



THE UNITED STATES  
CORPORATION  
COMPANY

P97000048805

ACCOUNT NO. : 072100000032

REFERENCE : 437399 4355011

AUTHORIZATION :

Patricia Pygott

COST LIMIT : \$ 87.50

ORDER DATE : June 23, 1997

ORDER TIME : 9:45 AM

ORDER NO. : 437399-005

200002219292-4

CUSTOMER NO: 4355011

CUSTOMER: Gary Walk, Esq  
Lewis Vegosen Rosenbach &  
P. O. Box 4388

West Palm Beach, FL 33402-4388

DOMESTIC AMENDMENT FILING

NAME: ESTEIN COMMONS, CORP.

EFFECTIVE DATE:

ARTICLES OF AMENDMENT  
XX RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY  
PLAIN STAMPED COPY  
CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Michael E. Klunk

EXAMINER'S INITIALS:

FILED  
97 JUN 23 PM 4:12  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA  
DIVISION OF CORPORATION  
97 JUN 23 AM 10:39

Handwritten initials: HLR + RST, SP, 1/11

Handwritten initials: K/K, 6/25



FLORIDA DEPARTMENT OF STATE  
Sandra B. Mortham  
Secretary of State

June 23, 1997

CSC  
MICHAEL E. KLUNK  
TALLAHASSEE, FL

SUBJECT: ESTEIN COMMONS CORP.  
Ref. Number: P97000048805

**RESUBMIT**  
Please give original  
submission date as file date

We have received your document for ESTEIN COMMONS CORP. and the authorization to debit your account in the amount of \$87.50. However, the document has not been filed and is being returned for the following:

A certificate must accompany the Restated Articles of Incorporation setting forth either of the following statements: (1) The restatement was adopted by the board of directors and does not contain any amendment requiring shareholder approval. OR (2) If the restatement contains an amendment requiring shareholder approval, the date of adoption of the amendment and a statement setting forth the following: (a) the number of votes cast for the amendment by the shareholders was sufficient for approval (b) If more than one voting group was entitled to vote on the amendment, a statement designating each voting group entitled to vote separately on the amendment and a statement that the number of votes cast for the amendment by the shareholders in each voting group was sufficient for approval by that voting group.

The amendment cannot be adopted and executed by an incorporator if directors have been selected. Please amend your document accordingly.

The document must be signed by the chairman, any vice chairman of the board of directors, its president, or another of its officers.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (904) 487-6880.

Karen Gibson  
Corporate Specialist

Letter Number: 097A00033226

CERTIFICATE OF INCORPORATOR

The undersigned hereby certifies for purposes of the provisions of §607.1005, Florida Statutes, as follows:

1. He is the sole incorporator of ESTEIN COMMONS CORP. (the "Corporation"), a Florida corporation;
2. The Corporation has not yet issued shares; and
3. He has adopted the Amendment and Restatement of Articles of Incorporation of Estein Commons Corp. dated June 17, 1997, a copy of which is attached hereto as Exhibit "A."

  
Dean Vegosen

Dated: June 24, 1997

Post-It® Fax Note	7671	Date	6/24/97	# of pages	2
To	Harry Davis	From			
Co./Dept.	CSE	Co.			
Phone #		Phone #	561-659-3300		
Fax #	904-222-0393	Fax #			

JUN 23 PM 1:13  
STATE OF FLORIDA  
TALLAHASSEE

AMENDMENT AND RESTATEMENT OF ARTICLES OF  
INCORPORATION OF ESTEIN COMMONS, CORP.

I the undersigned being the sole incorporator and subscriber of the Articles of Incorporation of Estein Commons, Corp., a Florida corporation for profit, certify that I have not assigned my subscription rights as of the date hereof and that no stock of the Corporation has been issued as of the date hereof. I hereby Amend and Restate the Articles of Incorporation of Estein Commons, Corp. ("the Corporation") which were filed with the Secretary of State of Florida on June 3, 1997. The Articles of Incorporation shall, from and after the filing hereof, read in their entirety as follows:

ARTICLE I - Name of Corporation

The name of this corporation shall be Estein Commons Corp.

ARTICLE II - Principal Address

The principal address of this corporation shall be:

c/o Estein & Associates USA, Ltd.  
5211 International Drive  
Orlando, Florida 32819

ARTICLE III - Duration

This corporation shall be perpetual in existence unless sooner dissolved according to law.

ARTICLE IV - Purpose

This Corporation is organized for the sole and exclusive purpose of being a member of WELP Commons, L.C., a Florida limited liability company ("the Company") and the Manager of the Company.

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

The Company will be the General Partner of Memphis Commons, Ltd., a Florida limited partnership ("the Partnership") whose sole purpose is to acquire a shopping center known as the Commons in Memphis Tennessee ("the Property"). The Corporation shall conduct no other business.

#### ARTICLE V - Capital Stock

The authorized capital stock of the corporation shall be one thousand (1,000) shares, common stock with a One Dollar (\$1.00) per share par value, which shall be fully paid and non-assessable.

All of said stock shall be payable in cash, patents, stock, notes, accounts, claims, real estate or other property, or labor or services actually performed for the corporation at a just valuation to be fixed by the Board of Directors at a meeting called for that purpose. Property, labor or services may be purchased or paid for with the capital stock at a just valuation to be fixed by the Board of Directors at a meeting called for that purpose.

#### ARTICLE VI - Preemptive Rights

Every shareholder, upon the sale for cash or other property of any previously unissued stock of this corporation of the same kind, class or series as that which he already holds, shall have the right to purchase his prorata share thereof (as nearly as may be done without issuance of fractional shares) at the price at which it is offered to others.

#### ARTICLE VII - Registered Office and Agent

The street address of the initial registered office of this corporation is c/o Dean Vegosen, Esquire, 10th Floor, 500 South

Australian Avenue, West Palm Beach, Florida 33401 and the name of the initial registered agent of this Corporation at that address is Lewis, Vegosen, Rosenbach & Silber, P.A. This corporation shall have the privilege of having branch offices at other places within or without the State of Florida and within or without the United States of America. This corporation may, at its discretion, at any time, change the address of the principal place of business.

ARTICLE VIII - Initial Board of Directors

This Corporation shall have one director initially. The number of directors may be either increased or diminished from time to time but the number shall never be less than one (1) nor more than five (5). The name and address of the initial director of this corporation is:

Lothar Estein  
Estein & Associates USA, Ltd.  
5211 International Drive  
Orlando, Florida 32819

ARTICLE IX - Incorporator

The name and address of the person signing these Articles of Incorporation is:

Dean Vegosen, Esq.  
Lewis, Vegosen, Rosenbach & Silber, P.A.  
500 S. Australian Avenue  
10th Floor  
West Palm Beach, FL 33402

ARTICLE X - Right of Assignment

The original incorporator of this corporation shall have the right, upon its organization, to assign and deliver his subscriptions of stock to any person or to firms or corporations who may hereafter become subscribers to the capital stock of the corpora-

tion, who upon acceptance of such assignment, shall stand in rights, liabilities and duties entailed by said subscribers, subject to the laws of the State of Florida and the execution of the necessary instruments of assignment.

ARTICLE XI - Management of Corporation by Stockholders

Anything to the contrary contained in these Articles of Incorporation notwithstanding, if the Shareholders of this corporation shall so elect, they may exercise all powers and conduct the business and affairs of this corporation in lieu of the Board of Directors.

Anything in the previous paragraph to the contrary notwithstanding, Shareholders shall not have the right to exercise powers and conduct the business and affairs of the Corporation in lieu of the Board of Directors during the period of time that any Lender providing funds to the Partnership requires that one of its nominees serve as a member of the Board of Directors of the Corporation.

ARTICLES XII - Amendment

This Corporation reserves the right to amend or repeal any provisions contained in these Articles of Incorporation before issuance of any stock to the shareholders.

ARTICLE XIII - Single Purpose Entity

This Corporation is being formed to be a single purpose entity. As a result, the following provisions shall govern:

1. The Corporation shall have no other purpose except that set forth in Article 4 above.

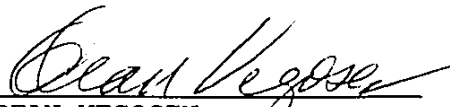
2. The Corporation shall have no ability or authority to incur indebtedness on its behalf or on behalf of the Company or the Partnership except that it shall enable the Company to incur the following indebtedness on behalf of the Partnership:
  - a. Initial indebtedness to acquire the Property in an amount not to exceed Twenty-eight million dollars (\$28,000,000.00) ("the Initial Financing");
  - b. Liabilities of the Partnership in the ordinary course of business relating to the ownership and operation of the Property; and
  - c. Any other indebtedness of the Partnership but only at and/or after the time the Initial Financing is paid and satisfied in full or the lender accepts liquid collateral for repayment thereof in lieu of the Property.
3. The Corporation shall not dissolve, liquidate, consolidate, merge, cause a sale of any of its assets or amend its Articles of Incorporation as long as the Initial Financing is outstanding; except after the Lender has accepted liquid collateral in lieu of the Property to secure repayment thereof.
4. The unanimous consent of the Directors of the Corporation shall be required to:
  - a. File, or consent to the filing of, a bankruptcy or insolvency petition or otherwise institute insolvency proceedings, whether pertaining to the Corporation, the Company or the Partnership; and
  - b. Amend the Articles of Incorporation of the Corporation.
5. The Directors of the Corporation shall be required to consider the interests of the creditors of the Corporation in connection with all corporate actions taken.
6. The Corporation shall be required to follow all of the following separateness covenants:
  - a. Maintain its books and records separate from any other person or entity and cause the Company and Partnership to maintain their books and records separate from any other person or entity.



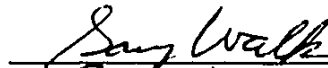
- b. Maintain its accounts and cause the Company and Partnership to maintain their accounts separate from any other person or entity.
- c. Not to commingle its assets or the assets of the Partnership or the Company with those of any other entity.
- d. Conduct businesses in its own name and cause the Company and the Partnership to conduct business in their own names.
- e. Maintain separate financial statements for itself and cause the Company and the Partnership to do so as well.
- f. Pay its own liabilities out of its own funds and cause the Partnership and the Company to pay their own liabilities out their own funds.
- g. Observe all formalities of these Articles of Incorporation and cause the Company to observe all formalities of its Articles of Organization and cause the Partnership to observe all formalities of its Agreement of Limited Partnership.
- h. Maintain an arms-length relationship with all affiliates and cause the Company and Partnership to do the same.
- i. Pay the salaries of its own employees and maintain a sufficient number of employees in light of its contemplated business operations and cause the Company and the Partnership to pay the salaries of their own employees and maintain a sufficient number of employees in light of their contemplated business operations.
- j. Not guarantee or become obligated for the debt of any other entity or hold out its credit as being available to satisfy the obligations of others and cause the Company and the Partnership not to guarantee or become obligated for the debt of any other entity or hold out their credit as being available to satisfy the obligations of others.
- k. Not acquire obligations or securities of its shareholders and cause the Company not to acquire obligations or securities of its members or the Partnership to acquire obligations or securities of its partners.

- l. Allocate fairly and reasonably any overhead for shared office space and cause the Partnership and Company to allocate fairly and reasonably any overhead for shared office space they may share.
- m. Use separate stationery, invoices and checks and cause the Partnership and the Company to use separate stationery, invoices and checks.
- n. Not pledge its assets for the benefit of any other entity or make any loans or advances to any entity and cause the Company and the Partnership not to pledge their assets for the benefit of any other entity or make any loans or advances to any entity.
- o. Hold itself out as a separate entity and cause the Partnership and the Company to hold themselves as separate entities.
- p. Correct any known misunderstanding regarding its separate identity and cause the Partnership and the Company to correct any known misunderstanding regarding their separate identities.
- q. Maintain adequate capital in light of the Corporation's contemplated business operations and cause the Partnership and the Company to maintain adequate capital in light of their contemplated business operations.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 17th day of June, 1997.

  
DEAN VEGOSEN

Sworn to and subscribed before me this 17th day of June, 1997 by DEAN VEGOSEN, who is personally known to me or who produced as identification \_\_\_\_\_.

  
GARY WALK (printed name)  
Notary Public, State of Florida  
Commission No. \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

