

7/31/2020

Division of Corporations

Florida Department of State
Division of Corporations
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**COR AMND/RESTATE/CORRECT OR O/D RESIGN
SUNRISE HARBOUR MULTIFAMILY, INC.**

| | |
|-----------------------|---------|
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AUG 03 2020

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Electronic Filing Menu

Corporate Filing Menu

Help

Articles of Amendment
to
Articles of Incorporation
of

SUNRISE HARBOUR MULTIFAMILY, INC.

(Name of Corporation as currently filed with the Florida Dept. of State)

P02000113876

(Document Number of Corporation (if known))

Pursuant to the provisions of section 607.1006, Florida Statutes, this *Florida Profit Corporation* adopts the following amendment(s) to its Articles of Incorporation:

A. If amending name, enter the new name of the corporation:

N/A

The new name must be distinguishable and contain the word "corporation," "company," or "incorporated" or the abbreviation "Corp.," "Inc.," or "Co.," or the designation "Corp.," "Inc.," or "Co.". A professional corporation name must contain the word "chartered," "professional association," or the abbreviation "P.A."

B. Enter new principal office address, if applicable:
(Principal office address MUST BE A STREET ADDRESS)

N/A

C. Enter new mailing address, if applicable:
(Mailing address MAY BE A POST OFFICE BOX)

N/A

D. If amending the registered agent and/or registered office address in Florida, enter the name of the new registered agent and/or the new registered office address:

Name of New Registered Agent N/A

(Florida street address)

New Registered Office Address: N/A, Florida
(City) (Zip Code)

New Registered Agent's Signature, if changing Registered Agent:

I hereby accept the appointment as registered agent. I am familiar with and accept the obligations of the position.

Signature of New Registered Agent, if changing

Check if applicable

☐ The amendment(s) is/are being filed pursuant to s. 607.0120 (11) (e), F.S.

If amending the Officers and/or Directors, enter the title and name of each officer/director being removed and title, name, and address of each Officer and/or Director being added:

(Attach additional sheets, if necessary)

Please note the officer/director title by the first letter of the office title:

P = President; V= Vice President; T= Treasurer; S= Secretary; D= Director; TR= Trustee; C = Chairman or Clerk; CEO = Chief Executive Officer; CFO = Chief Financial Officer. If an officer/director holds more than one title, list the first letter of each office held. President, Treasurer, Director would be PTD.

Changes should be noted in the following manner. Currently John Doe is listed as the PST and Mike Jones is listed as the V. There is a change, Mike Jones leaves the corporation. Sally Smith is named the V and S. These should be noted as John Doe, PT as a Change, Mike Jones, V as Remove, and Sally Smith, SV as an Add.

Example:

☒ Change PT John Doe

☒ Remove V Mike Jones

☒ Add SV Sally Smith

| Type of Action (Check One) | Title | Name | Address |
|------------------------------------|-------|-------|---------|
| 1) <input type="checkbox"/> Change | _____ | N/A | _____ |
| <input type="checkbox"/> Add | _____ | _____ | _____ |
| <input type="checkbox"/> Remove | _____ | _____ | _____ |
| 2) <input type="checkbox"/> Change | _____ | _____ | _____ |
| <input type="checkbox"/> Add | _____ | _____ | _____ |
| <input type="checkbox"/> Remove | _____ | _____ | _____ |
| 3) <input type="checkbox"/> Change | _____ | _____ | _____ |
| <input type="checkbox"/> Add | _____ | _____ | _____ |
| <input type="checkbox"/> Remove | _____ | _____ | _____ |
| 4) <input type="checkbox"/> Change | _____ | _____ | _____ |
| <input type="checkbox"/> Add | _____ | _____ | _____ |
| <input type="checkbox"/> Remove | _____ | _____ | _____ |
| 5) <input type="checkbox"/> Change | _____ | _____ | _____ |
| <input type="checkbox"/> Add | _____ | _____ | _____ |
| <input type="checkbox"/> Remove | _____ | _____ | _____ |
| 6) <input type="checkbox"/> Change | _____ | _____ | _____ |
| <input type="checkbox"/> Add | _____ | _____ | _____ |
| <input type="checkbox"/> Remove | _____ | _____ | _____ |

E. If amending or adding additional Articles, enter change(s) here:

(Attach additional sheets, if necessary). (Be specific)

Article XIV of the Articles of Incorporation is hereby amended and restated to read as written on Exhibit A attached hereto,
which is incorporated herein by reference and made a part hereof.

F. If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself:

(if not applicable, indicate N/A)

N/A

The date of each amendment(s) adoption: _____, if other than the date this document was signed.

Effective date if applicable: _____
(no more than 90 days after amendment file date)

Note: If the date inserted in this block does not meet the applicable statutory filing requirements, this date will not be listed as the document's effective date on the Department of State's records.

Adoption of Amendment(s) (CHECK ONE)

- ☒ The amendment(s) was/were adopted by the incorporators, or board of directors without shareholder action and shareholder action was not required.
- ☐ The amendment(s) was/were adopted by the shareholders. The number of votes cast for the amendment(s) by the shareholders was/were sufficient for approval.
- ☐ The amendment(s) was/were approved by the shareholders through voting groups. The following statement must be separately provided for each voting group entitled to vote separately on the amendment(s):

"The number of votes cast for the amendment(s) was/were sufficient for approval
by _____."
(voting group)

July 31, 2020
Dated _____

Signature Stephen A. Spook
(By a director, president or other officer – if directors or officers have not been selected, by an incorporator – if in the hands of a receiver, trustee, or other court appointed fiduciary by that fiduciary)

Stephen A. Spook

(Typed or printed name of person signing)

Director

(Title of person signing)

**EXHIBIT A TO ARTICLES OF AMENDMENT TO
ARTICLES OF INCORPORATION OF
SUNRISE HARBOUR MULTIFAMILY, INC.**

XIV.

14.1 Single Purpose Entity Requirements. At any time that a certain loan from CBRE Capital Markets, Inc. ("Lender"), Freddie Mac Loan Number 504233750 (the "Loan") to the corporation ("Borrower") is outstanding, the corporation will remain a "Single Purpose Entity", as defined in the Loan Agreement (as hereinafter defined), and accordingly:

14.1.1 It will not engage in any business or activity, other than the ownership, operation and maintenance of the Mortgaged Property and activities incidental thereto.

14.1.2 It will not acquire, own, hold, lease, operate, manage, maintain, develop or improve any assets other than the Mortgaged Property and such Personalty as may be necessary for the operation of the Mortgaged Property and will conduct and operate its business as presently conducted and operated.

14.1.3 It will preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its formation or organization and will do all things necessary to observe organizational formalities.

14.1.4 It will not merge or consolidate with any other Person.

14.1.5 It will not take any action to dissolve, divide or create divisions, wind-up, terminate or liquidate in whole or in part; to sell, transfer or otherwise dispose of all or substantially all of its assets; to change its legal structure; transfer or permit the direct or indirect transfer of any partnership, membership or other equity interests, as applicable, other than Transfers permitted under the Loan Agreement (as hereinafter defined); issue additional partnership, membership or other equity interests, as applicable, or seek to accomplish any of the foregoing.

14.1.6 It will not, without the prior unanimous written consent of all of its shareholders and the prior unanimous written consent of 100% of the members of the board of directors, take any of the following actions:

14.1.6.1 File any insolvency, or reorganization case or proceeding, to institute proceedings to have Borrower be adjudicated bankrupt or insolvent.

14.1.6.2 Institute proceedings under any applicable insolvency law.

14.1.6.3 Seek any relief under any law relating to relief from debts or the protection of debtors.

14.1.6.4 Consent to the filing or institution of a Bankruptcy against Borrower.

14.1.6.5 File a petition seeking, or consent to, reorganization or relief with respect to Borrower under any applicable federal or state law relating to bankruptcy or insolvency.

14.1.6.6 Seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian, or any similar official for Borrower or a substantial part of its property.

14.1.6.7 Make any assignment for the benefit of creditors of Borrower.

14.1.6.8 Admit in writing Borrower's inability to pay its debts generally as they become due.

14.1.6.9 Take action in furtherance of any of the foregoing.

14.1.7 It will not amend or restate its organizational documents if such change would cause the provisions set forth in those organizational documents not to comply with the requirements set forth in this Article XIV.

14.1.8 It will not own any subsidiary or make any investment in, any other Person.

14.1.9 It will not commingle its assets with the assets of any other Person and will hold all of its assets in its own name.

14.1.10 It will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than the following:

14.1.10.1 The Indebtedness and any further indebtedness as described in Section 11.11 of the Loan Agreement (as hereinafter defined) with regard to Supplemental Instruments.

14.1.10.2 Customary unsecured trade payables incurred in the ordinary course of owning and operating the Mortgaged Property provided the same are not evidenced by a promissory note, do not exceed, in the aggregate, at any time a maximum amount of 2% of the original principal amount of the Indebtedness and are paid within 60 days of the date the same are due and payable; provided, however, the foregoing shall not be deemed to require any owner of an interest in Borrower to contribute additional capital to Borrower.

14.1.10.3 Reserved.

14.1.11 It will maintain its records, books of account, bank accounts, financial statements, accounting records and other entity documents separate and apart from those of any other Person and will not list its assets as assets on the financial statement of any other Person; provided, however, that Borrower's assets may be included in a consolidated financial statement of its Affiliate provided that (A) appropriate notation will be made on such consolidated financial statements to indicate the separateness of Borrower from such Affiliate and to indicate that Borrower's assets and credit are not available to satisfy the debts and other obligations of such

Affiliate or any other Person, and (B) such assets will also be listed on Borrower's own separate balance sheet. Notwithstanding the foregoing, the Borrower's assets may be included in the consolidated financial statements of the State Board of Administration of Florida without the appropriate notation required by clause (A) as long as such consolidated financial statements are not used for the purpose of obtaining credit for which the assets of Borrower (as opposed to the assets of the State Board of Administration of Florida) will serve as collateral.

14.1.12 Except for capital contributions or capital distributions permitted under the terms and conditions of its organizational documents, it will only enter into any contract or agreement with any general partner, member, shareholder, principal or Affiliate of Borrower or any Guarantor, or any general partner, member, principal or Affiliate thereof, upon terms and conditions that are commercially reasonable and substantially similar to those that would be available on an arm's-length basis with third parties.

14.1.13 It will not maintain its assets in such a manner that will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person.

14.1.14 It will not assume or guaranty (excluding any guaranty that has been executed and delivered in connection with the Note) the debts or obligations of any other Person, hold itself out to be responsible for the debts of another Person, pledge its assets to secure the obligations of any other Person or otherwise pledge its assets for the benefit of any other Person, or hold out its credit as being available to satisfy the obligations of any other Person.

14.1.15 It will not make or permit to remain outstanding any loans or advances to any other Person except for those investments permitted under the Loan Documents and will not buy or hold evidence of indebtedness issued by any other Person (other than cash or investment-grade securities).

14.1.16 It will file its own tax returns separate from those of any other Person, unless Borrower (A) is treated as a "disregarded entity" for tax purposes and is not required to file tax returns under applicable law or (B) is required by applicable law to file consolidated tax returns, and will pay any taxes required to be paid under applicable law.

14.1.17 It will hold itself out to the public as a legal entity separate and distinct from any other Person and conduct its business solely in its own name, will correct any known misunderstanding regarding its separate identity and will not identify itself or any of its Affiliates as a division or department of any other Person except for business conducted on behalf of Borrower by the Property Manager (in its capacity as agent for Borrower).

14.1.18 It will maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations and will pay its debts and liabilities from its own assets as the same become due; provided, however, that nothing in this Section 14.1.18 will require any member or partner of Borrower or any Borrower Principal to make any equity contribution to Borrower.

14.1.19 It will allocate fairly and reasonably shared expenses with Affiliates (including shared office space) and use separate stationery, invoices and checks bearing its own name.

14.1.20 It will pay (or cause the Property Manager to pay on behalf of Borrower from Borrower's funds) its own liabilities (including salaries of its own employees, if any) from its own funds; provided, however, that nothing in this Section 14.1.20 will require any member or partner of Borrower or any Borrower Principal to make any equity contribution to Borrower.

14.1.21 It will not acquire obligations or securities of its partners, members, shareholders, or Affiliates, as applicable.

14.1.22 Except as contemplated or permitted by the property management agreement with respect to the Property Manager, it will not permit any Affiliate or constituent party independent access to its bank accounts.

14.1.23 It will maintain a sufficient number of employees (if any) in light of its contemplated business operations and pay the salaries of its own employees, if any, only from its own funds; provided, however, that nothing in this Section 14.1.23 will require any member or partner of Borrower or any Borrower Principal to make any equity contribution to Borrower.

14.2 Effect of Transfer on Single Purpose Entity Requirements. Notwithstanding anything to the contrary in the Loan Agreement (as hereinafter defined), no Transfer will be permitted under Article VII of the Loan Agreement (as hereinafter defined) unless the provisions of this Article XIV are satisfied at all times.

14.3 Definitions. Capitalized terms used but not defined in this Article XIV shall have the meanings given to them in that certain Multifamily Loan and Security Agreement entered into, or to be entered into, in connection with the Loan, by and between Borrower and Lender (the "Loan Agreement").