

P01000105320

STEVEN M. AUERBACHER, P.A.
ATTORNEY AT LAW
Bar Member: Florida, New York & D.C.

150 East Palmetto Park Road, Suite 410
Boca Raton, FL 33432
Tel: (561) 394-9311
Fax: (561) 347-1845

October 26, 2001

FILED
01 OCT 29 PM 2:43
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Via Federal Express

Department of State
Division of Corporations
409 E. Gains Street
Tallahassee, FL 32301

Attention: Filing Department

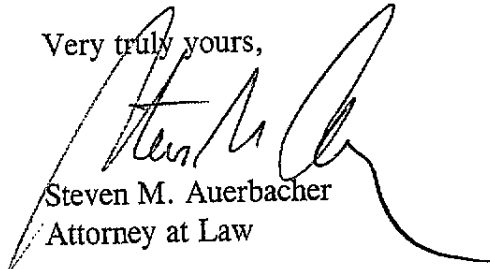
Enclosed please find Articles of Incorporation of MALTS OF PALM BEACH, INC., along with a check in the amount of \$78.75, which includes \$8.75 for a certified copy to be returned to me at the following address:

c/o Steven M. Auerbacher, PA
150 E. Palmetto Park Road, Suite 410
Boca Raton, Florida 33432
(561) 394-9311

500004656955--9
-10/29/01--01051--012
*****78.75 *****78.75

If you have any questions, please feel free to contact me.

Very truly yours,



Steven M. Auerbacher
Attorney at Law

SMA/lh
Encls.

B. BROWN OCT 31 2001

ARTICLES OF INCORPORATION

OF

MALTS OF PALM BEACH, INC.

FILED
01 OCT 29 PM 2:43
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

THE UNDERSIGNED, acting as the incorporators of a corporation under the Florida Corporation Act, Chapter 607 of the Florida Statutes, adopt the following Articles of Incorporation for such corporation:

ARTICLE I

The name of this corporation is: MALTS OF PALM BEACH, INC.

ARTICLE II

The purpose or purposes for which this corporation is organized are:

- a. To act and operate as a restaurant franchisee;
- b. To acquire by purchase, exchange, gift, bequest, subscription or otherwise, and to hold, own, lease, mortgage, pledge, hypothecate, sell, assign, transfer, exchange or otherwise dispose of or deal in or with real estate, franchises, and its own corporate securities or stock or other securities, including without limitations, any shares of stock, bonds, debentures, notes, mortgages, or other instruments representing rights or interests therein or any property or assets, real or personal, created, sold, distributed, or issued by any person, firm, association or corporation, or any government or subdivisions, agencies or instrumentalities thereof; to make payment therefor in any lawful manner or to issue in exchange therefor its own securities or to use its unrestricted or unreserved earned surplus for the purchase of its own shares, and to exercise as owner or holder of any real estate, franchises or securities, any and all rights, powers and privileges in respect thereof.
- c. To do each and every thing necessary, suitable or proper for the accomplishment of any of the purposes or the attainment of any one or more of the subjects herein enumerated, or which may at any time appear conducive to or expedient for protection or benefit of this corporation, and to do said acts as fully and to the same extent as natural persons might, or could do, in any part of the world as principals, agents, partners, trustees, or otherwise, either alone or in conjunction with any other person, association or corporation.
- d. The foregoing clauses shall be construed both as purposes and powers, and shall not be held to limit or restrict in any manner the general powers of the corporation, and the enjoyment and exercise thereof, as conferred by the laws of the State of Florida; and it is the intention that the purposes and

powers specified in each of the paragraphs of this Article II shall be regarded as independent purposes and powers.

e. To such extent as a corporation organized under the Florida Business Corporation Act may now or hereafter lawfully do, to do, either as principal or agent and either alone or in connection with other corporations, firms, or individuals, all and everything necessary, suitable, convenient, or proper for, or in connection with, or incident to, the accomplishment of any of the purposes or the attainment of any one or more of the objects herein enumerated, or designed directly or indirectly to promote the interests of this Corporation or to enhance the value of its properties; and in general to do any and all things and exercise any and all powers, rights, and privileges which a corporation may now or hereafter be organized to do or to exercise under the Florida Business Corporation Act or under any act amendatory thereof, supplemental thereto, or substituted therefor.

ARTICLE III - STOCK

The aggregate number of shares which this corporation shall have authority to issue is 1,000 shares of common voting stock at \$1.00 per value per share. Fully paid stock of this corporation shall not be liable to any further call or assessment. The sum of the par value of all shares of capital stock of the corporation that have been issued shall be the stated capital of the corporation at any particular time. To the extent consideration in excess of the par value of such shares, if any, is received for such shares, such excess consideration shall constitute capital surplus.

ARTICLE IV - AMENDMENT

These Articles of Incorporation may be amended, altered, changed or repealed by the affirmative vote of a majority of the stock issued and outstanding, at a Shareholders meeting called for that purpose, pursuant to and in accordance with the Corporation's By-Laws.

ARTICLE V - SHAREHOLDER RIGHTS

Shareholders of the corporation shall have pre-emptive rights to acquire their pro rate share of stock of the corporation for all issues of any class of stock of the corporation, no matter when authorized, and for whatever consideration is contemplated to be received by the corporation, including but not limited to cash, other property, services, the acquisition of other corporations' shares or property, through merger or the extinguishment of debts. Pre-emptive rights shall also apply to the reissuance of all redeemed or otherwise acquired shares, including the reissuance of treasury shares.

This Article V pertaining to pre-emptive rights may not be amended or deleted without the unanimous

vote of the Shareholders of each affected class, and no issuance of stock of the corporation shall take place unless the price at which the stock is to be issued shall be approved by a majority of the Shareholders of the corporation.

**ARTICLE VI - LIMITATION ON TRANSFER OF STOCK
OFFER OF FIRST REFUSAL TO OTHER SHAREHOLDERS**

No stock in the Corporation shall be transferred to a person who is not already a stockholder unless the stock shall have been first offered by a writing for sale to each of the other stockholders of the Corporation at the same price and on the same terms as would govern upon a transfer to a person not a stockholder. The writing shall set forth the price and terms and shall be sent by registered mail to each stockholder at the address listed on the Corporation's books. The right to transfer the stock to a person not a stockholder shall not exist until all existing stockholders refuse the offer made as provided above or until they fail for a period of thirty (30) days after receipt of the written offer to accept the same by compliance with the terms therein set forth. Regulations as to the formalities and procedure to be followed in effecting the transfer shall be prescribed in the bylaws of the Corporation or by separate shareholder agreement.

ARTICLE VII - INITIAL OFFICE AND AGENT

The street address of this corporation's principal office is: 11779 Preservation Lane, Boca Raton, FL 33498. The street address of this corporation's initial registered office in Florida is: 150 East Palmetto Park Road, Suite 410, Boca Raton, Florida 33432, and the name of the initial registered agent of this corporation at that address is: Steven M. Auerbacher, PA.

ARTICLE VIII - DIRECTORS

The number of directors of the corporation from time to time shall be set forth in the By-Laws. The number of directors constituting the initial Board of Directors of this corporation is Two (2). The name and address of the persons to serve as initial directors until the first annual meeting of the Shareholders, or until their respective successor is elected and qualified, is:

Names/Address:

Anthony Acquaviva
19250 S. Creekshore Court
Boca Raton, FL 33498
Martin J. Aronson
11729 Preservation Lane
Boca Raton, Florida 33498

ARTICLE IX - INCORPORATOR

The name and address of the Incorporator is:

Anthony Acquaviva
19250 S. Creekshore Court
Boca Raton, FL 33498

ARTICLE X - COMMON DIRECTORS - TRANSACTIONS BETWEEN CORPORATIONS

No contract or other transaction between this corporation and one or more of its directors or any other corporation, firm, association or entity in which one or more of its directors are directors or officers or are financially interested, shall either be void or voidable because of such relationship or interest if: (a) the fact of such relationship or interest is disclosed or known to the Board of Directors or committee which authorizes, approves or ratifies the contract or transaction by vote or consent of such interest director; or (b) the fact of such relationship or interest is disclosed or known to the Shareholders entitled to vote and they authorize, approve or ratify such contract or transaction by vote or written consent; or (c) the contract is fair and reasonable to the corporation.

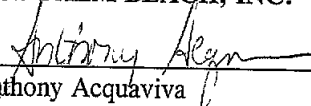
Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies such contract or transactions.

ARTICLE XI - BY-LAWS

The By-Laws of the corporation as shall be initially adopted by the Board of Directors, may be changed or repealed by the affirmative vote of a majority of the Shareholders at any meeting thereof.

DATED this 26 day of October 2001.

MALTS OF PALM BEACH, INC.



Anthony Acquaviva
Incorporator

STATE OF FLORIDA
COUNTY OF PALM BEACH

I HEREBY CERTIFY that on this day personally appeared before me, **Anthony Acquaviva**, personally known to me, and who did take an oath to be the person described in and who executed the foregoing, and he acknowledged before me that he executed the same freely and voluntarily and for the purpose therein expressed.

WITNESS my hand and official seal this 26th day of October 2001.

NOTARY PUBLIC:

Sign: 

Print: Lynn M. Hahn

State of Florida at Large [SEAL]

My Commission Expires: _____



Lynn M Hahn
My Commission CC996878
Expires February 19, 2005

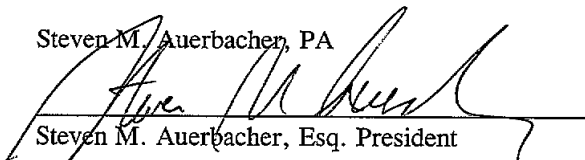
**CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE
FOR THE SERVICE OF PROCESS WITHIN THIS STATE
NAMING AGENT UPON WHOM PROCESS MAY BE SERVED**

FILED
01 OCT 29 PM 2:43
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The following is submitted pursuant to Section 481.091 (1) and 607.034, Florida Statutes:
MALTS OF PALM BEACH, INC. desiring to organize under the laws of the State of Florida, being in Palm Beach County, at Boca Raton, Florida 33498, does hereby name Steven M. Auerbacher, PA as its initial registered agent to accept service of process within this State c/o Steven M. Auerbacher, PA, 150 East Palmetto Park Road, Suite 410, Boca Raton, Florida 33432.

ACKNOWLEDGMENT

Having been named to accept service of process for the above stated corporation, at the initial registered office of the corporation in this State, the undersigned on behalf of the aforesaid corporate registered agent hereby accepts the appointment as registered agent and agrees to complete performance of all such statutory duties as registered agent and is familiar with and accepts the obligations of registered agent.

Steven M. Auerbacher, PA
By: 
Steven M. Auerbacher, Esq. President

Dated this 26 day of October 2001.