

P96000089944

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

☐ PICK-UP ☐ WAIT ☐ MAIL

(Business Entity Name)

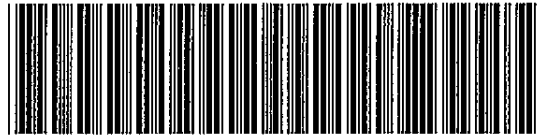
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DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

FILED

03 JUL 29 PM 2:17

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

C. Coulliette JUL 29 2003

ATTORNEYS' TITLE

Requestor's Name

1965 Capital Circle NE, Suite A

Address

Tallahassee, Fl 32308

City/St/Zip

850-222-2785

Phone #

CORPORATION NAME(S) & DOCUMENT NUMBER(S), (if known):

1- CRYSTAL LAKE APARTMENTS, INC.

2-

3-

4-

☒ Walk-in

☐ Pick-up time ASAP

☐ Certified Copy

☐ Mail-out

☐ Will wait

☐ Photocopy

☐ Certificate of Status

NEW FILINGS	
<input type="checkbox"/>	Profit
<input type="checkbox"/>	Non-Profit
<input type="checkbox"/>	Limited Liability
<input type="checkbox"/>	Domestication
<input type="checkbox"/>	Other

AMENDMENTS	
<input checked="" type="checkbox"/>	Amendment
<input type="checkbox"/>	Resignation of R.A., Officer/Director
<input type="checkbox"/>	Change of Registered Agent
<input type="checkbox"/>	Dissolution/Withdrawal
<input type="checkbox"/>	Merger

OTHER FILINGS	
<input type="checkbox"/>	Annual Report
<input type="checkbox"/>	Fictitious Name
<input type="checkbox"/>	Name Reservation

REGISTRATION/QUALIFICATION	
<input type="checkbox"/>	Foreign
<input type="checkbox"/>	Limited Partnership
<input type="checkbox"/>	Reinstatement
<input type="checkbox"/>	Trademark
<input type="checkbox"/>	Other

Examiner's Initials

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08
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The general nature of the business to be transacted by this Corporation is to engage in any and all business permitted under the laws of the State of Florida, and subject to the provisions set forth below.

This Corporation shall exist perpetually unless dissolved according to the law.

The maximum number of shares of stock ~~that~~ this Corporation is authorized to issue ~~and~~ have outstanding at any one time is seven thousand five hundred (7,500) shares of common stock having a par value of One Dollar (\$1.00) per share.

Every shareholder, upon the sale of any shares or securities of the Corporation convertible into or carrying a right to subscribe to shares of this Corporation of the same kind,

class, or series as that which he holds, shall have the right to purchase his pro rata share at the price at which it is offered to others.

ARTICLE VI. PRINCIPAL OFFICE AND MAILING ADDRESS

The principal office and mailing address of the Corporation shall be:

7680 West Highway 98
Pensacola, FL 32506

The Board of Directors may change the address from time to time to any other address in the State of Florida.

ARTICLE VII. REGISTERED AGENT AND REGISTERED OFFICE

The Registered Agent and the street address of the Registered Office of this Corporation in the State of Florida is:

Lawrence C. Schill, P.A.
226 South Palafox Place
6th Floor
Pensacola, FL 32502

The Board of Directors from time to time may move the Registered Office to any other address in the State of Florida.

ARTICLE VIII. BOARD OF DIRECTOR

This Corporation shall never have less than one nor more than three directors. The number of directors may be increased or diminished from time to time by By-Laws adopted by the stockholders.

ARTICLE IX. DIRECTORS

The names of the directors of this Corporation and their street addresses are:

J. Collier Merrill
226 South Palafox Place
6th Floor
Pensacola, FL 32502

Burney H. Merrill
226 South Palafox Place
6th Floor
Pensacola, FL 32502

Willis C. Merrill, III
226 South Palafox Place
6th Floor
Pensacola, FL 32502

The directors shall hold office for the Corporation until their successors are elected or appointed and have qualified.

ARTICLE X. RESTRICTIONS ON TRANSFER OF STOCK

The Corporation, and, subject to the priority of the Corporation, the remaining stockholders of the Corporation, shall have a preference in the purchase of any shares of the capitol stock of the Corporation, and any attempted sale of such shares of stock in violation of this provision shall be null and void. In case a stockholder, his personal representatives, heirs, devisees, legatees, pledgee, assignee, receiver, trustee in bankruptcy or any other person holding under or in privity with any stockholder, desires to sell his shares of stock, he shall file notice in writing of such intention with the Secretary of the Corporation, stating the price and terms upon which he desires to sell such stock, and unless the terms of such offer are accepted by the Corporation within ten (10) days, it shall be deemed to have waived its privilege of purchasing. If the Corporation is legally unable to purchase such stock or otherwise waives its privilege of purchasing, the Secretary shall mail a written notice to all of the remaining stockholders, by certified mail, return receipt requested, advising them of the terms of such offer, and unless the terms of such offer are accepted by any or all of the other stockholders within ten (10) days from the date of mailing such notice, they shall be deemed to have waived their privilege of purchasing, and the stockholders or the person in privity with him desiring to sell shall be at liberty to effect a sale upon the terms of such offer. No stockholder who has given notice pursuant to this Article, may thereafter sell such stock for a price or upon terms different than the offer contained in such notice, without again complying with the notice requirements of this Article. Neither the Corporation, nor the remaining stockholders (collectively), may exercise their privilege of purchasing as to any shares of stock less than the total number of shares

involved in such offer. The terms of this Article X shall be subject in all respects to the provisions of the documents evidencing the "Loan," hereinafter defined, so long as the Loan remains outstanding.

ARTICLE XI. INDEMNIFICATION

The Corporation shall indemnify any officer or director, or any former officer or director, to the full extent permitted by law.

ARTICLE XII. INCORPORATOR

The name and street address of the Incorporator of this Corporation is:

J. Collier Merrill
226 South Palafox Street
6th Floor
Pensacola, FL 32502

ARTICLE XIII. AMENDMENT

These Articles of Incorporation may be amended in the manner provided by law and subject to Article XIV, below. Every amendment shall be approved by the Board of Directors, proposed by them to the stockholders and approved at a stockholders' meeting by at least a majority of the stock entitled to vote, unless all of the directors and all of the stockholders sign a written statement manifesting their intention that a certain amendment of these Articles of Incorporation be made.

ARTICLE XIV.

Notwithstanding any other provision of these Articles of Incorporation, any other organizational documents or any provisions of law that empowers the corporation, the following provisions shall be operative and controlling so long as the loan (the "Loan") by Prudential Mortgage Capital Company, LLC, or its successors and/or assigns (collectively, the "Lender") to the Corporation is outstanding:

1. The sole purpose of the corporation is to acquire, own, hold, maintain and operate Crystal Lake Apartments (the "Property") together with such other activities as may be necessary or advisable in connection with the ownership of the Property. The Corporation shall not engage in any business, and it shall have no purpose, unrelated to the Property and shall not acquire any real property or own assets other than those related to the Property and/or otherwise in furtherance of the limited purposes of the Corporation.

2. The Corporation shall have no authority to perform any act in violation of any (a) applicable laws or regulations or (b) any agreement between the Corporation and the Lender.

3. The Corporation shall not:

(a) make any loans to any shareholders or any Affiliates (as defined below);

(b) except as permitted by the Lender in writing, sell, encumber (except with respect to Lender) or otherwise transfer or dispose of all or substantially all of the properties of the Corporation (a sale or disposition will be deemed to be "all or substantially all of the properties of the Corporation" if the sale or disposition includes the Property or if the total value of the properties sold or disposed of in such transaction and during the twelve months preceding such transaction is sixty six and two thirds percent (66-2/3%) or more in value of the Corporation's total assets as of the end of the most recently completed corporate fiscal year);

(c) to the fullest extent permitted by law, dissolve, wind up or liquidate the Corporation;

(d) merge, consolidate or acquire all or substantially all of the assets of an Affiliate of same or other person or entity;

(e) change the nature of the business of the Corporation; or

(f) except as permitted by the Lender in writing, amend, modify or otherwise change these Articles of Incorporation (or, after securitization of the Loan, only if the Corporation receives (i) confirmation from each of the applicable rating agencies that such amendment, modification or change would not result in the qualification, withdrawal or downgrade of any securities rating and (ii) permission of the Lender in writing).

4. The Corporation shall not, and no person or entity on behalf of the Corporation shall, without the prior written affirmative vote of one hundred percent (100%) of the Board of Directors: (a) institute proceedings to be adjudicated bankrupt or insolvent; (b) consent to the institution of bankruptcy or insolvency proceedings against it; (c) file a petition seeking, or consenting to, reorganization or relief under any applicable federal or state law relating to bankruptcy; (d) consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Corporation or a substantial part of its property; (e) make any assignment for the benefit of creditors; (f) admit in writing its inability to pay debts generally as they become due or declare or effect a moratorium on its debts; or (g) take any corporate action in furtherance of any such action.

5. The Corporation shall have no indebtedness or incur any liability other than (a) unsecured debts and liabilities for trade payables and accrued expenses incurred in the ordinary course of its business of operating the Property, provided, however, that such unsecured indebtedness or liabilities (i) are in amounts that are normal and reasonable under the circumstances, but in no event, to exceed in the aggregate three percent (3%) of the original principal amount of the Loan and (ii) are not evidenced by a note and are paid when due, but in no event for more than sixty (60) days from the date that such indebtedness or liabilities are incurred and (b) the Loan. No indebtedness other than the Loan shall be secured (senior, subordinated or pari passu) by the Property.

6. The Corporation shall at times observe the applicable legal requirements for the recognition of the Corporation as a legal entity separate from any Affiliates of same, including, without limitation, as follows:

(a) The Corporation shall maintain its principal executive office and telephone and facsimile numbers separate from that of any Affiliate of same and shall conspicuously identify such office and numbers as its own or shall allocate by written agreement fairly and reasonably any rent, overhead and expenses for shared office space. Additionally, the Corporation shall use its own separate stationery, invoices and checks which reflects its separate address, telephone number and facsimile number.

(b) The Corporation shall maintain correct and complete financial statements, accounts, books and records and other entity documents separate from those of any Affiliate of same or any other person or entity. The Corporation shall prepare unaudited quarterly and annual financial statements, and the Corporation's financial statements shall substantially comply with generally accepted accounting principles.

(c) The Corporation shall maintain its own separate bank accounts, payroll and correct, complete and separate books of account.

(d) The Corporation shall file or cause to be filed its own separate tax returns.

(e) The Corporation shall hold itself out to the public (including any of its Affiliates' creditors) under the Corporation's own name and as a separate and distinct corporate entity and not as a department, division or otherwise of any Affiliate of same.

(f) The Corporation shall observe all customary formalities regarding the corporate existence of the Corporation, including holding meetings and maintaining current and accurate minute books separate from those of any Affiliate of same.

(g) The Corporation shall hold title to its assets in its own name and act solely in its own name and through its own duly authorized officers and agents. No Affiliate of same shall be appointed or act as agent of the Corporation, other than, as applicable, a property manager with respect to the Property.

(h) Investments shall be made in the name of the Corporation directly by the Corporation or on its behalf by brokers engaged and paid by the Corporation or its agents.

(i) Except as required by Lender, the Corporation shall not guarantee, pledge or assume or hold itself out or permit itself to be held out as having guaranteed, pledged or assumed any liabilities or obligations of any Affiliate of the Corporation, nor shall it make any loan, except as permitted in the loan agreement with the Lender.

(j) The Corporation is and will be solvent.

(k) Assets of the Corporation shall be separately identified, maintained and segregated. The Corporation's assets shall at all times be held by or on behalf of the Corporation and if held on behalf of the Corporation by another entity, shall at all times be kept identifiable (in accordance with customary usages) as assets owned by the Corporation. This restriction requires, among other things, that (i) Corporation funds shall be deposited or invested in the Corporation's name, (ii) Corporation funds shall not be commingled with the funds of any Affiliate of same or other person or entity, (iii) the Corporation shall maintain all accounts in its own name and with its own tax identification number, separate from those of any Affiliate of same or other person or entity, and (iv) Corporation funds shall be used for the business of the Corporation.

(l) The Corporation 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 any Affiliate of same or other person or entity.

(m) The Corporation shall pay or cause to be paid its own liabilities and expenses of any kind, including but not limited to salaries of its employees, only out of its own separate funds and assets.

(n) The Corporation shall at all times be adequately capitalized to engage in the transactions contemplated at its formation.

(o) The Corporation shall not do any act which would make it impossible to carry on the ordinary business of the Corporation.

(p) All data and records (including computer records) used by the Corporation or any Affiliate of same in the collection and administration of any loan shall reflect the Corporation's ownership interest therein.

(q) None of the Corporation's funds shall be invested in securities issued by, nor shall the Corporation acquire the indebtedness or obligation of, any Affiliate of same.

(r) The Corporation shall maintain an arm's length relationship with each of its Affiliates and enter into contracts or transact business with its Affiliates only on commercially reasonable terms that are no less favorable to the Corporation than is obtainable in the market from a person or entity that is not an Affiliate of same.

(s) The Corporation shall correct any misunderstanding that is known by the Corporation regarding its name or separate identity.

For purposes of these Articles of Incorporation, Affiliate means any person or entity, which directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with a specified person or entity. For purposes hereof, the terms "control", "controlled", or "controlling" with respect to a specified person or entity shall include, without limitation, (i) the ownership, control or power to vote ten percent (10%) or more of (x) the outstanding shares of any class of voting securities or (y) beneficial interests, of any such person or entity, as the case may be, directly or indirectly, or acting through one or more persons or entities, (ii) the control in any manner over the shareholder(s) or the election of more than one director or trustee (or persons exercising similar functions) of such person or entity, or (iii) the power to exercise, directly or indirectly, control over the management or policies of such person or entity.

7. Any indemnification obligation of the Corporation shall (a) be fully subordinated to the Loan and (b) not constitute a claim against the Corporation or its assets until such time as the Loan has been indefeasibly paid in accordance with its terms and otherwise has been fully discharged.

IN WITNESS WHEREOF, the undersigned, as Director, has executed the foregoing Amended and Restated Articles of Incorporation on this 27th day of July, 2003.


J. COLLIER MERRILL,
ORIGINAL DIRECTOR AND PRESIDENT


BURNLEY H. MERRILL, DIRECTOR
AND VICE PRESIDENT


WILLIS C. MERRILL, III, DIRECTOR
AND SECRETARY/TREASURER

STATE OF FLORIDA

COUNTY OF ESCAMBIA

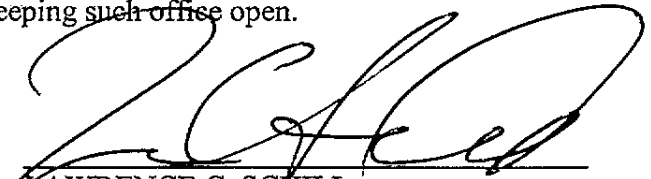
BEFORE ME, a Notary Public, personally appeared **J. COLLIER MERRILL**, who is personally known to me, and is known to me to be the person described as the Director and who executed the foregoing Amended and Restated Articles of Incorporation, and acknowledged before me that he subscribed to these Amended and Restated Articles of Incorporation on the 27th day of July, 2003.




NOTARY PUBLIC - STATE OF FLORIDA

ACCEPTANCE OF REGISTERED AGENT

Having been named to accept service of process for **CRYSTAL LAKE APARTMENTS, INC.**, at the place designated in the Amended and Restated Articles of Incorporation, LAWRENCE C. SCHILL agrees to act in this capacity, and agrees to comply with the provisions of Section 48.091 relative to keeping such office open.


LAWRENCE C. SCHILL

DATE: 7/27/03