

JUN-20-2006 14:47

P.01

L06000031079

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.

((H06000161493 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

From:

Account Name : MACFARLANE FERGUSON & MCMULLEN (CLEARWATER)
Account Number : 071005001001
Phone : (727) 441-8966
Fax Number : (727) 442-8470

RECEIVED
06 JUN 20 PM 2:14
DIVISION OF CORPORATIONS
LECAMND/RESTATE/CORRECT OR M/MG RESIGN

COASTAL PALMS HOLDING SDM, LLC

Certificate of Status	1
Certified Copy	0
Page Count	06
Estimated Charge	\$30.00

Electronic Filing Menu

Corporate Filing Menu

Help

J. BRYAN JUN 21 2006

Fax Audit No. H06000161493 3

ARTICLES OF AMENDMENT
TO
ARTICLES OF ORGANIZATION
OF
COASTAL PALMS HOLDING SDM, LLC
(A Florida Limited Liability Company)

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
05 JUN 20 AM 9:44

FIRST: The date of filing of the Articles of Organization was March 23, 2006.

SECOND: The following Amendment to the Articles of Organization was adopted by the limited liability company:

Article XIII is added as follows:

ARTICLE XIII

Until such time as all obligations secured by the first lien mortgage incurred in connection with the refinancing of the Property (the "Mortgage") owned by Coastal Palms SDM, LLC (Coastal Office Building located in Clearwater, Florida) have been paid in full, and notwithstanding any other provision of these Articles, any contrary or inconsistent provision of the operating agreement of the Company or any other document or instrument governing the affairs of the Company, or any provision of law that otherwise so empowers the Company, so long as the loan in the initial principal amount of \$11,750,000.00 (the "Loan") and any other obligations secured by that certain Mortgage dated June 20, 2006, in favor of Citigroup Global Markets Realty Corp., as lender (the "Mortgage") remain outstanding and not discharged in full, without the prior written consent of the holder of the Mortgage (the "Lender"), the following provisions shall govern and supercede all provisions in the Articles of Organization or Operating Agreement of the Company without the prior written consent of the Lender:

PURPOSE.

The business and purpose of Coastal Palms Holding SDM, LLC, a Florida limited liability company (the "Company") shall consist solely of the following:

Prepared by:
J. Paul Raymond, Esq.
P. O. Box 1669
Clearwater, FL 33757
(727) 441-8966
Fla. Bar No. 0169268

Fax Audit No. H06000161493 3

Fax Audit No. H06000161493 3

a. to acquire a membership interest in and act as the managing member of Coastal Palms SDM, LLC, a Florida limited liability company (the "LLC"), which is engaged solely in the ownership, operation and management of the real estate project known as the Coastal Office Building, located in Clearwater, Florida (the "Property"), pursuant to and in accordance with these Articles of Organization and the LLC's Articles of Organization; and

b. to engage in such other lawful activities permitted to corporations by the State of Florida as are incidental, necessary or appropriate to the foregoing.

The LLC shall have no authority to:

- (i) conduct its affairs in any manner contravening or inconsistent with the provisions of this Article XIII of these Articles;
- (ii) dissolve or liquidate the Company or LLC or consent to any such dissolution or liquidation;
- (iii) sell or lease, or otherwise dispose of all or substantially all of the assets of the Company or the LLC;
- (iv) withdraw as the managing member of the LLC; or
- (v) Amend, modify or alter Article XIII of these Articles.

Notwithstanding any other provision of these Articles, any contrary or inconsistent provision of the operating agreement of the Company or any other document or instrument governing the affairs of the Company, or any provision of law that otherwise so empowers the Company, so long as the Loan or any other obligations secured by the Mortgage remains outstanding and not discharged in full, the Company shall have no authority, unless such action has been approved by a unanimous vote of all of the Company's members and, in the case of the LLC, the unanimous vote of all other members of the LLC, to file or consent to the filing of any voluntary or involuntary bankruptcy or insolvency petition with respect to the Company or the LLC or otherwise initiate or consent to proceedings to have the Company or the LLC adjudicated bankrupt or insolvent, or consent to the institution of bankruptcy or insolvency proceedings against the Company or the LLC, or file a petition seeking or consenting to reorganization or relief of the Company or the LLC as debtor under any applicable federal or state law relating to bankruptcy, insolvency, or other relief for debtors with respect to the Company or the LLC; or seek or consent to the appointment of any trustee, receiver, conservator, assignee, sequestrator, custodian, liquidator (or other similar official) of the Company or the LLC or of all or any substantial part of the properties and assets of the Company or the LLC, or make any general

Fax Audit No. H06000161493 3

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
06 JUN 20 AM 9:44

Fax Audit No. H06000161493 3

assignment for the benefit of creditors of the Company or the LLC, or admit in writing the inability of the Company or the LLC to pay its debts generally as they become due or declare or effect a moratorium on the Company's or the LLC's debt or take any corporate action in furtherance of any such action.

SEPARATENESS/OPERATIONS MATTERS.

The Company has heretofore conducted and shall at all times hereafter conduct its business and operations in strict accordance and compliance with the following provisions:

- (a) the Company has not and shall not own any asset or property other than (i) its interest in the LLC, and (ii) incidental personal property necessary for the ownership or operation of its interest in the LLC;
- (b) the Company has not and shall not engage in any business or activity other than those set forth in Article XIII and has not and shall not cause or permit the LLC to engage in any business or activity other than the ownership, management and operation of the Property; the Company has conducted and operated and will conduct and operate its business as presently conducted and operated;
- (c) the Company has not and shall not enter into or be a party to, or cause or permit the LLC to enter into or be a party to, any transaction, contract or agreement with any guarantor of the debt secured by the Mortgage or any part thereof (a "Guarantor") or with any Affiliate, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with unrelated third parties;

As used herein, the term "Affiliate" shall mean any person or entity other than the Company (i) which owns beneficially, directly or indirectly, any outstanding shares of the Company's stock or any membership interest in the LLC, or (ii) which controls or is under common control with the Company, the LLC, or any Guarantor (as hereinafter defined).

- (d) the Company has not and shall not, and has not and shall not cause or permit the LLC to incur any indebtedness, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than, in the case of the LLC, (i) the debt secured by the Mortgage and (ii) trade and operational debt incurred by the LLC in the ordinary course of business with trade creditors in connection with owning, operating and maintaining the Property, in such amounts as are normal and

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
06 JUN 20 AM 9:44

Fax Audit No. H06000161493 3

reasonable under the circumstances, provided such debt is not evidenced by a promissory note or other security instrument and is not at any time in an aggregate amount in excess of the lesser of two percent of the original Loan amount or \$11,750,000.00, and further provided that all such trade debts are paid within 30 days after the same are incurred. No indebtedness other than the debt secured by the Mortgage may be secured (senior, subordinated or pari passu) by the Property;

- (e) the Company has not and shall not, and has not and shall not permit the LLC to make any loans or advances to any Guarantor, Affiliate or other person or entity;
- (f) the Company has remained and shall remain solvent and shall pay its debts from its assets as the same shall become due;
- (g) the Company has done and shall do all things necessary to preserve its and the LLC's existence, and the Company has not and shall not, nor shall the Company cause or permit the LLC to amend, modify or otherwise change the partnership certificate, partnership agreement, articles of organization and operating agreement, trust or other organizational documents of the Company, LLC or a Guarantor in a manner which would adversely affect the Company's or the LLC's existence as a single-purpose entity, without the prior written consent of Lender;
- (h) the Company has maintained and shall maintain its and, separately, the LLC's financial statements, accounting records, books and records, bank accounts and other entity documents separate from those of their respective Affiliates, any constituent party of the LLC or any other person or entity, and, unless the Company is a "disregarded entity" for federal income tax purposes, the Company has filed and will file its own tax returns, and cause the LLC to file its own tax returns. The Company has maintained and shall maintain its and, separately, the LLC's books, records, resolutions and agreements as official records;
- (i) the Company has been and shall be, and at all times has held and will hold itself out to the public as, a legal entity separate and distinct from any other entity (including any Affiliate, any constituent party of the LLC or any Guarantor), shall correct any known misunderstanding regarding its identity or status as a separate entity, has conducted and shall conduct business in its own name, has held and shall hold its assets in its own name, has maintained and shall maintain and utilize a separate telephone

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
JUN 20 AM 9:41

Fax Audit No. H06000161493 3

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
06 JUN 20 AM 9:44

number and separate stationery, invoices and checks, has allocated and shall allocate fairly and reasonably any overhead for shared office space and has not and shall not identify itself as a division or part of any Affiliate or other person or entity, or any Affiliate or other person or entity as a division or part of the Company;

- (j) the Company has preserved and kept and shall preserve and keep in full force and effect its existence, good standing and qualification to do business in the state in which the Property is located and the Company has observed and will observe all corporate formalities;
- (k) the Company has maintained and shall maintain adequate capital and a sufficient number of employees for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations. The Company has paid and will pay the salaries of its own employees;
- (l) the Company has not and shall not seek or consent to the dissolution or winding up, in whole or in part, of the Company or the LLC, nor shall the Company merge with or be consolidated into any other entity or cause or permit the LLC to be merged with or consolidated into any other entity, or acquire, or cause or permit the LLC to acquire, by purchase or otherwise, all or substantially all of the business assets of, or any stock or beneficial ownership of, any entity;
- (m) the Company has not and shall not commingle the funds or any other assets of the Company with those of any Affiliate, any Guarantor, any constituent party of the LLC or any other person or entity, and the Company has paid and shall pay its own liabilities out of its own funds and assets;
- (n) the Company has maintained and shall maintain its and, separately, the LLC's assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its or the LLC's individual assets from those of any constituent party of the LLC, Affiliate, Guarantor or any other person or entity;
- (o) the Company has not and shall not, and has not and shall not permit the LLC to assume, guarantee, become obligated for or hold itself out to be responsible for, or hold out its credit as being available to satisfy, or pledge its assets as security for, the debts or obligations of any other


Fax Audit No. H06000161493 3

person or entity (provided, that the foregoing shall not prevent the LLC from being and holding itself responsible for expenses incurred or obligations undertaken by the property manager of the Property in respect of its duties regarding the Property);

- (q) the Company shall not own any subsidiary, or make any investment in any person or entity;
- (r) the Company shall not pledge its assets for the benefit of any other person or entity;
- (s) the Manager of the Company shall consider the interests of the creditors of the Company and the LLC in connection with all company decisions and actions;
- (t) the Company shall not acquire obligations or securities of any Guarantor or Affiliate.

The foregoing provisions of this Article shall govern over any contrary or inconsistent provision of these Articles, the operating agreement of the Company or any other document or instrument governing the affairs of the Company.

Dated: June 19, 2006



J. Paul Raymond, Authorized
Representative of Stella Del Mar, LLC
sole Member

FILED
SECRETARY OF CORPORATION
06 JUN 20 AM 9:44

Fax Audit No. H06000161493 3