

L9500000956

M. Julian Proctor, Jr.

Requestor's Name

Ausley & McMullen
227 South Calhoun Street

Address

Tallahassee, FL 32301

425-5306

City/State/Zip

Phone #

600002297186--3

-09/18/97-01083--021

***105.00 ***105.00

Office Use Only

Donna Marie Walters

CORPORATION NAME(S) & DOCUMENT NUMBER(S), (if known):

Amended to
L.L.C.

University Club Apartments of Orlando,

- | | Corporation Name | Document # |
|----|------------------|-------------|
| 1. | L.C. | L9500000956 |
| 2. | | |
| 3. | | |
| 4. | | |

☐ Walk in

☒ Pick up time

☒ Certified Copy

☐ Mail out

☐ Will wait

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NEW FILINGS	
<input type="checkbox"/>	Profit
<input type="checkbox"/>	NonProfit
<input type="checkbox"/>	Limited Liability
<input type="checkbox"/>	Domestication
<input type="checkbox"/>	Other

OTHER FILINGS	
<input type="checkbox"/>	Annual Report
<input type="checkbox"/>	Fictitious Name
<input type="checkbox"/>	Name Reservation

AMENDMENTS	
<input checked="" type="checkbox"/>	Amendment
<input type="checkbox"/>	Resignation of R.A., Officer/Director
<input type="checkbox"/>	Change of Registered Agent
<input type="checkbox"/>	Dissolution/Withdrawal
<input type="checkbox"/>	Merger

REGISTRATION/ QUALIFICATION	
<input type="checkbox"/>	Foreign
<input type="checkbox"/>	Limited Partnership
<input type="checkbox"/>	Reinstatement
<input type="checkbox"/>	Trademark
<input type="checkbox"/>	Other

Examiner's Initials

CERTIFICATE OF AMENDMENT TO THE
ARTICLES OF ORGANIZATION OF
UNIVERSITY CLUB APARTMENTS OF ORLANDO, L. C.

97 SEP 15 PM 4:39
FILED
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

THE UNDERSIGNED MEMBERS, pursuant to the provisions of Chapter 608 of the Florida Statutes, provide the following information for the purpose of amending the Articles of Organization of UNIVERSITY CLUB APARTMENTS OF ORLANDO, L. C.

1. The name of the Limited Liability Company is UNIVERSITY CLUB APARTMENTS OF ORLANDO, L. C.

2. The date of filing of the Articles of Organization was December 11, 1995.

3. The amendments to the Articles of Organization are as follows:

A. Paragraph 3, Purpose, of the Articles of Organization, is hereby amended in its entirety and restated as follows:

3. Purpose. The purpose of the limited liability company (hereinafter, "the Company") is limited solely to (i) owning, holding, selling, leasing, transferring, exchanging, operating, and managing the Company's project in Orange County, Florida, known as University Club Apartments of Orlando (hereinafter, "the Property"), (ii) entering into the \$17,000,000.00 loan (hereinafter, the "First Mortgage Loan") to be secured, in part, by a first mortgage (hereinafter, "the First Mortgage"), which the Company intends to execute and deliver to GMAC Commercial Mortgage Corporation (hereinafter, "the

Lender") on or about September 18, 1997, which will encumber the Property, and (iii) transacting any and all lawful business that is incident, necessary, and appropriate to accomplish the foregoing.

B. Paragraph 9, Continuity of Business, of the Articles of Organization, is hereby amended in its entirety to read as follows:

9. Continuity of Business. Upon the death, retirement, resignation, expulsion, bankruptcy, or dissolution of a member, the business of the limited liability company shall be continued so long as the First Mortgage is still outstanding, and when the First Mortgage is no longer outstanding, upon the occurrence of any of the foregoing events with respect to any of the members, the remaining members may unanimously agree to dissolve the limited liability company pursuant to the provisions of the Florida Limited Liability Company Act.

C. Paragraph 10, Management, of the Articles of Organization, is hereby amended in its entirety to read as follows:

10. Management. The Limited Liability Company shall be managed by a manager, and the name and address of the Manager are as follows:

<u>Name</u>	<u>Address</u>
University Club Management of Orlando, Inc.	1713 Mahan Drive, Suite C Tallahassee, FL 32308

D. The following new paragraphs are added to the Articles of Organization:

11. Books and Records, Etc. Notwithstanding any other provision of these Articles or the Company's Regulations dated December 27, 1995, as amended and restated, to the contrary, the Company shall:

a. maintain books and records separate from any other person or entity;

b. maintain its bank accounts separate from any other person or entity;

c. not commingle its assets with those of any other person or entity and hold all of its assets in its own name;

d. conduct its own business in its own name;

e. maintain separate financial statements, showing its assets and liabilities separate and apart from those of any other person or entity;

f. pay its own liabilities and expenses only out of its own funds;

g. observe all company and other organizational formalities;

h. maintain an arm's length relationship with its affiliates and enter into transactions with affiliates only on a commercially reasonable basis;

i. pay the salaries of its own employees from its own funds;

j. maintain a sufficient number of employees in light of its contemplated business operations;

k. not guarantee or become obligated for the debts of any other entity or person;

l. not hold out its credit as being available to satisfy the obligations of any other person or entity;

m. not acquire the obligations or securities of its affiliates or owners, including partners, members, or shareholders, as appropriate;

n. not make loans to any other person or entity or buy or hold evidence of indebtedness issued by any other person or entity (other than cash and investment-grade securities);

o. allocate fairly and reasonably any overhead expenses that are shared with an affiliate, including paying for office space and services performed by any employee of an affiliate;

p. use separate stationery, invoices, and checks bearing its own name;

q. not pledge its assets for the benefit of any other person or entity;

r. hold itself out as a separate identity;

s. correct any known misunderstanding regarding its separate identity;

t. not identify itself as a division of any other person or entity; and

u. maintain adequate capital in light of its contemplated business operations.

12. Single Purpose Entity Requirement. So long as the First Mortgage is outstanding, every Managing Member shall be a Single Purpose Entity.

13. Consent. The prior written consent of all Managing Members, including the consent of the Independent Directors, is required for (a) the withdrawal of any Managing Member from the Company, (b) the admission of any Managing Member to the Company, (c) any other assignment, pledge, sale, or transfer, in whole or in part, of a Managing Member's interest in the Company. After the withdrawal or admission of any Member, the Company shall continue as a limited liability company.

14. Definitions.

The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management, policies, or activities of a person or entity, whether through ownership of voting securities, by contract, or otherwise.

An "Independent Director" shall mean a director of a corporation so long as such director is not at the time of initial appointment and has not been at any time during the preceding five (5) years and shall not be at any time while serving as Independent Director any of the following: (a) a stockholder, director, officer, employee, partner, or member of any member of the Company, the Company, or any affiliate of any such member or of the Company; (b) a stockholder, director, officer, employee, partner, member of, or an individual who is a customer, supplier, or service provider (including professionals), or other person who derives more than ten percent (10%) of its purchases, revenues, compensation, or other financial remuneration from its activities with

any member of the Company, the Company, or any affiliate of any such member or of the Company, or who otherwise is financially dependent upon an officer, director, or employee of the Company, a family member (by blood or marriage) of any such officer, director, or employee, or a business entity owned or controlled by any of the foregoing; (c) a person or other entity controlling or under common control with any such stockholder, director, officer, employee, partner, member, customer, supplier, service provider, or other person; or (d) a member of the immediate family of any individual described in (a), (b), or (c) above. (As used herein, the term "Independent Directors" shall mean the independent directors of University Club Apartments of Orlando, Inc.)

"Non-Consolidation Opinion" shall mean an opinion of counsel to the Company (reasonably satisfactory to the Lender and each Rating Agency in form and substance, from counsel reasonably satisfactory to the Lender and each Rating Agency and containing assumptions, limitations, and qualifications customary for opinions of such type) to the effect that a court of competent jurisdiction in a proceeding under the United States Bankruptcy Code would not consolidate the assets and liabilities of the Company with those of any member or affiliate thereof which became a debtor under the United States Bankruptcy Code, and if applicable to the Company, that any such transfer would not be a fraudulent conveyance under the United States Bankruptcy Code.

A "Single Purpose Entity" shall mean an entity, other than an individual, that is formed or organized solely for the purpose of holding, directly, an interest in the Company, does not engage in any business unrelated to the ownership of such interest, does not have any assets other than those related to the ownership of such interest, has its own separate books and records and its own accounts, and holds itself out as being an entity separate and apart from any other entity, and whose organizational documents contain provisions substantively similar to those contained herein relating to its purpose, separateness, and the requirement for direct or, if such entity is not a corporation, indirect, consent of an Independent Director to the same types of transactions specified herein.

15. Other Consents. Notwithstanding any other provision of these Articles or the Regulations to the contrary, the unanimous consent of all members (including the consent of the Independent Directors) is required for the Company to do any of the following:

a. engage in any business or activity other than those set forth in Paragraph 3 of these Articles;

b. incur any indebtedness or assume or guaranty any indebtedness other than the First Mortgage Loan and unsecured trade debt incurred in the ordinary course of business which is payable within thirty (30) days of when incurred, provided that the total outstanding amount of such trade debt does not exceed any maximum amount provided in the First Mortgage at any one time;

c. institute proceedings to be adjudicated bankrupt or insolvent;

d. consent to the institution of bankruptcy or insolvency proceedings against it;

e. file a petition seeking, or consent to, reorganization or relief under any applicable federal or state law relating to bankruptcy;

f. seek or consent to the appointment of a receiver, liquidator, conservator, assignee, trustee, sequestrator, custodian, or any other similar official of the Company or a substantial part of the property of the Company;

g. make any assignment for the benefit of creditors;

h. admit in writing its inability to pay its debts generally as they become due;

i. otherwise seek relief under any laws relating to the relief from debts or the protection of debtors generally;

j. dissolve or liquidate, in whole or in part;

k. consolidate or merge with or into any other entity or convey or transfer its properties and assets substantially as an entirety to any person or entity;

l. amend or cause to be amended these Articles;

m. engage in transactions with affiliates;
or

n. take any action in furtherance of any of the preceding actions.

16. Continuation of Company. If there are one or more Managing Members of the Company, notwithstanding any other provision of these Articles to the contrary, the Company shall continue (and not dissolve) for so long as a single solvent Managing Member exists and the First Mortgage is outstanding.

17. Transfers of Member Interests. In addition to the requirements set forth in the preceding Paragraph 16 of these Articles and notwithstanding any other provision of these Articles to the contrary, so long as the First Mortgage Loan is outstanding, no member of the Company may transfer any direct or indirect ownership interest in the Company such that the transferee owns more than a forty-nine percent (49%) interest in the Company (or such other interest as specified in the First Mortgage), and such transferee will not be admitted as a member of the Company unless such transfer is conditioned upon the delivery of an acceptable Non-Consolidation Opinion to the Lender and to any nationally recognized rating agency which has been requested by the Lender or any transferee of the Lender to rate any issue of securities issued in respect to a pool of mortgage loans which includes the loan secured by the First Mortgage Loan (the "Certificates") and which is then rating, or is expected to rate, such Certificates (individually, a "Rating Agency") concerning, as applicable, the Company, the new transferee, and/or their respective owners. This provision shall not restrict a transfer of interests between the current Members of the Company so long as no Member owns more than a forty-nine percent (49%) interest in the Company (or such other interest as specified in the First Mortgage) after the transfer.

18. Regulations and Alteration, Amendment, or Repeal. Neither the Company's Regulations nor any alteration, amendment, or repeal of its Regulations shall in any manner impair or impair the intent of paragraphs 3, 9, 11, 12, 13, 14, 15, 16, or 17 of these Articles.


The undersigned Members, constituting a majority of the members of the Company entitled to vote, hereby consent to the amendments to the Articles of Organization of the Company contained

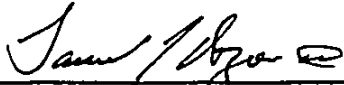
in this Certificate of Amendment, in accordance with the provisions of the Regulations of the Company.

The execution of this Certificate by each of the following Members constitutes an affirmation under the penalties of perjury that the facts stated herein are true.

EXECUTED at Tallahassee, Florida, on the 12 day of September, 1997.

MEMBERS:



ROBERT W. BROWNING, JR.


LAURIE L. DOZIER, III


JAMES M. RUDNICK


THOMAS C. PROCTOR

EDUCATIONAL FACILITIES GROUP, INC.

By: 
Its 9/12/97

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