

P15000100075

12/18/2015

2:23 PM

Mechanik Nuccio

Division of Corporations

No. 2080

1

Florida Department of State  
Division of Corporations  
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.**

(((H15000298810 3)))



H150002988103ABC1

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

RECEIVED

15 DEC 18 PM 2:12

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

To:

Division of Corporations  
Fax Number : (850)617-6381

From:

Account Name : MECHANIK NUCCIO HEARNE & WESTER, P.A.  
Account Number : 110727003105  
Phone : (813)276-1920  
Fax Number : (813)276-1560

**\*\*Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.\*\***

Email Address: rlemmis@scavieslawcorp.com

**FLORIDA PROFIT/NON PROFIT CORPORATION**  
**Vista at Palma Sola Apartments Management, Inc.**

Certificate of Status	0
Certified Copy	0
Page Count	07
Estimated Charge	\$70.00

FILED  
2015 DEC 18 AM 8:41  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Electronic Filing Menu

Corporate Filing Menu

Help

(((H15000298810 3)))

ARTICLES OF INCORPORATION  
OF  
VISTA AT PALMA SOLA APARTMENTS MANAGEMENT, INC.

FILED  
2015 DEC 18 AM 8:41  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

The undersigned hereby executes and acknowledges these Articles of Incorporation for the purpose of forming a corporation in accordance with the laws of the State of Florida.

ARTICLE I  
Name and Principal Office

The name of the corporation (the "Corporation") shall be Vista at Palma Sola Apartments Management, Inc. The principal office address for the Corporation shall be 117 North Fuller Avenue, Los Angeles, California 90036. The mailing address for the Corporation shall be 5000 North Parkway Calabasas, Calabasas, California 91302.

ARTICLE II  
Term of Existence

The Corporation shall have perpetual existence, commencing on December 18, 2015.

ARTICLE III  
Single Purpose Entity

Notwithstanding any other provision of these Articles, any contrary or inconsistent provision in the bylaws of the Corporation or any other document or instrument governing the affairs of the Corporation, or any provision of law that otherwise so empowers the Corporation, so long as the loan in the initial principal amount of \$34,600,000.00 (the "Loan") and any other obligations set forth in that certain Loan Agreement by and between Vista at Palma Sola Apartments, LLC, a Florida limited liability company (the "Borrower"), and NXT Capital, LLC, a Delaware limited company (the "Lender"), or any other Loan Document remain outstanding and not discharged in full, without the prior written consent of the Lender, the Corporation shall comply with the following provisions:

1. The business and purpose of the Corporation shall consist solely of: (i) the operation and management, as the limited liability company Manager of the Borrower, of the real estate project owned by Borrower and known as Vista at Palma Sola Apartments, located in Bradenton, Manatee County, Florida (the "Property"), pursuant to and in accordance with these Articles; and (ii) engaging in such other lawful activities permitted to corporations by the business corporation laws of the State of Florida as are incidental, necessary or appropriate to the foregoing.

2. The Corporation shall have no authority to:

(a) conduct its affairs in any manner contravening or inconsistent with the provisions of this Article III;

(((H15000298810 3)))

((H15000298810 3)))

(b) dissolve or liquidate the Corporation or consent to any such dissolution or liquidation;

(c) sell or lease, or otherwise dispose of all or substantially all of the assets of the Corporation; or

(d) amend, modify or alter this Article III.

3. The Corporation shall have no authority, unless such action has been approved by a unanimous vote of all of the Corporation's shareholders to (i) file or consent to the filing of any voluntary or involuntary bankruptcy or insolvency petition with respect to the Corporation or otherwise initiate or consent to proceedings to have the Corporation adjudicated bankrupt or insolvent, (ii) consent to the institution of bankruptcy or insolvency proceedings against the Corporation, or file a petition seeking or consenting to reorganization or relief of the Corporation as debtor under any applicable federal or state law relating to bankruptcy, insolvency, or other relief for debtors with respect to the Corporation; (iii) seek or consent to the appointment of any trustee, receiver, conservator, assignee, sequestrator, custodian, liquidator (or other similar official) of the Corporation or of all or any substantial part of the properties and assets of the Corporation, (iv) make any general assignment for the benefit of creditors of the Corporation, (v) admit in writing the inability of the Corporation to pay its debts generally as they become due or declare or effect a moratorium on the Corporation's debt, or (vi) take any corporate action in furtherance of any such action.

4. The Corporation has heretofore conducted and shall at all times hereafter conduct its business and operations in strict accordance and compliance with the following provisions:

(a) Corporation has not and will not:

(i) incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than unsecured trade payables incurred in the ordinary course of business of operating the Property and indebtedness relating to financing of equipment and personal property in the ordinary course of business of operating the Property; provided however, the aggregate amount of such other indebtedness shall not exceed 1% of the outstanding principal balance of the Loan;

(ii) engage in any business or activity other than the operation and maintenance of the Property, and activities incidental thereto;

(iii) acquire or own any assets other than such incidental personal property as may be necessary for the operation of the Property;

(iv) merge into or consolidate with any Person, or dissolve, terminate, liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets or change its legal structure;

((H15000298810 3)))

((H15000298810 3)))

(v) fail to remain solvent or pay its own liabilities (including, without limitation, salaries of its own employees) only from its own funds, provided that there are sufficient funds from the operation of the Property to do so;

(vi) fail to 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, provided that there are sufficient funds from the operation of the Property to do so;

(vii) fail to observe all organizational formalities, or fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the applicable laws of the jurisdiction of its organization or formation, or amend, modify, terminate or fail to comply with the provisions of its organizational documents;

(viii) own any subsidiary, or make any investment in, any Person;

(ix) commingle its assets with the assets of any other Person, or permit any Affiliate or constituent party independent access to its bank accounts;

(x) fail to 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; except that the Corporation's financial position, assets, liabilities, net worth and operating results may be included in the consolidated financial statements of an Affiliate, provided that such consolidated financial statements contain a footnote indicating that the Corporation is a separate legal entity and that it maintains separate books and records;

(xi) enter into any contract or agreement with any general partner, member, shareholder, principal, guarantor of the obligations of the Corporation, or any Affiliate of the foregoing, except upon terms and conditions that are intrinsically fair, commercially reasonable and substantially similar to those that would be available on an arms-length basis with unaffiliated third parties;

(xii) maintain its assets in such a manner that it will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

(xiii) assume or guaranty the debts of any other Person, hold itself out to be responsible for the debts 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;

(xiv) make any loans or advances to any Person;

(xv) fail to file its own tax returns or files a consolidated federal income tax return with any Person (unless prohibited or required, as the case may be, by applicable laws);

((H15000298810 3)))

((H15000298810 3))

(xvi) fail either to hold itself out to the public as a legal entity separate and distinct from any other Person or to conduct its business solely in its own name or fail to correct any known misunderstanding regarding its separate identity;

(xvii) acquire obligations or securities of its partners, members, shareholders or other affiliates, as applicable;

(xviii) fail to allocate shared expenses (including, without limitation, shared office space and services performed by an employee of an Affiliate) among the Persons sharing such expenses and to use separate stationery, invoices and checks.

As used in this Article, the following words shall have the following meanings:

"Affiliate" shall mean, as to any Person, any other Person that (i) owns directly or indirectly ten percent (10%) or more of all equity interests in such Person, and/or (ii) is in control of, is controlled by or is under common control with such Person, and/or (iii) is a director or executive officer of such Person, and/or (iv) is the spouse, issue or parent of such Person. As used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management, policies, or activities of such Person, whether through ownership of voting securities, by contract or otherwise.

"Loan Documents" shall mean the Loan Agreement and any other documents, agreements and instruments now or hereafter evidencing, securing or delivered to Lender in connection with the Loan.

"Person" shall mean an individual, corporation, limited liability company, business trust, partnership, trust, unincorporated organization, joint stock company, sole proprietorship, joint venture, governmental authority or any other form of entity.

The foregoing provisions of this Article shall govern over any contrary or inconsistent provision of these Articles, the bylaws of the Corporation or any other document or instrument governing the affairs of the Corporation.

#### ARTICLE IV

##### Powers

The Corporation shall have all powers conferred by the laws of the State of Florida upon corporations.

#### ARTICLE V

##### Capital Stock

The Corporation is authorized to issue ten thousand (10,000) shares of common voting stock having a par value of one cent (\$.01) per share. All or any part of the capital stock may be

((H15000298810 3))

((H15000298810 3)))

paid for in cash, in property, or in labor or services actually performed for the corporation. All stock shall be fully paid for when issued and shall be non-assessable.

ARTICLE VI  
Registered Office and Agent

The street address of the initial registered office of the Corporation shall be 305 South Boulevard, Tampa, Florida 33606, and the name of its initial registered agent at such address shall be Alfred A. Colby.

ARTICLE VII  
Directors

The Corporation shall initially have one (1) director. The number of directors may be increased or decreased from time to time by the shareholders, provided that the Corporation shall always have at least one director. The shareholders of the Corporation may remove any director from office at any time with or without cause.

ARTICLE VIII  
Initial Director

The name and street address of the initial director of the Corporation, who shall serve until his respective successor or successors are duly elected and qualified, shall be:

Chaim Freeman  
117 North Fuller Avenue  
Los Angeles, California 90036

ARTICLE IX  
Bylaws

(a) The power to adopt bylaws for the Corporation, to alter, amend, or repeal said bylaws, and to adopt new bylaws shall be vested in the Board of Directors of the Corporation; provided, however, that any bylaw or amendment thereto as adopted by the Board of Directors may be altered, amended, or repealed by vote of the shareholders entitled to vote thereon, or a new bylaw in lieu thereof may be adopted by such vote.

(b) The bylaws of the Corporation shall be for the government of the Corporation and may contain any provisions or requirements for the management or conduct of the affairs and business of the Corporation, provided that the bylaws are not inconsistent with the provisions of these Articles of Incorporation or contrary to the laws of the State of Florida or of the United States.

ARTICLE XI

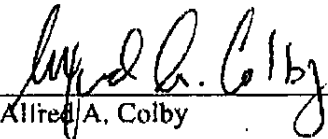
((H15000298810 3)))

((H15000298810 3))

Amendment

These Articles of Incorporation may be amended in the manner provided by law.

The undersigned incorporator has executed these Articles of Incorporation this 18th day of December, 2015.

  
Alfred A. Colby

((H15000298810 3))

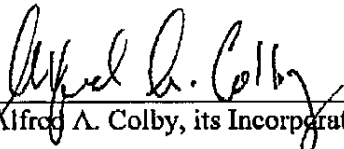
((H15000298810 3)))

**CERTIFICATE DESIGNATING REGISTERED AGENT AND OFFICE**

In compliance with Sections 48.091 and 607.0501, Florida Statutes, the following is submitted:

That Vista at Palma Sola Apartments Management, Inc., desiring to organize under the laws of the State of Florida, has named Alfred A. Colby, 305 South Boulevard, Tampa, Florida 33606, as its agent to accept service of process within the State of Florida.

DATED this 18th day of December, 2015.

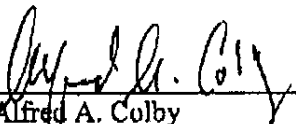
  
Alfred A. Colby, its Incorporator

FILED  
2015 DEC 18 AM 8:41  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**ACCEPTANCE**

Having been named to accept service of process for the above named corporation at the place designated in this certificate, I hereby agree to act in this capacity, and I further acknowledge that I am familiar with and agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties as registered agent.

DATED this 18th day of December, 2015.

  
Alfred A. Colby

((H15000298810 3)))