

May 12 2011 4:23 PM

L11000035273

No. 0990

H11000130702 3

Florida Department of State  
Division of Corporations  
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.

((H11000130702 3)))



H110001307023ABCP

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) 617-6383

From:

Account Name : ROGERS, TOWERS, BAILEY, ET AL  
Account Number : 076666002273  
Phone : (904) 398-3911  
Fax Number : (904) 396-0663

\*\*Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.\*\*

Email Address: \_\_\_\_\_

RECEIVED

11 MAY 12 PM 4:20

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

LLC AMND/RESTATE/CORRECT OR M/MG RESIGN  
ROSEN HARBOR OAKS LLC

Certificate of Status	1
Certified Copy	1
Page Count	05
Estimated Charge	\$60.00

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

11 MAY 12 AM 8:50

FILED

B. BOSTICK

MAY 13 2011

EXAMINER

Electronic Filing Menu

Corporate Filing Menu

Help

H11000130702 3

May. 12. 2011 4:23PM

No. 0990 P. 2  
H11000130702 3

**ARTICLES OF AMENDMENT  
TO  
ARTICLES OF ORGANIZATION  
OF  
ROSEN HARBOR OAKS LLC  
(A FLORIDA LIMITED LIABILITY COMPANY)**

- FIRST:** The date of filing of the articles of organization was March 23, 2011.
- SECOND:** The amended and restated articles of organization of the limited liability company in the form attached hereto as Exhibit A were duly adopted by the limited liability company.
- THIRD:** The amended and restated articles of organization of the limited liability company shall become effective upon the filing of these articles of amendment with the Secretary of State of the State of Florida.

**DATED:** May 11, 2011.

ROSEN HARBOR, INC.,  
a Florida corporation,  
as its Managing Member

By: Jonathan P. Rosen

Name: JONATHAN P. ROSEN

Title: PRESIDENT

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

11 MAY 12 AM 8:50

FILED

H11000130702 3

EXHIBIT A

AMENDED AND RESTATED ARTICLES OF ORGANIZATION  
OF  
ROSEN HARBOR OAKS LLC

L-11000035273

These Amended and Restated Articles of Organization are submitted in accordance with the Florida Limited Liability Company Act, Chapter 608, Florida Statutes, as the same may from time to time be amended (the "Act").

ARTICLE I  
NAME

The name of the limited liability company (the "Company") is: ROSEN HARBOR OAKS LLC.

ARTICLE II  
ADDRESSES

The initial mailing and street address of the Company is 40 East 69th Street, New York, New York 10021.

ARTICLE III  
PURPOSE

The sole purpose for which the Company is organized is limited to: (a) owning Harbor Oaks Shopping Center, and all related facilities, amenities, fixtures, and personal property owned by the Company and any improvements now or hereafter created on the real described on Exhibit A (collectively, the "Project"); and (b) engaging in any lawful act or activity for which a limited liability company may be organized under Florida law that is incident and necessary and appropriate to the foregoing.

ARTICLE IV  
MANAGEMENT

The Company shall be managed by its managing member, Rosen Harbor, Inc., a Florida corporation (the "Managing Member").

ARTICLE V  
SINGLE PURPOSE ENTITY COVENANTS

Until all of the obligations of the Company under the Loan are fully and completely satisfied, the Company covenants that:

(a) The Company has not owned, does not own and will not own any asset or property other (i) the Project, and (ii) incidental personal property necessary for the ownership and operation of the Project.

FILED  
11 MAY 12 PM 8:50  
SLOAN COUNTY CLERK  
ALLAHABAD, INDIA

(b) The Company has not and will not engage in any business other than the ownership, management and operation of the Project and will conduct and operate its business as presently conducted and operated

(c) The Company will not enter into any contract or agreement with any Affiliate of the Company, any constituent party of the Company, or any Affiliate of any constituent party, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than any such party.

(d) The Company has not incurred and will not incur any Debt other than (i) the Loan, (ii) trade and operational debt incurred in the ordinary course of business with trade creditors and in amounts as are normal and reasonable under the circumstances, provided such debt is not evidenced by a note and is paid when due; and (iii) Debt incurred in the financing of equipment and other personal property used on the Project; provided, however, no indebtedness other than the Loan may be secured (subordinate or pari passu) by the Project.

(e) The Company has not made and will not make any loans or advances to any third party (including any affiliate or constituent party or any affiliate of a constituent party), and will not acquire obligations or securities of its affiliates or any constituent party.

(f) The Company is and will remain solvent and will pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its own funds and assets as the same become due.

(g) The Company has done or caused to be done and will do all things necessary to observe organizational formalities and preserve its existent, and will not, nor permit any constituent party to, amend, modify or otherwise change the articles of organization, operating agreement, articles of incorporation and bylaws, trust or other organizational documents of the Company or such constituent party without the written consent of Lender.

(h) The Company will maintain all of its books, records, financial statements and bank accounts separate from those of its Affiliates and any constituent party and will file its own tax returns, and will maintain its books, records, resolutions and agreements as official records.

(i) The Company will be, and at all times will hold itself out to the public as, a legal entity separate and distinct from any other entity (including any Affiliate of the Company, any constituent party of the Company, or any Affiliate of any constituent party), will correct any known misunderstanding regarding its status as a separate entity, will conduct business in its own name, will not identify itself or any of its Affiliates as a division or part of the other and will maintain and utilize a separate telephone number, if any, and separate stationary, invoices and checks.

(j) The Company will maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in lights of its contemplated business operations.

(k) The Company will not seek the dissolution, winding up, liquidation, consolidation or merger in whole or in part, of the Company.

(l) The Company will not commingle the funds and other assets of the Company with those of any Affiliate or constituent party, or any Affiliate or any constituent party, or any other person.

(m) The Company has and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any Affiliate or constituent party, or any Affiliate of any constituent party, or any other person.

(n) The Company does not and will not hold itself out to be responsible for the debts or obligations of any other person.

(o) The Managing Member will be a corporation whose sole asset is its interest in the Company and the Managing Member will at all times comply, and will cause the Company to comply with each of the covenants set forth in this Article V as if such covenant was made directly by the Managing Member.

The Company will not, without the prior written consent of Lender, amend, rescind or otherwise revoke the provisions set forth in this Article V.

#### ARTICLE VI DEFINITIONS

Unless otherwise expressly provided herein or unless the context clearly requires otherwise, the following terms used in these Articles of Organization shall have the following meanings for the purposes of these Articles of Organization:

(a) "Affiliate" means (i) any corporation in which the Company or any partner, shareholder, director, officer, member, or manager of the Company directly or indirectly owns or controls more than ten percent (10%) of the beneficial interest, (ii) any partnership, joint venture or limited liability company in which the Company or any partner, joint venturer or member, (iii) any trust in which the Company or any partner, shareholder, director, officer, member or manager of the Company is a trustee or beneficiary, (iv) any entity of any type which is directly or indirectly owned or controlled by the Company or any partner, shareholder, director, officer, member or manager of the Company, (v) any partner, shareholder, director, officer, member, manager or employee of the Company, or (vi) any person related by birth, adoption or marriage to any partner, shareholder, director, officer, member, manager, or employee of the Company.

(b) "Debt" means, without duplication, (i) all indebtedness of such person for borrowed money, for amounts drawn under a letter of credit, or for the deferred purchase price of property for which such person or its assets is liable, (ii) all unfunded amounts under a loan agreement, letter or credit, or other credit facility for which such person would be liable, if such amounts were advanced under the credit facility, (iii) all amounts required to be paid by such person as a guaranteed payment to partners or a preferred or special dividend, including any mandatory redemption of shares or interests, (iv) all indebtedness guaranteed by such person, directly or indirectly, (v) all obligations under leases that constitute capital leases for which such person is liable, and (vi) all obligations of such person under swaps, caps, floors, collars and other hedge agreements, in each case whether such person is liable contingently or otherwise, as obligor, guarantor or otherwise, or in respect of which obligations such person otherwise assures

FILED  
11 MAY 12 8:55 AM  
STATE OF FLORIDA  
TALLAHASSEE

a creditor against loss.

(c) "Lender" means Wells Fargo Bank, N.A., as Trustee for the Certificateholders of GE Commercial Mortgage Corporation, Commercial Mortgage Pass-through Certificates, Series 2003-C1, and/or its successors and assigns.

(d) "Loan" means that certain Five Million Three Hundred Sixty Thousand and 00/100 Dollars (\$5,360,000.00) mortgage loan secured by the Project evidenced by that certain Consolidated, Amended, Restated and Renewal Promissory Note, dated March 28, 2003, which Loan was assumed by the Company on or about May 13, 2011, pursuant to that certain Assumption and Release Agreement.

ARTICLE VIII  
LIMITED LIABILITY

Except as otherwise expressly provided by the Act, no member, manager, officer, agent or employee of the Company shall be personally liable for the debts, obligations or liabilities of the Company, whether arising in contract, tort or otherwise, or for the acts or omissions of any other member, manager, officer, agent or employee of the Company.

FILED  
11 MAY 12 AM 8:50  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA