



PO1000058923

ACCOUNT NO. : 072100000032

REFERENCE : 184233 161599A

AUTHORIZATION :

COST LIMIT : \$ 87.50

Patricia Pignatelli

ORDER DATE : June 13, 2001

ORDER TIME : 12:53 PM

ORDER NO. : 184233-005

CUSTOMER NO: 161599A

CUSTOMER: Mr. Jeffrey J. Wolfe
Daryl Cramer & Associates, Pa

100004418131--0

Suite 910
515 North Flagler Drive
West Palm Beach, FL 33401-5010

DOMESTIC FILING

NAME: GOLF TERRACE SPECIAL, INC.

EFFECTIVE DATE:

XX ARTICLES OF INCORPORATION
 CERTIFICATE OF LIMITED PARTNERSHIP
 ARTICLES OF ORGANIZATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX (2) CERTIFIED COPY
 PLAIN STAMPED COPY
 CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Janna Wilson - EXT. 1155

EXAMINER'S INITIALS:

JW 6/13/01

2001 JUN 13 PM 1:32
DOMESTIC FILING
GOLF TERRACE SPECIAL, INC.
WEST PALM BEACH, FL 33401-5010

**ARTICLES OF INCORPORATION
OF
GOLF TERRACE SPECIAL, INC.**

2011 JUN 13 PM 2:36

2011 JUN 13 PM 2:36
TALLAHASSEE FLORIDA

The undersigned hereby establishes the following for the purpose of becoming a corporation under the laws of the State of Florida, by and under the provisions of the statutes of the State of Florida providing for the formation, liability, rights, privileges and immunities of a corporation for profit.

**ARTICLE I
NAME OF CORPORATION**

The name of this Corporation shall be "Golf Terrace Special, Inc." (the "Corporation").

**ARTICLE II
MAILING ADDRESS**

The mailing address of the Corporation is c/o Daryl Cramer & Associates, P.A., 515 North Flagler Drive, Suite 910, West Palm Beach, Florida 33401.

**ARTICLE III
PURPOSE**

This Corporation is organized for the following purposes:

- (a) To have and to exercise all the powers now or hereafter conferred by the laws of the State of Florida upon corporations organized pursuant to the laws under which the Corporation is organized and any and all acts amendatory thereof and supplemental thereto;
- (b) For the purpose of transacting any or all lawful business; and
- (c) To do any and everything pertinent to the above.

Notwithstanding the preceding, the nature of the business and the purposes to be conducted and promoted by the Corporation shall be solely to (i) act as general partner of Golf Terrace, Ltd., a Florida limited partnership (the "Project Partnership") and (ii) to take any and all action as may be required pursuant to the agreement of limited partnership of said partnership, as amended.

**ARTICLE IV
CAPITAL STOCK**

The Corporation is authorized to issue One Thousand (1,000) shares of One Dollar (\$1.00) par value common stock.

**ARTICLE V
INITIAL REGISTERED OFFICE AND AGENT**

The street address of the registered office of this Corporation is c/o Daryl Cramer & Associates, P.A., 515 North Flagler Drive, Suite 910, West Palm Beach, Florida 33401, and the name of the initial registered agent of this Corporation at that address is Daryl Cramer & Associates, P.A.

**ARTICLE VI
BOARD OF DIRECTORS**

This Corporation shall have three (3) directors initially. The number of directors may either be increased or diminished from time to time in accordance with the Bylaws of the Corporation, but shall never be less than one (1). The name and address of the initial directors of this Corporation are as follows:

Fabrizio Lucchese
105 West Beaver Creek
Suites 9 & 10
Richmond Hill, Ontario
Canada L4B 1C6

William P. Myers
105 West Beaver Creek
Suites 9 & 10
Richmond Hill, Ontario
Canada L4B 1C6

William J. Kiiskili
4307 Vineland Road, Suite H-12
Orlando, Florida 32811

ARTICLE VII INDEMNIFICATION

Section 1. Indemnification.

(a) The Corporation (and any successor to the Corporation by merger or otherwise) shall, and does hereby indemnify, to the fullest extent permitted or authorized by current or future legislation (specifically including the full extent of indemnification permitted by Florida law), or current or future judicial or administrative decisions (but, in the case of any such future legislation or decisions, only to the extent that it permits the Corporation to provide broader indemnification rights than permitted prior to such legislation or decision), each person (including the heirs, personal representatives, executors, administrators and estate of the person) who was or is a party, or is threatened to be made a party, or was or is a witness, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and any appeal therefrom (collectively, a "Proceeding"), against all liability (which for purposes of this Article includes all judgments, settlements, penalties, fines and taxes under the Employee Retirement Income Security Act of 1974, as amended) and costs, charges, and expenses (including attorneys' fees) asserted against him or incurred by him by reason of the fact that the person is or was (i) a director, or (ii) an officer or an employee of the Corporation who is specifically granted the indemnification rights provided hereby by the Board of Directors, or (iii) serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (including serving as a fiduciary of an employee benefit plan) and as to whom the Board has granted the right to indemnification provided hereby (each an "Indemnified Person").

(b) Notwithstanding the foregoing, except with respect to the indemnification specified in the third sentence of Section 3 of this Article, the Corporation shall indemnify an Indemnified Person in connection with a Proceeding (or part thereof) initiated by an Indemnified Person only if authorization for the Proceeding (or part thereof) was not denied by the Board of Directors of the Corporation, acting in its sole discretion, within 60 days after receipt of notice thereof from the Indemnified Person.

Section 2. Advance of Costs, Charges and Expenses. Costs, charges and expenses (including attorneys' fees) incurred by an Indemnified Person in defending a Proceeding shall be paid by the Corporation to the fullest extent permitted or authorized by current or future legislation or current or future judicial or administrative decisions (but, in the case of any future legislation or decisions, only to the extent that it permits the Corporation to provide broader rights to advance costs, charges and expenses than permitted prior to the legislation or decisions) in advance of the final disposition of the Proceeding, upon receipt of an undertaking reasonably satisfactory to the Board of Directors (the "Undertaking") by or on behalf of the Indemnified Person to repay all amounts so advanced if it is

ultimately determined that such person is not entitled to be indemnified by the Corporation as authorized in this Article; provided that, in connection with a Proceeding (or part thereof) initiated by such Indemnified Person (except a Proceeding authorized by the second sentence of Section 3 of this Article), the Corporation shall pay the costs, charges and expenses in advance of the final disposition of the Proceeding only if authorization for the Proceeding (or part thereof) was not denied by the Board of Directors of the Corporation, acting in its sole discretion, within 60 days after receipt of a request for advancement accompanied by an Undertaking. A person to whom costs, charges and expenses are advanced pursuant to this Article shall not be obligated to repay pursuant to the Undertaking until the final determination of (a) the pending Proceeding in a court of competent jurisdiction concerning the right of that person to be indemnified or (b) the obligation of the person to repay pursuant to the Undertaking.

The Board of Directors may, upon approval of the Indemnified Person, authorize the Corporation's counsel to represent the Indemnified Person in any action, suit or proceeding, whether or not the Corporation is a party to the action, suit or proceeding. In the event that the Corporation's counsel is representing the Indemnified Person and subject to any limitations imposed by law or any insurance policy referred to in Section 5 of this Article, any Indemnified Person shall have the right to retain separate counsel and to have the fees and expenses of such counsel paid as incurred as provided herein in the event such person reasonably believes that there is an actual or potential conflict in interest between the Corporation and such person or in the event the Corporation or its insurer shall have failed to assume the defense and employ counsel acceptable to such person within a reasonable period of time after commencement of any action.

Section 3. Procedure For Indemnification. Any indemnification or advance under this Article shall be made promptly, and in any event within 60 days after delivery of the written request of the Indemnified Person. The right to indemnification or advances as granted by this Article shall be enforceable by an Indemnified Person in any court of competent jurisdiction if the Corporation denies the request under this Article in whole or in part, or if no disposition of the request is made within the 60-day period after delivery of the request. The requesting person's costs and expenses incurred in connection with successfully establishing his right to indemnification, in whole or in part, in any action shall also be indemnified by the Corporation. It shall be a defense available to the Corporation to assert in the action that indemnification is prohibited by law or that the claimant has not met the standard of conduct, if any, required by current or future legislation or by current or future judicial or administrative decisions for indemnification (but, in the case of future legislation or decision, only to the extent that the legislation does not impose a more stringent standard of conduct than permitted prior to the legislation or decisions). The burden of proving this defense shall be on the Corporation. Neither (a) the failure of the Corporation (including its Board of Directors or any committee thereof, its independent legal counsel, and its shareholders) to have made a determination (prior to the commencement of the action) that indemnification of the claimant is proper in the circumstances because he has met the applicable standard of conduct, if any, nor (b) the fact that there has been an actual determination by the Corporation (including its Board of Directors or any

committee thereof, its independent legal counsel, and its shareholders) that the claimant has not met the applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

Section 4. Survival of Indemnification. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those indemnified may now or hereafter be entitled under any by-law, statute, agreement, vote of shareholders or disinterested directors or recommendation of counsel or otherwise, both as to actions in the person's capacity as a director, officer or employee and as to actions in another capacity while still a director, officer or employee, and shall continue as to an Indemnified Person who has ceased to be a director or officer or employee and shall inure to the benefit of the estate, heirs, personal representatives, beneficiaries, executors and administrators of such a person. All rights to indemnification and advances under this Article shall be deemed to be a contract between the Corporation and each Indemnified Person who is an Indemnified Person at any time while this Article is in effect. Any repeal or modification of this Article or any repeal or modification of relevant provisions of the Florida Business Corporation Act or any other applicable laws shall not in any way diminish the rights to indemnification of such Indemnified Person or the obligations of the Corporation arising hereunder for claims relating to matters occurring prior to the repeal or modification. The Board of Directors of the Corporation shall have the authority, by resolution, to provide for indemnification of officers, employees or agents of the Corporation and for such other indemnification of Indemnified Persons as it deems appropriate.

Section 5. Insurance. The Corporation may purchase and maintain insurance on behalf of any person who is or was a director or officer of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (including serving as a fiduciary of an employee benefit plan), against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article or the applicable provisions of the Florida Business Corporation Act.

Section 6. Savings Clause. If this Article or any portion is invalidated or held to be unenforceable on any ground by a court of competent jurisdiction, the Corporation shall nevertheless indemnify each Indemnified Person described in Section 1 of this Article to the fullest extent permitted by all applicable portions of this Article that have not been invalidated or adjudicated unenforceable, and as permitted by applicable law.

**ARTICLE VIII
PREEMPTIVE RIGHTS**

Every Shareholder, upon the sale for cash of any new stock of this Corporation of the same kind, class or series as that which he already holds, shall have the right to purchase his pro rata share thereof (as nearly as may be done without the issuance of fractional shares) at the price at which it is offered to others.

**ARTICLE IX
AMENDMENT OF ARTICLES**

The Corporation reserves the right to amend, alter, change or repeal any provision contained in these Articles of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred on shareholders herein are granted subject to this reservation.

**ARTICLE X
INCORPORATOR**

The name and address of the person signing these Articles is as follows:

Daryl B. Cramer
Daryl Cramer & Associates, P.A.
515 North Flagler Drive, Suite 910
West Palm Beach, Florida 33401

**ARTICLE XI
SPECIAL PURPOSE ENTITY PROVISIONS**

Section 1. Certain Prohibited Activities. Notwithstanding any provision hereof, of the Bylaws, or of any other document governing the formation, management or operation of the Corporation to the contrary, the following shall govern:

The Corporation shall be subject to the following provisions:

(a) From and after the Project Partnership incurs an obligation under the Loan (as hereinafter defined) and so long as the loan remains outstanding, the Corporation shall not incur indebtedness, except as it is liable for such indebtedness in its capacity as a general partner of the Project Partnership, which shall be limited to obligations in connection with the Loan and liabilities in the ordinary course of business of the Project Partnership that are related to the ownership and operation of that certain real property consisting of an approximately 18.75 gross acre parcel zoned for multi-family development and (ii) 250 units

and related amenities on that certain real property consisting of an approximately 16.22 gross acre parcel zoned for multi-family development, together with all improvements located thereon, at 1 Laurel Oakes Drive, in Winter Springs, Seminole County, Florida (the "Project").

(b) The Corporation shall not dissolve, liquidate, consolidate or merge with or into any other entity or sell substantially all of its assets for so long as that certain loan in the original principal amount of \$26,200,000 (together with extensions, renewals and modifications, if any, the "Loan"), by and between the Project Partnership, as the borrower, and Union Capital Investments, LLC, as the lender (together with its successors and assigns, the "Lender"), which Loan is secured by a mortgage on the Project, remains outstanding.

(c) The shareholders of the Corporation shall not transfer any direct or indirect ownership interest in the Corporation such that the transferee owns, in the aggregate with the ownership interests of its Affiliates, more than a 49% interest in the Corporation, unless (i) such transfer is conditioned upon the delivery of an acceptable non-consolidation opinion to the holder of the Loan, and to any applicable rating agency concerning, as applicable, the Corporation, the new transferee and/or their respective owners and (ii) the applicable rating agency confirms that the transfer will not result in a qualification, withdrawal or downgrade of any security rating.

(d) The Corporation shall serve in the capacity of a general partner in the Project Partnership and shall own at least a 0.5% interest therein, so long as the Loan is outstanding.

Section 2. Separateness Covenants. Notwithstanding any provision hereof, of the bylaws, or of any other document governing the formation, management or operation of the Corporation to the contrary, the following shall govern:

In order to preserve and ensure its separate and distinct corporate identity, in addition to the other provisions set forth in the Articles of Incorporation of the Corporation, the Corporation shall, and is required to cause the Project Partnership to, conduct its affairs in accordance with the following provisions:

(a) To maintain books, records, financial statements and bank accounts separate from any other person or entity.

(b) To maintain its bank accounts separate from any other person or entity.

- (c) Not to commingle its assets with those of any other person or entity and to hold all of its assets in its own name.
- (d) To conduct its own business in its own name.
- (e) To maintain separate financial statements, showing its assets and liabilities separate and apart from any other person or entity and not to have its assets listed on the financial statement of any entity.
- (f) To file its tax returns separate from any other entity and not to file a consolidated federal income tax return with any other corporation.
- (g) To pay its own liabilities and expenses only out of its own funds.
- (h) To observe all corporate organizational formalities.
- (i) To enter into transactions with Affiliates only on a commercially reasonable basis and on terms similar to those in an arm's-length transaction.
- (j) To pay the salaries of its own employees from its own funds.
- (k) To maintain a sufficient number of employees in light of its contemplated business operations.
- (l) Not to guarantee or become obligated for the debts of any other person or entity (except to the extent the Corporation is liable for the Project Partnership's obligations due to its capacity as a general partner).
- (m) Not to hold out its credit as being available to satisfy the obligations of any other person or entity.
- (n) Not to acquire the obligations or securities of its Affiliates or owners, including partners, members or shareholders, as appropriate.
- (o) Not to make loans to any other person or entity or to buy or hold evidence of indebtedness issued by any other person or entity (except for cash and investment grade securities).
- (p) To allocate fairly and reasonably any overhead expenses that are shared with any Affiliate, including paying for office space and services performed by an employee of an Affiliate.

- (q) To use separate stationary, invoices and checks bearing its own name.
- (r) Not to pledge its assets for the benefit of any other person or entity.
- (s) To hold itself out as a separate entity.
- (t) To correct any known misunderstanding regarding its separate identity.
- (u) Not to identify itself as a division of any other person or entity.
- (v) To maintain adequate capital in light of its contemplated business operations.
- (w) Not to form or acquire any subsidiaries other than an interest in the Project Partnership.

Section 3. Independent Director. Notwithstanding any provision hereof, of the Bylaws, or of any other document governing the formation, management or operation of the Corporation to the contrary, the Corporation shall have at least one (1) Independent Director.

Section 4. Actions Requiring Unanimous Consent of Directors. Notwithstanding any provision hereof, of the Bylaws, or of any other document governing the formation, management or operation of the Corporation to the contrary, the following shall govern:

The unanimous consent of all directors of the Corporation is required for the Corporation to, and for the Corporation to cause the Project Partnership to:

- (a) File or consent to the filing of any bankruptcy, insolvency or reorganization case or proceeding; institute any proceedings under any applicable insolvency law or otherwise seek relief under any laws relating to the relief from debts or the protection of debtors generally.
- (b) Seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for the Corporation or the Project Partnership, or a substantial portion of any of their properties.
- (c) Make any assignment for the benefit of the creditors of the Corporation or the Project Partnership.

(d) Take any action in furtherance of any of the foregoing items described in this Section 4.

Section 5. Definitions. Solely for purpose of this Article XI, the following terms shall have the following meanings:

(a) "Affiliate" means any person controlling or controlled by or under common control with the Corporation, 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 or any Affiliate thereof and (ii) any person which receives compensation for administrative, legal or accounting services from the Corporation or any Affiliate. For purposes of this definition, 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.

(b) "Independent Director" shall mean a director of the Corporation who is not as of the time of initial appointment, or at any time while serving as a director of the Corporation, and has not been at any time during the preceding five (5) years: (i) a stockholder, director (with the exception of serving as the Independent Director of the Corporation), officer, employee, partner, attorney or counsel of the Corporation or the Project Partnership, or an Affiliate of any of them; (ii) a customer, supplier or other person who derives any of its purchases or revenues from its activities with the Corporation or the Project Partnership, or an Affiliate of any of them; (iii) a person or other entity controlling or under common control with any such stockholder, partner, customer, supplier or other person; or (iv) a member of the immediate family of any such stockholder, director, officer, employee, partner, customer, supplier or other person. For purposes of this definition, 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 individual that otherwise satisfies the foregoing shall not be disqualified from serving as an Independent Director of the Corporation if such individual is at the time of initial appointment, or at any time while serving as an Independent Director of the Corporation, an Independent Director of a "special purpose entity" affiliated with the Corporation or the Project Partnership. For purposes of this definition, a "special purpose entity" is an entity, whose organizational documents contain restrictions on its activities and impose requirements intended to preserve the Corporation's and the Project Partnership's separateness that are substantially similar to those of the Corporation and the Project Partnership, as applicable, and provide, inter alia, that it: (i) is organized for the limited purpose of owning and operating one or more properties being the general partner; (ii) has restrictions on its ability to incur indebtedness, dissolve, liquidate, consolidate, merge and/or

sell assets; (iii) may not file voluntarily a bankruptcy petition on its own behalf or on the behalf of the Project Partnership without the consent of the Independent Director and (iv) shall conduct itself and cause the Project Partnership to conduct itself in accordance with certain "separateness covenants", including, but not limited to, the maintenance of its and the Project Partnership's books, records, bank accounts and assets separate from those of any other person or entity.

Section 6. Amendment. Notwithstanding any provision hereof, of the Bylaws, or of any other document governing the formation, management or operation of the Corporation to the contrary, the following shall govern:

This Article XI shall not be amended or repealed without the consent of the Lender, or, after the securitization of the Loan only if the Project Partnership receives (i) confirmation from each of the applicable rating agencies that such amendment would not result in the qualification, withdrawal or downgrade of any securities rating and (ii) approval of such amendment by the Lender or its assigns.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation this/ 2nd day of June, 2001.



DARYL B. CRAMER, Incorporator

**CERTIFICATE DESIGNATING PLACE OF BUSINESS
OR DOMICILE FOR THE SERVICE OF PROCESS WITHIN FLORIDA,
NAMING AGENT UPON WHOM PROCESS MAY BE SERVED**

IN COMPLIANCE WITH SECTION 48.091, FLORIDA STATUTES, THE FOLLOWING
IS SUBMITTED:

THAT GOLF TERRACE SPECIAL, INC., DESIRING TO ORGANIZE OR QUALIFY
UNDER THE LAWS OF THE STATE OF FLORIDA, WITH ITS INITIAL REGISTERED
OFFICES BEING C/O DARYL CRAMER & ASSOCIATES, P.A., 515 N. FLAGLER DRIVE,
SUITE 910, WEST PALM BEACH, FLORIDA 33401, HAS NAMED DARYL CRAMER &
ASSOCIATES, P.A., LOCATED AT 515 NORTH FLAGLER DRIVE, SUITE 910, WEST PALM
BEACH, FLORIDA 33401, AS ITS AGENT TO ACCEPT SERVICE OF PROCESS WITHIN
FLORIDA.

Dated: June 2, 2001




DARYL B. CRAMER, Incorporator

HAVING BEEN NAMED AS REGISTERED AGENT TO ACCEPT SERVICE OF
PROCESS FOR THE ABOVE STATED CORPORATION, AT THE PLACE DESIGNATED IN
THIS CERTIFICATE, I HEREBY AGREE TO ACT IN THIS CAPACITY, AND I FURTHER AM
FAMILIAR WITH AND AGREE TO COMPLY WITH THE PROVISIONS OF ALL STATUTES
RELATIVE TO THE PROPER AND COMPLETE PERFORMANCE OF MY DUTIES,
INCLUDING THE PROVISIONS OF SECTION 607.0505, FLORIDA STATUTES.

DARYL CRAMER & ASSOCIATES, P.A.

Dated: June 2, 2001

By: 

Daryl B. Cramer, its President,
Registered Agent

E:\CLIENTS\JAYMOR\GOLFTER\REF 01\Phase I & II\Corp Docs\Articles.GT Special, Inc..doc

2001 JUN 13 PM 2:36
FILE
FALLAHUSSEIN FLORIDA