

Division of Corporations

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Florida Department of State
Division of Corporations
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From:

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TALLAHASSEE, FLORIDA

FLORIDA PROFIT CORPORATION OR P.A.

PINE SUMMIT MANAGEMENT, INC.

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ARTICLES OF INCORPORATION OF
PINE SUMMIT MANAGEMENT, INC.

THE UNDERSIGNED, acting as incorporator of a Corporation under the Florida Business Corporation Act, adopts the following Articles of Incorporation for such Corporation:

ARTICLE I - NAME

The name of this Corporation is: PINE SUMMIT MANAGEMENT, INC.

ARTICLE II - DURATION

The duration of this Corporation is perpetual.

ARTICLE III - LIMITED PURPOSE

The nature of the business and of the purposes to be conducted and promoted by the Corporation is to engage solely in the activity of acting as the managing member of Pine Summit, LLC (the "Company") whose own limited purpose is to (i) own, hold, sell, assign, transfer, operate, lease, mortgage, pledge and otherwise deal with certain parcels of real property, together with all improvements thereon, in St. Lucie County, Florida, commonly known as Pine Lake Apartments (the "Property"); and (ii) to exercise all powers enumerated in the General Corporation Law of the State of Florida necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

ARTICLE IV - PROHIBITED ACTIVITIES

Notwithstanding any provision hereof to the contrary and for so long as a mortgage lien exists on any portion of the Property, the following shall govern:

(i) The Corporation shall only incur or cause the Company to incur indebtedness in an amount necessary to acquire, operate and maintain the Property and shall not and shall not cause the Company to incur, assume, or guaranty any other indebtedness.

(ii) The Corporation shall not and shall not cause the Company to consolidate or merge with or into any other entity or convey or transfer its properties and assets substantially as an entirety to any entity unless (i) the entity (if other than the Corporation or Company) formed or surviving such consolidation or merger or that acquired by conveyance or transfer of the

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properties and assets of the Corporation or Company substantially as an entirety (a) shall be organized and existing under the laws of the United States of America or any State or the District of Columbia, (b) shall include in its organizational documents the same limitations set forth in this Article IV and in Article III, and (c) shall expressly assume the due and punctual performance of the Corporation's or Company's obligations; and (ii) immediately after giving effect to such transaction, no default or event of default under any agreement to which it is a party shall have been committed by this Corporation or the Company and be continuing.

(iii) The Corporation shall not voluntarily commence a case with respect to itself or cause the Company to voluntarily commence a case with respect to itself, as debtor, under the Federal Bankruptcy Code or any similar federal or state statute without the unanimous consent of the Board of Directors.

(iv) In the event the life of the Company is not continued or any other event of dissolution, the Corporation shall not cause the Company to liquidate the Property.

ARTICLE V - INDEMNIFICATION

Notwithstanding any provision hereof to the contrary any indemnification shall be fully subordinated to any obligations respecting the Company or the Property, including, without limitation the first mortgage lien on the Property, and shall not constitute a claim against the Corporation in the event that cash flow is insufficient to pay such obligations.

ARTICLE VI - SEPARATENESS COVENANTS

Notwithstanding any provision hereof to the contrary and for so long as a mortgage lien exists on any portion of the Property, in order to preserve and ensure its separate and distinct corporate identity, in addition to the other provisions set forth herein, the Corporation any shall conduct its affairs in accordance with the following provisions:

(i) It shall not and shall not cause the Company to materially amend, modify or otherwise change its articles or certificate of incorporation or organization, bylaws, operating agreement, or other formation agreement or document, as applicable, in any material term or

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manner, or in a manner which adversely affects the Corporation's or Company's existence as a single purpose entity.

(ii) It shall not liquidate or dissolve (or suffer any liquidation or dissolution), or otherwise all or substantially all the business or assets of, or any stock or other evidence of beneficial ownership of any entity.

(iii) It does not own and shall not own any asset other than its membership interest in the Company.

(iv) It is not engaged and shall not engage, either directly or indirectly, in any business other than acting as corporate managing member of the Company.

(v) It shall not enter into any contract or agreement with any affiliate or member of the Company, as applicable, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than an affiliate.

(vi) It has not incurred and shall not incur, and shall not cause the Company to incur, any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (a) the debt evidenced by the first mortgage lien on the Property, and (b) trade payables or accrued expenses incurred in the ordinary course of business of operating the Property customarily satisfied within thirty (30) days and in an aggregate amount not to exceed the lesser of one percent (1.0%) of the existing principal balance of the note evidencing the debt secured by the Property or One Hundred Thousand and NO/100 Dollars (\$100,000.00), and no other debt will be secured (senior, subordinate or pari passu) by the Property.

(vii) It has not made and will not make any loans or advances to any third party.

(viii) It is and shall be solvent and pay its debts from its assets as the same shall become due.

(ix) It has done or caused to be done and will do all things necessary to preserve its existence, and will observe all formalities applicable to it.

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(x) It will conduct and operate its business in its own name and as presently conducted and operated.

(xi) It will be, and at all times shall hold itself out to the public as, a legal entity separate and distinct from any other entity (including, without limitation, the Company and any affiliate or member of the Company).

(xii) It shall file its own tax returns.

(xiii) It shall 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.

(xiv) It has and shall maintain its assets in such a manner that it is not costly or difficult to segregate, ascertain or identify its individual assets from those of the Company, any affiliate or any other person.

(xv) It shall establish and maintain an office through which its business shall be conducted separate and apart from those of the Company and any affiliate or it shall fairly and reasonably allocate any overhead for shared office space.

(xvi) It shall maintain separate corporate records, financial statements and books of account from those of the Company and any affiliate.

(xvii) It shall not commingle assets with those of the Company or any affiliate.

(xviii) It shall pay any liabilities out of its own funds, including salaries of any employees, not funds of the Company or any affiliate.

(xix) It shall not guarantee or become obligated for the debts of any other entity, including the Company or any affiliate or hold out its credit as being available to satisfy the obligations of others.

(xx) It shall use stationery, invoices and checks separate from the Company or any affiliate.

(xxi) It shall not pledge its assets for the benefit of any other entity, including the Company or any affiliate.

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ARTICLE VII - VOTING

Notwithstanding any provision hereof to the contrary the following shall govern: When voting on matters concerning the Company, notwithstanding that the Company is not then insolvent, the Corporation shall take into account the interest of the Company's creditors, as well as those of its members.

ARTICLE VIII - MAILING ADDRESS OF CORPORATION

The mailing address of the business is 1831 SW 7th Avenue, Pompano Beach, Florida 33060 and the principal place of business of this Corporation is 1831 SW 7th Avenue, Pompano Beach, Florida 33060.

ARTICLE IX - STOCK

The aggregate number of shares which this Corporation shall have authority to issue is 10,000 shares of common voting stock.

ARTICLE X - OFFICERS

The affairs of the Corporation shall be administered by the officers holding the offices designated in the By-Laws. The officers shall be elected by the Board of Directors of the Corporation at its first meeting following the annual meeting of the Shareholders of the Corporation and shall serve at the pleasure of the Board of Directors. The By-Laws may provide for the removal from office of officers for filling vacancies and for the duties and qualifications of the officers. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

President/Treasurer: Karl Davis
1831 SW 7th Avenue, Pompano Beach, Florida 33060

Vice-President/Secretary: Martin Kartzmark
1831 SW 7th Avenue, Pompano Beach, Florida 33060

ARTICLE XI - DIRECTORS

1. The property, business and affairs of the Corporation shall be managed by a board

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consisting of the number of directors determined in the manner provided by the By-Laws, but which shall consist of not less than two (2) directors, one (1) of whom shall be independent as set forth below.

2. All of the duties and powers of the Corporation existing under the Act, the Declaration, these Articles and the By-Laws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by Shareholders when such approval is specifically required.

3. Directors of the Corporation shall be elected at the annual meeting of the Shareholders in the manner determined by and subject to the qualifications set forth in the By-Laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.

4. Notwithstanding any provision hereof to the contrary and for so long as a mortgage lien exists on any portion of the Property, the following shall govern: At least one (1) director of the Corporation shall be an "Independent Director" who: (i) is not and has not been employed by the Company or any of its respective subsidiaries or affiliates as a director, officer or employee within the five (5) 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 to the Company or any of its subsidiaries or affiliates, (iii) is not affiliated with a significant customer or supplier of the Company or any of its subsidiaries or affiliates; (iv) is not affiliated with a company of which the Company or any of its subsidiaries or affiliates is a significant customer or supplier; (v) does not have significant personal service contract(s) with the Company or any of its subsidiaries or affiliates; (vi) is not affiliated with a tax exempt entity that receives significant contributions from the Company or any of its subsidiaries or affiliates; (vii) is not a beneficial owner of the Company at the time of such individual's appointment as an Independent Director, or at any time thereafter while serving as Independent Director; and (viii) is not a spouse parent, sibling or child of any person described by the foregoing.

For purpose of this Article XI, the following terms shall have the following meanings:

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

"parent" means, with respect to a corporation, any other corporation owning or controlling, directly or indirectly, fifty percent (50%) or more of the voting stock of the corporation.

"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.

5. The names and addresses of the members of the first Board of Directors who shall hold office, until their successors are elected and have taken office, as provided in the By-Laws, are as follows:

Karl Davis 1831 SW 7th Avenue, Pompano Beach, Florida 33060

James Tuthill 83981 Ironhorse Court, West Palm Beach, Florida 33412

ARTICLE XII - INITIAL REGISTERED OFFICE AND REGISTERED AGENT

The street address of this Corporation's Initial registered office in Florida is 4420 Beacon Circle, West Palm Beach, Florida 33407 and the name of its initial registered agent at that address is Michael J Posner, Esq.

ARTICLE XIII - INCORPORATOR

The name and address of the Incorporator is:

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Michael J Posner 4420 Beacon Circle, West Palm Beach, Florida 33407
DATED this 24th day of September, 2004.


Michael J Posner, Incorporator

STATE OF FLORIDA)
) ss:
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Michael J Posner, to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this 24th day of September, 2004.

Notary Public State of Florida at Large

Sign: 

My Commission Expires:



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

ACKNOWLEDGMENT:

Having been named to accept service of process for PINE SUMMIT MANAGEMENT, INC., at the initial registered office of the Corporation in this State designated in its Articles of Incorporation, I hereby accept to act in this capacity and agree to comply with the provisions of §607.0505 Florida Statutes.

Date: September 24, 2004.



Michael J Posner

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2004 SEP 28 P 1:00
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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