

Florida Department of State
Division of Corporations
Public Access System

Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

(((H07000007476 3)))



H070000074763ADC+

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page.
Doing so will generate another cover sheet.

RECEIVED

07 JAN 10 AM 8:00

DIVISION OF CORPORATIONS

To: Division of Corporations
Fax Number : (850) 205-0380

From: Account Name : HODGSON RUSS LLP
Account Number : 072720060242
Phone : (561) 394-0500
Fax Number : (561) 394-3862

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

07 JAN 10 AM 10:15

FILED

COR AMND/RESTATE/CORRECT OR O/D RESIGN

BERMUDA ESTATES, INC.

Certificate of Status	0
Certified Copy	1
Page Count	08
Estimated Charge	\$43.75

Electronic Filing Menu

Corporate Filing Menu

Help

Amended & Restated Art

JAN 10 2007

Marla R. Mayster
1801 North Military Trail
Suite 200
Boca Raton, Florida 33431
Telephone: 561.394.0500
Facsimile: 561.394.3862



A Registered Limited Liability Partnership Including Professional Associations

Please deliver the following pages to:

Name: Division of Corporations

Phone Number:

Company: Florida Dept. of State

Facsimile: 850-205-0380

From: Marla R. Mayster **Direct Telephone:** 561-862-4126

Total Pages: (including cover page) 10

Today's Date: Tuesday, January 09, 2007 4:54:24 PM

Comments:

Please file the attached Amended and Restated Articles of Incorporation of Bermuda Estates, Inc. Thank you.

Confidentiality Notice

This is a **CONFIDENTIAL** transmission. The sender, Hodgson Russ LLP, is a law firm representing its client. The transmission is intended for the designated addressee only. If you are not the intended recipient, please contact us immediately and **REFRAIN FROM DISCLOSING OR USING THE ENCLOSED INFORMATION IN ANY WAY**. Failure to comply with this direction may result in a claim that you have violated the law and/or are liable for money damages.

Thank you for your attention to this message. If you have received this transmission in error, please notify us by telephone 561-862-4126 immediately so that we can arrange for the return of the documents to us at no cost to you.

FILED

07 JAN 10 AM 10:15

H07000007476 3 OF STATE
TALLAHASSEE, FLORIDA

**AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF
BERMUDA ESTATES, INC.**

Pursuant to the provisions of Section 607.1006, Florida Statutes, the undersigned President of BERMUDA ESTATES, INC., a Florida corporation (the "Corporation"), hereby amends and restates the Articles of Incorporation of the Corporation filed on May 25, 2005, as amended and restated on July 1, 2005, to read in its entirety as follows:

ARTICLE 1

CORPORATE NAME

The name of this Corporation is BERMUDA ESTATES, INC.

ARTICLE 2

PRINCIPAL OFFICE

The street address of the principal office of this Corporation is 1515 North Federal Highway, Suite 306, Boca Raton, Florida 33432.

ARTICLE 3

MAILING ADDRESS

The mailing address of this Corporation is 1515 North Federal Highway, Suite 306, Boca Raton, Florida 33432.

H07000007476 3

H07000007476 3

ARTICLE 4

PURPOSES AND POWERS

The Corporation shall engage solely in the following activities: (i) owning, holding, selling, operating, leasing, mortgaging, and otherwise dealing with the Property (as hereinafter defined); and (ii) exercising all powers enumerated under the laws of the State of Florida necessary or convenient to the conduct, promotion or attainment of the business or purposes set forth in clause (i) above. As used herein, the term "Property" means the real property legally described in Exhibit "A", attached hereto and incorporated herein by this reference, together with all improvements located thereon.

So long as any mortgage (the "Mortgage") in favor of Mellon United National Bank or its successors or assigns (the "Bank") encumbers any portion of the Property, the Corporation shall:

(a) establish and maintain an office through which its business shall be conducted separate and apart from those of its parent and any affiliate(s) or, if it shares office space with its parent or any affiliate(s), it shall allocate fairly and reasonably any overhead and expense for shared office space.

(b) not own any asset or property other than (i) the Property and (ii) incidental personal property necessary for the ownership or operation of the Property, and shall not engage, directly or indirectly, in any business other than the ownership, management and operation of the Property.

H07000007476 3

H07000007476 3

(c) not enter into any contract or agreement with its parent, any affiliate of the Corporation or any constituent party of the Corporation, except upon terms and conditions that are commercially reasonable and substantially similar to those that would be available on an arms-length basis with unrelated third parties.

(d) not incur or assume any indebtedness, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than (i) the indebtedness secured by the Mortgage, and (ii) trade payables or accrued expenses incurred in the ordinary course of the business of operating the property with trade creditors and in amounts as are normal and reasonable under the circumstances. No indebtedness other than the indebtedness secured by the Mortgage may be secured by the Property.

(e) not make any loans or advances to any third party, including its parent, any affiliate of the Corporation or constituent party of the Corporation and shall not acquire obligations or securities of its affiliate(s).

(f) remain solvent and shall pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same shall become due.

(g) do all things necessary to observe organizational formalities and preserve its existence, and shall not amend, modify or otherwise change the articles of organization and/or operating agreement without the prior written consent of the Bank.

H07000007476 3

H07000007476 3

(h) maintain all of its books, records, financial statements and bank accounts separate from those of its parent, its affiliate(s) and any constituent party.

(i) be, and at all times hold itself out to the public as, a legal entity separate and distinct from any other entity (including its parent, any affiliate or any constituent party of the Corporation); correct any known misunderstanding regarding its status as a separate entity; conduct and operate its business in its own name; not identify itself or any of its affiliates as a division or part of the other; and maintain and utilize a separate telephone number and separate stationery, invoices and checks.

(j) 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.

(k) not seek or permit the dissolution, winding up, liquidation, consolidation or merger in whole or in part, of the Corporation, or acquire by purchase or otherwise all or substantially all the business or assets of, or any stock or other evidence of beneficial ownership of any other person or entity.

(l) not commingle the funds and other assets of the Corporation with those of its parent, any affiliate or constituent party, or any affiliate of any constituent party, or any other person.

H07000007476 3

H07000007476 3

(m) maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual asset or assets, as the case may be, from those of any affiliate or constituent party, or any affiliate of any constituent party, or any other person;

(n) not pledge its assets or itself out to be responsible for the debts or obligations of any other person, or guarantee or become obligated for the debts of any other entity or person

(o) pay any liabilities out of its own funds, including salaries of any employees.

ARTICLE 5

SHARES

The total number of shares which the Corporation shall have authority to issue is 10,000 shares of common stock of which 5,000 shall be voting common stock with a par value of \$0.01 per share ("Voting Common") and 5,000 shall be non-voting common stock with a par value of \$0.01 per share ("Non-Voting Common").

The powers, preferences, rights, qualifications, limitations or restrictions of the Voting Common and Non-Voting Common shares are as follows:

H07000007476 3

H07000007476 3

(A) Generally. Except as herein otherwise expressly provided, all Voting Common and Non-Voting Common shares shall be identical and shall entitle the holders thereof to the same rights and privileges.

(B) Voting Rights. Except as otherwise provided by law:

(i) The entire voting power for the election of directors and for all other purposes shall be vested exclusively in the holder(s) of the Voting Common shares, and the holders of Non-Voting Common shares shall not be entitled to vote at any meeting of shareholders or otherwise to receive notice of any meeting of shareholders. Each Voting Common share of the Corporation shall be entitled to one (1) vote.

(ii) The Non-Voting Common shares shall not be included in determining the number of shares voting or entitled to vote on any matters to be voted on by the shareholders of the Corporation.

C. Liquidation and Distribution. In accordance with Internal Revenue Code Section 1361(b)(1)(D), liquidation and distribution rights of all shareholders shall be identical.

ARTICLE 6

REGISTERED OFFICE AND REGISTERED AGENT

H07000007476 3

H07000007476 3

The street address of the registered office of this Corporation is 1801 N. Military Trail, Suite 200, Boca Raton, Florida 33431, and the name of the registered agent of this Corporation at that office is HRAWG CORP.

ARTICLE 7

INCORPORATOR

The name and address of the Incorporator is Mitchell Kirschner, c/o Hodgson Russ, LLP, 1801 N. Military Trail, Suite 200, Boca Raton, Florida 33431.

The foregoing Amended and Restated Articles of Incorporation were adopted by the Board of Directors and shareholders of the Corporation in a written consent of the Board of Directors and the shareholders of the Corporation dated November 30th, 2006, and the number of votes cast by the shareholders was sufficient for approval.

The undersigned President of the Corporation has executed these Amended and Restated Articles of Incorporation this 30th day of November, 2006.

BERMUDA ESTATES, INC.

By: 

Mark A. Gensheimer, President

H07000007476 3

EXHIBIT "A"
LEGAL DESCRIPTION

Parcel 1:

Lot (Farm) 11, Block 1, BEE RIDGE FARMS, Section 3, Township 37 South, Range 18 East according to the Plat thereof, recorded in Plat Book 1, Page 248, of the Public Records of Manatee County Florida, and Plat Book A, Page 40, of the Public Records of Sarasota County, Florida; LESS the East 19 feet thereof taken by County of Sarasota for right-of-way and also less and except that part described in Official Records Instrument No. 2005082373, of the Public Records of Sarasota County, Florida. *yes*

Parcel 2:

Lot (Farm) 2, Block 1, BEE RIDGE FARMS, Section 3, Township 37 South, Range 18 East, according to the Plat thereof, recorded in Plat Book 1, Page 248, of the Public Records of Manatee County, Florida, and Plat Book A, Page 40, of the Public Records of Sarasota County, Florida; LESS the East 19 feet thereof taken by County of Sarasota for right-of-way and also less and except that part described in Official Records Instrument No. 2005082373, of the Public Records of Sarasota County, Florida. *yes*

044442/00005 FLADOCS 310076v1

H07000007476 3