity Distribution Agreement (the Equity Distribution Agreement) with Morgan Stanley & Co. LLC, UBS Securities LLC, J.P. Morgan Securities LLC and Credit Suisse Securities (USA) LLC, as sales agents and/or principals (the Agents). Under the terms of the Equity Distribution Agreement, the Company may sell shares of its common stock, \$0.01 par value per share, from time to time, to or through the Agents, up to an aggregate offering price of \$200,000,000. Sales of the shares, if any, will be made by means of ordinary brokers' transactions at prevailing market prices at the time of sale, or as otherwise agreed with the applicable Agent. The Company will pay each Agent compensation for sales of the shares equal to 2% of the gross sales price per share of shares sold through such Agent, as sales agent, under the Equity Distribution Agreement.

The Company intends to use the net proceeds from any sales of shares of common stock resulting from this offering to reduce outstanding indebtedness and for other general corporate purposes. The Company has not yet determined which of our outstanding indebtedness will be repaid with the proceeds of this offering.

The Company is not obligated to sell, and the Agents are not obligated to buy or sell, any shares under the Equity Distribution Agreement. No assurance can be given that the Company will sell any shares under the Equity Distribution Agreement, or, if it does, as to the price or amount of shares that it sells, or the dates when such sales will take place.

The shares will be offered pursuant to the Company's shelf registration statement on Form S-3 (Registration No. 333-181030), which became effective upon filing with the Securities and Exchange Commission (the Commission) on April 30, 2012 (the Registration Statement).

Pursuant to General Instruction F to the Commission's Form 8-K, a copy of the Equity Distribution Agreement is filed as Exhibit 1.1 to this Current Report on Form 8-K (the Report), and the information in the Equity Distribution is incorporated into this Item 1.01 by this reference. The foregoing description of the Equity Distribution Agreement and the transactions contemplated thereby does not purport to be complete and is qualified in its entirety by reference to Exhibit 1.1.

**Item 9.01. Financial Statements and Exhibits.**

The Equity Distribution Agreement listed below and filed as Exhibit 1.1 to this Report, as well as the other materials that are being filed as exhibits to this Report, are being filed pursuant to Item 601 of the Commission's Regulation S-K in lieu of filing the otherwise required exhibits to the Registration Statement. This Form 8-K is incorporated by reference into the Registration Statement, and, as such, the Company is filing the Equity Distribution Agreement and the other exhibits to this Report to cause them to be incorporated by reference into the Registration Statement as exhibits thereto. By filing this Report, and the exhibits hereto, however, the Company does not believe that any of the information set forth herein or in the exhibits hereto represent, either individually or in the aggregate, a fundamental change (as such term is used in Item 512(a)(1)(ii) of the Commission's Regulation S-K) in the information set forth in, and incorporated by reference into, the Registration Statement.

**Exhibit**

| <b>Number</b> | <b>Description</b>   |
|---------------|--|
| 1.1           | Equity Distribution Agreement, dated May 7, 2012, by and among the Company, the Operating Partnership, Morgan Stanley & Co. LLC, UBS Securities LLC, J.P. Morgan Securities LLC and Credit Suisse (USA) LLC. |
| 5.1           | Legality Opinion of Alston & Bird LLP.   |
| 8.1           | Tax Opinion of Alston & Bird LLP.  |
| 23.1          | Consent of Alston & Bird LLP (included in Exhibit 5.1).  |
| 23.2          | Consent of Alston & Bird LLP (included in Exhibit 8.1).  |
| 99.1          | Other Expenses of Issuance and Distribution (as required by Item 14 of Part II of Form S-3).   |

**SIGNATURES**

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

**DUKE REALTY CORPORATION**

By: /s/ Howard L. Feinsand  
Howard L. Feinsand  
Executive Vice President, General Counsel and

Corporate Secretary

Dated: May 7, 2012

**Exhibit Index**

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