

2/13/2020

P 20000013059

Division of Corporations

1619 554862 From: James Tanks III

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.

(((H20000050208 3)))



H200000502083ABCR

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

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

From:
Account Name : C T CORPORATION SYSTEM
Account Number : FCA000000023
Phone : (614)280-3338
Fax Number : (954)208-0845

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

Email Address: _____

FLORIDA PROFIT/NON PROFIT CORPORATION
THE LINX REAL ESTATE HOLDINGS, INC.

Certificate of Status	0
Certified Copy	1
Page Count	10
Estimated Charge	\$78.75

RECEIVED
2020 FEB 13 AM 11:32
SERIAL
107065

Electronic Filing Menu

Corporate Filing Menu

Help

J DENNIS

FEB 14 2020

**ARTICLES OF INCORPORATION
OF
THE LINX REAL ESTATE HOLDINGS, INC.**

The undersigned, acting as sole incorporator, adopts these Articles of Incorporation (the "Articles") and forms a profit corporation (the "Corporation") under the Florida Business Corporation Act (the "Act"), as follows:

ARTICLE I

Name

The name of the Corporation is THE LINX REAL ESTATE HOLDINGS, INC.

ARTICLE II

Term of Existence

The Corporation's existence commences on the date of the filing of these Articles of Incorporation with the Department of State of the State of Florida. The Corporation will have perpetual existence thereafter.

ARTICLE III

Principal Office and Mailing Address

The principal office of the Corporation is 601 North Ashley Drive, Suite 900, Tampa, FL 33602. The mailing address of the Corporation is 601 North Ashley Drive, Suite 900, Tampa, FL 33602.

ARTICLE IV

Capital Stock

The Corporation is authorized to issue 10,000 shares of \$1.00 par value common stock, which will be designated Common Stock.

ARTICLE V

Initial Registered Office and Agent

The street address of the initial registered office of the Corporation is 2025 E 7th Avenue, Tampa, Florida 33605 and the name of the Corporation's initial registered agent at that address is Jeffrey C. Shannon.

ARTICLE VI
Directors and Officers

The Corporation shall have two (2) directors, including one (1) Independent Director (as hereinafter defined).

The Corporation will have one (1) officer initially. The number of officers may be increased or decreased from time to time as provided in the bylaws of the Corporation, but the Corporation will always have at least one (1) officer. The names and addresses of the initial officer of the Corporation, who will serve until their successor(s) are duly elected and qualified, are:

<u>Name</u>	<u>Address</u>
Radwan Nassri, President	601 North Ashley Drive Suite 900 Tampa, FL 33602

ARTICLE VII

Incorporator

The name and address of the incorporator signing these Articles of Incorporation are:

<u>Name</u>	<u>Address</u>
Jeffrey C. Shannon	2025 E 7 th Avenue Tampa, FL 33605

ARTICLE VIII

Bylaws

The power to adopt, alter, amend or repeal bylaws will be vested in the Corporation's Board of Directors.

ARTICLE IX
Special Purpose Entity

Terms used but undefined herein shall have the same meaning as set forth in the Loan Agreement. Notwithstanding anything to the contrary contained in these Articles, unless and until the loan (the "Loan") from MFI CAPITAL LLC, a Delaware limited liability company (together with its transferees, successors and assigns, the "Lender") to The Linx Apartments, LLC, a Florida limited liability company (the "Borrower"), as evidenced by a Loan Agreement (the "Loan Agreement") and certain other loan documents (collectively, together with any documents related thereto, the "Loan Documents"), has been paid in full in accordance with the

terms and provisions of the Security Instrument (as defined in the Loan Agreement) and the other Loan Documents, the following provisions shall apply:

A. PURPOSE

The nature of the business and of the purposes to be conducted and promoted by the Corporation, is to engage solely in the following activities:

(i) to cause the Borrower to acquire from seller certain parcels of real property, together with all improvements located thereon, in the City of Tampa, State of Florida (the "Property");

(ii) to own at least a 0.50% ownership interest in Borrower and act as the sole managing member of Borrower;

(iii) to cause Borrower to receive the Loan, enter into the Loan Documents and refinance the subject property in connection with a permitted repayment of the Loan; and

(iv) to exercise all powers enumerated in the applicable law of Florida necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

B. SEPARATENESS COVENANTS

The Corporation shall not:

(i) engage in any business or activity other than the ownership of its interest in Borrower, acting as the sole managing member of Borrower, and activities incidental thereto;

(ii) acquire or own any assets other than its ownership interest in Borrower;

(iii) 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 (including through division of the Corporation into multiple entities or series);

(iv) 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 Law of the jurisdiction of its organization or formation, or amend, modify, terminate or fail to comply with the provisions of its organizational documents;

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

(vi) commingle its assets with the assets of any other Person;

(vii) incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation);

(viii) (a) fail to maintain all of its books, records, financial statements and bank accounts separate from those of its affiliates and any constituent party. Corporation's assets have not and will not be listed as assets on the financial statement of any other Person; provided, however, that Corporation's assets may be included in a consolidated financial statement of its affiliates provided that (1) appropriate notation shall be made on such consolidated financial statements to indicate the separateness of Corporation and such affiliates and to indicate that Corporation's assets and credit are not available to satisfy the debts and other obligations of such affiliates or any other Person and (2) such assets shall be listed on Corporation's own separate balance sheet. Corporation has maintained and will maintain its books, records, resolutions and agreements as official records;

(ix) enter into any contract or agreement with any general partner, member, shareholder, principal or affiliate, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm's-length basis with unaffiliated third parties;

(x) 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;

(xi) 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;

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

(xiii) fail to file its own tax returns unless prohibited by Applicable Law from doing so (except that Borrower may file or may include its filing as part of a consolidated federal tax return, to the extent required and/or permitted by Applicable Law, provided that there shall be an appropriate notation indicating the separate existence of Borrower and its assets and liabilities);

(xiv) fail either to hold itself out to the public as a legal entity separate and distinct from any other Person and not as a division or part of any other Person or to conduct its business solely in its own name or fail to correct any known misunderstanding regarding its separate identity;

(xv) 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 (to the extent there exists sufficient cash flow from the Property to do so after the payment of all operating expenses and Debt Service under the Loan and shall not require any equity owner to make additional capital contributions to Corporation);

(xvi) without the unanimous written consent of all of the members, of the Board of Directors (including the Independent Director), with respect to itself or Borrower, (a) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any existing or future law of any jurisdiction, domestic or foreign, applicable to such Person and relating to bankruptcy, insolvency, reorganization, conservatorship, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to its debts or debtors (the "Creditors Rights Laws"), (b) seek or consent to the appointment of a receiver, liquidator or any similar official, (c) take any action that might cause such entity to become insolvent, or (d) make an assignment for the benefit of creditors;

(xvii) fail to allocate shared expenses (including, without limitation, shared office space) or fail to use separate stationery, invoices and checks;

(xviii) fail to remain solvent, to pay its own liabilities (including, without limitation, salaries of its own employees) from its own funds or fail to maintain a sufficient number of employees in light of its contemplated business operations (in each case to the extent there exists sufficient cash flow from the Property to do so);

(xix) acquire obligations or securities of its partners, members, shareholders or other affiliates, as applicable, or identify its partners, members or shareholders or other Affiliates, as applicable, as a division or part of it; or

(xx) violate or cause to be violated the assumptions made with respect to Borrower, Corporation or their respective principals in the Insolvency Opinion.

C. INDEMNIFICATION

Notwithstanding anything to the contrary contained herein, any indemnification of the Corporation's directors and officers is hereby fully subordinated to any obligations respecting the Borrower or the Property (including, without limitation, the Loan and any mortgage or deed of trust securing the Loan (the "Mortgage")) and such indemnification shall not constitute a claim against the Corporation or the Borrower in the event that cash flow necessary to pay holders of such obligations is insufficient to pay such obligations.

D. CERTAIN PROHIBITED ACTIVITIES

For so long as the Mortgage exists on any portion of the Property, no amendment of this Article IX may be made without first obtaining approval of the mortgagee holding the Mortgage on any portion of the Property, or, after the securitization of the Loan, only if the Corporation 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 mortgagee holding the Mortgage.

F. INDEPENDENT DIRECTOR

(a) At all times there shall be at least one (1) duly appointed member of the board of directors (an "Independent Director") reasonably satisfactory to Lender who shall not have been at the time of such individual's initial appointment, and shall (i) not have been at any time during the preceding five (5) years, and shall not be at any time while serving as Independent Director, either (i) a shareholder (or other equity owner) of, or an officer, director (other than in its capacity as Independent Director), partner, member or employee of, Borrower, Corporation or any of their respective shareholders, partners, members, subsidiaries or affiliates, (ii) a customer of, or supplier (other than a nationally-recognized company that routinely provides professional independent directors and other corporate services to the Corporation, Borrower or any of its equityholders or affiliates in the ordinary course of its business) to, or other Person who derives any of its purchases or revenues from its activities with, Borrower, Corporation or any of their respective shareholders, partners, members, subsidiaries or affiliates, (iii) a Person who Controls or is under common Control with any such shareholder, officer, director, partner, member, employee, supplier, customer or other Person, or (iv) a member of the immediate family of any such shareholder, officer, director, partner, member, employee, supplier, customer or other Person, and (II) be employed by, in good standing with and engaged by Borrower in connection with, in each case, an Approved ID Provider. Such Independent Director at the time of their initial engagement shall have had at least three (3) years prior experience as an independent director to a company or a corporation in the business of owning and operating commercial properties similar in type and quality to the Property. Approved ID Provider shall mean each of CT Corporation, Corporation Service Company, National Registered Agents, Inc., Wilmington Trust Company, Stewart Management Company and Lord Securities Corporation; provided, that, additional national providers of independent directors may be deemed added to the foregoing hereunder to the extent approved in writing by Lender and the Rating Agencies.

(b) (I) The board of directors of Corporation shall not take any action which, under the terms of any organizational documents of Corporation requires the unanimous vote of (1) the board of directors of Corporation unless at the time of such action there shall be at least one (1) Independent Director engaged as provided by the terms hereof; (II) any resignation, removal or replacement of any Independent Director shall not be effective without two (2) Business Days prior written notice from the Corporation to Lender accompanied by evidence that the replacement Independent Director satisfies the applicable terms and conditions hereof and of the applicable organizational documents; (III) to the fullest extent permitted by applicable law and notwithstanding any duty otherwise existing at law or in equity, the Independent Director shall consider only the interests of the Constituent Members and Borrower and any Corporation (including Borrower's and any Corporation's respective creditors) in acting or otherwise voting on the matters provided for herein and in Borrower's and Corporation's organizational documents (which such fiduciary duties to the Constituent Members and Borrower and any Corporation (including Borrower's and any Corporation's respective creditors), in each case, shall be deemed to apply solely to the extent of their respective economic interests in Borrower or Corporation (as applicable) exclusive of (x) all other interests (including, without limitation, all other interests of the Constituent Members), (y) the interests of other affiliates of the Constituent Members, Borrower and Corporation and (z) the interests of any group of affiliates

of which the Constituent Members, Borrower or Corporation is a part)); (IV) other than as provided in subsection (III) above, to the fullest extent permitted by applicable law, the Independent Director shall not have any fiduciary duties to any Constituent Members, any directors of Borrower or Corporation or any other Person; (V) the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing under applicable law; (VI) to the fullest extent permitted by applicable law, an Independent Director shall not be liable to Borrower, Corporation, any Constituent Member or any other Person for breach of contract or breach of duties (including fiduciary duties), unless the Independent Director acted in bad faith or engaged in willful misconduct; (VII) except as provided in the foregoing subsections (III) through (VI), the Independent Director shall, in exercising their rights and performing their duties under the applicable organizational documents, have a fiduciary duty of loyalty and care similar to that of a director of a business corporation organized under the General Corporation Law of the state of Delaware; and (VIII) the Independent Director will not be personally liable to the Corporation, its stockholders, or any other person for monetary damages to the fullest extent provided by Florida law. If Florida law is amended after the date of the filing of these Articles to authorize corporate action further eliminating or limiting the personal liability of the Independent Director, then the liability of the Independent Director of the Corporation will be eliminated or limited to the fullest extent permitted by the Florida law, as so amended. No repeal or modification of these Articles will apply to or have any effect on the liability or alleged liability of any Independent Director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such repeal or modification.

ARTICLE X **Indemnification**

The Corporation will indemnify any director (including the Independent Director) or officer or any former director (including the Independent Director) or officer, to the fullest extent permitted by law. So long as the Loan is outstanding, the Corporation has and will have no obligation to indemnify its officers or directors or has such an obligation that is fully subordinated to the Debt (as defined herein) and will not constitute a claim against it if cash flow in excess of the amount required to pay the Debt is insufficient to pay such obligation

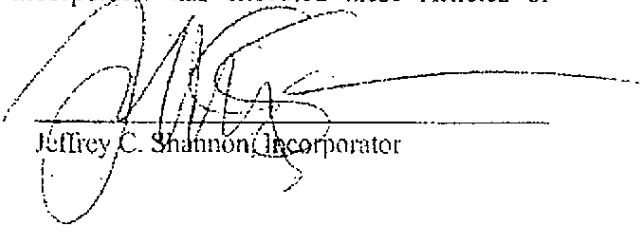
ARTICLE XI **Amendment**

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

ARTICLE XI **Effective Date**

The effective date of filing of these Articles of Incorporation shall be January 24, 2020.

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation on January 24, 2020.

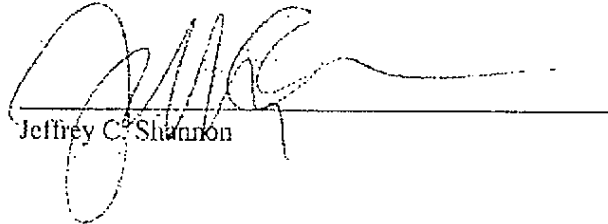


Jeffrey C. Shannon, Incorporator

ACCEPTANCE BY REGISTERED AGENT

I accept the appointment as Registered Agent of the Corporation to accept service of process on its behalf, at the place designated in these Articles of Incorporation. I am familiar with, and accept, the obligations of my position as registered agent as provided for in the Act

Dated: January 24, 2020


Jeffrey C. Shannon