

L 82235

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

☐

PICK-UP

☐

WAIT

☐

MAIL

(Business Entity Name)

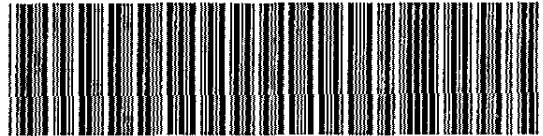
(Document Number)

Certified Copies _____

Certificates of Status _____

Special Instructions to Filing Officer:

Office Use Only



200042986652

FILED

04 DEC 17 PM 3:23

SECRETARY OF STATE
TALLAHASSEE FL 32301

RECEIVED

04 DEC 17 PM 2:53

FILE
TALLAHASSEE
FL 32301

Amend

G. Ouellette DEC 17 2004



CORPORATION SERVICE COMPANY

ACCOUNT NO. : 072100000032

REFERENCE : 090722 7351522

AUTHORIZATION

Patricia Pijet

COST LIMIT : \$ 35.00

ORDER DATE : December 16, 2004

ORDER TIME : 12:06 PM

ORDER NO. : 090722-030

CUSTOMER NO: 7351522

CUSTOMER: Ms. Melissa Neelley
Intercapital Partners, Ltd.
Suite 304
414 North Orleans
Chicago, IL 60610

DOMESTIC AMENDMENT FILING

NAME: GRANADA PLAZA, INC.

EFFECTIVE DATE:

XX ARTICLES OF AMENDMENT
 RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

 CERTIFIED COPY
XX PLAIN STAMPED COPY
 CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Darlene Ward -- EXT# 2935

EXAMINER'S INITIALS: _____

Articles of Amendment
to
Articles of Incorporation
of

Granada Plaza, Inc.

(Name of corporation as currently filed with the Florida Dept. of State)

L82235

(Document number of corporation (if known))

Pursuant to the provisions of section 607.1006, Florida Statutes, this *Florida Profit Corporation* adopts the following amendment(s) to its Articles of Incorporation:

NEW CORPORATE NAME (if changing):

(Must contain the word "corporation," "company," or "incorporated" or the abbreviation "Corp.," "Inc.," or "Co.")
(A professional corporation must contain the word "chartered", "professional association," or the abbreviation "P.A.")

AMENDMENTS ADOPTED- (OTHER THAN NAME CHANGE) Indicate Article Number(s) and/or Article Title(s) being amended, added or deleted: **(BE SPECIFIC)**

See Exhibit "A" attached hereto.

04 DEC 17 PM 3:22
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

FILED

(Attach additional pages if necessary)

If an amendment provides for exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself: (if not applicable, indicate N/A)

N/A

(continued)

The date of each amendment(s) adoption: 12/16/04

Effective date if applicable: _____
(no more than 90 days after amendment file date)

Adoption of Amendment(s) **(CHECK ONE)**

- ☒ The amendment(s) was/were approved by the shareholders. The number of votes cast for the amendment(s) by the shareholders was/were sufficient for approval.
- ☐ The amendment(s) was/were approved by the shareholders through voting groups. *The following statement must be separately provided for each voting group entitled to vote separately on the amendment(s):*

"The number of votes cast for the amendment(s) was/were sufficient for approval by _____."
(voting group)

- ☐ The amendment(s) was/were adopted by the board of directors without shareholder action and shareholder action was not required.
- ☐ The amendment(s) was/were adopted by the incorporators without shareholder action and shareholder action was not required.

Signed this 16th day of December, 2004.

Signature

Ysidra S. Mathews
(By a director, president or other officer - if directors or officers have not been selected, by an incorporator - if in the hands of a receiver, trustee, or other court appointed fiduciary by that fiduciary)

Ysidra S. Mathews
(Typed or printed name of person signing)

Vice President
(Title of person signing)

FILING FEE: \$35

**EXHIBIT "A" TO
ARTICLES OF AMENDMENT FOR
GRANADA PLAZA, INC.**

Article Two shall be deleted in its entirety and replaced with the following:

"Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Corporation to the contrary, the following shall govern: The nature of the business and of the purposes to be conducted and promoted by the Corporation is to engage solely in the activity of acting as a general partner of a limited partnership (the "Partnership") whose purpose is (i) to own a membership interest in InterCapital Ferncroft LLC, a Delaware limited liability company, (ii) to enter into and perform its obligations under that certain Limited Liability Company Purchase Agreement, effective as of March 1, 2004, by and among Ironwood Condominiums, Inc., InterCapital Hobby Place I Limited Partnership, Granada Plaza Limited Partnership, InterCapital Forum I Limited Partnership and InterCapital Rubicon I Limited Partnership and (iii) to pledge and grant a first priority security interest in all of the Company's assets to Hypo Real Estate Capital Corporation, as Agent to secure a Guaranty of Payment in favor of Hypo Real Estate Capital Corporation, as Agent.

The Corporation shall exercise all powers enumerated in the Business Organizations provisions of the Florida Statutes necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein."

Article VI shall be amended to read as follows:

"At least one (1) Director shall be an Independent Director. As used herein, an "Independent Director" shall mean an individual who shall not have been at the time of such individual's appointment, and may not have been at any time (i) a partner, member, shareholder of, or an officer or employee of, the Corporation or any of its respective partners, members, shareholders, subsidiaries or affiliates, (ii) a customer of, or supplier to, the Corporation or managing member of the Corporation or any of their respective partners, members, shareholders, subsidiaries or affiliates, (iii) a person controlling any such partner, member, shareholder, supplier or customer, or (iv) a member of the immediate family of any such shareholder, officer, employee, supplier or customer of any other director of the Corporation or of the managing member of the Corporation. As used herein, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether through ownership of voting securities, by contract or otherwise."

Article VIII shall be added and shall read as follows:

"(a) Certain Prohibited Activities:

"Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Corporation to the contrary, the following

shall govern: For so long as any mortgage lien exists on that certain real property known as 36-38 Village Road, Middleton, Massachusetts (the "Property"), the Corporation shall not and shall not cause the Partnership to incur, assume, or guaranty any other indebtedness. For so long as any mortgage lien exists on the Property, the Corporation shall not cause the Partnership to dissolve. The Corporation shall not and shall not cause the Partnership to consolidate or merge with or into any other entity or convey or transfer its properties and assets substantially as an entirety to any entity unless (i) the entity (if other than the Corporation or Partnership) formed or surviving such consolidation or merger or that acquired by conveyance or transfer the properties and assets of the Corporation or Partnership substantially as an entirety (a) shall be organized and existing under the laws of the United States of America or any State or the District of Columbia, (b) shall include in its organizational documents the same limitations set forth in this Article Ten(a) and in Article Ten(c) and (c) shall expressly assume the due and punctual performance of the Corporation's obligations; and (ii) immediately after giving effect to such transaction, no default or event of default under any agreement to which it is a party shall have been committed by this corporation or the Partnership and be continuing. For so long as a mortgage lien exists on the Property, the Corporation shall not voluntarily commence a case with respect to itself or cause the Partnership to 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 the Board of Directors. For so long as a mortgage lien exists on the Property, (i) no amendment to this certificate of incorporation or to the Corporation's By-Laws nor to the Partnership agreement of the Partnership may be made and (ii) neither the Corporation nor the Partnership shall be dissolved, liquidated or terminated without first obtaining approval of the mortgagee holding a first mortgage lien on the Property."

The Board of Directors may not take any action requiring the unanimous affirmative vote of 100% of the members of the Board of Directors unless all directors including the Independent Director shall have participated in such vote."

(b) Indemnification

Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Corporation to the contrary, the following shall govern: Any indemnification shall be fully subordinated to any obligations respecting the Partnership or the Property and shall not constitute a claim against the Corporation in the event that cash flow is insufficient to pay such obligations.

(c) Separateness Covenants

Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Corporation to the contrary, the following shall govern: For so long as any mortgage lien exists on the Property, in order to preserve and ensure its separate and distinct corporate identity, in addition to the other provisions set forth in this certificate of incorporation, the Corporation 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 those of its parent and any affiliate and shall allocate fairly and reasonably any overhead for shared office space.
2. It shall maintain separate corporate records and books of account from those of its parent and any affiliate.
3. Its Board of Directors shall hold appropriate meetings (or act by unanimous consent) to authorize all appropriate corporate actions, and in authorizing such actions, shall observe all corporate formalities. The Board of Directors shall include at least one (1) individual who is an Independent Director. As used herein, an "Independent Director" shall mean an individual who shall not have been at the time of such individual's appointment, and may not have been at any time (i) a partner, member, shareholder of, or an officer or employee of, the Corporation or any of its respective partners, members, shareholders, subsidiaries or affiliates, (ii) a customer of, or supplier to, the Corporation or managing member of the Corporation or any of their respective partners, members, shareholders, subsidiaries or affiliates, (iii) a person controlling any such partner, member, shareholder, supplier or customer, or (iv) a member of the immediate family of any such shareholder, officer, employee, supplier or customer of any other director of the Corporation or of the managing member of the Corporation. As used herein, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether through ownership of voting securities, by contract or otherwise.
4. It shall not commingle assets with those of its parent and any affiliate.
5. It shall conduct its own business in its own name.
6. It shall maintain financial statements separate from its parent and any affiliate.
7. It shall pay any liabilities out of its own funds, including salaries of any employees, not funds of its parent or any affiliate.
8. It shall maintain an arm's length relationship with its parent and any affiliate.
9. It shall maintain adequate capital in light of its contemplated business operations.
10. It shall not guarantee or, except to the extent of its liability for the debt secured by such mortgage lien, become obligated for the debts of any other entity, including its parent or any affiliate or hold out its credit as being available to satisfy the obligations of others.

11. It shall not acquire obligations or securities of its partners, members or shareholders.
12. It shall use stationery, invoices and checks separate from its parent and any affiliate.
13. It shall not pledge its assets for the benefit of any other entity, including its parent and any affiliate or make any loans or advances to any other person.
14. It shall hold itself out as an entity separate from its parent and any affiliate.
15. It shall correct any known misunderstanding regarding its separate identity.

For purpose of this Article Ten (c), the following terms shall have the following meanings:

“affiliate” means any person controlling or controlled by or under common control with the parent, including, without limitation (i) any person who has a familial relationship, by blood, marriage or otherwise with any director, officer or employee of the Corporation, its parent, or any affiliate thereof and (ii) any person which receives compensation for administrative, legal or accounting services from this corporation, its parent or any affiliate. For purposes of this definition, “control” when used with respect to any specified person, means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“parent” means, with respect to a corporation, any other corporation owning or controlling, directly or indirectly, fifty percent (50%) or more of the voting stock of the Corporation.

“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