

L 10000109061

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

PICK-UP WAIT MAIL

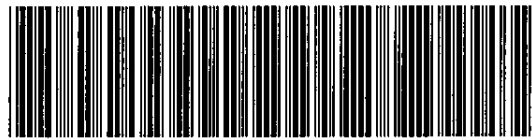
(Business Entity Name)

(Document Number)

Certified Copies _____ Certificates of Status _____

Special Instructions to Filing Officer:

Office Use Only



300218071173

01/12/12--01026--021 **25.00

FILED
12 JAN 12 PM 2:38
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

K. SALY
EXAMINER
JAN 13 2012

COVER LETTER

**TO: Registration Section
Division of Corporations**

SUBJECT: CLERMONT APARTMENT PROPERTIES, LLC
Name of Limited Liability Company

The enclosed Articles of Amendment and fee(s) are submitted for filing.

Please return all correspondence concerning this matter to the following:

*UPS Overnight Env.
Enclosed*

Joseph Strauss
Name of Person

USACORP Inc.
Firm/Company

325 Division Ave, Suite 201
Address

Brooklyn, NY 11211
City/State and Zip Code

E-mail address: (to be used for future annual report notification)

For further information concerning this matter, please call:

Joseph Strauss at (**718**) **362-4789 Ext 203**
Name of Person Area Code & Daytime Telephone Number

Enclosed is a check for the following amount:

- \$25.00 Filing Fee
- \$30.00 Filing Fee & Certificate of Status
- \$55.00 Filing Fee & Certified Copy (additional copy is enclosed)
- \$60.00 Filing Fee, Certificate of Status & Certified Copy (additional copy is enclosed)

MAILING ADDRESS:
Registration Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

STREET/COURIER ADDRESS:
Registration Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

ARTICLES OF AMENDMENT
OF
ARTICLES OF ORGANIZATION
OF

CLERMONT APARTMENT PROPERTIES, LLC

FILED
12 JAN 12 PM 2:38
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The undersigned, being the Manager of CLERMONT APARTMENT PROPERTIES, LLC, a Florida limited liability company (the "Company"), for the purpose of amending the Articles of Organization, does hereby certify:

FIRST: The name of the Company is:

CLERMONT APARTMENT PROPERTIES, LLC

SECOND: The following Article shall be added to the Company's Articles of Organization, as Article VI:

ARTICLE VI. Notwithstanding anything to the contrary contained herein, for so long as that certain first mortgage loan ("Loan") with Berkadia Commercial Mortgage LLC (together with its successors and/or assigns "Lender") to the Company, pursuant to that certain Loan Agreement (the "Loan Agreement") by and between Company and Lender, remains outstanding, in the event of any conflict between the provisions contained in this Section and the other provisions of this Agreement, the provisions of this Section shall control and govern. All capitalized terms within this Section shall have the meaning ascribed to them in that certain Loan Agreement.

Company has not, and for so long as the Loan shall remain outstanding, Company shall not:

- (i) engage in any business or activity other than the ownership, operation and maintenance of the Property, and activities incidental thereto;
- (ii) acquire or own any assets other than (A) the Property, and (B) such incidental Personal Property as may be necessary for the ownership, leasing, maintenance and operation of the Property;
- (iii) merge into or consolidate with any Person, 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;

- (iv) 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 Legal Requirements of the jurisdiction of its organization or formation, or amend, modify, terminate or fail to comply with the provisions of its organizational documents;
- (v) own any subsidiary, or make any investment in, any Person;
- (vi) commingle its assets with the funds or assets of any other Person;
- (vii) incur any Indebtedness, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (A) the Debt, (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 paid on or prior to such date, and/or (C) Permitted Equipment Leases; provided however, the aggregate amount of the indebtedness described in (B) and (C) shall not exceed at any time two percent (2%) of the outstanding principal amount of the Debt. No Indebtedness on any other Debt may be secured (subordinate or parri passu) by the Property;
- (viii) fail to maintain all of its books, records, financial statements and bank accounts separate from those of its affiliates and any constituent party. Company's assets have not and will not be listed as assets on the financial statement of any other Person; provided, however, that Company's assets may be included in a consolidated financial statement of its affiliates provided that (i) appropriate notation shall be made on such consolidated financial statements to indicate the separateness of Company and such affiliates and to indicate that Company's assets and credit are not available to satisfy the debts and other obligations of such affiliates or any other Person and (ii) such assets shall be listed on Company's own separate balance sheet. Company has maintained and will maintain its books, records, resolutions and agreements as official records;
- (ix) enter into any contract or agreement with any general partner, member, shareholder, principal or affiliate, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm's-length basis with unaffiliated third parties;
- (x) maintain its assets in such a manner that it will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;
- (xi) assume or guaranty the debts of any other Person, hold itself out to be responsible for the debts of any other Person, or otherwise pledge its assets for the benefit

of any other Person or hold out its credit as being available to satisfy the obligations of any other Person;

- (xii) make any loans or advances to any Person;
- (xiii) fail to file its own tax returns (unless prohibited by applicable Legal Requirements from doing so);
- (xiv) fail either to hold itself out to the public as a legal entity separate and distinct from any other Person or to conduct its business solely in its own name or fail to correct any known misunderstanding regarding its separate identity;
- (xv) 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 (to the extent there exists sufficient cash flow from the Property to do so);
- (xvi) without the unanimous written consent of all of its partners or members, as applicable, and the consent of each Independent Director (regardless of whether such Independent Director is engaged at the Company or SPE Component Entity level) (a) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any Creditors Rights Laws, (b) seek or consent to the appointment of a receiver, liquidator or any similar official, (c) take any action that might cause such entity to become insolvent, or (d) make an assignment for the benefit of creditors;
- (xvii) fail to allocate shared expenses (including, without limitation, shared office space) or fail to use separate stationery, invoices and checks;
- (xviii) fail to pay its own liabilities (including, without limitation, salaries of its own employees) from its own funds or fail to maintain a sufficient number of employees in light of its contemplated business operations (in each case to the extent there exists sufficient cash flow from the Property to do so);
- (xix) change Company's name or the location of Company's principal place of business;
- (xx) acquire obligations or securities of its partners, members, shareholders or other affiliates, as applicable.


Company shall at all times have a managing member that is a corporation or an Acceptable LLC (an "SPE Component Entity") whose sole asset is its interest in the Company. The SPE Component Entity (i) will at all times comply with each of the covenants, terms and provisions contained in Subsections (iii) - (vi) (inclusive) and (viii) - (xx) (inclusive) above (subject to SPE Component Entity owning its respective interests in Company), if SPE Component Entity is an Acceptable LLC, Sections (d) and (e) below, as if such representation,

warranty or covenant was made directly by SPE Component Entity; (ii) will not engage in any business or activity other than owning an interest in Company; (iii) will not acquire or own any assets other than its partnership, membership, or other equity interest in Company; (iv) will at all times continue to own no less than a 0.5% direct equity ownership interest in Company; (v) will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation); and (vi) will cause Company to comply with the provisions of this Section.

THIRD: The foregoing amendment was duly adopted by the shareholders of the Company. The number of votes cast for the amendment was sufficient for approval.

IN WITNESS WHEREOF, I hereto sign my name this tenth day of January, 2012.

CLERMONT APARTMENT PROPERTIES, LLC

By: 
Robert Wolf, Manager