

L98000001244



THE UNITED STATES CORPORATION COMPANY

ACCOUNT NO. : 072100000032

REFERENCE : 907048 10915A

AUTHORIZATION :

COST LIMIT : \$ 346.25

Patricia Pizeto

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
98 JUL 28 PM 1:58

ORDER DATE : July 28, 1998

ORDER TIME : 11:20 AM

ORDER NO. : 907048-015

CUSTOMER NO: 10915A

400002600534--4

CUSTOMER: Elizabeth Tobin, Legal Asst
WALKER, KOEGLER & DILLINGHAM

217 Ponte Vedra Park Drive
Suite 200
Ponte Vedra Bea, FL 32082

DOMESTIC FILING

NAME: 330 WEST ASSOCIATES
HIALEAH, L.L.C.

EFFECTIVE DATE:

XX ARTICLES OF INCORPORATION
 CERTIFICATE OF LIMITED PARTNERSHIP

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY
 PLAIN STAMPED COPY
XX CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Christopher Smith

EXAMINER'S INITIALS:

(9)

Handwritten signature

RECEIVED
98 JUL 28 PM 12:10
DIVISION OF CORPORATIONS

**ARTICLES OF ORGANIZATION
OF
330 WEST ASSOCIATES HIALEAH, L.L.C.**

The undersigned, for the purpose of forming a limited liability company under the Florida Limited Liability Company Act, F.S. Chapter 608, hereby make, acknowledge, and file the following Articles of Organization.

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
98 JUL 28 PM 1:58

ARTICLE I -- NAME

The name of the limited liability company shall be 330 WEST ASSOCIATES HIALEAH, L.L.C. ("Company").

ARTICLE II -- ADDRESS

The mailing address and the street address of the principal office of the Company shall be 15 Maple Avenue, Morristown, New Jersey 07960.

ARTICLE III -- DURATION

The Company shall commence its existence on the date these Articles of Organization are filed by the Florida Department of State. The Company's existence shall be perpetual unless the Company is earlier dissolved as provided in these Articles of Organization.

ARTICLE IV -- PURPOSE AND LIMITATIONS

Section 1. Purpose. The nature of the business and of the purposes to be conducted and promoted by the Company is to engage solely in the activity of acquiring from Hialeah CT Venture, that certain parcel of real property described as Lots 1, 2, 3, 4, 18, 19, 20, 21, 22, 23 and 24, Block 1, of East Hialeah, according to the Plat thereof as recorded in Plat Book 8, at Page 29, of the Public Records of Dade County, Florida, together with all improvements thereon, (the "Property") and to own, hold, sell assign, transfer, operate, lease, mortgage, pledge and otherwise deal with the Property. The Company shall exercise all powers enumerated in Chapter 608 of the Florida Statutes (1997) necessary or convenient to the conduct, promotion, or attainment of the business or purposes otherwise set forth herein.

Section 2. Limitations. The Company shall only incur indebtedness in an amount necessary to acquire, operate and maintain the Property. For so long as any mortgage lien (the "First Mortgage") in favor of First Union National Bank or its successors or assigns ("First Union") exists on any portion of the Property, the Company shall not incur, assume, or guaranty any other indebtedness. For so long as the First Mortgage exists on any portion of the Property and the Company remains the owner of the Property, the Company (i) shall not dissolve or liquidate (ii), shall not consolidate or merge with or into any other entity, or convey or transfer its properties and assets substantially as an entirety or transfer any of its beneficial interest to any entity; (iii) shall not voluntarily commence a case with respect to itself voluntarily commence a case with respect to itself, as a debtor, under the Federal Bankruptcy Code or any similar federal or state statute without the

unanimous consent of the board of directors (iv) shall not materially amend these Articles of Organization without first obtaining approval of the mortgagee holding the First Mortgage on a portion of the Property.

Section 3. Separateness/Operations Matters. For so long as the First Mortgage exists on any portion of the Property, in order to preserve and ensure its separate and distinct identity, in addition to the other provisions set forth in the Articles of Organization, the Company shall conduct its affairs in accordance with the following provisions:

- a. It shall establish and maintain an office through which its business shall be conducted separate and apart from that of any of its members or affiliates and shall allocate fairly and reasonably any overhead for shared office space.
- b. It shall maintain records and books of account separate from those of any member or affiliate.
- c. It shall observe all limited liability company formalities.
- d. It shall not commingle assets with those of any member or affiliate.
- e. It shall conduct its own business in its own name.
- f. It shall maintain financial statements separate from any member or affiliate.
- g. It shall pay any liabilities out of its own funds, including salaries of any employees, not funds of any member or affiliate.
- h. It shall maintain an arm's length relationship with any member or affiliate.
- i. It shall not guarantee or become obligated for the debts of any other entity, including any member or affiliate, or hold out its credit as being available to satisfy the obligations of others.
- j. It shall use stationery, invoices and checks separate from any member or affiliate.
- k. It shall not pledge its assets for the benefit of any other entity, including any member or affiliate.
- l. It shall hold itself out as an entity separate from any member or affiliate.
- m. The managing member shall at all times be a single purpose, "bankruptcy remote" corporation, which shall at all times have at least one (1) Independent Director on its Board of Directors.
- n. For purposes of this Article IV, the following terms shall have the following meanings:

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
98 JUL 28 PM 1:58

SECRETARY OF STATE
DIVISION OF CORPORATIONS
98 JUL 28 PM 1:58

“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 manager, officer, or employee of the Company, its parent or any affiliate thereof and (ii) any person which receives compensation for administrative, legal or accounting services from this Company, 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 otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“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.

“Independent Director” shall be an individual who: (i) is not and has not been employed by the corporation or any of its respective subsidiaries or affiliates as a director, officer or employee within the five years immediately prior to such individual’s appointment as an Independent Director, (ii) is not (and is not affiliated with a company or firm that is) a significant advisor or consultant of the corporation or any of its subsidiaries or affiliates, (iii) is not affiliated with a significant customer or supplier of the corporation or any of its subsidiaries or affiliates; (iv) is not affiliated with a company of which the corporation or any of its subsidiaries or affiliates is a significant customer or supplier; (v) does not have significant personal service contract(s) with the corporation or any of its subsidiaries or affiliates; (vi) is not affiliated with a tax exempt entity that receives significant contributions from the corporation or any of its subsidiaries or affiliates; (vii) is not a beneficial owner at the time of such individual’s appointment as an Independent Director, or at any time thereafter while serving as Independent Director, of such number of shares of any classes of common stock of the corporation the value of which constitutes more than 5% of the outstanding common stock of the corporation; and (viii) is not a spouse, parent, sibling, or child of any person described by (i) through (vii).

Section 4. Indemnification. Any indemnification of the Company’s members shall be fully subordinated to any obligations respecting the Property (including, without limitation, the First Mortgage) and such indemnification shall not constitute a claim against the Company in the event that cash flow in excess of amounts necessary to pay holders of such obligations is insufficient to pay such obligations.

Section 5. Voting. When voting on matters subject to the vote of the members, notwithstanding that the Company is not then insolvent, the members and the outside member shall take into account the interest of the Company’s creditors, as well as those of its members.

ARTICLE V -- REGISTERED OFFICE AND AGENT

The name and street address of the registered agent of the Company in the State of Florida is Randal C. Fairbanks, 217 Ponte Vedra Park Drive, Suite 200, Ponte Vedra Beach, Florida 32082.

ARTICLE VI -- CAPITAL CONTRIBUTIONS

The members of the Company shall contribute to the capital of the Company the cash or property set forth in Exhibit "A."

ARTICLE VII -- ADDITIONAL CAPITAL CONTRIBUTIONS

Each member shall make additional capital contributions to the Company only on the unanimous consent of all the members.

ARTICLE VIII -- ADMISSION OF NEW MEMBERS

No additional members shall be admitted to the Company except with the unanimous written consent of all the members of the Company and on such terms and conditions as shall be determined by all the members. A member may transfer his or its interest in the Company as set forth in the regulations of the Company, but the transferee shall have no right to participate in the management of the business and affairs of the Company or become a member unless all the other members of the Company (other than the member proposing to dispose of his or her interest) approve of the proposed transfer by unanimous written consent.

ARTICLE IX -- TERMINATION OF EXISTENCE

To the extent permissible under applicable federal and state tax law, the vote of a majority-in-interest of the remaining members is sufficient to continue the existence of the Company. If such vote is not obtained, for so long as the First Mortgage exists on any portion of the Property, the Company shall not liquidate the Property without first obtaining approval of the mortgagee holding the First Mortgage on any portion of the Property. Such holders may continue to exercise all of their rights under the existing security agreements or mortgages until the debt underlying the First Mortgage has been paid in full or otherwise completely discharged.

ARTICLE X -- MANAGEMENT

The Company shall be managed by one or more managers in accordance with regulations adopted by the members for the management of the business and affairs of the Company. These regulations may contain any provisions for the regulation and management of the affairs of the Company not inconsistent with law or these Articles of Organization. The initial Member Manager of the Company shall be 330 West Hialeah, Inc., a Florida corporation, 15 Maple Avenue, Morristown, New Jersey 07960.

998000066081

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
98 JUL 28 PM 1:58

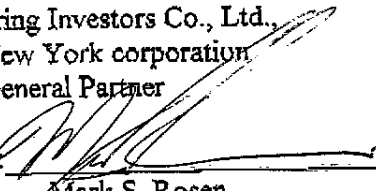
FILED IN STATE
DIVISION OF CORPORATIONS
98 JUL 28 PM 1:58

IN WITNESS WHEREOF, the undersigned organizers have made and subscribed these
Articles of Organization at Morristown, New Jersey on this 23rd
day of July, 1998.

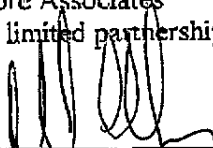
Member: 330 West Associates
a New York general partnership

By: Seventeen Investors
a New Jersey limited partnership
Partner

By: Pickering Investors Co., Ltd.
a New York corporation
a General Partner

By: 
Mark S. Rosen
Vice President

By: Westmoore Associates
a New Jersey limited partnership
Partner

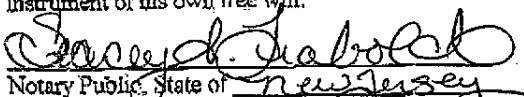
By: 
Richard Abramson, a general partner

Member: 330 West Hialeah, Inc.
a Florida corporation

By: 
Mark S. Rosen
Vice President

STATE OF New Jersey
COUNTY OF Morris

The foregoing Articles of Organization were acknowledged before me this 23rd day of July, 1998,
by Mark S. Rosen as Vice President of Pickering Investors Co., Ltd., a New York corporation who is personally
known to me or who has produced _____ as identification, and who acknowledged that he signed such
instrument of his own free will.


Notary Public, State of New Jersey
Notary's printed or stamped name:
My commission expires:

STACEY ANN TRABOLD
Notary Public State of New Jersey
Commission Expires June 18, 2003

STATE OF New Jersey)

COUNTY OF Bergen)

The foregoing Articles of Organization were acknowledged before me this 24th day of July, 1998, by **Richard Abramson, as General Partner of Westmoore Associates, a New Jersey partnership** who is personally known to me or who has produced _____ as identification, and who acknowledged that he signed such instrument of his own free will.

FILED STATE SECRETARY OF CORPORATIONS
98 JUL 28 PM 1:58

Sarah M. Frasse
Notary Public, State of New Jersey
Notary's printed or stamped name:
My commission expires:

SARAH M. FRASSE
Notary Public of New Jersey
Commission Expires March 16, 2001

STATE OF New Jersey

COUNTY OF Morris)

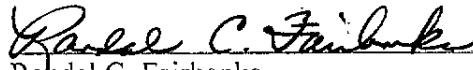
The foregoing Articles of Organization were acknowledged before me this 23rd day of July, 1998, by **Mark S. Rosen, the Vice President of 330 West Hialeah, Inc., a Florida corporation** who is personally known to me or who has produced _____ as identification, and who acknowledged that he signed such instrument of his own free will.

Stacey Ann Trabold
Notary Public, State of New Jersey
Notary's printed or stamped name:
My commission expires:

STACEY ANN TRABOLD
Notary Public State of New Jersey
Commission Expires June 18, 2003

ACCEPTANCE OF REGISTERED AGENT

The undersigned, being the person named in the Articles of Organization of **330 WEST ASSOCIATES HIALEAH, L.L.C.** as the registered agent of this limited liability company, hereby consents to accept service of process for the above stated Company at the place designated in the Articles of Organization, and accepts the appointment as registered agent and agrees to act in this capacity. The undersigned further agrees to comply with the provisions of all statutes relating to the proper and complete performance of his duties, and is familiar with and accept the obligations of the position of registered agent.


Randal C. Fairbanks
Registered Agent

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
98 JUL 28 PM 1:58

AFFIDAVIT OF MEMBERSHIP AND CONTRIBUTIONS

The undersigned Member or authorized representative of a Member of **330 WEST ASSOCIATES HIALEAH, L.L.C.** deposes and says:


1. The above named limited liability company has two members initially.
2. The total amount of cash contributed by the members is \$210,000.00.
3. No property other than cash was contributed by members.
4. The total amount of cash or property anticipated to be contributed by members is \$210,000.00. This total includes amounts from 2 and 3 above.

FILED STATE
SECRETARY OF CORPORATIONS
JUL 28 PM 1:58

THE AFFIANT SAYS NOTHING FURTHER

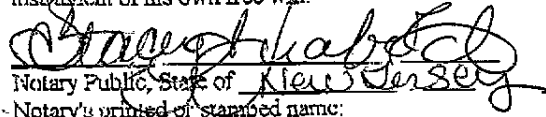
Dated: July 23, 1998

Member: **330 West Hialeah, Inc.**
a Florida corporation

By: 
Mark S. Rosen
Vice President

STATE OF New Jersey
COUNTY OF Morris

The foregoing Articles of Organization were acknowledged before me this 23rd day of July, 1998, by **Mark S. Rosen, the Vice President of 330 West Hialeah, Inc., a Florida corporation** who is personally known to me or who has produced _____ as identification, and who acknowledged that he signed such instrument of his own free will.


Notary Public, State of New Jersey

Notary's printed or stamped name:
My commission expires:
STACEY ANN TRABOLD
Notary Public State of New Jersey
Commission Expires June 18, 2003