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*Patricia Pizeto*

SECRETARY OF STATE  
TALLAHASSEE FLORIDA

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FILED

ORDER DATE : June 5, 2001

ORDER TIME : 10:13 AM

ORDER NO. : 173733-005

CUSTOMER NO: 3487A

CUSTOMER: Ms. Laurie Wright  
Icard Merrill Cullis Timm  
Furen & Ginsburg, PA  
Suite 600  
2033 Main Street  
Sarasota, FL 34237

SECRETARY OF STATE  
TALLAHASSEE FLORIDA

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DOMESTIC FILING

NAME: THE FRUITVILLE BUSINESS CENTER  
ASSOCIATION, INC.

EFFECTIVE DATE:

XX ARTICLES OF INCORPORATION  
       CERTIFICATE OF LIMITED PARTNERSHIP  
       ARTICLES OF ORGANIZATION

500004341815--6

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY  
       PLAIN STAMPED COPY  
       CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Betty Young - EXT. 1112

EXAMINER'S INITIALS:

*EP 6/5/01*

\*  
**ARTICLES OF INCORPORATION OF  
THE FRUITVILLE BUSINESS CENTER ASSOCIATION, INC.**

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SECRETARY OF STATE  
TALLAHASSEE FLORIDA

**I. NAME**

The name of this Association shall be ~~The~~ Fruitville Business Center Association, Inc., hereinafter referred to as the "Association".

**II. PURPOSES**

The general nature, objects and purposes of the Association are as follows:

A. To promote the health, safety and welfare of the Owners of Property within that area referred to as the Fruitville Business Center in the Declaration of Covenants and Restrictions of the Fruitville Business Center to be recorded in the Public Records of Sarasota County, Florida (hereinafter referred to as the "Declaration").

B. To own and maintain, repair and replace the Common Areas, drainage facilities, easements, structures, landscaping and other improvements in and/or benefitting the Fruitville Business Center for which the obligation to maintain, repair and replace has been delegated.

C. To provide for private security, fire protection and such other services the responsibility for which has been or may be accepted by the Association, and the capital improvements and equipment related thereto, in the Fruitville Business Center.

D. To provide, purchase, acquire, replace, improve, maintain and/or repair such real property, buildings, structures, street lights, landscaping, paving and equipment, related to the health, safety and welfare of the members of the Association, as the Board of Directors in its discretion determines necessary, appropriate and/or convenient.

E. To manage, operate, maintain, repair and replace the Stormwater Management System (as defined in the Declaration) for the Subdivision recorded in the Public Records of Sarasota County, Florida, in accordance with all applicable laws, ordinances, rules, regulations and permit conditions.

F. To operate without profit for the sole and exclusive benefit of its members.

G. To perform all of the functions contemplated of the Association, and undertaken by the Board of Directors of the Association, in the Declaration.

### **III. GENERAL POWERS**

The general powers that the Association shall have are as follows:

A. To hold funds solely and exclusively for the benefit of the members for purposes set forth in these Articles of Incorporation.

B. To promulgate and enforce rules, regulations, Bylaws, covenants, restrictions and agreements to effectuate the purposes for which the Association is organized.

C. To delegate power or powers where such is deemed in the interest of the Association.

D. To purchase, lease, hold, sell, mortgage or otherwise acquire or dispose of interests in real or personal property, except to the extent restricted hereby or unless restricted by the Declaration; to enter into, make, perform or carry out contracts of every kind with any person, firm, corporation, association or other entity; to do any and all acts necessary or expedient for carrying on any of the activities and pursuing any of the objects and purposes set forth in the Articles of Incorporation and not forbidden by the laws of the State of Florida.

E. To fix assessments to be levied against the Property, perform the Association's duties and obligations as set forth in the Declaration, to defray expenses and the cost of effectuating the objects and purposes of the Association, and to create reasonable reserves for such expenditures, and to authorize its Board of Directors, in its discretion, to enter into agreements for the collection of such assessments.

F. To charge recipients of services rendered by the Association and for the use of Association Property when deemed appropriate by the Board of Directors of the Association.

G. To pay taxes and other charges, if any, on or against property owned or accepted by the Association.

H. To merge with any other association which may perform similar functions. located within the same general vicinity of the subject property as described in Article II Section 3 of the Declaration.

I. To own, acquire, operate and maintain the Stormwater Management System, hereinafter referred to by name or together with other areas collectively as the "Common Areas", as further described in the Declaration. The Stormwater Management System means those water management areas defined by Rule 40D-4.021(5), Florida Administrative Code. Examples of components of the Stormwater Management System include, but are not limited to, the following: streets, roads, rights-of-way, inlets, ditches, culverts, structures, retention and detention areas, ponds, lakes, flood plane compensation areas, wetland mitigation areas and

conservation/preservation areas.

I. In general, to have all powers conferred upon a corporation by the laws of the State of Florida, except as prohibited herein.

#### **IV. MEMBERS**

A. The members shall consist of the Property Owners in the Fruitville Business Center. The Property comprising the Fruitville Business Center is described in Exhibit "A" to the Declaration

B. "Declarant", "Owner", "Parcel", "Property" and any other defined term used herein, and elsewhere in the Articles, are used with the definitions given those terms in the Declaration. "Developer" shall mean DMB/Sarasota I, L. P. , a Delaware limited partnership, or its successors and/or assigns.

#### **V. VOTING AND ASSESSMENTS**

A. Subject to the restrictions and limitations hereinafter set forth, there shall be 100 votes allocated among the Owners in the same proportions that the Owners' Parcels are charged for assessments as provided in the Declaration. When more than one person holds an interest in any Parcel, all such persons shall be members, and the vote (s) for such Parcel shall be exercised as they among themselves determine, but in no event shall the Owners cast more than the votes allocated to that Parcel. There shall be no fractional voting and all fractional votes shall be rounded off to the nearest whole number, there being 100 votes in total. The votes for any Parcel cannot be divided for any issue and must be voted as a whole. Except where otherwise required under the provisions of these Articles, the Declaration or the Bylaws of the Fruitville Business Center, the affirmative vote of the Owners of a majority of votes represented at any meeting of the members duly called and at which a quorum is present shall be binding upon the members.

B. The Developer shall have the right to appoint a majority of the Board of Directors so long as it owns at least one (1) Parcel or any property which ultimately may be added as part of the Fruitville Business Center.

C. The Association will obtain funds with which to operate by assessment of its members owning Parcels in accordance with the provisions of the Declaration for the Fruitville Business Center, as supplemented by the provisions of the Articles and Bylaws of the Association.

#### **VI. BOARD OF DIRECTORS**

A. The affairs of the Association shall be managed by a Board of Directors consisting of not less than three (3) nor more than five (5) Directors. Directors need not be members of the Association and need not be residents of the State of Florida. There shall be three (3) Directors

appointed by the Developer so long as the Developer has the right to appoint a majority of the Board of Directors. Elections shall otherwise be by plurality vote. At the first annual election to the Board of Directors the term of office of the two elected Directors receiving the highest plurality of votes shall be established at one (1) year. In addition, the Developer shall select two (2) Directors to serve for terms of two (2) years and one (1) Director to serve for a term of one (1) year. Thereafter, as many Directors shall be elected and appointed, as the case may be, as there are regular terms of office of Directors expiring at such time, and the term of the director so elected or appointed at each annual election shall be for two (2) years expiring at the second annual election following their election, and thereafter until their successors are duly elected and qualified, or until removed from office with or without cause by the affirmative vote of a majority of the members which elected or appointed them. In no event can a Board member appointed by the Developer be removed except by action of the Developer. Any Director appointed by the Developer shall serve at the pleasure of the Developer, and may be removed from office, and a successor Director may be appointed, at any time by the Developer.

B. The names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected or appointed and have qualified, are as follows:

Name	Address
Charles Kramer	The Brookhill Group 501 Madison Avenue New York, NY 10022
Robert W. LoSchiavo	The Brookhill Group 501 Madison Avenue New York, NY 10022
Brad Kushner	The Brookhill Group 501 Madison Avenue New York, NY 10022
Ronald Bruder	The Brookhill Group 501 Madison Avenue New York, NY 10022

## VII. OFFICERS

A. The officers of the Association shall be a President, a Vice President, a Secretary, a Treasurer, and other officers as the Board may from time to time by resolution create. Any two (2) or more offices may be held by the same person except the offices of President and Secretary. Officers shall be elected for one (1) year terms in accordance with the procedures set forth in the Bylaws. The names of the officers who are to manage the affairs of the Association until their successors are duly elected and qualified are:

President  
Vice President  
Treasurer  
Secretary

Charles Kramer  
Robert W. LoSchiavo  
Brad Kushner  
Robert W. LoSchiavo

#### **VIII. CORPORATE EXISTENCE**

The Association shall have perpetual existence.

#### **IX. BYLAWS**

The Board of Directors shall adopt Bylaws consistent with these Articles.

#### **X. AMENDMENT TO ARTICLES OF INCORPORATION**

These Articles may be altered, amended or repealed by resolution of the Board of Directors. No amendment affecting DMB/Sarasota I, L. P., a Delaware limited partnership or its successors or assigns as Developer of the Fruitville Business Center (as is defined in the Declaration) shall be effective without the prior written consent of said DMB/Sarasota I, L. P., or its successors or assigns, as Developer.

#### **XI. ADDRESSES**

The street address of the initial principal office of the Association is 2033 Main Street, Suite 600, Sarasota, Florida 34237, and the mailing address of the Association is the same.

#### **XII. INDEMNIFICATION OF OFFICERS AND DIRECTORS**

A. The Association hereby indemnifies any Director or officer made a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding:

1. Whether civil, criminal, administrative, or investigative, other than one by or in the right of the Association to procure a judgment in its favor, brought to impose a liability or penalty on such person for an act alleged to have been committed by such person in his capacity as Director or officer of the Association, or in his capacity as Director, officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise which he served at the request of the Association, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees, actually and necessarily incurred as a result of such action, suit or proceeding or any appeal therein, if such person acted in good faith in the reasonable belief that such action was in the best interests of the Association, and in criminal actions or proceedings, without reasonable ground for belief that such action was unlawful. The

termination of any such action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not in itself create a presumption that any such Director or officer did not act in good faith in the reasonable belief that such action was in the best interests of the Association or that he had reasonable grounds for belief that such action was unlawful.

2. By or in the right of the Association to procure a judgment in its favor by reason of his being or having been a Director or officer of the Association, or by reason of his being or having been a Director, officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise which he served at the request of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense or settlement of such action, or in connection with an appeal therein if such person acted in good faith in the reasonable belief that such action was in the best interests of the Association. Such person shall not be entitled to indemnification in relation to matters to which such person has been adjudged to have been guilty of negligence or misconduct in the performance of his duty to the Association unless, and only to the extent that, the court, administrative agency, or investigative body before which such action, suit or proceeding is held shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which such tribunal shall deem proper.

B. The Board of Directors shall determine whether amounts for which a Director or officer seeks indemnification were properly incurred and whether such Director or officer acted in good faith and in a manner he reasonably believed to be in the best interests of the Association, and whether, with respect to any criminal action or proceeding, he had no reasonable ground for belief that such action was unlawful. Such determination shall be made by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding, if possible. If no such vote is possible, such determination shall be made by a vote of a majority of the Owners present at a duly called meeting where a quorum is present.

C. The foregoing rights of indemnification shall not be deemed to limit, in any way, the powers of the Association to indemnify under applicable law.

### **XIII. TRANSACTION IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED**

A. No contract or transaction between the Association and one or more of its Directors or officers, or between the Association and any other corporation, partnership, association, or other organization in which one or more of its Directors or officers are Directors or officers, or

have a financial interest, shall be invalid, void or voidable solely for this reason, or solely because the Director or officer is present at or participates in the meeting of the Board or committee thereof which authorized the contract or transaction, or solely because his or their votes are counted for such purpose. No Director or officer of the Association shall incur liability by reason of the fact that he is or may be interested in any such contract or transaction.

#### **XIV. DISSOLUTION OF THE ASSOCIATION**

A. Upon dissolution of the Association, all of the remaining assets of the Association, after provision for creditors and payment of all costs and expenses of such dissolution, shall be distributed in the following manner:

1. Real property contributed to the Association without the receipt of other than nominal consideration by Developer (or its predecessor in interest) shall be returned to Developer, unless it refuses to accept the conveyance (in whole or in part).
2. Remaining assets shall be distributed among the members, subject to the limitations set forth below, as tenants in common, each members' share of the assets to be determined in accordance with its voting rights.

B. The Association may be dissolved as permitted by law.

C. Despite the foregoing, if the Association is dissolved, any property owned by the Association and comprising the Stormwater Management System shall be conveyed to an appropriate agency of local government, and that if not accepted, then the Stormwater Management System shall be dedicated by the Association to a similar non-profit corporation.


#### **XV. INCORPORATOR**

The name of the incorporator is Michael J. Furen and his address is 2033 Main Street, Suite 600, Sarasota, Florida 34237.

#### **XVI. REGISTERED AGENT**

The street address of the corporation's initial registered office is 2033 Main Street, Suite 600, Sarasota, Florida 34237, and the name of its initial registered agent at that address is Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. (Attention: Michael J. Furen).

IN WITNESS WHEREOF, the said incorporator has hereto set his hand and seal this 9<sup>th</sup> day of May, 2001.

  
MICHAEL J. FUREN, Incorporator



**ACCEPTANCE OF APPOINTMENT  
AS REGISTERED AGENT FOR  
THE FRUITVILLE BUSINESS CENTER ASSOCIATION, INC.**

Having been named to accept service of process for the above stated corporation, at the place designated in the corporation's Articles of Incorporation, the undersigned hereby acknowledges and accepts the appointment and agrees to act in this capacity, and it further agrees to comply with the provisions of all statutes relative to the proper and complete performance of its duties.

DATED: May 9, 2001

ICARD, MERRILL, CULLIS, TIMM, FUREN &  
GINSBURG, P.A.



Michael J. Furen  
For the Firm

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