

L26486

LAW OFFICES  
ROTH, ROTH & ASSOCIATES, P.A.

16459 NORTHEAST 6TH AVENUE  
NORTH MIAMI BEACH, FLORIDA 33162

STEVEN M. ROTH  
MITCHEL W. ROTH

Please reply to:  
P.O. Box 69-3029  
N. Miami Beach, Florida 33269-3029

FILED  
98 MAY 19 PM 3:28  
TALLAHASSEE, FLORIDA  
SECRETARY OF STATE  
AREA CODE 905  
PHONE 948-8280  
FAX 919-8500

900002529329-2  
-05/19/98-01064-011  
\*\*\*\*\*87.50 \*\*\*\*\*87.50

May 18, 1998

*Return to  
RTH RESAP*

Attorneys' Title Insurance Fund, Inc.  
Atten: Barbara Keys  
660 East Jefferson Street  
Suite 200  
Tallahassee, Florida 32301

RECEIVED  
98 MAY 19 PM 2:11  
OFFICE OF THE  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Re: Commerce Pointe, Inc. Mortgage from TransAtlantic Capital Company, LLC  
Our File No. 98-1002

Dear Ms. Keys:

Enclosed is the original and one copy of Articles of Amendment to Articles of Incorporation of Commerce Pointe, Inc. together with a check payable to the Secretary of State in the sum of \$87.50 representing their fees for the following services:

Filing Fee	\$35.00
Certified Copy of Amendment	\$52.50.

Your processing fee of \$20.00 should be added to our account with The Fund. Our agent number is 5754.

Please call our office when the filed Amendment is returned to you or if they cannot be filed for any reason. The certified copy of the Amendment should be returned to our office by fax at (305) 919-8500 and by Federal Express; an airbill is enclosed for your convenience.

Thank you for your attention to the foregoing. If you require any additional information to process this request, please call us.

Sincerely,

Mitchel W. Roth  
Enc.

AM  
05/19

**ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
OF  
COMMERCE POINTE, INC.**

**FILED**  
98 MAY 19 PM 3:28  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Pursuant to the provisions of section 607.1006, Florida Statutes, Commerce Pointe, Inc. adopts the following articles of amendment to its articles of incorporation:

**FIRST: Amendments adopted:**

Article III is hereby amended by deleting Article III in its entirety and substituting the following as Article III:

The corporation is organized for the following limited purposes: (a) To own, hold, sell, lease transfer, exchange, operate and manage the commercial office building (the "Premises") located at 1818 S. Australian Avenue, West Palm Beach, Florida, (b) To enter into a Loan Agreement (the "Loan") with TransAtlantic Capital Company, L.L.C., a Delaware limited liability company (the "Lender"), (c) To refinance the Premises in connection with a permitted repayment of the Loan, and (d) To transact any and all lawful business for which a corporation may be organized under the laws of the State of Florida that is incident, necessary and appropriate to accomplish the foregoing.

Articles X, XI, XII and XIII are hereby added to the Articles of Incorporation as follows:

Article X

- (a) The corporation is not authorized to incur indebtedness other than the Loan other than liabilities incurred in the ordinary course of business which are related to the ownership and operation of the Premises.
- (b) The corporation shall not engage in any dissolution, liquidation, consolidation, merger, or sale of assets, for so long as the Loan is outstanding.
- (c) The corporation shall only enter into transactions with affiliates if such transactions are transactions on an arm's-length basis and on commercially reasonable terms.

(d) The corporation shall not permit any transfer of any direct or indirect ownership interest in the corporation's stock that may be made such that the transferee owns, in the aggregate with the ownership interests of its affiliates and family members in the corporation, more than a 49% interest in the corporation (or such other interest as specified in the Commitment Letter for the Loan or by a rating agency rating the Loan), unless such transfer is conditioned upon the delivery of an acceptable non-consolidation opinion to the holder of the Loan and to any applicable rating agency concerning, as applicable, the corporation, the new transferee and/or their respective owners.

#### ARTICLE XI

The corporation shall be obligated to:

- (a) To maintain books and records separate from any other person or entity;
- (b) To maintain its bank accounts separate from any other person or entity;
- (c) Not to commingle its assets with those of any other person or entity and to hold all of its assets in its own name;
- (d) To conduct its own business in its own name;
- (e) To maintain separate financial statements, showing its assets and liabilities separate and apart from those of any other person or entity and not to have its assets listed on the financial statement of any other entity;
- (f) To file its tax returns separate from those of any other entity and not to file a consolidated federal income tax return with any other corporation;
- (g) To pay its own liabilities and expenses only out of its own funds;
- (h) As appropriate for the organizational structure of the Borrower, to observe all corporate and other organizational formalities;
- (i) To maintain an arm's length relationship with its affiliates and to enter into transactions with affiliates only on a commercially reasonable basis;
- (j) To pay the salaries of its own employees from its own funds;
- (k) To maintain a sufficient number of employees in light of its contemplated business operations;
- (l) Not to guarantee or become obligated for the debts of any other entity or person;
- (m) Not to hold out its credit as being available to satisfy the obligations of any other person or entity;
- (n) Not to acquire the obligations or securities of its affiliates or owners, including shareholders;
- (o) Not to make loans to any other person or entity or to buy or hold evidence of indebtedness issued by any other person or entity (other than cash and investment-grade securities);
- (p) To use separate stationery, invoices, and checks bearing its own name;
- (q) Not to pledge its assets for the benefit of any other person or entity, other than with respect to the Loan;

- (r) To hold itself out as a separate identity;
- (s) To correct any known misunderstanding regarding its separate identity;
- (t) Not to identify itself as a division of any other person or entity; and
- (y) To maintain adequate capital in light of its contemplated business operations.

ARTICLE XII

The unanimous consent of all of the directors is required for the corporation to:

- (a) File or consent to the filing of any bankruptcy, insolvency or reorganization case or proceeding; institute any proceedings under any applicable insolvency law or otherwise seek any relief under any laws relating to the relief from debts or the protection of debtors generally;
- (b) Seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for the corporation or a substantial portion of its properties;
- (c) make any assignment for the benefit of the corporation's creditors; or
- (d) Take any action in furtherance of any of the foregoing.

ARTICLE XIII

So long as the Loan is outstanding, the corporation is prohibited from amending its articles of incorporation with respect to Articles III, X, XI, XII and XIII without the consent of the Lender, or, after the securitization of the Loan only if the corporation receives (i) confirmation from each of the applicable rating agencies that such amendment would not result in the qualification, withdrawal or downgrade of any securities rating and (ii) approval of such amendment by the Lender or its assigns.

**SECOND:** The date of adoption of these amendments was May 7, 1998.

**THIRD:** The amendments were approved by the shareholders. The number of votes cast for the amendments were sufficient for approval.

Signed this 7<sup>th</sup> day of MAY, 1998.

  
\_\_\_\_\_(SEAL)  
Milan Bratin, Secretary