

02000001209

Florida Department of State
Division of Corporations
Public Access System

Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

((H05000251091 3)))

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

To:

Division of Corporations
Fax Number : (850)205-0383

5843-343

From:

Account Name : HILL, WARD & HENDERSON, P.A. II
Account Number : 072100000520
Phone : (813)221-3900
Fax Number : (813)221-2900

M. Thomas OCT 25 2005

RECEIVED

05 OCT 25 AM 7:55

DIVISION OF CORPORATION

LIMITED LIABILITY AMENDMENT

BARCLAY ROCKDALE PARTNERS, LLC

Certificate of Status	1
Certified Copy	1
Page Count	04
Estimated Charge	\$60.00

SEC OF STATE
MAIL ROOM
FLORIDA

05 OCT 25 AM 8:40

FILED

Electronic Filing Menu

Corporate Filing

Public Access Help

(((H05000251091 3)))

**AMENDMENT TO ARTICLES OF ORGANIZATION OF
BARCLAY ROCKDALE PARTNERS, LLC**

THIS AMENDMENT TO ARTICLES OF ORGANIZATION OF BARCLAY ROCKDALE PARTNERS, LLC, a Florida limited liability company (this "Amendment") is made and entered into as of October 20, 2005.

The undersigned, being all the members and managers of BARCLAY ROCKDALE PARTNERS, LLC, a Florida limited liability company (the "Company"), hereby agree to modify and amend the Articles of Organization for the Company dated January 15, 2002 and filed with the Secretary of State of Florida on January 15, 2002.

For so long as any indebtedness exists under and pursuant to the Loan Documents (as defined below), the provisions of this Amendment shall apply as follows:

1. Limited Purpose. The purpose of the Company is solely limited to the following activities:

(A) Owning, holding, selling, leasing, transferring, exchanging, operating, managing, and otherwise dealing with that certain property commonly known as Smyrna Crossings Shopping Center together with all tenant leases thereon, situated in Rockdale County, Georgia (the "Property");

(B) Entering into a loan transaction (the "Loan") with Bank of America, N.A., its successors and assigns (the "Lender") evidenced by a Promissory Note and a Loan Agreement and secured by a mortgage or deed of trust (the "Security Instrument") (collectively, and along with all other documentation required by the Lender in connection with the Loan, the "Loan Documents");

(C) Refinancing the Property in connection with the permitted repayment of the Loan; and

(D) Transacting any and all lawful business that is incident, necessary and appropriate to accomplish the foregoing.

2. Certain Actions Requiring Unanimous Vote. The unanimous vote of the Company's managers and members shall be required in order to take any of the following actions:

(A) File a petition or consent to a petition seeking reorganization, arrangement, adjustment, winding-up, dissolution, composition, liquidation or other relief on behalf of the Company of its debts under any federal or state law relating to bankruptcy;

(B) Seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for the Company or a substantial portion of its properties;

(C) Make any assignment for the benefit of the Company's creditors.

(((H05000251091 3)))

FILED

OCT 25 PM 8:40
STATE
OF FLORIDA

((H05000251091 3)))

(D) Take any action in furtherance of any of the foregoing.

3. Limitation on Indebtedness. The Company's ability to incur indebtedness (secured or unsecured, direct or contingent, including guaranteeing any obligation) other than the Loan shall be limited to:

(A) trade and operational indebtedness incurred in the ordinary course of business with trade creditors, provided such indebtedness is (1) unsecured, (2) not evidenced by a note, (3) on commercially reasonable terms and conditions, and (4) due not more than sixty (60) days past the date incurred, and/or

(B) financing leases and purchase money indebtedness incurred in the ordinary course of business relating to personal property at the Property on commercially reasonable terms and conditions; provided, however, the aggregate amount of the indebtedness described in (A) and (B) shall not exceed at any time three percent (3%) of the outstanding principal amount of the Loan.

4. Separateness Provisions. The Company shall not:

- (i) merge into or consolidate with any other entity, or dissolve, terminate, liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets or change its legal structure;
- (ii) fail to observe all organizational formalities, or fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the applicable laws of the jurisdiction of its organization or formation, or amend, modify, terminate or fail to comply with the provisions of its organizational documents;
- (iii) own any subsidiary, or make any investment in, any other entity;
- (iv) commingle its assets with the assets of any other entity;
- (v) incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (A) the Loan, (B) trade and operational indebtedness incurred in the ordinary course of business with trade creditors, provided such indebtedness is (1) unsecured, (2) not evidenced by a note, (3) on commercially reasonable terms and conditions, and (4) due not more than sixty (60) days past the date incurred, and/or (C) financing leases and purchase money indebtedness incurred in the ordinary course of business relating to personal property at the Property on commercially reasonable terms and conditions; provided however, the aggregate amount of the indebtedness described in (B) and (C) shall not exceed at any time three percent (3%) of the outstanding principal amount of the Loan;
- (vi) fail to maintain its records, books of account, bank accounts, financial statements, accounting records and other entity documents separate and apart from those of any other entity; except that the Company's financial position, assets, liabilities, net worth and operating results may be included in the consolidated financial statements of an affiliate, provided that such consolidated financial statements contain a footnote indicating that the Company is a separate legal entity and that it maintains separate books and records;

((H05000251091 3)))

05 OCT 25 AM 8:10
FILED

((H05000251091 3)))

- (vii) enter into any contract or agreement with any general partner, member, shareholder, principal, guarantor of the obligations of the Company, or any affiliate of the foregoing, except upon terms and conditions that are intrinsically fair, commercially reasonable and substantially similar to those that would be available on an arm's-length basis with unaffiliated third parties;
- (viii) maintain its assets in such a manner that it will be costly or difficult to segregate or ascertain or identify its individual assets from those of any other entity;
- (ix) assume or guaranty the debts of any other entity, hold itself out to be responsible for the debts of any other entity, or otherwise pledge its assets for the benefit of any other entity or hold out its credit as being available to satisfy the obligations of any other entity;
- (x) make any loans or advances to any entity;
- (xi) fail to file its own tax returns or files a consolidated federal income tax return with any entity (unless prohibited or required, as the case may be, by applicable law);
- (xii) fail either to hold itself out to the public as a legal entity separate and distinct from any other entity or to conduct its business solely in its own name or fail to correct any known misunderstanding regarding its separate identity;
- (xiii) fail to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;
- (xiv) fail to allocate shared expenses (including, without limitation, shared office space and services performed by an employee of an affiliate) among the entities sharing such expenses and to use separate stationery, invoices and checks;
- (xv) fail to remain solvent or pay its own liabilities (including, without limitation, salaries of its own employees) from its own funds; or
- (xvi) acquire obligations or securities of its partners, members, shareholders or other affiliates, as applicable.

5. Subordination of Indemnification Obligation. The Company's obligation, if any, to indemnify its managers and members shall be fully subordinate to the Loan and to the Loan Documents, and shall not constitute a claim against the Company if cash flow in excess of amounts necessary to pay holders of the Loan Documents is insufficient to pay such obligations.

6. Consideration of the Interests of Creditors. The Company's managers or members shall consider the interests of creditors in connection with any action subject to vote, notwithstanding that the Company may be rendered insolvent.

7. [INTENTIONALLY DELETED]

8. [INTENTIONALLY DELETED]

((H05000251091 3)))

(((H05000251091 3)))

9. Continuance of Company. If there is a death, dissolution or other termination event of one or more members and at least one member remains, the Company shall not dissolve, and if any member is not a special purpose entity, the Company shall continue its existence (and not dissolve) for so long as a solvent member exists.

10. Prohibition on Amendment of Organizational Documents. The Company shall (a) observe all organizational formalities; (b) preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its organization or formation; (c) comply with and not terminate its organizational documents; and (d) not amend the provisions of this Amendment without the consent of the Lender.

MANAGERS:

DANIEL L. VIETTO

DAVID S. COLA

JEFFERY T. SURRENCY**MEMBERS:**

BARCLAY GROUP HOLDINGS
LIMITED, LLLP, a Florida limited liability
limited partnership

By: 

Daniel L. Vietto, General Partner

THE DOGANIERO FAMILY LIMITED
PARTNERSHIP, LTD., a Nevada limited
partnership

By: 

Philip Doganiero, President

05 OCT 25 AM 11:40
FILED

(((H05000251091 3)))