

D0400000004

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

PICK-UP  WAIT  MAIL

(Business Entity Name)

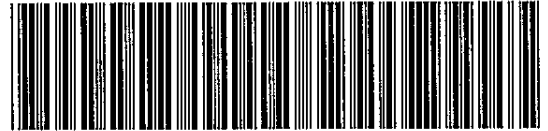
(Document Number)

Certified Copies \_\_\_\_\_ Certificates of Status \_\_\_\_\_

Special Instructions to Filing Officer:

Office Use Only

*[Handwritten signature]*  
8/21



200039653712

UR/12/04--01046--009 \*\*350.00

FILED  
2004 AUG 12 A 11:08  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

RECEIVED  
04 AUG 12 AM 11:45  
DEPARTMENT OF STATE  
DIVISION OF CORPORATIONS  
TALLAHASSEE, FLORIDA

**CT CORPORATION**

August 12, 2004

Department of State, Florida  
409 East Gaines Street  
Tallahassee FL 32399

Re: Order #: 6168114 SO  
Customer Reference 1:  
Customer Reference 2:

Dear Department of State, Florida:

Please file the attached:

Kite Realty Group Trust (MD)  
Misc - Foreign Corporate Filing - Business Trust Qualification  
Florida

Enclosed please find a check for the requisite fees. Please return evidence of filing(s) to my attention.

If for any reason the enclosed cannot be filed upon receipt, please contact me immediately at (850) 222-1092. Thank you very much for your help.

Sincerely,

Connie R Bryan  
Manager Fulfill Ctr  
Connie\_Bryan@cch-lis.com

660 East Jefferson Street  
Tallahassee, FL 32301  
Tel. 850 222 1092  
Fax 850 222 7615

**AFFIDAVIT TO THE FLORIDA SECRETARY OF STATE  
TO FILE OR QUALIFY**

KITE REALTY GROUP TRUST

A MARYLAND TRUST

In accordance with Section 609.02 of the Florida Statutes, pertaining to  
Common Law Declarations of Trust, the undersigned, the Chairman of the  
Board of Trustees of Kite Realty Group Trust

(Name of Trust)


Maryland Trust hereby affirms in order to file or qualify

(State)

Kite Realty Group Trust, in the State of Florida.

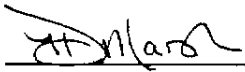
(Name of Trust)

1. Two or more persons are named in the Trust.
2. The principal address is 30 South Meridian Street, Suite 1100,  
Indianapolis, Indiana 46204
3. The registered agent and street address in the State of Florida is:  
CT Corporation System, 1200 South Pine Island Road, Plantation, Florida  
33324
4. Acceptance by the registered agent: Having been named as registered  
agent to accept service of process for the above named Declaration of Trust  
at the place designated in this affidavit, I hereby accept the appointment as  
registered agent and agree to act in this capacity.

 **James M. Halpin**  
(Signature of Registered Agent) Assistant Secretary

5. I certify that the attached is a true and correct copy of the Declaration of  
Trust under which the association proposes to conduct its business in  
Florida.

NOTARY

 for Alvin E. Kite, Jr.  
Name: Alvin E. Kite, Jr.  
Chairman of the Board of Trustees

Filing Fee: \$350.00  
Certified Copy: \$ 8.75 (optional)

2008 AUG 12 AM 11:08  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

FILED

9

KITE REALTY GROUP TRUST  
DECLARATION OF TRUST

Dated March 29, 2004

This DECLARATION OF TRUST is made as of the date set  
above by the undersigned Trustees (as defined herein).

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

2004 AUG 12 A 11: 08

FILED

ARTICLE I  
FORMATION

The Trust is a real estate investment trust within the meaning of Title 8 of the Corporations and Associations Article of the Annotated Code of Maryland, as amended from time to time ("Title 8"). The Trust shall not be deemed to be a general partnership, limited partnership, joint venture, joint stock partnership, limited partnership, joint venture, joint stock company or a corporation (but nothing herein shall preclude the Trust from being treated for tax purposes as an association under the Internal Revenue Code of 1986, as amended from time to time (the "Code")).

ARTICLE II  
NAME

The name of the Trust is:

Kite Realty Group Trust

The Board of Trustees of the Trust (the "Board of Trustees" or the "Board"), without shareholder action, may amend the Declaration of Trust to change the name of the Trust as provided by Maryland law.

ARTICLE III  
PURPOSES AND POWERS

Section 1. Purposes. The purposes for which the Trust is formed are to engage in any business or activity permitted to be engaged in by a real estate investment trust under Title 8, including, without limitation or obligation, engaging in business as a real estate investment trust under the Code.

Section 2. Powers. The Trust shall have all of the powers granted to real estate investment trusts by Title 8 and all other powers which are not

\\DC-211940001-1889178 v4

STATE OF MARYLAND

I hereby certify that this is a true and complete copy of the 9  
page document on file in this office. DATED: 8/5/04

BY: Sherry T. Putland, Custodian  
STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

This stamp replaces our previous certification system. Effective: 6/95

34-

558

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inconsistent with law and are appropriate to promote and attain the purposes set forth in the Declaration of Trust.

#### ARTICLE IV

##### RESIDENT AGENT

The name of the resident agent of the Trust in the State of Maryland is CSC Lawyers Incorporating Service Company, whose post office address is 11 E. Chase St., Baltimore, MD 21202. The trust may have such offices or places of business within or outside the State of Maryland as the Board of Trustees may from time to time determine.

#### ARTICLE V

##### BOARD OF TRUSTEES

Section 1. Powers. Subject to any express limitations contained in the Declaration of Trust or in the Bylaws, (a) the business and affairs of the Trust shall be managed under the direction of the Board of Trustees and (b) the Board shall have full, exclusive and absolute power, control and authority over any and all property of the Trust. The Board may take any action as in its sole judgment and discretion is necessary or appropriate to conduct the business and affairs of the Trust. The Declaration of Trust shall be construed with the presumption in favor of the grant of power and authority to the Board. Any construction of the Declaration of Trust or determination made in good faith by the Board concerning its powers and authority hereunder shall be conclusive. The enumeration and definition of particular powers of the Board of Trustees included in the Declaration of Trust or in the Bylaws shall in no way be limited or restricted by reference to or inference from the terms of this or any other provision of the Declaration of Trust or the Bylaws or construed or deemed by inference or otherwise in any manner to exclude or limit the powers conferred upon the Board or the trustees of the Trust (collectively, the "Trustees" and, individually, a "Trustee") under the general laws of the State of Maryland or any other applicable laws.

The Board, without any action by the shareholders of the Trust (collectively, the "Shareholders" and, individually, a "Shareholder"), shall have and may exercise, on behalf of the Trust, without limitation, the power to terminate the status of the Trust as a real estate investment trust under the Code; to adopt, amend and repeal Bylaws; to elect officers in the manner prescribed in the Bylaws; to solicit proxies from holders of shares of beneficial interest of the Trust; and to do any other acts and deliver any other documents necessary or appropriate to the foregoing powers.

Section 2. Number. The number of Trustees initially shall be two, which number may thereafter be increased or decreased by the Trustees then in office from time to time; however, the total number of Trustees shall be not less than two and not more than 13. No reduction in the number of Trustees shall cause the removal of any Trustee from office prior to the expiration of his term.

Section 3. Initial Board. The names of the Trustees who shall serve until the first annual meeting of shareholders and until their successors are duly elected and qualify are:

Alvin E. Kite, Jr.  
John A. Kite

Section 4. Term. The Trustees shall be elected at each annual meeting of the Shareholders and shall serve until the next annual meeting of the Shareholders and until their successors are duly elected and qualify.

Section 5. Removal. A Trustee may be removed, at any time, but only for cause, by the affirmative vote of the holders of a majority of the Shares then outstanding and entitled to vote generally in the election of the Trustees.

#### ARTICLE VI

##### SHARES OF BENEFICIAL INTEREST

The beneficial interest of the Trust shall be divided into shares of beneficial interest (the "Shares"). The Trust has authority to issue up to 100,000,000 common shares of beneficial interest, \$0.01 par value per share ("Common Shares"), and up to 20,000,000 preferred shares of beneficial interest, \$0.01 par value per share ("Preferred Shares"). The Board of Trustees may classify or reclassify any unissued Shares from time to time by setting or changing the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications or terms or conditions of redemption of the Shares.

The Board of Trustees may authorize the issuance from time to time of Shares of any class or series, whether now or hereafter authorized, or securities or rights convertible into Shares of any class or series, whether now or hereafter authorized, for such consideration (whether in cash, property, past or future services, obligation for future payment or otherwise) as the Board of Trustees may deem advisable ~~(or without consideration in the case of a Share split or Share dividend)~~, subject to such restrictions or limitations, if any, as may be set forth in the Declaration of Trust or the Bylaws of the Trust.

ARTICLE VII

RESTRICTION ON TRANSFER AND OWNERSHIP OF SHARES

[INTENTIONALLY OMITTED]

ARTICLE VIII

SHAREHOLDERS

There shall be an annual meeting of the Shareholders at a convenient location, to be held after delivery of the annual report and on proper notice to the Shareholders, at such time and place as shall be determined by resolution of the Board of Trustees.

ARTICLE IX

LIABILITY OF SHAREHOLDERS, TRUSTEES, OFFICERS,  
EMPLOYEES AND AGENTS  
AND TRANSACTIONS BETWEEN THEM AND THE TRUST

Section 1. Limitation of Shareholder Liability. No Shareholder shall be liable for any debt, claim, demand, judgment or obligation of any kind of, against or with respect to the Trust by reason of his being a Shareholder, nor shall any Shareholder be subject to any personal liability whatsoever, in tort, contract or otherwise, to any Person in connection with the property or affairs of the Trust.

Section 2. Limitation of Trustee and Officer Liability. To the maximum extent that Maryland law in effect from time to time permits limitation of the liability of trustees and officers of a real estate investment trust, no Trustee or officer of the Trust shall be liable to the Trust or to any Shareholder for money damages. Neither the amendment nor repeal of this Section, nor the adoption or amendment of any other provision of this Declaration of Trust inconsistent with this Section, shall apply to or affect in any respect the applicability of the preceding sentence with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

Section 3. Express Exculpatory Clauses in Instruments. Neither the Shareholders nor the Trustees, officers, employees or agents of the Trust shall be liable under any written instrument creating an obligation of the Trust, and all persons shall look solely to the property of the Trust for the payment of any claim under or for the performance of that instrument. The omission of the foregoing exculpatory language from any instrument shall not affect the validity or enforceability of such instrument and shall not render any Shareholder, Trustee, officer, employee or agent liable thereunder to any third party, nor shall the

Trustees or any officer, employee or agent of the Trust be liable to anyone for such omission.

Section 4. Indemnification. The Trust shall indemnify, to the fullest extent permitted by the laws of the State of Maryland, any present or former Trustee, who, by reason of such position, was, is, or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative.

Section 5. Transactions Between the Trust and its Trustees, Officers, Employees and Agents. Subject to any express restrictions in this Declaration of Trust or adopted by the Trustees in the Bylaws or by resolution, the Trust may enter into any contract or transaction of any kind (including, without limitation, for the purchase or sale of property or for any type of services, including those in connection with underwriting or the offer or sale of Securities of the Trust) with any person, including any Trustee, officer, employee or agent of the Trust or any person affiliated with a Trustee, officer, employee or agent of the Trust, whether or not any of them has a financial interest in such transaction.

#### ARTICLE X

##### AMENDMENT

Section 1. General. This Declaration of Trust may not be amended except as provided in this Article X.

Section 2. By Trustees. The Trustees, by a two-thirds vote, may amend any provision of this Declaration of Trust from time to time to enable the Trust to qualify as a real estate investment trust under the Code or under Title 8.

Section 3. By Shareholders. Except as provided in Section 2 of this Article X, this Declaration of Trust may be amended only after the Board of Trustees has adopted a resolution setting forth the proposed amendment and declares such amendment advisable and such amendment has been approved by the affirmative vote of the holders of not less than a majority of the Shares then outstanding and entitled to vote thereon.

#### ARTICLE XI

##### DURATION OF TRUST

The Trust shall continue perpetually unless terminated pursuant to any applicable provision of Title 8.



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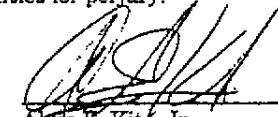
ARTICLE XII

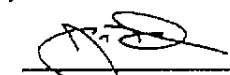
MISCELLANEOUS

This Declaration of Trust is executed by the Trustees and delivered in the State of Maryland with reference to the laws thereof, and the rights of all parties and the validity, construction and effect of every provision hereof shall be subject to and construed according to the laws of the State of Maryland without regard to conflicts of laws provisions thereof.

[Signature page follows.]

IN WITNESS WHEREOF, this Declaration of Trust has been executed on this 29<sup>th</sup> day of March, 2004 by the undersigned Trustees, who acknowledge that this document is their act, that to the best of their knowledge, information, and belief, the matters and facts set forth herein are true in all material respects and that this statement is made under the penalties for perjury.

  
\_\_\_\_\_  
Alvin E. Kite, Jr.

  
\_\_\_\_\_  
John A. Kite

March 29, 2004

CSC

03/29 '04 15:44 NO.843 02/02

I HEREBY CONSENT TO ACT AS RESIDENT AGENT IN  
MARYLAND FOR THE ENTITY NAMED IN THE ATTACHED INSTRUMENT.

Susan Rosenthal  
SIGNATURE

SUSAN Rosenthal  
PRINT NAME Authorized Person  
For: CSC Lawyers Incorporating  
Service Company

**CORPORATE CHARTER APPROVAL SHEET**  
**\*\* EXPEDITED SERVICE \*\*      \*\* KEEP WITH DOCUMENT \*\***

DOCUMENT CODE 70 BUSINESS CODE \_\_\_\_\_



1000361000602648

\* \_\_\_\_\_  
 Close \_\_\_\_\_ Stock \_\_\_\_\_ Nonstock \_\_\_\_\_

P.A. \_\_\_\_\_ Religious \_\_\_\_\_

Merging (Transferor) \_\_\_\_\_

ID N 007871403 ACK N 1000361000602648  
 LIBER: 000634 FOLIO: 0558 PAGES: 0026  
 KITE REALTY GROUP TRUST

Surviving (Transferee) \_\_\_\_\_

03/28/2004 AT 04:44 P NO N 0000871257

\_\_\_\_\_

New Name \_\_\_\_\_

\_\_\_\_\_

**FEES REMITTED**

Base Fee: 100  
 Org. & Cap. Fee: 270  
 Expedite Fee: 90  
 Penalty: \_\_\_\_\_  
 State Recordation Tax: \_\_\_\_\_  
 State Transfer Tax: \_\_\_\_\_  
1 Certified Copies Copy Fee: 29  
1 Certificates Certificate of Stamps Fee: 20  
 Personal Property Filings: \_\_\_\_\_  
 Other: \_\_\_\_\_  
**TOTAL FEES: 459**

\_\_\_\_\_ Change of Name  
 \_\_\_\_\_ Change of Principal Office  
 \_\_\_\_\_ Change of Resident Agent  
 \_\_\_\_\_ Change of Resident Agent Address  
 \_\_\_\_\_ Resignation of Resident Agent  
 \_\_\_\_\_ Designation of Resident Agent  
 and Resident Agent's Address  
 \_\_\_\_\_ Change of Business Code  
 \_\_\_\_\_ Adoption of Assumed Name  
 \_\_\_\_\_  
 \_\_\_\_\_ Other Change(s)  
 \_\_\_\_\_

Credit Card \_\_\_\_\_ Check / Cash \_\_\_\_\_

Code \_\_\_\_\_

\_\_\_\_\_ Documents on \_\_\_\_\_ Checks

Attention: JIM SMITH

Approved By: 14

Mail to Address: JIM SMITH

Copied By: \_\_\_\_\_

HOGAN & HARTSON LLP

COMMENT(S): \_\_\_\_\_

111 S. CALVERT ST., SUITE 1000

BALTIMORE, MD 21201

CUST ID: 0001344981  
 WORK ORDER: 0000871257  
 DATE: 03-28-2004 04:44 PM  
 INT. PRID: 409.00