

L020000006258

(Requestor's Name)

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(City/State/Zip/Phone #)

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(Business Entity Name)

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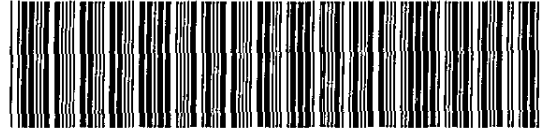
Certificates of Status _____

Special Instructions to Filing Officer:

608.411

Office Use Only

[Signature]



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03/20/04--01055--011 **85.00

FILED
RECEIVED
04 AUG 20 PM 4:09:20 AM 11:46
SECRETARY OF STATE
TALLAHASSEE, FLORIDA
CORPORATIONS
DIVISION
TALLAHASSEE, FLORIDA

CORPDIRECT AGENTS, INC. (formerly CCRS)
103 N. MERIDIAN STREET, LOWER LEVEL
TALLAHASSEE, FL 32301
222-1173

FILING COVER SHEET
ACCT. #FCA-14

FILED
04 AUG 20 PM 4:40
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

CONTACT: KATIE WONSCH

DATE: 8/20/04

REF. #: 0457.29276

CORP. NAME: VILLAGE SHOPPES OF WINTER PARK, LLC

- | | | |
|--|---|--|
| <input type="checkbox"/> ARTICLES OF INCORPORATION | <input checked="" type="checkbox"/> ARTICLES OF AMENDMENT | <input type="checkbox"/> ARTICLES OF DISSOLUTION |
| <input type="checkbox"/> ANNUAL REPORT | <input type="checkbox"/> TRADEMARK/SERVICE MARK | <input type="checkbox"/> FICTITIOUS NAME |
| <input type="checkbox"/> FOREIGN QUALIFICATION | <input type="checkbox"/> LIMITED PARTNERSHIP | <input type="checkbox"/> LIMITED LIABILITY |
| <input type="checkbox"/> REINSTATEMENT | <input type="checkbox"/> MERGER | <input type="checkbox"/> WITHDRAWAL |
| <input type="checkbox"/> CERTIFICATE OF CANCELLATION | | |
| <input type="checkbox"/> OTHER: | | |

STATE FEES PREPAID WITH CHECK# 509198 FOR \$ 85.00

AUTHORIZATION FOR ACCOUNT IF TO BE DEBITED:

_____ COST LIMIT: \$ _____

PLEASE RETURN:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> CERTIFIED COPY (2) | <input type="checkbox"/> CERTIFICATE OF GOOD STANDING | <input type="checkbox"/> PLAIN STAMPED COPY |
| <input type="checkbox"/> CERTIFICATE OF STATUS | | |

Examiner's Initials

**AMENDED AND RESTATED ARTICLES OF ORGANIZATION
OF**

VILLAGE SHOPPES OF WINTER PARK, LLC

(Filed in accordance with 608.411, F.S.)

The Articles of Organization for **Village Shoppes of Winter Park, LLC**, as filed on March 12, 2002 are hereby Amended and Restated in their entirety as follows:

FILED
04 AUG 20 PM 4:00
CLERK OF DISTRICT COURT
JANASSEE FLORIDA

ARTICLE I
NAME

The name of this limited liability company (the "Company") is **VILLAGE SHOPPES OF WINTER PARK, LLC** and its mailing address is 7505 W Sand Lake Road, Orlando, FL 32819, and the principal place of business of the Company shall be located at 7505 W Sand Lake Road, Orlando, FL 32819.

ARTICLE II
COMMENCEMENT OF COMPANY EXISTENCE

This Company shall commence existence on the date of signing these articles of organization and shall have perpetual existence unless sooner dissolved according to law.

ARTICLE III
PURPOSE; POWERS

Section 3.1 Single-Purpose Entity Covenants. Borrower hereby represents, warrants and covenants, as of the date hereof and until such time as the Obligations is paid in full, that without, in each case, the prior written consent of Lender (which may be withheld or conditioned by Lender in its sole and absolute discretion for any reason or for no reason):

(a) The sole purpose of Borrower has been, is and will be, to acquire, own, hold, maintain, and operate the Property, together with such other activities as may be necessary or advisable in connection with the ownership of the Property. Borrower has not engaged, and does not and shall not engage, in any business, and it has and shall have no purpose, unrelated to the Property. Borrower has not owned, does not own and shall not acquire, any real property or own assets other than those related to the Property and/or otherwise in furtherance of the limited purposes of Borrower.

(b) Neither Borrower, nor any general partner, manager or managing member (a "Controlling Entity") of Borrower, as applicable, shall have the authority to perform any act in respect of Borrower in violation of any (a) applicable laws or regulations or (b) any agreement between Borrower and Lender (including, without limitation, the Loan Documents).

(c) "The limited liability company shall only incur indebtedness in an amount necessary to acquire, operate and maintain the Property. For so long as any mortgage lien in favor of Union Capital Investments, LLC, or its successors or assigns (the "First Mortgage") exists on any portion of the Property, the limited liability company shall not incur, assume, or guaranty any other indebtedness. The limited liability company shall not dissolve or liquidate, or consolidate or

merge with or into any other entity, or convey or transfer its properties and assets substantially as an entirety or transfer any of its beneficial interests to any entity. For so long as the First Mortgage exists on any portion of the Property, the limited liability company will not voluntarily commence a case with respect to itself, as debtor, under the Federal Bankruptcy Code or any similar federal or state statute without the unanimous consent of all of the members of the limited liability company. For so long as the First Mortgage exists on any portion of the Property, no material amendment to these articles of organization may be made without first obtaining approval of the mortgagee holding the First Mortgage on any portion of the Property."

(d) "Any indemnification of the limited liability company's members shall be fully subordinated to any obligations respecting the Property (including, without limitation, the First Mortgage) and such indemnification shall not constitute a claim against the limited liability company in the event that cash flow in excess of amounts necessary to pay holders of such obligations is insufficient to pay such obligations."

(e) "For so long as the First Mortgage exists on any portion of the Property, in order to preserve and ensure its separate and distinct identity, in addition to the other provisions set forth in these articles of organization, the limited liability company shall conduct its affairs in accordance with the following provisions:

1. It shall establish and maintain an office through which its business shall be conducted separate and apart from that of any of its members or affiliates and shall allocate fairly and reasonably any overhead for shared office space.

2. It shall maintain records and books of account separate from those of any member or affiliate.

3. It shall observe all limited liability company formalities.

4. It shall not commingle assets with those of any member or affiliate.

5. It shall conduct its own business in its own name.

6. It shall maintain financial statements separate from any member or affiliate.

7. It shall pay any liabilities out of its own funds, including salaries of any employees, not funds of any member or affiliate.

8. It shall maintain an arm's length relationship with any member or affiliate.

9. It shall not guarantee or become obligated for the debts of any other entity, including any member or affiliate, or hold out its credit as being available to satisfy the obligations of others.

10. It shall use stationary, invoices and checks separate from any member or affiliate.

11. It shall not pledge its assets for the benefit of any other entity, including any member or affiliate.

12. It shall hold itself out as an entity separate from any member or affiliate.

(f) "To the extent permissible under applicable federal and state tax law, the vote of a majority-in-interest of the remaining members is sufficient to continue the existence of the limited liability company. If such vote is not obtained, for so long as the First Mortgage exists on any portion of the Property, the limited liability company shall not liquidate the Property without first obtaining approval of the mortgagee holding the First Mortgage on any portion of the Property. Such holders may continue to exercise all of their rights under the existing security agreements or mortgages until the debt underlying the First Mortgage has been paid in full or otherwise completely discharged.

(g) "When acting on matters subject to the vote of the members, notwithstanding that the limited liability company is not then insolvent, the members and the outside member shall take into account the interest of the limited liability company's creditors, as well as those of the members."

(h) The following provisions shall apply only when Borrower is a limited liability company or a partnership. A Bankruptcy Action by or against any partner or member of Borrower, as applicable, shall not cause such partner or member of Borrower, as applicable, to cease to be a partner or member of Borrower and upon the occurrence of a Bankruptcy Action, Borrower shall continue without dissolution. Additionally, to the fullest extent permitted by law, if any partner or member of Borrower, as applicable, ceases to be a partner or member of Borrower, as applicable, such event shall not terminate Borrower and Borrower shall continue without dissolution.

(i) Borrower shall at all times observe the applicable legal requirements for the recognition of Borrower as a legal entity separate from any Equity Holders or Affiliates of Borrower or of any Equity Holder, including, without limitation, as follows:

(1) Borrower shall either (a) maintain its principal executive office and telephone and facsimile numbers separate from that of any Affiliate of Borrower or of any Equity Holder and shall conspicuously identify such office and numbers as its own, or (b) shall allocate by written agreement fairly and reasonably any rent, overhead and expenses for shared office space. Additionally, Borrower shall use its own separate stationery, invoices and checks that reflects its name, address, telephone number and facsimile number.

(2) Borrower shall maintain correct and complete financial statements, accounts, books and records and other entity documents separate from those of any Affiliate of Borrower or of any Equity Holder or any other person or entity. Borrower shall prepare unaudited quarterly and annual financial statements, and Borrower's financial statements shall substantially comply with generally accepted accounting principles.

(3) Borrower shall maintain its own separate bank accounts, payroll and correct, complete and separate books of account.

(4) Borrower shall file or cause to be filed its own separate tax returns.

(5) Borrower shall hold itself out to the public (including any of its Affiliates' creditors) under Borrower's own name and as a separate and distinct entity and not as a department, division or otherwise of any Affiliate of Borrower or of any Equity Holder.

(6) Borrower shall hold title to its assets in its own name and act solely in its own name and through its own duly authorized officers and agents. No Affiliate of Borrower or of any Equity Holder shall be appointed or act as agent of Borrower, other than as a property manager or leasing agent with respect to the Property.

(7) Investments shall be made in the name of Borrower directly by Borrower or on its behalf by brokers engaged and paid by Borrower.

(8) Except as required by Lender, Borrower shall not guarantee, pledge or assume or hold itself out or permit itself to be held out as having guaranteed, pledged or assumed any liabilities or obligations of any Equity Holder or any Affiliate of Borrower, nor shall it make any loan, except as permitted in the Loan Documents.

(10) Borrower is and will be solvent.

(11) Assets of Borrower shall be separately identified, maintained and segregated. Borrower's assets shall at all times be held by or on behalf of Borrower and if held on behalf of Borrower by another entity, shall at all times be kept identifiable (in accordance with customary usages) as assets owned by Borrower. This restriction requires, among other things, that (i) funds of Borrower shall be deposited or invested in Borrower's name, (ii) funds of Borrower shall not be commingled with the funds of any Affiliate of Borrower or of any Equity Holder, (iii) Borrower shall maintain all accounts in its own name and with its own tax identification number, separate from those of any Affiliate of Borrower or of any Equity Holder, and (iv) funds of Borrower shall be used only for the business of Borrower.

(12) Borrower shall maintain its assets in such a manner that it is not costly or difficult to segregate, ascertain or identify its individual assets from those of any Affiliate of Borrower or of any Equity Holder.

(13) Borrower shall pay or cause to be paid its own liabilities and expenses of any kind, including but not limited to salaries of its employees, only out of its own separate funds and assets.

(14) Borrower shall at all times be adequately capitalized to engage in the transactions contemplated at its formation.

(15) Borrower shall not do any act that would make it impossible to carry on the ordinary business of Borrower.

(16) All data and records (including computer records) used by Borrower or any Affiliate of Borrower in the collection and administration of any loan shall reflect

Borrower's ownership interest therein.

(17) No funds of Borrower shall be invested in securities issued by, nor shall Borrower acquire the indebtedness or obligation of, an Affiliate of Borrower or of an Equity Holder.

(18) Borrower shall maintain an arm's length relationship with each of its Affiliates and may enter into contracts or transact business with its Affiliates only on commercially reasonable terms that are no less favorable to Borrower than is obtainable in the market from a person or entity that is not an Affiliate of Borrower or of any Equity Holder.

(19) Borrower shall correct any misunderstanding that is known by Borrower regarding its name or separate identity.

(j) Any indemnification obligation of Borrower to the holder of any equity interest in Borrower shall (1) be fully subordinated to the Loan and (2) not constitute a claim against Borrower or its assets until such time as the Loan has been indefeasibly paid in accordance with its terms and otherwise has been fully discharged (or has been defeased in accordance with the Note).

(k) The following shall only apply if and when Borrower is a limited partnership. Each general partner of Borrower may not be an individual. Each general partner of Borrower shall at all times have as its sole purpose to act as the general partner of Borrower, and shall be engaged in no other business or have any other purpose. Additionally, any additional or substitute general partner of Borrower shall have organizational documents that (1) include covenants substantially similar to the foregoing provisions of this 0, inclusive of all single purpose/bankruptcy remote provisions, and (2) are acceptable to the Lender.

(l) Borrower shall cause the Organizational Documents of Borrower to include, at all times, requirements substantially similar to the foregoing, in a manner satisfactory to Lender. At any time when Borrower is a limited partnership, the Organizational Documents of the general partner shall include provisions substantially similar to those set forth in 0 above.

(m) As used in this Agreement:

(1) "Affiliate" means any person or entity which directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with a specified person or entity. For purposes of the definition of "Affiliate", the terms "control", "controlled", or "controlling" with respect to a specified person or entity shall include, without limitation, (i) the ownership, control or power to vote ten percent (10%) or more of (x) the outstanding shares of any class of voting securities or (y) beneficial interests, of any such person or entity, as the case may be, directly or indirectly, or acting through one or more persons or entities, (ii) the control in any manner over the general partner(s) or the election of more than one director or trustee (or persons exercising similar functions) of such person or entity, or (iii) the power to exercise, directly or indirectly, control over the management or policies of such person or entity.

(2) "Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization, or government or any agency or political subdivision thereof.

(3) "Constituent Entity" shall mean, with respect to any entity, (i) with respect to any limited partnership, (x) any general partner of such limited partnership and (y) any limited partner of such partnership which owns (or is owned by any person or entity owning, holding or controlling, directly or indirectly) the right to receive 50% or more of the income, distributable funds or losses of such partnership; (ii) with respect to any general partnership or joint venture, any partner or venturer in such general partnership or joint venturer; (iii) with respect to any corporation, (x) any officer or director of such corporation, and (y) any person or entity which owns or controls 50% or more of any class of stock of such corporation; (iv) with respect to any limited liability company, (x) any manager of such limited liability company, (y) any managing member of such limited liability company, or the sole member of any limited liability company having only one (1) member, and (z) any non-managing member of such limited liability company which owns (or is owned by any person or entity owning, holding or controlling, directly or indirectly) the right to receive 50% or more of the income, distributable funds or losses of such limited liability company; (v) any person or entity which controls any entity described in any of clauses (i) through (iv) of this definition; and (vi) any entity which is a "Constituent Entity" with respect to an entity which is a "Constituent Entity" of the subject entity. For all purposes of this Mortgage unless expressly noted, "control" and "controlled by" shall have the meanings assigned to them in Rule 405 under the Securities Act of 1933, as amended. For the purposes of clause (vi) of the definition of Constituent Entity, if entity "B" is a Constituent Entity of entity "A", then any Constituent Entity of "B" shall be deemed to be a Constituent Entity of any entity of which "A" is a Constituent Entity.

(4) "Organizational Documents" shall mean, with respect to any entity, the documents customarily used to form an entity and provide for its governance, as the same may be amended from time to time, including, without limitation, (a) with respect to a corporation, the articles of incorporation or certificate of incorporation or charter, and the by-laws; (b) with respect to a limited liability company, the articles of organization and the operating agreement; (c) with respect to a limited partnership, the certificate of limited partnership and the limited partnership agreement; and (d) with respect to a general partnership, the agreement of partnership.

ARTICLE IV **INITIAL REGISTERED OFFICE AND AGENT**

The initial registered office of this Company shall be located at 7505 W Sand Lake Road, Orlando, FL 32819, and the initial registered agent of this Company at that address shall be **CHARLES WHITTALL**. The Company may change its registered agent or the location of its registered office, or both, from time to time without amendment of these articles of organization.

ARTICLE V **MANAGEMENT**

The management or conduct of the business and affairs of the Company is reserved to the members, and the name and street address of the initial members are:

Charles Whittall
7505 W Sand Lake Road
Orlando, FL 32819

Lee J. Maher
7505 W Sand Lake Road
Orlando, FL 32819

ARTICLE VI **OPERATING AGREEMENT**

The power to adopt, alter, amend or repeal the Operating Agreement of the Company shall be vested in the Members.

ARTICLE VII **ADMISSION OF NEW MEMBERS**

Additional Members may be admitted from time to time on such terms and conditions as are set forth in the Operating Agreement of the Company.

ARTICLE VIII **DEATH, RETIREMENT, RESIGNATION, BANKRUPTCY, EXPULSION,** **DISSOLUTION OF MEMBER**

In the event of the death, retirement, resignation, bankruptcy, expulsion or dissolution of a Member or the occurrence of any other event which terminates the continued membership of a Member in the Company, the remaining Members may continue the business of the Company as provided in the Operating Agreement of the Company.

ARTICLE IX **AMENDMENT**

This Company reserves the right to amend or repeal any provisions contained in these articles of organization, or any amendment hereto, and any right conferred upon the Members is subject to this reservation.

ARTICLE X **HEADINGS AND CAPTIONS**

The headings or captions of these various articles of organization are inserted for convenience and none of them shall have any force or effect, and the interpretation of the various articles shall not be influenced by any of said headings or captions.

IN WITNESS WHEREOF, the undersigned does hereby make and file these articles of organization declaring and certifying that the facts stated herein are true, this **18th** day of **August 2004**.



Charles Whittall, Member



Lee J. Maher, Member

**CERTIFICATE DESIGNATING PLACE OF BUSINESS FOR THE
SERVICE OF PROCESS WITHIN FLORIDA AND REGISTERED
AGENT UPON WHOM PROCESS MAY BE SERVED**


In compliance with Sections 48.091 and 608.415, Florida Statutes, the following is submitted:

VILLAGE SHOPPES OF WINTER PARK, LLC(the "Company"), desiring to organize as a limited liability company under the laws of the State of Florida, has named and designated **Charles Whittall** as its Registered Agent to accept service of process within the State of Florida with its registered office located at 7505 W Sand Lake Road, Orlando, FL 32819.

ACKNOWLEDGMENT

Having been named as Registered Agent for the Company at the place designated in this Certificate, I hereby agree to act in this capacity; and I am familiar with and accept the obligations of Sections 608.415 and 607.0505, Florida Statutes, as the same may apply to the Company; and I further agree to comply with the provisions of Florida Statutes, Section 48.091 and all other statutes, all as the same may apply to the Company relating to the proper and complete performance of my duties as Registered Agent.

Dated this **18th** day of **August 2004**.



Charles Whittall