

5/11/2021

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1177 Moderne Condominium Association, Inc,

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ARTICLES OF INCORPORATION
FOR
1177 MODERNE CONDOMINIUM ASSOCIATION, INC.

I. NAME

The name of the non-stock corporation shall be 1177 MODERNE CONDOMINIUM ASSOCIATION, INC., a corporation not for profit (the "Association"). The Association's principal office and mailing address shall be c/o 1177 MODERNE, LLC, 185 N.E. 4th Avenue, No. 104, Delray Beach, Florida 33483, or at such other place as may be designated from time to time by the Board of Directors.

II. PURPOSES

The Association shall be the condominium association responsible for the operation of 1177 Moderne, a condominium, subject to the terms and restrictions of the Declaration of Condominium for 1177 Moderne ("Declaration"), the Bylaws and these Articles all for that certain condominium known as 1177 Moderne, located in Delray Beach, Palm Beach County, Florida ("Condominium" all of the aforesaid documents "Condominium Documents"). Each Owner shall be a Member of the Association as provided in these Articles. The purpose for which this Association is organized is to maintain, operate and manage the Condominium, including the Condominium Property, as defined in the Condominium Documents; to own portions of, operate, lease, sell, trade and otherwise deal with the Condominium and certain of the improvements located therein; and to be a member of the Association, all in accordance with the plan set forth in the Condominium Documents and all other lawful purposes.

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III. GENERAL POWERS

The Association shall have the following powers, which shall be governed by the following provisions:

A. The Association shall have all of the common law and statutory powers of a corporation not for profit, which are not in conflict with the terms of the Condominium Documents or the Condominium Act, Chapter 718, Florida Statutes ("Act") as amended through the date of recording of the Declaration.

B. The Association shall have all of the powers of a condominium association under the Act and shall have all of the powers reasonably necessary to implement the purposes of the Association including, but not limited to, the following:

1. To make, establish and enforce reasonable Rules and Regulations governing the use of the Condominium Property (including the Units and the Common Elements);
2. To make, levy, collect and enforce Assessments and special charges and any other charges and/or fees as provided in the Condominium Documents against Owners,

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in order to provide funds to pay for the expenses of the Association, the maintenance, operation and management of the Condominium and the payment of Common Expenses and other expenses in the manner provided in the Condominium Documents, the Act and to use and expend the proceeds of such Assessments in the exercise of the powers and duties of the Association;

3. To maintain, repair, replace and operate the Condominium Property in accordance with the applicable Declaration and the Act;
4. To enforce by legal means the provisions of the Condominium Documents and the Act;
5. To employ personnel, retain independent contractors and professional personnel, and to enter into service contracts to provide for the maintenance, operation and management of the Condominium Property and to enter into any other agreements consistent with the purposes of the Association including, but not limited to, agreements as to the management of the Condominium Property and agreements to acquire possessory or use interests in real property and to provide therein that the expenses of said real property and any improvements thereon, including taxes, insurance, utility expenses, maintenance and repairs are Common Expenses of the Condominium;
6. To purchase: (i) Unit(s) and to obtain such financing as is necessary to effectuate the same; and (ii) other real and/or personal property as determined by the Association in compliance with the Condominium Documents.

IV. MEMBERS

The qualification of Members of the Association, the manner of their admission to membership, the manner of the termination of such Membership, and the manner of voting by Members shall be as follows:

A. A unit owner as defined in the Act and who is an owner of a Unit as defined in the Declaration, which shall mean in the first instance Developer as the owner of all the Units, shall be entitled to exercise all of the rights and privileges of Members.

B. Membership in the Association shall be established by the acquisition of ownership of fee title to a Unit as evidenced by the recording of a deed or other instrument of conveyance in the Public Records whereupon the membership of the prior Owner shall terminate as to that Unit. Where title to a Unit is acquired from a party other than Developer, the person, persons, corporation or other legal entity thereby acquiring such Unit, shall not be a Member unless and until such acquisition is in compliance with the provisions of the applicable Declaration. New Members shall deliver to the Association a certified copy of the deed of conveyance, letter of approval or other instrument of acquisition of title to the Unit in accordance with the provisions of the Declaration.

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C. No Member may assign, hypothecate or transfer in any manner his membership or his share in the funds and assets of the Association except as an appurtenance to his Unit.

V. VOTING INTERESTS AND ASSESSMENTS

A. Voting rights of shall be as provided in the By-Laws of the Association.

B. The Association will obtain funds with which to operate by assessment of the Owners in accordance with the provisions of the Declaration, as supplemented by the provisions of the Articles and By-Laws of the Association relating thereto.

VI. BOARD OF DIRECTORS

A. The affairs of the Association shall be managed by a Board of Directors consisting of three (3) Directors. As long as the Developer has the right to appoint a majority of the Board of Directors, Directors need not be Members of the Association and need not be residents of the State of Florida. Election and removal of Directors shall be as provided in the By-Laws.

B. The names of the initial members of the first Board of Directors who shall hold office ("First Board") are as follows:

Thomas D. Laudani

Patrick Whyte

Jessica Hazel

Developer reserves the right to designate successor Directors to serve on the First Board for so long as the First Board is to serve, as hereinafter provided. Developer reserves the right to remove any Director from the First Board and the right to remove any Director designated by Developer in accordance with these Articles.

C. Upon the conveyance by Developer to Owners, other than Developer ("Non-Developer Members"), of fifteen percent (15%) or more of the "Units" (as evidenced by the recordation of deeds), as contemplated in the Declaration, the Non-Developer Members shall be entitled to elect one-third (1/3) of the Board. The Developer shall designate the remaining Directors on the Board at the Initial Election Meeting. The Director to be so elected by the Non-Developer Members and the remaining Directors to be designated by Developer are hereinafter collectively referred to as the "Initial Elected Board" and shall succeed the First Board upon their election and qualification. Subject to the provisions of Article VI, Paragraph D below, the Initial Elected Board shall serve until the next Annual Members' Meeting, whereupon, the Directors shall be designated and elected in the same manner as the Initial Elected Board. The Directors shall continue to be so designated and elected at each subsequent Annual Members' Meeting until such time as the Non-Developer Members are entitled to elect not less than a majority of the Directors on the Board. Developer reserves the right, until such time as the Non-Developer Members are

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entitled to elect not less than a majority of the Directors on the Board, to designate successor Directors to fill any vacancies caused by the resignation or removal of Directors designated by Developer pursuant to this Article VI.

D. Non-Developer Members are entitled to elect not less than a majority of the Board upon the happening of any of the following events, whichever shall first occur:

1. Three (3) years after sales by Developer of fifty percent (50%) of the Units in the Condominium have been "Closed" (which shall mean the recording of a deed or other instrument of conveyance to a Purchaser Member in the Public Records.); or
2. Three (3) months after sales by Developer of ninety percent (90%) of the Units in the Condominium have been Closed; or
3. When all the Units that will be operated ultimately by the Association have been completed and none being offered for sale by the Developer in the ordinary course of business.
4. When all of the Units in the Condominium have been completed and some have been sold to Non-Developer Members and none of the others are being offered for sale by Developer in the ordinary course of business; or
5. When some of the Units in the Condominium have been conveyed to Non-Developer Members and none of the others are being constructed or offered for sale by Developer in the ordinary course of business; or
6. Seven (7) years after the recordation of the Declaration; or
7. When Developer, as Developer has the right to do at any time upon written notice to the Association, relinquishes its right to designate a majority of the Board.

E. The election of not less than a majority of Directors by the Non-Developer Members shall occur at a meeting of the membership to be called by the Board for such purpose ("Majority Election Meeting").

F. At the Majority Election Meeting, the Non-Developer Members shall elect one (1) Director, and the Developer, until the Developer's Resignation Event shall be entitled to designate one (1) Director. Developer reserves the right, until the Developer's Resignation Event, to name the successor, if any, to any Director it has so designated; provided, however, Developer shall in any event be entitled to exercise any right it may have to representation on the Board.

G. The Board shall continue to be elected by the Members subject to Developer's right to appoint a member to the Board as specified in the Act or the Declaration (provided the provision in the Declaration is in accordance with the Act) at each subsequent Annual Members' Meeting, until Developer is no longer entitled to appoint a member to the Board.

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H. The Initial Election Meeting and the Majority Election Meeting shall be called by the Association, through its Board, within seventy-five (75) days after the Non-Developer Members are entitled to elect a Director or the majority of Directors, as the case may be. A notice of the election shall be forwarded to all Members in accordance with the Bylaws; provided, however, that the Members shall be given at least sixty (60) days' notice of such election. The notice shall also specify the number of Directors that shall be elected by the Non-Developer Members and the remaining number of Directors designated by Developer.

I. Developer shall cause all of its designated Directors to resign when Developer no longer holds at least five percent (5%) of the sum of the Units in the Condominium for sale in the ordinary course of business. In addition, Developer may at any time, in its sole discretion, cause the voluntary resignation of all of the Directors designated by it. The happening of either such event is herein referred to as the "Developer's Resignation Event". Upon the Developer's Resignation Event, the Directors elected by Members shall elect successor Directors to fill the vacancies caused by the resignation or removal of the Developer's designated Directors. These successor Directors shall serve until the next Annual Members' Meeting and until their successors are elected and qualified; provided, however, nothing herein contained shall be deemed to waive any right to representation on the Board that Developer may have pursuant to the Act. Within 75 days after the unit owners other than the Developer are entitled to elect a member or members of the Board, the Association shall call, and give not less than 60 days notice of an election for the members of the Board.

J. At each Annual Members' Meeting held subsequent to the year in which the Developer's Resignation Event occurs, the number of Directors to be elected shall be determined by the Board from time to time, but there shall not be less than three (3) Directors. Secret ballots and the Bylaws procedures are to be used.

K. The following provisions shall govern the right of each Director to vote and the manner of exercising such right:

1. There shall be only one (1) vote for each Director.
2. All of the Directors of the Board shall vote thereon as one (1) body, without distinction as to class, on matters that pertain to this Association.
3. In the case of deadlock by the Board, application shall be made to a court of competent jurisdiction to resolve the deadlock.
4. In the determination of whether a quorum exists or whether the Board has duly acted with respect to any matter, such determination shall be made with respect to the number of all of the Directors.

VII. OFFICERS

The officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, and such other officers as the Board of Directors may from time to time by resolution create. The Board may employ a managing agent and/or such other managerial and supervisory personnel or

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entities as it deems necessary to administer or assist in the administration of the operation or management of the Association. Developer shall have the right to be reimbursed for expenses incurred by Developer on behalf of the Association in managing the Association. Any two (2) or more offices may be held by the same person. Officers shall be elected for one (1) year terms in accordance with the procedure set forth in the By-Laws. The names of the officers who are to manage the affairs of the Association until their successors are duly elected and qualified are:

President Thomas D. Laudani

Vice President Patrick Whyte

Treasurer/Secretary Jessica Hazel

VIII. CORPORATE EXISTENCE

The Association shall have perpetual existence.

IX. BY-LAWS

The Bylaws ("Bylaws") of the Association shall be adopted by the First Board and thereafter may be altered, amended or rescinded by the affirmative vote of not less than a majority of the Members present at an Annual Members' Meeting or special meeting of the membership and the affirmative approval of a majority of the Board at a regular or special meeting of the Board. In the event of a conflict between the provisions of these Articles and the provisions of the Bylaws, the provisions of these Articles shall control.

X. AMENDMENT TO ARTICLES OF INCORPORATION

These Articles of Incorporation may amended in the following manner:

A. The Board, as a whole, shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of Members, which may be either the Annual Members' Meeting or a special meeting. Any number of amendments may be submitted to the Members and voted upon by them at one meeting, as per section 718.303(1)(e).

B. Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each Member of record entitled to vote within the time and in the manner provided in the Bylaws for the giving of notice of Meetings of Members ("Required Notice");

C. At such meeting, a vote of the Members shall be taken on the proposed amendments. The proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the votes of all Members entitled to vote thereon; or

D. An amendment may be adopted by a written statement signed by all Directors and written consent of Members representing the Voting Interests sufficient to pass the amendment at

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a meeting where all Members are present and setting forth their intention that an amendment to the Articles be adopted. Where an amendment is passed by written consent in lieu of meeting, those Members not submitting written consent shall be notified in writing of the passage thereof.

E. After turnover Developer may vote Developer-owned units in the same manner as any other Unit Owner except to reacquire control of the Association or selecting the majority of the Board of Directors.

F. No amendment shall be made to the Articles which shall in any manner reduce, amend, affect or modify the terms, conditions, provisions, rights and obligations set forth in the applicable Declaration.

G. A copy of each amendment shall be certified by the Secretary of State of the State of Florida and, after the recordation of a Declaration(s), recorded in the Public Records as an amendment to each Declaration.

H. Notwithstanding the foregoing provisions of this Article X, there shall be no amendment to these Articles which shall abridge, amend or alter the rights of Developer, including the right to designate and select the Directors as provided in Article VI hereof, without the prior written consent thereto by Developer nor shall there be any amendment to these Articles which shall abridge, alter or modify the rights of the holder, guarantor or insurer of a first mortgage on any Unit or of any "Institutional Mortgagee" (as defined in each Declaration) without its prior written consent.

I. The reference in these Articles of Incorporation to any Florida Statute or Florida Administrative Code provision shall include any amendment thereto or successor thereto.

XI. INDEMNIFICATION OF OFFICERS, DIRECTORS AND COMMITTEE MEMBERS

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

A. 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, officer or committee member, or in his capacity as Director, officer, employee or agent of any 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, officer,

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or committee member did not act in good faith and 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; and 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, officer or committee member for the Association, or by reason of his being or having been a Director, officer, employee or agent of any 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 and 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 as 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, officer or committee member 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.

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

XII. REGISTERED AGENT

The registered agent for the Association and his office shall be:

Cristofer A. Bennardo
Padula Bennardo Levine, LLP
3837 NW Boca Raton Blvd.
Suite 200
Boca Raton, Florida 33431

XIII. CERTIFICATE OF APPROVAL

The undersigned hereby certifies that at a duly called meeting of the members of the Association on April 15, 2019, wherein all of the members were present, this Amended and Restated Articles of Incorporation, the Declaration and the Bylaws were approved by an affirmative vote of all of the members of the Association.

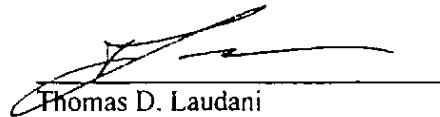
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IN WITNESS WHEREOF, the said subscriber has hereunto set his hand this 5th day of May, 2021.


Thomas D. Laudani
President

STATE OF FLORIDA

COUNTY OF PALM BEACH

I HEREBY CERTIFY that on this 5th day of May 2021 before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, by means of ☒ physical presence or ☐ online notarization, personally appeared Thomas D. Laudani who is personally known to me and who did take an oath.


Notary Public, State of Florida

My Commission Expires:

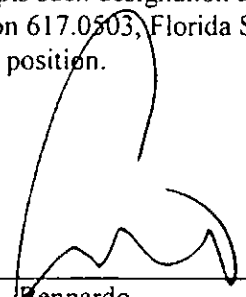


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ACCEPTANCE OF REGISTERED OFFICE/REGISTERED AGENT

Having been designated to accept service of process for the above-stated Corporation at the place set forth hereinabove, Cristofer A. Bennardo, Esq. hereby accepts such designation and agrees to act in such capacity and to comply with all provisions of Section 617.0503, Florida Statutes. The undersigned is familiar with, and accepts the obligations of that position.


Cristofer A. Bennardo

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FILED